



Retirement Plan Specialists, Inc.

Employee Benefits Administrators, Actuaries & Consultants

815 Eyrie Drive, Suite 2
Oviedo, Florida 32765-8602

407-365-3490 (office)
407-366-5154 (fax)
888-376-7222 (toll free)

Visit us at www.webpensionplans.com

Small Business Jobs Act and 1099 Reporting

This afternoon, the House passed the Senate version of the “Small Business Jobs Act” (HR 5297). The measure will now be sent to President Obama for his signature. The bill is intended to give small businesses additional access to credit.

Among other things, the bill will do the following:

- Allow business owners to deduct the cost of health insurance incurred in 2010 for themselves and their family members in the calculation of their 2010 self-employment tax.
- Establish a Small Business Lending Fund of \$30 billion to provide capital investments to small community banks to increase small business lending.
- Establish a State Small Business Credit Initiative to provide \$1.5 billion in grants to existing successful state small business programs that help private lenders extend more credit to small businesses.
- Revise section 6707A of the Internal Revenue Code to cap the penalty for failing to disclose a reportable at 75 percent of the tax benefit received.
- For the taxable year beginning in 2010, this bill would temporarily increase the amount of start-up expenditures that may be deducted to \$10,000 subject to a \$60,000 phase-out threshold.
- Allow investors to exclude the gains from the sale of certain small business stock (1244 stock) from their income for tax purposes if the stock is held for more than five years.
- Allow small businesses to count the general business credits against the Alternative Minimum Tax (AMT).
- Raise the cap on small business loans.
- Extend American Recovery and Reinvestment Act changes to the Small Business Administration’s (SBA) two largest lending programs and to its microloan program through December 31, 2010.
- Extend the American Recovery and Reinvestment Act small business lending program that eliminates the fees normally charged for loans through the SBA 7(a) and 504 loan programs and increases the government guarantees on 7(a) loans from 75 percent to 90 percent.

A complete summary of the measure can be found on the Senate Finance Committee website at: <http://finance.senate.gov/legislation/details/?id=da799068-5056-a032-5229-92cebbd2b7a0>

To bring the 6707A penalties within some reasonable parameters was one of the SBCA's top priorities this year. With this bill we have succeeded. Thanks and congratulations to

Alex Brucker and Jonathan Cocks who spearheaded this issue for the SBCA. Also thanks to Matt Kadish, Al Martin, Peter Shanley and Neil Carrey for backing up their efforts.

Unfortunately, the measure does not include relief from the 1099 reporting provisions established as part of the new health care law. Beginning in 2012, the law requires businesses to file 1099 forms with the Internal Revenue Service any time they spend more than \$600 a year with another business for goods and services.

In fact, the Senate-passed bill actually makes matters worse by including a provision that increases all the penalties for failure to file Form 1099. The basic penalty for failure to file correct information returns with the IRS is increased from \$50 to \$100 per return, and the annual cap is increased from \$250,000 to \$1.5 million. The basic penalty for failing to provide copies to payees is increased from \$50 to \$100 per return, and the annual cap is increased from \$100,000 to \$1.5 million.

During the Senator Floor debate earlier this month, Senator Johanns (R-NE) offered an amendment that would have repealed the expanded 1099 provision. The amendment would have been paid for by taking money from a fund in the healthcare bill to be used for wellness and preventive care. It would have also raised the exemption for the individual mandate to purchase health insurance.

A vote on an alternative 1099 amendment offered by Senator Bill Nelson (D-FL) also failed. The Nelson amendment would have exempted payments made by credit card or debit card. In addition, the amendment would have increased the payment threshold to \$5,000 (up from \$600) annually for payments made for goods. Also, small businesses with 25 or fewer employees would not have to issue a Form 1099 for payments made for property, regardless of the payment amounts.

After the votes, Senator Johanns vowed to offer his amendment to future legislation, but said he was open to other possible payment offsets as long as the 1099 tax provision was fully repealed. The Nebraska senator is engaged in conversations with Senator Mark Begich (D-AK) to explore alternative pay-for options. Most business organizations fully supported the Johanns amendment. The main opposition to the amendment was not the repeal of the 1099 provision itself, but the payment offset. His amendment drew strong opposition from health prevention groups which are already upset that in June the Department of Health and Human Services moved half of the \$500 million appropriated for prevention to fund efforts to build the physician workforce.

Following the Senate debate, Small Business Committee Chair Mary Landrieu (D-LA) introduced a bill that would increase the 1099 reporting requirement from \$600 to \$5,000. She promised to find a bipartisan way to pay for it.

With Congress set to recess at the end of the month, it is unlikely that the 1099 reporting will be addressed before the November elections. There does seem to be a consensus that both parties would like to "fix" the 1099 problem as soon as possible. The small business groups remain firm and together behind the repeal approach. Both the Senate and the House have decided that they will NOT consider extending the Bush Tax Cuts before recess.