

January 19, 2021

The IRS Has Come to Monterey County

We were recently notified of an IRS “Form 8300” audit of a local cannabis client. We have been advising our clients not to ignore the troublesome and annoying Form 8300 filing requirement for some time now. The IRS agent has claimed that this audit is an “educational examination,” and is not a tax audit. We’ll see. We view the start of these audits of Monterey County businesses as an indication of the importance given by the IRS to the Form 8300. If this is truly an “educational examination,” then the indication is that the Service is gearing up for heightened enforcement.

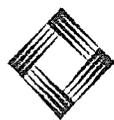
Form 8300 reports cash payments over \$10,000 received in a trade or business, any time the business receives more than \$10,000 in cash in a single transaction (or two or more related transactions) in the course of their trade or business.

The failure to comply with these provisions can result in substantial penalties. There are two separate penalties related to Form 8300: 1) failure to include all of the required information; and 2) failure to timely file the form. Similarly, there are two penalties for failure to furnish statements to customers: 1) failure to include all required information; and 2) failure to timely furnish the statement. The penalty under both provisions is \$250 per violation for violations not due to intentional disregard of the reporting requirements. There is no particular intent required, although there is a reasonable cause defense.

If the failure to comply was the result of intentional disregard of the filing requirements or annual statement requirements, the penalty is substantially larger. For intentional disregard of the rules requiring the filing of Form 8300, the penalty is the greater of \$25,000 or the amount of cash received in such transaction, not to exceed \$100,000. For failure to furnish customer statements, the penalty is the greater of \$500 per failure, or 10% of the aggregate amount of the items to be reported.

One problem that companies experience when complying with the 8300 requirements is hesitation by the payor to provide information needed on the form. A company may be able to apply the “reasonable cause” exception to penalties when the company takes mitigation measures when they lack some of the required information to properly complete the 8300.

When the company does not have the taxpayer identification number for the 8300 (TIN,) additional requirements apply. This includes numerous and timely attempts to obtain the information.



Steinbruner ♦ Hill
Certified Public Accountants

If a company continues to accept cash from a customer without rectifying the 8300 information issue, then the IRS would likely regard this as intentional disregard.

Not having all of the necessary information to complete the Form 8300 is not a reason to ignore the requirement. Businesses that have not filed these forms, or have not filed all required forms, should consider whether now is the time to catch up on filings. I often get the question: "Should I file Form 8300, even if it is late?" Generally the answer is yes. However, the taxpayer should always discuss this with their attorney, particularly if the taxpayer chooses not to file old forms.

Please let one of us know if you have any questions.

Sincerely,

Steinbruner Hill CPAs


Chris Steinbruner, CPA

LAW OFFICES OF JENNIFER ROSENTHAL


JENNIFER ROSENTHAL, ESQ.