



EXPANDED 1099 REPORTING REQUIREMENTS RETROACTIVELY REPEALED

As we reported in our [February 2011 article](#), both political parties have long agreed on the need to repeal the expanded Form 1099 reporting requirements enacted as part of last year's Affordable Care Act (ACA). On April 14, President Obama finally signed legislation retroactively repealing these requirements. This repeal was delayed by a disagreement as to how to offset the cost of the repeal. The final legislation achieves this offset by requiring larger repayments of excess "federal assistance credits" received by individuals who purchase health coverage through one of the ACA's state-wide "Exchanges."

The ACA had expanded the Form 1099 reporting requirements by (1) eliminating the exemption for payments made to corporations, and (2) expanding the reportable payments to include gross proceeds paid for any type of property. The September 2010 Small Business Jobs Act further expanded the reporting requirements to include recipients of rental income. In essence, these individuals were to be treated as though they were engaged in a trade or business, thereby requiring them to report payments of \$600 or more made to service providers (such as plumbers, painters, or accountants) in the course of earning their rental income.

The recent legislation, dubbed the "Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011" (whew!), retroactively repeals *all* of these expansions of the Form 1099 reporting rules. Accordingly, they will never take effect. (Note that the *current* 1099 requirements remain in place.)

The Congressional Budget Office had estimated that these expanded 1099 reporting requirements would capture an additional \$21.9 billion in tax revenues, due to better enforcement of existing income tax provisions. Because both parties wished to make this repeal revenue-neutral, they spent several months looking for additional revenues they could use to offset this cost. The revenue offset

they eventually agreed upon was the one preferred by Republicans.

This will increase the amount that certain lower-income individuals must repay to the federal government when they receive premium assistance credits that exceed the amount to which they are entitled. This is likely to occur because of the way these credits are to be calculated. An *estimated* credit will be determined on the basis of the *prior* year's household income, and that credit will then be adjusted (either up or down) if the *current* year's income varies from the prior year.

The ACA had already provided that *some* portion of any excess premium subsidy would have to be repaid to the federal government. This 1099 repeal legislation increases the maximum dollar amount of those required repayments. Indeed, for families with incomes of more than 400% of the federal poverty level, the entire excess subsidy will now have to be repaid.

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