

# Forbes



## Robert W. Wood

THE TAX LAWYER

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### The Truth About IRS Forms 1099

Forms 1099 are those pesky tax forms you get in the mail at the end of January reporting income. There are many varieties of the insipid little forms. They cover interest, dividends, consulting fees, cancellation of debt income (tax geeks call it “COD” income) and more.

And you need to pay attention to each and every one, even if you receive dozens. In fact, since these forms are keyed to your Social Security Number, you need to put the income somewhere on your tax return. Just forget one little 1099 even for a small amount—say \$100 of interest or a small consulting fee you received, and you’ll get a dunning letter from the IRS asking for tax on that amount. [See IRS Notice CP 2000](#). After all, the IRS gets a copy of each form you receive.

From the IRS’s perspective the beauty of 1099s is matching to your Social Security Number, so if you’re ever tempted not to report something, getting a Form 1099 probably helps keep that temptation in check. The more 1099s that are issued, the more money the government is likely to collect. For more truths about 1099s, see [Ten Things You Should Know About 1099s](#).

**Being an Issuer.** But if you’re a small business person, you think of the obligation to *send out* all these pesky forms and of IRS penalties if you misstep. For the information return matching system to pay off for the IRS, they need businesses to issue the ubiquitous forms, and the IRS is getting tougher on penalties. On top of penalties, businesses even worry that failing to issue a Form 1099 for a payment (say to a consultant or

service provider) may result in the IRS denying their tax deduction for the payment.

Every year the burdens on business in January and February (when businesses issue forms for the prior year) seems to get worse. Forms 1099 must be mailed to taxpayers no later than January 31 for the preceding year, and copies must be sent to the IRS no later than the end of February. There's more focus now that two major pieces of tax legislation are putting even greater burdens on small business.

Hot off the press—and signed by President Obama on September 27, 2010—is the [Small Business Jobs Act of 2010](#). In it, Congress has beefed up reporting requirements and penalties.

**1099s for Rental Property Expenses.** For payments after December 31, 2010, the new law requires recipients of rental income from real estate to issue 1099s to all service providers getting \$600 or more for rental property expenses. There are exceptions for individuals renting their principal residences and taxpayers with minimal rental income. Believe it or not, the IRS is also expected to write a rule exempting some based on “hardship,” though it’s hard to see how the IRS will cut too deeply into the little form regime.

**Higher Penalties.** The penalties on businesses failing to issue the forms or provide them to payees also go up after 2010. One penalty doubles from \$15 to \$30. The calendar year maximum goes from \$75,000 to \$250,000, and even for small filers, the calendar year maximum goes from \$25,000 to \$75,000. The minimum penalty for each failure due to intentional disregard more than doubles from \$100 to \$250.

**Patient Protection?** Speaking of Forms 1099, don’t forget the Patient Protection and Affordable Care Act, PL 111-148, signed by President Obama on March 23, 2010. This healthcare reform legislation—the administration’s centerpiece—also amped up 1099s. But these healthcare-wrapped 1099 rules don’t kick in until 2012. When they do, though, it will be a new era of “if it moves, 1099 it” administration.

Think that's an overstatement? Not hardly. The exemption from 1099 rules that corporations have always enjoyed is out the window. Also, payments for property are also brought within the 1099 reporting net. So it's not only services that will be 1099'd. But most controversial of all, credit card payments will also be the subject of 1099s in 2012.

All of this means that if you're in business, you can bet you'll soon be issuing lots more 1099s every year. Hey, maybe there's a certain symmetry to having new 1099 rules in the healthcare bill. After all, complying with all the new rules could make you sick, and then you'll need that healthcare big time.

*Robert W. Wood practices law with [Wood & Porter](#), in San Francisco. The author of more than 30 books, including *Taxation of Damage Awards & Settlement Payments* (4th Ed. 2009, [Tax Institute](#)), he can be reached at [wood@woodporter.com](mailto:wood@woodporter.com). This discussion is not intended as legal advice, and cannot be relied upon for any purpose without the services of a qualified professional.*