

September 28, 2010

Internal Revenue Service  
CC:PA:LPD:PR (Notice 2010-51), Room 5203  
P.O. Box 7604  
Ben Franklin Station, N.W.  
Washington D.C. 20044

By e-mail: [Notice.Comments@irsconsult.treas.gov](mailto:Notice.Comments@irsconsult.treas.gov)

**Re: IRS Notice 2010-51–Information Reporting Under the Amendments to  
Section 6041**

The New York State Society of Certified Public Accountants, representing more than 27,000 CPAs in public practice, industry, government and education, welcomes the opportunity to comment on the above captioned notice.

The NYSSCPA's Taxation of Individuals Committee deliberated the new reporting requirements and prepared the attached comments. If you would like additional discussion with us, please contact Jonathan M. Horn, Chair of the Taxation of Individuals Committee at (212) 744-1447, or Ernest J. Markezin, NYSSCPA staff, at (212) 719-8303.

Sincerely,

  
NYSSCPA NYSSCPA

Margaret A. Wood  
President

Attachment

**NEW YORK STATE SOCIETY OF  
CERTIFIED PUBLIC ACCOUNTANTS**

**COMMENTS ON  
IRS NOTICE 2010-51 – INFORMATION REPORTING UNDER THE  
AMENDMENTS TO SECTION 6041**

**September 28, 2010**

**Principal Drafters**

**Alfred Grillo  
Jonathan M. Horn  
Melvin Meyerson**

## **NYSSCPA 2010 – 2011 Board of Directors**

Margaret A. Wood, <i>President</i>	John Barone	Mark G. Leeds
Richard E. Piluso, <i>President-elect</i>	Cynthia D. Barry	Pei-Cen Lin
Joseph M. Falbo Jr., <i>Secretary/Treasurer</i>	S. David Belsky	Heather Losi
Scott M. Adair, <i>Vice President</i>	Ian J. Benjamin	Anthony J. Maltese
David R. Herman, <i>Vice President</i>	Robert W. Berliner	Barbara A. Marino
Martha A. Jaeckle, <i>Vice President</i>	Anthony Cassella	David J. Moynihan
Gail M. Kinsella, <i>Vice President</i>	Sherry L. DelleBovi	Avery E. Neumark
Joanne S. Barry, <i>ex officio</i>	Adrian P. Fitzsimons	Joel C. Quall
	Stephen E. Franciosa	Robert R. Ritz
	Jennifer R. George	Erin Scanlon
	Rosemarie A. Giovinazzo- Barnickel	Robert E. Sohr
	Mitchell L. Gusler	George I. Victor
	John B. Huttlinger Jr.	Charles J. Weintraub
	Nancy A. Kirby	Jesse J. Wheeler
	J. Michael Kirkland	F. Michael Zovistoski

## **NYSSCPA 2010 – 2011 Tax Division Oversight Committee**

Scott M. Cheslowitz, <i>Chair</i>	Adam Lambert	P. Gerard Sokolski
David S. Gibson	Charles N. Morrow	Stephen P. Valenti
Robert L. Goldstein	Jay G. Sanders	Amy M. Vega
Alan D. Kahn	David Sands	Cristina N. Wolff

## **NYSSCPA 2010 – 2011 Taxation of Individuals Committee**

Jonathan M. Horn, <i>Chair</i>	Richard Greenfield	Steven Perrotta
Rafael T. Acevedo	Mark S. Halpern	Karlene Ramsden
Anthony K. Adjei	Donette Harris-Smith	Neal Rifkin
Peter Alizio	Mark A. Hertlein	Bhoj Raj Rijal
Rosa Arreaga	Sungjoo Hong	Juan Rondon
June V. Balyk-Martin	Ira H. Inemer	Erica F. Rubin
Nathan J. Berenholz	Alexander Ishmael	Raymond G. Russolillo
Yves Blain	William H. Jones	Joseph B. Sesay
Kenneth J. Burstiner	David Kahen	Lawrence Stack
Vincent N. Caruso	Barry S. Kleiman	Marc J. Strohl
Vincent J. Cosenza	Kevin M. Levine	Robert A. Sussman
Megan Coyne	T. Basingmantenfel	Deborah Todaro
Johnpaul Crocenzi	Jacob Mathews	Stephen P. Valenti
Elysa K. Dauerman	Carlos Maysonet	Edmund Viele
Alan J. Dlugash	John F. McKervey	Wanda Williams
Joseph V. Falanga	Mary C. McLaughlin	Benjamin Yazersky
Louis E. Feinstein	Melvin Meyerson	Steven B. Zelin
Stuart Friedman	Yaakov Notinger	Jeffrey Zukoff
Henry A. Garris	Monique Officer	

## **NYSSCPA Staff**

Ernest J. Markezin  
William R. Lalli

# **New York State Society of Certified Public Accountants**

## **Comments on**

### **IRS Notice 2010-51–Information Reporting Under the Amendments to Section 6041**

The New York State Society of Certified Public Accountants welcomes the opportunity to comment on the Internal Revenue Service’s request for comments on guidance to be issued implementing changes to Section 6041 of the Internal Revenue Code, *Information at Source*, as amended by section 9006 of “The Patient Protection and Affordable Care Act” (PPACA) effective March 23, 2010.

We appreciate the Service’s stated intention to issue guidance that will minimize the burden on businesses and avoid duplicative reporting. However, we believe that the increased costs and complexity imposed by this Code Section on taxpayers, as well as the currently unfunded administrative and compliance burdens on the IRS, more than outweigh the potential benefits of this provision in achieving its stated goal of reducing the “tax gap.”

In a letter dated September 13, 2010, Treasury Secretary Timothy Geithner and Health and Human Services Secretary Kathleen Sebelius stated, “We are committed to reducing the gap between taxes legally owed and taxes paid. However, the administration believes that the burden created on businesses by the new information reporting requirement on purchases of goods that exceed \$600, as included in Section 6041 of the Internal Revenue Code as modified by Section 9006 of the Affordable Care Act, is too great.” We could not agree more.

Accordingly, it is our strong belief that a repeal of these changes by Congress is the best course of action at this time for all parties. We have provided an outline below of several serious issues and concerns that our clients and members have raised concerning this provision.

- 1) Increased compliance burden and costs to businesses will result.
  - a. Businesses will have to track all purchases by vendor, regardless of the amount, and must segregate those paid by credit or debit card versus cash and check and ACH.
  - b. How to handle expense reimbursements to employees becomes more difficult—whether to track by ultimate vendor or 1099 to employee (might result in false income reported to employees).
  - c. Businesses must obtain a TIN from all vendors.
  - d. If TINs are not obtained, there will be difficulty created in imposing back-up withholding on purchases of goods. Vendors may refuse sales or, if back-up withholding is imposed, sue for non-payment.

- e. Difficulty in reconciling 1099s received versus sales to a customer will be created. Different reporting years (calendar versus fiscal) have to be taken into consideration: some customers may include credit or debit payments to minimize their own tracking burden.
  - f. The direct costs of preparing, mailing and filing 1099s either internally or using a third-party provider will be burdensome.
- 2) Increased burden on large corporations will result.
- a. Businesses such as publicly held corporations already subject to auditing requirements will be receiving 1099s for which they have no use.
- 3) Increased burden and costs to IRS will result.
- a. A need will result to handle requests for millions more blank 1099 forms from small businesses and sole proprietors that includes printing, processing, mailing and postage.
  - b. There will be the need to manually input millions of additional 1099s. It will delay the availability of wage and income information to IRS personnel and the practitioner community.
  - c. There would be increased usage of the EIN verification system.
  - d. An increase in the issuance of unnecessary and incorrect CP-2000 notices and resultant mailing costs, cost in time and money to resolve issues would follow.
- 4) Little or no usefulness to IRS would come of the change.
- a. It would be difficult to match 1099s reported on calendar year basis with vendor sales reported on a fiscal year basis. Taxpayers using the accrual basis of accounting would complicate matching even further.
  - b. The sheer volume of returns filed would guarantee millions of unintentional erroneous filings.
  - c. Some filings would include credit and debit card payments and some would not.
  - d. For sole proprietors, would be required to reconcile between the EIN and SSN used.
- 5) Additional concerns and problems would arise.
- a. For sole proprietors using their SSN, serious privacy and identify theft issues might arise. They must now provide their SSN to dozens of third parties.
  - b. Huge potential for erroneous assessment of penalties that would cost the taxpayer and the IRS time and money to resolve.
  - c. Reporting amounts attributable to “home offices” might represent an allocated amount of actual payment to vendor creating confusion and preventing verification by matching.
  - d. The change might unintentionally provide an advantage to large businesses who offer to track purchases for their customers.