



OFFICE OF  
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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The Honorable Patty Murray  
United States Senate  
Washington, D.C. 20510

Dear Senator Murray:

This letter is in response to your inquiry dated July 24, 2000, on behalf of a constituent who is concerned with the complexity of the information reporting requirements. You asked whether we have any current efforts to streamline the regulations for Form 1099.

Currently we have no plans to streamline the information reporting regulations. New regulations take effect on January 1, 2001, that clarify the reporting rules under sections 6041 (Information at source), 6042 (dividends), 6045 (broker returns), 6049 (Interest), and 6724 (waiver of penalties), and other reporting provisions. These regulations provide guidance to taxpayers but do not streamline the rules.

The type of payment referred to in your constituent's letter (witness fees or similar services) is reportable under section 6041 of the Internal Revenue Code (the Code), which requires taxpayers to report payments of \$600 or more to service providers. Other reporting rules are found in sections 6031-6059. These sections require taxpayers to report payments such as non-employee compensation, rents, royalties, interest, dividends, and broker proceeds. The Code sections and accompanying regulations set forth minimum dollar amounts and other specific rules, including exemptions from reporting, for various types of payments.

The Congress enacted information reporting laws to enable the IRS to match the payment of income to the recipient's tax return and determine if income is unreported or underreported. To ensure accurate matching, the required information return, generally a Form 1099, must contain the name and taxpayer identification number (TIN) of the payor, the name and TIN of the payee, and the amount paid during the year.

The IRS will assess penalties for failure to file comply with the information reporting rules. The penalties for failing to file a correct information return, failing to provide correct payee statements, or failure to comply with other reporting requirements, are generally \$50 per return. See sections 6721-6723 of the Code. The penalties may be waived for reasonable cause under section 6724. Under certain circumstances the

payor must backup withhold Federal income tax from the payment at a rate of 31 percent under section 3406.

To comply with the information reporting rules, a payor must solicit the payee's TIN at the time the transaction takes place or the account is opened. Also, a payor must backup withhold on a payment if it does not have the payee's TIN at the time the payment is made. If the TIN provided by the payee and included on the Form 1099 is incorrect, the IRS will send penalty notices as well as notices to begin backup withholding on subsequent payments unless the payee certifies a correct TIN. These rules apply even if the payment to the payee turns out to be a one-time payment. However, a payer is not subject to a penalty if the payee failed to provide a correct TIN if the payor acted in a responsible manner in soliciting the payee's TIN.

The penalty notices and backup withholding notices may be burdensome, but are part of the effort to ensure that the information included on information returns is correct.

I hope this information is helpful. If you need further assistance, please call me at (202) 622-7810, or Nancy Rose (ID #50-06240) at (202) 622-4910.

Sincerely,

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Curtis G. Wilson  
Assistant Chief Counsel  
(Administrative Provisions and Judicial  
Practice)