



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

OFFICE OF  
CHIEF COUNSEL

June 14, 2002

Number: **INFO 2002-0102**

Release Date: 6/28/2002

CC:PA:APJP:1

GENIN-130532-02

UIL: 6041.00-00



Dear [REDACTED]:

This is in response to your letter dated March 26, 2002, wherein you asked whether a property management company ("Company"), is required to file Forms 1099-MISC with respect to rental payments made to the owners of those properties which it manages.

#### Facts

In your letter you indicate that Company is a full service real estate agency with a property management division. You further indicate that the property management services offered by Company include: 1) Preparing and maintaining rental/lease agreements; 2) Finding potential lessees to full vacancies; 3) Collecting rents and holding security deposits paid by such lessees; 4) Paying various expenses on behalf of the property owners such as mortgage taxes, insurance, utilities, and maintenance and repair expenses; and 5) Maintaining individual accounts for each property unit, providing a quarterly and/or annual accounting of each of the units, and making monthly distributions to the property owners of any outstanding account balances. Finally, you state that Company's property management division files Forms 1099-MISC for each managed property, indicating in Box #1 Rents, the total rent collected for each property.

#### Law and Analysis

Section 6041(a) of the Internal Revenue Code ("Code") states: "All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income...of \$600 or more in any taxable year...shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payments."

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There are certain payments for which no return of information is required under section 6041 of the Code. More specifically, section 1.6041-3(d) of the Regulations on Procedure and Administration ("Regulations") holds that a return of information is not required in connection with payments of rent made to real estate agents. However, the agent is subject to sections 1.6041-1(a)(1)(ii) and (2)(ii) of the Regulations, which require that a real estate agent provide a return to the Internal Revenue Service ("Service") in the event that it makes payments of rents of \$600 or more in the course of its trade or business. Therefore, while a lessee is not required to file a Form 1099-MISC with the Service in connection with payments of rents that it may make to a real estate agent, the agent is required to file a 1099-MISC with the Service if it makes payments of rents in excess of \$600 to the owner of such property.

Since Company collects rents from the respective lessees on behalf of its property-owner clients and makes monthly payments of such rents, minus applicable expenses, to the property owners, it would appear that Company is required to file a Form 1099-MISC with the Service in connection with all payments of rents of \$600 or more made by Company to its clients.

This letter is an information letter only. It describes a well-established interpretation or principle of tax law without applying it to a specific set of facts. It is advisory only and has no binding effect on the Internal Revenue Service. This letter is intended only to provide you with general guidance for determining how to comply with applicable law.

If you have any questions, please contact Rob Desilets, Jr. at 202-622-4910.

Sincerely,

Nancy L. Rose  
Acting Senior Technician Reviewer  
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