

## MISCELLANEOUS INCOME & NON-EMPLOYEE COMPENSATION FORMS 1099

The IRS wants to make sure that individuals and entities are reporting all of their income. Therefore, they require a trade or business to complete a 1099 Form and submit a copy to the IRS and a copy to the recipient. The IRS uses this information to verify that the recipient has reported the income on their tax return. On all partnership, corporate, and individual income tax returns with a business, these are the following two questions:

- Did you make any payments that require you to file Form(s) 1099?
- Will/did you file the Form(s) 1099 with the IRS?

A trade or business must send a 1099-NEC to a non-corporate entity if payments made for the year total at least \$600 for services (including parts and materials) and commissions. They must also send a 1099-MISC to a non-corporate entity if payments made for the year total at least \$600 for rent, prizes, or awards. These are the most common types of payments, but this list is not all inclusive. Payments for legal services over \$600 must be reported even if paid to a corporation and would be reported on the 1099-NEC form. There are also other types of 1099s for interest, dividends, and other types of income.

Common examples of who receives 1099s are:

- Partnerships, even if they are LLCs and LLPs
- CPAs and attorneys
- Independent contractors
- Janitors and landscapers
- Computer consultants
- Landlords

Forms 1099-MISC must be filed annually on a calendar year basis. The 1099 must be sent to the recipient by **January 31, 2023**. The returns must be filed with the Internal Revenue Service (and in some cases to your state taxing authority) by **February 28, 2023**. **However, if the payment is for non-employee compensation to be reported on Form 1099-NEC, then it is required to be filed with the IRS by January 31, 2023.**

If you fail to file a correct information return (1099) by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to file timely, you fail to include all information required to be shown on a return, or you include incorrect information on a return.

The amount of the penalty is based on when you file the CORRECT information return. In general, the penalties are per information return and progressively increase the later they are filed. The penalty can be as high as \$270 per return. **We are seeing an increase in IRS enforcement of the penalties.**

Furthermore, if you file a 1099 with an incorrect or missing Employer Identification Number for the recipient, you may be subject to backup withholding for that 1099. You are required to obtain a Form W-9 from your vendors, prior to sending any payments to them.

More importantly, if upon audit it is determined that Form 1099 was necessary and not filed, they could disallow the deduction. This loss of deduction(s) could result in a much higher cost to the entity and additional taxes due.

If you would like assistance with the preparation of your 2022 information returns, or if you have any questions regarding filing requirements for 1099s in general, please do not hesitate to give us a call.