



PIPELINE

NATIONAL ASSOCIATION OF SURETY BOND PRODUCERS

Bond Principals Must Address Liquidated Damage Claims in 60 Days or Customs and Border Protection Will Issue Form 1099-C

The U.S. Customs and Border Protection's (CBP) Office of Administration, Revenue Division announced at a June meeting of the public/private partnership on the Customs/Surety Executive Committee (C/SEC) that it is issuing a Internal Revenue Service Form 1099-C (for forgiveness of debt) if a bond principal doesn't pay/handle a claim within 60 days.

According to NASBP Commercial Surety Committee Member Colleen Clarke, Vice President of Surety for Roanoke Trade Services, Inc. in Schaumburg, IL, who attended that June 9 meeting, anytime the government forgives a debt owed, it creates a 1099-C situation. "It is important for bond principals to address their liquidated damage claims in the required 60 days in order to avoid a 1099c situation," Clarke said. "If the bond principal pays/handles the claim within their 60 days, CBP will not issue the IRS Form 1099-C," she added.

IRS Form 1099-C

The IRS Form 1099-C form reports to the IRS debt that the principal owes to a creditor and that the creditor has agreed to write-off i.e. stop collection efforts and forgive the debt. The creditor is reporting the amount to the IRS as lost income to reduce its tax burden. This IRS views the amount on the 1099-C as income, on which the principal owes taxes.

Clarke, who was recently approved to represent NASBP at the C/SEC meetings, reported that the CBP believes that it has an obligation to the IRS to issue these forms. However, this issue is being reviewed by CBP's legal staff as to what is legally required of CBP.

Clarke reported that the CBP provided the following example scenarios if and when a 1099-C would be issued:

- Scenario 1: A claim is issued for \$50,000 and is mitigated to \$20,000. If the principal pays the \$20,000 mitigated amount within 60 days, no 1099-C is issued.
- Scenario 2: A claim is issued for \$50,000 and is mitigated to \$20,000. If the principal submits an offer in compromise for \$10,000 within 60 days and it is accepted, a 1099-C is created for the difference between the original mitigation amount and the offer in compromise amount (\$10,000).
- Scenario 3: A claim is issued for \$50,000 and is mitigated to \$20,000. If the principal submits an offer in compromise for \$10,000 after 60 days and it is accepted, a 1099-C is created for the difference between the original claim amount and the offer in compromise amount (\$40,000).

Clarke indicated that surety companies are exempt for the 1099-C process. If a surety pays CBP, CBP will issue the 1099-C to the principal. CBP relayed that it is working on an explanation of this process that will be published on the CBP website.

NASBP is pleased to be joining this collaborative effort of various offices of U.S. Customs and Border Protection Service and several surety associations called the Customs/Surety Executive Committee (C/SEC). The charter purpose of the C/SEC is to facilitate the relationship between CBP and participating surety associations and to provide meeting discussions that facilitate improvements affecting the management of the Customs Surety bond programs.

The NASBP Committee chose Clarke as a NASBP representative, because of her extensive experience reviewing and analyzing U.S. Customs and Border Protection policy from the perspective of both the surety underwriting group and Roanoke Trade's client services team. Clarke also manages the Roanoke Trade independent agent unit for U.S. Customs bonds. In 2008, she was appointed to the 11th term of the Commercial Operations Advisory Committee (COAC) by the Secretary of Homeland Security and the Secretary of the Treasury.

NASBP will keep the membership apprised of any new developments on this issue, as further details become known.