



# BURR ALERT

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## New Regulations Repeal Automatic Requirement for Form 1099-C Under *No Payment For 36 Months Rule*

Last month, the IRS issued final regulations repealing its rule requiring that a Form 1099-C be filed whenever a financial institution (or certain other limited taxpayers) fails to receive payment on a debt for 36 consecutive months. Treasury Decision 9793 was issued on November 10 and accompanied the publication of amended regulations issued under Code Section 6050P.

For nearly two decades, IRS rules on when a discharge of indebtedness had to be reported for tax purposes included the presumption that whenever a debtor failed to make any payment to a creditor for a period of 36 continuous months, such failure constituted a deemed discharge of the debt, thereby requiring the financial institution or other creditor to file a Form 1099-C, Cancellation of Debt, with the IRS. As most taxpayers are aware, whenever the IRS receives a Form 1099-C, the IRS attempts to match that information return with the debtor's income tax return, and if the debtor's income tax return has failed to report that income, the IRS program automatically assesses additional tax, penalty and interest. Even if the debtor picked up the income, but treated it as non-taxable under any of the discharge of debt exceptions, a correspondence audit would often follow.

This amendment to the regulations did not change any of the other events still requiring financial institutions to file a Form 1099-C, including, among others, a discharge of the debt by operation of law, by an agreement of the parties, or by the unilateral decision of the creditor to cease collection efforts and write-off the debt. With the repeal of the 36-month rule, financial institutions no longer have to worry about debtors being confused by the fact that a Form 1099-C has been issued, while the financial institution still believes the debt to be collectible and continues collection efforts; the primary reason cited in T.D. 9793 for the change.

The regulations under Section 1.6050p-1(h) repealing the 36-month rule are effective as of the date of publication. Therefore, they apply to information returns required to be filed after December 31, 2016, meaning that the 36-month rule does not apply for any purpose for the 2016 tax year.

If you would like more information on this regulation or any other tax matter, please contact:

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