

CAPITOL ♦ TITLE

LEGAL BULLETIN

New 1099 Rules for Small Landlords

Goldstein & Levy, P. A.
General Counsel

November 29, 2010

On September 27, 2010 the Small Business Jobs Act (the, “Act”) was signed into law and became the most significant small business legislation in over a decade. There is a little known provision in the Act which may have escaped the notice of taxpayers who own rental property, but which will affect them starting in January, 2011.

The Act subjects recipients of rental income from real estate to the same information-reporting requirements as taxpayers engaged in a trade or business. As a result, landlords making payments of \$600 or more to service providers who are not incorporated (e. g. maintenance workers, plumbers, electricians, accountants) for rental property services provided to the landlord are required to provide an information return (typically, Form 1099 – MISC, *Miscellaneous Income*) to the service provider and the IRS. (Note that the requirement will apply to ALL recipients of payments over \$600 (whether incorporated or not) starting in 2012.) The IRS has the power to assess penalties for each failure to file or late filing of a required 1099, with penalty amounts varying depending on the nature of the delinquency or failure to file.

If you (or your clients) own real estate which is rented, you (or they) should start planning for compliance by tracking payments made for services and by obtaining a taxpayer identification number from service providers which will be needed for preparation of 1099 forms after the end of the tax year (the first 1099 reporting will be due by January 31, 2012 for an payments made during the 2011 tax year).

The 1099 reporting requirements contain exceptions for individuals temporarily renting their principal residence, to taxpayers whose rental income does not exceed an IRS-determined, minimal amount (yet to be announced) and to those “for whom the reporting requirement would create a hardship”. The IRS typically interprets such exceptions narrowly.

“SETTLE ON OUR EXPERIENCE”®