

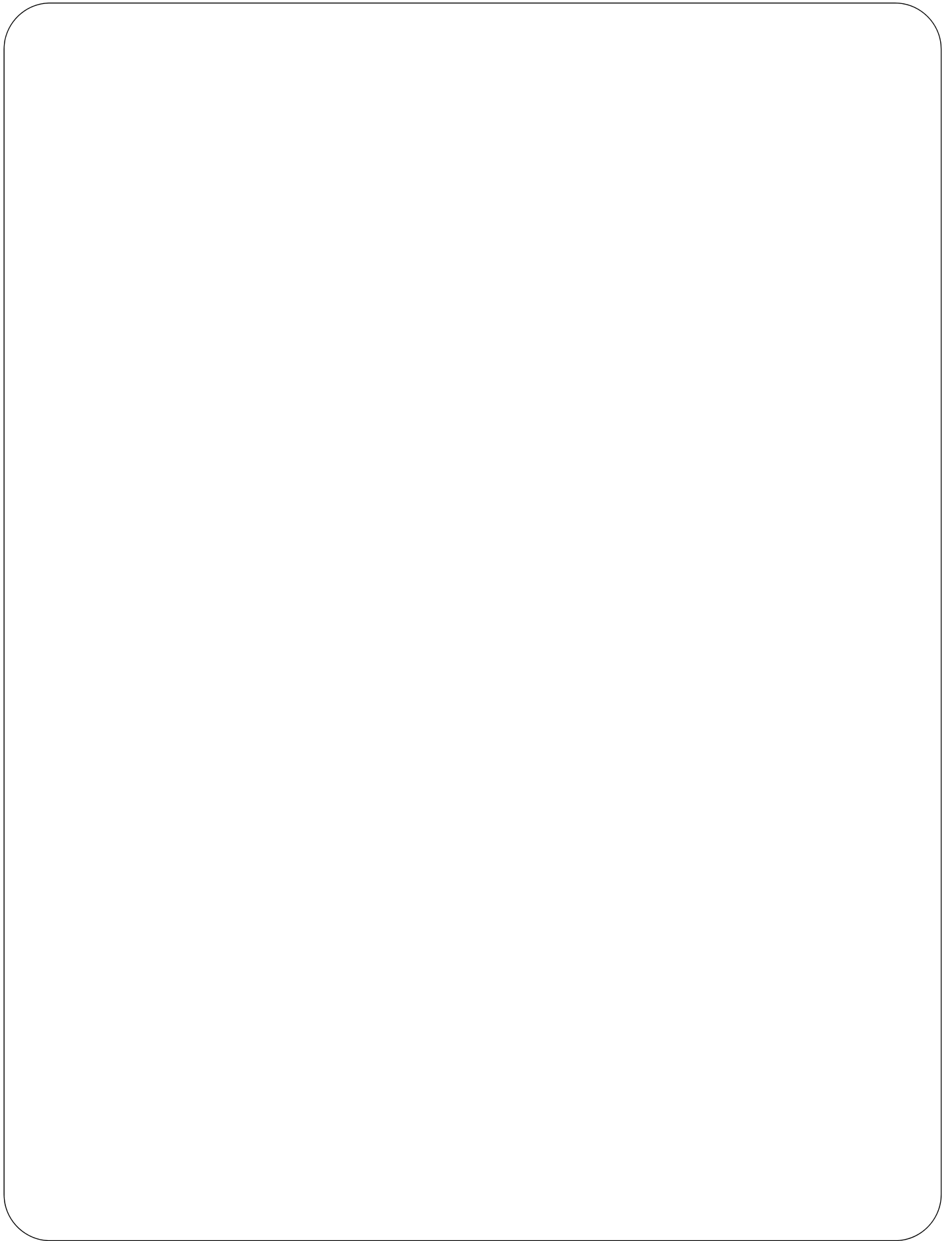
The Tax Man Cometh

The IRS, 1099's And Our Lodges

By

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Disclaimer

- This presentation is not intended to be specific legal or tax advice. It is intended to acquaint you with certain procedures contained within the Patient Protection and Affordable Care Act and how they may impact ELK's Lodges. The information is condensed to make it more understandable and to assist you in indentifying issues. Details of the law are not being presented and the application of these laws cannot be based upon the information received in this seminar. You should consult with a qualified Tax Representative or Attorney about any issues that you think might apply to you.

The Summary of the 1099 Reporting and Tax Legislation changes

Section 6041 of the Internal Revenue Code outlines 1099 reporting requirements. The Patient Protection and Affordable Care Act includes an Amendment to Section 6041 which now requires 1099 reporting for any payments aggregating \$600 to a supplier per year.

The new amendment will now create requirements for reporting for:

- All for-profit corporations
- Payments made for Property (goods, merchandise, supplies, raw materials, equipment, etc.)
- Companies will be required to submit accurate TIN information or face monetary penalties
- The provision in the health care law is aimed to reduce the gap between income that individuals and businesses make and the federal taxes they pay, which the Government Accountability Office estimates is \$345 billion

The Wall Street Journal says Congress hopes the new 1099 provision will collect \$17 billion more in federal taxes and fees

What has been changed?

• **Before**: Most payments to corporations were exempt from Form 1099 reporting requirements. These exemptions include: Providers of Goods, Corporations, Tax Exempt Organizations, Internal Organizations, and Retirement Plans. 1099's are only required for a small subset of the suppliers where payments were made. This was typically well less than 10% of supplier payments.

• **After**: Companies will be required to submit 1099's on all for-profit companies who receive payments greater than \$600. This will typically be 95+% of supplier payments

• **The big change**: Corporations have been added to the entities that require 1099 reporting this will account for the biggest increase.

What are some details surrounding the timing of the new change?

- New law becomes effective for all payments made after December 31, 2011.
- Companies should plan to start collecting and validating W-9's & TIN's for each supplier they will spend more than \$600 with for the 2012 year.
- Companies will need to issue and submit 1099's to suppliers and IRS early in 2013 for the year 2012.

Who will we have to issue Form 1099's to?

Anyone or any company who your Lodge pays \$600 or more to in a taxable year such as:

- Your utility company
- Your trash pick-up company
- Your plumber
- Your office supply company
- Your electrician
- Your painter
- Your linen company
- And...possibly Grand Lodge for any supplies, manuals, etc.

How will this effect financial personnel at corporations?

The new Legislation poses a significant burden to corporation that must ramp up their reporting efforts.

- Information reporting requirements bring with them the responsibility of obtaining appropriate taxpayer identification numbers (TINs) from suppliers that were not previously subject to Form 1099–MISC reporting.
- If the corporation fails to produce a TIN, or fails to properly perform their 1099 reporting, then backup withholding is required on payments 1099-application suppliers.

The new Legislation also poses a considerable increase to the amount of reporting that takes place within a business's accounts payable system and department.

- Employers will need to implement the appropriate record keeping and data collection processes to meet the reporting requirements, including, where necessary, processes to effectively communicate the required information to third parties providing payroll administration or managing other reporting obligations.

The monetary risk is expected to increase significantly. Where companies were experiencing notice fines at the following levels:

- \$50 per each supplier that is not properly reported
- \$250,000 maximum potential risk per company

The new legislature increases the levels to:

- \$250 per each supplier that is not properly reported
- \$1.5M maximum potential risk per company, although some sources have indicated that this number could be higher

- This expansion of information reporting may prove to be so burdensome to small businesses that we believe it will significantly contribute to the hurdles to growth and formation that businesses face.
- When businesses start tax compliance planning for 2012, section 9006 will impose a significant increase in costs on business with respect to the accumulation of relevant information and the preparation and mailing of Forms 1099-MISC. In addition, many corporations operate on a fiscal year basis rather than on a calendar year.
- Receipt of Forms 1099-MISC by these fiscal year corporations would not provide useful information as the corporations would be receiving calendar year information, triggering a burdensome income reconciliation procedure for the taxpayer that would be necessary to interpret the data.

The Truth About IRS Form 1099

- **Being an Issuer.** Being a small business, 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 for 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.

• **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

• When the new requirements for the 1099 reporting kicks in, 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.

The Small Business Jobs and Credit Act

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.

Reporting Income Payments Using Form 1099-MISC

- **Form 1099-MISC is used to report payments made in a trade or business.**
- Form 1099-MISC is used to report certain types of payments made in the course of a trade or business. If you're in business or self-employed, you may need to submit this report to both the Internal Revenue Service and the person or business that you paid.

When is Form 1099-MISC Required?

Businesses will need to fill out a Form 1099-MISC for vendors, subcontractors, independent contractors, and others in the following circumstances:

\$600 or more per year is paid for

- cash payments to fishermen
 - crop insurance proceeds,
 - medical and health care payments,
 - prizes and awards,
 - proceeds paid to attorneys,
 - **rents**,
 - services (including parts and materials), and
 - other types of payments not covered by another information reporting document.
- For the years 2010 and 2011, reporting such payments is required if the recipient of the income is not a corporation -- for example, when the recipient is an individual, partnership, a limited liability company treated as a partnership or sole proprietorship.

•Expanded 1099-MISC Reporting Starting in 2011 for Rental Property Owners

•Starting with the year 2011, individuals and businesses who own rental property will need to issue a 1099-MISC for payments relating to their rental properties. A 1099 form will be required if the property owner spends \$600 or more per year per recipient. Examples of possible 1099-MISC recipients: gardeners, landscapers, contractors and repair services.

Steps to Take Now to Prepare for Expanded 1099-MISC Reporting

- In anticipation of these forthcoming requirements, I would encourage Lodges and their accountants to review their bookkeeping systems so that they are collecting all the necessary information. In particular, ensure that your accounting system is keeping track of payments issued to specific vendors, contractors, and other businesses.
- At minimum the information to keep track of would include total payments made throughout the year, the name, address, and taxpayer identification number of the vendor. You may also want to ensure that your accounting system can separate payments made by credit or debit card from payments made by cash or check.
- If necessary, you should request that your vendors and contractors submit a Form W-9 which will provide you with the legal name, address and taxpayer identification number for the vendor.

Penalties for Filing Form 1099-MISC Late

The following penalties will be in effect for the year 2011:

- \$30 penalty for filing a 1099 not more than 30 days late;
- \$60 penalty for filing a 1099 more than 30 days late and before August 1;
- \$100 penalty for filing a 1099 on or after August 1;
- \$250 penalty for intentional failure to file.

Deadlines for 1099-MISC Forms

- Provide the recipient with his or her copy of the Form 1099-MISC by **January 31** reporting income for the previous calendar year.
- Mail the Form 1099-MISC to the IRS by **February 28**.
- Or electronically file 1099s with the IRS by **March 31**.

Businesses can request a 30-day extension to file 1099s with the IRS using Form 8809. An extension does not permit additional time for providing the 1099 to the recipient

Repeal of section 9006 of the Act is the best alternative to imposition of an overwhelming compliance burden on the nation's small business community.

IRS Commissioner Douglas Shulman has acknowledged publicly that the business community is concerned about the compliance burdens associated with this provision. In May 2010, Commissioner Shulman stated that the IRS plans to use its "administrative authority to exempt from this new requirement business transactions conducted using...credit cards and debit cards."

This potential exemption may mitigate some burden; however, we are still concerned with the overall level of burden placed on taxpayers. Thus, we remain convinced that repeal of section 9006 is the best solution for our Lodges.

Nebraska Senator Mike Johanns



We need to support Senator Johanns in his effort to appeal the 1099 section of the Patient Protection and Affordable Health Care Act (Senate Bill 3578)