



1099 Form Instructions for Practitioners

Part One

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1099 Reporting Requirements

Overview

See 2018 General Instructions for Certain Information Returns
<https://www.irs.gov/pub/irs-pdf/i1099gi.pdf>

There is a tremendous amount of misunderstanding of the requirements related to 1099 forms and independent contractors. Over the past several years there has been a variety of new requirements and legislation put into effect and removed from effect which continues to contribute to confusion regarding what the requirements are for individual businesses and organizations. We are putting this information together in order to assist you in forming a better understanding of what will be required for you.

The Internal Revenue Service has implemented a variety of reporting requirements for anyone engaged in a trade or business. The ones we are dealing with are contained in Internal Revenue Code Sections 6042 through 6050 and generally require a variety of information reporting requirements.

Code Section 6041 requires information returns to be made by every person or payer engaged in a trade or business who makes payments as defined in section 6041(a), aggregating \$600 or more in any taxable year to another person or payee in the course of the payers' trade or business. These information returns are the various 1099 forms we will be covering as well as form W-2, Wage and Tax Statement which is generally used for payments to employees. The various 1099 forms are generally required to be provided to each payee as well as reported to the Internal Revenue Service.

We have seen a variety of changes over the years. For example, the most notable change happened when the Patient Protection and Affordable Care Act was signed into law back on March 23, 2010. This law made some extremely burdensome requirements for 1099 reporting. On April 14, 2011 this particular requirement was repealed after significant uproar from businesses about the undue burden this would have placed on them in recordkeeping and reporting costs.

Another one was back with the Small Business Jobs Act of 2010, which contained a provision requiring owners of rental property to issue 1099 forms to service providers for payments of \$600 or more during the year. On April 4, 2011 this requirement was repealed by the Comprehensive 1099 Taxpayer Protection and Replacement of Exchange Subsidy Overpayments Act of 2011. Even though these were a few years ago, it should be obvious that the IRS and Congress want more 1099 reporting, and we can expect a high likelihood of smaller increases in our reporting burden in the future as they move towards more aggressive reporting requirements.

The Small Business Jobs Act of 2010 significantly increased the penalties related to non-compliance with 1099 filing. These higher penalties were not repealed. More recently, on June 29 of 2015, an update was passed on the Trade Preferences Extension Act which effectively doubled almost all of the penalties increased by the 2010 act. These were also not repealed. They will be discussed a little later. Most recently on December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TJCA) passed, changing many of our tax laws significantly.

It often feels as the only constant is change, and 1099 and reporting requirements are no exception. The 2016 Omnibus appropriations act that was passed by Congress in mid-December 2015 and signed into law by President Obama on December 18, 2015 requires new filing deadlines. For the filing season in 2017 which covered the 2016 tax year, employers and other payers were required for the first time to get the IRS its copies of tax payment documents at the same time the agency issues statements to taxpayers, and many of the most common forms by January 31 for both.

In previous years, the IRS did not get copies of forms supplied to payees until a month later. That meant for a whole month, the IRS didn't have a way to confirm that the W-2 and various 1099 information we've been putting on our 1040s is correct. However, the IRS still issued refunds if our filing says we are due one, without verification.

Later, when the IRS compared the third-party copies with our W-2s or 1099's and found a difference, then we would hear back from them about the discrepancy. Obviously the IRS was excited about this new development, since it would help combat fraud. In addition to the new filing due date, as part of the same budget law, anyone claiming the EITC (Earned Income Tax Credits) and/or Additional Child Tax Credit were not able to have their refunds prior to February 15 of any year.

For the new due date requirement, that will again be the same as it was last year for the 2018 forms due in 2019. We will also see the same refund delays for those with refundable credits as well, so until things change again it looks like for the foreseeable future it will be the same.

1099 Reporting Requirements

Purpose of 1099

The government has long had concerns that all income is being reported on the income tax returns of individuals and businesses. There is a belief that there is an underground economy where business is done entirely in cash and income does not get reported and therefore income taxes are not paid on that income. We have a voluntary system of income tax compliance, but congress and the IRS often find it necessary to put in place systems which make our voluntary compliance a bit easier. Accordingly, the system of 1099 reporting was implemented to assist in alleviating some of this underreporting of income.

It is the responsibility of each of us as taxpayers to keep adequate records to report our income and taxes properly. Using 1099's to report income assists in keeping those adequate records.

1099 Reporting Requirements Deadlines

Income reported on a 1099 form is for the preceding calendar year. The 1099 forms are dated and the income must be reported on the form dated for the year in which the income was paid. In other words, if the funds are paid in the calendar year of 2018, then it must be reported on a 1099 form dated 2018. You cannot change the date on the form; you must obtain the form for the proper year.

In general the majority of the various 1099 forms have due dates of January 31 as the date you must provide the form to the recipient of the income being reported. This January 31 deadline is the date by which you must have the envelope postmarked if mailing the form. Continuing this next year in 2019, the 1099 reporting to the IRS also has a deadline of January 31. The reporting to the IRS will include reporting on a form 1096 form as a transmittal form which will go along with the 1099 forms sent to the IRS. In a following section on the different types of 1099 forms we include a list of various types of 1099 forms and the due date requirements where you can see the different due dates for a few of the 1099 forms like the 1099-B and 1099-S. The vast majority of the forms you are likely to be filing will have the above due dates. Also, as with most IRS reporting requirements, if the reporting date falls on a weekend or holiday, the due date is the next work day.

1099 forms can be electronically filed and IRS Publication 1220 provides the requirements and procedures required to file electronically. Form 4419 is the application for filing electronically. If you are required to file 250 or more information returns of any specific type, you must file electronically.

Form 4419 (June 2018)	Department of the Treasury - Internal Revenue Service Application for Filing Information Returns Electronically (FIRE)	OMB Number 1545-0387 IRS Use Only
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☐ **Revised Form 4419**

Current Transmitter Control Code (TCC) (revised only) (refer to instructions page 2) _____

1. Transmitter and/or Payer information

Legal name (associated with EIN in Block 2) _____

Mailing address	City	State	ZIP code
-----------------	------	-------	----------

2. Employer Identification Number (EIN) (SSN not permitted) _____

3. Is the request for a foreign transmitter without a TIN <input type="checkbox"/> Yes <input type="checkbox"/> No	4. What Tax Year will electronic filing begin _____
---	---

5. Check the box(es) next to the returns you will file electronically

Note: IRS encourages transmitters who file for multiple payers to submit one application and use the assigned TCC for all payers.

☐ Forms 1097, 1098, 1099, 3921, 3922, 5498 and W-2G (See Publication 1220)

☐ Form 1042-S, *Foreign Person's U.S. Source Income Subject to Withholding* (See Publication 1187)

☐ Form 8027, *Employer's Annual Information Return of Tip Income and Allocated Tips* (See Publication 1239)

☐ Form 8955-SSA, *Annual Registration Statement Identifying Separated Participants with Deferred Vested Benefits* (See Publication 4810)

☐ I have read the following FIRE System requirement: In order to file electronically through the FIRE System, you must have software or a service provider that will create the file in the standard ASCII format. The FIRE System does not provide an on-line fill-in option. You must transmit your data in the specific format required by IRS.

6. Person to contact about this request

Name _____

Position title _____

Email address	Telephone number
---------------	------------------

7. ☐ I have read the Affidavit in the Instructions on page 2 and I am authorized to sign the document on behalf of the transmitter and/or payer.

Under penalties of perjury, I declare that I have examined this document including any accompanying statements, and to the best of my knowledge and belief, it is true, correct, and complete.

8. Official of the company or organization

Name	Position title
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Signature (a computer generated signature is not acceptable)	Date
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For Privacy Act and Paperwork Reduction Act Notice, see Instructions.

Catalog Number 41639J www.irs.gov Form **4419** (Rev. 6-2018)

Electronically filed 1099 and 1096 forms have a due date of March 31 unless there are nonemployee compensation amounts listed in box 7 of the 1099-MISC, which will require the newer due date of January 31. It is also possible in some cases to provide the information to the recipient electronically as long as the recipient electronically gives consent and the correct format is maintained. You can request a hardship waiver from the electronic filing requirement by filing form 8508 at least 45 days prior to the due date of the information returns.

Form 8508 (September 2018)	Department of the Treasury - Internal Revenue Service Request for Waiver From Filing Information Returns Electronically <small>(Forms W-2, W-2G, 1042-S, 1097-BTC, 1098 Series, 1099 Series, 3921, 3922, 5498 Series, and 8027, or ACA Forms 1095-B, 1095-C or an Authoritative Transmittal Form 1094-C (Refer to Instructions for Form 1094-C and 1095-C)) (Please type or print in black ink when completing this form - Refer to instructions on the back.)</small>	OMB Number 1545-0957					
Note: Only the person required to file electronically can sign Form 8508. A transmitter cannot sign Form 8508 for the payer, unless a power of attorney has been established. If you have a power of attorney, attach a copy to this form.							
1. Type of submission <input type="checkbox"/> Original <input type="checkbox"/> Reconsideration							
2. Payer name, complete address, and contact person name and telephone number (if different than payer name. (A separate Form 8508 must be filed for each payer requesting a waiver.) Payer name _____ Address _____ City _____ State _____ Zip code _____		3. Taxpayer Identification Number (9-digit EIN/SSN) _____ 4. Contact person _____ Telephone number _____ Email address _____					
5. Waiver Requested for:	Enter the Number of Returns that: (a) You expect to file on paper (b) You expect to file next tax year	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 15%;"> <input type="checkbox"/> 1042-S <input type="checkbox"/> 1094-C/1095-C <input type="checkbox"/> 1095-B <input type="checkbox"/> 1097-BTC <input type="checkbox"/> 1098 <input type="checkbox"/> 1098-C <input type="checkbox"/> 1098-E <input type="checkbox"/> 1098-Q <input type="checkbox"/> 1098-T <input type="checkbox"/> 1099-A <input type="checkbox"/> 1099-B <input type="checkbox"/> 1099-C <input type="checkbox"/> 1099-CAP <input type="checkbox"/> 1099-DIV <input type="checkbox"/> 1099-G <input type="checkbox"/> 1099-INT <input type="checkbox"/> 1099-K <input type="checkbox"/> 1099-LS <input type="checkbox"/> 1099-LTC <input type="checkbox"/> 1099-MISC </td> <td style="width: 15%;"></td> <td style="width: 15%;"> <input type="checkbox"/> 1099-OID <input type="checkbox"/> 1099-PATR <input type="checkbox"/> 1099-Q <input type="checkbox"/> 1099-R <input type="checkbox"/> 1099-S <input type="checkbox"/> 1099-SA <input type="checkbox"/> 1099-SB <input type="checkbox"/> 3921 <input type="checkbox"/> 3922 <input type="checkbox"/> 5498 <input type="checkbox"/> 5498-ESA <input type="checkbox"/> 5498-SA <input type="checkbox"/> 8027 <input type="checkbox"/> W-2 <input type="checkbox"/> W-2AS <input type="checkbox"/> W-2G <input type="checkbox"/> W-2GU <input type="checkbox"/> W-2PR <input type="checkbox"/> W-2VI </td> <td style="width: 15%;"></td> <td style="width: 15%;"> Enter the Number of Returns that: (a) You expect to file on paper (b) You expect to file next tax year </td> </tr> </table>	<input type="checkbox"/> 1042-S <input type="checkbox"/> 1094-C/1095-C <input type="checkbox"/> 1095-B <input type="checkbox"/> 1097-BTC <input type="checkbox"/> 1098 <input type="checkbox"/> 1098-C <input type="checkbox"/> 1098-E <input type="checkbox"/> 1098-Q <input type="checkbox"/> 1098-T <input type="checkbox"/> 1099-A <input type="checkbox"/> 1099-B <input type="checkbox"/> 1099-C <input type="checkbox"/> 1099-CAP <input type="checkbox"/> 1099-DIV <input type="checkbox"/> 1099-G <input type="checkbox"/> 1099-INT <input type="checkbox"/> 1099-K <input type="checkbox"/> 1099-LS <input type="checkbox"/> 1099-LTC <input type="checkbox"/> 1099-MISC		<input type="checkbox"/> 1099-OID <input type="checkbox"/> 1099-PATR <input type="checkbox"/> 1099-Q <input type="checkbox"/> 1099-R <input type="checkbox"/> 1099-S <input type="checkbox"/> 1099-SA <input type="checkbox"/> 1099-SB <input type="checkbox"/> 3921 <input type="checkbox"/> 3922 <input type="checkbox"/> 5498 <input type="checkbox"/> 5498-ESA <input type="checkbox"/> 5498-SA <input type="checkbox"/> 8027 <input type="checkbox"/> W-2 <input type="checkbox"/> W-2AS <input type="checkbox"/> W-2G <input type="checkbox"/> W-2GU <input type="checkbox"/> W-2PR <input type="checkbox"/> W-2VI		Enter the Number of Returns that: (a) You expect to file on paper (b) You expect to file next tax year
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6. Is this waiver requested for corrections ONLY? <input type="checkbox"/> Yes <input type="checkbox"/> No							
7. Is this the first time you requested a waiver from the electronic filing requirements for any of the forms listed in Block 5? <input type="checkbox"/> Yes (Skip to signature line) <input type="checkbox"/> No (Complete Block 8 if your request is due to undue hardship)							
8. Enter two current cost estimates provided to you by third parties for software, software upgrades or programming for your current system, or costs to prepare your files for you. Cost estimates for any reason other than the preparation of electronic files will not be acceptable. Attach the two current cost estimates to Form 8508. Note: Failure to provide current cost estimates and/or signature will result in a denial of your waiver request.		\$ _____ \$ _____					
Under penalties of perjury, I declare that I have examined this document, including any accompanying statements, and to the best of my knowledge and belief, it is true, correct, and complete.							
9. Signature _____	Title _____	Date _____					

Catalog Number 63499V

www.irs.gov

Form **8508** (Rev. 9-2018)

An automatic extension for filing of 30 days is available. Form 8809 must be filed prior to the original due date to obtain this extensions. In some hardship cases, an additional extension of 30 days may be granted. A PDF fillable link to the 8809: <https://www.irs.gov/pub/irs-pdf/f8809.pdf>

Form 8809 (Rev. November 2018) Department of the Treasury Internal Revenue Service	Application for Extension of Time To File Information Returns (For Forms W-2, W-2G, 1042-S, 1094-C, 1095, 1097, 1098, 1099, 3921, 3922, 5498, and 8027) ▶ This form may be filled out online. See <i>How to file</i> below. ▶ Go to www.irs.gov/Form8809 for the latest information.	OMB No. 1545-1081																														
<p>Do not use this form to request an extension of time to (1) file Form 1040 (use Form 4868), (2) file Form 1042 (use Form 7004), or (3) furnish statements to recipients (see Extensions under part M in the General Instructions for Certain Information Returns).</p>																																
1 Payer's/filer's information. Type or print clearly in black ink. Payer's/filer's name _____ Address _____ City _____ State _____ ZIP code _____ Contact name _____ Telephone number _____ Email address _____		2 Taxpayer identification number (TIN) (Enter the payer's nine-digit number. Do not enter hyphens.) <div style="border: 1px solid black; height: 40px; width: 100%;"></div>																														
3 Check your method of filing information returns (check only one box). Use a separate Form 8809 for each method. <input type="checkbox"/> electronic <input type="checkbox"/> paper		4 If you are requesting an extension for more than one payer/filer, enter the total number of payers/filers and attach a list of names and TINs. See <i>How to file</i> below for details. <div style="border: 1px solid black; height: 20px; width: 100%;"></div>																														
5 Check this box only if you already requested the automatic extension and you now need an additional extension. See instructions. <input type="checkbox"/>																																
6 Check only the box(es) that apply. Do not enter the number of returns. <table border="1" style="width: 100%; border-collapse: collapse; text-align: center;"> <thead> <tr> <th>Form(s)</th> <th>✓ here</th> <th>Form(s)</th> <th>✓ here</th> <th>Form(s)</th> <th>✓ here</th> </tr> </thead> <tbody> <tr> <td>W-2</td> <td><input type="checkbox"/></td> <td>5498</td> <td><input type="checkbox"/></td> <td>8027</td> <td><input type="checkbox"/></td> </tr> <tr> <td>1097, 1098, 1099, 3921, 3922, W-2G</td> <td><input type="checkbox"/></td> <td>5498-ESA</td> <td><input type="checkbox"/></td> <td>1094-C, 1095-C</td> <td><input type="checkbox"/></td> </tr> <tr> <td>1099-MISC reporting NEC only</td> <td><input type="checkbox"/></td> <td>5498-QA</td> <td><input type="checkbox"/></td> <td>1095-B</td> <td><input type="checkbox"/></td> </tr> <tr> <td>1042-S</td> <td><input type="checkbox"/></td> <td>5498-SA</td> <td><input type="checkbox"/></td> <td>1099-QA</td> <td><input type="checkbox"/></td> </tr> </tbody> </table>			Form(s)	✓ here	Form(s)	✓ here	Form(s)	✓ here	W-2	<input type="checkbox"/>	5498	<input type="checkbox"/>	8027	<input type="checkbox"/>	1097, 1098, 1099, 3921, 3922, W-2G	<input type="checkbox"/>	5498-ESA	<input type="checkbox"/>	1094-C, 1095-C	<input type="checkbox"/>	1099-MISC reporting NEC only	<input type="checkbox"/>	5498-QA	<input type="checkbox"/>	1095-B	<input type="checkbox"/>	1042-S	<input type="checkbox"/>	5498-SA	<input type="checkbox"/>	1099-QA	<input type="checkbox"/>
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7 If you are requesting an extension for Forms W-2 or 1099-MISC reporting NEC only, or if you checked the box on line 5, you must meet one of the following criteria. Check the applicable box(es) that describes your need for an extension. <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>The filer suffered a catastrophic event in a federally declared disaster area that made the filer unable to resume operations or made necessary records unavailable <input type="checkbox"/></p> <p>Fire, casualty, or natural disaster affected the operation of the filer <input type="checkbox"/></p> </div> <div style="width: 45%;"> <p>Death, serious illness, or unavoidable absence of the individual responsible for filing the information returns affected the operation of the filer <input type="checkbox"/></p> <p>The filer was in the first year of establishment <input type="checkbox"/></p> <p>The filer did not receive data on a payee statement such as Schedule K-1, Form 1042-S, or the statement of sick pay required under section 31.6051-3(a)(1) in time to prepare an accurate information return <input type="checkbox"/></p> </div> </div>																																
Under penalties of perjury, I declare that I have examined this form, including any accompanying statements, and, to the best of my knowledge and belief, it is true, correct, and complete.																																
Signature ▶ _____		Title ▶ _____ Date ▶ _____																														
General Instructions <p>Purpose of form. Use Form 8809 to request an initial or additional extension of time to file only the forms shown on line 6 for the current tax year.</p> <p>Note: Extension requests for Forms 1099-MISC reporting nonemployee compensation (NEC) in box 7, 1099-QA, 5498-QA, and W-2 must be submitted on paper.</p> <p>Who should file. Payers/filers who need more time to file information returns with the IRS should file this form before the filing due date. See <i>When to file, later</i>.</p> <p>How to file. Extensions may be requested:</p> <ul style="list-style-type: none"> • Online by completing a fill-in Form 8809 through the FIRE System at https://fire.irs.gov for an automatic 30-day extension (not available for Form W-2, 1099-MISC reporting NEC, 1099-QA, 5498-QA, or additional 30-day extension requests for all form types listed in box 6). Acknowledgements are automatically displayed online if the request is made by the due date of the return. Note: A list that contains names and TINs cannot be attached to the fill-in Form 8809. • Electronically through the FIRE System in a file formatted according to the specifications in Pub. 1220. • On paper Form 8809. Mail the form to the address shown in <i>Where to file, later</i>. You are encouraged to submit your requests electronically. <div style="display: flex; align-items: center;"> <div style="text-align: center; margin-right: 10px;"> CAUTION </div> <div> <p><i>There are no automatic extension requests for Forms W-2 or 1099-MISC reporting NEC. Requests must be submitted on paper with line 7 completed and signed by the filer/transmitter or person duly authorized to sign a return.</i></p> </div> </div> <p>Where to file. Send Form 8809 to:</p> <p style="margin-left: 40px;">Department of the Treasury Internal Revenue Service Center Ogden, UT 84201-0209</p>																																
For Privacy Act and Paperwork Reduction Act Notice, see page 2.																																

1099 Reporting Requirements

How and Where to File

There are now three main addresses to file with the addition of the Utah mailing address for the 2018 filing year. If the principal business office or agency, or legal residence (in the case of an individual) is located in the following areas:

Alabama, Arizona, Arkansas, Delaware, Florida, Georgia, Kentucky, Maine, Massachusetts, Mississippi, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Texas, Vermont, Virginia, or if the address is outside of the United States, Use the following address:

Department of the Treasury
Internal Revenue Service Center
Austin, TX 73301

Alaska, Colorado, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Utah, Washington, Wisconsin, Wyoming, Use the Following Address:

Department of the Treasury
Internal Revenue Service Center
PO Box 219256
Kansas City, MO 64121-9256

California, Connecticut, District of Columbia, Louisiana, Maryland, Pennsylvania, Rhode Island, West Virginia, Use the Following Address:

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

Send the forms to the IRS in a flat mailing (not folded). If you are sending many forms, you may send them in conveniently sized package. On each package, write your name, and number the packages consecutively, and place Form 1096 in the package number one. Postal regulations also require that forms and packages be sent by First-Class mail. Additionally, you can use many Private delivery Services that can provide proof of delivery. Accepted private delivery services (PDS) are listed at www.irs.gov/PDS and mentioned on page 6 of the general instructions. (Reference link is on the first page of this manual)

1099 Reporting Requirements

Who Gets a 1099

One of the various form 1099's should be used to report payments made in the course of business. In general, payments made to individuals or non-corporate payees which exceed \$600 in total for the calendar year should be reported on a form 1099 to the individual or other payee who received the payment as well as reported to the IRS. But like most of the rules and regulations we encounter, there are exceptions and there are exceptions to the exceptions.

There is an exception to the requirement for 1099 reporting for corporations. So if you know that the payee is a corporation, then there is no 1099 form reporting requirement for that payee. But if the payee is a lawyer or a legal firm, then you must do 1099 reporting without regard to corporate status. If the transactions involve medical and health care payments, then you must do 1099 reporting without regard to corporate status. If the transactions involve cancellation of debt, barter or exchange, certain transactions related to the fishing industry, and a few other small exceptions, then 1099 reporting is required without regard to corporate status.

Additionally, if there was any federal or foreign tax withholding involved, then 1099 reporting is required without regard to corporate status. Those businesses which are required to file form 1099K for merchant card or third party transactions must report 1099's without regard to corporate status. With all these exceptions to the rule, you can see that generically saying reporting isn't required for corporations doesn't tell the whole story.

Other exceptions exist as well. For example, forms 1099-A (abandonment of property), 1099-B (Broker and Barter transactions), 1099-H (health credit advance payments), 1099-LS (Reportable Life Insurance Sale), 1099-LTC (Long Term Care), 1099-Q (529 Plans), 1099-QA (ABLE Accounts), 1099-SA (HSA and MSA), and 1099-SB (Seller's Investment in Life Ins), all require 1099 reporting without regard to the amount paid. If any amount is paid, there must be 1099 reporting to the payee and reporting to the IRS.

Amounts paid as interest, dividends, retirement income payments, distributions from cooperatives, original issue discount, and royalties must be reported on form 1099 if the amount exceeds \$10 for the calendar year. There are also different amounts that vary from the \$600 'standard' rule, depending on the form. The safest thing is to always refer to the specific form instructions when preparing an information reporting document. We also cover many of these rules and requirements for specific forms in part two of this course.

So in reality, the \$600 rule which we think of as the general rule for 1099 reporting only applies to forms 1099-C (cancellation of debt), 1099-MISC (miscellaneous income), 1099-S (certain real estate transactions). Even then, there are exceptions for those forms. Payments to fishing crews must be reported for all amounts paid. Substitute dividends and royalties reported on 1099-MISC must be reported if they exceed \$10.

1099 box 7 reporting is intended for reporting amounts paid to non-employees. In general any payment made to an employee which is not a non-reportable reimbursement of expense or non-taxable benefit should be reported on the employees' form W-2 at the end of the year and appropriate withholding done on that income. It is common for businesses to provide gifts, bonuses, commissions, gift cards or other payments to their employees and not account for these payments as income on the employees' W-2 form. Sometimes this is done inadvertently, but the employer sometimes tries to solve the problem by issuing a 1099 form to the employee. They should not do this. These kinds of payments are properly reported on the employees' form W-2 instead.

Some other types of payments made to employees such as Per Diems and Mileage are generally considered reimbursements of expenses and if handled properly are not reportable either on a W-2 or 1099 form.

Directors fees for members of the board of directors or an organization are statutorily reported on form 1099-MISC. This is true even if the director is also an employee of the organization.

In some situations there may be a middleman or nominee who receives a 1099 form which includes amounts which may in part or in full belong to someone else. In this case the middleman or nominee must report the full amount on their income tax return and in some appropriate place on the return (the location of which will depend on the type of income), record a reduction in their income by the amount which does not belong to them. They may also be required to issue a 1099 form to the person to whom the income rightfully belongs and report it to the IRS. This will most likely depend on if they are in a trade or business which gave rise to the income.

In the case of a business where there is a predecessor and a successor business, the predecessor and successor may agree to combine the amounts from the predecessor with the amounts from the successor

and issue the appropriate information returns from just one of them, which is often most likely the successor. Absent such an agreement, each of the businesses will be responsible for meeting the appropriate 1099 or other information return reporting requirements on their own.

Since identity theft is a growing problem the IRS has implemented the ability to not show an entire identification number on some copies of 1099 forms issued via Notice 2011-38. When reporting information, the payer may "truncate" payee identification numbers such as Social Security Numbers, Individual Taxpayer Identification numbers, Adoption Taxpayer identification numbers, or Employer Identification numbers on the payee copy of the statements. This Truncating is done by placing an asterisk (*) or an "X" in the place of the first five digits of the identification number followed by the last four digits of the number. All information reporting to the Internal Revenue Service and/or state and local governmental agencies must include the entire tax identification number. Electronically filed information returns must include complete identification numbers.

In general, payments to corporations are exempt from 1099 reporting requirements. There are some exceptions. Some of the most common are as follows:

- Medical and health care payments
- Withheld federal or foreign taxes.
- Barter or exchange transactions (or Broker transactions for an S-Corporation)
- Substitute payments in lieu of dividends and tax-exempt interest.
- Acquisitions or abandonments of secured property
- Cancellation of debt.
- Payments of attorneys' fees and gross proceeds paid to attorneys.
- Cash purchases for cash.

- Credits and interest for qualified tax credit bonds
- Merchant card and third party network payments
- Federal executive agency payments for services

It is not appropriate to issue a 1099 form to an employee for amounts paid outside the course of their ordinary work. This would include amounts such as "employee auto allowance"; mileage reimbursements, reimbursements for purchases made by the employee; commissions paid to the employee in addition to their salary or wages; bonuses; payments made in a form other than cash (gifts); overpayments on reimbursements; per diem payments for travel; or pretty well most any payment made to an employee. All these amounts are either non-reportable or reportable on the W-2 form of the employee depending on the particular situation. Bonuses, gifts, or commissions are taxable and reported as income on form W-2. Reimbursements are generally not reportable, although there may be circumstances which would cause them to be reportable.

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About the Author

Tanya Baber, EA, CTRS, NTPI Fellow, is the founder of Tax Edge, Inc., an accounting, tax preparation, and tax representation service in Grand Junction, Colorado. She has been a Western Colorado native all her life but enjoys traveling whenever she has the opportunity. She enjoys the great outdoors and activities like hiking, fishing, snowboarding, camping and horseback riding as well as indoor activities like reading and playing music with the local community band. She volunteers in her spare time for various non-profits including providing communications for Search and Rescue in Mesa County Colorado and assisting with training a search dog named Sego (Who is also the family pet).

Discovering a passion for accounting and taxes after working in an accounting company for fifteen years, she studied and passed her Enrolled Agent exam first, then went to college to achieve her Bachelor of Science degree with honors from Colorado Mesa University in Public accounting soon after. Next, she passed her CTRS certification (Certified Tax Resolution Specialist) and received her NTPI (National Tax Practice Institute) distinction from the NAEA, and is only one of a handful of people across the United States that shares in both these distinctions.

She enjoys consulting with accountants and helping clients solve a variety of tax problems with the IRS and state including audits, appeals, offers in compromise, employment tax issues, non-compliance and negotiating hardship situations where a taxpayer has difficulty making payments. Tanya has been in public accounting for over twenty-five years and helps business owners with all phases of their business needs. She also enjoys teaching classes and seminars to accountants, CPA's, EA's and business owners and sharing her vast experience and knowledge with them. You may contact her at tbarer@taxedge365.com.

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