



# 1099 Form Instructions for Practitioners

## Part Three

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## **1099 Reporting Requirements - Part Three**

### **Correcting 1099's**

There are two types of errors which can be corrected with corrected 1099 forms.

Error type one is an incorrect dollar amount, payee name or address or a situation where a 1099 form should not have been filed. In this situation, prepare a new form 1099 and mark it as corrected in the box where indicated. Prepare a new 1096 form to transmit the corrected 1099 form to the IRS.

Error type two is when there are incorrect or missing taxpayer Identification numbers or address or the incorrect type of 1099 form was used. In this situation two returns must be prepared to correct the mistake. First, you must prepare a corrected 1099 marking the “corrected” box as above putting in the same payee information as on the originally filed (incorrect) return. The dollar amounts on this corrected return should all be zeros. Then you need to prepare a new 1099 with no mark in the corrected box with the complete and correct information shown on the form. On the 1096 for this new correct 1099 you should write at the top of the form “To Correct Return”.

**Form W-9**

Please see fillable form link and instructions at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

A form W-9, Request for Taxpayer Identification Number and Certification, should be obtained from each individual or business you need to issue a form 1099 to. This form allows you to be certain you have all the information necessary to properly issue the form 1099 at the end of the year. The form should be completed by a U.S. person (including U.S. Resident Aliens).

Many organizations make it a policy to obtain W-9 forms from all payees. The W-9 provides documentation if the organization is a corporation exempt from 1099 reporting. It also provides the information necessary to prepare the 1099 form. If a payee is paid more than \$600 unexpectedly, the organization does not have to attempt to obtain the W-9 after the fact. If an organization is unable to obtain an ID number from a payee they must do backup withholding at a rate of 24% (Prior to 1/1/18 it was 28%). However, having a W-9 already on file helps to avoid problems with not having done the withholding prior to payments exceeding \$600.

Taxpayer identification numbers are generally Social Security numbers or Employer identification numbers. Resident aliens and non-resident aliens who are not eligible for social security numbers can obtain a Taxpayer Identification Number for income tax reporting. These numbers start with a 9.

If the recipient is a foreign person, form W-8 (generally a W-8BEN) should be completed. Generally most payments of US source income made to a foreign person are subject to a US tax of 30%. If there is a tax treaty between the US and the foreign country, there may be a lower rate or an exemption.

Reporting of withholding for non-resident aliens is done on form 1042-S. We will discuss W-8BEN forms more after we cover some more W-9 information.

The form W-9 is kept by the payer and is not sent to the IRS. It may be completed on a paper form or electronically.

When filling out a form W-9, as a sole proprietorship, write in the name of the sole proprietor on the first line. You must include the individual name on line one, not just a business name. Any DBA (doing business as) or business name should be listed on the second line. You can use either the social security number of the owner or the Employer Identification Number (EIN) of the business. It is usually preferable to use the EIN because individuals usually do not want to release their Social Security numbers to too many places. The IRS does specifically state in the instructions for the W-9 that either the SSN or the EIN can be used.

As a Partnership or a corporation, the EIN should generally be used.

Limited Liability Companies are relatively new entities and there are some unusual situations which may come up with them. The IRS considers them disregarded entities and when filling out the W-9 you should think in terms of disregarding the entity when trying to determine how to fill it out. You should fill in the form the way the organization files its taxes. In general, if there is one owner, it is considered a sole proprietorship and the W-9 should be filled in as if it is a sole proprietorship. If there is more than one owner, then generally, the form would be filled in like a partnership. But Limited Liability Companies have the ability to choose to be taxed as a corporation, either an S Corporation or a C corporation without regard to the number of owners. If the Limited Liability Company has chosen to be taxed as a corporation, then you should check the "corporation" box.

The Taxpayer identification number which shows up on the 1099 form is used by the IRS to match the amount of income reported on the 1099 to the amount the taxpayer reports on their income tax returns. If the taxpayer does not properly report the income, they are likely to receive a notice from the IRS in one to

three years after filing the original income tax return. This creates extra work for the taxpayer to rectify the situation after the IRS has most likely asked for more money.

These notices from the IRS are usually called “B” notices with the “B” standing for Backup withholding. The actual notice number is CP2100. If a payer received a CP2100 B notice, they must request in writing the correct information from the payee within 15 days. If they do not receive a response from the payee, they must begin backup withholding in 30 days. They may discontinue backup withholding if the payee provides the correct information. They may not return the backup withholding to the payee and must report it on the form 1099 and 1096.

If a second CP2100 notice is received (sometimes called a “C” notice), the payer must request correct information within 15 days and begin backup withholding in 30 if they do not receive a response just as with the first CP2100, but once backup withholding has begun, they may not discontinue backup withholding until notified by the IRS that they may discontinue.

If a payer fails to take the action required by the CP2100 B notice, they can be held responsible for the backup withholding and have to pay it along with penalties and interest, even though they did not backup withhold.

It is in the best interests of the payer to document all actions taken in response to B notices and to do the backup withholding if required. It is in the payers’ best interest to feel comfortable that the information on the W-9 and 1099 is accurate. If you are registered with E-services at the IRS you have access to a product known as TIN matching. You can use this product to verify (match) the name you have been provided and the TIN of payees.

# Request for Taxpayer Identification Number and Certification

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

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

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

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

**Note:** Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

**4** Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

**5** Address (number, street, and apt. or suite no.) See instructions.

**6** City, state, and ZIP code

**7** List account number(s) here (optional)

**8** Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

**Social security number**

\_\_\_\_ - \_\_\_\_ - \_\_\_\_

**Or**

**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); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**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 for Part II, later.

**Sign Here**

Signature of U.S. person ▶ \_\_\_\_\_

Date ▶ \_\_\_\_\_

## General Instructions

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

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
  - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
  - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
  - Form 1099-S (proceeds from real estate transactions)
  - Form 1099-K (merchant card and third party network transactions)
  - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
  - Form 1099-C (canceled debt)
  - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

## Form W-8BEN

*Please see fillable form link at <https://www.irs.gov/pub/irs-pdf/fw8ben.pdf> and instructions at <https://www.irs.gov/pub/irs-pdf/iw8ben.pdf> for more information*

Form W-8 is similar to the W-9 in that it is a request for taxpayer identification information. There are several forms W-8, but the one generally used for what we are covering in this discussion is form W-8BEN Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding. This form should be used and requested from any foreign person you are making payments to for US source income. A foreign person can be a corporation, a government, or a non-profit organization as well as an individual.

US source income depends on where the services are performed. If they are performed within the United States it is US source income. For rents or royalties it is US source income if the property is located in the United States.

A taxpayer identification number is not required on the form W-8BEN unless a treaty benefit is being claimed. A treaty benefit is generally an exemption from withholding or a reduced withholding rate. The withholding if no treaty benefit is requested is 30%.

The reporting of these payments is not done on form 1099. These payments should be reported on form 1042-S and the information is reported to the IRS along with the payment of the withholding on form 1042-T.



Form **W-8BEN**

(Rev. July 2017)

Department of the Treasury  
Internal Revenue Service**Certificate of Foreign Status of Beneficial Owner for United States Tax Withholding and Reporting (Individuals)**

► For use by individuals. Entities must use Form W-8BEN-E.

► Go to [www.irs.gov/FormW8BEN](http://www.irs.gov/FormW8BEN) for instructions and the latest information.

► Give this form to the withholding agent or payer. Do not send to the IRS.

OMB No. 1545-1621

**Do NOT use this form if:**

- You are NOT an individual . . . . . **W-8BEN-E**
- You are a U.S. citizen or other U.S. person, including a resident alien individual . . . . . **W-9**
- You are a beneficial owner claiming that income is effectively connected with the conduct of trade or business within the U.S. (other than personal services) . . . . . **W-8ECI**
- You are a beneficial owner who is receiving compensation for personal services performed in the United States . . . . . **8233 or W-4**
- You are a person acting as an intermediary . . . . . **W-8IMY**

**Instead, use Form:****Note:** If you are resident in a FATCA partner jurisdiction (i.e., a Model 1 IGA jurisdiction with reciprocity), certain tax account information may be provided to your jurisdiction of residence.**Part I Identification of Beneficial Owner (see instructions)**

<b>1</b> Name of individual who is the beneficial owner	<b>2</b> Country of citizenship
<b>3</b> Permanent residence address (street, apt. or suite no., or rural route). Do not use a P.O. box or in-care-of address.	
City or town, state or province. Include postal code where appropriate.	
Country	
<b>4</b> Mailing address (if different from above)	
City or town, state or province. Include postal code where appropriate.	
Country	
<b>5</b> U.S. taxpayer identification number (SSN or ITIN), if required (see instructions)	<b>6</b> Foreign tax identifying number (see instructions)
<b>7</b> Reference number(s) (see instructions)	<b>8</b> Date of birth (MM-DD-YYYY) (see instructions)

**Part II Claim of Tax Treaty Benefits (for chapter 3 purposes only) (see instructions)**

- 9** I certify that the beneficial owner is a resident of \_\_\_\_\_ within the meaning of the income tax treaty between the United States and that country.
- 10** **Special rates and conditions** (if applicable—see instructions): The beneficial owner is claiming the provisions of Article and paragraph \_\_\_\_\_ of the treaty identified on line 9 above to claim a \_\_\_\_\_ % rate of withholding on (specify type of income): \_\_\_\_\_
- Explain the additional conditions in the Article and paragraph the beneficial owner meets to be eligible for the rate of withholding: \_\_\_\_\_

**Part III Certification**

Under penalties of perjury, I declare that I have examined the information on this form and to the best of my knowledge and belief it is true, correct, and complete. I further certify under penalties of perjury that:

- I am the individual that is the beneficial owner (or am authorized to sign for the individual that is the beneficial owner) of all the income to which this form relates or am using this form to document myself for chapter 4 purposes,
- The person named on line 1 of this form is not a U.S. person,
- The income to which this form relates is:
  - (a) not effectively connected with the conduct of a trade or business in the United States,
  - (b) effectively connected but is not subject to tax under an applicable income tax treaty, or
  - (c) the partner's share of a partnership's effectively connected income,
- The person named on line 1 of this form is a resident of the treaty country listed on line 9 of the form (if any) within the meaning of the income tax treaty between the United States and that country, and
- For broker transactions or barter exchanges, the beneficial owner is an exempt foreign person as defined in the instructions.

Furthermore, I authorize this form to be provided to any withholding agent that has control, receipt, or custody of the income of which I am the beneficial owner or any withholding agent that can disburse or make payments of the income of which I am the beneficial owner. I agree that I will submit a new form within 30 days if any certification made on this form becomes incorrect.

**Sign Here**

Signature of beneficial owner (or individual authorized to sign for beneficial owner)

Date (MM-DD-YYYY)

Print name of signer

Capacity in which acting (if form is not signed by beneficial owner)

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 25047Z

Form **W-8BEN** (Rev. 7-2017)

## Form 1042-S

Please see fillable form link at <https://www.irs.gov/pub/irs-prior/f1042s--2018.pdf> and instructions at <https://www.irs.gov/pub/irs-prior/i1042s--2018.pdf> for more information

<b>Form 1042-S</b> Department of the Treasury Internal Revenue Service		<b>Foreign Person's U.S. Source Income Subject to Withholding</b> <b>2018</b> ▶ Go to <a href="https://www.irs.gov/Form1042S">www.irs.gov/Form1042S</a> for instructions and the latest information.				OMB No. 1545-0096 <b>Copy A</b> for Internal Revenue Service	
1 Income code		2 Gross income		3 Chapter indicator. Enter "3" or "4" 3a Exemption code      4a Exemption code 3b Tax rate      4b Tax rate		13e Recipient's U.S. TIN, if any	
						13f Ch. 3 status code 13g Ch. 4 status code	
5 Withholding allowance		6 Net income		7a Federal tax withheld		13h Recipient's GILIN	
7b Check if federal tax withheld was not deposited with the IRS because escrow procedures were applied (see instructions) <input type="checkbox"/>						13i Recipient's foreign tax identification number, if any	
8 Tax withheld by other agents						13j LOB code	
9 Overwithheld tax repaid to recipient pursuant to adjustment procedures (see instructions) ( )						13k Recipient's account number	
10 Total withholding credit (combine boxes 7a, 8, and 9)						13l Recipient's date of birth (YYYYMMDD)	
11 Tax paid by withholding agent (amounts not withheld) (see instructions)						14a Primary Withholding Agent's Name (if applicable)	
						14b Primary Withholding Agent's EIN	
						15 Check if pro-rata basis reporting <input type="checkbox"/>	
12a Withholding agent's EIN		12b Ch. 3 status code		12c Ch. 4 status code		15a Intermediary or flow-through entity's EIN, if any	
						15b Ch. 3 status code	
						15c Ch. 4 status code	
12d Withholding agent's name						15d Intermediary or flow-through entity's name	
						15e Intermediary or flow-through entity's GILIN	
12e Withholding agent's Global Intermediary Identification Number (GILIN)						15f Country code	
						15g Foreign tax identification number, if any	
12f Country code		12g Foreign taxpayer identification number, if any				15h Address (number and street)	
						15i City or town, state or province, country, ZIP or foreign postal code	
12h Address (number and street)						16a Payer's name	
						16b Payer's TIN	
12i City or town, state or province, country, ZIP or foreign postal code						16c Payer's GILIN	
						16d Ch. 3 status code	
13a Recipient's name		13b Recipient's country code				16e Ch. 4 status code	
						17a State income tax withheld	
13c Address (number and street)						17b Payer's state tax no.	
						17c Name of state	
13d City or town, state or province, country, ZIP or foreign postal code							

For Privacy Act and Paperwork Reduction Act Notice, see instructions. Cat. No. 11386R Form **1042-S** (2018)

## Form 1042-T

Please see fillable form and instructions at <https://www.irs.gov/pub/irs-prior/f1042t--2018.pdf>

DO NOT STAPLE

<b>Form 1042-T</b> <small>Department of the Treasury Internal Revenue Service</small>	<b>Annual Summary and Transmittal of Forms 1042-S</b> <b>► Go to <a href="https://www.irs.gov/Form1042T">www.irs.gov/Form1042T</a> for the latest information.</b>	<small>OMB No. 1545-0096</small>  <b>2018</b>
Name of withholding agent		Ch. 4 Status Code <input type="text"/> Ch. 3 Status Code <input type="text"/>
Employer identification number <input style="width: 100%;" type="text"/>		
Number, street, and room or suite no. <input style="width: 100%;" type="text"/>		
City or town, state or province, country, and ZIP or foreign postal code <input style="width: 100%;" type="text"/>		
<p><b>1</b> Type of paper Forms 1042-S attached:</p> <p><b>a</b> Choose only one: <input type="checkbox"/> Chapter 4 or Chapter 3 (enter 4 or 3)</p> <p><b>b</b> Check only one box: <input type="checkbox"/> Original <input type="checkbox"/> Amended</p> <p><b>c</b> Check if pro-rata <input type="checkbox"/></p> <p><b>d</b> Enter the number of paper Forms 1042-S attached <input style="width: 50px;" type="text"/></p> <p><b>2</b> Total gross income reported on all paper Forms 1042-S (box 2) attached . . . . . \$ <input style="width: 100px;" type="text"/></p> <p><b>3</b> Total federal tax withheld on all paper Forms 1042-S attached:</p> <p><b>a</b> Total federal tax withheld under Chapter 4 . . . . . \$ <input style="width: 100px;" type="text"/></p> <p><b>b</b> Total federal tax withheld under Chapter 3 . . . . . \$ <input style="width: 100px;" type="text"/></p> <p><b>Caution:</b> If you have already filed a Form 1042 and an attached Form 1042-S causes the gross income or tax withheld information shown on your previously filed Form 1042 to change, you must file an amended Form 1042. See the instructions on page 2.</p>		
If this is your FINAL return, enter an "X" here (see instructions) <input type="checkbox"/>		

**Please return this entire page to the Internal Revenue Service.**

<p><b>Sign Here</b></p> <p>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.</p>			
Your signature <input style="width: 90%;" type="text"/>	Title <input style="width: 90%;" type="text"/>	Date <input style="width: 90%;" type="text"/>	Daytime phone number <input style="width: 90%;" type="text"/>
<p>For more information and the Privacy Act and Paperwork Reduction Act Notice, see Form 1042-S. <span style="float: right;">Cat. No. 28848W      Form <b>1042-T</b> (2018)</span></p>			

## Reporting for foreign payees

Compensation of \$600 or more paid to foreign agricultural workers on H-2A visas are generally reported on form W-2 Wage and Tax Statement. In the situation where an H-2A visa worker did not provide a TIN the employee is subject to backup withholding and the wages and withholding are in this particular situation reported on Form 1099-MISC Miscellaneous Income.

## 1099 Reporting Requirements Backup Withholding

There are five situations where backup withholding will be required of an individual or organization:

1. The Internal Revenue Service notifies you to impose backup withholding due to incorrect Taxpayer identification number.
2. For Interest and dividend accounts or instruments, you are notified that the payee is subject to backup withholding under section 3406(a)(1)(C).
3. The payee fails to furnish a taxpayer identification number
4. For interest, dividends, and broker accounts opened after 1983, the payee fails to certify the correct taxpayer identification number
5. For interest and dividend accounts opened and instruments acquired after 1983, the payee fails to certify to you, under penalties of perjury, that he or she is not subject to backup withholding under number 4 above.

Backup withholding is at a rate of 24% of the amount paid. Prior to 1/1/18 this amount was 28% but was changed with the Tax Cut and Jobs Act (TCJA) in 12/17. If backup withholding is required, the payer must comply with 1099 reporting requirements no matter what the amount paid is, *even if it is otherwise below the minimum filing requirement*. Form 945 must be filed with the IRS to report and pay backup withholding. IRS publication 1281 discusses backup withholding in more depth.



## Form 945

Please see fillable form link at <https://www.irs.gov/pub/irs-prior/945--2018.pdf> and instructions at <https://www.irs.gov/pub/irs-prior/i945--2018.pdf> for more information

<b>Form 945</b> Department of the Treasury Internal Revenue Service	<b>Annual Return of Withheld Federal Income Tax</b> ▶ For withholding reported on Forms 1099 and W-2G. ▶ For more information on income tax withholding, see Pub. 15 and Pub. 15-A. ▶ Go to <a href="https://www.irs.gov/Form945">www.irs.gov/Form945</a> for instructions and the latest information.	OMB No. 1545-1430 <div style="font-size: 24pt; font-weight: bold;">2018</div>																																				
<b>Type or Print</b>	Name (as distinguished from trade name) _____ Employer identification number (EIN) _____																																					
	Trade name, if any _____																																					
	Address (number and street) _____																																					
	City or town, state or province, country, and ZIP or foreign postal code _____																																					
If address is different from prior return, check here. <input type="checkbox"/>																																						
<b>A</b> If you don't have to file returns in the future, check here <input type="checkbox"/> and enter date final payments made. <input type="text"/>																																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 65%;">1 Federal income tax withheld from pensions, annuities, IRAs, gambling winnings, etc. . . . .</td> <td style="width: 5%; text-align: center;">1</td> <td style="width: 15%;"></td> <td style="width: 15%;"></td> </tr> <tr> <td>2 Backup withholding . . . . .</td> <td style="text-align: center;">2</td> <td></td> <td></td> </tr> <tr> <td>3 <b>Total taxes.</b> If \$2,500 or more, this must equal line 7M below or Form 945-A, line M . . . . .</td> <td style="text-align: center;">3</td> <td></td> <td></td> </tr> <tr> <td>4 Total deposits for 2018, including overpayment applied from a prior year and overpayment applied from Form 945-X . . . . .</td> <td style="text-align: center;">4</td> <td></td> <td></td> </tr> <tr> <td>5 <b>Balance due.</b> If line 3 is more than line 4, enter the difference and see the separate instructions . . . . .</td> <td style="text-align: center;">5</td> <td></td> <td></td> </tr> </table>			1 Federal income tax withheld from pensions, annuities, IRAs, gambling winnings, etc. . . . .	1			2 Backup withholding . . . . .	2			3 <b>Total taxes.</b> If \$2,500 or more, this must equal line 7M below or Form 945-A, line M . . . . .	3			4 Total deposits for 2018, including overpayment applied from a prior year and overpayment applied from Form 945-X . . . . .	4			5 <b>Balance due.</b> If line 3 is more than line 4, enter the difference and see the separate instructions . . . . .	5																		
1 Federal income tax withheld from pensions, annuities, IRAs, gambling winnings, etc. . . . .	1																																					
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<b>6 Overpayment.</b> If line 4 is more than line 3, enter the difference ▶ \$ <input style="width: 100px;" type="text"/> Check one: <input type="checkbox"/> Apply to next return. <input type="checkbox"/> Send a refund.																																						
• <b>All filers:</b> If line 3 is less than \$2,500, <b>don't</b> complete line 7 or Form 945-A. • <b>Semiweekly schedule depositors:</b> Complete Form 945-A and check here <input type="checkbox"/> <input type="checkbox"/> • <b>Monthly schedule depositors:</b> Complete line 7, entries A through M, and check here <input type="checkbox"/> <input type="checkbox"/>																																						
<b>7 Monthly Summary of Federal Tax Liability. (Don't complete if you were a semiweekly schedule depositor.)</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Tax liability for month</th> <th colspan="2">Tax liability for month</th> <th colspan="2">Tax liability for month</th> </tr> </thead> <tbody> <tr> <td><b>A</b> January . . .</td> <td></td> <td><b>F</b> June . . . . .</td> <td></td> <td><b>K</b> November . . .</td> <td></td> </tr> <tr> <td><b>B</b> February . . .</td> <td></td> <td><b>G</b> July . . . . .</td> <td></td> <td><b>L</b> December . . .</td> <td></td> </tr> <tr> <td><b>C</b> March . . . .</td> <td></td> <td><b>H</b> August . . . .</td> <td></td> <td><b>M</b> Total liability for year (add lines A through L) . . .</td> <td></td> </tr> <tr> <td><b>D</b> April . . . . .</td> <td></td> <td><b>I</b> September . . .</td> <td></td> <td></td> <td></td> </tr> <tr> <td><b>E</b> May . . . . .</td> <td></td> <td><b>J</b> October . . . .</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>			Tax liability for month		Tax liability for month		Tax liability for month		<b>A</b> January . . .		<b>F</b> June . . . . .		<b>K</b> November . . .		<b>B</b> February . . .		<b>G</b> July . . . . .		<b>L</b> December . . .		<b>C</b> March . . . .		<b>H</b> August . . . .		<b>M</b> Total liability for year (add lines A through L) . . .		<b>D</b> April . . . . .		<b>I</b> September . . .				<b>E</b> May . . . . .		<b>J</b> October . . . .			
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Do you want to allow another person to discuss this return with the IRS? See separate instructions. <input type="checkbox"/> Yes. Complete the following. <input type="checkbox"/> No.																																						
<b>Third-Party Designee</b>	Designee's name ▶ _____ Phone no. ▶ _____ Personal identification number (PIN) ▶ <input style="width: 40px;" type="text"/>																																					
<b>Sign Here</b>	Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.																																					
Signature ▶ _____ Print Your Name and Title ▶ _____ Date ▶ _____																																						
<b>Paid Preparer Use Only</b>	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Print/Type preparer's name</td> <td style="width: 30%;">Preparer's signature</td> <td style="width: 20%;">Date</td> <td style="width: 10%;">Check <input type="checkbox"/> if self-employed</td> <td style="width: 10%;">PTIN</td> </tr> <tr> <td>Firm's name ▶</td> <td colspan="2">Firm's EIN ▶</td> <td colspan="2"></td> </tr> <tr> <td>Firm's address ▶</td> <td colspan="2">Phone no. ▶</td> <td colspan="2"></td> </tr> </table>		Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN	Firm's name ▶	Firm's EIN ▶				Firm's address ▶	Phone no. ▶																								
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For Privacy Act and Paperwork Reduction Act Notice, see the separate instructions. Cat. No. 14584B Form <b>945</b> (2018)																																						

## **Penalties**

There are a variety of different penalties for failure to properly file information returns and they have been increasing in recent years. We will go over some of the more important penalties you need to be aware of here.

### **W-9 penalties**

There is a \$50 penalty for failure to furnish a Taxpayer Identification number when a form W-9 is requested.

There is a \$500 civil penalty for providing false information.

There could also be criminal penalties and imprisonment.

## 1099 Penalties

### Failure to File Correct Information Returns by the Due Date (Section 6721):

The failure to file a correct information return by the due date without the ability to show reasonable cause can subject you to a penalty. This failure to file correctly can occur if you do not include correct information on the return, if you do not include all the information required to be shown on the return, or if you fail to file the return in a timely manner. This penalty can also apply if you fail to report a taxpayer identification number or report a taxpayer identification number incorrectly. This penalty also applies if you file on paper when you were required to file electronically or if you do not file on the required machine readable forms.

The amount of the penalty varies by the date when you file the correct information. There are also lower penalties for qualifying small businesses. A qualifying small business is one whose average gross receipts for the most recent three tax years are less than \$5 million. These penalties are increasing and have been adjusted for inflation. The penalty for 2018 returns due in 2019 as follows:

- \$50 per information return if you correctly file within 30 days (usually March 31 if the due date is February 28); maximum penalty is \$545,500 per year or \$191,000 per year for qualifying small businesses.
- \$100 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty is \$1,637,500 per year or \$545,500 per year for qualifying small businesses.
- \$270 per information return if you file after August 1 or you do not file correct information returns; maximum penalty \$3,275,500 per year or \$1,091,500 per year for qualifying small businesses.
- \$540 per information return if you are considered to have intentionally disregarded your filing requirements, and there is no maximum penalty, even for a qualifying small business.

<b>Large Businesses with Gross Receipts of More Than \$5 Million and Government Entities</b> <b>(*Average annual gross receipts for the most recent 3 taxable years) IRC 6721 &amp; IRC 6722</b>				
<b>Time returns filed/furnished</b>	<b>Due 01-01-2011 thru 12-31-2015</b>	<b>Due 01-01-16 thru 12-31-2016 (inflation adjusted)</b>	<b>Due 01-01-17 thru 12-31-2017 (inflation adjusted)</b>	<b>Due 01-01-18 thru 12-31-2018 (inflation adjusted)</b>
Not more than 30 days late (by March 30 if the due date is February 28)	\$30 per return/ \$250,000 maximum	\$50 per return/ \$529,500 maximum	\$50 per return/ \$532,000 maximum	\$50 per return/ \$536,000 maximum
31 days late – August 1	\$60 per return/ \$500,000 maximum	\$100 per return/ \$1,589,000 maximum	\$100 per return/ \$1,596,500 maximum	\$100 per return/ \$1,609,000 maximum
After August 1 or Not At All	\$100 per return/ \$1,500,000 maximum	\$260 per return/ \$3,178,500* maximum	\$260 per return/ \$3,193,000 maximum	\$260 per return/ \$3,218,500 maximum
Intentional Disregard	\$250 per return/ No limitation	\$520 per return/ No limitation	\$530 per return/ No limitation	\$530 per return/ No limitation

<b>Small Businesses with Gross Receipts \$5 Million or Less</b> <b>(*Average annual gross receipts for the most recent 3 taxable years) IRC 6721 &amp; IRC 6722</b>				
<b>Time returns filed/furnished</b>	<b>Due 01-01-2011 thru 12-31-2015</b>	<b>Due 01-01-16 thru 12-31-2016 (inflation adjusted)</b>	<b>Due 01-01-17 thru 12-31-2017 (inflation adjusted)</b>	<b>Due 01-01-18 thru 12-31-2018 (inflation adjusted)</b>
Not more than 30 days late (by March 30 if the due date is February 28)	\$30 per return/ \$75,000 maximum	\$50 per return/ \$185,000 maximum	\$50 per return/ \$186,000 maximum	\$50 per return/ \$187,500 maximum
31 days late – August 1	\$60 per return/ \$200,000 maximum	\$100 per return/ \$529,500 maximum	\$100 per return/ \$532,000 maximum	\$100 per return/ \$536,000 maximum
After August 1 or Not At All	\$100 per return/ \$500,000 maximum	\$260* per return/ \$1,059,500 maximum	\$260 per return/ \$1,064,000 maximum	\$260 per return/ \$1,072,500 maximum
Intentional Disregard	\$250 per return/ No limitation	\$520 per return/ No limitation	\$530 per return/ No limitation	\$530 per return/ No limitation

As you can see, these penalties have been increasing substantially in just the past couple of years with the new rules. However, not all hope is lost. There are some situations where there are exceptions to the above penalties. Some exceptions to these penalties are as follows:



1. The penalty will not apply to any failure that you can show was due to reasonable cause and not to willful neglect. In general, you must be able to show that your failure was due to an event beyond your control or due to significant mitigating factors. You must also be able to show that you acted in a responsible manner and took steps to avoid the failure.

2. An inconsequential error or omission is not considered to be a failure to include correct information. An inconsequential error or omission does not prevent or hinder the IRS from processing the return, or from correlating the information required to be shown on the returns with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. Errors and omissions that are never inconsequential are those related to a taxpayer identification number, a payee's surname or any money amount.

3. De minimus rule for corrections. Even though you cannot show reasonable cause, the penalty for failure to file correct information returns will not apply to a certain number of returns if you filed those returns; either failed to include all the information required on a return or included incorrect information, and filed corrections by August 1. If you meet all three of these conditions the penalty for filing incorrect returns (not filing late) will not apply to the greater of 10 information returns or 1/2 of 1% of the total number of information returns you are required to file for the calendar year.

Intentional disregard for filing requirements. If any failure to file correct information returns is due to intentional disregard of the filing of correct information requirements, the penalty is at least \$540 per information return with no maximum penalty.

## Failure to Furnish Correct Payee Statements (Section 6722)

If you cannot show reasonable cause for failing to provide payees their copies of the 1099 or information returns, you are subject to a penalty. This penalty applies if you fail to provide the statement by January 31 (February 15 for some forms), you fail to include all information required, or you include incorrect information on the statement.

The penalty used to be only \$50 per statement, no matter when the correct statement is furnished, with a maximum of \$100,000 per year. However, the new rules will apply the same penalties according to the chart as listed above, with much higher penalties per return as well as higher maximum penalty amounts.

An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission cannot reasonably be expected to prevent or hinder the payee from timely receiving correct information and reporting it on his or her income tax return or from otherwise putting the statement to its intended use. Errors and omissions are never inconsequential if they relate to a dollar amount, a significant item in the payee's address, the appropriate form for the information provided, or whether furnished in person or by mailing.

If any failure to provide a correct payee statement is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$540 per payee statement with no maximum penalty.

## **LIST OF FORMS**

<b>W-9</b>	<b>7</b>
<b>W-8BEN</b>	<b>9</b>
<b>1042-S</b>	<b>10</b>
<b>1042-T</b>	<b>11</b>
<b>945</b>	<b>13</b>

## 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](mailto:tbarer@taxedge365.com).

## NOTES