

The Bankler Report

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INTRODUCTION

Yesterday, Congress passed “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011.” President Obama is expected to sign this bill.

Information Reporting Rules Prior to the 2010 law changes.

Before the changes made by the Small Business Jobs Act of 2010 (P.L. 111-240) and the Patient Protection and Affordable Care Act (PPACA, P.L. 111-148), generally the law required payments totaling at least \$600 in a single calendar year to a single unincorporated recipient (except payments to law firms) to be reported to IRS. Reporting on Form 1099 was required only when the payor was considered to be engaged in a trade or business and has made the payment in connection with that trade or business. The type of payment that most commonly triggered the reporting requirement was payment for services.

Changes made by 2010 legislations.

Beginning in 2012, the PPACA added payments for any type of property and gross proceeds—i.e., it added payments for goods or other property—to the list of payments subject to information reporting. In addition, PPACA further provided that, beginning in 2012, payments to non-tax-exempt corporations—which had previously been exempt from the reporting requirement—would be subject to information reporting.

Additionally, for payments made after 2010, the Small Business Jobs Act of 2010 basically provided that taxpayers receiving rental income from real estate would be treated as engaged in the trade or business of renting property for information reporting purposes. In particular, rental income recipients making payments of \$600 or more to a service provider (for example, a painter or plumber) in the course of earning rental income would have to prepare and submit 1099s to the service provider and IRS.

The “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011.”

When this becomes law, it repeals the changes made by both 2010 amendments. The law reverts back to the prior rules.