

Simione Macca & Larrow^{LLP}



CERTIFIED PUBLIC ACCOUNTANTS AND BUSINESS ADVISORS

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January, 2008

IRS FORM 1099 INFORMATION RETURN FILING

If you have made certain payments in your trade or business during 2007, the Internal Revenue Service ("IRS") requires completion of information returns (Form 1099). They are to be provided to the recipients by January 31, 2008, with copies to the IRS no later than February 29, 2008.

You can request a 30 day extension of time to file by sending Form 8809, Application for Extension of Time to File Information Returns. No signature or explanation is required on the extension application.

The penalty for nonfiling of these returns can be substantial. It is important that you review your records to ascertain that you have properly filed, or are prepared to file, all such returns.

Some of the most common payments that must be reported to the IRS are:

1. **CORPORATE DISTRIBUTIONS** – any corporation that paid dividends or other distributions of \$10 or more to any person, whether taxable or not, must file *Form 1099-DIV*. Corporate liquidating distributions of \$600 or more must also be reported.
2. **INTEREST PAYMENTS** – if you paid interest of \$600 or more to any person in the course of your Trade or Business, you must file *Form 1099-INT*. This \$600 threshold is reduced to \$10 for financial institutions, insurance companies, etc.
3. **PENSION DISTRIBUTIONS** – any retirement plan that made a distribution to a participant, of \$10 or more, must file *Form 1099-R*. The State of Connecticut requires the filing of Form 1099-R only if Connecticut Income Tax was withheld. Also, if you have life insurance in your pension plan, a portion of the insurance protection cost (referred to as "**P.S. 58 Cost**") is deemed current taxable income. Such amounts are to be reported to participants on Form 1099-R and must be reported on the participant's personal income tax return. Contact your insurance broker for this information. A separate Form 1099-R must be prepared to report an employee's P.S. 58 cost.
4. **NON-EMPLOYEE COMPENSATION** – payments for rents, prizes and awards, and "Non-employee Compensation," of \$600 or more to anyone other than a corporation must be reported on *Form 1099-MISC*. "Non-employee Compensation" includes commissions, fees for professional services, management fees, payment for maintenance and repair services (including parts and materials), etc. (Do not use this form to report an employee's travel or auto allowance. Such amounts should be reported on Form W-2). The State of Connecticut also requires the filing of Form 1099-MISC (even if no CT Income Tax was withheld) for payments to residents or non-residents earning Connecticut-source income.

5. LEGAL FEES:

Payments to attorneys. Attorneys' fees of \$600 or more paid in the course of your trade or business are and continue to be reportable in box 7 of Form 1099-MISC. However, if you make a payment in the course of your trade or business to an attorney in connection with legal services and the attorney's fee cannot be determined, the total amount paid to the attorney (gross proceeds) must be reported in Box 14.

These rules apply (a) whether or not the legal services are provided to the payer and (b) whether or not the attorney is the exclusive payee (e.g., the attorney's and claimant's names on one check). However, these rules do not apply to profits distributed by a partnership to its partners that are reportable on **Schedule K-1 (Form 1065)**, Partner's Share of Income, Credits, Deductions, etc., or to wages paid to attorneys that are reportable on **Form W-2**, Wage and Tax Statement. The term "attorney" includes a law firm or other provider of legal services.

Payments to corporations for legal services. The exemption from reporting payments made to corporations no longer applies to payments for legal services. Therefore, you must report attorneys' fees (in box 7) or gross proceeds (in box 14) as described above to corporations that provide legal services.

TINs. To report payments to attorneys on Form 1099-MISC, the payer must obtain the attorney's taxpayer identification number (TIN). **Form W-9**, Request for Taxpayer Identification Number and Certification, may be used to obtain the attorney's TIN. An attorney is required to promptly supply its TIN whether it is a corporation or other entity. If the attorney fails to provide its TIN, the attorney may be subject to a penalty under section 6723, and the reportable payments are subject to backup withholding.

- 6. EMPLOYEE AUTO REIMBURSEMENTS** – personal use of a company car is treated as a fringe benefit taxable as additional compensation to the respective employee only to the extent that the employee does not reimburse the employer for such personal use. The taxable amount is included on the employee's Form W-2. The annual lease value of employer-provided vehicles must be reported either in Box 14 of Form W-2 or in a separate statement to the employee.
- 7. SALES OF REAL ESTATE** – persons responsible (generally, the settlement agent, buyer's attorney or seller's attorney in that order) for closing real estate transactions, consisting of a real estate sale or exchange (with certain exceptions), must file *Form 1099-S* and furnish a statement to the transferor(s) for each transaction. The State of Connecticut also requires the filing of *Form 1099-S*.

The sale or exchange of a principal residence (including stock in a co-operative housing association) need not be reported if:

1. The sale price is \$250,000 or less (\$500,000 or less if the sellers are married), and
2. Acceptable written assurance is received from the seller that the full gain is excludable from the sellers' gross income.

This certification must be received from each seller. Those who do not furnish the certification must receive a Form 1099-S. The certification must be received by January 31 of the year following the year of sale, and must be retained for four years.

8. **PURCHASE OR SALE OF A BUSINESS** – both the buyer and the seller of assets constituting a trade or business, to which goodwill or going concern value could be attached, must file *Form 8594* with their federal income tax return.
9. **CHILD CARE CREDIT** – individuals who claim a child care credit on their tax returns will be required to identify the child care provider's (baby-sitter) name, address, and identification number. Without this information, the credit may be lost. IRS *Form W-10* can be used to obtain the information.
10. **CASH TRANSACTIONS** – a person in a trade or business who receives cash in excess of \$10,000 in a single transaction or related transactions within a one-year period must file *Form 8300*. This form must be filed with the IRS within 15 days after the cash transactions exceed \$10,000, and a similar statement is to be provided to the payer.
11. **STOCKS & BOND TRANSACTIONS** – a broker or barter exchange is required to file *Form 1099-B* to report proceeds from all transactions involving the sale or exchange of marketable securities, commodities, foreign currency contracts, and barter exchange transactions
12. **MORTGAGE INTEREST** – anyone who receives \$600 or more of mortgage interest from an individual (including a sole proprietor), including certain points, in the course of their trade or business must file *Form 1098*.

Note that generally, corporate payees need not receive 1099's (see item 5 exception); additionally, 1099s must be filed if Federal or State tax is withheld, regardless of the amount of income reported.

As previously mentioned, this list merely highlights some typical payments that must be reported. It is not intended to be all-inclusive. Also, there are penalties for improperly filed returns – i.e., missing tax identification numbers (you should always have payees complete Form W-9 in order to avoid this error).

We strongly suggest that you review your records, and properly file all necessary returns. Please contact our office if you need clarification or would like our assistance in the preparation of these returns.

Very truly yours,

SIMIONE MACCA & LARROW, LLP
Certified Public Accountants and Business Advisors

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