



## 2018 INFORMATION REPORTING FOR FINANCIAL INSTITUTIONS

### Table of Contents

	<u>Page</u>
I. DEPOSIT-RELATED REPORTING	2
A. Form 1099-INT, Interest Income	2
B. Form 1099-OID, Original Issue Discount	2
C. Form 5498 and 5498-ESA, IRA, and Coverdell ESA Contribution Information	3
D. Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.	3
E. Form 1099-Q, Payments from Qualified Education Programs	4
F. Form 1099-QA, Payments from ABLE Accounts	4
G. Form 1099-SA, Distributions From an HSA, Archer MSA, or Medicare Advantage MSA	4
H. Form 5498-SA, HSA, Archer MSA, or Medicare MSA Information	4
I. Form 1042-S, Annual Withholding Tax Return for US Source Income of Foreign Persons	5
II. VENDOR-RELATED REPORTING	5
A. Businesses, Including Financial Institutions Must Report Payments Made to Certain Vendors on Form 1099-MISC	5
B. Employees/Directors	6
C. Payments to Attorneys	6
D. Payments to Physician, Supplier, or Provider of Medical Health Care Services	7
E. Construction Loans	7
F. 1099-MISC – Other General Information	7
G. Form 1099-K, Merchant Card and Third-Party Network Payments	7
III. LOAN-RELATED REPORTING	7
A. Form 1098, Mortgage Interest Statement	7
B. Form 1098-E, Student Loan Interest Statement	9
C. Form 1098-MA, Mortgage Assistance Payments	10
D. Form W-9S, Request for Student's or Borrower's Social Security Number and Certification	10
E. Form 1099-A, Acquisition or Abandonment of Secured Property	10
F. Form 1099-C, Cancellation of Debt	10
G. Form 1099-S, Proceeds From Real Estate Transactions	12
IV. EMPLOYEE-RELATED REPORTING (OTHER THAN W-2s)	13
A. Forms 1095-B and 1095-C.	13
B. Form 1098-Q, Qualifying Longevity Annuity Contract Information	13
V. CAPITAL TRANSACTIONS	13
A. Form 1099-DIV, Dividends and Distributions	13
B. Form 1099-B, Proceeds From Broker and Barter Exchange Transactions	14
C. Form 1099-CAP, Changes in Corporate Control and Capital Structure	14
D. IRC Section 6045B Reporting, Capital Transactions Affecting Shareholder Basis	14

VI. FILING REQUIREMENTS –ELECTRONICALLY	15
VII. PENALTIES	15
VIII. IDENTIFICATION NUMBERS	16
A. Sole Proprietorship	16
B. Grantor Trust	16
C. Estate Accounts	16
D. Decedent Accounts	16
E. Club or Recreation Accounts	16
IX. NOTICE 972CG	16

## 2018 INFORMATION REPORTING FOR FINANCIAL INSTITUTIONS

Except as noted below, all information forms are **due to the recipient** by January 31, 2019.

### January 31 Due Date Exceptions:

1042-S	Due to recipient	March 15
1099-B	Due to recipient	February 15
1099-S	Due to recipient	February 15
1099-MISC (Amount in Box 8 or 14)	Due to recipient	February 15

Except as noted below, all electronically filed information forms are **due to the Internal Revenue Service** by March 31, 2019 (see Section V for who must file electronically). Note: The due date for paper filed returns is February 28, 2019.

### March 31 Due Date Exceptions:

1099-MISC (Data in Box 7) – Non-Employee Compensation	Due to IRS	January 31
5498	Due to IRS	May 31

Use the account number box, when provided, on Forms 1099, 1098, and 5498 for an account number designation. The account number is required if you have multiple accounts for a recipient for whom you are filing more than one information return of the same type.

### NEW IN 2018

**REMINDER! DUE DATE FOR FORM 1099-MISC AND FORM W-2 Changed in 2017:** All Form 1099-MISC with amounts in Box 7 (nonemployee compensation) and all W-2s are due to the IRS by January 31, 2019. Due to the significant levels of identity theft, the IRS will no longer process individual tax returns without the W-2 information to match against – prompting the new filing due dates for these forms.

**Back Up Withholding Rate Changed.** The back-up withholding rate was lowered to 24% for 2018 and future years. If you mistakenly withheld the previous 28% rate you are not required to refund the difference to the payee, but you may choose to refund the over withheld amount.

**Form 1098.** Mortgage insurance premiums are in limbo again this year – we recommend reporting the information even if it ends up not being required. See 1098 information below.

**Form 1042-S.** Some changes in boxes and clarifying language added. See Form 1042-S information below.

**Form 5498.** New rollover code was added. See Form 5498 information below.

**Form 1099-DIV.** Online PDF fillable forms available at IRS.gov. See Form 1099-DIV information below.

**Form 1099-R.** New distribution codes have been added. New tax laws eliminate the ability for taxpayers to recharacterize Roth IRA contributions to traditional IRA contributions after 2017. See Form 1099-R information below.

## I. DEPOSIT-RELATED REPORTING

**A. Form 1099-INT, Interest Income.** This form is used to report interest paid on deposits and certain “window” transactions.

1. Amounts of interest paid or credited of \$10 or more per person (not per account) must be reported. Interest is paid when it is credited or set apart for a person without any substantial limitation or restriction as to the time, manner, or condition of payment.

Generally, the amount of interest includes the value of any tangible property (i.e., toaster, bird feeder, etc.) given to the customer in connection with a deposit account and should be added to the total interest paid or credited. However, IRS Revenue Procedure 2000-30 allows for “non-cash inducements,” with a cost to the bank of less than \$10 for accounts with an opening balance of under \$5,000 and \$20 for accounts with an opening balance of over \$5,000, to be excluded from total interest paid or credited for information reporting purposes. Interest on “window” transactions, i.e., interest paid on U.S. Treasury bills, notes, and bonds, must be reported if the amounts paid or credited per transaction are \$10 or more.

2. Interest paid on tax-exempt obligations is required to be reported in Box 8. Box 9 is used to report the portion of tax-exempt interest included in Box 8 from private activity bonds (required to be reported for the alternative minimum tax).
3. Any amount of federal income tax withheld under the backup withholding rules must be reported. The backup withholding rate is 24% for reportable payments made in 2018.
4. Payments made to certain payees: corporations, tax-exempt entities, IRAs, Archer MSAs, Medicare Advantage MSAs HSAs, and U.S. and State Agencies, need not be reported on Form 1099-INT. Note that payments made to a Limited Liability Company (LLC) are required to be reported.
5. If the taxpayer notifies you that a section 1278(b) election was made, you need to report the amount of market discount that was accrued on the debt instrument in Box 10.
6. Unless the taxpayer provides written notification that the taxpayer does not want to amortize bond premium, you must report the amount of bond premium amortized during the year in Box 11. If you amortized bond premium and reported a net amount of interest in Boxes 1, 3, 8, or 9, then Box 11 should be blank.

**B. Form 1099-OID, Original Issue Discount.** (Note: trustees and middlemen of a Widely Held Mortgage Trust (WHMT) are required to report OID information. Please contact us for assistance if you are the trustee or middleman of a WHMT).

This form must be filed if the original issue discount includable in gross income is at least \$10. Ordinarily, you will file only one Form 1099-OID for the depositor or holder of a particular obligation for the calendar year. If a person holds more than one discount obligation, a separate Form 1099-OID should be issued for each obligation. This form is used to report accrued interest of more than \$10 on time deposits that have an original maturity greater than one year that:

1. Only pay or credit interest upon maturity.

2. Pay bonus interest. For example, an 18-month time deposit which pays a single check for 18 months' interest at maturity.
3. Payments made to certain payees: corporations, tax-exempt entities, IRAs, Archer MSAs, Medicare Advantage MSAs, HSAs, U.S. and State Agencies, need not be reported on Form 1099-OID. Note that payments made to a Limited Liability Company (LLC) are required to be reported.

**C. Form 5498 and 5498-ESA, IRA, and Coverdell ESA Contribution Information.** These forms are used to provide an annual summary of deposits (contributions and rollovers) to an IRA or ESA and show the fair market value of the IRA or ESA as of December 31 of the reporting year. Statements to Participants: You must provide a statement to participants by January 31, 2019, showing the December 31, 2018, value of the participant's account and RMD, if applicable. You must file Form 5498 with the IRS by May 31, 2019. If contributions for 2018 were made, a copy of Form 5498 must be furnished to beneficiaries/participants by May 31, 2019 (Form 5498-ESA is due to participants by April 30, 2019).

1. Contributions to any IRA must be reported on Form 5498. Contributions to any Coverdell ESA must be reported on Form 5498-ESA.
2. For contributions made between January 1, 2019 and April 15, 2019, trustees and issuers should obtain the participant's designation of the year (2018 or 2019) for which the contributions are attributed.
3. In the year an IRA owner dies, an IRA trustee or issuer generally must file Form 5498 and furnish an annual statement for the decedent and each non-spouse beneficiary.
4. The receipt of a direct rollover from a qualified plan (including a governmental section 457(b) plan or tax-sheltered annuity to an IRA must be reported.
5. Do not report a direct trustee-to-trustee transfer from:
  - (a) A traditional IRA to another traditional IRA or to a SEP IRA.
  - (b) A SIMPLE IRA to another SIMPLE IRA.
  - (c) A SEP IRA to another SEP IRA or to a traditional IRA.
  - (d) A Roth IRA to a Roth IRA.
6. The contribution limit for a Coverdell ESA is \$2,000.
7. Participants who are age 50 or older by the end of the year may be eligible to make catch-up IRA contributions or catch-up elective deferral contributions. The annual IRA regular contribution limit of \$5,500 is increased to \$6,500 for participants who are age 50 or older. Catch-up contributions can be made up to \$6,000 under a SARSEP and up to \$3,000 to a SIMPLE IRA plan.

**D. Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit Sharing Plans, IRAs, Insurance Contracts, etc.** is used to provide information on amounts distributed and taxes withheld. For IRA ownership changes upon the death of an owner, distributions must be reported in the name and TIN of the person receiving the funds (e.g., payment to an estate is reported in the name and EIN of the estate).

1. Taxpayers who have attained age 70 ½ may exclude from gross income distributions from IRAs to charities. No 1099-R is required to be filed in the case of these qualifying distributions. This rule was made permanent for years 2016 and thereafter.
2. 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.
3. If the funds are in a CD and early withdrawal penalties apply, the amount reported is shown net of the penalties.
4. Generally, you must enter the taxable amount of distributions from traditional, SEP, and SIMPLE IRAs in box 2a. However, if you are unable to reasonably obtain the data needed to compute the taxable amount, leave box 2a blank and check box 2b "taxable amount not determined". Except for IRAs, you should make every effort to compute the taxable amount.
5. Note that distributions from Roth IRAs must also be reported on this form. The gross distribution is reported in box 1 but leave box 2a blank. Check the "taxable amount not determined" box in box 2b.
6. An IRA that is converted or reconverted this year to a Roth IRA must be reported in boxes 1 and 2a, even if the conversion is a trustee-to-trustee transfer or is with the same trustee.
7. Distributions for qualified long-term care insurance contracts: Charges or payments, excludible from gross income under section 72(e)(11), made against the cash value of an annuity contract or the cash surrender value of a life insurance contract, for the purchase of qualified long-term care insurance contracts under combined arrangements, are reported in Box 1, with a Distribution Code "W" in Box 7.
8. The safe harbor explanations provided to recipients in order to satisfy section 402(f) for eligible rollover distributions from an employer plan have been modified and superseded to simplify the presentation and description of the participant's options upon receiving an eligible rollover distribution. The new safe harbor explanations also broaden the information to reflect changes in law, such as information on a distribution from a designated Roth account under an employer plan. The information has also been expanded to explain rules that apply in special situations, for example, when a distribution is made to a nonresident alien.

**E. Form 1099-Q, Payments from Qualified Education Programs** is used to report distributions or rollovers made from a qualified tuition program (section 529 Plan) or a Coverdell ESA.

**F. Form 1099-QA, Payments from ABLE Accounts** is used to report distributions from ABLE accounts.

**G. Form 1099-SA, Distributions From an HSA, Archer MSA, or Medicare Advantage MSA** is used to report distributions made from a Health Savings Account (HSA), Archer Medical Savings Account (MSA), or Medicare Advantage MSA (MA MSA). Reporting is required regardless of whether the distribution has been paid directly to a medical service provider or to the account holder. Note: excess employer contributions (and the earnings on them) withdrawn from employee's HSAs by the employer should not be reported as a distribution on Form 1099-SA or as a contribution on Form 5498-SA.

**H. Form 5498-SA, HSA, Archer MSA, or Medicare Advantage MSA Information** must be filed with the IRS by May 31, 2019, for each person you maintained an HSA, Archer MSA, or MA MSA during 2018. Statements

must be furnished to beneficiaries/participants by May 31, 2019. Note: excess employer contributions (and the earnings on them) withdrawn from employee's HSAs by the employer should not be reported as a distribution on Form 1099-SA or as a contribution on Form 5498-SA.

1. For HSA or Archer MSA contributions made between January 1, 2019 and April 15, 2019, you should obtain the participant's designation of the year (2018 or 2019) for which the contributions are attributed.

**I. Form 1042-S, Annual Withholding Tax Return for U.S. Source Income for Foreign Persons.** This form is used to report income paid to nonresident alien. New last year: Withholding agents furnishing a substitute Form 1042-S are no longer permitted to combine all payments of income on a single substitute Form 1042-S.

1. A nonresident alien is an individual who is neither a citizen nor a resident of the United States. Noncitizens can be considered resident aliens if they are lawful permanent residents meet a "substantial presence test" based on days in the United States, make an election to be considered a resident alien, or have a green card. The substantial presence test is a person that is physically present in the United States on at least 31 days during the current year and 183 total days during the current year. (If an account holder has completed Form W-8BEN, it is a good indicator that they are a nonresident alien.)
2. The most common type of income that needs to be reported on the form includes:
  - (a) Amounts of interest paid or credited of \$10 or more per person (not per account) must be reported. Interest is paid when it is credited or set apart for a person without any substantial limitation or restriction as to the time, manner, or condition of payment.
  - (b) Rents
  - (c) Royalties
  - (d) Cancellation of debt
3. Can elect to report interest paid to all nonresidents instead of just the ones listed in the Revenue Procedure 2012-24 (or superseding Revenue Procedures).
4. Please contact your Wipfli representative to get you in contact with our International tax department if you have additional questions.

## II. VENDOR-RELATED REPORTING – FORM 1099-MISC

Reminder for 2018: Form 1099-MISC is to be filed on or before January 31, 2019 when you are reporting nonemployee compensation payments in box 7. Otherwise, file by February 28, 2019, if you file on paper, or by March 31, 2019, if you file electronically.

**A. Businesses, including financial institutions, must report payments made to certain vendors. This form is used to report payments of \$600 or more made in the course of a trade or business to nonemployees for services, rents, and prizes or awards (other uses are not discussed here). For example, the following payments by a financial institution trigger Form 1099-MISC reporting (assuming they exceed \$600 annually to each vendor, etc.):**

1. Reimbursements of ATM fees (originally paid by your customers to other financial institutions).
2. Payments made under "reward" programs that are tied to customer "behavior" rather than deposits (i.e. amounts deposited in an account for agreeing to electronic statements, or for not getting copies of checks returned, sign up for direct deposit, use your debit card 10 times, etc.).

3. Rental property expenses paid on ORE rental property for services rendered.
4. Rents paid to an individual on a vacant lot which has been leased.
5. An all-expense paid cruise given to the winner of a drawing held at a branch opening.
6. Fees paid to an unincorporated lawn service to maintain bank properties (including OREO property).
7. Professional fees paid to attorneys (see below for special rules), accountants, appraisers, etc.
8. Directors' fees.
9. Payments to appraisers.
10. Commissions or compensation to independent contractors.

Some payments are not required to be reported:

- (a) Payments 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 unless the entity has indicated on its Form W-9 that it is an LLC with a tax classification of Corporation.
- (b) Payments for merchandise.
- (c) Payments of rent to real estate agents.

- B. Employees/directors.** A business may want to treat the same worker as both an employee and an independent contractor. The IRS has an inherent bias against such "dual service" workers making this treatment only 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 a director are reported on Form 1099-MISC.

- C. Payments to Attorneys.** Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable. However, if you make a payment in the course of your trade or business to an attorney in connection with legal services 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 that the attorney's fee is \$34,000, the insurance company reports that \$34,000. 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.

Note that 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 paying 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.

- D. Payments to a physician or other supplier or provider of medical or health care services** of \$600 or more made in the course of your trade or business 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.
- E. Construction loans.** Financial institutions must file Form 1099-MISC for construction loan disbursements in all instances where the following two factors are both present: (1) the financial institution performs an oversight function in relation to the construction loan and (2) the financial institution makes payments of at least \$600 during a year on behalf of an owner to a non-corporate payee for services (including parts and materials).

#### **F. 1099-Misc - Other General Information**

1. The due date for furnishing statements to recipients is February 15th only for statements reporting amounts in Box 8 (Payments in Lieu of Interest or Dividends) and Box 14 (Payments to an Attorney).
2. Death benefits from nonqualified deferred compensation plans paid to the estate or beneficiary of a deceased employee are reported on Form 1099-MISC instead of 1099-R. However, continue reporting death benefit payments from qualified plans on Form 1099-R.
3. You are not required to complete box 15a (deferrals under nonqualified plans subject to section 409A).

- G. Form 1099-K - Merchant Card and Third-Party Network Payments.** Form 1099-K is required to be filed reporting the gross amount of credit and debit card payment a merchant received during a year. The reporting also includes "stored value cards" (gift cards). A full discussion of Form 1099-K is outside the scope of this document based on the assumption most financial institutions are using a third-party processor and will not have a 1099-K filing requirement themselves. If you feel your financial institution may be responsible for filing Form 1099-K please contact your Wipfli tax representative.

### **III. LOAN-RELATED REPORTING**

#### **A. Form 1098, Mortgage Interest Statement**

Form 1098 is used to report qualified mortgage interest, certain points paid, previously paid interest that has been refunded to the payer of record, and mortgage insurance premiums paid. A loan is a qualified mortgage if it is incurred after 1987, is secured by real estate, and the borrower is an individual, including a sole proprietorship. Note that real estate generally includes mobile homes.

Form 1098 requires reporting (1) the address or description of property securing the mortgage, (2) the outstanding mortgage principal as of January 1, 2018, and (3) the mortgage origination date. Filers must report the number of properties in excess of one (1) that secure a single mortgage in box 9.

Loans incurred prior to 1988 are subject to earlier criteria as to reportability requirements as follow:

- An obligation incurred after 1984 but before 1988 is a mortgage only if secured primarily by real property.
- An obligation incurred prior to 1984 is not a mortgage if the holder reasonably classified it as another type of loan at the time.

Since this form is unique in that taxpayers actually want to receive it, it may be a good policy to disregard the dollar thresholds of \$600 when reporting payments. There is no aggregation on Form 1098. A form is needed for each loan.

1. Included in total "mortgage interest received from borrower" is:
  - (a) Interest.
  - (b) Prepaid interest if it does not exceed the amount accrued by January 15 of the following year.
  - (c) Late charges.
  - (d) Prepayment penalties.
2. Points paid by the payer of record are reportable if they are:
  - (a) Clearly designated on the Uniform Settlement statement (e.g., loan-origination fee, loan discount, discount points, or points).
  - (b) Computed as a percentage of the stated principal loan amount.
  - (c) Charged under an established business practice.
  - (d) Paid for the acquisition of the payer's principal residence and the loan is secured by that residence.
  - (e) Paid directly by the payer of record. Points are paid directly if:
    - (i) The payer of record provides funds that were not borrowed from the lender of record for this purpose as part of the overall transaction.
    - (ii) The seller pays points on behalf of the payer of record.
  - (f) Do not report as points on Form 1098 amounts paid:
    - (i) For loans to improve a principal residence.
    - (ii) For loans to purchase or improve a residence that is not the payer of record's principal residence, such as a second home, vacation home, etc.
    - (iii) For a home equity or line of credit loan, even if secured by the principal.
    - (iv) For a refinancing (but see construction loans below).
    - (v) In lieu of items ordinarily stated separately on Form HUD-1, such as appraisal fees, inspection fees, title fees, attorney fees, and property taxes.

(vi) To acquire a principal residence to the extent the points are allocable to an amount of principal in excess of \$750,000.

(g) Amounts paid on a loan to construct a residence (construction loan) or to refinance a loan incurred to construct a residence are reportable on Form 1098 as points if they:

(i) Are clearly designated on the loan documents as points incurred in connection with the loan, such as loan-origination fees, loan discount, discount points, or points.

(ii) Are computed as a percentage of the stated principal loan amount.

(iii) Conform to an established business practice of charging points in the area where the loan is issued and do not exceed the amount generally charged in the area.

(iv) Are paid in connection with a loan incurred by the payer of record to construct or refinance construction of a residence that is to be used, when completed, as the principal residence of the payer of record.

(v) Are paid directly to the payer of record.

(vi) Are not allocable to an amount of principal in excess of \$750,000.

(h) Amounts paid to refinance a loan to construct a residence are not points to the extent they are allocable to debt that exceeds the debt incurred to construct the residence.

2. Mortgage insurance premiums (of \$600 or more) paid for qualified mortgage insurance are not required to be reported in box 5 as of the date this was printed, however, there is the possibility of a late tax law change that would require reporting. **We recommend you report qualified mortgage premiums to avoid having to file corrected Form 1098 if the law changes.**

Qualified mortgage insurance is mortgage insurance under a contract issued after December 31, 2006, and provided by:

- a. The Department of Veterans Affairs
- b. The Federal Housing Administration
- c. The Rural Housing Service
- d. Private Mortgage Insurance (as defined by section 2 of the Homeowners Protection Act of 1998)

Prepaid Mortgage Insurance – Except for amounts paid to the Department of Veterans Affairs or the Rural Housing Service, payments allocable to periods after 2007 are treated as paid in the periods to which they are allocable.

- B. Form 1098-E, Student Loan Interest Statement.** This form must be filed if you receive student loan interest of \$600 or more from an individual during the year in the course of your trade or business. The \$600 threshold applies to each borrower regardless of the number of student loans obtained by that borrower. However, you may file a separate Form 1098-E for each student loan of the borrower, or you may file one Form 1098-E for the interest from all student loans of the borrower.

1. To be reportable, a student loan must be either:

- (a) Subsidized, guaranteed, financed, or otherwise treated as a student loan under a program of the federal, state, or local government or of a postsecondary educational institution.
  - (b) Certified by the borrower as a student loan. You may use Form W-9S to obtain the certificate.
- 2. For loans made on or after September 1, 2004, loan origination fees and capitalized interest must be included in the amount reported in box 1. For loans made before September 1, 2004, box 2 on Form 1098-E should be checked if the amount in box 1 of the form does NOT include loan origination fees and/or capitalized interest.
- C. **Form 1098-MA, Mortgage Assistance Payments.** This form is used to report mortgage payments made by the homeowners and mortgage assistance payments made with funds from the Housing Finance Agency Innovation Fund, HFA Hardest Hit Fund, or the Emergency Homeowners' Loan Program. Note this form may not be filed electronically.
- D. **Form W-9S, Request for Student's or Borrower's Social Security Number and Certification** is optional and is used to obtain certification from the borrower as to the usage of the proceeds (i.e., whether or not the proceeds are used solely to pay for qualified higher education expenses). You may collect the student's or borrower's information on paper or electronically.
- E. **Form 1099-A, Acquisition or Abandonment of Secured Property.** This form is used to report the financial institution's acquisition of the borrower's abandonment of certain loan collateral. Reporting is required if the lender acquires an interest in the collateral in partial or full satisfaction of a debt or has reason to know that collateral has been abandoned and the collateral is real property or personal property used in a trade or business or investment. For determination of the purpose of the loan, the file documentation should be used.
  - 1. No reporting is required for tangible personal property (such as a car) held only for personal use. However, you must file Form 1099-A if the property is totally or partly held for use in a trade or business or for investment.
  - 2. The date used in reporting is the date of acquisition or the date on which the lender first knew or had reason to know of the abandonment.
  - 3. The fair market value of the property sold at a foreclosure or similar sale is the bid price. For other property, the appraised value should generally be used.
  - 4. If, in the same calendar year, you cancel a debt in connection with a foreclosure or abandonment of secured property, it is not necessary to file both Form 1099-A and Form 1099-C. You may file 1099-C only (must complete boxes 4, 5, or 7 on Form 1099-C, however if you choose to file both forms, do not complete boxes 4, 5, or 7 on Form 1099-C).
- F. **Form 1099-C, Cancellation of Debt.** This form is used to report the discharge or cancellation of a debt owed to you of \$600 or more. Multiple cancellations of the same debtor are not aggregated for reporting purposes unless the separate cancellations are under a plan to evade the Form 1099-C requirements. Filing is required by a financial institution, a federal government agency, and any organization of which a significant trade or business is lending of money (i.e., a finance company or credit card company whether or not affiliated with a financial institution). Required to report to all payees – there are no "exempt recipients".

**See Attachment 1 at the end of this document for "IRS Debt Cancellation Decision Tree".**

Do not file Form 1099-C when fraudulent debt is canceled due to identity theft. Form 1099-C is to be used

only for cancellations of debt for which the debtor actually incurred the underlying debt.

1. Debt is any amount owed to you including stated principal, stated interest, fees, penalties, administrative costs, and fines. The amount of debt canceled may be either all or part of the amount owed. There are exceptions:
  - (a) Interest is not required to be reported. If the interest is reported in box 2 as part of the canceled debt, then the interest portion of the canceled debt is required to be reported separately in box 3.
  - (b) For lending transactions, only the principal amount is required to be reported. Reports of non-lending transactions such as overdrafts must include non-principal amounts such as fines, penalties, and other costs.
2. The regulations list specific identifiable events which trigger reporting requirements.
  - (a) Code A - Discharge in bankruptcy under Title 11 of the US Code when you know the indebtedness was for business or investment purposes. Personal bankruptcy is not a reportable event.
    - (i) Reportable Year: Later of
      1. The year in which the amount of discharged debt first can be determined, or
      2. The year in which the debt is discharged in bankruptcy.
  - (b) Code B - Cancellation or extinguishment of indebtedness, rendering a debt unenforceable under a receivership, foreclosure, or similar federal non-bankruptcy or state court proceeding.
  - (c) Code C - Cancellation or extinguishment of indebtedness by the expiration of the statute of limitations for collecting the debt, or when the statutory period for filing a claim or beginning a deficiency judgment proceeding expires. Expiration of the statute of limitations is an identifiable event only when a debtor's affirmative statute of limitations defense is upheld in a final judgment or decision of the court and the appeal period has expired.
  - (d) Code D - Cancellation or extinguishment of indebtedness pursuant to a creditor's election of foreclosure remedies bar the creditor from any right to collect the debt. This event applies to a mortgage lender or holder who is barred by local law from pursuing debt collection after a "power of sale" in the mortgage or deed of trust is exercised.
  - (e) Code E - Cancellation or extinguishment of indebtedness pursuant to a probate or similar proceeding (i.e., the estate is insolvent).
  - (f) Code F - Discharge of indebtedness pursuant to an agreement between the creditor and the debtor to cancel the debt at less than full consideration.
  - (g) Code G - Discharge of indebtedness pursuant to a creditor's decision or defined policy not to continue collection activity and to cancel the debt. The creditor's defined policy can be in writing or an established practice. A creditor's established practice to stop collection activity and abandon a debt when a particular nonpayment period expires is a defined policy.
  - (h) Code H - Other actual debt discharge before one of the identifiable events listed above, (Code A-G).

3. If a transaction would require both Form 1099-A and Form 1099-C, only Form 1099-C needs to be filed. However, lenders who choose to file both Form 1099-A and 1099-C for the same borrower should not complete boxes, 4, 5, or 7 on Form 1099-C.
4. Reporting Fair Market Value, Box 7. The 1099-C instructions indicate fair market value (FMV) in the case of abandonment or voluntary conveyance to the lender in lieu of foreclosure should be the appraised value. If no appraisal is made or the appraisal is old and no longer clearly represents FMV, steps should be taken to establish a reasonable FMV. The instructions also indicate FMV in the case of a foreclosure or similar sale will generally be the bid price, in many cases the bid price will not represent FMV and steps should be taken to establish a reasonable FMV.
5. **Note that charge-offs are an accounting decision. Forgiveness is a legal decision.**

G. **Form 1099-S, Proceeds From Real Estate Transactions.** This form is used to report the sale or exchange of a piece of real estate. Generally, the party responsible for filing Form 1099-S is the party responsible for the closing. If no one is clearly responsible for the closing, then the first party listed below must file Form 1099-S. Please note: The due date for furnishing Form 1099-S statements to customers is February 15<sup>th</sup>.

1. The mortgage lender.
2. The transferor's brokers.
3. The transferee's brokers.
4. The transferee.

Generally, you are required to report a transaction that consists in whole or in part of the sale or exchange for money, indebtedness, property, or services of any present or future ownership interest in any of the following:

1. Improved or unimproved land, including air space.
2. Inherently permanent structures, including any residential, commercial, or industrial building.
3. A condominium unit and its appurtenant fixtures and common elements, including land.
4. Stock in a cooperative housing corporation.

The transfer is not reportable if the transferor is a corporation, a governmental unit, or an exempt transferor based on volume. If the property is an interest in crops or natural resource, a burial plot or vault, or manufactured housing, the transfer is not reportable.

If there are multiple transferors, other than husband and wife, a separate Form 1099-S should be filed for each. Form 1099-S is generally not required to report gross proceeds on a principal residence sale with a gross sale price of \$500,000 or less (\$250,000 or less in the case of a single filer). To qualify for the exemption, you must obtain a written certification from the seller. If there are joint sellers, you must obtain certification from each seller. The certification must be signed under penalties of perjury.

#### IV. EMPLOYEE-RELATED REPORTING (OTHER THAN W-2s)

- A. Forms 1095-B and 1095-C** are used to report health insurance information to employees.
1. Form 1095-B is used to report certain information to the IRS and to taxpayers about individuals who are covered by minimum essential coverage and therefore aren't liable for the individual shared responsibility payment.
  2. Form 1095-C is used by employers with 50 or more full time employees (including full-time equivalent employees) in the previous year to report the information related to offers of health coverage and enrollment in health coverage for their employees.
  3. A complete discussion of these forms is outside the scope of this document, but if you had 50 or more full-time equivalent employees in 2018 and are not currently aware of and planning for this filing requirement, please contact your Wipfli representative for additional information. The penalties for failure to comply with these new filing requirements are substantial.
- B. Form 1098-Q, Qualifying Longevity Annuity Contract (QLAC) Information** is filed if you issued any contract intended to be a QLAC. A QLAC is an annuity contract that is purchased from an insurance company for an employee under any plan, annuity, or account described in IRC sections 401(a), 403(a), 403(b), or 408 (other than a Roth IRA), and that satisfies certain regulatory requirements. Additional discussion is outside the scope of this document but if you feel you may have a reporting requirement please contact your Wipfli representative.

#### V. CAPITAL TRANSACTIONS

- A. Form 1099-DIV, Dividends and Distributions.** File for each person you paid dividends and other distributions on stock of \$10 or more.
1. Dividends paid by domestic corporations should be reported in box 1b, "qualified dividends" unless they fall under one of the following exceptions:
    - (a) 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.
    - (b) 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.
    - (c) 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.
  2. Redemptions by a corporation of its own stock are reported on Form 1099-DIV unless required to be reported on Form 1099-B (see discussion below). Proceeds from the redemption should be reported in box 8 or 9 on Form 1099-DIV.

NOTE - all distributions from an employee stock ownership plan that are section 404(k) dividends must be reported on Form 1099-R. Payments of section 404(k) dividends directly from the corporation to the plan participants or their beneficiaries must be reported on Form 1099-DIV.

- B. Form 1099-B, Proceeds From Broker and Barter Exchange Transactions.** The due date for furnishing statements to recipients of Form 1099-B is February 15<sup>th</sup>. Any person doing business as a broker uses this form. The term broker means a person who, in the ordinary course of a trade or business, stands ready to effect sales to be

made by others. In addition to traditional "broker" activity, a corporation is a broker if it regularly stands ready to redeem its own stock or retire its own debt.

For example, a corporation that purchases shares of stock from its stockholders on an irregular basis and does not actively pursue or stand ready to make redemptions would not be considered a broker. A community bank that is not required to file form 1099-B for stock redemptions, because it does not meet the broker definition, must instead file form 1099-DIV reporting the stock redemption proceeds paid in box 8 or box 9. See Item A above. If however, the corporation regularly purchases stock from its shareholders or solicits stock redemptions it should file form 1099-B as a broker.

Cost basis reporting is required for "covered" securities. "Covered Securities" generally include:

- stock acquired on or after January 1, 2011
- mutual fund and dividend reinvestment plan shares acquired after January 1, 2012
- options and debt instruments acquired on or after January 1, 2014

The rules associated with cost basis reporting are extensive and outside the scope of this discussion.

Please contact your Wipfli tax representative if you believe these rules affect your financial institution.

**C. Form 1099-CAP, Changes in Corporate Control and Capital Structure.** Filed for shareholders of a corporation if control of the corporation was acquired or it underwent a substantial change in capital structure. 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 tax representative for additional guidance if you have this situation.

**D. IRC Section 6045B Reporting, Capital Transactions Affecting Shareholder Basis.** Beginning in 2011, a reorganizing corporation (i.e. stock split, stock dividend, merger or acquisition affecting basis) must report a description of transaction and effect on shareholder basis to its shareholders. The information must be reported by the earlier of 45 days after the date of the organizational action or January 15<sup>th</sup> of the year following the calendar year during which the organizational action occurred.



## V. FILING REQUIREMENTS – ELECTRONICALLY

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 payor who transmits 500 Forms 1098 and 100 Forms 1099-A, would be required to electronically file the Forms 1098, but could paper file the Forms 1099-A. When filing electronically, you must file by March 31, 2019.

The following are the information returns which are required to be filed electronically:

- Form 1098, Mortgage Interest Statement
- Form 1098-E, Student Loan Interest Statement
- Form 1098-T, Tuition Payments Statement
- Form 1099, all forms in the series
- Form 5498, IRA Contribution Information
- Form 5498-ESA, Coverdell ESA Contribution Information
- Form 5498-SA, HSA, Archer MSA, or Medicare Advantage (MA) MSA Information
- Form W2-G, Certain Gambling Winnings

Form 4419, Application for Filing Information Returns Electronically, must be filed at least 30 days before the due date of the returns. Form 4419 should be filed for all types of returns that will be filed electronically. The IRS will provide a written reply to the applicant and further instructions at the time of the approval, usually within 30 days. Once approval has been received, you do not need to reapply each year.

## VI. 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 submit a payment by check when required to deposit 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 30 if the due date is February 28) with a maximum penalty of \$536,000 (\$187,500 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 \$1,609,000 per year (\$536,000 for small businesses).
- \$260 per information return if you file after August 1 or you do not file required information returns with the maximum penalty of \$3,218,500 (\$1,072,500 for small businesses).
- 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.

**PENALTY RELIEF:** You may qualify for IRS penalty relief if you didn't previously have to file a return or you have no penalties for the 3 tax years prior to the tax year in which you were assessed a penalty.

Please consult your Wipfli representative if you receive a penalty notice from the IRS.

## VII. IDENTIFICATION NUMBERS

- A. 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.
- B. Grantor Trust.** A grantor trust is one where the party setting it up has retained some or all ownership and control over the property. If the entire trust is owned by one grantor (this includes a husband and wife filing jointly), the trustee has the option of providing the trust EIN or the individual's SSN. The most common grantor trust is one established by husband and wife where either can revoke the trust during their lifetime, but it becomes irrevocable on the death of either. When the trust becomes irrevocable, it no longer meets the definition of a grantor trust, and the trust EIN should be used for future reporting.
- C. Estate Accounts.** An estate is a separate legal entity from the decedent. It must have an EIN to open a deposit account. It does not matter if:
1. The estate is small.
  2. It will be closed in a short period of time.
  3. There is only one beneficiary.

An estate account without a valid EIN is subject to backup withholding like any other account.

- D. Decedent Accounts.** The IRS requires financial institutions to apportion the interest for information reporting purposes between the previous and new owners. The apportionment is on a cash basis (i.e., who owned the deposit when the interest was paid or credited to the account). The decedent's personal representative will need to know the amount of interest "accrued" at the date of death. However, that figure does not affect information reporting.
- E. Club or Recreation Accounts.** Organizations opening deposit accounts must have an EIN. This is true even if there is no legal entity such as an association or corporation. It is a mistake to use:
1. The SSN of the organization's treasurer or authorized signer.
  2. The EIN of a related organization, such as the Band Boosters, or the EIN of the school district. (If the school board does not control the funds, it is not the school district's money, and it is not appropriate to use its EIN.)

## VIII. 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.