

FORM 1099 MISC REMINDERS FOR STATE AND LOCAL GOVERNMENTS

WHO MUST FILE

Any entity conducting a trade or business is required to file Form 1099. Government Agencies and non-profit organizations are also required to file Form 1099.

SECURING VENDOR INFORMATION

➤ **What Information Is Needed:**

Owner's Name (if sole proprietor)
Legal Business Name
Mailing Address
Taxpayer Identification Number

➤ **When to Get Information**

Obtain vendor information up front; don't wait until year-end. Forms 1099 are required to be issued once payments total \$600 or more.

➤ **Why Get The Information**

If your vendor fails to supply an identification number, you must withhold 28% and pay it over to the IRS on Form 945. This is called **BACKUP WITHHOLDING TAX**. If you do not backup withhold, you may be liable for this tax.

➤ **How To Get The Information**

Form W-9 or substitute

➤ **Due Dates For Forms 1099**

Copy B to RECIPIENTS by January 31st and Copy A to IRS by February 28th

DO ISSUE:

➤ **Payments Of \$600 Or More For:**

Services
Rents
Medical Services (Corporations included)
Attorney Services (Corporations included)

➤ **Payments Of \$10 Or More For:**

Royalties

➤ **Who Generally Receives**

Individuals
Partnerships
Estates
Trusts
Medical and Attorney Corporations

CAUTION: *DO NOT automatically treat a payee as a corporation simply because the payee's name ends with "LLC", "Company" or "Co."*

EXAMPLES OF REPORTABLE PAYMENTS:

➤ **Non-Employee Compensation (Form 1099 MISC, Box 7)**

Advertising
Auto Repair
Construction
Custodial/Maintenance
Landscapers, Locksmiths
Photographers, Printing Services
Professional Services
Accountants
Appraisers
Architects

Attorneys Fees (Includes Corporations)

- If compensation then enter in Box 7. If not able to determine percentage of compensation from gross payment, then total in box 14, Form 1099 MISC

Consultants
Engineers
Referees
Rubbish Removal

➤ **Rents (Form 1099 MISC, Box 1)**

Office Space
Parking Lot Space
Welfare Rental Assistance (to Landlords)
Equipment

➤ **Medical and Health Care Services (Form 1099 MISC, Box 6, Includes Corp)**

Ambulance Services
Dentists
Doctors
For-Profit Hospitals
Lab Services

Optometrists
Private Duty Nurses
Psychiatrists, Psychologists
Rehabilitation Centers
Therapists

DON'T ISSUE:

➤ **Payments Of \$600 Or More For:**

Products
Workmen's Compensation
Storage
Telephone

➤ **Payments of \$600 Or More To:**

Governmental Agencies
Rental Agencies
Corporations (Except MEDICAL and ATTORNEYS)

Form 1099 MISC

Reminders and Hints

File Form 1099-MISC for each person you have paid at least \$600 in rents, services (including parts and materials), prizes and awards, other income payments, medical and health care payments, attorney's fees or gross proceeds paid to an attorney. You must also file Form 1099-MISC for each person from whom you have withheld any Federal income tax under the backup withholding rules regardless of the amount of the payment.

Generally, you do not need to report payments to a corporation. However there are some exceptions:

- Payments for medical and health care services, unless paid to a tax-exempt hospital or extended care facility or a facility owned and operated by the United States, a state, the District of Columbia, or any of their political subdivisions, agencies, or instrumentalities.
- Payments of \$600 or more to attorneys are and continue to be reportable on Form 1099-MISC. This is true whether the payment is to a law firm or an individual attorney.

How do you tell if you need to file Form 1099-MISC? **Ask questions!** If you do not file Form 1099-Misc and it was later determined you should have, **YOU** could be liable for the Federal income tax on the payment under the backup withholding rules.

The best way to ensure you have the information you need is to get a payee to complete IRS Form W-9 before you write a check.

Never assume that because a business name includes the word "Company" or "Co." that it is a corporation.

Business that are **Limited Liability Companies** or LLCs, can be treated as sole proprietors, partnerships or corporation, so don't assume that LLC in the business name means you don't have to file a Form 1099-MISC.

If someone refuses complete Form W-9 or to give you the information you need to determine if you need to file Form 1099-MISC, you have two options.

1. You can make the payment, but withhold Federal income tax at the backup withholding rate (currently 28%), and give the payee a net check. Use Form 1099-MISC to report the payment and withholding.
2. You can choose to take your business elsewhere.

If you chose option 1 to make a payment and the vendor comes to you later and gives you the information, do **not** give him/her the amount you withheld – you still show it on Form 1099-MISC.

BACKUP WITHHOLDING

Below are questions and answers followed by three scenarios of backup withholding situations regarding the Form 1099-MISC, Miscellaneous Income.

What is a CP2100 or CP2100A Notice?

A notice that tells a payer that he or she may be responsible for backup withholding. This may be due to missing or potentially incorrect taxpayer identification numbers identified during the processing of Form 1099 information returns. It is accompanied by a listing of missing, incorrect, and/or not currently issued payee Taxpayer Identification Numbers (TINs). Large volume filers (250 or more error documents) receive a CP2100 while all other filers will receive a CP2100A.

What Payments are Subject to backup withholding?

Rents, non-employee compensation for services, royalties, reportable gross proceeds paid to attorneys, and other fixed or determinable gains, profits, or income payments reportable on **Form 1099-MISC**, Miscellaneous Income.

See **Publication 1281**, Backup Withholding on Missing and Incorrect Name/TINs (Taxpayer Identification Numbers).

What is a Missing Taxpayer Identification Number?

No TIN provided
TIN has more or less than nine digits
TIN has an alpha character as one of the nine positions

What is an Incorrect Taxpayer Identification Number?

TIN is in the proper format but the Name/TIN combination doesn't match or can't be found on IRS or Social Security Administration files.

What is a "B" Notice?

A "B" Notice informs a payee of backup withholding. You may be required to send this to a payee under circumstances described below.

As a Payer, What am I Required to do to Secure a TIN?

1. Initial Solicitation
For all payees you must make the initial solicitation when the payee opens an account or the transaction occurs. Use Form W-9 to request the taxpayer identification number.
2. First and Second Annual Solicitation
You may be required to request this of a payee under the circumstances described below.

Additional Resources Regarding Backup Withholding Questions:

1. The Information Reporting Program Centralized Call Site
Telephone: 1(866) 455-7438 (not toll free)
E-mail: mccirp@irs.gov
Hours: 8:30 a.m. to 4:30 p.m. Monday through Friday, Eastern time
2. Information required: Name, Government Entities Specialist, location, Phone

BACKUP WITHHOLDING

SCENARIO #1: TIN NOT PROVIDED BY PAYEE UPON INITIAL SOLICITATION

1. *Begin backup withholding when:*

- A. The aggregate payments for the calendar year equal or exceed \$600.

Example: You make three payments of \$200 to a sole proprietor in 2003, on March 31, June 30, and September 30. The sole proprietor has not yet given you his Taxpayer Identification Number (TIN).

The payments made on March 31 and June 30 would not be subject to backup withholding because the \$600 threshold has not been reached. However, you would withhold 28% of the payment on September 30 if the sole proprietor has not furnished their TIN to you by that date.

or

- B. Withhold immediately if either:

1. the payee was paid at least \$600 in a prior year and an information return (Form 1099) was issued, or
2. the payee was subject to backup withholding in the prior year

2. *Request the First Annual Solicitation.*

Must be requested by December 31 of the year in which the account is opened (for accounts opened before December) or January 31 of the following year (for accounts opened during the preceding December). The payee may furnish/provide the TIN in any manner.

3. *Request the Second Annual Solicitation, if necessary.*

Must be made by December 31 of the year following the calendar year in which the account was opened. The payee may furnish the TIN in any manner.

4. *Stop backup withholding when you receive a TIN.*

BACKUP WITHHOLDING

SCENARIO #2: CP2100 OR CP2100A NOTICE RECEIVED FOR MISSING TINs

1. *Compare the listing(s) with your records*
2. *If you are not already backup withholding on the account*

A. Begin backup withholding when:

1. The aggregate payments for the calendar year equal or exceed \$600

Example: You make three payments of \$200 to a sole proprietor in 2003, on March 31, June 30, and September 30.

The payments made on March 31 and June 30 would not be subject to backup withholding because the \$600 threshold has not been reached. However, you would withhold 28% of the payment on September 30 if the IRS notified you that the TIN provided by the sole proprietor was considered a missing TIN.

2. Or withhold immediately if either:
 - a. the payee was paid at least \$600 in a prior year and an information return (Form 1099) was issued, or
 - b. the payee was subject to backup withholding in the prior year

Begin backup withholding on payments made to payees, who do not furnish you with a TIN, no later than 30 business days after the date of the CP2100 or CP2100A Notice or the date you received it (whichever is later). At your option, you may begin backup withholding the day after the date you receive the CP2100 or CP2100A Notice.

B. Request the First Annual Solicitation

Must be requested by December 31 of the year in which the account is opened (for accounts opened before December) or January 31 of the following year (for accounts opened during the preceding December). The payee may furnish/provide the TIN in any manner.

C. Request the Second Annual Solicitation, in necessary.

Must be made by December 31 of the year following the calendar year in which the account was opened. The payee may furnish the TIN in any manner.

D. Stop backup withholding no later than 30 calendar days after the payee furnishes you with a TIN. At your option, you may stop any time within that 30-calendar day period.

3. *If you are already backup withholding on the account:*

A. Continue backup withholding

B. Follow Steps B through D above.

Note: Regulations section 301.6724-1 (relating to information return penalties) does not require you to file corrected returns for missing or incorrect TINs if you meet the reasonable cause criteria. You are merely required to include the correct TIN on the next original return you are required to file. However, if you do not meet the reasonable cause criteria, you should file corrected returns by August 1 to be subject to a reduced penalty.

Even if you meet the reasonable cause criteria, the IRS encourages you to file corrections for incorrect or missing TINs so that the IRS can update the payees' records.

BACKUP WITHHOLDING

SCENARIO #3 CP2100 OR CP2100A NOTICE RECEIVED FOR INCORRECT TINs

1. Compare the listing(s) with your records

A. If they DO NOT AGREE: Find out why and correct or update your records, if necessary.

B. If they DO AGREE and:

1. This is the First CP2100 or CP2100A Notice Received on this account:

a. Send the First "B" Notice and a Form W-9 to payee.

You have 15 business days from the date of the CP2100 or CP2100A Notice, or the date you received it (whichever is later) to send the "B" Notice to the payee.

You may provide an optional reply envelope.

Your outside envelope must be clearly marked "**IMPORTANT TAX INFORMATION ENCLOSED**" or "**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**"

b. Begin Backup Withholding When

1. the aggregate payments for the calendar year equal or exceed \$600

Example: You make three payments of \$200 to a sole proprietor in 2003, on March 31, June 30, and September 30.

The payments made on March 31 and June 30 would not be subject to backup withholding because the \$600 threshold has not been reached. However, you would withhold 28% of the payment on September 30 if the sole proprietor had provided you with a TIN but the IRS notified you that it was incorrect.

or

2. Immediately when either:

- a. the payee was paid at least \$600 in a prior year and an information return (Form 1099) was issued, or
- b. the payee was subject to backup withholding in the prior year

Begin backup withholding on payments made to payees who do not return a certification (Form W-9 sent with the first "B" Notice) or validation (required from the SSA or IRS per the second "B" Notice), no later than 30 business days after the date of the CP2100 or CP2100A Notice or the date you received it (whichever is later). At your option, you may begin backup withholding the day after the date you receive the CP2100 or CP2100A Notice.

c. Document the First Annual Solicitation Requirement

Sending a "B" Notice to a payee in response to a CP2100 or CP2100A Notice also satisfies the annual solicitation requirement to avoid a penalty for filing an information return with an incorrect TIN.

BACKUP WITHHOLDING

SCENARIO #3 CP2100 OR CP2100A NOTICE RECEIVED FOR INCORRECT TINs

d. Stop backup withholding no later than 30 calendar days after you receive the signed Form W-9 from the payee. At your option, you may stop any time within that 30 calendar day period.

e. Document the Second Annual Solicitation Requirement

Generally, you must follow the same instructions found under the first annual solicitation for incorrect TINs if IRS notifies you of an incorrect TIN within one of the next calendar years following the calendar year in which you received the first notification.

2. This is your Second CP2100 or CP2100A Notice Received within three calendar years.

a. Send the Second “B” Notice to the payee, which tells the payee to contact the IRS or SSA to obtain the correct Name/TIN combination. Payee must certify the Name/TIN combination to the payer. DO NOT include a Form W-9.

Note: Generally, you do not have to send a “B” Notice more than two times within three calendar years to the same account.

You have 15 business days from the date of the CP2100 or CP2100A Notice, or the date you received it (whichever is later) to send the “B” Notice to the payee.

You may provide a reply envelope.

Your outside envelope must be clearly marked “**IMPORTANT TAX INFORMATION ENCLOSED**” or “**IMPORTANT TAX RETURN DOCUMENT ENCLOSED**”

b. Stop backup withholding no later than 30 calendar days after the payee has provided you with the required verification from either the SSA or IRS. At your option, you may stop any time within that 30 calendar day period.

Note: Regulations section 301.6724-1 (relating to information return penalties) does not require you to file corrected returns for missing or incorrect TINs if you meet the reasonable cause criteria. You are merely required to include the correct TIN on the next original return you are required to file. However, if you do not meet the reasonable cause criteria, you should file corrected returns by August 1 to be subject to a reduced penalty.

In addition, even if you meet the reasonable cause criteria, the IRS encourages you to file corrections for incorrect or missing TINs so that the IRS can update the payees’ records.