



Legal Aid Society of Hawai`i

1099-C: Cancellation of Debt Form

Use this brochure if:

- you received a “1099-C: Cancellation of Debt” form in the mail, AND
- you want to know what you need to do.

This brochure provides general information about the “1099C: Cancellation of Debt” form from the IRS. Also included are a sample letter that you can use if you need to write to the IRS and a form called a Statement of Assets and Liabilities.

To make sure you have received a “1099-C: Cancellation of Debt” form, you should check to see if the name of one of your creditors appears on the form and look for the words “Cancellation of Debt”. If both items appear and you received the form in January, then it is probably a 1099-C form. *Note: You may not recognize the name of the creditor that appears on the 1099-C form. The debt may be owned by a parent corporation or the debt may have been sold or assigned to a third-party collection agency. For example, a debt for a Discover Card will list “Greenwood Trust” on the 1099-C form.*

If you received a 1099-C form and would like more information call the Legal Aid’s hotline. *See phone numbers at the back of this brochure.*

What is a 1099-C form and why did I get one?

If you have defaulted on (not paid) a debt, and have no way to pay off the debt, your creditor will sometimes give up trying to collect the debt from you.

If the creditor gives up collecting, they may “charge off” the debt in order to get a tax break. When the creditor “charges off” a debt of \$600 or more, the creditor must send a form called a “1099-C Cancellation of Debt” to you and the IRS.

This 1099-C form lets you know that the creditor has “charged off” the debt and will not attempt to collect it anymore.

If you got a 1099-C form from your creditor, this probably means that:

- your creditor decided the debt is uncollectible (possibly because you are judgement proof), AND
- your debt is \$600 or more, AND
- your creditor “charged off” the debt as a loss for tax purposes.

Do I Need to Do Anything When I Get This Form?

YES! Do **NOT** ignore this form.

When a creditor sends you a 1099-C form, the IRS treats the unpaid debt as income to you, even though you did not actually receive the money.

If you receive a 1099-C, you must file a tax return and either:

- include the amount claimed on the 1099-C form and pay taxes on it if your total income for the year is enough to be taxed, **OR**
- tell the IRS that the amount is not taxable because you fall under one of two common exceptions:

Exception #1: The debt was discharged in bankruptcy before it was charged off by the creditor, OR

Exception #2: You were “insolvent” at the time the creditor charged off the debt.

EXCEPTION #1:

Your debt was discharged in bankruptcy before it was charged off by the creditor.

If your debt was discharged in bankruptcy before it was charged off by the creditor, you will probably receive a 1099-C form in the January following the year in which the debt was charged off.

If you are not sure if the debt was discharged in your bankruptcy before the debt was charged off by the creditor, you can check the date on your credit report. If the charge off appears on the report, it will also state date.

If you believe that your bankruptcy case was over and that you received the notice “Discharge of Debtor” before the creditor charged off your debt, **you should do the following:**

1) Look at the back of this brochure for the “Sample Letter to IRS.” You will need to check the box that is next to the section for “Bankruptcy.” Be sure to write your name and bankruptcy case number into the spaces provided, AND

2) Look through the bankruptcy forms you filed. You will need to attach two things:
(1) a copy of the notice called “Discharge of Debtor” and
(2) the page from your bankruptcy schedule that lists the name and address of the creditor that sent you the 1099-C.

EXCEPTION #2

You were “insolvent” at the time the creditor charged off the debt.

In general, being **insolvent** means that your total debts are/were more than the value of your assets (all your assets, including money). To find out if you are/were insolvent, you need to:

- add up the value of your assets, AND
- add up all of your debts, including the debt that was charged off.

(See attached Statement of Liabilities and Assets.)

If your debts are more than your assets, you are insolvent. For example, if you own \$2000 worth of assets and your debts are \$5000, you are insolvent in the amount of \$3000. Use the fair market value to figure the value of your assets, in other words the amount of money you could get if you had to sell it at the swap meet or through the classified ads in the newspaper. **Do not use what it would cost to replace it or what you originally paid.**

If you decide that you are/were insolvent, you will need to explain this to the IRS. You can do this in one of two ways:

- 1) By using the IRS Form 982.
(You can get this form from the IRS, but it is difficult to understand), OR
- 2) By attaching a letter to your tax return with information on your debts and assets. You will need to check the box next to the part about being insolvent.
(See attached Sample Letter to IRS in the back of this brochure.)

Why Haven't I Received a 1099-C in the Past for My Previous Debts?

This IRS rule has been in effect for years, but is being enforced now much more than before.

Important Information for Those Getting Public Benefits and Public Housing

If you receive a 1099-C, it is very important to prepare your tax return correctly. Your benefits may be at risk! Unfortunately, many professional tax preparers may treat a 1099-C as "other income" because they may not be aware of the exceptions in the tax law.

If your charged off debt is incorrectly reported on your income tax return, it may appear that your total income is too large to remain eligible for certain public benefits. If the agency that controls your benefits (for example, the Department of Human Services (DHS) or the Social Security Administration (SSA)) believes that you have received this "extra" income, they may reduce or terminate your benefits or charge you with an overpayment. Before reducing or terminating your benefits, the agency must send you written notice.

If you get a written notice about your benefits being terminated, call LASH back. You should write a letter to the agency explaining that you fall under one of the two common exceptions.

1099-C - SAMPLE LETTER TO IRS

This is just a sample letter for you to use as a guide as you fill out the blank letter on the next page.

Fill in the parts that are written in italics like this.

(Your Address)

(City, State ZIP)

(Date)

Internal Revenue Service

(IRS's Address)

(City, State ZIP)

Re: *(Your Name and Social Security Number)* .

I received a 1099-C form for the tax year *(the year which you got the 1099-C for)* from *(Name of creditor company or bank)* in the amount of \$ *(fill in the amount listed on the 1099-C)*.

My debt to *(Name of creditor company or bank)* was a *(Type of debt such as credit card, personal loan, deficiency balance on repossessed car)* that I was unable to pay off.

According to the Legal Aid Society of Hawai'i, this charged off or cancelled debt is taxable income, unless one of the five exceptions applies. I believe my case qualifies for the following common exception :

(Check one of the following boxes, depending on your situation.)

Insolvency - My liabilities (money I owed, including the amount on the 1099-C) were greater than my assets (all of the money and property I owned) at the time the debt was forgiven. An itemized list of my liabilities and assets at that time is attached for your information.

Bankruptcy - The obligation to pay the debt to *(Name of creditor company or bank)* was discharged in bankruptcy case number *(Fill in your case number here)*. For your information, I have attached a copy of the page from my bankruptcy schedule where I listed the debt to this creditor, and the notice "Discharge of Debtor in a Chapter 7 Case".

Because the above exception applies, I have not included the amount reported on the 1099-C on my tax return. Thank you.

Very Truly yours,

(Sign your name and print your name under your signature)

Attachments:*(Check one of the following boxes to explain what you are including with this letter.)*

Statement of liabilities and assets

OR

"Schedule F" AND "Discharge of Debtor in Chapter 7 Case."

Internal Revenue Service

Re: _____

I received a 1099-C form for the tax year _____ from _____
in the amount of \$_____.

My debt to _____ was a _____
that I was unable to pay off.

According to the Legal Aid Society of Hawaii, this charged off or canceled debt is taxable income, unless one of five exceptions applies. I believe my case qualifies for the following common exception:

Insolvency - My liabilities (money I owed, including the amount on the 1099-C) were greater than my assets (all of the money and property I owned) at the time the debt was forgiven. An itemized list of my liabilities and assets at that time is attached for your information.

Bankruptcy - The obligation to pay the debt to _____ was discharged in bankruptcy case number _____. For your information I have attached a copy of the page from my bankruptcy schedule where I listed the debt to this creditor, and the notice "Discharge of Debtor in a Chapter 7 Case".

Because the above exception applies, I have not included the amount reported on the 1099-C on my tax return. Thank you.

Very truly yours,

Attachments:

Statement of liabilities and assets

OR

"Schedule F" AND "Discharge of Debtor in Chapter 7 Case."

Name: _____
Social Security Number: _____
Tax Year 19 _____

LIST OF LIABILITIES (DEBTS) AND ASSETS FOR _____ as of
_____ (charge off date)

Assets: Bank accounts: \$ _____
Car Value: \$ _____
Equity in Home: \$ _____
Jewelry: \$ _____
Other: _____ \$ _____
Other: _____ \$ _____
Other: _____ \$ _____
Other: _____ \$ _____
Other: _____ \$ _____

TOTAL VALUE OF ASSETS: \$ _____ (A)

Debts: Loans: \$ _____
Credit Cards: \$ _____
This debt: \$ _____
Other: \$ _____
Other: \$ _____
Other: \$ _____

TOTAL AMOUNT OF DEBTS: \$ _____ (B)

I was insolvent in the amount of \$ _____ (B minus A).

NOTE: USE THIS FORM ONLY IF YOU ARE CLAIMING THAT YOU ARE INSOLVENT. If A is larger than B, call the Legal Aid Society of Hawaii to discuss your situation.



Legal Aid Society of Hawai'i
 924 Bethel Street
 Honolulu, HI 96813



Useful Names and Numbers

Legal Aid Society of Hawai'i

LEGAL HOTLINE OPEN MONDAY - FRIDAY:
 9:00a.m.-11:30a.m. & 1:00p.m.-3:30p.m.

Oahu: 536-4302 Lanai: 565-6089
 Hilo: 934-0678 Maui: 242-0724
 Kona: 329-8331 Kauai: 245-7580
 Molokai: 553-3251

Website: www.legalaidhawaii.org

Internal Revenue Service (IRS)

Call Toll-Free..... 1-800-829-1040

Problem Resolution Office... 1-877-777-4778

Website: <http://www.irs.ustreas.gov>

Legal Terms

assets things that you own, including money in the bank

debts money that you owe

default not paid

discharged getting rid of a debt; for example, filing for bankruptcy discharges many debts

fair market value the amount of money you could receive for an asset if you were to sell it at the swap meet or in a classified ad. NOT what it would cost to replace or the amount that you paid for it when you bought it.

insolvent your total debts are more than the value of your assets

IRS Internal Revenue Service; the federal agency that sends you the 1099-C form

judgment proof means that your income is either from a protected source or so low that a court would not allow most creditors to take money from you.

third party collection agency an agency who has bought or been assigned to collect your debt. They usually buy the debt from your original creditor. 3rd party collection agencies must follow more rules than the original creditor.