

Congress of the United States

U.S. House of Representatives

Committee on Small Business

2361 Rayburn House Office Building

Washington, DC 20515-6315

The Honorable Douglas Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224
Via Facsimile: 202.622.4733

June 23, 2010

Dear Commissioner Shulman:

As you know, the Patient Protection and Affordable Care Act (P.L. 111-148) requires every business to file a 1099-MISC form for each purchase of goods or services of \$600 or more per year from another entity. As Members of the House Committee on Small Business and supporters of small business, we are strongly opposed to this mandate and the increased burden and cost that it will impose. Because the Internal Revenue Service will be implementing this provision, we write to express our concern about it, request information about your implementation of this provision, and ask your guidance and assistance in helping small business owners to comply with it.

At an April 14, 2010 Committee hearing on tax issues, where you testified, we expressed our concern about the implementation of the new law. At a May 5, 2010 Committee hearing on tax initiatives that promote small business growth, small business owners testified that they would be overburdened by the new health care law. Since those hearings, we have heard from many small companies, in many types of businesses, that this change will force them to complete and file 1099-MISC forms for transactions regarding rent; equipment; furniture; utilities; office supplies; fuel; software; janitorial services; postage, postal metering and package delivery services; beverages, groceries and meals; and any other good or service. Retail and wholesalers of expensive products would be forced to file hundreds or thousands of 1099s, solely for ordering inventory. Because the new law will require the filing of 1099s on goods as well as services, the number of 1099s that must be filed will increase exponentially.

Realistically, it is difficult to envision how this paperwork burden could be implemented. We are told that in a single year, even a very small business with low to average annual gross revenues might utilize hundreds of vendors in thousands of transactions. Doing so will require companies to maintain sophisticated record keeping systems to total numerous small purchases with one vendor, as well as larger ones. It will require them to track down IRS taxpayer identification numbers (TIN) for what could be

hundreds of vendors. It will require coordination between numerous employees or different departments that may keep separate records for vendor billing. It may require the tracking of expenditures under numerous methods, such as credit card, debit card, or check, and by supplier rather than by the type or category of purchase. It could even force small firms to hire an outside data processing firm to perform this work.

According to a recent informal National Small Business Association (NSBA) survey, NSBA members responded that they currently complete 1099 reporting documents for an average of 8 independent contractors. Under the new law, they reported they expect that the average number of independent contractors or service providers requiring 1099 forms would skyrocket to 87. Many small businesses could have to file more than a total of 250 of the 1099 forms, which, we have been told, would require that they be filed electronically through the IRS. This could necessitate the purchase of additional, more sophisticated software, unless the IRS develops an alternative reporting system.

A number of complex issues have been brought to our attention regarding implementation. Will 1099 reporting include amounts before or after sales tax has been added? Will there be exemptions to the 28% backup withholding requirements that normally apply to Internal Revenue Code Section 6014 reporting when a business has requested a vendor's TIN but it has not been provided? If the business has made a good faith effort to identify a vendor, obtain a TIN and withhold, but cannot do so, would they be subject to a penalty? How would an employer withhold on routine purchases of services, such as transportation tickets and hotels? If a company did withhold 28%, would the vendor report the company's failure to pay to a credit agency? What process would be employed to resolve discrepancies between the data?

All of these issues create an administrative impact of even greater cost and complexity for the very businesses we are asking to create additional jobs, hire more workers, produce more products, and get our economy moving again. In fact, the annual administrative expense for businesses to comply could far exceed the provision's projected annual revenue. There could also be a trend toward purchases only from large retailers, which businesses may feel could easily comply with the new 1099 requirements, further penalizing small firms.


We are also concerned about the burden and cost of implementation for the IRS. This provision will result in an enormous number of additional 1099 forms being remitted to the IRS, increasing the processing demand on IRS employees and straining the IRS infrastructure.

Please inform us within 14 business days of your anticipated timeline for the implementation of this provision. In addition, we would like to know when regulations and/or compliance guidance for business are expected to be issued. Finally, please provide an estimate of the total cost of implementation to the IRS; the number of employees that will be needed to implement this provision; and whether the IRS

employees will be new hires or transferred from existing duties, and if so, from which existing duties they will be transferred.

Thank you for your assistance. Please contact Jan Oliver at 202.225.5821 or jan.oliver@mail.house.gov with questions about this letter. Please fax your response to: 202.225.3587 or email it to: jan.oliver@mail.house.gov.

Sincerely,



Representative Sam Graves, Ranking Member



Representative Roscoe G. Bartlett



Representative W. Todd Akin



Representative Steve King



Representative Lynn A. Westmoreland




Representative Louie Gohmert



Representative Mary Fallin



Representative Vern Buchanan



Representative Blaine Luetkemeyer



Representative Aaron Schock



Representative Glenn Thompson



Representative Mike Coffman