



Statement of the U.S. Chamber of Commerce

ON: "Buried in Paperwork: A 1099 Update"
TO: THE HOUSE COMMITTEE ON SMALL BUSINESS
DATE: February 9, 2011

The Chamber's mission is to advance human progress through an economic, political and social system based on individual freedom, incentive, initiative, opportunity and responsibility.

The U.S. Chamber of Commerce is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region.

More than 96 percent of the Chamber's members are small businesses with 100 or fewer employees, 70 percent of which have 10 or fewer employees. Yet, virtually all of the nation's largest companies are also active members. We are particularly cognizant of the problems of smaller businesses, as well as issues facing the business community at large.

Besides representing a cross-section of the American business community in terms of number of employees, the Chamber represents a wide management spectrum by type of business and location. Each major classification of American business—manufacturing, retailing, services, construction, wholesaling, and finance—is represented. Also, the Chamber has substantial membership in all 50 states.

The Chamber's international reach is substantial as well. In addition to the U.S. Chamber of Commerce's 115 American Chambers of Commerce abroad, an increasing number of members are engaged in the export and import of both goods and services and have ongoing investment activities. The Chamber favors strengthened international competitiveness and opposes artificial U.S. and foreign barriers to international business.

Positions on national issues are developed by a cross-section of Chamber members serving on committees, subcommittees, and task forces. More than 1,000 business people participate in this process.

**Statement for the Record on
"Buried in Paperwork: A 1099 Update"
Submitted to
THE HOUSE COMMITTEE SMALL BUSINESS
on behalf of the
U.S. CHAMBER OF COMMERCE
February 9, 2011**

Chairman Graves, Ranking Member Velázquez and distinguished members of the Committee, thank you for allowing the U.S. Chamber of Commerce to submit the following testimony for the record on “Buried in Paperwork: A 1099 Update”. The Chamber has tremendous concerns with the new reporting requirements contained in §6041 of the Internal Revenue Code (IRC), as amended by §9006 of Title IX of the Patient Protection and Affordable Care Act (the “Affordable Care Act” or “PPACA”).¹ This section has been commonly referred to as the “1099 reporting mandate” and the Chamber commends your efforts in having this important hearing to further understand and explore the impact of the 1099 reporting mandate on small business.

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Overwhelming Call to Fully Repeal the 1099 Mandate

Before addressing the policy implications of the 1099 reporting mandate, it is critical for Members of Congress to fully appreciate the perspective of actual small businesses on this significant issue beyond the witnesses with you today. Recognizing the impact this harmful provision will have on the business community, the U.S. Chamber of Commerce has organized a coalition of approximately 2,700 organizations, chambers and businesses from across all 50 states and employing millions of American workers. **Each has signed onto our letter calling on Congress to repeal the 1099 reporting mandate without raising taxes on any segment of the business community.** The sign-on letter is located on the Chamber website at: <http://www.uschamber.com/issues/letters/2010/national-sign-letter-repeal-1099-provision-health-care-law>

In addition to the letter, the Chamber believes it is important that you hear from some of these small businesses in their own words on what the 1099 reporting mandate would mean for them. To that end, the following are quotes from small business owners and local chamber

¹ Patient Protection and Affordable Care Act, Pub. L. No. 111-148, §9006, 124 Stat. 119 (2010)

executives located in districts representing the Members of the House Committee on Small Business.

Call for repeal from the House Small Business Committee Member's districts

“For 16 years, we have worked hard to establish our credibility and expertise in selling numismatic items. We are a small company with many faithful customers. The requirements of the 1099 mandate will put us out of business. Please repeal this mandate.”

Dave & Cheryl Weaver
Owners
Weaver Coin Auction
Easton, MO
Missouri's 6th Congressional District

“I don't understand the need for it. It's just more paperwork that serves no purpose. But it will cost me more to comply. They need to repeal it.”

Roxanne Taylor
Owner
New York Oil Recovery Co
Brooklyn, NY
New York's 12th Congressional District

“The 1099 mandate hits small businesses disproportionately hard and it does nothing to improve the competitiveness of U.S. businesses. I have major concerns about security and identity theft with the prospects of this many SSNs and EINs floating around. I will be writing and calling our U.S. Senators and Congressmen in the areas that we operate to ask them to support a full repeal.”

John Olson
Chief Financial Officer
Willard Agri-Service
Frederick, MD
Maryland's 6th Congressional District

“Unlike the Federal government which can print money and hire people at a whim, small business will be unnecessarily burdened to follow the guidelines of the covertly inserted 1099 provision in the mostly un-read health reform law Congress passed last year. Increasing the tax reporting paperwork 12-fold for small companies like Appalachian Log Structures would require us to hire additional staff. We're in the housing industry and in the current distressful economic climate that was caused by irresponsible Government oversight and thoughtless banking regulations; we are not able to add to our staff to cover this new requirement.”

Donald Parsons

Co-Owner
Appalachian Log Structures
Gaffney, SC and Ripley, WV
South Carolina's 5th Congressional District

“This is another regulation that will force small businesses to deal with more red tape instead of growing their businesses and creating jobs. Small businesses like ours are doing several jobs at once to remain competitive in this recession and government should be encouraging economic growth, not stifling it.”

Sandra Westlund-Deenihan
President
Quality Float Works
Schaumburg, IL
Illinois' 8th Congressional District

“As a small business owner, I do not have the luxury of having a staff to assist in bookkeeping and reporting. Any additional requirements, no matter how small, require additional time away from my job which is sales. The added burden of further 1099 reporting requirements along with a weak economy will threaten my ability to stay in business. I would like to ask Congress to repeal the 1099 mandate and reconsider any legislation that would further impede the ability of business to grow and pull us out of this economic recession.”

Joanne Nelson
Owner
Mountain Man Nut & Fruit Co
Rifle, CO
Colorado's 3rd Congressional District

“As I understand the requirement, among other things, I will have to have a book keeper total all the amounts we spend on office supplies, computer paper, etc. then report that to some agency who will then try to correlate our purchases with hundreds of similar accounts and then be able to reconcile that to what, vendor reports?? It'll never accomplish anything but adding costs to my business.”

Rudy H. Walldorf, CCIM
President
Herman Walldorf & Co., Inc.
Chattanooga, TN
Tennessee's 3rd Congressional District

“It's a costly provision that doesn't do anything to help us grow our business or add jobs. It needs to be repealed. The bottom line is we need less government intervention; not more.”

Charles Armitage
CEO

**Uncle Charley's Sausage
Vandergrift, PA
Pennsylvania's 12th Congressional District**

“This law will create one job in my company; a new full time position just to do this unnecessary burdensome work. Of course, that only reduces my resources to really grow my business. Please repeal the 1099 reporting mandate.”

**Ricky Young
Owner
Young's Auto Center & Salvage / Car Crushers
Benson, NC
North Carolina's 2nd Congressional District**

“The 1099 reporting mandate would add significant cost to our company. One thing that goes over looked is that we will also be required to have W-9's on ALL vendors. I ran the numbers based on figures from 2010 to include the 1099 mandate, and it would require us to send 8 times the amount of current form 1099s. Not to mention that the IRS increased the fines by an additional 50%, from \$50.00 to \$100.00 per 1099 return. By the way, will I need to send the IRS a form 1099?? Please repeal this bad idea.”

**Lori Smith
President
Artisan Restoration
Cincinnati, OH
Ohio's 1st Congressional District**

“The Northern Rhode Island Chamber of Commerce thinks this is a classic case of unintended consequences. Imagine picking up donuts every Friday for your staff meeting and then having to send the donut shop a 1099. Or how about a 1009 for your cell phone bill. Does the U.S. Post Office get a bill if we use over \$600 a year in postage?

We hope that the committee will see the challenge this would present to small businesses on both sides of the transaction.

Keeping track and then sending 1099s to your vendors and then the flood of 1099s you would receive from your customers. Small businesses need time to run their business; not to spend it on paperwork.”

**John C. Gregory, IOM
President/CEO
Northern Rhode Island Chamber of Commerce
Lincoln, RI
Rhode Island's 1st Congressional District**

“Increased costs from the 1099 reporting mandate will heavily penalize honest taxpayers, creating an even more unlevel playing field for those of us who pay our fair share of taxes.”

Jeanette Aultz
Owner
Costumes by Jeanette
Brooklyn, NY
New York’s 11th Congressional District

“This mandate is going to cause a tremendous burden on small companies such as ours which has a very small accounting staff. My time is better spent on operating our company than trying to capture revenue reporting so that the IRS can go after taxpayers who continue to avoid taxation or under reporting of income.”

Peter Louviere
CFO
Vision Communications
Larose, LA
Louisiana’s 3rd Congressional District

“Instead of focusing on my business, this mandate saps my precious resources to fill out mounds of paperwork for the government. I hope Congress does the right thing and repeals it.”

Robert Clager
President
Rental Time General Rental Center Inc.
Gibsonia, PA
Pennsylvania’s 4th Congressional District

The following small business owners and local chamber executives from the rest of the House Small Business Committee member districts “stand united in calling for Congress to repeal Section 9006 of the ‘Patient Protection and Affordable Care Act’ before it comes into effect in 2012.”

Don VandenBosch
President
Pollema Manufacturing Inc
Rock Valley, IA
Iowa’s 5th Congressional District

Julie Aronson
Owner
Parkglenn Self Storage, LLC
Parker, CO
Colorado’s 6th Congressional District

Steve Benjamin
President
Performance Wire & Cable, Inc.
Camden, NY
New York’s 23rd Congressional District

David Waller
President
Waller Insurance Inc.
Vancouver, WA
Washington’s 3rd Congressional District

James Batmasian
Owner
Investments Limited
Boca Raton, FL
Florida's 22nd Congressional District

William Dissen
Owner
The Market Place Restaurant
Asheville, NC
North Carolina's 11th Congressional District

Diane Gurber
Owner
Gruber & Associates, PC
West Lin, OR
Oregon's 5th Congressional District

William St. John, Jr.
President
W. R. Zanes & Co. of La., Inc.
New Orleans, LA
Louisiana's 2nd Congressional District

James Bailey
President
JB Livery Service, Inc.
Weymouth, MA
Massachusetts' 10th Congressional Dist.

Lisa Bailey
CEO
Irwindale Chamber of Commerce
Irwindale, CA
California's 32nd Congressional District

Marilyn Dimitroff
President
Capelli Financial Services, Inc.
Bloomfield Hills, MI
Michigan's 9th Congressional District

Background

Under §6041 of the (IRC), all persons engaged in a trade or business who make payments in the course of such trade or business totaling at least \$600 to another person in a single year are required to file an information return to the IRS. For payments made prior to January 1, 2012, generally speaking, reportable transactions were limited to governments, non-profits or businesses (purchasers) that made purchases for services from self-employed, independent contractors (vendor). For payments made after December 31, 2011, the Affordable Care Act expanded the information reporting requirements by removing the longstanding exemption for payments to corporations and included property (goods) as well as services as reportable.

Transactions are typically reported by the entity using a Form 1099-MISC information return to the IRS setting forth the amount, name, address, and taxpayer identification number (TIN) of the vendor. The information return filings are usually required to be made to the IRS by February 28 of the following year in which the payments were made, or March 31 if filed electronically. Copies of the information returns must be provided to the vendors no later than January 31. The taxpayer typically collects the information by requiring the vendor to fill out an IRS Form W-9 prior to being paid.

If the vendor is unwilling to provide the purchaser with a TIN, then the business is required to withhold 28 percent of what is owed and forward it to the IRS. If the TIN that they give the business does not match IRS records, under certain circumstances the IRS may require the business to withhold 28 percent after being notified.

On August 16, 2009, the IRS published a final rule² which excludes payment card transactions from those transactions that are subject to be reported by a purchaser on a form 1099, since credit card processors were already required to report these transactions after December 31, 2010.

Impact of the 1099 Reporting Provision

1. The new 1099 reporting mandate will impose a substantial burden on the backs of nonprofits, governments and businesses—especially small business. Starting in 2012, the new 1099 provision will:

Cover 40 Million Entities— According to the IRS National Taxpayer Advocate³, Nina Olson, the provision will impact 26 million sole proprietorships, 4 million S corporations, 2 million C corporations, 3 million partnerships, 2 million farming businesses, 1 million charities and other tax-exempt organizations, and more than 100,000 federal, state, and local government entities. Olson indicates, the “information reporting requirement...may present significant administrative challenges to taxpayers and the IRS.”

Requires Numerous Additional IRS Filings— All covered entities will have to file form 1099 reports to the IRS for each business they purchase from whose non-credit card purchases total \$600 or more for the year. Additionally, they will have to mail copies to their vendors. By some accounts, this can increase by a factor of one-hundred the number of 1099 filings some companies will have to make.

Impose New Information Collection Burdens— All covered entities will have to collect Taxpayer Identification Numbers (TIN) as well as the company name and address from each business they make purchases from in which they anticipate that the non-credit card purchases will total \$600 or more for the year.

Subject the Self-Employed to Identity Theft— If the business vendor is a sole proprietorship, it will have to provide the purchaser with their Social Security number or apply for a separate Employer Identification Number (EIN) in order to protect itself from privacy and identity theft concerns.

Compel More Backup Withholding Burdens— As the number of transactions that are covered under the provision greatly expands, so does the possibility for backup withholding. If the business vendor fails to furnish a correct TIN, then under certain circumstances, the

² Information Reporting for Payments Made in Settlement of Payment Card and Third Party Network Transactions, 75 Fed. Reg. at 49,828 (August 16, 2010) (codified at §1.6041-1(a)(1)(iv) and (v) Example 1 and Example 2).

³ National Taxpayer Advocate, Report to Congress: Fiscal Year 2011 Objectives, Pages 9-13, Jun 30, 2010

purchasing entity is required by law to withhold 28 percent of the purchase price. Failure to properly withhold an amount generally results in liability for that amount.

Impose New Complex Record-Keeping Requirements— All covered entities will have to keep records on all their purchases from businesses for both goods and services that can be sorted by TIN and by payment method. Moreover, only the non-credit card purchases from businesses that total \$600 or more for the year will have to be reported. Thus, complex and costly accounting changes will have to be made to their existing accounting systems.

Subject Businesses to Costly Audits— IRS does not have the capability to create an adequate picture of a company's sales by matching the reported 1099 revenue to the company's reported revenue. This may result in many unnecessary and costly audits for the business vendor. Should the covered entity make a mistake filling out the form 1099, the IRS does not have a means by which they can independently verify the amount. These mistakes can trigger audits in which the vendor will have to prove that IRS data is incorrect without the sources of such data.

Dramatically Increase Accounting Costs— Not only will all covered entities bear the additional costs of new record-keeping requirements and postage, but as recipients of multiple 1099 forms, businesses will have to take time to reconcile these amounts with their reported sales. Differences in the treatment of credits, returns and accounting periods will only serve to frustrate conscience-minded business owners.

Requires Small Businesses to File Returns Electronically— If the number of 1099 filings exceeds 250, then the entity will have to file electronically, further increasing the cost burden of this provision, especially to small businesses.

Heavily Penalizes Honest Taxpayers— The 1099 reporting provision will create an even more unlevel playing field between compliant and noncompliant business taxpayers. In reality, the heavy burden of the 1099 reporting provision will be paid for by compliant businesses. Those businesses attempting to avoid their tax obligations will continue to find creative ways to hide income.

2. The new 1099 reporting requirement will alter business behavior, which could have dramatic negative consequences for small businesses. The unintended consequences of the 1099 reporting provision will:

Increase the Cost of Goods and Services— Many of the covered entities, in an attempt to reduce their paperwork burdens, will simply require that the vendor take a credit card for the transaction since those transactions are exempt from reporting. The payment card transaction fees will be passed on to businesses and consumers through the cost of their products and services.

Stifle Product Innovation— New products and services require a flexible marketplace in which vendors can easily overcome the reluctance of purchasers to try new items. The new paperwork and reporting requirements will serve to make the marketplace less hospitable for trials of new products and services.

Swell the Need for Available Business Credit— It will be essential for businesses, especially smaller ones, to be able to obtain credit cards with sufficient credit limits in order to do business in the marketplace. This will be a catch-22 for many small businesses since they need a proven track record in business to qualify for ample credit limits.

Lead to More Business Failures— The new 1099 requirements may result in a shift from more flexible and less costly vendor credit to less flexible and more expensive credit card financing. Contraction of credit to the business, for whatever reason, could have a major impact on survivability.

Disadvantage New Businesses Relationships and Startups— Since there will be a heavy paperwork and record-keeping cost for establishing a new business relationship, many of the 40 million covered entities will be extremely reluctant to set up a relationship with a business, relying more heavily on established vendors.

Drive Purchasing Away from Small Business—Many of the covered entities will be more apt to consolidate their business purchases with several large vendors with a broad geographic presence and a more diverse product line in order to reduce the paperwork burden. Additionally, larger vendors with sophisticated software may provide as a service much of the reporting for their business customers, providing further incentives to do business with bigger businesses over smaller ones.

Drives Additional Tax Noncompliance—The 1099 reporting provision could undermine our voluntary tax compliance system, further frustrating tax collection efforts. Imposing vast and costly new data collection and reporting requirements on compliant taxpayers may be viewed by some businesses as unreasonable and overreaching by the government.

3. The IRS does not have the resources or the ability to use the new 1099 information to reconstruct an accurate picture of a company's revenues.

The 1099 Reporting Does Not Capture Consumer Sales—For many businesses, a large volume of their sales are made directly by consumers whose cash purchases are not independently reported to the IRS.

Sales Below the \$600 Threshold Are Not Captured—There will be many transactions totaling under \$600 in a year that will not be reported to the IRS.

Returns, Rebates, and Discounts Are Reported Differently—Purchases of products and services are subject to returns, rebates, discounts, and other adjustments that are handled differently by the buyer and vendor. This will result in disparities between the amount reported as sales by the vendor and the amount reported to the IRS on the form 1099 by the purchaser.

Many Companies Do Not Report Revenue on a Calendar Year Basis—Some businesses have different tax accounting years creating further discrepancies between a company's sales that would be reported to the IRS on a fiscal-year basis and the 1099 reporting

that would be reported on a calendar-year basis. Additionally, some businesses use the accrual method of accounting, while others use the cash method.

IRS Taxpayer Advocate Doubts the Usefulness—Even the IRS National Taxpayer Advocate indicated that “IRS will face challenges making productive use of this new volume of information reports.”⁴

Conclusion

The Chamber has tremendous concerns with the new reporting requirements for reporting payments contained in the Affordable Care Act. Unless this section is repealed, businesses across the nation will be subjected to the folly of data collection and information filing on virtually all the transactions they make aggregating \$600 or more in a year at a time in which many can least afford it. When the United States is depending on the small business community to generate jobs and grow the economy, lawmakers are diverting their precious time and resources to collecting volumes of information and filling out mounds of new paperwork for the government.

The ultimate irony of these new burdens is that the IRS neither has the resources nor the ability to use the new information to reconstruct an accurate picture of a company’s revenues since a large volume of business-to-consumer transactions are not reported. While the vast majority of compliant taxpayers will bear the cost of implementing this law, it will have only minimal benefit as a government tool in reducing non-compliance.

Moreover, the U.S. tax system is only as strong as the willingness of its participants to voluntarily comply. Imposing vast new data collection and reporting requirements may be viewed by many small business owners as unreasonable and overreaching. In the end, this could serve to undermine confidence in the government and further frustrate tax collection efforts.

Given the specific directives and requirements contained in the applicable statutory language, any recommendations the Chamber could provide to reduce burden would be immaterial given the overall onerous burdens that are imposed under the 1099 reporting mandate. As soon as late spring, many of the covered entities must start making costly changes to their accounting systems in order to anticipate the January 1, 2012, requirements of the 1099 reporting mandate. In light of this the Chamber is asking that Congress to quickly and fully repeal this onerous provision.

Thank you for the opportunity to provide comments for the record.

⁴ National Taxpayer Advocate, Report to Congress: Fiscal Year 2011 Objectives, Pages 9-13, Jun 30, 2010