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WHEN ARE 1099S REQUIRED?

A Form 1099-NEC is used to report payments for services provided to your business by unincorporated vendors when those payments total \$600 or more for the year. The IRS has established four conditions for payments that must be reported using Form 1099-NEC. You must file a 1099 if the following four conditions are met:

- The payment was made to a nonemployee.
- The payment was made for services to the trade or business.
- The payment was to an unincorporated entity (e.g., an individual, a partnership, a limited liability company).
- The payment or payments totaled \$600 or more for the year.

Rent payments continue to be reported on Form 1099-MISC.

There are a few notable details aside from the aforementioned requirements. Generally, payments to corporations are not reportable. However, there can be instances where it is necessary to issue a 1099 to a corporation. In addition, 1099s must be issued for any and all payments to attorneys, including corporations, for services in the course of a trade or business. Payments made using a credit or debit card are exempt from the Form 1099-NEC requirements. Also, the fact that some payments may not be reportable on Form 1099 does not necessarily mean the payments are exempt from income tax. It is also important to note that an individual (not a business) who pays for a personal service is not required to file a 1099-NEC since the individual did not pay for the service in the course of a trade or business (or rental activity). However, special rules apply if you qualify as a household employer (W2s, payroll taxes, etc.).

REQUIRED INFORMATION FOR FILING 1099S

In order to properly prepare Form 1099-NEC, you will need the following required information:

- Payee's name (as reported on their tax return)
- Address
- Social security number or EIN
- Total amount paid to the payee in 2023
- Type of expenditure (generally Rents or Nonemployee compensation).

The best way to obtain the necessary information from the payee is to have him/her fill out a Form W-9 before making a payment or as soon as possible if payments have already been made. You can find Form W-9 on the IRS website or in our Reference Section.

If a vendor/payee refuses to complete Form W-9, you should make notes on the Form W-9 concerning the vendor and when you asked for this information. Forms W-9 should be kept on file for all payees subject to Form 1099 reporting.

If a vendor/payee refuses to fill out Form W-9 or fills it out incompletely he/she immediately becomes subject to a 24% backup tax withholding requirement on future payments. This means that the next time you pay a vendor that has refused to provide a W-9 you must withhold 24% Federal tax from the payment. For example, a \$1,000 bill for repair services could only be paid \$760 and the difference must be submitted to the IRS using Form 945. If the backup withheld tax amount exceeds \$2,499 for the year, tax deposits must be made monthly using EFTPS. Form 945 is due on January 31 each year.

DEADLINES AND PENALTIES

2023 Forms 1099 must be filed with the payee, the IRS and Michigan by January 31, 2024.

Failure to file on time will trigger the following IRS penalties ***per Form 1099 not filed***:

Filed less than 30 days late: \$60

Filed more than 30 days late: \$120

Filed after August 1, 2024: \$310

Not filed: \$630

A business that fails to file Form 1099 with the IRS, will likely also fail to supply the recipient with a copy of the form (a payee statement). As a result, the business will be subject to penalties double the amount shown above.

HOW TO COMPLY

Our firm is available to help you comply with the Form 1099 requirements. We ask that you provide us the required information (see above) as soon as available to ensure your Forms 1099 are processed by the January 31 due date. We will prepare the payee copies and file all required information with the IRS and State of Michigan.

Should you have finalized information for any vendors/payees, we encourage you to submit that information to us at your earliest convenience.

Alternatively, you may prepare the Forms 1099 on your own by ordering forms from the IRS or an office supply store, but remember that you must also submit copies to the IRS and State to avoid penalties.

Unless you specifically engage us to prepare your 1099s, we will assume you are preparing and filing Forms 1099. If you are audited, the IRS will want documentation of expenses and will look at whether 1099s were filed.

For questions or more information, please contact our office.