



Form 1099 Miscellaneous – The Good, The Bad, and The Ugly

Complimentary Guidance from The Tax Office,
Inc., on What Can Happen If You Do Not File
Your 1099-Misc Forms

2013



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The purpose of this whitepaper is to explain exactly what a Form 1099-MISC is and what its purpose is. You will learn about Form W-9, withholdings, filing deadlines, and some of the possibilities that can occur if you do not file your 1099-MISC forms.

As of 2013, all filers of Form 1099-MISC may truncate the recipient's identification number (social security number (SSN), individual taxpayer identification number (ITIN), or adoption taxpayer identification number (ATIN)) on payee statements. For example an SSN would look like this: would appear on the paper payee statement as ***-**-xxxx or XXX-XX-xxxx.

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What is a Form 1099 Misc?

What is a Form 1099 Misc? What is its purpose? A 1099-Misc. is used to report certain specific types of payments generally made in business to the IRS and/or to the person or business you have paid money to. This person or business could be your custodial service or maid, or your gardener, if you paid them a certain amount during the year. This form, 1099-Misc., or Miscellaneous Income needs to be filed for each person or business to which you have paid during the year the following:

- \$10 or more in royalties
- \$10 or more in broker payments in lieu of dividends or tax-exempt interest
- \$600 in rents
- \$600 in services
- \$600 in proceeds paid to an attorney, law firm or other provider of legal services
- \$600 in prizes or awards
- \$600 in medical or health awards
- \$600 in crop insurance proceeds
- \$600 in cash payments to fishermen
- \$600 in other income payments
- \$600 cash paid from a notional contract to an individual, partnership or estate

A Form 1099-Misc is also used to report that you made direct sales of at least \$5000 of consumer products to a buyer for resale anywhere other than to a permanent retail establishment.

Lastly, you must file a Form 1099-Misc for each person/business for whom you have withheld *any* federal income tax under the backup withholding rules regardless of the amount of the payment.

Certain types of payments are subject to withholding by the IRS. These include the following:

- Interest payments (Form 1099-INT)
- Dividends (Form 1099-DIV)
- Patronage dividends, but only if at least half of the payment is in money (Form 1099-PATR)
- Rents, profits, or other gains (Form 1099-Misc)

- Commissions, fees, or other payments for work you do as an independent contractor (Form 1099-Misc)
- Royalty payments (Form 1099-Misc)
- Certain other payments.

| VOID | | CORRECTED | | OMB No. 1545-0115 | | Miscellaneous Income |
|--|--|--|--|--|--|-------------------------|
| PAYER'S name, street address, city or town, province or state, country, ZIP or foreign postal code, and telephone no. | | 1 Rents | | Sample Only! Form 1099-MISC | | |
| | | \$ | | | | |
| | | 2 Royalties | | | | |
| | | \$ | | | | |
| 3 Other income | | 4 Federal income tax withheld | | Copy A For Internal Revenue Service Center File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the General Instructions for Certain Information Returns. | | |
| \$ | | \$ | | | | |
| 5 Fishing boat proceeds | | 6 Medical and health care payments | | | | |
| \$ | | \$ | | | | |
| 7 Nonemployee compensation | | 8 Substitute payments in lieu of dividends or interest | | | | |
| \$ | | \$ | | | | |
| 9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/> | | 10 Crop insurance proceeds | | | | |
| \$ | | \$ | | | | |
| 11 Foreign tax paid | | 12 Foreign country or U.S. possession | | | | |
| \$ | | \$ | | | | |
| 13 Excess golden parachute payments | | 14 Gross proceeds paid to an attorney | | | | |
| \$ | | \$ | | | | |
| 15a Section 409A deferrals | | 15b Section 409A income | | 16 State tax withheld | | |
| \$ | | \$ | | \$ | | |
| | | | | 17 State/Payer's state no. | | |
| | | | | \$ | | |
| | | | | 18 State income | | |
| | | | | \$ | | |

Form 1099-MISC Cat. No. 14425J www.irs.gov/form1099misc Department of the Treasury - Internal Revenue Service
Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page

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*This is a sample only. With an actual Form 1099-Misc there is multiple copies. Each copy needs to be sent to the appropriate person/agency. Copy A is red and goes to the IRS, Copy B to the Independent Contractor. Copy 1 goes to the State Tax Department, and Copy 2 goes to the Independent Contractor's State Income Tax return when required. Copy C is your copy.

¹ www.irs.gov/pub/irs-pdf/f1099misc.pdf

Do Not Staple 6969

| | | | | | | | |
|--|----------------|---|------------------|-------------------------|----------------|--|--|
| Form 1096 Department of the Treasury Internal Revenue Service | | Annual Summary and Transmittal of U.S. Information Returns | | | | OMB No. 1545-0108 <div style="font-size: 2em; font-weight: bold;">2012</div> | |
| FILER'S name Street address (including room or suite number) City, state, and ZIP code | | | | | | | |
| Name of person to contact | | | Telephone number | | | | |
| Email address | | | Fax number | | | | |
| 1 Employer identification number | | 2 Social security number | | 3 Total number of forms | | 4 Federal income tax withheld \$ | |
| 5 Total amount reported with this Form 1096 \$ | | | | | | <div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div> | |
| 6 Enter an "X" in only one box below to indicate the type of form being filed. | | | | | | | |
| W-2G 32 | 1097-BTC 80 | 1098 81 | 1098-C 78 | 1098-E 84 | 1098-T 83 | 1099-A 80 | |
| 1099-B 79 | 1099-C 85 | 1099-CAP 73 | 1099-DIV 91 | 1099-G 88 | 1099-H 71 | 1099-INT 92 | |
| 1099-K 10 | 1099-LTC 82 | 1099-MISC 95 | 1099-OID 90 | 1099-PATR 97 | 1099-Q 31 | 1099-R 98 | |
| 1099-S 75 | 1099-SA 94 | 3921 55 | 3922 25 | 5498 28 | 5498-ESA 72 | 5498-SA 27 | |

For Official Use Only

Return this entire page to the Internal Revenue Service. Photocopies are not acceptable.

Under penalties of perjury, I declare that I have examined this return and accompanying documents, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature ►

Title ►

Date ►

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Instructions

When to file. File Form 1096 as follows.

When filing your 1099-Misc forms you also need to send in Form 1096 which is a summary form. The 1096 form summarizes the total number of 1099 forms submitted and their total value. These forms are **red** and black, and must be filed by May 31, 2013.

² www.irs.gov/pub/irs-pdf/1096.pdf

Exemptions to the Rules

Some payments do not have to be reported on a Form 1099; however, they may *still* be taxable. Payments that do not require a Form 1099-Misc include the following:

- Payments to a corporation are exempt, unless the corporation engages in legal services, medical & health services, or fishing as stated above.
- Payments of rent to real estate agents, however the real estate agent must use a 1099-Misc to report the rent paid over to the property owner.
- Military differential wage payments made to employees while on Active Duty in the armed forces or other uniformed services.
- Business travel allowances paid to employees.
- Cost of current life insurance protection
- Payments to a tax-exempt organization including tax-exempt trusts, the United States, a state, the District of Columbia, a U.S. possession, or a foreign government.
- Payments made to or for homeowners from the HFA Hardest Hit Fund, or the Emergency Homeowners Loan Program or similar state program.
- Certain payment card transactions if a payment card organization has assigned a merchant/payee a Merchant Category Code indicating that reporting is not required.

What is a Form W-9?

It is often helpful at this point to request that a W-9 form, a Request for Tax Identification Number and Certification be filled out. This form will provide you with the legal name, address and the tax identification number (TIN, EIN, or ITIN) for the business/person which you will need to send out your Form 1099s. The form W9 also indicates whether or not the business happens to be a corporation, which makes it easier to determine if you need to send them a 1099 at all. The Form W9 also plays a critical part in backup withholdings as it certifies the business's withholding exemption status.

When you are setting up your vendor accounts is a great time to request W-9 forms. This verifies your vendor and takes care of your 1099 issues at the same time.

Below is a sample of a Form W9. Questions often arise about tax identification numbers, so hopefully we can head them off.

What is a TIN, EIN, or ITIN? A TIN is a social security number issued by the Social Security Administration or an EIN, an **E**mployer **I**dentification **N**umber issued by the IRS. It can only have 9 numbers, no more, no less and it cannot contain any letters.

An ITIN is an **I**ndividual **T**ax **I**dentification **N**umber, issued by the IRS and may be used as a TIN to meet federal tax obligations only. Resident aliens and nonresident aliens, who are not eligible for SSNs, use ITINs. An ITIN has nine numbers in the same format as an SSN and always begins with the number 9. The fourth and fifth digits are always within the range of 70 through 80.

If you do not get correct TIN numbers you will receive communications from the IRS. Should you not get an accurate TIN number, or should an independent contractor not provide you with one at all, you are required to begin backup withholding at **28%**.

If there is an error in the TIN number, you will receive from the IRS either a CP2100 or CP2100A Notice and a listing of incorrect Name/TIN(s) reported on those forms. These forms notify you that you may be responsible for backup withholding. It is accompanied by a listing of missing, incorrect, and/or not currently issued payee TINs. Large volume filers will receive a CD or DVD data file CP2100, mid-size filers receive a paper CP2100, and

small filers receive a paper CP2100A. A large filer will have 250 or more error documents; a mid size filer will have less than 250 error documents and greater than 50 error documents; a small filer will have less than 50 error documents.

When you receive this notice from the IRS you are required to send a notification letter, or B notice, to your independent contractor that you are withholding funds from him/her as required by the IRS accompanied with a Form W9. You have fifteen (15) business days from the date on the CP2100 or from the date upon which you received it, whichever is later, to send your notice to your independent contractor. The envelope in which you send out your notice must be clearly marked **“IMPORTANT TAX INFORMATION ENCLOSED” or “IMPORTANT TAX RETURN DOCUMENT ENCLOSED.”**

A copy of the First B Notice is shown here:

First B Notice³

IMPORTANT TAX NOTICE ACTION IS REQUIRED

Backup Withholding Warning!

WE NEED A FORM W-9 FROM YOU BEFORE:

_____. Otherwise; backup withholding will begin on

Account Number:

Current Name on Account:

Current Tin on Account:

The Internal Revenue Service (IRS) has notified us that the taxpayer identification number (TIN) on your account with us does not match its records. The IRS considers a TIN as incorrect if either the name or number shown on an account does not match a name and number combination in their files or the files of the Social Security Administration (SSA). If you do not take appropriate action to help us correct this problem before the date shown above, the law requires us to backup withhold on interest, dividends, and certain other payments that we make to your account. The backup withholding rate is: ___ [set forth rates/dates] In addition to backup withholding; you may be subject to a \$50 penalty by the IRS for failing to

³ www.irs.gov/pub/irs-pdf/p1281.pdf

give us your correct Name/TIN combination. This notice tells you how to help us make your account records accurate and how to avoid backup withholding and the penalty.

Why Your Tin May Be Considered As Incorrect.

An individual's TIN is his or her social security number (SSN). Often a TIN does not match IRS records because a name has changed through marriage, divorce, adoption, etc., and the change has not been reported to SSA, so it has not been recorded in SSA's files. Sometimes an account or transaction may not contain the correct SSN of the actual owner. For example, an account in a child's name may reflect a parent's SSN. (An account should be in the name and SSN of the actual owner.)

What You Need To Do For Individuals

If you have never been assigned a social security number (or if you lost your social security card and do not know your SSN), call your local SSA office and find out how to obtain an original (or a replacement) social security card. Then apply for it. If you already have a social security number: Compare the name and SSN on your account with us (shown at the beginning of this notice) with the name and SSN shown on your social security card. Then use the chart on the next page to decide what action to take.

If you are required to send a second notification letter to your contractor, i.e. you receive a second CP2100 the following year; things get a little more complicated. You are still required to send a notification letter, however you do not send an accompanying Form W9, and things get much more complex for the contractor. At this time, the contractor is required to get their TIN, EIN certified by the Social Security Administration or the IRS in person before they can send it to you. Before you can stop backup withholdings you must receive an IRS Letter 147C or a Social Security Number Printout from your contractor.

**Request for Taxpayer
Identification Number and Certification**

**Give Form to the
requester. Do not
send to the IRS.**

Name (as shown on your income tax return)

Business name/disregarded entity name, if different from above

Check appropriate box for federal tax classification:

☐ Individual/sole proprietor ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶

☐ Other (see instructions) ▶

Address (number, street, and apt. or suite no.)

City, state, and ZIP code

Requester's name and address (optional)

List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

Employer identification number

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here **Signature of U.S. person ▶** **Date ▶**

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

Filing Deadlines.

So having covered how to get all the information you need and where to put it. Now you need to know how and when to send it all in. You are required to **send** a completed copy of Form 1099-Misc to each and every person or business to whom you have paid over \$600 during the year by January 31, 2014.

The requirement to **file** all *paperforms* is February 28, 2014. If you choose to file **electronically** the deadline to file is March 31, 2014.

What Happens If You Don't File Your Form 1099-Misc?

Failure to file these forms leads to expensive penalties. To begin with, you can be assessed a penalty for not providing a 1099 to your independent contractor. You can also be assessed a penalty for not filing the form.

Assuming you meant to file electronically; you have until March 31, 2014 to file. If you do not file the 1099, you have thirty (30) days before you will be assessed a penalty. That initial penalty is \$30. After those thirty days the penalty grows larger for not filing.

If you do not file your 1099s before August 1, the penalty is \$60. After August 1, the penalty grows to \$100. If the IRS decides that you have intentionally failed to file the 1099s, the penalty is \$250. Bear in mind that these penalties are applied to **each** 1099 that you need to send out and file. If you did business with 50 different independent contractors this year and do not send out and file the appropriate 1099s your penalties will accrue rapidly. The maximum penalty is \$250,000 for any calendar year.

For a taxpayer with a history of not correcting TIN information, the IRS likes to add penalties. There is no maximum limit on the amount of penalties for intentional failure to file.

You also need to be aware that while your penalties for not filing the 1099s are piling up, you are also in danger of accruing penalties for backup withholdings that you may be responsible for. You would also be liable for any interest and penalties that may have accrued on the unpaid backup withholding tax. Should you be audited, there is also a chance that the deduction you are claiming can be denied entirely. Should this happen you would also be liable for the recipient's tax liabilities.

What this means is that while maybe you didn't send the 1099s out, or if you did, there might have been an error in them, you need to be certain you are on top of the situation.

Conclusion

We've discussed many different things that can happen if you don't get your 1099s in on time. It's not a pretty picture. In general it pays to simply get the paperwork out on time, rather than to let it slide. Yes, mistakes happen, typos get made, papers get misfiled. Those are the easy ones to fix. BUT, you need to stay aware of things to catch those errors.

In conclusion, make certain you get your 1099s sent out on time. Be certain you have received tax identification information from each and every person or business that you have dealt with throughout the year. It may seem like endless time consuming paperwork, but it will save you money in the end. Keeping accurate records is sound business sense. You ultimately want to keep as much as you can from what you have worked so hard to earn. Being proactive and on the spot, being timely and accurate with your 1099s can save you a lot of hassle should you ever get audited in the future.

About The Tax Office, Inc

Northern California's Most Reliable Tax, Bookkeeping and Business Advisors

Since 1986, The Tax Office, Inc has been the "go to" tax, accounting and bookkeeping firm for hundreds of people and businesses throughout Northern California. Let us help you solve your tax, accounting or bookkeeping puzzle.

Among the issues we help out clients address are:

- How to pay the least possible amount of Federal and State taxes
- Preparing the ever-growing pile of complicated tax forms
- Protecting you (and your wallet) by fighting the IRS and other Government agency tax audits
- Keeping the books of your business up to date with Intacct and online bookkeeping
- Interpreting the numbers of your financial situation to pinpoint ways to improve the profitability and performance of your business
- Lowering the costs and eliminating the hassles of doing payroll

