
QUARTERLY TAX UPDATE: FOLLOW-UP Q&A

RedondoBeachEA: There are penalties if the returns are incorrect?

Mike Giangrande: Yes, there are penalties if the information returns are incorrect (not just for late filing).

AlamedaCPA: Can you mail multiple client 1099/1096 red government copies in one envelope? How about multiple W2/W3 red copies in one envelope?

Mike Giangrande: Yes, you should mail all red 1099s in one envelope with the 1096 to which they relate, but I don't recommend using the same envelope for more than one set of 1096/1099s. The red copies specifically don't want you to staple them, so I think you risk copies getting mixed up if you use the same envelope.

WoodlandHillsCPA: Are there extensions still available? (Form 8809)

Mike Giangrande: Yes. We have a section in the materials on the Form 8809.

WoodlandHillsCPA: Oops! Answer is shown later on the page ... but if the 1099 does not go out to recipients are there penalties?

Mike Giangrande: Yes, there are two separate penalties, one for the recipient copies and one for the government copies, and each penalty is \$260 per return.

WoodlandHillsCPA: The Form 8809 detailed explanation is only due for a second 30-day extension request, not the initial.

Mike Giangrande: Thank you for the correction.

WalnutCreekCPA: When are you required to send 1099s to California?

Mike Giangrande: You are required to send 1099s to the state of California if the amounts differ from the federal amounts. It is a very rare situation, but you can find the FTB's information here: www.ftb.ca.gov/businesses/infortrns/when2file.shtml

GardnervilleCPA: So if the errors do not exceed \$100 for any single amount, or \$25 in the case of withholding, then we do not file amended reports?

Mike Giangrande: Correct, unless the employee requests it.

BeaumontEA: If a client phases out of the CTC but still qualifies for the dependent care credit, are you recommending still obtaining documentation?

Mike Giangrande: If you are referring to the Form 8867 Due Diligence Checklist, then no. The checklist is not applicable for the dependent care credit.

***LaCrescentaCPA:** A US partnership that holds almost exclusively foreign stocks will now need to file Form 8938 within the partnership return?*

Mike Giangrande: You will have to check the specific FATCA requirements for your case, but it is very likely because of the passive foreign holdings. We have a great chart in our Federal and California Tax Update seminar materials that outlines what entities and assets are subject to reporting. If you have those materials, the chart starts on page 2-8.

***AlamedaCPA:** Worthless stock – is a signed letter from board to shareholders enough to prove worthlessness?*

Mike Giangrande: If that is the best information you have and your client is not expecting any further payouts after assets are liquidated, then I would say yes.

***AlamedaCPA:** I have a client that I marked a stock as worthless in 2014 but accidentally put the same amount of sales as basis. Zero loss! I just realized this yesterday when I was doing some planning. When I amend with zero sales will I need to include the letter stating the stock is worthless? It is unfortunate that I have to bring extra attention to this transaction. There was no 1099.*

Mike Giangrande: We've all been there. When you file the amended return, you simply need to include an explanation for the amendment. I recommend a simple, short, but thorough explanation.

***TorranceEA:** If a taxpayer loans to a company that invests in property and the company lost all of the money, can the taxpayer deduct that loan? If yes, what kind of loan?*

Mike Giangrande: Yes, it sounds like you have a bad debt. You will have to examine your client's scenario. Are they in the business of making loans? If they are, then it's probably a business loss. If the loan was to a family member or friend's business and your client does not make any other loans, then it is probably a nonbusiness bad debt that is treated as short-term capital loss.

***SanFranciscoEA:** A husband and his wife work for an S corporation, of which the husband is a 100% owner. If each spouse has his or her own health plan and the S corporation paid premiums for both, is the wife's premium considered a 2% shareholder health insurance premium?*

Mike Giangrande: Yes, the wife is also considered to be a 2% shareholder. The family attribution rules of IRC §318 will attribute the husband's 100% ownership interest to his wife, so they are both deemed to own 100% of the S corporation stock for purposes of applying the health insurance rules.