

January 31, 2018

Newly-Enacted Pennsylvania 1099-MISC Filing Requirements

To Our Clients and Friends:

The Pennsylvania Department of Revenue has recently released guidance on withholding Pennsylvania source nonemployee compensation, business income and lease payments. Beginning January 1, 2018, Pennsylvania has a withholding obligation for some payors of Pennsylvania source income and lessees of Pennsylvania real estate to nonresidents. The legislation also expanded when a copy of Federal Form 1099-MISC must be filed with Pennsylvania.

Withholding of Nonemployee Compensation and Business Income

Payors of Pennsylvania source nonemployee compensation or business income to a nonresident individual or pass through entity with a nonresident member who is required to file a Federal Form 1099-MISC with the Department of Revenue is required to withhold the 3.07% Pennsylvania tax rate if the payee received \$5,000 or more. A payment is “non-employee compensation” if it is made to someone who is not your employee and has provided services to your business. Payees who have tax withheld and receive a copy of the Federal 1099-MISC are required to file a copy with their Pennsylvania tax return.

Payors are:

- required to apply for a 1099-MISC withholding account by completing a PA-100 Pennsylvania Enterprise registration Form electronically;
- required to electronically file quarterly withholding returns and annual reconciliations with the Department via e-TIDES;
- required to electronically remit the withheld monies via e-TIDES;
- liable for withheld taxes in the same manner as employers withholding employee compensation; and are
- liable for taxes not withheld in the same manner as employers withholding employee compensation.

Withholding on Lease Payments

A business renting Pennsylvania real estate for use in the course of running their business from a non-resident landlord must now withhold an amount from the rent payments they make to their landlord equal to the 3.07% Pennsylvania tax rate. At this time, only rental payments made to nonresident landlords who are individuals, estates or trusts are subject to nonresident withholding (i.e., rental payments made to nonresident landlords who are corporations, partnerships or limited liability companies do not require withholding). Withholding is optional for amounts under \$5,000 annually. Lease payments include: rents, royalties, bonus payments, damage rents and other payments made pursuant to a lease. Lessees who withhold from a lessor are:

- required to apply for a 1099-MISC withholding account by completing a PA-100 Pennsylvania Enterprise Registration Form electronically;
- required to electronically file quarterly withholding returns and annual reconciliations with the Department via e-TIDES;
- required to electronically remit the withheld monies via e-TIDES;
- liable for withheld taxes in the same manner as employers withholding employee compensation; and are

- liable for taxes not withheld in the same manner as employers withholding employee compensation.

Federal Form 1099-MISC Filing Obligations

Beginning in 2018, anyone who pays Pennsylvania-source income to a resident or non-resident individual, partnership or single member limited liability company and is required to file a Federal Form 1099-MISC is required to file a copy of Federal Form 1099-MISC with the Department of Revenue and the payee by January 31 of the following year.

If the payor must electronically file Pennsylvania employer withholding, the Form 1099-MISC must be filed electronically, as well.

If we can provide additional insight, please don't hesitate to contact us.

Very truly yours,

MillerSearles LLC

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