

Health Care Bill Prescription: Send 1099s to Everyone for Everything

By Erik Sherman | May 11, 2010



Sometimes I come across something in the news that makes me want to bury my head. And here's the latest in business. According to **Michael Tanner**, a senior fellow at the **Cato Institute**, there's an unpleasant provision tucked into the health care reform law. Starting in 2012, companies will have to issue 1099s to all companies from which they buy more than \$600 in goods and services. For industries like high tech, with extended supply chains and zillions of customers, it will become a paperwork nightmare.

Up until now, the IRS 1099 form has been for companies that used contract labor. Pay someone more than \$600 in a year, and you were obligated to send out a 1099 rather than a W-2 that an employee would receive. According to Tanner, the health care law has expanded the language to apply to almost any purchase. Call me cynical, but I know that the Cato Institute has an interest in making government regulations look bad, so I poked around the language both of the bill and the relevant IRS code and, if I'm reading it correctly, Tanner is absolutely correct.

The law explicitly extends section 6041 of the Internal Revenue Code in some fundamental and extensive ways. That section is the one that requires any business to report non-wage income of over \$600 paid to a person in a year:

Section 6041 of the Internal Revenue Code provides that all persons engaged in a trade or business who make a payment in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of \$600 or more in any taxable year shall render a true and accurate return setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment. Section 1.6041-1(a)(1)(i) of the Income Tax Regulations provides that the payments required to be reported under section 6041 include the following: (1) salaries, wages, commissions, fees, and other forms of compensation for services rendered aggregating \$600 or more; and (2) interest, rents, royalties, annuities, pensions, and other gains, profits, and income aggregating

\$600 or more. The return of information required by section 1.6041-1(a)(1)(i) must be made on Form 1099. See section 1.6041-1(a)(2).

The extensions required by the health care legislation dramatically expand the reach of this section. First, it's no longer just about individuals receiving compensation:

Notwithstanding any regulation prescribed by the Secretary before the date of the enactment of this subsection, for purposes of this section, the term 'person' includes any corporation that is not an organization exempt from tax under section 501(a).

Suddenly it's money paid to corporations or individuals for services, rent, royalties, or other such covered payments. Unlike many laws affecting business reporting, there is no provision limiting the size of the organization, so a corporation with 18 people is as liable as one of 18,000. (I wonder if partnerships or other forms of business organization that aren't individuals or corporations are similarly included?) Now for the next twist.

(b) PAYMENTS FOR PROPERTY AND OTHER GROSS PROCEEDS.—Subsection (a) of section 6041 of the Internal Revenue Code of 1986 is amended—
 (1) by inserting “amounts in consideration for property,” after “wages,” (2) by inserting “gross proceeds,” after “emoluments, or other”, and (3) by inserting “gross proceeds,” after “setting forth the amount of such”.

Here's how the relevant section of the tax code reads with the changes incorporated:

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, amounts in consideration for property, premiums, annuities, compensations, remunerations, emoluments, gross proceeds, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gross proceeds, gains, profits, and income, and the name and address of the recipient of such payment.

In other words, pay more than \$600 in a year to one company for rent, telephone, computers, or any other business expense, and the purchaser has a 1099 form to fill and send:

“It's a pretty heavy administrative burden,” particularly for small businesses without large in-house accounting staffs, says **Bill Rys**, tax counsel for the **National Federation of Independent Businesses**. Eliminating the goods exemption could launch an avalanche of paperwork, he says: “If you cater a lunch for other businesses every Wednesday, say, that's a lot of information to keep track of throughout the year.”

Apparently, someone figured that tracking down unreported income would increase government revenue. In short, the idea is to gather info for the IRS to better enforce tax bills. This is

laughable for two reasons. One is that the antiquated IT systems are already strained like a 60-year-old man who's gone off his morning bran, so how will they correlate the information and who will do the enforcement, as the agency tends to be short-handed as is. Second is that the increased costs of accounting and clerical work become business expenses that reduce tax liability.

Now consider how convoluted this will be. Can you imagine small companies trying to figure out who at Office Depot or AT&T gets the appropriate form? For a large corporation, sending out 1099s is an administrative burden. The pain is about to geometrically expand, and what large corporation is set up to *receive* and file 1099s? As a business writer friend, **Randy B. Hecht** of **Aphra Communications**, reacted, how is any business of any size going to make *any* purchase without having the EIN of the vendor on hand just in case the total paid for the year tops \$600? And how many additional pieces of paperwork will the IRS now face?

On the positive side, it seems that there would be a big business in being an intermediary that can go through accounts, generate forms, and get them to the correct party. I could see an **Intuit** (INTU) or **ADP** (ADP) picking up considerable business from this.

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