

ISSUING 1099-C's

By Steven A. Carstens, CPA

Lately there has been much talk about the issuance of 1099-C "Cancellation of Debt" to charged off customers. Although the IRS has required the issuance of 1099-C's for a number of years, only recently have we heard of penalties being enforced for non-issuance. The regulations behind 1099-C's are quite confusing but there are a few things we know for sure. Dealers who do not have a related finance company are not required to issue 1099-C's. Related and independent finance companies should be issuing 1099-C's.

The most common question regarding 1099-C's has to do with the timing of 1099-C issuance and whether the 1099-C is required to be issued in the same year as the company takes the bad debt deduction. The IRS defines a bad debt as a debt that is uncollectible and that legal action to enforce payment would in all probability not result in the satisfaction of execution on a judgment. The regulations regarding the issuance of a 1099-C discuss nine identifiable events which would cause the issuance of a 1099-C, all of which generally relate to when a company abandons or loses the right to pursue a debt. Believing that a debt is uncollectible and not legally being able to pursue a debt are two different concepts and therefore it is possible to charge off a debt in one year and issue a 1099-C in a different year, it all depends on the facts and circumstances.

Some circumstances are more cut and dry though. If you have an agreement with a customer not to pursue the debt or you settle with a customer for less than the balance on the account, a 1099-C should be issued because you have lost the legal right to pursue the debt. If you are in a state where you have no legal recourse against customers after the repossession and you do not attempt any legal collections after the charge off, a 1099-C should be issued. If your company has a written policy to abandon legal collections on charged off accounts after a certain period of time, you should then issue a 1099-C. If the statute of limitations runs out on a debt collection, then you should issue a 1099-C.

Many dealers state that they are still pursuing debt collections on charged off accounts and therefore do not have to issue 1099-C's. This is a risky practice because there is always a point at which a dealer ceases collections on a charged off account and therefore we recommend dealers have a written policy defining their collection policies and time lines so that 1099-C's can be issued timely. We also recommend that dealers review their collection policies and procedures, including the nine identifiable events for the issuance of 1099-C's, with their attorney to ensure they are in compliance with state and federal regulations.