



November 16, 2010

To the Members of the United States House of Representatives:

The American Institute of Certified Public Accountants (“AICPA”) is concerned about the significant compliance burdens placed on businesses and rental property owners by section 9006 of the *Patient Protection and Affordable Care Act* (P.L. 111-148) (“PPACA”) and section 2101 of the *Small Business Jobs Act of 2010* (P.L. 111-240) (“SBJA”), respectively.

The PPACA made two significant changes to the law that will take effect in 2012. First, the act overturns a long-standing tax regulation providing that corporations were generally exempt recipients for Internal Revenue Code section 6041 reporting purposes. Second, the provision expands information reporting requirements to business payments for property (which is in addition to business payments for services, as required by current law). Thus, beginning in 2012 (reports due in 2013 for 2012 payments), if a business generally purchases \$600 or more in property or services from another entity (including a corporation), it must provide the vendor and the Internal Revenue Service (“IRS”) with a Form 1099-MISC information return.

Internal Revenue Code section 6041 currently requires “persons engaged in a trade or business” to satisfy reporting requirements. The SBJA further expands the information reporting requirements to payments for rental property expenses paid by all persons receiving rental income, whether or not they are “engaged in a trade or business,” providing only limited exceptions. Similar to other “persons engaged in a trade or business,” the reporting requirements are triggered upon the purchase of \$600 or more in services from another entity. The information reporting requirements applicable to rental property expense payments will take effect in 2011, but would be expanded in 2012 to include payments for property as described above with regard to the PPACA changes.

This would be the first time that individual taxpayers owning rental property who are not “engaged in a trade or business,” would be required to provide Forms 1099-MISC. For example, many individuals, who own a vacation property that is rented part of the year to help defray their costs, would be subject to the provisions of the SBJA. We are concerned that (1) keeping records to track expenses by provider, (2) obtaining tax identification numbers and other information from providers of property and services, and (3) providing Forms 1099-MISC during January, a month when taxpayers would not normally be focused on tax issues, would be extremely burdensome. Additionally, the AICPA questions the need for sending information forms to certain providers of services, such as utility companies.

For the reasons discussed below, we believe section 9006 of the PPACA and section 2101 of the SBJA should be repealed because they impose extremely burdensome information reporting requirements on

businesses and individual taxpayers that cannot be justified in terms of the limited utility such information reports will provide to the government.

The expansions of information reporting may likely prove to be burdensome to small businesses and individuals particularly at a time of economic challenge. In order to comply with these onerous requirements, taxpayers will incur a significant increase in costs with respect to the accumulation of relevant information and the preparation and mailing of Forms 1099-MISC.

More importantly, the AICPA believes that the information reported to the IRS will prove of little value to many taxpayers or to the government. Many corporations operate on a fiscal year basis or use the accrual method of accounting and, therefore, receipt of Forms 1099-MISC with calendar year or cash basis information would not prove to be useful to those taxpayers or the government absent burdensome reconciliations.

In summary, the business implementation costs associated with the likely generation and receipt of millions of forms and the potentially challenging reconciliation processes for taxpayers should be weighed against the uncertainty of the benefit to be derived by the government. American businesses do not need the added cost of more regulatory requirements at a time when their efforts must be focused on profitability and sustainability. Increased profitability is likely to yield more tax revenues than the expansions to the reporting requirement. Although the AICPA strongly supports efforts to reduce the tax gap, we think the extraordinary burden in this instance far outweighs any potential benefit.

Repeal of section 9006 of the PPACA and section 2101 of the SBJA is the best alternative to imposition of an overwhelming compliance burden on the nation's small businesses and real estate owners. IRS Commissioner Douglas Shulman has acknowledged publicly that the business community is concerned about the compliance burdens associated with section 9006 of the PPACA. In May 2010, Commissioner Shulman stated that the IRS plans to use its "administrative authority to exempt from this new requirement business transactions conducted using...credit cards and debit cards." This potential exemption may mitigate some burden; however, we are still concerned with the overall level of burden placed on taxpayers. Thus, we remain convinced that repeal of section 9006 of the PPACA and section 2101 of the SBJA is the best solution for both taxpayers and the government.

If you have any questions regarding this letter, please contact me at (401) 831-0200 or patt@pgco.com; Benson S. Goldstein, AICPA Senior Technical Manager-Taxation, at (202) 434-9279, or bgoldstein@aicpa.org; or Peter Kravitz, AICPA Director, Congressional and Political Affairs, at (202) 434-9218, or pkravitz@aicpa.org.

Sincerely,



Patricia A. Thompson
Chair, Tax Executive Committee