

FORM 1099 Reporting Requirements – As of 2010

1. There are numerous 1099 forms used to report a variety of transactions. However, the most common 1099 for a **small business** is form 1099-MISC, which is used to report miscellaneous income payments to non-employees (independent contractors) for individuals and partnerships. This 1099 form is due to the independent contractor before January 31 and to the IRS before February 28 of the following year. Copies should also be sent to states where required. The business must also file a form 1096 which summarizes the 1099 MISC form information. The form 1096 and the 1099s are filed with the IRS together as a package.

There should be a 1099-MISC filed for each person paid as follows:

- Payments of \$600 dollars or more for services to individuals and partnerships, independent contractors and/or consultants, physicians, physician's corporation, or other providers of health or medical services, purchases of fish for resale, and crop insurance proceeds
- Payments of \$10 or more for royalties, substitute dividends and tax exempt interest
- Payments of any amount to attorneys and crew-members of fishing boats
- Payments of any amount to persons subject to the backup withholding rules
- Sale of \$5,000 or more of consumer products for resale anywhere other than a permanent retail establishment

Penalties for Late Filing

2. 1099 MISC forms filed after the return due **dates** are subject to the following penalties:
 1. For corrections made within 30 days after the filing **date**, the penalty is \$15 per 1099, with an annual maximum of \$25,000 for **small businesses**.
 2. For corrections made between April 1 and August 1 of the calendar year in which the 1099 was due, the penalty is \$30 per 1099, with an annual maximum amount of \$50,000 for small businesses.
 3. For corrections after August 1 of the year the 1099 is due, the penalty is \$50 per 1099, with an annual maximum amount of \$100,000 for small businesses.

Employee Vs. Independent Contractor

3. It is often difficult for small businesses to determine whether a worker is an employee or an independent contractor.

As a general, rule according to the IRS " a worker is considered an independent contractor if he or she is subject to the direction or control of another for the purpose of outlining the work to be accomplished, but not as to the means and methods by which the work is accomplished. "

The IRS often challenges employment classification. The 20 key factors listed in Revenue Procedure 85-18 are used by the IRS to determine worker status. If the IRS successfully challenges a workers classification the **small business** would be responsible for withholding taxes and would be subject to fines and penalties for failing to withhold and pay over the taxes due.

Statutory Employees

4. Some workers are automatically classified as employees by law. The business must first make a determination as to whether the worker is a "statutory employee" or a "statutory independent contractor." If the worker does not fall under either of these categories then the business must evaluate the workers status under the 20-factor test.

Conclusion: Non-compliance with the 1099 reporting requirements can result in serious consequences for small businesses. If there is any doubt about the businesses capability to handle the 1099 reporting requirements outside professional help should be obtained.

FORM 1099 Reporting Requirements – For 2012, Maybe 2011

The same as the 2010 requirements below except for the following fact:

Payments of \$600 dollars or more for services and products to ALL payees, including Corporations must receive a 1099.

In case this didn't register, let's state this in another way:

Virtually EVERYONE you pay more than \$600 in the calendar year will have to receive a 1099.

This is new tax law effective starting in the calendar year of 2012, but it is in the President's budget proposal right now to be effective for 2011.

Because of these new requirements, it will obviously become a more time-consuming task and our fees for this service will increase to the following schedule either in 2011 or 2012.

- 1099 Starting package for up to 50 payees \$500.00
- Above 50 will be specially quoted