

# Form 1099-MISC and Form 1099-NEC Reporting




## BURTON-LYMAN

Tax Service

tel: 801-825-3901

web: [www.burton-lyman.com](http://www.burton-lyman.com)

Use Form 1099-NEC, *Nonemployee Compensation*, to report nonemployee compensation payments. These payments are no longer reported on Form 1099-MISC, *Miscellaneous Information*. See *Nonemployee compensation*, next column.

### Trade or Business Reporting Only

Report on Form 1099-MISC or Form 1099-NEC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under IRC section 501(c) or 501(d), farmers' cooperatives that are exempt from tax under IRC section 521, and widely held fixed investment trusts. Payments by federal, state, or local government agencies are also reportable.

**Exceptions:** Some payments do not have to be reported on Form 1099-MISC or Form 1099-NEC, although they may be taxable to the recipient. Payments for which a Form 1099-MISC or Form 1099-NEC is not required include payments to a corporation (including a limited liability company (LLC) that is treated as a C or S corporation). But see *Reportable Payments to Corporations*, next column.

### Form 1099-MISC, *Miscellaneous Information*, Reporting

**2023 filing due date.** Form 1099-MISC is due to the IRS by February 28, 2024, if filing by paper, or March 31, 2024, if filing electronically. The due date for furnishing statements to payees is January 31, 2024.

**Who must file?** File Form 1099-MISC, *Miscellaneous Information*, for each person to whom you have paid during the year:

- At least \$10 in royalties or broker payments in lieu of dividends or tax-exempt interest,
- At least \$600 in:
  - Rents,
  - Prizes and awards,
  - Other income payments,
  - Medical and health care payments,
  - Crop insurance proceeds,
  - Generally, the cash paid from a notional principal contract to an individual, partnership, or estate,
  - Gross proceeds to an attorney. See *Payments to Attorneys*, next page,
  - Any fishing boat proceeds,
  - Cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish,
  - IRC section 409A deferrals, or
  - Nonqualified deferred compensation.

In addition, use Form 1099-MISC or Form 1099-NEC to report that you made direct sales of at least \$5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment.

**Withholding.** 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.

### Reportable Payments to Corporations on Form 1099-MISC

The following payments made to corporations generally must be reported on Form 1099-MISC.



## Form 1099-MISC and Form 1099-NEC Reporting

- Cash payments for the purchase of fish for resale,
- Medical and health care payments,
- Gross proceeds paid to an attorney, and
- Substitute payments in lieu of dividends or tax-exempt interest.

### Form 1099-NEC, *Nonemployee Compensation, Reporting*

**2023 filing due date.** Form 1099-NEC is due to the IRS and the payee by January 31, 2024.

**Who must file?** File Form 1099-NEC for each person to whom you have paid at least \$600 during the year for:

- Services performed by someone who is not your employee (including parts and materials), or
- Payments to an attorney. See *Payments to Attorneys*, next page.

**Nonemployee compensation.** Includes fees, commissions, prizes, awards, and other forms of compensation for services performed by a nonemployee as well as taxable fringe benefits. Includes professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, or engineers, and directors' fees. Includes fee-splitting or referral fees paid by one professional to another and exchanges of services between individuals in the course of their trades or businesses. Includes oil and gas payments for a working interest, whether or not services are performed.

**Withholding.** You must also file Form 1099-NEC for each person from whom you have withheld any federal income tax under the backup withholding rules regardless of the amount of the payment.

### Reportable Payments to Corporations on Form 1099-NEC

The following payments made to corporations generally must be reported on Form 1099-NEC.

- Attorneys' fees, and
- Payments by a federal executive agency for services (vendors).

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### Payments to Attorneys

The term "attorney" includes a law firm or other provider of legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable on box 1 of Form 1099-NEC.

**Gross proceeds paid to attorneys.** Report in box 10 of Form 1099-MISC payments that:

- Are made to an attorney in the course of your trade or business in connection with legal services, but not for the attorney's services, for example, as in a settlement agreement,
- Total \$600 or more, and
- Are not reportable by you in box 1, Form 1099-NEC.

**Payments to corporations for legal services.** The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in box 1, Form 1099-NEC) or gross proceeds (in box 10, Form 1099-MISC) as described earlier to corporations that provide legal services.

### Penalties

If you fail to file correct information returns and/or furnish correct payee statements by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty for late filing or furnishing within 30 days of the due date is \$60 per return, with a maximum penalty of \$630,500. Taxpayers who show intentional disregard of the filing requirements can be assessed a penalty of \$580 per return, with no maximum amount of penalties.

A penalty for failure to file a correct information return is separate from the penalty for failure to furnish the correct payee statement. For example, if you fail to file a correct Form 1099-MISC with the IRS and do not provide a correct Form 1099-MISC statement to the payee, you may be subject to two separate penalties.

### Contact Us

There are many events that occur during the year that can affect your tax situation. Preparation of your tax return involves summarizing transactions and events that occurred during the prior year. In most situations, treatment is firmly established at the time the transaction occurs. However, negative tax effects can be avoided by proper planning. Please contact us in advance if you have questions about the tax effects of a transaction or event, including the following:

- Pension or IRA distributions.
- Significant change in income or deductions.
- Job change.
- Marriage.
- Attainment of age 59½ or 73.
- Sale or purchase of a business.
- Sale or purchase of a residence or other real estate.
- Retirement.
- Notice from IRS or other revenue department.
- Divorce or separation.
- Self-employment.
- Charitable contributions of property in excess of \$5,000.