



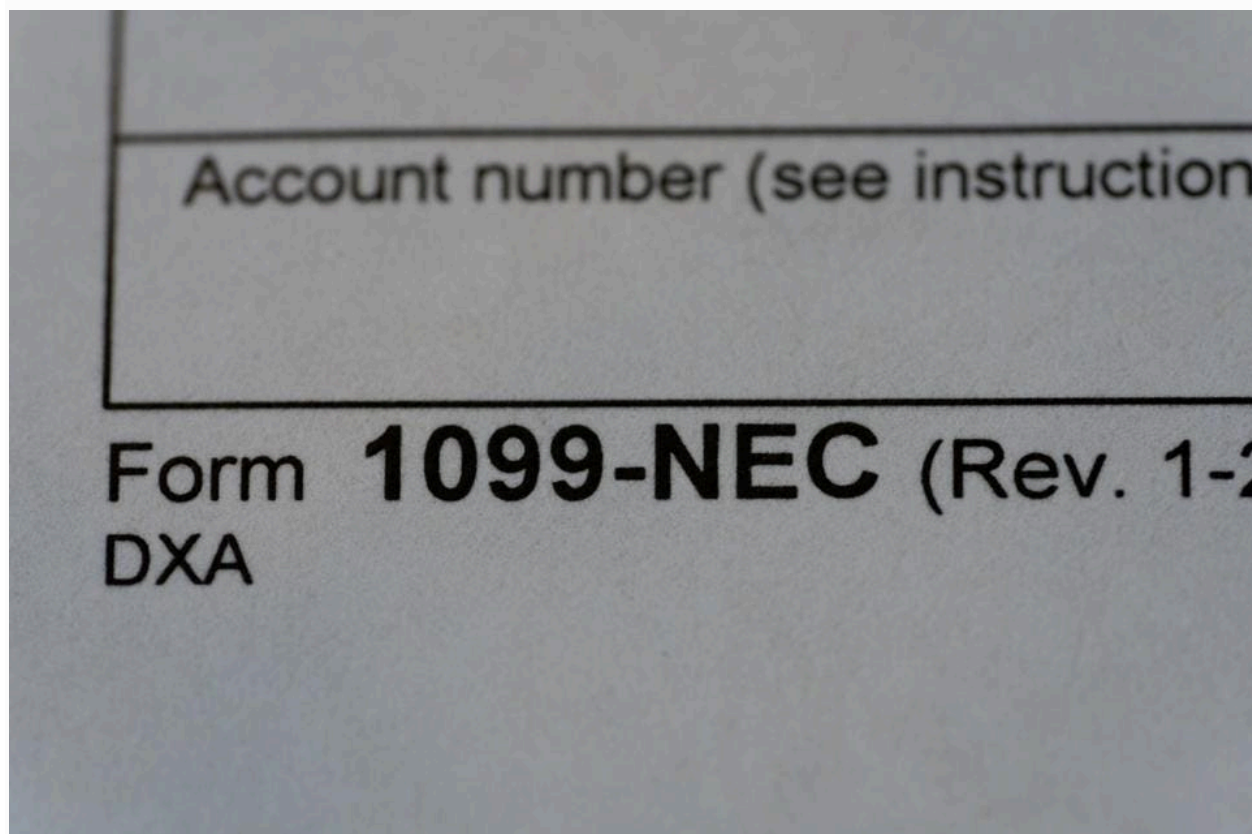
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THE TAX LAWYER

Before Filing Taxes, It Pays To Double-Check All Your IRS Forms 1099

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Millions of Forms 1099 are sent out every year. Most arrive in late January or early February, reporting payments for the prior year. The IRS relies heavily on them because they allow IRS computers to keep tabs on millions of payments. Even though the IRS audits only a small fraction of tax returns, the IRS matches nearly all Forms 1099 against your Form 1040, sending automated notices to pay up if you forget to report one. Yet despite their importance, there is considerable confusion about these forms.

Not Every Payment Triggers A Form 1099

The basic Form 1099 rule is that each person engaged in business and making a payment of \$600 or more for services must report it on a Form 1099. The rule is cumulative. So, while one payment of \$500 wouldn't trigger a form, two payments of \$500 to a single payee during the year require a Form 1099 for the full \$1,000. A payment of \$600 or more is just the basic threshold rule; there are many, many exceptions. That's why you probably get a Form 1099 for every bank account you have, even if you earned only \$10 of interest income.

Not All Forms 1099 Are The Same

There are many varieties, such as Form 1099-INT for interest; 1099-DIV for dividends; 1099-G for state and local tax refunds and unemployment benefits; 1099-R for pensions and payouts from your individual retirement accounts; 1099-B for broker transactions and barter exchanges; 1099-S for real estate transactions, etc. In fact, there's a dizzying array. There are many categories, but Form 1099-MISC (for miscellaneous) covers the biggest territory. The newest 1099 is Form 1099-NEC for payments to independent contractors.

Report Errors On Forms 1099

Mistakes happen, and reporting errors is wise. So, don't just put arriving 1099s in a pile; open them immediately. Suppose you get a 1099-MISC reporting

\$8,000 of pay, when you know you received only \$800? Tell the payer immediately. There may be time for the payer to correct it before sending it to the IRS. If the payer has already dispatched the incorrect form to the IRS, ask the payer to send in a corrected form.

There's a special box on box Form 1099-MISC and Form 1099-NEC to show it is correcting a *prior* 1099—so the IRS doesn't just add the amounts together. The corrected form will cancel the first one. Besides, even if the payer doesn't fix it for you, keep a copy of your correspondence. If you are audited or get a notice, the correspondence might help you to convince the IRS that you only got \$800.

Forms 1099-MISC And 1099-NEC Are Different

The IRS has a special form for independent contractors, Form 1099-NEC specifically for paying independent contractors. The NEC form tips of the IRS they should get self-employment tax on top of income tax. Self-employment tax is equivalent to *both* halves of the employer and employee payroll taxes that apply to wages, which are reported on Form W-2.

Self-employment tax can add a whopping 15.3% on top of income taxes. That 15.3% applies up to the wage base of \$147,000, with 2.9% tax thereafter on any excess over the wage base. There's no limit on that 2.9%, even if you earn millions. In short, self-employment tax is nothing to sneeze at.

A Form 1099-MISC is more neutral, just reporting income, but not saying it is subject to self-employment tax. Box 3 of MISC is the big one, "other income." Before 2020, there was Box 3 and Box 7 for non-employee compensation—but now Box 7 was made into its own form, Form 1099-NEC.

Your Mailing Address Matters

Regardless of whether the payer has your correct address, the information will be reported to the IRS (and the state) based on your Social Security number. But you want to see any forms that are issued, and that means by mail, so you have an interest in making sure payers have your correct address. Update your address directly with payers, as well as putting a forwarding order in with the U.S. Post Office. You'll want to see any forms the IRS sees.

Don't Ignore An Incorrect Form 1099

The key to Forms 1099 is the IRS's computerized matching. Every Form 1099 includes the payer's employer identification number and the payee's Social Security (or taxpayer identification) number. The IRS matches the 1099 with the payee's tax return. If you disagree with the information on the form but you can't convince the payer you're right, explain it on your tax return.

Suppose you received a \$100,000 payment from your car insurance company to cover your medical expenses and pain from whiplash you suffered in an accident. A payment for personal physical injuries is excludable from income, and it shouldn't be the subject of a Form 1099. If you haven't succeeded in convincing your insurance company to cancel the 1099, try to explain it on your tax return. There's no perfect solution, but one thing is clear: If you receive a Form 1099, you can't just ignore it, because the IRS won't.

If You Don't Receive Form 1099, Should You Request It?

It is surprising how many people *ask* for Forms 1099. Whether the form is reporting independent contractor pay, a legal settlement, or something else, if you know about the payment, you don't need the form. There is no mismatch on your tax return if you report a payment but didn't receive a Form 1099. Only the reverse is a problem.

Keeping payers advised of your current address is a good idea, as is reporting errors to payers. But if you don't receive a Form 1099 that you expect, you

know about the income, so just report that amount on your tax return.

Besides, in my experience, if you call or write the payer and raise the issue, you may end up with two Forms 1099, one issued in the ordinary course (even if it never got to you) and one issued because you called. Getting an IRS transcript is always a useful double check so you know all Forms 1099 reported to your Social Security Number.

Omitting A Form 1099 May Lead To Audit

If you forget to report the \$300 of interest you earned on a bank account or the \$6,000 consulting payment you received, the IRS will send you a computer-generated letter billing you for the tax due. If it's correct, just pay it. The IRS sends millions and millions of these notices every year. The IRS may not “audit” many people, but these notices are low hanging fruit and the IRS usually collects.

The state will also get a copy and has the same kind of computer matching program as the IRS. That way, they can spew out an automatic tax bill if you fail to report a Form 1099 on your state tax return. So if you fail to report a Form 1099 on your federal tax return, the state will probably catch up with it, too.

Late Forms 1099

Businesses usually send out Forms 1099 on or before January 31 for the prior calendar year. That means you should watch your mailbox carefully at that time of year. But some businesses send a Form 1099 at the same time they send you a check, so they won't have to send you a form later. That means you might receive a Form 1099 at any time of the year. Some companies are late, so don't assume you're off the hook if you don't receive a Form 1099 by March or April. Whenever they arrive, open and check them, and then put them in a safe place.

Be Careful

Forms 1099 are a key part of the IRS's computer matching program, and nearly all of us receive payments reported in this way. Take these forms seriously, the IRS does.