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United States

President Obama Signs the 1099 Repeal

On April 14, President Obama signed into measure a law that repeals the 1099 tax-reporting provision of the national health care law. This comes after the House approved Bill 1099 on March 3, and the Senate approved it on April 5. This was the first successful effort by Congress to repeal part of the President's healthcare legislation.

In March 2010, the Patient Protection and Affordable Care Act (PL-118-148) (part of the healthcare reform legislation) expanded the 1099 reporting requirements to include all payments from businesses aggregating \$600 or more in the calendar year to a single payee, including corporations (other than a payee that is a tax-exempt corporation), and to include payments made for property, starting with payments in 2012.

The 1099 Act repeals the expansion to payees that include corporations by removing IRC § 6041(i). It repeals the expansion to cover payments for property by removing the language "amounts in consideration for property," and "gross proceeds" from section 6041(a). The act also removes IRC § 6041(j), which granted the Treasury secretary authority to issue regulations under section 6041, including "rules to prevent duplicative reporting of transactions".

These changes are effective for payments made after Dec. 31, 2011 (when the new rules were to take effect), and they revert those portions of section 6041 to how they were before the Patient Protection and Affordable Care Act.

The 1099 Act did **not** repeal the increased information reporting penalties that were introduced with the Small Business Jobs Act. The new penalties for failure to timely file an information return under IRC § 6721 are:

- First tier
 - Was \$15 – **now \$30**
 - Calendar-year maximum penalty was \$75,000 – **now \$250,000**
- Second tier
 - Was \$30 – **now \$60**
 - Calendar-year maximum penalty was 150,000 – **now \$500,000**
- Third tier
 - Was \$50 – **now \$100**
 - Was \$250,000 – **now \$1,500,000**

For small business filers, the minimum payment for each failure due to intentional disregard increased from \$100 to **\$250**. The calendar-year maximum penalty is now **\$75,000** (was \$25,000) for first tier; **\$200,000** (was \$50,000) for second tier; and **\$500,000** (was \$100,000) for third tier.

The increased penalty amounts were effective Jan. 1, 2011, and will be adjusted for inflation every five years.

New Congressional Bill Seeks to Crack Down on Independent Contractor Misclassification

Senators Brown (OH), Harkin (IA), and Blumenthal (CN) introduced the Payroll Fraud Prevention Act (S.770), which is a trimmed down version of the Employment Misclassification Prevention Act that was introduced in both houses of Congress last year. The bill characterizes misclassification of workers as independent contractors as a form of payroll fraud.

If passed, the bill would expand the Federal Fair Labor Standards Act (which currently addresses minimum wage, overtime, and child labor laws) to cover misclassification of employees as independent contractors. It would:

- Create a new definition of workers called non-employees.
- Impose upon businesses the obligation to provide a classification notice for both non-employees and employees.
- Create a new labor law offense and expose businesses to fines of up to \$5,000 per worker for **each** violation of the law.

This bill would **not** impose new record keeping requirements on businesses.

To read the bill in its entirety or to keep track of its status, visit thomas.gov, and search for S.770.

New OSHA Silica Rules Coming Late May or Early June

The Occupational Safety and Health Administration's (OSHA) overhauled [Occupational Exposure to Crystalline Silica \(RIN 1218-AB70\) rule](#) that completed peer review on Jan. 24, and went to the Office of Information and Regulatory Affairs on Feb. 14, is expected to take effect in late May or early June and will tighten workplace exposure limits and other requirements involving respirable crystalline silica.

The notice of proposed rulemaking was scheduled for release in April, but the process was delayed. These rules will likely bring major changes to the coatings industry.

OSHA is expected to lower Permissible Exposure Limits (PEL) to silica as part of a comprehensive new standard that is likely to include provisions for exposure monitoring, medical surveillance and working training. The scope of the rule is still being deliberated, and risk analysis is underway. ([back to top](#))

Canada

More than Half of Alberta Trades Ratify New Collective Bargaining Agreements

13 of the 24 trade groups in Alberta have ratified new collective bargaining agreements while negotiations are continuing with the remaining 11 groups.

These agreements include provisions on controlling the work day. They will "afford employers the prerogative of varying the start time by at least one hour each way for eight-hour days, and at least one half hour each way for 10-hour work days".

The new agreements will freeze wages for the first year, then will adjust wages by 2-4 percent in the second year based on cost of living index, and will adjust wages during the third and fourth years based on changes in both cost of living index and benchmark oil prices.

Manitoba Faces Major Construction Boom

On April 19, the Construction Sector Council reported Manitoba's construction sector will see an eight-year growth spurt through 2019, and employment will rise by more than 20 percent between 2011 and 2014.

"Employment in both residential and nonresidential reaches new peak levels by 2014. After 2014, major hydroelectric power projects reach peak activity and housing starts follow moderate gains, rebalancing labor market conditions. Moderate growth in nonresidential construction and residential renovation activity help sustain employment at peak levels between 2014 and 2019," the council said.

The surge will follow the high migration levels into the province which is expected to continue through 2019.

Newfoundland, Labrador Offers Subsidy for Employers for Hiring New Apprentices

In preparation for an increased demand for skilled trades as major construction projects are launched, the Newfoundland and Labrador government will offer a new wage subsidy program for the province's apprentices.

"The Apprenticeship Wage Subsidy Program will give apprentices a greater opportunity to gain work experience and complete their training to become journey person certified," Employment Minister Darin King said.

The subsidies' two priority groups will include first and second year apprentices, particularly those in under-represented groups (such as women, aboriginals, disabled persons, and youth).

The program will allow employers to offset the cost of hiring apprentices based on experience (**90 percent** for **first-year** apprentices, **80 percent** for **second-year**, and **60 percent** for **third** and **fourth years**).

"The new program will particularly address the difficulty apprentices traditionally have in gaining employment experience, particularly during their first and second years of training," Education Minister Joan Burke said.

The program will be jointly funded by the Department of Human Resources, Labour, and Employment and the Department of Education under the Labour Development Agreement and the Labour Market Agreement.

Bill 160 Proposes Changes to the Ontario's Occupational Health and Safety Act

Legislative amendments to Ontario's Occupational Health and Safety Act introduced by Labour Minister Charles Sousa, are under consideration for, as Sousa puts it, "The first major review and the largest overhaul of Ontario's occupational health and safety system in 30 years".

The most significant recommendations which appear as amendments in Bill 160 include:

- Transfer responsibility for prevention from the Workplace Safety and Insurance Board (WSIB) to the Minister of Labour to coordinate, align, and strengthen prevention and enforcement activities.
- Appoint a new chief prevention officer who will oversee the prevention activities of the health and safety system partners.
- Transfer oversight of the Health and Safety Associations (HAS) to the chief prevention officer to further align and coordinate prevention efforts, and eliminate duplication of services. The chief prevention officer will work with the HSAs to develop programs to support workplace health and safety and enhance the quality of training.
- Establish a new prevention council that will advise the chief prevention officer and the minister with respect to setting strategic priorities and measuring system progress, and engage worker, employer, and other stakeholders in prevention activities and priorities.

The new prevention system however, has raised concerns over tracking premiums to the WSIB. The Council of Ontario Construction Associations (COCA) has expressed concerns about the financial accountability of employer premiums paid once the responsibility for prevention services and programs is transferred from the

WSIB to the labour ministry.

If Bill 160 is passed, employers will continue to pay premiums to the WSIB, and part of that premium will be an amount to fund prevention programs and services. The WSIB will then forward the prevention component from employers' premiums to the finance ministry, which will then forward the money to the labour ministry.

With so many hand-offs, individuals such as Ian Cunningham, president of COCA, is worried that some of the employers' investments intended for prevention could be put to other use.

"A clear accounting trail of prevention monies paid to the WSIB by employers that flow eventually to the new prevention entity within the Ministry of Labour must be created annually and reported to the employers," he said.

[Click here to track the status of Bill 160.](#)

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