



2016 INFORMATION REPORTING GUIDE FOR SMALL BUSINESSES

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2016 INFORMATION REPORTING

Note: Unless otherwise noted, most information forms are due to the recipient by January 31, 2017 and to the Internal Revenue Service by February 28, 2017 (March 31, 2017, if filing electronically – see Section IV. – ELECTRONIC FILING REQUIREMENTS for who must file electronically).

****NEW FILING DATE – Form 1099-MISC, when reporting nonemployee compensation payments in box 7, must be filed with the Internal Revenue Service by January 31, 2017.**

Detailed instructions for each reporting form can be obtained at the IRS website www.irs.gov or by contacting us. This guide is a general summary of the reporting rules and is not intended to cover all requirements associated with information reporting.

I. LEGISLATION AFFECTING 1099 REPORTING FOR 2016

- A) Increased penalties for failure to file correct and timely information returns. See Section V for details.
- B) Truncating recipient's identification number on paper payee statements is permitted on all series forms 1097, 1098, 1099, 3921, 3922, and 5498. This includes social security numbers, individual taxpayer identification number (ITIN), adoption taxpayer identification numbers (ATIN) or Employer Identification Number (EIN). A filer may not truncate a payee's identification number on any forms filed with IRS or with state or local governments or on forms other than 1097, 1098, 1099, 3921, 3922 or 5498 series forms.
- C) Form 1099-MISC, when reporting nonemployee compensation payments in box 7, must be filed with the Internal Revenue Service by January 31, 2017.

II. REPORTING FORMS:

- A. FORM 1099-INT, INTEREST INCOME. Form 1099-INT is filed to report interest of \$10 or more credited to a person's account by banks, credit unions, or similar organizations, and interest of \$600 or more paid in the course of your trade or business not meeting the criteria of a bank, credit union, or similar organization. Payments made to certain payees, including corporations, tax-exempt entities, IRAs, Archer MSAs, HSAs, and U.S. and state agencies, need not be reported on Form 1099-INT.
- B. FORM 1099-R, DISTRIBUTIONS FROM PENSIONS, ANNUITIES, RETIREMENT OR PROFIT SHARING PLANS, IRAs, INSURANCE CONTRACTS, ETC. Form 1099-R is used to provide information on amounts distributed and taxes withheld from profit sharing or retirement plans, including individual retirement arrangements (IRAs), insurance contracts, annuities, pensions, etc. The total of the distribution, minus any early withdrawal penalty, should be reported for each person to whom a designated distribution of \$10 or more has been made.

Also, report death benefit payments made by an employer (not part of a pension, profit sharing or retirement plan) on Form 1099-R in box 7 with the appropriate distribution code.

- C. FORM 1099-MISC, MISCELLANEOUS INCOME. Businesses must report payments made to certain vendors on Form 1099-MISC. This form is used to report payments totaling \$600 or more made in the course of a trade or business to nonemployees for services (including parts and materials), for rents, and prizes or awards (other uses are not discussed here). For example, the following payments may trigger Form 1099-MISC reporting:

- Professional fees paid to attorneys (see next page for special rules), accountants, appraisers, etc.
- Rents paid to an individual on a vacant lot which has been leased
- An all-expense paid cruise given to the winner of a drawing
- Fees paid to a lawn service to maintain business properties
- Directors' fees
- Commissions or compensation to independent contractors

Some payments are not required to be reported:

- Payments made to a corporation (however, see below for rules applicable to payments to attorneys and medical and health care payments). Note that LLCs and LLPs generally are not corporations and thus do not fall under this exception to the reporting requirements. The completed and signed Form W-9 (Section VIII) from the vendor will identify whether the LLC is taxed as a partnership or corporation. If taxed as a corporation, payments are not reportable.
- Payments made for merchandise, telegrams, telephone, freight, storage, and similar items.
- Payments of rent to real estate agents.
- Payments to tax-exempt organizations or governmental agencies.
- Certain payment card transactions. If you pay for items that would otherwise require 1099-MISC reporting with a credit or debit card, you are not required to issue Form 1099-MISC for these payments. Payment card transactions will be reported to the vendor by the payment settlement agent. This filing requirement was eliminated to prevent double reporting to the vendor/merchant.

1. Employees/Directors. A business may want to treat the same worker as both an employee and an independent contractor. While the IRS has an inherent bias against such "dual service" workers, this treatment may be acceptable if the business can prove the worker renders significantly different services in each separate capacity. A common situation in which the IRS has approved "dual service" workers includes an officer and director. The worker was an officer (a statutory employee) and director (an independent contractor) of the same corporation (Rev. Rul. 57-246). Fees earned as an

officer are reported on Form W-2 and fees earned as an independent contractor are reported on Form 1099-MISC.

2. Payments to Attorneys. Attorney's fees totaling \$600 or more paid in the course of your trade or business are reportable whether it is a corporation or other entity. Report these fees in box 7 of Form 1099-MISC. However, if you make a payment in the course of your trade or business to an attorney in connection with a settlement and the attorney's fee cannot be determined, the total amount paid to the attorney (gross proceeds) must be reported in box 14.

For example, an insurance company pays an attorney \$100,000 to settle a claim. This payment typically represents more than simply a payment for professional fees. It can represent both an attorney's fee and proceeds payable to its client. If the insurance company knows the attorney's fee is \$34,000, the insurance company reports that \$34,000 in box 7. If, however, the insurance company does not know what portion of the \$100,000 relates to the attorney's fee, the entire \$100,000 must be reported in box 14.

NOTE: The exemption from reporting payments made to corporations does NOT apply to payments for legal services. Therefore, you must report either the attorney's fees or gross proceeds as described above to corporations that provide legal services.

A third party (such as a financial institution) that is acting as a mere disbursing agent in making disbursements based upon specific instructions from a principal to a transaction is not a payer for purposes of the reporting requirements, for example, payments made to attorneys representing the buyer and/or seller in the transaction. In this instance, the financial institution should not be required to issue a Form 1099-MISC to the attorney. However, reporting of payments made for services required by the bank may be necessary.

3. Payments to Physician, Supplier, or Provider of Medical Health Care Services. Payments of \$600 or more made in the course of your trade or business to each physician or other supplier or provider of medical or health care services must be reported. Include payments made by medical and health care insurers under health, accident, and sickness insurance programs. If a payment is made to a corporation, list the corporation as the recipient rather than the individual providing the services. The exemption from issuing Form 1099-MISC to a corporation does not apply to payments for medical or health care services provided by corporations, including professional corporations. You are not required to report payments to pharmacies for prescription drugs.

D. FORM 1099-DIV, DIVIDENDS AND DISTRIBUTIONS.

File Form 1099-DIV for each person you paid \$10 or more as dividends and other distributions on stock or to whom you have paid \$600 or more as part of a liquidation. Dividends paid by domestic corporations should be reported in box 1b, "qualified dividends", unless they fall under one of the following exceptions:

1. Dividends on common stock held by the recipient less than 61 days of the 121-day period that began 60 days before the ex-dividend date.
2. Dividends on preferred stock held by the recipient less than 91 days of the 181-day period that began 90 days before the ex-dividend date.
3. Other exceptions related to dividends paid on short sales, by regulated investment companies not treated as qualified under IRC section 854, by real estate investment trusts not qualified under IRC section 857(c), and deductible dividends paid on employer securities.

E. FORM 1099-CAP, CHANGES IN CORPORATE CONTROL AND CAPITAL STRUCTURE.

This form is filed for shareholders of a corporation if control of the corporation was acquired or it underwent a substantial change in capital structure. Form 1099-CAP is furnished to shareholders who received cash, stock, or other property from an acquisition of control or a substantial change in capital structure. Please contact your Wipfli representative for additional guidance if you have this situation.

F. OTHER INFORMATION REPORTING FORMS.

Please contact us to discuss other information reporting forms that may be necessary, including but not limited to:

- Form 1099-B, Proceeds from Broker and Barter Exchange Transaction
- Form 1099-OID, Original Issue Discount
- Form 5498 and 5498-ESA, IRA, and Coverdell ESA Contribution Information
- Form 1099-Q, Payments From Qualified Education Programs
- Form 1099-SA, Distributions From an HSA, Archer MSA, or Medicare Advantage MSA
- Form 5498-SA, HSA, Archer MSA, or Medicare (MA) MSA Information
- Form 1098, Mortgage Interest Statement
- Form 1098, Student Loan Interest Statement
- Form W-9S, Request for Student's or Borrower's Social Security Number and Certification
- Form 1099-A, Acquisition or Abandonment of Secured Property
- Form 1099-C, Cancellation of Debt
- Form 1099-S, Proceeds From Real Estate Transactions

III. FORM 1096 – ANNUAL SUMMARY AND TRANSMITTAL

The purpose of this form is to transmit paper Forms 1097, 1098, 1099, and others to the Internal Revenue Service. Use a separate form 1096 for each group of forms that are filed. For example, a Form 1096 should accompany your 1099-MISC forms. Another Form 1096 should be used to file 1099-INT forms. Do not use Form 1096 to transmit electronically. See publication 1220 for electronic submissions.

IV. ELECTRONIC FILING REQUIREMENTS

The IRS requires that any person, including a corporation, who is required to file 250 or more information returns (e.g. Forms 1099-B, 1099-INT, etc.), must file such returns electronically. For purposes of determining the 250 threshold, the various 1099 forms are not to be aggregated. For example, a payer may transmit 200 Form 1099-INT statements and 200 Form 1099-DIV statements and not be required to file electronically for either form. If filing electronically, you have until March 31, 2017 to file information returns to the IRS. **Exception: Form 1099-MISC, when reporting nonemployee compensation payments in box 7, must be filed with the Internal Revenue Service by January 31, 2017.**

By filing federal information returns electronically through the FIRE system, states participating in the Combined Federal/State Filing (CF/SF) Program will receive information returns electronically. However, some states require paper filing when income tax has been withheld from a payee. See state reporting requirements in section VI.

V. PENALTIES

The amount of the penalty for failure to file a correct information return by the due date, failure to file timely, failure to include all information required to be shown on an information return, or including incorrect information on a return will depend on when you file the correct information return. These penalties apply to paper filers as well as to electronic filers. The penalty also applies if you file on paper when you were required to file electronically, you report an incorrect TIN, fail to report a TIN, or fail to file paper forms that are machine readable.

The penalty is:

- \$50 per information return if you correctly file within 30 days (normally March 30th if the due date is February 28th) with a maximum penalty of \$532,000 (\$186,000 for small businesses)
- \$100 per information return if you correctly file more than 30 days after the due date, but by August 1 with a maximum penalty of \$1,596,500 per year (\$532,000 for small businesses)

- \$260 per information return if you file after August 1 or you do not file required information returns with a maximum penalty of \$3,193,000 per year (\$1,064,000 for small businesses)
- \$530 per information return for intentional disregard of the filing requirements with no maximum penalty.
- Failure to file electronically when required may result in a penalty of up to \$100 per return unless you can establish reasonable cause

You are considered a small business for this purpose if your average annual gross receipts for the three most recent tax years (or for the period you were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

There is also a penalty for failure to provide correct payee statements by January 31 (February 15 for Forms 1099-B, 1099-S, and 1099-Misc (boxes 8 and 14 only) or failure to include all information required to be shown on the statement or including incorrect information on the statement. The penalty is a separate penalty and is applied in the same manner as the penalty for failure to file correct information returns by the due date (as outlined above).

Please see your Wipfli advisor with questions regarding potential IRS penalties for non-filing or filing incorrect 1099s.

Penalties will not apply to any failure that 1) was due to reasonable cause and not willful neglect, 2) was an inconsequential error or omission, or 3) falls under the *de minimis* rule for corrections.

NOTICE 972CG

The IRS mails this form to filers submitting information returns with missing, incorrect, or currently unissued name/TIN combinations. In essence, it is a penalty "proposal". It includes an explanation of the proposed penalty, an explanation of how to respond to the notice, a detailed record of each submission considered in the penalty and the type of penalties that apply, a summary of the proposed penalty, and a response page. The filer has 45 days to respond to the notice. These notices should be answered promptly.

VI. IDENTIFICATION NUMBERS

- A. Individuals. Payments made directly to an individual should be reported using the individual's social security number.
- B. Sole Proprietorship. A sole proprietorship is an individual operating a business. There is no separate entity like a corporation or partnership; the business and the owner are one and the same. Either the individual's SSN or EIN of the business is acceptable to the IRS for information reporting. However, the individual's name

is used for matching and should appear first in the account title, with the business name, if any, reported on the second line.

- C. LLCs. Payments made to an LLC are always reportable, unless the LLC is taxed as a corporation. If an LLC vendor is classified and taxed as a corporation, you do not need to issue a 1099 (with the exception of reporting to attorneys and medical providers). The vendor will indicate on Form W-9 what type of entity they are set up as (see Section VIII).

If an LLC is taxed as a sole proprietorship, see Section B above.

VII. STATE REPORTING REQUIREMENTS

- A. WISCONSIN: The state of Wisconsin requires copies of Form 1099-MISC regardless of whether there is Wisconsin withholding or not.

Wisconsin now requires the payer's Wisconsin withholding tax number in the wage or information return box entitled "State/Payer's State No." (Box 17) regardless of whether there is Wisconsin withholding or not. Payers without a Wisconsin withholding tax number, enter WI/036888888888801.

NOTE: Persons who file Forms 1099 for Wisconsin payees showing Wisconsin tax withheld must file those Forms 1099 along with Form WT-7, *Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages* to the Wisconsin Department of Revenue

If filing 50 or more forms, electronic filing to Wisconsin is required. You may use Wisconsin's electronic portal or see your Wipfli representative for assistance.

Wisconsin allows taxpayers to apply for a waiver from filing electronically if an undue hardship would occur. In order to receive the waiver, an application in writing must be submitted which states the reason filing electronically would cause an undue hardship. The request must be mailed at least 30 days before the due date of the wage statements or information returns. The application should be mailed to the Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI, 53708-8949.

- B. MINNESOTA: The state of Minnesota does not require a copy of the 1099 information returns unless there is Minnesota withholding. If required to file, a copy is due by February 28, 2017. If filing 10 or more forms, you must electronically submit the information to the department, even if the IRS does not require electronic filing.
- C. MICHIGAN: Michigan requires filing of any Forms 1099 showing state income taxes withheld, as well as paper copies of Form 1099-MISC for services performed in Michigan,

regardless of the state of residence of the payee, and regardless of whether withholding was done. Paper copies of forms 1099-MISC are filed along with Michigan Form 5081 – *Sales, Use and Withholding Taxes Annual Return*.

- D. ILLINOIS: The state of Illinois does not require a copy of the 1099 information returns unless there is Illinois withholding. Illinois does not participate in the Combined Federal/State Filing Program.
- E. OTHER STATES: Please contact your Wipfli advisor to discuss other state filing requirements.

VIII. FORM W-9 REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION

A person/business who is required to file an information return with the IRS must obtain the correct taxpayer identification number (TIN) of the recipient or payee to report amounts. Form W-9 is used to request that information from your vendors. This form is not required to be filed with the IRS. Note: If the vendor does not provide a TIN when initially asked, you are required to begin backup withholding at a rate of 28%. If backup withholding is done, you must make timely federal tax deposits of withholding, file the appropriate form and furnish a statement to the recipient to report the amount of the payment and the amount withheld. If this is the case, please contact your Wipfli associate in order to begin proper procedures.

IX. KEEPING COPIES

Generally, keep copies of information returns filed with the IRS for a period of 4 years from the due date of the return. This guideline is primarily based on various income tax statutes of limitations. Documents may be needed longer to satisfy requirements such as: OSHA, Fair Labor Standards Act, state income, sales and real estate tax laws, and others. We recommend that you tailor it to your specific circumstances and review it with your attorney.