

No 1099, No Problem!?!?!

#### Presented by:

### Floyd M. Sayre, III, CPA, Esquire

Bowles Rice LLP 101 South Queen Street Martinsburg, West Virginia 25401 ksayre@bowlesrice.com



#### A Word of Caution

These materials are presented with the understanding that the information provided is not legal advice. Due to the rapidly changing nature of the law, information contained in this presentation may become outdated. Anyone using information contained in this presentation should always research original sources of authority and update this information to ensure accuracy when dealing with a specific matter. No person should act or rely upon the information contained in this presentation without seeking the advice of an attorney.

#### **Circular 230 Notice for tax issues:**

With respect to federal tax issues, no advice, statement or information contained in this communication is intended to be, or written for the purpose of being, (a) relied upon by a taxpayer as the exclusive basis to avoid penalties under the Internal Revenue Code, or (b) used in connection with the promotion, marketing or recommendation of any tax shelter product or tax shelter transaction.



# Why 1099?

- 1099 reporting provides two important functions:
  - Notifies the IRS of payments made to vendors
  - Provides notice to the vendor of total annual payments



So a Sch C company- pays someone rent—issue a 1099

Corp pays – an individual for IT services- issues a 1099

A non-profit- pays part time instructors for seminars – issue a 1099

### Why 1099?

- Any entity conducting a trade or business is required to issue Form 1099, including:
  - Individuals/Sole Proprietor
  - Corporations
  - Partnerships
  - Nonprofit organizations
  - Estates/Trusts



So a Sch C company- pays someone rent—issue a 1099

Corp pays – an individual for IT services- issues a 1099

A non-profit- pays part time instructors for seminars – issue a 1099

# **Examples of Reportable Payments**

Entities must file 1099s if they have paid:

- \$10 or more in royalties or dividends
- \$600 or more in:
  - Rents
    - Office space
    - Parking space
    - Equipment



Remember that Medical, healthcare payments and attorneys fees must be reported on 1099 even if they are a corporation

Magic number is \$600 before you have to issue

The \$10 rule so if you have \$10 in interest from your bank—most likely they will not issue and don't have to issue a 1099-INT

### **Examples of Reportable Payments**

Entities must file 1099s if they have paid:

- Non-employee compensation (services)
  - Advertising
  - Custodial/maintenance
  - Professional fees
  - Appraisers
- Remember that medical, healthcare payments and attorneys fees must be reported on 1099s even if they are a corporation



Remember that Medical, healthcare payments and attorneys fees must be reported on 1099 even if they are a corporation

Magic number is \$600 before you have to issue

The \$10 rule so if you have \$10 in interest from your bank—most likely they will not issue and don't have to issue a 1099-INT

# **Non-Reportable Payments**

#### Do **NOT** issue 1099s for:

- 1. Payments to employees (e.g., fringe benefits, travel reimbursements, bonuses, spiff, etc.)
- 2. Products/Inventory
- 3. Workers' compensation
- 4. Storage

B

NOT Bonuses – to an employee – I have seen this. NOT GOOD – Not Right

Not car payments

**Not Taxes** 

# **Non-Reportable Payments**

#### Do **NOT** issue 1099s for:

- 1. Utilities
- 2. Payments to governmental agencies
- 3. Corporations
- 4. Debt payments



NOT Bonuses – to an employee – I have seen this. NOT GOOD – Not Right

Not car payments

**Not Taxes** 

#### **1099 Forms**

• 1099-MISC: Miscellaneous Income

• 1099-INT: Interest Income

• 1099-DIV: Dividends and Distributions

• 1099-C: Cancellation of Debt

B

1099-B- for stock sales - like Charles Schwab

1098 – Mortgage Interest for clients – explain scenario- Bruce Norris Story

1099-CAP: Changes in Corporate Control and Capital Structure

1099-OID: Original Issue Discount

1099-PATR: Taxable Distributions Received From Cooperatives

1099-SA: Distributions From an HSA, Archer MSA, or Medicare Advantage MSA

1042-S: Foreign Person's U.S. Source Income SSA-1099: Social Security Benefit Statement

#### **1099 Forms**

- 1099-R: Distribution from Pensions, Annuities, Retirement Plans, IRAs, or Insurance Contracts
- 1099-S: Proceeds from Real Estate Transactions
- 1099-G: Government Payments
- 1099-LTC: Long Term Care Benefits
- Others: CAP, OID, PATR, SA, 1042-S, SSA-1099, 1098-T



1099-B- for stock sales - like Charles Schwab

1098 – Mortgage Interest for clients – explain scenario- Bruce Norris Story

1099-CAP: Changes in Corporate Control and Capital Structure

1099-OID: Original Issue Discount

1099-PATR: Taxable Distributions Received From Cooperatives

1099-SA: Distributions From an HSA, Archer MSA, or Medicare Advantage MSA

1042-S: Foreign Person's U.S. Source Income SSA-1099: Social Security Benefit Statement

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.			1 Rents \$ 2 Royalties	2018	Miscellaneous Income
			\$ 3 Other income	Form 1099-MISC  4 Federal income tax wi	ithheld Copy
			\$	\$	Fo
PAYER'S TIN	RECIPIENT'S TIN		5 Fishing boat proceeds	6 Medical and health care po	
			\$	\$	File with Form 1096
RECIPIENT'S name			7 Nonemployee compensation	8 Substitute payments in dividends or interest	
					Reduction Ac
Street address (including apt. no.)  City or town, state or province, cou	ntry, and ZIP or foreign p	ostal code	\$ 9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale ▶	\$ 10 Crop insurance proce	Reduction Ac Notice, see the 2018 Genera Instructions fo Certain
	intry, and ZIP or foreign p	ostal code	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer	10 Crop insurance proce	Reduction Ac Notice, see the 2018 Genera Instructions fo
		ng 2nd TIN not.	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale ▶	10 Crop insurance proce	Reduction Ac Notice, see the 2018 General Instructions for Certain Information Returns
City or town, state or province, cou	FATCA file	ng 2nd TIN not.	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale ► ☐ 11 13 Excess golden parachute	10 Crop insurance proces \$ 12 14 Gross proceeds paid attorney	Reduction Ac Notice, see the 2018 General Instructions for Certail Information Returns

There is a big push to identify this money – that's why there's a question on every tax return now asking if you had payments that would require 1099s and then whether you actually issued the 1099s – preparers of tax returns must answer truthfully based on all available information or be subject to preparer penalties

#### International:

Foreign individuals and Foreign entities that have U.S. Sourced income require different forms – like a W-8 series, not a W-9 and they don't get a 1099, but a 1042-S. If you have any situations like this—you must check with our international folks to make sure the correct forms are being done!

Who's asking about 1099s?								
Snapshot from 2017 Form 990:								
Form 990 (2017) Page <b>5</b>								
Part V Statements Regarding Other IRS Filings and Tax Compliance								
Check if Schedule O contains a response or note to any line in this Part V								
1a Enter the number reported in Box 3 of Form 1096. Enter -0- if not applicable								
B								

There is a big push to identify this money – that's why there's a question on every tax return now asking if you had payments that would require 1099s and then whether you actually issued the 1099s – preparers of tax returns must answer truthfully based on all available information or be subject to preparer penalties

It on Sch E, Sch C of 1040's and other returns...

# Who else is asking about 1099s?

- State filing requirements may differ from federal
  - Not all states require a copy of the Form 1099
  - Other states require the Form 1099 only when state tax is withheld
  - All others do not have a filing requirement



I have a hand-out from Cathy Olson- if anyone would like me to email it to them- just let me know.



# Request for Taxpayer ID# and Certification

- Form W-9
  - Should be obtained from <u>every</u> vendor who performs services for your entity <u>before</u> any payments
  - Identifies the type of business entity
    - Sole proprietor
    - LLC
    - Corporation
    - Partnership



#### **Best Practices:**

Discuss the importance of having a process by which you gather and store W-9 information

- •Important to have a written procedure/policy for obtaining TIN's and vendor information
- Always obtain 1099 information prior to awarding the job and making payment to vendor
- •Stress the importance of reviewing and cleaning up the vendor files to ensure that all vendors have W-9's on file to avoid backup withholding situations.

	N-9 vember 2017)	Identi	Request for fication Number		icati	on				rec	ueste	m to t er. Do	
Departme Internal Re	nt of the Treasury evenue Service	► Go to www.	.irs.gov/FormW9 for Instr	ructions and the late	est infor	matie	on.			ser	nd to	the IR	
1	Name (as shown on y	rour income tax return). Nar	me is required on this line; do	not leave this line blank.									
2	Business name/disre	garded entity name, if differ	rent from above										
page 3.	Check appropriate be following seven boxe	ox for federal tax classification.	tion of the person whose name	is entered on line 1. Ch	neck only	one o	of the	cert	ain er	tities,	oodes a not indi	pply onlividuals;	
8	Individual/sole pro	oprietor or C Corpo	oration S Corporation	Partnership	☐ Tr	ust/es	tate				ode (if a		
tion			ification (C=C corporation, S=										
Print or type. Specific Instructions	LLC if the LLC is of another LLC that is	lassified as a single-memb s not disregarded from the	above for the tax classification per LLC that is disregarded fro cowner for U.S. federal tax put the appropriate box for the tax	m the owner unless the poses. Otherwise, a sin	owner of gle-mem	the LL	LC is	nod	mptio le (if a		FATCA	reportin	
20	Other (see instruct											cutside the	
	Address (number, str	eet, and apt. or suite no.) S	ee instructions.		Reque	ster's	name	and a	ddres	s (optio	onal)		
\$	City, state, and ZiP o	ode			-								
	Only, analis, and Ele C	Dida.											
7	List account number(	s) here (optional)											
Part		Identification Nun	mber (TIN) ided must match the name	a given on line 1 to a	told	Soc	ial ne	curity	num	hor			
backup	withholding. For ind	ividuals, this is generally	y your social security numb	ber (SSN). However, 1			T		Г			П	
			, see the instructions for P IN), if you do not have a nu		et a						-		
71N, late	er.					or							
		ore than one name, see to ster for guidelines on wh	the instructions for line 1	Also see What Name	and	Em	ploye	r identification number					
								-					
	Certificat	ion				_		_	-		_		
Part	enalties of perjury, I	certify that:			a monah								
Part Under p	enalties of perjury, I umber shown on thi	is form is my correct tax	payer identification number										
Part Under p 1. The n 2. I am r Service	enalties of perjury, I umber shown on thi not subject to backu be (IRS) that I am su	is form is my correct tax ip withholding because:	cpayer identification number (a) I am exempt from back ding as a result of a failure	cup withholding, or (b	) I have		OF (C	,					
Part Under p 1. The n 2. I am r Servic no lor 3. I am a	enalties of perjury, I umber shown on thi not subject to backu- ce (IRS) that I am su- nger subject to back a U.S. citizen or othe	is form is my correct tax ip withholding because: bject to backup withhold iup withholding; and ier U.S. person (defined t	(a) I am exempt from back ding as a result of a failure below); and	cup withholding, or (b to report all interest	) I have or divid	ends,	Or (C	, 1110					
Part I Under p 1. The m 2. I am r Service no lor 3. I am a 4. The F	enalties of perjury, I number shown on thi not subject to backu ce (IRS) that I am su nger subject to back a U.S. citizen or othe ATCA code(s) enter	is form is my correct tax ip withholding because: bject to backup withhold in the because is a in U.S. person (defined be ed on this form (if any) in	(a) I am exempt from back ding as a result of a failure below); and ndicating that I am exempt	tup withholding, or (b) to report all interest of the form FATCA reporting to the control of the	o) I have or dividen	ends,							
Part Under p 1. The n 2. I am n Servic no lor 3. I am d 4. The F Certification have acquisition	enalties of perjury, I number shown on thin not subject to backur per subject to backur a U.S. citizen or other ATCA code(s) enter- ation instructions. Yo failed to report all in on or abandonment con or or bandonment or terms.	is form is my correct tax ip withholding because: bject to backup withholding; and er U.S. person (defined to ed on this form (if any) in ou must cross out item 2 terest and dividends on y of secured property, canc	(a) I am exempt from back ding as a result of a failure below); and	to report all interest trom FATCA reporting the transactions, item is to an individual retires.	or dividence or di	rect. urrent ot app	ly sul	oject t or mo	rtgag	e inter	rest pa rally, p	id, ayment	

Discuss the form and lines to complete

#### Form W-9

- Provides the identifying number for the vendor
  - Sole proprietor uses Social Security Number (SSN) or Employer Identification Number (EIN)
  - Corporations, partnerships and estates use EIN
  - LLC: Name must match with SSN or EIN
    - An LLC can be treated as a sole proprietor, partnership or corporation
    - DO NOT assume that LLC in the business name means that you do not have to file a Form 1099
- Certification that Taxpayer Identification Number is correct and not subject to backup withholding or exempt



- Allows payers or authorized agents to check online the TIN provided by a payee against the name in the IRS database
- Applies only to Forms 1099-B, DIV, INT, DIV, K, MISC, OID and PATR matched against IRS records



- Reduces the number of backup withholding notices
- NOTE: IRS TIN Matching System is not available for Form 1098-T since there is no backup withholding element to the form



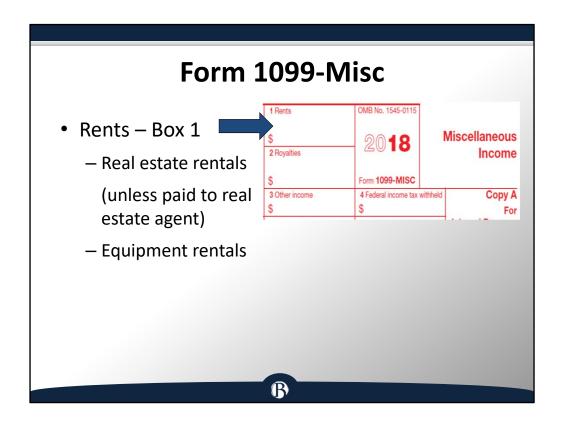
- Available 24 hours per day, 7 days per week
- Access IRS TIN matching by visiting e-services at:
  - https://la1.www4.irs.gov/eservices/Registration/index.htm
  - Registration is required for this service
- Contact e-services Help Desk
  - 1-866-255-0654
  - 6:30 a.m. 6:00 p.m. Central Time, Monday Friday



- Verification of TIN against name
  - Verify online at www.ssa.gov/employer/ssnv.htm
    - Up to 25 request names and SSNs grouped and receive real time results – limited to 999 interactive requests per 24 hours
    - Bulk file up to 100,000 requests processed within 24 hours via secure mailbox
  - Registration is required for this service



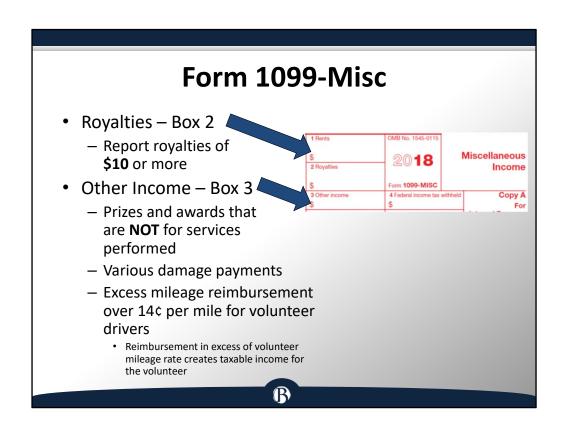




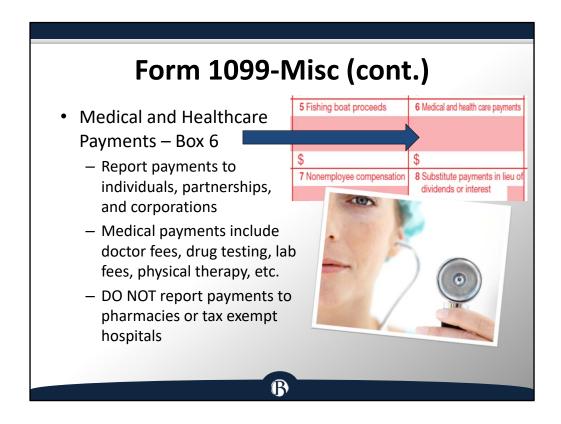
TOTAL AMOUNT PAID FOR RENTS...TO THAT OWNER

Magic number---if greater than \$60

Probably most popular 1099 prepared by CLA staff



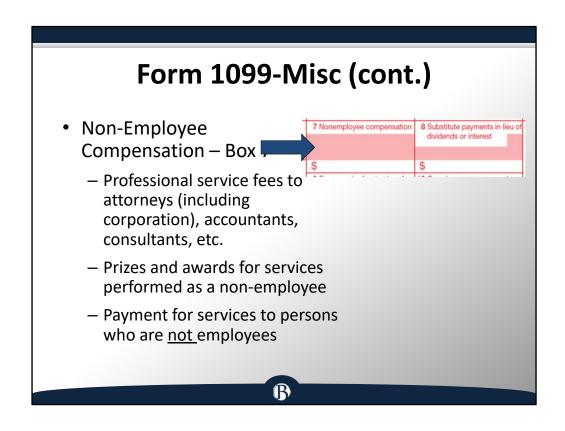
Last comment- I thought was interesting... about the mileage



Thank you Cathy Olson – for contributing to the content of this webinar--

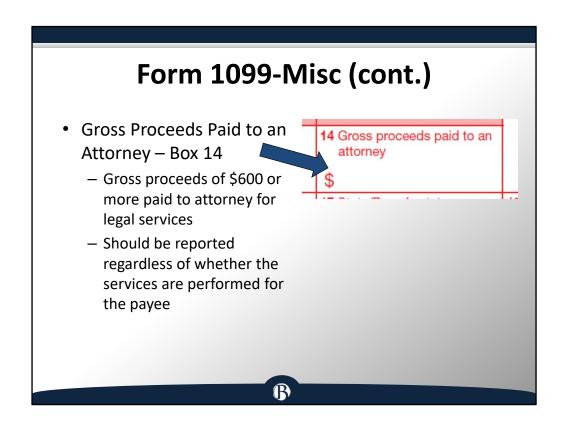
Payments to veterinarians (including corporations) need to be included in Box 6 as medical payments.

Although likely not as much of an issue in Orlando, many offices work with a number of agricultural clients that would have payments to veterinarians.



FYI--- DO not issue a 1099 to someone who is a W-2---not correct... Even though we have all seen this!

ALSO- I used to think that fees paid to an attorney were reported in box 14---Nope, box 7



FYI--- DO not issue a 1099 to someone who is a W-2---not correct...Even though we have all seen this!

ALSO- I used to think that fees paid to an attorney were reported in box 14---Nope, box 7

#### Are you required to backup withhold?

- You are required to backup withhold if you make reportable payments to persons or entities who have not furnished a valid TIN
  - Obtain the TIN in advance of payments being made!
  - Withholding is 28%
  - Begins when aggregate payments for the calendar year reach \$600
    - Begins immediately if the payee was subject to backup withholding in the prior year



You usually don't know that it is invalid until after you file- IRS sends a letter

# **Reporting Backup Withholding**

- Include amount withheld in Box 4 of form 1099-Misc
- Form 945 is used to report and pay backup withholding to the IRS
  - Due date of January 31
  - Ordinary withholding deposit rules apply
  - Do not include 945 deposits with your 941 deposits



Annual reporting of form

# **Who Must File Electronically**

- Use IRS e-file if you file 250 or more information returns
  - Requirement applies separately to each type of form
  - Requirement applies separately to originals and corrections
- You may choose to file electronically even if you are not required to



Filers of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G may be required to file electronically. Treasury Regulation Section

301.6011-2 provides that any person, including a corporation, partnership, individual, estate, or trust, who is required to file 250 or more

information returns, must file such returns electronically. The 250 or more requirement applies separately for each type of return and

separately to each type of corrected return. If you are required to file electronically, and this requirement causes an undue hardship, see

Part A, Sec. 8, Form 8508, Request for Waiver from Filing Information Returns Electronically.

Note: All filers are encouraged to file information returns electronically even if they are not required to do so.

All filing requirements apply individually to each reporting entity as defined by its separate TIN. For example, if a corporation with

several branches or locations uses the same employer identification number (EIN), the corporation must aggregate the total volume of

returns to be filed for that EIN and apply the filing requirements to each type of return accordingly.

#### **Due Dates**

Form	Due Date Recipient	Due Date IRS
1099	January 31	January 31st
1096	N/A	January 31st
945 (backup withholding)	N/A	January 31 <sup>st</sup> or Feb. 12 <sup>th</sup>

- Form 1099-MISC must be filed by January 31, 2018 if non-employee compensation (NEC) is reported in Box 7
- Form 1096 Box 7 must be checked to note the NEC
- Form 945 must be filed by January 31, 2018. If all full payment of tax deposits were made on time for the year, the return is due on February 12, 2018



There are a hand full of exceptions to the recipient due date – the following are due by February 15th

- •1099-B Broker and Barter exchange transactions
- •1099-Misc for tax exempt interest payments reportable by brokers and gross proceeds paid to attorney's
- •1099-S Real Estate transactions

#### **State Requirements**

- State due dates may differ from federal
- Many states participate in the federal/state reporting program requirements e-filing of the forms



Filers of Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G may be required to file electronically. Treasury Regulation Section

301.6011-2 provides that any person, including a corporation, partnership, individual, estate, or trust, who is required to file 250 or more

information returns, must file such returns electronically. The 250 or more requirement applies separately for each type of return and

separately to each type of corrected return. If you are required to file electronically, and this requirement causes an undue hardship, see

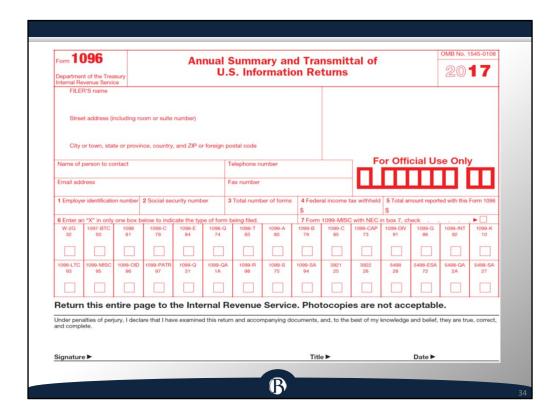
Part A, Sec. 8, Form 8508, Request for Waiver from Filing Information Returns Electronically.

Note: All filers are encouraged to file information returns electronically even if they are not required to do so.

All filing requirements apply individually to each reporting entity as defined by its separate TIN. For example, if a corporation with

several branches or locations uses the same employer identification number (EIN), the corporation must aggregate the total volume of

returns to be filed for that EIN and apply the filing requirements to each type of return accordingly.



#### What is this form?

Include one for each groups of 1099's – when you submit – LINE 6 of the form

#### **Penalties**

- Failure to File Correct Info Returns by the Due Date
- Penalty is based on when the return is filed
  - \$50 per return if filed within 30 days of due date
  - \$100 per return if filed more than 30 days but by Aug. 1<sup>st</sup>
  - \$260 per return if filed after Aug. 1<sup>st</sup> or failure to file



When would you be charged \$50 for not getting to the Payee? I think the only time would be when the payee notifies the IRS???

IRS EXAM would bust you on all of these- if they reviewed your vendor list and you did not issue a 1099-

#### FROM IRS. GOV

# Increase in Penalties for Failure to File Correct Information Returns and to Provide Correct Payee Statements -- 31-JUL-2015

P. L. 114-27, section 806, increased penalties for failure to file correct information returns and provide correct payee statements for information returns required to be filed after December 31, 2015.

Penalties are discussed in Section O in the <u>General Instructions for Certain Information</u>

<u>Returns</u>. The penalties in the bulleted list under "Failure To File Correct Information Returns by the Due Date (Section 6721)" are revised as follows.

\$50 per information return if you correctly file within 30 days (by March 30 if the due date is February 28); maximum penalty \$500,000 per year (\$175,000 for small businesses). \$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,500,000 per year (\$500,000 for small businesses). \$250 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$3,000,000 per year (\$1,000,000 for small businesses).

Also, in the "Caution" that comes after the bulleted list, the penalty is increased to \$250

per information return.

Under "Failure To Furnish Correct Payee Statements (Section 6722)" the penalty due to intentional disregard of the requirements to furnish a correct payee statement is increased. The revised penalty is at least \$500 per payee statement with no maximum penalty. Page Last Reviewed or Updated: 31-Jul-2015

#### **Penalties**

- Failure to furnish correct payee statements
  - \$530 per statement (at least) if intentional disregard

B

When would you be charged \$50 for not getting to the Payee? I think the only time would be when the payee notifies the IRS???

IRS EXAM would bust you on all of these- if they reviewed your vendor list and you did not issue a 1099-

#### FROM IRS. GOV

# Increase in Penalties for Failure to File Correct Information Returns and to Provide Correct Payee Statements -- 31-JUL-2015

P. L. 114-27, section 806, increased penalties for failure to file correct information returns and provide correct payee statements for information returns required to be filed after December 31, 2015.

Penalties are discussed in Section O in the <u>General Instructions for Certain Information</u>

<u>Returns</u>. The penalties in the bulleted list under "Failure To File Correct Information Returns by the Due Date (Section 6721)" are revised as follows.

\$50 per information return if you correctly file within 30 days (by March 30 if the due date is February 28); maximum penalty \$500,000 per year (\$175,000 for small businesses). \$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,500,000 per year (\$500,000 for small businesses). \$250 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$3,000,000 per year (\$1,000,000 for small businesses).

Also, in the "Caution" that comes after the bulleted list, the penalty is increased to \$250

per information return.

Under "Failure To Furnish Correct Payee Statements (Section 6722)" the penalty due to intentional disregard of the requirements to furnish a correct payee statement is increased. The revised penalty is at least \$500 per payee statement with no maximum penalty. Page Last Reviewed or Updated: 31-Jul-2015

#### One last reminder...

- All Form 1099 corrections must be addressed.
   Once a required correction is known, act quickly to provide to the payee and to the IRS.
- Remember to check the corrected box on the appropriate filings.





# Thank you for your time!

Floyd M. Sayre, III, CPA, Esquire www.bowlesrice.com