



Paul Angulo
County Auditor-Controller

"One team – All the time"



1

Legislative Updates

Rachelle Román, Principal Accountant
General Accounting Division
AP/VC/Records Management

Auditor-Controller's Office

October 20, 2011

Telephone: (951) 955-6283

E-mail: rroman@co.riverside.ca.us

Website: www.auditorcontroller.org



2

Hot Topic Items

- Legislative Update to IRS Section 6041
(1099 Reporting)
 - Form W-9
- 3% Federal Withholding



The Tax Gap



- Under reported taxes
 - The difference between what taxpayers should have paid and what they actually paid on a timely basis
 - Over \$353 billion each year
 - Enforcement activities recover about \$55 billion
- IRS Goals
 - Improve taxpayers understanding of their obligations
 - Simplify the complexity of the tax code
 - Increase compliance in third party reporting

Legislative Update to IRS Section 6041 1099 Reporting

- Two Key Changes Effective January 1, 2012
 - Reporting to Corporations Required
 - Reporting of all payments of \$600 or more
 - Merchandise, Equipment, Inventory & Raw Materials

REPEALED

President's 2012 Budget Proposal

- Eliminates the corporate exception from Form 1099-M Reporting
 - Scored to raise \$10.1 billion over ten years
- Requires:
 - Collection of TINS (Form W-9), AND
 - Payor (County) must confirm Name/TIN matcher per IRS records
- Allows a payee to “elect” to voluntarily have specified amounts (15%, 25%, 30% or 35%) withheld from their gross payments



Form W-9 Due Diligence



- Always review Form W-9 for validity
 - Name, Federal Tax Classification, EIN or SSN, Signed and Dated
- Name on Line 1 must match the tax classification and ID number type (Individual provide SSN)
- Ensure payees are using the latest version of the Form W-9 (January 2011)
- Request a new W-9 if invalid
- New 2011 Form W-9 instructions have a specific requirement the Federal Tax Classification box is completed (Individual, C Corp, S Corp, Partnership, etc.)



B-Notices



- **There are penalties... \$100*** for **EACH** of the following infractions related to information returns:
 - Filed with a missing/incorrect TIN,
 - Filed untimely,
 - Filed on incorrect media,
 - Filed in an incorrect format, or
 - Any combination of the above

*** Penalties increased in 2011**



3% Federal Mandatory Withholding

- Withhold 3% tax on certain vendor payments made by government entities after **December 31, 2012**
- ARRA of 2009 delayed implementation from 12/31/2010 to 12/31/2011
- Final Regulations delayed implementation from 12/31/2011 to 12/31/2012
- Remit these taxes to the IRS using current tax deposit rules
- Report the withholding to the vendors/IRS on form 1099-MISC



Affected Government Entities



- All U.S. Government agencies
- All state governments (including DC, but excluding Indian tribal governments)
- All subdivisions or instrumentalities of state government that make annual payments for property and services (excluding wages) of \$100 million or more



Affected Vendors Subject to Withholding



Payment Threshold

- All governmental entities are not required to withhold on payments of less than \$10,000
- \$10,000 threshold is applied separately to each payment and each payee
- 3% withholding applies to total amount paid in any form
- Payor and payee may agree to have withholding apply to payments that are not subject to withholding (including those payments under \$10,000)

Exceptions to Withholding

- These payments will not be subject:
 - Payments for interest
 - Payments for real property
 - Payments for contracts in place and not materially modified (renewals are not considered materially modified)
 - Payments to tax-exempt entities and foreign governments
 - Payments to intra-governmental entities



Exceptions to Withholding – Cont.

- These payments will not be subject:
 - Payments to nonresident aliens and foreign corporations
 - Payments for retirement benefits, unemployment compensation, or social security
 - Payments for public assistance based on need or income (but programs based on age are included)
 - Payments for grant transfers to recipients



Exceptions to Withholding – Cont.

- These payments will not be subject :
 - Payments to government employees in connection with service such as retirement plan contributions, fringe benefits, expense reimbursement
 - Payments made in emergency or disaster situations



Subcontractors

- The party contracting with the government is subject to the 3% withholding
- Subcontractors of the contracting party are not subject to the 3% withholding
- Agents acting as payment administrators for the government are required to withhold



Federal Reporting Requirements

- 1099-MISC required to report payments and withholding
- Reporting includes Corporations
- Currently – 12,000 1099-MISC forms issued by ACO on behalf of County of Riverside
- Estimate – 36,000 1099-MISC forms will be issued by ACO on behalf of County of Riverside
- Withholding will continue to be reported in box 4 on the Form 1099



9311 VOID CONNECTED		OMB No. 1545-0047
PAYEE'S name (street address, city, state, ZIP code, and telephone no.) 2 Builders 123 Maple Avenue Oakton, VA 22050 703-433-4567		3 State \$ 4 Federal \$ 5 Other income \$
PAYEE'S Federal identification number 12-34567890		6 Total of all such tax payments \$ 7 Nonemployee compensation \$
PAYOR'S name (Print or type) ABC Company 4567 Main Street Suite 100 Falls Church, VA 22044		8 Miscellaneous income \$ 9 Total of all such tax payments \$ 10 Other income \$
PAYOR'S EIN and ZIP code (Include state and ZIP code) 12345 67890		11 State income tax withheld \$ 12 Federal income tax withheld \$
Account number (see instructions)		13 Other payments paid to or for payee \$
Use Section 501(c)(3) address (If the payee is a 501(c)(3) organization)		14 State income tax \$

Form 1099-MISC Department of the Treasury - Internal Revenue Service

QUESTIONS?