Filing a Form 1099

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You have a business, and your business paid an independent contractor, vendor, or other person for services, goods, or rent sometime during the year. Perhaps you paid an accountant to do your bookkeeping, or an attorney to advise you regarding a contract. Maybe you paid someone to do some overflow work for you for a few weeks or months, or paid a website developer, an advertiser, a printer, a consultant, a painter, a handyman, or a landlord.

Do you know what your tax filing requirements are with respect to the independent contractor, vendor, or other payee?

If you did not pay the person who performed the services (or provided the goods or leased space) for you as an employee (and withhold income tax, social security, Medicare, and FICA from wages paid to the person), you may be required to file an information return with the Internal Revenue Service reporting the compensation or rent that your business paid.

Section 6041 of the Internal Revenue Code contains the requirement that any person, including a corporation, limited liability company, partnership, individual, estate, or trust, who is engaged in a trade or business and who make payments of rent or other compensation to another person totaling $600 of more during the year is required to file an information return reporting such payments or transactions to the IRS. Persons required to file information returns to the IRS must also furnish statements to the other party to the transaction, such as recipients of income.

Generally in the case of independent contractors, vendors, and other payees, IRS Form 1099 is the information return used to report the payment of rent or other compensation to the IRS.

What is a 1099?

The IRS uses Form 1099 to distinguish different types of income that are paid to a person who is not an employee—it is the tax form that tracks payments to independent contractors. While there are many different types of 1099s, the two that are most relevant to small business owners and independent contractors are the Form 1099-MISC and Form 1099-NEC.

IRS Form 1099-MISC is used to report miscellaneous items of income. There are different boxes on the form to report different types of income or payments. Here are examples of the types of payments

reported on Form 1099-MISC:

- Rent (for instance, rent for an office space) (Box 1)
- Royalties (for instance royalties from oil, gas, or mineral properties, copyrights, or patents) (Box 2)
- Prizes and awards and certain other payments (Box 3)
- Payments to physicians, or to other suppliers or providers of medical or health care services (Box 6)
- Gross proceeds paid to an attorney in connection with legal services, but not for the attorney's services (for instance an amount paid to the attorney in a settlement agreement; otherwise, generally, amounts paid to an attorney for the attorney's services are reported on Form 1099-NEC) (Box 10)

IRS Form 1099-NEC is used to report non-employee compensation paid to a person (or company). Here are examples of the types of payments reported on Form 1099-NEC:

- Non-employee compensation or payments for services performed by independent contractors or others (Box 1)
- Gross proceeds paid to an attorney for the attorney's legal services (see instructions as Box 10 on Form 1099-MISC may apply) (Box 1)

Do You Need to File a 1099 This Year?

If you paid an independent contractor, vendor, or landlord more than $600 during the tax year, then you'll need to file a 1099 for that person with the IRS and send a copy to that person.

You are **not** required to file information return(s) if:

- You are not engaged in a trade or business; or
- You are engaged in a trade or business and the payment was made to another business that is incorporated, or the sum of all payments made to the person or unincorporated business is less than $600 in one tax year (unless the recipient is an attorney or law firm).

In order to complete and file 1099s, you must have the following information for each contractor, vendor, or other payee:

- The total amount paid to the contractor, vendor, or other payee during the year;
- The contractor, vendor, or other payee's legal name;
- The contractor, vendor, or other payee's address; and
- The contractor, vendor, or other payee's taxpayer identification number (TIN), which may be their Social Security Number (SSN).

The standard method for acquiring this information is to have each contractor, vendor, or other payee fill out IRS Form W-9, *Request for Taxpayer Identification Number and Certification*. This form collects the contractor, vendor, or other payee's name, business name, address, tax classification (for example sole proprietor, LLC, corporation), and taxpayer identification number.

As a best practice, you should have a Form W-9 (available on the IRS's website, here) on file for each of your contractors, vendors, or other payees. In fact, having contractors, vendors, and other payees fill out and return a W-9 to your business should be one of the first administrative tasks you complete after engaging

their services.

Once you have this information, there are a few ways that you can file 1099 forms.

File Yourself

If you plan on filing 1099s on your own, you should:

1) Order Form 1099 from the IRS or you can find them at most office supply stores. Each Form 1099 comes with 5 copies:

- Copy A – IRS's copy
- Copy B – Recipient's copy
- Copy C – Payer's copy
- Copy 1 – State's copy
- Copy 2 – Recipients copy to be filed with state income tax return, when required

2) Fill out the forms (by hand or using software), using the information you collected above

3) If you plan on filing paper 1099s (by mail), fill out Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, which must be filed with the IRS along with the 1099s

4) Mail Copy B and Copy 2 of the 1099s to all relevant contractors by January 31st (regardless of the filing deadline)

5) File the 1099s with the IRS:

- Form 1099-NEC: File by January 31st (or the next business day if January 31st falls on a Saturday, Sunday, or federal holiday)
- Form 1099-MISC: If filing paper forms by mail, file by February 28th (or the next business day if February 28th falls on a Saturday, Sunday, or federal holiday); If filing electronically, file by March 31st (or the next business day if March 31st falls on a Saturday, Sunday, or federal holiday).

6) Keep Copy C for your records

Be sure to check your state law as to whether you need to file information returns with your state.

Use a Filing Service

Many online payroll software providers offer a filing service that will submit 1099s on your behalf.

Work with a CPA or Tax Accountant

Your CPA or tax accountant can also collect all of the necessary information and ensure that forms are filed on time.

What is the deadline for filing a 1099?

Forms 1099-NEC must be filed with the IRS by January 31st (or, if January 31st falls on a Saturday, Sunday or federal holiday, the next business day) after the close of the taxable year to which they apply (i.e., Forms 1099-NEC for 2020 must be filed by February 1, 2021).

The filing deadline for Forms 1099-MISC depends on whether you file paper forms or file them electronically. If you file paper Forms 1099-MISC (physically mail in the forms), Form 1099-MISC must be filed with the IRS by February 28th (or, if February 28th falls on a Saturday, Sunday, or federal holiday, the next business day) after the close of the taxable year to which they apply (i.e., paper Forms 1099-MISC for 2020 must be filed by March 1, 2021). If you file Forms 1099-MISC electronically, you must file Forms 1099-MISC by March 31st (or, if March 31st falls on a Saturday, Sunday, or federal holiday, the next business day) after the close of the taxable year to which they apply (i.e., electronic Forms 1099-MISC for 2020 must be filed by March 31, 2021).

For paper Forms 1099, you must send/file Copy A of all paper Forms 1099 to the IRS along with Form 1096, *Annual Summary and Transmittal of U.S. Information* Returns (Form 1096 summarizes the Forms 1099 you filed). You must file a separate Form 1096 for Forms 1099-MISC and Forms 1099-NEC (i.e., send one Form 1096 with the Forms 1099-NEC, and a separate Form 1096 with the Forms 1099-MISC).

You do not need to file Form 1096 with electronically filed Forms 1099.

A business who is required to file Form 1099 and fails to do so, or does so late, may be subject to penalties.

If you have any questions about Form 1099, or are unsure if you are required to file a 1099, contact the tax attorneys at Hall Estill today.

Attorneys

- Kelly M. Politte