



Reporting on Form 1099-MISC

A Question & Answer Session with Steve Mercatante of TaxInformationReporting.com

December 16, 2009

Question	Answer
When reporting for subcontractors, do expenses and labor costs need to be reported separately?	<p>When it comes to subcontractor reporting, there are several factors which need to be considered in order to determine who is responsible for reporting. The factors are in the middleman regulations, Regulations section 1.6041-1(e) (see TD 9010).</p> <p>Essentially, the middleman has 1099 reporting responsibility if he/she (1) has a management and oversight function relating to the payment, and (2) has economic interest in the payment. Also, the contract may designate who is responsible for the reporting. There are examples in the regulations which may help you in making your decision.</p> <p>As for expense reporting the IRS states you can report either with or without the reimbursement of business related expenses. The choice is yours. Keep in mind that if you choose to not report these expenses then you will be required to adhere to the same guidelines as you would if these expenses were reimbursed to employees, following the guidelines in Pub 15-B, 463 & 15. All three publications may be downloaded from www.irs.gov.</p> <p>We recommend that you report both payment of services and reimbursement of business related expenses to independent contractors.</p> <p>If you do report both payments (including for labor and other such services) and expenses then the 1099-MISC would include both.</p>
Do payments to attorneys who are collecting garnishments constitute a payment for legal services, and if so, are they reportable?	<p>The following all represent situations when payments to attorneys are not reportable:</p> <ul style="list-style-type: none">• If an attorney is acting as a closing agent in a real estate transaction, then you do not report (see Final Regulations effective July 13, 2006, TD 9270).• If an attorney is receiving a payment as a

	<p>Trustee in Bankruptcy, then you do not report (see Final Regulations effective July 13, 2006, TD 9270).</p> <ul style="list-style-type: none"> • For all other payments to an attorney or law firm made in the course of your trade or business, and in an amount that for the year is above the \$600 reporting threshold, you must report on Form 1099-MISC (either Box 7 or Box 14). • The exception for an attorney acting as closing agent in a real estate financing transaction does not apply to other types of loan closings. • The exception for an attorney acting as a Trustee in Bankruptcy does not apply to garnishments handled by an attorney under other circumstances. It only applies to an attorney appointed as Trustee by the bankruptcy court.
What is the threshold for attorney payments for Box 7?	<p>The threshold is \$600. Remember that box 7 is for a situation where an attorney performed services for your organization. Usually this means that Box 7 is used to report payments to your company's own outside legal firm. Keep in mind that you may not take a shortcut and simply report all attorney payments in Box 7 or all attorney payments in Box 14, since these two boxes have very different meanings:</p> <ul style="list-style-type: none"> • Box 7 means the attorney earned the income. It is part of the attorney's gross revenue. • Box 14 means the attorney handled the transaction and gross proceeds passed through the attorney's hands. Reporting in Box 14 does not indicate what amount, if any, is income to the attorney.
Is there a 1099 form for forgiven debt?	<p>Financial institutions and certain other organizations are required to file Form 1099-C to report \$600 or more of cancellation of indebtedness. The reporting requirements can be found in IRC 6050P and related regulations, as well as in the instructions to Form 1099-C.</p>
Are employee travel expenses reportable if the employee's company is not a corporation?	<p>Travel expense reporting is independent of the entity chosen for formation by the employer. This means that in general, reimbursed amounts are not reportable (regardless of the entity designation of the employer), as long as the reimbursement meets the "accountable plan" rules of the tax regulations, which in general means that you have documentation of a business purpose, and the payee has provided receipts (or used the IRS-set</p>

	<p>per diem rate for meals and lodging).</p> <p>You must take other considerations into account as well. For example, if the employee includes family on a business trip and your company is paying for the travel and lodging of the family, then those amounts are reportable as income -- they do not constitute a business connection. It is possible for the employee's family to have a business reason to join the employee, but this is a rare occurrence.</p> <p>Finally, if you are directly paying an airline or other travel service provider then you may have reporting responsibilities to that organization.</p>
Are donations such as political, community or religious reportable?	<p>If the payment is made to a non-profit, they are not reportable entities; therefore, you do not report the payment. Just make sure the organization to which you are making the payment is indeed a non-reportable type entity.</p>
How are items purchased via the Internet (e.g., e-Bay) reported?	<p>Payments made for services purchased over the internet are reportable just as those that are not are reportable. In general, payments made for goods are not reportable on Form 1099 but there may be sales and use taxes involved that are reportable. When determining whether a payment is reportable, look to see if the payment was for a service, if it was made in the course of your trade or business, whether the payee is entitled to an exception from reporting (e.g., a corporation) and if the total payment amount is above the dollar threshold.</p>
How is a payment that is made payable to both the attorney and claimant reported and whose TIN number should be on the 1099?	<p>When an attorney and claimant appear as joint payees for a settlement, you may need to report to both parties and thus both parties will need to provide their TIN. Remember that the threshold for reporting is \$600. If the amount of the check meets the threshold, report the payment to the attorney, using Box 14 of Form 1099-MISC.</p> <p>Whether you report the payment to the claimant depends on what the settlement is for. There is no reporting to the claimant if:</p> <ul style="list-style-type: none"> • The payment is for personal physical injury or illness; • The payment is for medical expense reimbursement (documented); • The amount of income to the claimant is not fixed and determinable (most common example is property damages, where you do not know what amount is income to the claimant because you do not know the claimant's original cost basis in the

	<p>property).</p> <ul style="list-style-type: none"> The claimant is an exempt recipient (such as a tax-exempt or government entity, or a corporation). <p>Whatever amount is reportable as income to the claimant is reported on Form 1099-MISC, Box 3 (or on Form W-2 if the claim is for back wages). If you paid the claimant's attorney fees as part of the settlement and the settlement itself is reportable, include those attorney fees in the total amount you report as income to the claimant.</p>
For payments to an independent contractor reported in box 7, is an employer required to withhold taxes if the payee requests it?	<p>There is no provision in tax law or regulations for you to withhold tax from independent contractor payments at the request of the payee. In fact, you cannot withhold from a payment to your payee if he/she requests such. The vendor is responsible for his/her own personal tax liability.</p>
Does the corporate exemption apply to equipment leases reported in box 1?	<p>The "corporate exemption" applies to Box 1 (rents) of Form 1099-MISC. Therefore, you do not report rent payments made to a corporation if you have the documentation to prove that the payee is exempt.</p> <p>In addition, remember to be careful when it comes to the type of lease. When you are making payments to own something, this is considered a capital lease and is not reportable (e.g., 24 monthly payments are in the contract, and at the end of 24 months your company owns the piece of equipment).</p> <p>However, if you are making payments just to use something, this is an operational lease and it is reportable as "rent" income in Box 1.</p>
Does Convey software include the option to mask the social security number on Form 1099?	<p>Convey will support SSN masking for tax year 2010 filings.</p>
Does Convey's software recognize credits and billing and then offer a grand total to report?	<p>Taxport can import transactions and summarize them for reporting (debits and credits are totaled appropriately).</p>
Does Convey offer California 592 Form (backup withholding)?	<p>We support backup withholding, XML transmittal and reconciliation of withholding for California. The information for the 592 form can be generated in Taxport but generally must be combined with W-2 information from a source other than 1099 forms. We will work with you to get the correct information from Taxport to include with your other data.</p>

Pursuant to the rules of professional conduct set forth in Circular 230, as promulgated by the United States Department of the Treasury, nothing contained in this communication was intended or written to be used by any taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer by the Internal Revenue Service, and it cannot be used by any taxpayer for such purpose. No one, without our express prior written permission, may use or refer to any tax advice in this communication in promoting, marketing, or recommending a partnership or other entity, investment plan or arrangement to any other party.