

Affordable Care Act causes small businesses crippling amount of new paperwork

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The 70 million small businesses in the US may be varied in our sizes, shapes and pursuits but we are united in our opposition to the expanded 1099 information reporting provision in the Affordable Care Act.

Here's a glimpse of the unintended consequences of the new requirement. A harried small business owner and several employees sit in a cluttered office, filing mountains of 1099 reporting forms. On the production floor, work is at a standstill as workers walk into the office to assist with the filing. It isn't long before a number of those small businesses are shuttered.

Is this what we want?

Unfortunately, this scene will become more of a reality as small businesses grapple with the expanded 1099 reporting provision in the new health care law.

Small businesses represent 99.7% of all employers, employ 50% of all private sector employees, pay 45% of total U.S. private payroll, and generate 60% to 80% of net new jobs annually.

With unemployment over 9%, now is no time to be discouraging small businesses from creating job we so desperately need. That is what will happen when most businesses will be required to issue a 1099 form to virtually every vendor including phone, Internet, gasoline, advertising, office supplies, postage, cleaning, rents, hotels, utilities, meals etc. Compliance will slam us with a crippling amount of new paperwork and redirect scarce resources from productive activities that could grow our businesses and add jobs.

Currently Form 1099 is used to report annual payments of more than \$600 made for services from non-corporate service providers while payments to corporations have been excluded.

Starting in 2012 the new requirements will expand the scope of 1099's to tracking payments over \$600 per calendar year not only to non-corporate service providers but also to corporations, and expand the reporting to include goods as well as services.

A 1099 must also be filed with the IRS and the vendor's taxpayer identification number (EIN) must be obtained. If the EIN is unavailable 28% withholding taxes must be sent to the IRS.

Large businesses can absorb the cost of this new reporting requirement but it's a tremendous burden for small businesses. It will result in increased paperwork and administrative costs, mailing, and hiring outside help to ensure that the business complies with the law.

SMC Business Councils has been at the forefront of the 1099 issue since fall 2009 when our survey revealed just how detrimental the expanded reporting requirement would be to our member companies. Our informal survey found that a typical business with ten employees would go from filing 20 forms to as many as 200 1099 forms per year and would add \$4,000 to \$6,000 in administrative costs.

While the intended purpose is to catch those who game the tax system it places the burden on already-compliant small businesses that become policemen for the IRS, charged with reporting scofflaws' income. The compliant small business will incur stiff penalties for failure to issues 1099's in a timely manner. The maximum per form fine is \$100 up to a maximum penalty of \$500,000 per calendar year.

The provision is one of the 18 different tax measures in the bill. It is expected to raise \$17 billion over 10 years and is part of an effort by the IRS to collect on the "Tax Gap", the estimated \$345 billion in taxes owed on unreported income.

National Taxpayer Advocate, Nina Olson, is not sure the cost of lost productivity is worth the gains in taxes and said burdens "may turn out to be disproportionate as compared with any resulting improvement in compliance- particularly as it affects small businesses."

Congress has a tradition of helping small businesses around the periphery. The Senate had the opportunity to repeal the 1099 provision in the recently passed Small Business Jobs Act but bipartisan amendments failed. While the Jobs Act may provide some tax relief and make credit available for some small businesses, one thing is for certain; the 1099 provision will undo any gains by hurting all small businesses.

When hopes are pinned on small business to create jobs, the Form 1099 reporting counter-productive. Its huge compliance costs raise expenses, erode productivity, and siphon off capital that could be used for investing and hiring.

SMC strongly encourages Congress to pass full repeal of the 1099 provision in the Lame Duck session. It is the only solution that will help all small businesses.

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