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THE TAX LAWYER

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TAXES 1/28/2015

## Disagree With An IRS Form 1099? Here's What To Do

No one likes receiving Forms 1099, since they generally stick you with income. If you have income, you must report it, whether or not you receive a Form 1099. But seeing the dollars reported to your Social Security number can be chilling, especially if you think it's wrong.

Information reporting has become the centerpiece of IRS enforcement efforts. But suppose you receive a [Form 1099](#) you know to be wrong? Say you're paid a consulting fee of \$30,000 in 2014, but the 1099 you receive in January 2015 is for \$300,000. What should you do?

First, act promptly. You may be able to approach the issuer, show you *really* only were paid \$30,000, and get the issuer to reissue it correctly. Ideally, do this *before* the issuer sends the Form 1099 to the IRS. A Form 1099 consists of several parts: for the recipient, the IRS, and the state. Forms 1099 should be sent to taxpayers by January 31 and to the IRS by February 28.

|   |  |  |    |  |    |  |
|---|--|--|----|--|----|--|
| 9595  |  | <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED   |    | OMB No. 1545-0115                                      |    | <b>Miscellaneous<br/>Income</b>  |
| PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. |  | 1 Rents  | \$ | 2014   |    |  |
|   |  | 2 Royalties  | \$ |  |    | <b>Copy A<br/>For<br/>Internal Revenue<br/>Service Center</b>  |
| PAYER'S federal identification number   |  | 3 Other income   | \$ | 4 Federal income tax withheld                          | \$ |  |
| RECIPIENT'S identification number   |  | 5 Fishing boat proceeds  | \$ | 6 Medical and health care payments                     | \$ |  |
| RECIPIENT'S name  |  | 7 Nonemployee compensation   | \$ | 8 Substitute payments in lieu of dividends or interest | \$ | <b>File with Form 1096.<br/>For Privacy Act<br/>and Paperwork<br/>Reduction Act<br/>Notice, see the<br/>2014 General<br/>Instructions for<br/>Certain<br/>Information<br/>Returns.</b> |
| Street address (including apt. no.)   |  | 9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/> | \$ | 10 Crop insurance proceeds                             | \$ |  |
| City or town, state or province, country, and ZIP or foreign postal code  |  | 11   | \$ | 12   | \$ | <b>File with Form 1096.<br/>For Privacy Act<br/>and Paperwork<br/>Reduction Act<br/>Notice, see the<br/>2014 General<br/>Instructions for<br/>Certain<br/>Information<br/>Returns.</b> |
| Account number (see instructions)   |  | 13 Excess golden parachute payments  | \$ | 14 Gross proceeds paid to an attorney                  | \$ |  |
| 2nd TIN not <input type="checkbox"/>  |  | 15a Section 409A deferrals   | \$ | 16 State tax withheld                                  | \$ | <b>18 State income</b>   |
|   |  | 15b Section 409A income  | \$ | 17 State/Payer's state no.                             | \$ |  |
|   |  |  | \$ |  | \$ |  |

Form 1099-MISC Cat. No. 14425J www.irs.gov/form1099misc Department of the Treasury - Internal Revenue Service  
**Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page**

Thus, if you call and write the issuer of the incorrect Form 1099 as soon as you receive it, you may be in time. The issuer may be able to destroy the incorrect one and issue a new form. If you follow this path, keep a written record. Ask for a letter from the company saying that they erroneously issued a Form 1099 for \$300,000, destroyed it, and then properly issued one for \$30,000.

Why keep this? Because you may find that the company *did* transmit the incorrect Form 1099 to the IRS after all. This way you'll be able to explain it. If the issuer of the Form 1099 has *already* sent it to the IRS, ask for a "corrected" Form 1099. The issuer will prepare a Form 1099 in the *correct* amount and check a "corrected" box on the form.

What happens if the issuer won't cooperate? There's no good answer. You'll need to address this on your return. For example, you could show the \$300,000 payment on your return (on line 21, or on a [Schedule C](#)), and then explain the \$270,000 overstatement. You could do so in a statement or footnote by showing \$30,000 on line 21, but adding "see statement." The statement might say:

- Erroneous Form 1099-MISC \$300,000
- Less error amount \$270,000
- Net to line 21 \$ 30,000

Does this make your audit risk higher? It may, and that's an argument for doing all you can to make sure the Form 1099 is correct in the first place. But you probably don't have much choice.

After all, you practically *guarantee* an audit if you merely report the \$30,000 figure and don't explain. In that event, the IRS will likely send you a notice asking for tax on the missing \$270,000.

Is there any other possibility? If you are really miffed you could try to sue the payor for issuing the erroneous Form 1099. However, most such lawsuits go nowhere and are expensive. And forget trying to bring the IRS into your dispute. Besides, you won't have the suit concluded before the deadline for filing your tax return.

The difficulties faced by taxpayers who receive erroneous Forms 1099 are one reason to be as specific as possible in written agreements so the amount and number of Forms 1099 is explicit. For example, in settling litigation, a settlement agreement should be specific about each Form 1099 that will be sent. For more tax tips about settling litigation, see [10 Things To Know About Taxes On Damages](#).

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