

Filing Forms 1099 to stay out of trouble

It seems every year, the IRS adds more rules and creates more forms to fill out. In fact, more rules to follow and more forms to fill out seem to be the new motto of our “kindler and gentler” IRS office. Is it any wonder more dealers are getting fed up with the never ending rules and regulations being handed down?

The IRS considers it a top priority to get businesses to file more paper forms related to contract labor, rent, interest, etc. As such, they now include the following question on every single business tax return. “Did the corporation make any payments in tax year 2012 that would require it to file form(s) 1099? If yes, did the corporation file or will it file all required Forms 1099?”

These days, it is crucial to be aware of what the IRS is looking for so you can stay compliant. Listed below are some of the more common forms that need to be completed. Filing these forms will reduce (but not eliminate) the chances of an IRS audit.

Form 1099-MISC (payments for contract labor and rents)

You are required to issue Form 1099-MISC to any of the following:

- 1) Any person (or partnership or estate) you paid \$600 or more for contract services. (for example, paying someone to paint your building)
- 2) Any person (or partnership or estate) you paid \$600 or more for rent. Rent includes payments office space, but also includes machine rentals (such as renting a bulldozer to level your parking lot)
- 3) Any attorney or law firm you paid \$600 or more for legal services
- 4) Any person you paid for directors' fees
- 5) You must file form 1099-MISC for each person from whom you have withheld any federal income tax under backup withholding rules regardless of the amount of payment.

In order to properly complete Form 1099 for individuals listed above, it is recommended that you obtain a completed Form W-9, Request for Taxpayer Identification Number and Certification. This form is used to obtain the recipient's social security number. We recommend you obtain this information from the person in the beginning. Sometimes it can be difficult to track people down later in the year.

Form 1099-C (Cancellation of Debt)

Dealerships are not required to file Form 1099-C. However, finance companies are required to file form 1099-C (Cancellation of debt) for each debtor for whom you canceled a debt owed to you of \$600 or more if an identifiable event has occurred. The IRS has listed 9 identifiable events. However, the most common events that would trigger the issuance of form 1099-C are listed below:

- 1) Discharge in bankruptcy under Title 11 of the U.S. Code, but only if your customer was using the vehicle in a business. You are not required to issue a 1099-C if the customer debt is discharged in personal bankruptcy.

- 2) Discharge of indebtedness under an agreement between the finance company and the debtor to cancel the debt at less than full consideration.
- 3) Discharge of indebtedness because of a decision or a defined policy of the finance company to discontinue collection activity and cancel the debt. A creditor's defined policy can be in writing or an established business practice of the creditor. According to form 1099-C instructions, A creditor's established practice to stop collection activity and abandon a debt when a particular nonpayment period expires is a defined policy.

Please note you are not required to issue a 1099-C if you release one of the debtors on a debt as long as the remaining debtors are liable for the full unpaid amount. In addition, you are not required to file form 1099-C for a guarantor. A guarantor is not a debtor for purposes of filing Form 1099-C even if demand for payment is made to the guarantor.

Failure to issue 1099-C (Cancellation of Debt) forms will result in a penalty. These penalties can be substantial as they are assessed on each individual form that was not issued.

Requesting taxpayer ID number for 1099-C recipients:

You must make a reasonable effort to obtain the correct name and taxpayer ID number (TIN) of the person whose debt was cancelled. You may obtain the TIN when the debt is incurred. (This is recommended) If you do not obtain the TIN before the debt is canceled, you must request the debtor's TIN. Your request must clearly notify the debtor that the IRS requires the debtor to furnish its TIN and that failure to furnish such TIN subjects the debtor to a \$50 penalty imposed by the IRS. You may use Form W-9, Request for Taxpayer Identification Number and Certification, to request the TIN.

Compliance with IRS forms

Shilson Goldberg Cheung & Associates LLP can help you stay in compliance. In the event, your company requires a 1099 to be issued for rent or interest to the shareholder, we will prepare this form at no charge if we are preparing your business return. Our firm is available to prepare all other 1099 forms for a fixed fee of \$30 per form. In the event you require more than 50 forms, please contact us to discuss reduced rates for volume.

We recommend you begin reviewing your operations to determine a listing of contract labor, rent, interest, etc that may require 1099 forms to be issued at the end of the year.

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