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CPAs Apprehensive on 1099 Rules, Other Regulations for 2011

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Every new year brings with it new regulations and 2011 is no exception. NYSSCPA members said new reporting requirements and regulations will see CPAs in all fields adapt to several changes this year that will affect how they and their clients do business.

Members reported that the new 1099 reporting requirement that came as part of the health care reform law–which requires all businesses that engage in transactions totaling $600 or more with a third-party vendor to report this transaction to the IRS on Form 1099-MISC–is disconcerting to a large number of CPAs and their clients. Although the reporting regulation does not go into effect until 2012, the first wave of forms under this new mandate will need to include information collected this year.

The requirement has not been met with warmth by CPAs or by most professionals in the business community.

A comment letter released by the NYSSCPA on Sept. 28 warned that the "increased costs and complexity imposed by this code section on taxpayers … more than outweigh the potential benefits of this provision." The Society's position is that the mandate will carry several negative repercussions, such as the need to obtain taxpayer identification numbers from almost every vendor the business deals with; increasing expenses in order to keep up with the requirement; and making businesses that are already subject to auditing requirements, such as publicly held corporations, to receive 1099s for which they have no use.

"It appears that the requirements will be difficult for small businesses and probably won't be that much of a revenue raiser for the U.S. government," said **Stephen R. Mueller,** a Southern Tier Chapter member who also sits on the statewide Accounting and Review Services Committee.

The 1099 requirement also catches in its net individuals who own rental properties, said Queens/Brooklyn Chapter member **Gladys G. Sherman.** Under the Small Business Jobs Act of 2010, signed into law in September, a person receiving rental income from real estate shall be considered to be engaged in a trade or business, meaning that the 1099 requirement will also apply to them. That mandate applies to payments made after Dec. 31, 2010.

Manhattan/Bronx Chapter member **Marc J. Strohl,** also a member of the Taxation of Individuals Committee and International Taxation Committee, said that he is most concerned about passive foreign investment company (PFIC) penalties that came as part of the Hiring Incentives to Restore Employment Act of 2010 (HIRE), signed into law in March 2010. A PFIC is defined by the IRS in the Internal Revenue Code as a foreign corporation that has 75 percent or more of its gross income for the year as passive income (such as interest or royalties), or has at least 50 percent of the average percentage of assets producing passive income. A provision in the HIRE Act requires that all shareholders in PFICs file information reports with the IRS, disclosing information deemed necessary by the Treasury Department, irrespective of whether any income is being reported in the tax year from the PFIC.

According to IRS Notice 2010-34, issued April 26, 2010, the IRS is in the process of developing further guidance regarding what exactly needs to be reported under this provision and, according to IRS spokesperson Dianne Besunder, this guidance had still not been released. Regardless, Strohl said that "it will require a lot more work on our part," as there are many taxpayers with investments abroad who could be affected and failure to file the report can come with stiff penalties—$10,000 at the minimum, according to a Joint Committee on Taxation report summarizing the legislation.

Thomas E. Caner, a Suffolk Chapter member noted another significant change for 2011: Statement on Standards for Accounting and Review Services (SSARS) No. 19, *Compilation and Review Engagements,* will be effective for compilations and reviews of financial statements for periods ending on or after Dec. 15, 2010. Discussed in the July 1, 2010 *Trusted Professional,* SSARS 19 includes the concept of "sufficient appropriate review evidence," similar to audit evidence, bolstering documentation requirements for engagements and formally introducing materiality from the perspective of the user of financial statements.

Finally, Manhattan/Bronx Chapter member **Elysa K. Dauerman,** who also sits on the Taxation of Individuals Committee, expressed some concern not only about regulations that will take effect in 2011, but also about how regulatory decisions are made, voicing apprehension about "last-minute decision-making" that was evident in the tax compromise bill.

"The future generation of politicians will not only have to deal with the new treatment of accounting through globalization, but also the impacts of these band-aid decisions on our economy," she said.

State's New Competency Requirement Goes into Effect Jan. 1

The state's new competency requirement is another change CPAs should be aware of in 2011. CPAs licensed prior to July 26, 2009, who are owners of a CPA firm and supervise attest services or supervise a compilation engagement, or who are owners of a CPA firm who sign or authorize someone to sign an accountant's report on financial statements of a client for such services, or who are employees of a CPA firm authorized by a firm owner to sign an accountant's report on financial statements of a client for such services, are subject to new competency standards required by New York State Education Department (SED) regulations beginning Jan. 1, 2011.

The competency standard requires that the above individuals (partner or partner-equivalent) as well as CPAs employed by the firm who are authorized by a CPA firm owner to sign accountants reports on financial statement of a client for attest services, have 1,000 hours of experience providing attest services or reporting on financial statements in attest services or preparing compilations performed under the Statements on Standards for Accounting and Review Services (SSARS) within the previous five years, gained through employment in government, industry, an educational institution or a public practice; and complete 40 hours of CPE in accounting, auditing or attest during the prior three calendar years or in the calendar year in which the attest service is performed. These CPAs must also meet all professional standards relating to the attest services performed.

The 1,000-hour experience requirement will be waived for CPA firm owners who sign or authorize someone to sign an accountant's report on a financial statement of a client for attest services or for CPAs employed by the firm who are authorized by a firm owner to sign an accountant's report on financial statements for such services, if they work for a firm registered with the SED that was peer reviewed and has received a grade of "pass" or "pass with deficiencies." While review services require the same competency standards be met as for other attest services, there is one major difference: Firms that only do review work would only be required to undergo an engagement review, which is a less intensive and expensive type of peer review than a quality control system review, in accordance with AICPA standards, according to the State Board for Public Accountancy's Executive Secretary **Daniel J. Dustin.**

There is no experience requirement for CPA owners who supervise compilation engagements or sign or authorize someone to sign an accountant's report on financial statements of a client for compilation services, or for CPA employees of a CPA firm authorized by a firm owner to sign an accountant's report on financial statements for compilation services; however, such firm owners and CPA employees must complete 40 hours of CPE in accounting, auditing or attest during the three calendar years or in the calendar year in which the compilation service is performed and meet all professional standards relating to the compilation services performed.

It is advisable that any CPA who intends to complete the required 40 hours of accounting, auditing or attest CPE in the calendar year in which the attest or compilation service is performed, should complete such CPE before he or she signs an accountant's report on financial statements of a client in that calendar year. By doing so, the licensee will eliminate any question of meeting the CPE competency requirement before actually signing the accountant's report.

CPAs licensed on or after July 26, 2009, were required to meet the new competency requirements beginning on July 26, 2009.

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