



2014 Newsletter on Form 1099 Reporting

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IRS Increases Scrutiny Over 1099

Following the stated guidelines of Form 1099 will help avoid penalties and notices. The filing requirements for 1099s have evolved over the past few years. Late and non-filing penalties have increased, and the IRS is increasing business owners' accountability by adding two questions to all business income tax returns. The first asks if the business made any payments that would require the filing of a 1099. The second asks if the business prepared and filed the 1099s (assuming there were qualifying payments). A "yes" answer to the first question and a "no" to the second, will raise a red flag with IRS.

The best course of action is to be vigilant in obtaining vendor information using Form W-9 so you are easily able to prepare 1099s at the end of the year.

Making 1099 Reporting Easier

- If given the option, pay vendors by debit or credit cards, rather than by cash or check. IRS rules stipulate that business owners are not responsible for reporting amounts paid to vendors by debit or credit cards.
- When paying vendors for the first time, always have them fill out Form W-9 prior to issuing the payment, regardless of the amount. This will take the headache out of trying to track them down at the end of the year. You can access the form at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

We encourage you to call us with any question you may have regarding the information in this newsletter or any other matter.

On the Web...

There is a wealth of information and forms available on the internet. The following websites are very helpful:

Visit our website:
www.hblcpa.com

Internal Revenue Service:
www.irs.gov

A search engine for government services with links to all states:
www.usa.gov

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Q & A Our Most Frequently Asked Questions

Q: I received a 1099-K, what is this?

A: If your company accepts debit or credit cards, you will receive a 1099-K if gross transaction amounts exceed \$20,000 **and** there are more than 200 transactions in the calendar year. Please be sure to provide us with any 1099-Ks that you receive so we have this information when preparing your tax return.

Q: We need to send a Form 1099 to someone, and we don't have their taxpayer identification number. How do we get this information?

A: Provide Form W-9 to anyone whose payment(s) may require a Form 1099 with the stipulation that it must be returned to you *before* issuing them a check. Form W-9 is the IRS form to request an identification number from someone other than an employee. This will eliminate the need to track people down in January in order to file on time. Access the form at: <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

Q: How long should I keep copies of the 1099s that I've filed?

A: Keep them for at least 4 years from the due date.

Q: A 1099 that I mailed to a vendor came back as undeliverable. What should I do?

A: Try to contact the vendor to obtain updated information. If that is not possible, keep the form in your records for at least 4 years from the due date. For example, a 1099 for the calendar year 2014 has a due date of January 31, 2015. If it is returned to you, keep it in your records until at least January 31, 2019.

Q: One of my vendors told me that I don't need to issue them a 1099 because they are an LLC. Am I still required to prepare a 1099 for them?

A: It depends. The best way to find out if you need to issue a 1099 to someone is to have them fill out Form W-9. If the business is an LLC, the LLC box on the W-9 should be marked and their tax classification code filled in. If they mark "C corporation" or "S corporation", then you **DO NOT** need to issue a 1099. In all other cases, you will need to issue.

Q: I received a notice from the IRS that says the information on the 1099 I prepared may be incorrect and that I may need to start backup withholding. They also included a list of the 1099s that were incorrect. What does this mean?

A: These notices are sent out when the information on the 1099 does not match information that the IRS has on record. It could be as simple as the recipient name being reported as "Bob Jones" instead of "Robert Jones" or a transposition of numbers for the taxpayer identification number (TIN). It could also mean that the information you received from the 1099 recipient was incorrect. If the information originally reported was incorrect, simply update your records so that the 1099 information for the succeeding year is accurate. You do not need to issue corrected forms to the recipient or the IRS under these circumstances.

If the information you originally submitted to the IRS is correct, and assuming you are still paying this person/business, you must send them a First "B" Notice and Form W-9 stating that you will begin backup withholding, usually at a rate of 28%. This means that for every \$100 you owe the vendor, you will pay them \$72 and the remaining \$28 will be sent directly to the IRS with Form 945. For more information, please go to: <http://www.irs.gov/pub/irs-pdf/p1281.pdf>

Q: Is it permissible to hand-write a 1099?

A: Though not required, the IRS does encourage you to type the form and, further, asks that it be legible, in black ink and that you not use dollar signs, commas, ampersands or other symbols, whether they are typed or hand-written.



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1099 Forms

The instructions for filing Forms 1099 are included in the IRS publication “2014 General Instructions for Certain Information Returns (Forms 1097, 1098, 1099, 3921, 3922, 5498, and W-2G)”. You can access the publication at: <http://www.irs.gov/pub/irs-pdf/i1099gi.pdf>.

You may be subject to a penalty of up to \$100 per incorrectly-filed document, with a maximum penalty of \$1,500,000. Penalties for intentionally disregarding the requirement to file 1099s are at least \$250 per payee statement with no maximum penalty.

Taking care to prepare 1099s correctly will save both time and money. The single most common error in filing these forms is the payee name/TIN combination. When collecting information from payees, it is imperative that you ask for the name and TIN (taxpayer identification number) **exactly** as the taxpayer files their income tax return. Sole proprietors should provide the individual's name and social security number or the owner's name, the exact name of the business and its employer identification number. Form W-9 should be used to request this information. Take care to get the correct information. If an individual's name is “Robert Jones” and the Form 1099 is issued to “Bob Jones”, an error notice will be sent to you. The IRS uses their computer database to match the payee name/TIN, and any deviation in the name will generate a notice.

Information returns **require** you to include your telephone number in the block provided. Failure to include it may result in penalties.

The State of Arizona does not require a state copy of the Form 1099. If you are located outside Arizona, please check with your state's revenue/finance department to see if there is a state filing requirement.

The image shows a hand holding a magnifying glass over a Form 1099-MISC. The magnifying glass is focused on the 'Miscellaneous Income' section, which is labeled 'Form 1099-MISC'. The form itself is partially visible, showing fields for 'PAYER'S name, street address, city, state, ZIP code, and telephone no.', 'PAYER'S federal identification number', 'RECIPIENT'S identification number', 'RECIPIENT'S name', 'Street address (including apt. no.)', 'City, state, and ZIP code', and 'Account number (see instructions)'. The 'Miscellaneous Income' section is highlighted with a magnifying glass, and the text 'Miscellaneous Income' is visible within the magnified area.

FILING DUE DATES

By 2/2/2015

Mail/distribute Form 1099, copy B to recipients.

By 3/2/2015

File Form 1096, along with copy A of the 1099s with the IRS (**Please note: you must file a separate 1096 for each type of Form 1099 submitted.**)

By 3/31/2015

File Forms 1099 and 1096 **only if you file electronically.**

Due dates may vary among states that require 1099 filing. Please check with those particular states for filing deadlines and form requirements.

Online Services Provided by the IRS

- **TIN (Taxpayer Identification Number) Matching** – This free service allows payers and/or authorized agents to verify TIN and name combinations prior to filing Form 1099 (version B, DIV, INT, MISC, OID and PATR). This can alleviate some of the headache and worry when you receive a notice from the IRS stating that Form 1099-MISC was filled out incorrectly. To get started, go to <http://www.irs.gov/> and search for “e-Services”. Please note, this service is most beneficial to large businesses (over 250 information returns) as the application process can be cumbersome.
- **FIRE (Filing Information Returns Electronically) System** – This free service allows taxpayers to file certain information returns online and is required for taxpayers who need to file 250 or more returns unless a waiver is granted. The most common are Forms 1099. By using the FIRE System, you receive the benefit of saving postage and taking advantage of a later due date (for Forms 1099 - paper filing due date is March 2; electronic filing due date is March 31). In order to sign-up for this free service, you'll need to complete and submit IRS Form 4419. The FIRE System does not support fill-in forms, so depending on the type of form being e-filed, certain software requirements need to be met. To get started, go to <http://www.irs.gov/> and search for “FIRE system”.



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Independent Contractors vs. Employees

Treating an individual as an independent contractor rather than an employee may seem like a good idea, since it would eliminate the payroll tax burden associated with an employee. However, if an individual is treated as an independent contractor and it is later discovered that they should have been treated as an employee, the employer will most likely be the party responsible for paying all of the payroll taxes.

The IRS has two forms that may be filed to make a determination of independent contractor or employee status. These can work against a business if a worker has been classified incorrectly.

Form SS-8, “Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding”, can be filed by a business prior to hiring someone to determine if the worker would qualify to be classified as an independent contractor. The form can also be filed by the individual when they feel that they should be treated as an employee rather than an independent contractor. This form allows the business and/or the individual to present the factors and reasoning behind the decision to treat an individual as an independent contractor, and the IRS will make a determination of status based on the information presented.

Form 8919, “Uncollected Social Security and Medicare Tax on Wages”, is a form the individual can file with their personal income tax return, either after filing or in conjunction with filing Form SS-8. An individual who believes they were incorrectly classified as an independent contractor and files both of these forms may be excused from paying self-employment taxes by the IRS. Further, the IRS may look to the business to pay those taxes for the individual.

Are there any problems with treating someone as an independent contractor? Yes. If an individual is treated as an independent contractor and elects to file the two forms mentioned above, it could potentially cost the employer more money to correct the situation than if the individual had been treated as an employee from the beginning. The potential costs include responsibility for both the employer and employee share of social security and Medicare taxes, federal withholding, unemployment taxes, preparation fees to accountants, penalties and interest. Also, if the IRS determines that the independent contractor should have been treated as an employee, the IRS could take a closer look at the employer’s relationship with other independent contractors.

The IRS created a “Voluntary Classification Settlement Program” that allows employers to voluntarily reclassify independent contractors as employees. The benefit is that this applies to future tax periods with limited federal employment tax liability for past non-employee treatment. Certain eligibility requirements apply; please contact our office for more information.

How can I prevent this from happening?

1. Consult your attorney regarding a written contract that states the terms of the work to be done and that the contractor will not be treated as an employee. This may help protect employers should any conflicts arise. Additionally, if it is determined that the individual is an independent contractor, have them complete Form W-9.
2. File Form SS-8 with the IRS to determine how an individual should be classified.

What’s the difference between an employee and an independent contractor? Employers need to be aware of the type of relationship that will exist with the individuals they hire. Correctly classifying independent contractors and/or employees is one of the keys to avoiding unforeseen expenses. The IRS uses certain criteria to determine whether a person should be classified as an employee or an independent contractor; for example, the “Common Law Rules”:

1. **Behavioral Control** - Does the company control or have the right to control what the worker does and how the worker does his or her job?
2. **Financial Control** - Are the business aspects of the worker’s job controlled by the payer? (This includes how the worker is paid, whether expenses are reimbursed, who provides tools/supplies, etc.)
3. **Type of Relationship** - Are there written contracts or employee type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business?

In addition, the IRS utilizes a list of questions to aid in the determination. This list can be obtained by performing an internet search for “Revenue Ruling 87-41”. If you find that a worker is indeed an independent contractor, **ALWAYS** have them fill out Form W-9 before any payment is remitted.

Section 530 Relief

Section 530 relieves employers from paying employment taxes on workers who were previously considered independent contractors when the IRS has determined they are employees. This relief is available if:

1. The employer had a **reasonable basis** for not treating the worker as an employee.
2. The employer was **consistent** in treating similar workers as independent contractors.
3. The employer **filed Form 1099** for the worker in the applicable years.

For more information, see Publications 15-A and 1779 on the IRS website at www.irs.gov.

Summary of Some Types of Compensation Requiring a 1099

| Form 1099 | Type of Compensation |
|-------------|---|
| MISC | <p>Payers use this form to report \$600 or more of rental or \$10 or more of royalty payments and payments made that are not in the ordinary course of the recipient's business.</p> <p>Owners or operators of fishing boats use this form to report all payments to crew members from the sale of catch.</p> <p>Attorneys, medical insurance programs, and health and accident insurance plans use this form to report payments of \$600 or more to a physician, physician's corporation, or other supplier of health and medical services.</p> <p>Payers use this form to report payments of \$600 or more for services performed for a trade or business by persons not treated as employees (e.g. subcontractors and directors).</p> <p>Payers use this form to report payments of \$600 or more made for legal services, regardless of whether the attorney is incorporated or not. In addition, if you make a payment to an attorney and the attorney's fee cannot be determined, the total amount paid to the attorney (gross proceeds), regardless of the amount, must be reported in box 14.</p> <p>Payees use this form to report the occurrence of direct sales of \$5,000 or more of consumer goods for resale where the purchaser does not maintain a permanent place of business.</p> <p>Brokers use this form to report total payments of at least \$10 received on behalf of a customer in lieu of dividends or tax-exempt interest as a result of the transfer of a customer's securities for use in a short sale.</p> |
| A | If, in the course of your business, you lend money and, in full or partial satisfaction of the debt, you acquire an interest in property that is security for the debt or have reason to know that the property has been abandoned, you must use this form. |
| B | Brokers use this form to report sales (including short sales) of stocks, bonds, commodities, regulated futures contracts, forward contracts, and debt instruments. Barter exchanges use this form to report exchanges of property or services through the exchange. |
| DIV | <p>Corporate payors use this form to report:</p> <ul style="list-style-type: none"> • Payments of \$10 or more in distributions, such as dividends, capital gains or non-taxable distributions that were paid in stock • Any foreign tax withheld and paid on dividends and other distributions on stock, or • Any federal income tax withheld under the backup withholding rules |
| INT | Payers use this form to report payments of \$10 or more in interest payments, including interest on bearer certificates of deposit and interest on U.S. Savings Bonds, Treasury Bills, Treasury Notes and Treasury Bonds. |
| R | Payers use this form to report payments and/or distributions of \$10 or more from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc. |
| S | Transferors use this form to report the sale or exchange of real estate. Sales handled through an escrow company will be reported by the escrow company. |

Electronic Filing Requirements

Electronic reporting regulations require all persons who expect to file **250 or more Forms W-2 or 1099** in 2015 for calendar year 2014 to file electronically. In the case of 1099s, the 250 or more requirement applies separately to each type of form. For example, if you file 275 Forms 1099-MISC and 10 Forms 1099-INT, only the Forms 1099-MISC are required to be filed electronically. Penalties for failure to file electronically, if required, are up to \$100 per form.

If you meet the electronic reporting requirements above, please contact us by December 11th to discuss the application for, or waiver from, filing electronically.

Our 1099 Form Preparation Fee Schedule

Tier 1

You provide all 1099 information – recipient, TIN, address and amount

\$85 flat fee
plus \$7 per 1099

- Preparation of forms using our software including state copies, if applicable
- Mailing of recipient forms
- Delivery of client copies
- E-filing with the IRS and California, if applicable
- Preparation of state filing copies, if applicable

Tier 2

You provide recipient, TIN, address and confirm amounts from the list we generate

\$175 flat fee
plus \$7 per 1099

- All of the services in Tier I, plus:
- Researching your records to identify potential recipients and amounts
- Sending you a report to fill out and/or verify the recipient's correct name, address and TIN

Tier 3

You provide your accounting records. We do the rest!

\$250 flat fee
plus \$7 per 1099

- All of the services in Tier I, plus:
- Researching your records to identify potential recipients
- Determining the reportable amount based on your records
- Contacting recipients for their information

Due to the additional time required to sort through documents, if you have a manual system (I.E. check stubs), you are automatically considered a Tier 3 service level.

Address Service Requested

PRSR STD
US POSTAGE
PAID
TUCSON, AZ
PERMIT NO 844

5656 E. Grant Rd., Suite 200
Tucson, Arizona 85712

