

Incorrect IRS Form 1099? Here's How Taxpayers Can Push Back

By Robert W. Wood

As tax filing season grows closer, more than a few of us are dusting off our records and trying to face facts. Whether you prepare your tax returns yourself or have an accountant, you have to start with the basic data. Even if you are just handing it all over to your accountant, you have to collect the data first.

That's where IRS Forms 1099 come in. It's hard to ignore these diminutive pieces of paper that, despite their small size, can sure pack a punch. The IRS loves all those little Forms 1099 you get in the mail because they easily allow the IRS to computer match data against your tax return. Generally, businesses must issue the forms when they pay out \$600 or more during the year. That's just the basic threshold rule, and there are numerous exceptions.

For example, you probably get a Form 1099 for every bank account you have, even if you earned only \$10 of interest income. There are many varieties of the little forms, including 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, and so on.

Form 1099-MISC (for miscellaneous income) seems to prompt the most questions and probably covers the biggest territory. Businesses must send out Forms 1099 by Jan. 31 for the prior calendar year. However, you should not assume that they all actually arrive on time. In fact, don't assume you're off the hook for reporting income if you don't receive a Form 1099 by February or even March. Sometimes they come late.

For that matter, even if yours is lost in the mail or you have moved addresses, you're on the hook. The information will be reported to the IRS based on your Social Security number regardless of whether you receive the form. 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, and any Form 1099 sent to you goes to the IRS too.

Most of us do not like receiving IRS Forms 1099 in the mail. They can be painful reminders that you have to pay taxes. And the forms can be wrong. You might have discovered an error when a form arrived about January 31, or you might discover it while you are collecting your records to start tax return preparations. Either way, if you have good records of what you were paid, you might want to go back to the issuer of the form and ask about a form that seems wrong to you.

In general, though, companies are usually not very flexible unless you can really prove there was a gross error. Besides, there might be something else going on, such as where the company paid out several amounts to you and others, but is treating you as the recipient of it all. That can be doubly frustrating. A good example is plaintiffs in lawsuits. You

might receive a Form 1099 for more than the amount you received, because some of the money went to your lawyer. In that case, you might be looking for ways to deduct legal fees under new tax laws.

When you receive a Form 1099, don't just put the arriving 1099s in a pile. Open them immediately, and if there's an error, tell the payer immediately. If the payer has already dispatched the incorrect form to the IRS, ask the payer to send in a corrected form. If you disagree with the information on the form but can't convince the payer you are right, explain it on your tax return. If you receive a Form 1099, don't ignore it, because the IRS won't.

If you forget to report a Form 1099 on your tax return, the IRS will normally send you a computer-generated letter billing you for the taxes. If the IRS letter or tax bill is correct, just pay it. California has an income tax too, and the Franchise Tax Board will receive the same information as the IRS. So if you missed reporting a Form 1099 on your federal tax return, the state will probably bill you too.

What if you do not receive a Form 1099 that you expect? Should you ask for it? That is a surprisingly persistent question. While there may be no universal answer, in my view, usually not. If you are expecting a Form 1099, you know about the income, so just report that amount on your tax return. That is not a mismatching, so IRS computers have no problem with that. In contrast, if you receive a Form 1099 and do not list it on your return, there's a problem.

Why not ask for a Form 1099 you are missing? If you call or write the payer and raise the issue, you may end up with two of the forms, one issued in the ordinary course (even if it never got to you), and one issued because you called. You can also ask for a transcript from the IRS that should show the Forms 1099 issued under your Social Security Number. That's another useful cross-check, although the IRS system is often behind about updating this information.

Tax returns and reporting involve many little details, and the details matter. IRS Forms 1099 are important building blocks, and you should pay attention to each one. The IRS sure does.

Robert W. Wood is a tax lawyer with www.WoodLLP.com, and the author of "Taxation of Damage Awards & Settlement Payments" (www.TaxInstitute.com). This is not legal advice.