



Robert W. Wood

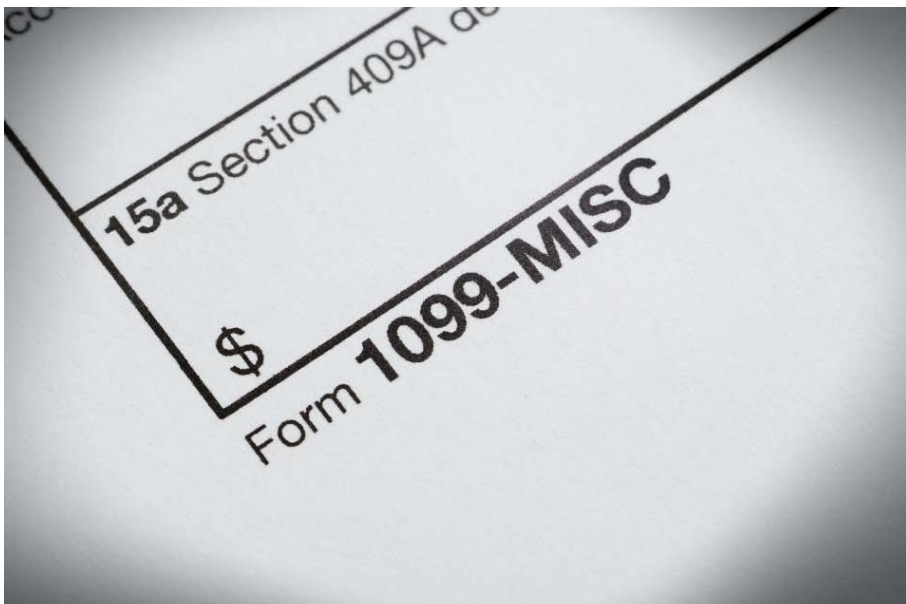
THE TAX LAWYER

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Hey, My IRS Form 1099 Is Wrong ... Maybe Intentionally

Did you receive any IRS [Forms 1099](#) that you think are *wrong*? Maybe someone actually *paid* you \$1,000, but *reported* that they paid you \$10,000? The 1099 rules are complex and voluminous, and mistakes happen. But how should you handle it? And what if you think someone *intentionally* misreported? There's no easy answer. Some reporting rules (for example, to lawyers and their clients) call for duplicate reporting that can make it seem as if \$1,000 was really \$2,000.

But more generally, incorrect Forms 1099 are not uncommon. At a minimum, one can read the 1099 regulations broadly, erring on the side of reporting. When in doubt, issue a Form 1099, many say. A few observers may even think of issuing IRS Forms 1099 in a kind of punitive way, to turn the tax tables on someone. If you receive a Form 1099 you think is wrong, you can ask the payor to correct it. They can destroy the incorrect one if they have not already sent it to the IRS. If it's too late, they can issue a corrected form.



Issuers face penalties for errors, but most of those penalties apply to failures to issue the forms. There are a few examples of private lawsuits over tax reporting forms. But the IRS won't get involved, and most such suits fail. So stick to trying to get your situation corrected, or explained to the IRS on your return. Issuing Forms 1099 is something businesses do to verify that payments were made, and to help support tax deductions. Of course, by issuing a Form 1099, you are generally also sticking the recipient with paying taxes on the item. In that sense, some IRS Forms 1099 may conceivably be issued with a kind of punitive intent.

Last year, boxer Floyd Mayweather Jr. [sent an IRS Form 1099 to a strip club to report that he dropped \\$20,000](#). Mayweather Promotions LLC sent the form to the Hustler Club [for \\$20,000](#), mostly cash tips for dancers. The club claimed it didn't see the money paid to the 'independent contractors.' Still, the club must report it. Forms 1099 are critical to tax returns, and you are almost guaranteed an audit or tax notice if you fail to report one. Each Form 1099 is [matched to your Social Security number](#), so the IRS can easily spew out a tax bill if you fail to report one. It matters a lot, especially [now that the IRS has six years to audit, not three](#).

Forms 1099 are supposed to be mailed to the taxpayer by January 31st, though some companies issue the forms throughout the year when they issue checks. Although the initial deadline is January 31, issuers of the forms have traditionally not been required to file copies of all Forms 1099 with the IRS until the end of February. That one month delay was helpful, allowing a window of time to address errors. So contact the issuer if you receive one you believe is in error.

However, there is an important change in 2017 (covering 2016 Forms 1099-MISC). For those forms reporting non-employee compensation in box 7 of 1099-MISC, January 31, 2017 was the due date for sending forms to the taxpayer *and* to the IRS. For that category, there is no one month reporting delay. Forms 1099 are controlled by your Social Security number, so even if an issuer has your *old address*, the information will be reported to the IRS (and your state tax authority).

Forms 1099 remind you that you earned interest, received a consulting fee, or were paid some other kind of income. There are many varieties, including [1099-INT](#) for interest, [1099-DIV](#) for dividends, [1099-G](#) for tax refunds, [1099-R](#) for pensions and [1099-MISC](#) for miscellaneous income.

These forms are sent by payors to you and the IRS. If you don't include the reported item on your tax return, the IRS issues a notice.

In fact, apart from wages, whatever you were paid, is likely to be reported on a Form 1099. Companies big and small churn them out. If you're in business—even as a sole proprietor—you also may need to *issue* them. The most common is Form 1099-MISC, which can cover just about any kind of income. Consulting income, or non-employee compensation is a big category.

If you don't receive a Form 1099, you may not want to ask for it. If you *don't* receive a Form 1099 you expect, just report the income. Reporting *extra* income that doesn't match a Form 1099 is not a problem. The IRS does not consider that a mismatch. Only the *reverse* is a problem.

If you call or write the payor asking for a Form 1099, the payor may issue it incorrectly. Alternatively, you may end up with two, one issued in the ordinary course (even if you never received it), and one issued because you asked for it. The IRS computer may think you had twice the income you really did.

For example, if you settled a lawsuit, don't ask for a Form 1099. Just report it, if it is income. Generally, everything is income, including money for settling a lawsuit. One of the few exceptions is lawsuit recoveries for physical injuries. Damages for physical injuries are tax-free under [Section 104](#) of the tax code. Yet only physical injuries and physical sickness qualify, one of [10 things to know about taxes on legal settlements](#).

For alerts to tax articles, email me at Wood@WoodLLP.com. This article is not legal advice.