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It's Complicated!

FORMS 1099 COMPLIANCE & CYBERSECURITY

Presented by:

Katie Sprow, *GYF Tax Services*

Robin Ryan, *GYF Audit Services*

Angie McCoy, *GYF ERP Solutions Services*

Not-for-Profit CPE Seminar Series

September 25, 2019

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FORM 1099 COMPLIANCE

Understanding the Requirements

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It's Complicated! – Forms 1099 Compliance

What Is a Form 1099?

- Information Returns

- Provides the IRS and recipient a summary of payments (income) received during the calendar year

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What Is a Form 1099?

- Reports payments of:
  - Interest & dividends
  - Miscellaneous income
  - Government payments
  - Retirement account withdrawls
  - Cancelation of debt

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Form 1099-MISC Overview

- Required for payments of:

  - At least $10 in royalties

  - At least $600 in rents, independent contractor income, prizes and awards, other income, medical and health care payments, etc.

The completed Form 1099-MISC illustrates the following example. Z Builders is a contractor that subcontracts drywall work to Ronald Green, a sole proprietor who does business as Y Drywall. During the year, Z Builders pays Mr. Green $5,500. Z Builders must file Form 1099-MISC because they paid Mr. Green $600 or more in the course of their trade or business, and Mr. Green is not a corporation.
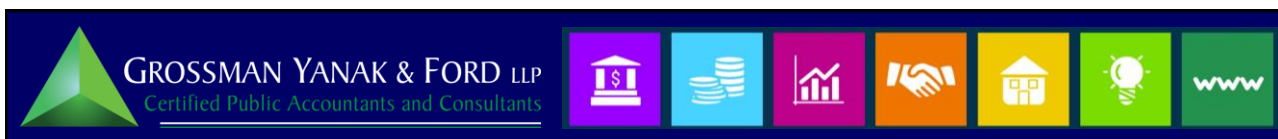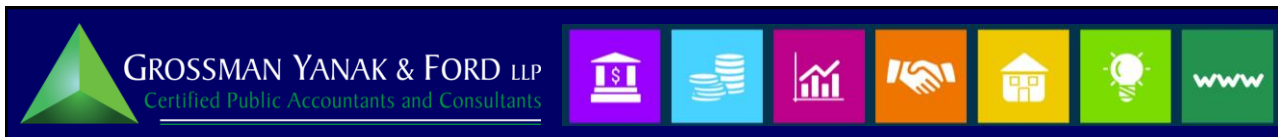
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Who Receives Form 1099-MISC?

- General exceptions for reporting, but may still be taxable:

  - Payments to a corporation, including both S and C Corporations (NEC income)

  - Payments for merchandise, telegrams, telephone, freight, storage, and similar items

  - Wages and business expenses paid to employees (Form W-2)

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Employee vs. Independent Contractor

- Does the payer control *how* the work is done or only have control over the *end result*?

  - Worker classification determines whether employment taxes should be withheld or if income is subject to self-employment taxes

  - IRS determines this in a 3 category test – behavioral, financial and relationship

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Employee vs. Independent Contractor

- Behavioral test factor:

  - Right to control what or how the work is performed

  - Delegation

  - Set hours for work to be performed

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Employee vs. Independent Contractor

- Financial test factor:
  - Risk factor for loss
  - Expenses and reimbursements
  - Compensation type – hourly vs. lump sum

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Employee vs. Independent Contractor

- Relationship test factor:
  - Written contracts and benefits
  - Ability to provide services to others
  - Indefinite vs. time period

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Employee vs. Independent Contractor

- Misclassifying an employee could result in the employer paying all employment taxes on that compensation, along with penalties

  - Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding*

  - IRS Publication 15-A, *Employer's Supplemental Tax Guide*

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When Is Form 1099-MISC Due?

- January 31 for nonemployee compensation (NEC)

- February 28 (paper) or March 31 (electronic) for all other reported payments

- 30-day extension of time to file (paper or electronic)

- *NOT* for Forms 1099-MISC with nonemployee compensation reported

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Information Gathering

- Form W-9, *Request for Taxpayer Identification Number and Certification*, from each recipient

- Most accounting software can track reportable payments

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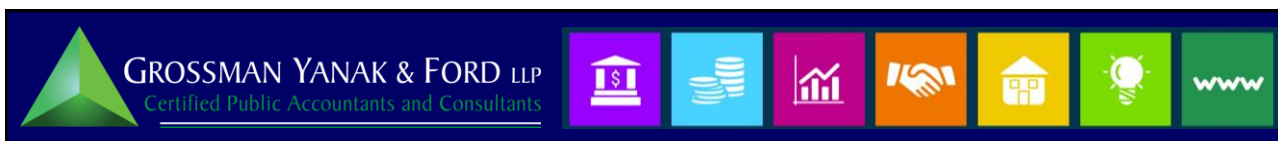
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How Do I File Form 1099-MISC?

- Filing 250+ returns, must file electronically

  - Through IRS Filing Information Returns Electronically System (FIRE)

  - Must get prior approval to file electronically at least 30 days prior

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How Do I File Form 1099-MISC?

- All others may paper file

  – Must use Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, for each group of forms

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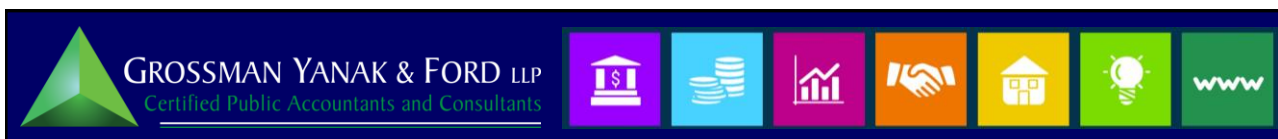
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Failure to File & Penalties

- Penalties apply to:

  – Fail to file timely

  – Fail to include all required information on the form

  – Include incorrect information

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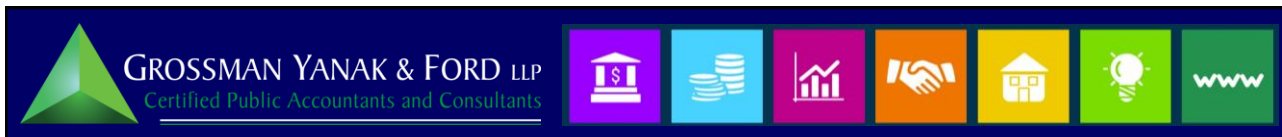
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Failure to File & Penalties

- Penalties are based on when correct forms are filed
  - $50 per information return if filed within 30 days of due date (max of $556,500 per year)
  - $110 per information return if filed by August 1 (max of $1,669,500 per year)
  - $270 per information return if filed after August 1 (max of $3,339,000 per year)
  - Exceptions due to reasonable cause

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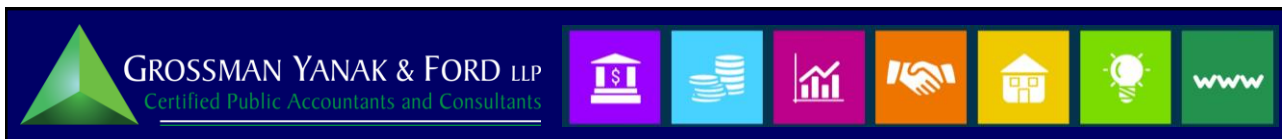
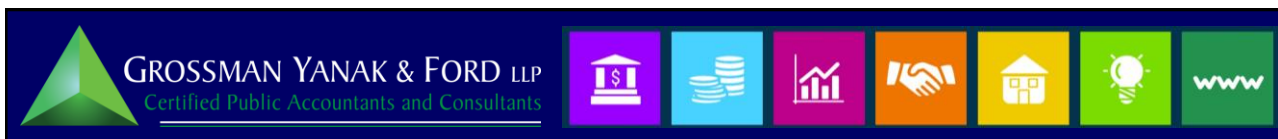# *It's Complicated! – Forms 1099 Compliance*

State Requirements

- Boxes 16-18 on Form 1099-MISC provide space for state information

- Each state has different requirements for the forms submission
  - Some require submission of state-specific form
  - Example: Connecticut Form CT 1099

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Table 1: Participating States and Codes*					
State	**Code**	**State**	**Code**	**State**	**Code**
Alabama	01	**Indiana**	18	Montana	30
Arizona	04	Kansas	20	Nebraska	31
Arkansas	05	Louisiana	22	New Jersey	34
California	06	Maine	23	New Mexico	35
Colorado	07	Maryland	24	North Carolina	37
Connecticut	08	Massachusetts	25	North Dakota	38
Delaware	10	Michigan	26	Ohio	39
Georgia	13	Minnesota	27	Oklahoma	40
Hawaii	15	Mississippi	28	South Carolina	45
Idaho	16	Missouri	29	Wisconsin	55

*The codes listed apply to the CF/SF Program and may not correspond to state codes of agencies or programs outside of the IRS.

State Requirements

- Combined Federal/ State Filing Program participating states

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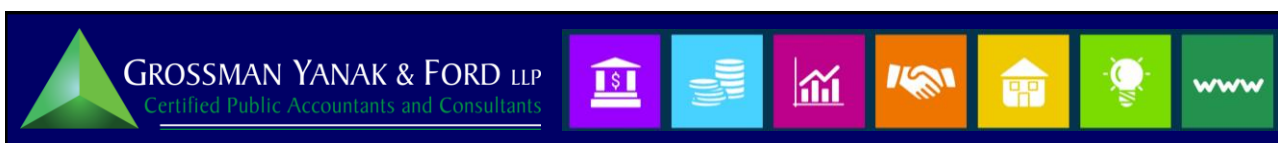
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State Requirements – Pennsylvania

- PA DOR does not require submission of all Forms 1099

pennsylvania
DEPARTMENT OF REVENUE

- Only required if:
  - PA income tax withholdings on Forms 1099-DIV, 1099-INT, etc.
  - Forms 1099-MISC with NEC

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State Requirements – Pennsylvania

e-tides
www.etides.state.pa.us

- Must file electronically through e-TIDES for more than 250 forms

- Addresses for paper filing can be found at:
  - https://revenue-pa.custhelp.com/app/answers/detail/a_id/578/kw/1099-misc/session/L3RpbWUvMTU2OTE2Nzk1Mi9zaWQvNFFUc0Z3cG8%3D

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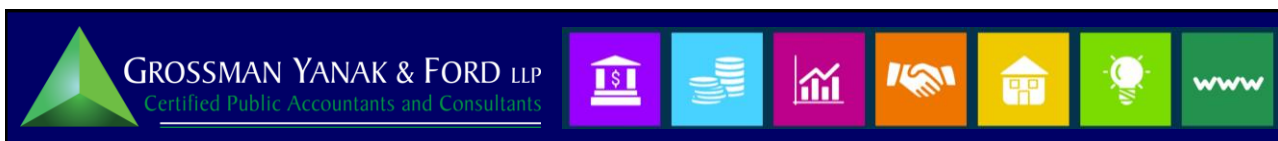
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Recent Updates

- IRS released a draft of Form 1099-NEC in July 2019

  - Last seen in 1982

  - Most likely finalized for January 2021 due date (Year 2020 reporting)

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It's Complicated! – Forms 1099 Compliance

Resources

- 1099 Instructions: https://www.irs.gov/pub/irs-pdf/i1099gi.pdf

- Form SS-8, *Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding:* https://www.irs.gov/pub/irs-pdf/fss8.pdf

- IRS Publication 15-A, *Employer's Supplemental Tax Guide:* https://www.irs.gov/pub/irs-pdf/p15a.pdf

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CYBERSECURITY

Understanding the Risks

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Self-test: Evaluating Threats

Threat Area	Low Risk	Medium Risk	High Risk
Personnel Security			
Physical Security			
Account Security			
Privacy & Confidentiality			
Backup & Emergency Preparedness			
Training & Compliance			
Legal Issues			
Threat Prevention			

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Considerations

- Financial

- Reputational

- Operational

- Regulatory

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Costs of Cyber Attacks (CPA Journal)

- In 2018, cyber crime cost over $3 trillion
  - *Estimates say it will be $6 trillion by 2021*

- Median costs to recover from a cyber attack:
  - *$690,000 for entities with <25 employees*
  - *$1.1 million for entities with 100+ employees*

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Costs of Cyber Attacks (CPA Journal)

- 70% of cyber attacks aimed at small and medium-sized companies

- 60% of small and medium-sized companies go out of business six months after a cyber attack

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Ponemon Institute Research Report

- Survey sponsored by Raytheon and conducted by the Ponemon Institute in late 2017

- Looks at commercial cybersecurity through the eyes of those who work on its front lines

- 1,100+ senior IT practitioners from the United States, Europe, and the Middle East/North Africa region weighed in on the state of the industry today and where it's going

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It's Complicated! – Cybersecurity

Problematic Global Megatrends & Predictions

- A data breach from an unsecured Internet of Things device in the workplace is *very likely* in the next three years

- The risk of cyber extortion and data breaches *will increase* in frequency

- IT security practitioners are *more pessimistic* about their ability to protect their organizations from cyber threats

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Problematic Global Megatrends & Predictions

- Cyber warfare and breaches involving high-value data will have the **_greatest negative impact_** over next three years

- Cybersecurity is **_not considered a strategic priority_**

- Boards of directors are **_not engaged_** in cybersecurity oversight

- Organizations will need to **_spend more_** to achieve regulatory compliance and respond to class action lawsuits/tort litigation

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Improving Global Megatrends

- As threats increase, organizations are expected to more heavily **_rely upon CISO expertise_**

- Cybersecurity **_governance practices_** will improve

- Many respondents are optimistic they will be promoted to a better position with **_greater authority and responsibility_**

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Improving Global Megatrends

- Organizations will ***invest in enabling security technologies*** and managed security providers as part of strategy

- Organizations are expected to ***improve collaboration and reduce the complexity*** of business and IT operations

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Verizon Data Breach Investigations Report

- The 2019 Verizon Data Breach Investigations Report is built on real-world data

- Includes 41,686 security incidents and 2,013 data breaches

- Data provided by 73 sources, including both public and private entities, spanning 86 countries worldwide

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Who Is Behind the Attacks?

2019 Data Breach Investigations Report

verizon business ready

- 69% perpetrated by outsiders
- 34% included internal actors
- 2% involved partners
- 5% featured multiple parties
- 39% were caused by organized criminal groups
- 23% were initiated by actors identified as "nation-state" or "state-affiliated"

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Who Are the Breach Victims?

2019 Data Breach Investigations Report

verizon business ready

- 16% were breaches of public sector entities
- 15% were breaches involving healthcare organizations
- 10% were breaches of the financial industry
- 43% involved small business victims

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What Tactics Are Being Used?

2019 Data Breach Investigations Report

verizon
business ready

- 62% featured hacking
- 33% included social attacks
- 29% utilized malware
- 21% were caused by errors
- 15% were misuse by authorized users
- 4% involved the presence of physical actions

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Not-for-Profit Organizations Are Easy Targets for Attack

- NFPs often have sensitive information, including refugee registration data, health records and information regarding human rights investigations or other confidential matters

- Perpetrators know that many NFPs lack the resources needed to modernize their technology and sufficiently protect themselves

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Not-for-Profits Can't Keep Up

- Cybersecurity risks are the same, but NFPs generally lag behind the for-profit community in terms of adopting policies, practices and tools needed to secure their data and protect their environments

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NetHope Assessments of Not-for-Profits

- NetHope commissioned a study of 10 NFPs

- Each was evaluated in 11 areas on a scale of 1-5

  – *The average score was 1.8*

  – *None scored higher than a 2.2*

Digital Nonprofit Ability Assessment Whitepaper   **Digital Nonprofit Skills Assessment Whitepaper**

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NetHope NFP Findings Addressed by Microsoft Best Practices

Microsoft
Nonprofit Guidelines for Cybersecurity and Privacy

Microsoft Philanthropies

- 60% did not have (or were unaware of) an organizational digital policy for the NFP's plan for handling risk, equipment use or data privacy

- 74% did not use multi-factor authentication for accessing agency email and other accounts

- 48% regularly used wireless printers and other devices

- 92% stated staff could use personal mobile devices for accessing email and business accounts

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CYBERSECURITY

Protecting Your Organization

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Business Email Compromise (BEC)

- Scams using email or other electronic communication to impersonate a business executive, employee or other person with the authority to access sensitive information or enact electronic transmission of funds

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How BEC Works – "Phishing Scam"

- Begins with a download of malicious software (malware) which may be an attachment or a link that is included in an email

- "Bad Actor" monitors email activity to determine a plan of attack

- Creates a false sense of urgency/inconvenient timing

- FBI considers it to be the most costly form of cybercrime

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Protecting Your Organization from BEC

- Ongoing education and testing is essential
- Verify requested changes in account/routing numbers
- Follow up via phone on any unusual requests
- Be aware and question the false sense of urgency
- Check outlook rules
- Avoid transfer of information on free email accounts (wire/EFT/sensitive data)

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Case Study – People Inc.

- Data breach in March 2019 exposing the medical information of up to 1,000 current and former clients
- Accessed through an email account with a weak password
- A password reset would have been enough to secure the account and prevent the attack

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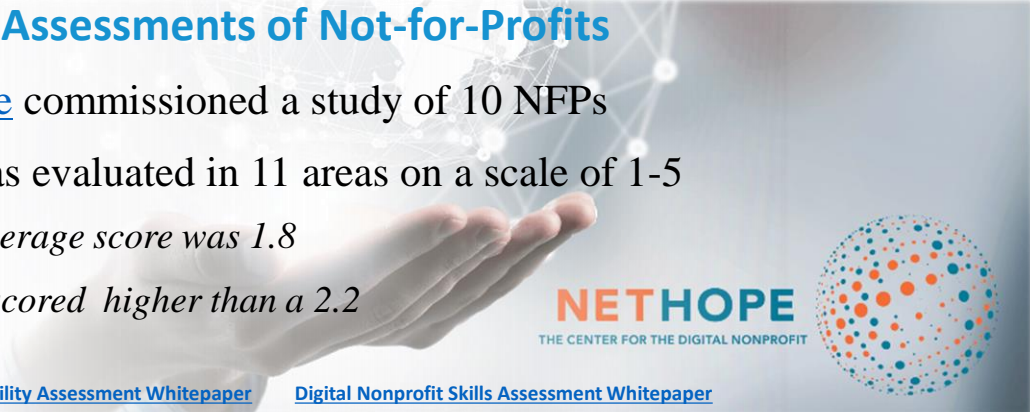*Certified Public Accountants and Consultants*

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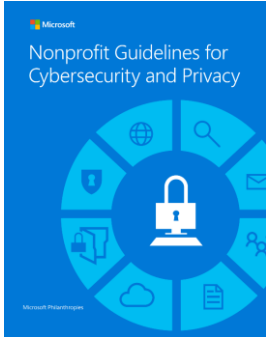
Case Study – GoZym Network

- $100 million of malware attack damage impacting 41,000 businesses

- Accessed through phishing emails with a link that downloaded software if clicked on

- Those affected included a paving company in New Castle, a D.C. law firm, a Texas church, a furniture store in California, a Kentucky horse farm and more

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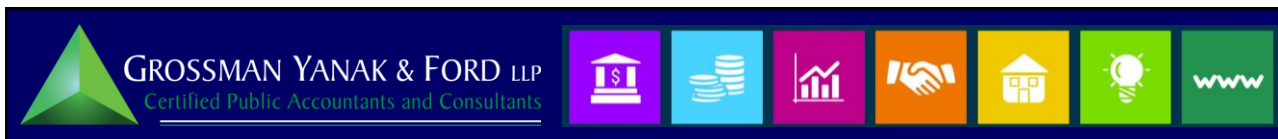
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Personnel Security

- Background checks for employees, relative to access level

- Identification badges with accurate picture

- Termination of access with termination of employment

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Physical Security

- Secure access to any location with resources inside
- Secure visitor credentials
- Computer security policies (cable locks, storage, etc.)
- Automatic locking of computer screens

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Account Security

- Secure passwords for all accounts (complex, frequently changed, etc.)
- Password sharing policy in place and enforced
- Personal use on organization's devices should not be permitted
- Two-factor authentication

How to Create a Strong Password

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Privacy and Confidentiality

- Confidentiality agreements signed regularly for anyone accessing confidential information
- Information retention policies in place and enforced
- Data encryption
- Regular document shredding
- Proper disposal of digital information

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Emergency Preparedness

- Regular backup/archival of all information
- Disaster plan in place and communicated clearly to internal and external audience
- Each employee given responsibilities in the event of an emergency situation
- Evaluation of potential emergencies and hazards

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Training and Compliance

- Regular training for all employees
- System-wide tests (unannounced)
- Regular review and audit of policies and procedures (every 12 months at least)
- Disciplinary system in place for failure to comply with policies and procedures

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Threat Prevention

- VPN for remote employees
- Firewalls in place
- Network segmentation
- Minimize administrative access
- Keep systems updated
- Cost-benefit analysis of options

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Slide 1

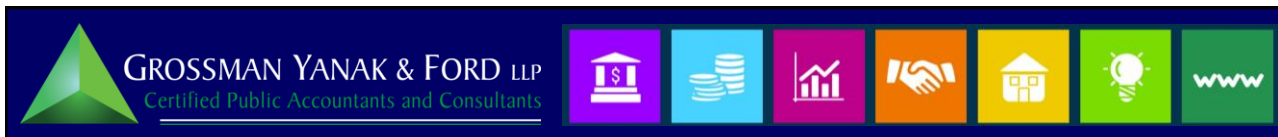GROSSMAN YANAK & FORD LLP
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Legal Issues – UPMC

UPMC LIFE CHANGING MEDICINE

- Data breach in which employee information was exposed

- PA Supreme Court ruled that UPMC was negligent

  – *Employers may be sued for economic losses resulting from failure to safeguard data*

  – *Sets a major precedent*

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Slide 2

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Cybersecurity Insurance

- Provides protection against losses from data destruction/threats, extortion, hacking, denial of service, crisis management activity

- First and third-party policies

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In Case of Breach

- Get help from a professional
  - *States have unique reporting requirements for data breaches*
  - *Insurance companies can be a good resource for what to do if you experience a breach*

- Cyber crimes can be reported to the FBI's, Internet Crime Complaint Center (www.ic3.gov)

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Self-test: Evaluating Threats

Threat Area	Low Risk	Medium Risk	High Risk
Personnel Security			
Physical Security			
Account Security			
Privacy & Confidentiality			
Backup & Emergency Preparedness			
Training & Compliance			
Legal Issues			
Threat Prevention			

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Resources

- https://www.cpajournal.com/2019/06/19/auditing-for-cybersecurity-risk/
- https://www.raytheon.com/sites/default/files/2018-02/2018_Global_Cyber_Megatrends.pdf
- https://enterprise.verizon.com/resources/reports/dbir/
- https://www.fbi.gov/investigate/cyber
- https://www.councilofnonprofits.org/tools-resources/cybersecurity-nonprofits
- https://www.journalofaccountancy.com/issues/2018/nov/cyberdefense-for-not-for-profits.html
- https://www.utah.gov/beready/business/documents/BRUCyberSecurityChecklist.pdf
- https://solutionscenter.nethope.org/resources/microsofts-nonprofit-guidelines-for-cybersecurity-and-privacy

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QUESTIONS?

Thank You for Attending!

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