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Information Returns for Employers: Deadlines Moved Up and Penalties Increased

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New deadlines may surprise companies that are required to issue Forms W-2 to employees and Forms 1099 for non-employee compensation to independent contractors.

Tax extenders legislation passed in December 2016 which now requires that Forms W-2 and certain Forms 1099-MISC must be filed by **January 31, 2017**.^[1]

These requirements are weapons in the IRS' battle against tax refund fraud. Typically, a refund thief would file a false income tax return on behalf of an unsuspecting employee even prior to when an employer provides a Form W-2. As a part of the new legislation, the IRS is now required not to issue refunds due to the earned income tax credit or child tax credit until February 15, so that it can verify refund claims against the Forms W-2 and 1099.

I. Extension is Possible

Employers filing Forms W-2 may apply for a single 30-day extension by submitting Form 8809, Application for Extension of Time to File Information Returns, by January 31, including a detailed explanation signed under the penalties of perjury. However, the IRS has advised that extensions will be granted only in limited cases for extraordinary circumstances such as a natural disaster or a fire which has destroyed the books and records needed for filing the returns.

In contrast, filers of the Form 1099 are entitled to one automatic 30-day extension and may apply for an additional 30-day extension under certain hardship conditions.

II. Penalties Increased

The new legislation also increased the penalties for late and non-filing of these returns, depending on the lateness of the return and the amount of the tax. The maximum penalties are also now adjusted for inflation.

Further, if the failure to file information returns is due to intentional disregard, there is no maximum amount of the penalty. However, if the filer can show that the failure was due to reasonable cause then no penalties will be imposed.

III. Takeaway

The earlier deadlines and increased penalties mean that companies that issue information returns need to file these returns by January 31 such that the personnel that handle accounts payable will need their systems to be organized for prompt processing in January, 2017.

^[1] Companies reporting non-employee compensation on Box 7 must report by January 31, 2017. Companies reporting other information on Form 1099 will have until February 28, 2017 if filing on paper or until March 31, 2017 if filing electronically.

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