

The IRS Needs to Know

Own a rental property? A new law requires you to issue an IRS 1099 form to the handyman and other vendors.

If you're the owner of even a single unit of rental property, starting this year you must start tracking all vendors doing at least \$600 worth of work for you. Federal law now requires you to send them an IRS 1099 form.

The requirement to track vendors and issue 1099 forms isn't new—it's something that larger rental property owners already must do. But last year when the federal government enacted the Small Business Jobs Act of 2010 (H.R. 5297), it expanded this requirement to all property owners, no matter how small. Even property owners who are just doing rental as a sideline—maybe as part of a family investment fund or as part of a retirement savings plan—are now considered to be “conducting a trade or business,” so the 1099 reporting requirement now applies to them.

If you own a rental, that means you have a legal obligation to obtain certain information from your vendors—generally their name, address, and Social Security number or other tax identification—and to keep a record of the amount you pay them over the year. Then you must issue them a 1099 form to reflect the income you paid them for the year. (And don't forget to keep a copy for yourself.)

HOW TO COMPLY

Since the requirement takes effect for the 2011 tax year, you should have started tracking the payments you've made to your vendors beginning in January. After you've tracked your payments for the year, you'll send your vendors the total in the 1099 form in early 2012. There are a few exceptions to the requirement:

- **Burden:** Gathering the information and issuing the forms would create a hardship for you.
- **Duration:** The property is only a temporary rental of your own residence.
- **Income:** Your income from the rental doesn't meet minimal threshold requirements.

More guidance is forthcoming. The IRS will fill in the details on what constitutes a hardship and what's considered “minimal” income, so you'll want to verify those when they come out.

The requirement applies to all independent contractors or freelance workers that typically provide services in a rental real estate context. These include plumbers, electricians, painters, cleaning services, gardeners, landscapers, accountants, and handymen—in short, virtually all service providers to the property who don't receive a W-2 form from you and who provide at least \$600 in services for the year. It's a cumulative amount, so even if a painting job costs you only \$400, you need to track it and add any other charges from that vendor to see if the total comes to more than \$600, which triggers the requirement.

You'll want to review your bookkeeping procedures, with your accountant if you work with one, to be confident you have a system in place to track your payments to your vendors. You'll also want to set up your tracking procedure so that you can record how you paid them: by credit card, debit card, check, or cash.

PENALTIES FOR FILING LATE

The IRS will set forth the important dates for the 2011 tax year. You'll want to note those and be sure to comply, because late filing or failure to file will result in penalties up to \$250.

As a general matter, you'll be able to request a 30-day extension for getting your forms to the IRS, but that won't apply to your deadline for getting the form to your vendors. Remember, your vendors will need to use those forms in preparing their tax returns.

For many owners, the new reporting requirement may come as a surprise. If you manage property for a small owner, make sure you let them know about this new rule. And if you're the owner, take note of the filing deadlines and start carefully tracking your payments to vendors. ■



John M. Compagno is a real estate equity partner at the law firm of Holland & Knight LLP in San Francisco and a licensed real estate broker. You can reach him at john.compagno@hkllaw.com.