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House Committee Sends 1099 Repeal to the Floor; Senate Passes Its Own Version of Repeal

FEBRUARY 17, 2011

The House Ways and Means Committee approved a bill Thursday that would repeal the expanded Form 1099 reporting requirements, voting 21–15 to send the measure to the full House of Representatives. Late on Thursday, the Senate passed the FAA Air Transportation Modernization and Safety Improvement Act (S 223) by a vote of 87-8. The bill would repeal one of the expanded 1099 requirements.

The House bill, called the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (HR 705), would repeal both the expanded information reporting requirements enacted as part of last year's health reform legislation and the requirement that taxpayers who receive income from rental property issue 1099s to service providers. To pay for this repeal, the bill would increase the amount of the new IRC § 36B health care credit that is subject to recapture.

The Patient Protection and Affordable Care Act (PL 111-148) expanded the 1099 reporting requirements to include all payments aggregating \$600 or more in a calendar year to a single payee, including corporations (other than a payee that is a tax-exempt corporation), and to include payments made for property, starting with payments in 2012.

The Small Business Jobs Act (PL 111-240) requires individuals who receive rental income to issue Forms 1099 to service providers for payments of \$600 or more during the year, starting with payments in 2011.

HR 705 would repeal both of these recent changes. The Senate's version of 1099 repeal only addresses the health care legislation's expanded reporting requirement. It would be paid for by rescinding \$44 billion in unspecified discretionary spending.

The AICPA has been supporting repeal of both provisions since shortly after their enactment. In a Feb. 14 letter to the chairman of the Ways and Means Committee, Rep. Dave Camp, R-Mich., and its ranking member, Rep. Sander Levin, D-Mich., the chair of the AICPA's Tax Executive Committee, Patricia Thompson, urged the repeal of both 1099 provisions and expressed the AICPA's concerns about the significant compliance burdens that businesses and rental property owners will face if the expanded 1099 reporting provisions are not repealed.

The Small Business Jobs Act provision defines anyone who receives income from rental property as being engaged in a trade or business. The AICPA letter expresses concern that it will be "extremely burdensome" for individuals, many of whom, for example, rent vacation property for part of the year to help defray their costs, to (1) keep track of expenses by provider, (2) obtain tax identification numbers from all providers of property and services, and (3) provide Forms 1099 during January. The letter also questions the need to send 1099s to certain service providers, for example, utilities.

In the letter, Thompson recommends repeal as the "best alternative to imposition of an overwhelming compliance burden on the nation's small businesses and real estate owners," and as "the best solution for both taxpayers and the government."

It is unclear when the House will vote on either bill or what their fate will be. The House is in recess next week for the Presidents Day holiday.

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