

# Follow Us On Social Media!



**facebook.com/MVLSProBono/**



**Maryland Volunteer Lawyers Service**



**@MVLSProBono**



**Maryland Volunteer Lawyers Service**

Visit [www.mvlslaw.org/events](http://www.mvlslaw.org/events) for  
more info on upcoming training  
and clinics!

# Resources for MVLS Volunteers: Looking for Pro Bono Cases?



The image shows a screenshot of the Maryland Volunteer Lawyers Service (MVLS) website. The header features the MVLS logo on the left and the text "MARYLAND VOLUNTEER LAWYERS SERVICE" on the right. Below the header is a navigation menu with links for "About", "Work", "Get Help", "Volunteer", "News & Events", "Pro Bono Portal", and "Donate". The "Pro Bono Portal" link is circled in red. The main content area has a large, stylized "MVLS" logo where the "V" is a brown triangle. Below the logo is a text box that reads: "We refreshed our logo, but you'll find the same great staff and volunteers committed to delivering on our mission." A "Read More" button is positioned below this text. At the bottom of the page, there is a mission statement: "Our mission is to connect Marylanders facing financial hardships with volunteer lawyers, tax professionals, and community partners to deliver free civil legal assistance because there should be justice for all, not just for those who can afford it."

**MVLS**  
MARYLAND VOLUNTEER LAWYERS SERVICE

About Work Get Help Volunteer News & Events **Pro Bono Portal** Donate

We refreshed our logo, but you'll find the same great staff and volunteers committed to delivering on our mission

[Read More](#)

**MARYLAND VOLUNTEER LAWYERS SERVICE**

*Our mission is to connect Marylanders facing financial hardships with volunteer lawyers, tax professionals, and community partners to deliver free civil legal assistance because there should be justice for all, not just for those who can afford it.*

# Race Equity Context

- Impact of History
  - Tax Code appears neutral on its face
- This moment
  - Pandemic recovery
- Institutional systems which have perpetuated inequities
- Additional obstacles or hurdles clients are facing

# Building Equitable Relationships

- Active Listening
- Valuing the Client's Experience
- Non-Judgmental Attitude
- Understanding past experience of communities of color with tax system
- Giving additional space for clients to ask questions

# MVLS Pro Bono Portal:

## WELCOME TO THE MVLS PRO BONO PORTAL!

Select a case today by reviewing available cases shown below in real time. You can click "Learn More" to express your interest in the case, or click "Share Case" to forward the available case to a colleague.

If you are not currently a MVLS volunteer, please [click here](#) to register.  
By taking a case today, you are helping MVLS to ensure Justice For All.

[All](#) [Bankruptcy](#) [Debt Collection](#) [Deed Transfer](#) [Estates](#) [Expungement](#) [Family](#) [Foreclosure/Tax Sale](#) [Landlord-Tenant](#) [Tax](#) [Other Category](#)

Search ...  All Counties

### Single Mom Can't Afford A Large Payment

Client is being sued by her former landlord for \$4146.59. She admits she owes some but not all of the debt and is hoping to reduce the amount she has to pay. Court date set for 7/20/18 at 1:30pm.

Location: Baltimore County  
Ref. #: 18-0138741  
Case Type: Debt Collection

[Share Case](#)

[Learn More](#)

### I Admit To The Debt, But Can We Negotiate A Settlement.

Client is being sued for \$933.00 for failing to make payments towards a debt. Client agrees that she owes the debt. There are no judgments entered in the case. Client has paid approximately \$300 toward the debt and would like to work out a settlement for the remaining. Affidavit Judgment Hearing: 7/23/18 at 1:00PM. Trial: 8/3/18 at 9:00AM.

Location: Washington  
Ref. #: 18-0138685  
Case Type: Debt Collection

[Share Case](#)

[Learn More](#)

### You Have Left Me No Other Choice But To File For Rent Escrow.

Client wishes to initiate a rent escrow case after nothing has been done to make repairs. Client has lived in the property since October 2016 and problems in the unit began in December 2017. To date LL, has not tried to resolve the mold issue, flooding, falling attic stairs, and the hole in the ceiling.

Location: Baltimore County  
Ref. #: 18-0138671  
Case Type: Landlord-Tenant

[Share Case](#)

[Learn More](#)

### Landlord Requests The Move, Now Refusing My Security Deposit.

Client filed suit against her previous Landlord for the return of her security deposit and three times the amount. Client only lived in the property for 3

### Looking Towards A Fresh Start

Client seeks help with expunging her criminal record.

### Here's To New Beginnings!

Client seeks to go over her criminal record with a volunteer and to have the eligible cases removed from her record.



# **FREE Recorded Trainings:** **Go to [mvlslaw.org/recorded-trainings](https://mvlslaw.org/recorded-trainings)**

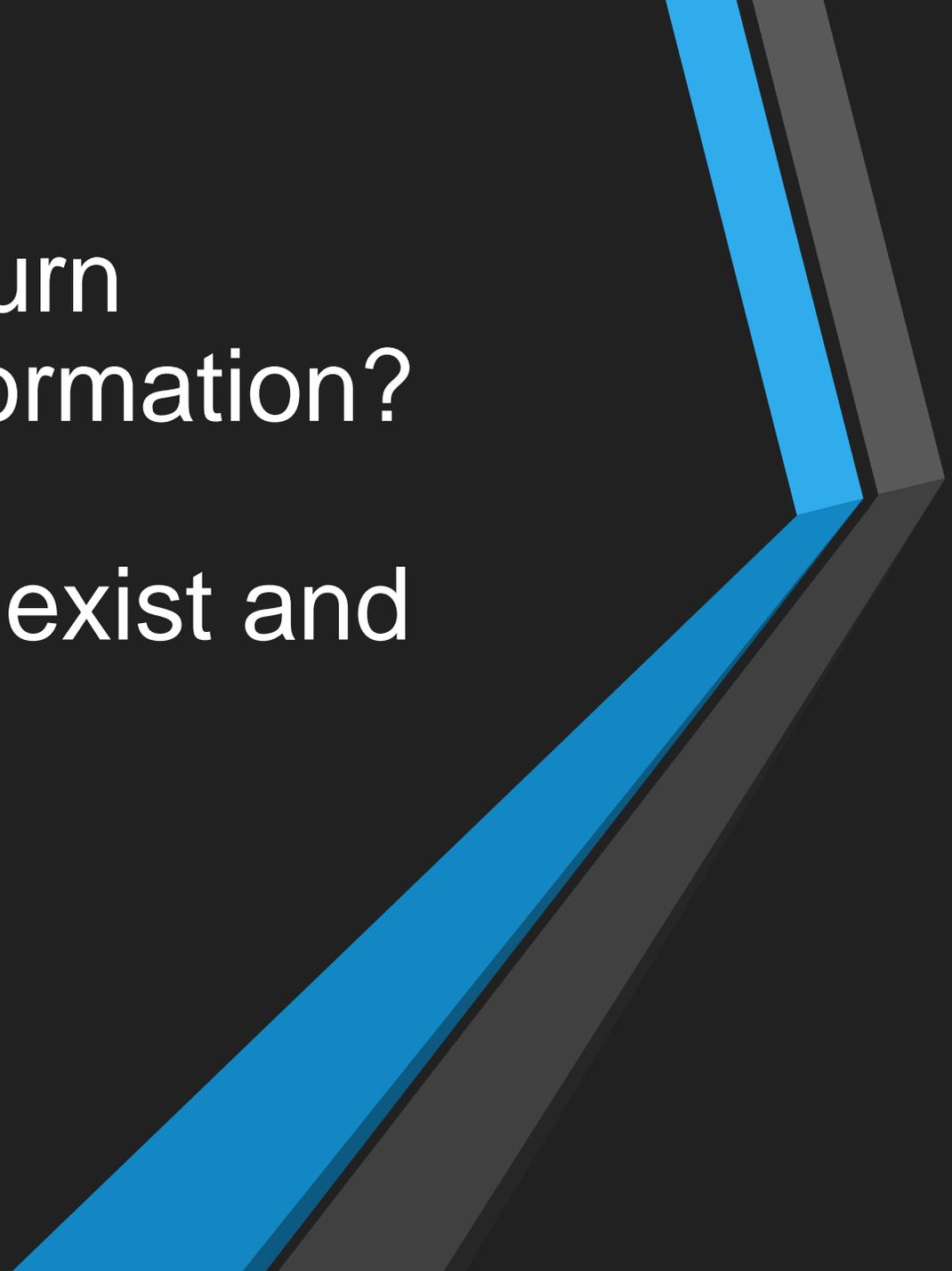
Recordings of past trainings are available in the following categories:

- -Consumer
- -Estate Planning & Estate Administration
- -Expungement
- -Family Law
- -Housing
- -Human Trafficking Prevention
- -Tax
- -Miscellaneous (business and soft skills)

**NOT AN MVLS VOLUNTEER  
YET?**

**SIGN UP TODAY!**

**[https://mvslaw.org/volunteer-  
tax-representative-registration/](https://mvslaw.org/volunteer-tax-representative-registration/)**



# IRS Informational Return Penalties: Lacking information? Why IRS penalties on Informational Returns exist and how to mitigate them.

By: Michael March

Senior Associate at Crepeau Mourges

# Circular 230

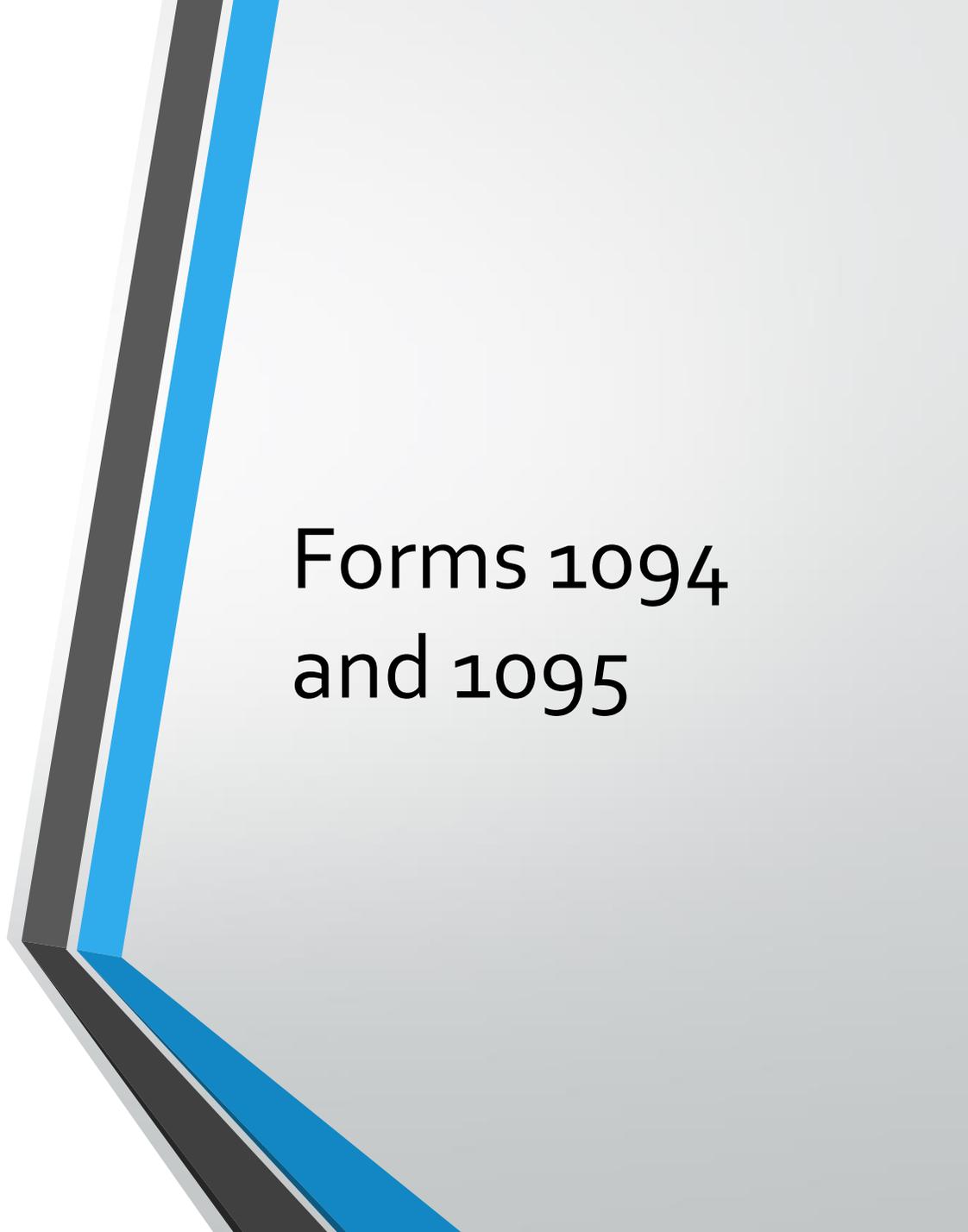
- This presentation is not legal advice. The purpose of today is to help practitioners issue spot – i.e., identifying notices from the IRS attempting to assess penalties for various information returns.



- Any person engaged in a trade or business, including a corporation, partnership, individual, estate, and trust, who makes reportable transactions during the calendar year must file information returns to report those transactions to the Internal Revenue Service.
  - Examples: 1099-MISC, 1094-B, 1094-C, 1095-C, 1099-C, 1099-DIV, 1099-K
  - Not an income tax return or any type of return to which tax can be assessed.
  - Additional examples of information returns can be found at: <https://www.irs.gov/businesses/small-businesses-self-employed/a-guide-to-information-returns>
    - Also provides reporting requirements for each information return.

# What is an Information Return?

- What are they?
  - Form 1094-B: Transmittal of health coverage information returns.
  - 1095-B: Health Coverage
  - Form 1094-C: Transmittal of Employer Provided Health Insurance Offer and Coverage.
  - Form 1095-C: Health Insurance Offer and Coverage Insurance.
- Show forms



## Forms 1094 and 1095

# Who must file Forms 1094 and 1095

- 1095-B: Every person that provides minimum essential coverage to an individual during a calendar year must file an information return reporting the coverage
- 1095-C: An ALE Member

# What is an Applicable Large Employer (ALE)

- If an employer **has at least 50** full-time employees, including full-time equivalent employees, on average during the prior year, the employer is an ALE for the current calendar year, and is therefore subject to the [employer shared responsibility provisions](#) and the [employer information reporting provisions](#).
- To determine its workforce size for a year an employer adds its total number of full-time employees for each month of the prior calendar year to the total number of full-time equivalent employees for each calendar month of the prior calendar year and divides that total number by 12.
- Additional information can be found at: <https://www.irs.gov/affordable-care-act/employers/determining-if-an-employer-is-an-applicable-large-employer>

# What is a full-time employee (FTE)

- A [full-time employee](#) for any calendar month is an employee who has on average at least 30 hours of service per week during the calendar month, or at least 130 hours of service during the calendar month.
- A full-time equivalent employee is a combination of employees, each of whom individually is not a full-time employee, but who, in combination, are equivalent to a full-time employee. An employer determines its number of full-time-equivalent employees for a month in the two steps that follow:
  1. Combine the number of hours of service of all non-full-time employees for the month but do not include more than 120 hours of service per employee, and
  2. Divide the total by 120.
- An employer's number of full-time equivalent employees (or part-time employees) is only relevant to determining whether an employer is an ALE. An ALE need not offer minimum essential coverage to its part-time employees to avoid an employer shared responsibility payment. A part-time employee's receipt of the premium tax credit for purchasing coverage through the Marketplace cannot trigger an employer shared responsibility payment.

# Employer Shared Responsibility Provisions

- Under the Affordable Care Act's employer shared responsibility provisions, certain employers (called applicable large employers or ALEs) must either offer [minimum essential coverage](#) that is "affordable" and that provides "minimum value" to their full-time employees (and their dependents), or potentially make an employer shared responsibility payment to the IRS. The employer shared responsibility provisions are sometimes referred to as "the employer mandate" or "the pay or play provisions." The vast majority of employers will fall below the ALE threshold number of employees and, therefore, will not be subject to the employer shared responsibility provisions.

# Employer Shared Responsibility Payments

- An ALE member will owe the first type of employer shared responsibility payment if it does not offer minimum essential coverage to at least 95 percent of its full-time employees (and their dependents), and at least one full-time employee receives the premium tax credit for purchasing coverage through the Health Insurance Marketplace. Two types of [transition relief](#) are available for this type of employer shared responsibility payment.
- Even if an ALE member offers minimum essential coverage to at least 95 percent of its full-time employees (and their dependents), it may owe the second type of employer shared responsibility payment for each full-time employee who receives the premium tax credit for purchasing coverage through the Marketplace. In general, a full-time employee could receive the premium tax credit if: (1) the minimum essential coverage the employer offers to the employee is not affordable; (2) the minimum essential coverage the employer offers to the employee does not provide minimum value; or (3) the employee is not one of the at least 95 percent of full-time employees offered minimum essential coverage.
- <https://www.irs.gov/affordable-care-act/employers/minimum-value-and-affordability>

# How are information return penalties created?

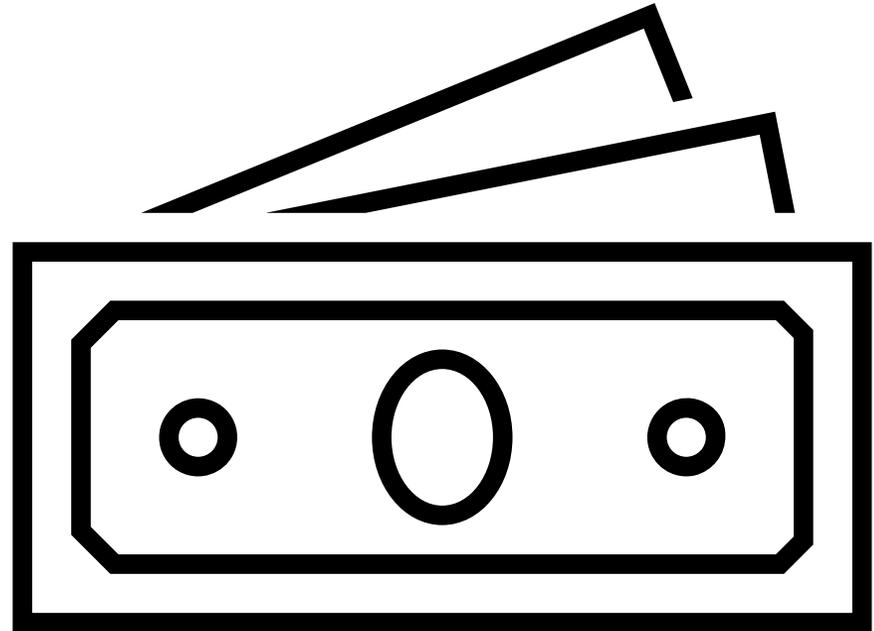
- Put succinctly, what happened?
  - Employer was an ALE and did not know and did not offer health insurance coverage.
  - The forms were submitted incorrectly to the Internal Revenue Service.
  - Upload to the Internal Revenue Service platform was corrupted during submission or failed.
  - Premium tax credit was claimed for an employee to which Form 1094 was submitted.
  - Note, TCJA removed penalty for not having health insurance at the individual level.

# What is the Premium Tax Credit

- The premium tax credit – also known as PTC – is a refundable credit that helps eligible individuals and families cover the premiums for their health insurance purchased through the Health Insurance Marketplace. To get this credit, you must meet certain requirements and file a tax return with Form 8962, Premium Tax Credit.
- <https://www.irs.gov/affordable-care-act/individuals-and-families/the-premium-tax-credit-the-basics>

# Penalty Amounts

- \$280 per form.
- Imagine if you have 1,000 employees.
- The broken health care system in the United States – what is the purpose of the penalties?



- It depends. . .
  - What actually went wrong? This is the point of the discussion today.
  - Where are you procedurally – is there still an opportunity to contest or respond to the proposed penalty
  - Pre-assessment: Respond to the Notices – substantiation documents including open coverage periods, enrollment periods, copies of the actual health coverage plan.
  - Post Assessment:
    - Offer in compromise DTL
    - Penalty abatement request
    - Good faith attempt to submit correctly but error occurred nonetheless – See IRS Notice 2020-76

How do you  
fix it?

# Form 1099-MISC

- Filed with incorrect SSN or TIN.
- Generally, the penalty for an incorrect Form 1099 or Form W-2 filed with the IRS is \$100 and the penalty for an incorrect information statement provided to the applicable taxpayer is another \$100. In each case, there is maximum penalty of \$1.5 million per year (for a total maximum penalty of \$3 million). These penalties can be significantly higher, however, in the case of intentional disregard, which can include a pattern of failing to file or filing incorrect information. In such cases, there is no maximum penalty.
- The IRS's 2013 guidance provides that the statute of limitations to assess these penalties for an erroneous Form 1099 or Form W-2 filed with the IRS runs three years after filing of the return. Accordingly, where a taxpayer fails to file a Form 1099 or Form W-2, the statute of limitations on the penalty will not begin to run. For this purpose, the filing of a transmittal form (such as a Form 1096 or Form W-3) is not sufficient to begin the statute of limitations.

- Fix it before it occurs – verify individuals SSN or TIN.
  - Social Security Number Verification Service:  
<https://www.ssa.gov/employer/verifySSN.htm>
- Immigration Issues
- Post assessment: penalty abatement request based on reasonable cause.
  - Call in first if it does not work write to the IRS.
- Beware of repeat offenders

How to fix  
1099 Issues

# Form 1099-K

- A Form 1099-K includes the gross amount of all reportable payment transactions. You will receive a Form 1099-K from each payment settlement entity from which you received payments in settlement of reportable payment transactions. A reportable payment transaction is defined as a payment card transaction or a third party network transaction.
- Payment card transaction means any transaction in which a payment card, or any account number or other identifying data associated with a payment card, is accepted as payment. See Square, Venmo, Credit Cards, etc.
- Third party network transaction means any transaction that is settled through a third party payment network, but only after the total amount of such transactions exceeds \$20,000 and the aggregate number of such transactions exceeds 200.
- The gross amount of a reportable payment does not include any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts or any other amounts. The dollar amount of each transaction is determined on the date of the transaction.
- **NOTE:** The minimum reporting thresholds of greater than \$20,000 and more than 200 transactions apply only to payments settled through a third-party network; there is no threshold for payment card transactions.
- <https://www.irs.gov/businesses/understanding-your-form-1099-k>

# Form 1099- K

What if I do not receive a 1099-K is there another way to obtain the information? It depends.

What if the amount on the 1099-K is incorrect? Prepare to document the file.

# How does the IRS Move Forward from Here

1099-Ks will become more prevalent. More CP2000 Notices and Desk Audits. Eventually this will create full blown field audits.

1099-MISC referrals to ICE.

1094 and 1095 – Seems arbitrary and the penalties coming out of failed reporting are large. Is there a greater purpose?

Wage and income transcripts will become all inclusive



# Contact Info

- Crepeau Mourges – 1344 Ashton Road, Suite 110, Hanover Maryland 21076
- [Michael@usataxlaw.com](mailto:Michael@usataxlaw.com)
- 667.900.9909
- Follow me on linked in