

Congress of the United States
U.S. House of Representatives
Committee on Small Business
2361 Rayburn House Office Building
Washington, DC 20515-6315

August 9, 2013

Mr. Faris Fink
Commissioner for Small Business and Self-Employed
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, DC 20224

Re: IRS 1099 Third Party Reporting Notices

Dear Commissioner Fink:

I understand you and your staff have met several times with my staff on the 6050W 1099 third party reporting requirements, and I appreciate the fact that you, Ruth Perez and your staff have been open, accessible and responsive to our concerns.

I write today to express my ongoing concerns about this issue. We have heard from tax practitioners whose clients are small business owners who have received letters from the IRS titled *Notification of Possible Income Reporting*.

First, although when my staff met with you and your team you assured us that the IRS is merely seeking additional information, the initial sentence of the notification letter begins, "Your gross receipts may have been underreported." This gives the impression that the IRS is looking for more than just additional information. To the contrary, the letter implies that this is a serious matter that could lead to assessments of additional tax, penalties and interest. Second, the small business owner is told that his or her receipts are off from an average, but gives the taxpayer no idea how much or the source of the information so he can verify the claim and confirm that it is a valid comparison. Next, the small business owner is, within 30 days, required to furnish a complete and accurate response, but is not told exactly what he or she is expected to prove. One tax advisor to small businesses said it will be like trying to prove a negative.

The worksheets address some of the more common reasons the taxpayer's numbers may not sync with IRS averages. But if the taxpayer's situation is not addressed, he or she is asked to provide documentation to prove why their numbers did not fall within IRS's standard, even though the taxpayer does not know what the standard is. Finally, the instructions for step 5 on page 2 of the form imply that the taxpayer's gross receipts are less than expected. Practitioners have told us that what will be true in most cases is that merchant card receipts are higher than expected but the total receipts and tax paid will be correct.

I understand that the instructions with this notice may appear to track what you have assured us during our discussions, that these letters do not require small businesses to maintain additional records, and that the notice should not alarm the business owner. However, a small business owner who receives one of these notices is very likely to feel alarmed and threatened.

I hope that this information is helpful. Please respond by September 3 and explain how the IRS intends to modify its notices and procedures to reflect the specific concerns of the small business owners presented here.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Sam Graves', with a large, sweeping flourish extending to the right.

Sam Graves
Chairman