

— CLIENT MEMO —

Form 1099 Filing Requirements: *What you need to know*

The IRS works constantly to improve income reporting by taxpayers. One tool they employ is requiring businesses to file “information returns” that tell the IRS about amounts the business paid out that should be reported by the recipients as income.

Probably the most familiar of these information returns is the Form W-2 which reports wages paid to employees. Another information return is Form 1099, which is actually a group of more than a dozen different forms that report other types of income to the IRS.

Recently the IRS ramped up its compliance efforts by asking businesses to answer questions about their 1099 filings when they file their income tax returns. This added IRS scrutiny, coupled with steep noncompliance penalties, make it important for every business to check their 1099 filing requirements each year.

Here’s what you need to know about Form 1099 and the filing requirements your business may have.

■ COMMON 1099s – A variety pack

According to IRS rules, every person engaged in a trade or business, including nonprofit organizations, must file 1099 forms for certain payments made during the year in the course of the payer’s trade or business. Here are some of the most common forms and their filing requirements.

- **Form 1099-INT**
Required to report interest payments of \$10 or more by financial entities; \$600 or more by your trade or business.
- **Form 1099-DIV**
Required to report dividend payments of \$10 or more; \$600 or more for liquidations.
- **Form 1099-B**
Required to report any proceeds from broker and barter transactions.
- **Form 1099-R**
Required to report distributions of \$10 or more from retirement or profit-sharing plans, IRAs, SEPs, annuities, or insurance contracts.
- **Form 1099-S**
Required to report proceeds generally of \$600 or more from real estate transactions.
- **Form 1099-C**
Required to report cancellation of debt of \$600 or more.

- **Form 1099-MISC**

Required to report miscellaneous payments generally of \$600 or more; \$10 or more for royalties; any amount for fishing crews.

■ **1099-MISC – The major business form**

Form 1099-MISC is the form most frequently used by small businesses to report a wide variety of payments, and it is probably the 1099 that causes the most confusion. Here's what you need to know.

A **Form 1099-MISC** is used to report payments for services provided to your business by unincorporated vendors when those payments total \$600 or more for the year. Typical payments include rents, royalties, and compensation to independent contractors, such as consultants, web designers, accountants, lawyers, and cleaning services.

The IRS has set out five conditions for payments that must be reported using Form 1099-MISC. All of the following five conditions must be met:

1. The payment was made to a nonemployee.
2. The payment was made for services provided to the trade or business.
3. The payment was made to an unincorporated entity (except for payments to attorneys and medical and health care payments).
4. The payment or payments generally totaled \$600 or more for the year.
5. The payment was not made electronically (e.g., with a credit or debit card or with PayPal).

■ **DEADLINES – When you must file**

January 31 – One copy of the Form 1099 must be given to the recipient of the payment by this date of the year following payment.

February 28 – One copy of the Form 1099 must be sent to the IRS by this date of the following year unless the filing is done electronically.

March 31 – If filing is done electronically, this is the deadline for providing the IRS copy.

NOTE: Though all businesses are encouraged to file electronically, it is required for businesses filing 250 or more returns.

■ **PENALTIES – A matter of intent**

The penalties for failing to file Forms 1099 range from \$30 to \$100 per form, depending on how late your filing is and whether or not the failure to file was intentional. Total penalties can go as high as \$500,000 for businesses with gross receipts under \$5 million or \$1.5 million for those with gross receipts over \$5 million.

The IRS has increased its scrutiny of 1099 filings. In its efforts to increase 1099 filing compliance, it now asks the following two questions on business tax returns:

1. Did your business make any payments during the year that would require it to file Form(s) 1099?
2. If “yes,” did the business file or will it file required Forms 1099?

■ MORE FACTS – Also good to know

1. The *Affordable Care Act of 2010* (ACA) included expanded reporting requirements that, although they have since been repealed, still lead to a lot of confusion. The ACA provision would have required Form 1099 reporting for payments made to corporations, as well as those to unincorporated entities. It also would have required landlords to file 1099s for rental-related payments to any provider for services totaling \$600 or more for the year. Both of these requirements were repealed in 2011, which leaves 1099-MISC filing required only for payments to unincorporated vendors and no expanded filing required of landlords. (See #4 below.)
2. If you receive a 1099 with an incorrect dollar amount, request a corrected copy from the payer before tax filing time.
3. Only trades and businesses are required to report payments made in the course of the business on Form 1099. Personal payments are not required to be reported. (For example, a business owner who pays a dentist \$1,500 for dental work on his daughter does not need to report that on a Form 1099.)
4. Payments of \$600 or more to attorneys must be reported on a 1099-MISC, whether they are incorporated or not. Also medical and health care payments made to corporations must be reported.
5. Payments to vendors by credit or debit card, or by services like PayPal should not be reported on a 1099. The bank or third-party payment provider is required to report those transactions on Form 1099-K.
6. Nonprofit organizations are considered to be “engaged in a trade or business” even when they don’t operate to generate a profit. They are, therefore, subject to the Form 1099 filing requirements.
7. The fact that payments may not have to be reported on a 1099 does not mean that the payments are exempt from income tax. The recipient of the income must still report it on his or her income tax return.
8. To issue 1099s, a business needs the recipient’s “taxpayer identification number” and a mailing address. Generally, this information is obtained by sending the recipient a Form W-9 requesting what is needed. If the recipient fails to provide the necessary information, the business may have to withhold taxes from payments and remit these amounts to the IRS.

For additional information about the 1099 filing requirements that apply to your business, contact our office.