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Robert W. Wood
THE TAX LAWYER

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Year-End Payments & Mismatched Tax Forms Complicate Your Taxes



Taxes are computed annually, which means there is a material difference between a payment that arrives on December 29 and one that arrives a few days latter on January 2nd. If you are paid in December of 2026, your taxes are due on April 15, 2027. In contrast, if you are paid in January 2027, your taxes are due April 15, *2028*, about 15 months later. That makes it seem like an easy decision which you would prefer.

2027 Payment, 2026 Tax Forms

What if you don't exactly have a choice? If you receive a payment in January 2027, you will probably report it on your 2027 tax return. Still, what if the check was prepared and mailed to you in 2026? In that event, there's a good chance that you will receive a tax form, such as a Form 1099 or even a Form W-2, that says it is 2026 income, even if your check may not have arrived until January. A payroll check reported on Form W-2 will be subject to payroll taxes.

A Form 1099 is more generic, a type of payment that is income but not wages. There are many varieties of Form 1099, such as Form 1099-MISC for miscellaneous income, and Form 1099-NEC for non-employee compensation. So do you have any options if a payment arrives in early January of 2027, but around January 31, you receive a Form 1099 or W-2 showing that the payment was made in 2026?

Can You Report a Mismatch on Your Taxes?

It depends. First, if this is a wage payment reported on a Form W-2, you should probably forget about trying to argue that it is 2027 income. After all, your Form W-2 will show that it was "paid" in 2026, and the income and

employment taxes will also show as taken out in 2026 and sent to the IRS and your state. The IRS treats the date on the payroll check as controlling and considers that you probably *could have* gotten the payment via direct deposit. You could have even asked to pick up your payroll check in person.

If the funds were made available to you, you should report the payment in 2026. The impediments to trying to argue that you did not receive and could not have received a payroll check until 2027 are significant. A payment with Form 1099 is a more debatable case, although the same kinds of "made available" arguments can be present there too. Sometimes, IRS Forms 1099 can be wrong. As a cash basis taxpayer, you can argue that a check received in January 2027 belongs to your 2027 tax return, despite the Form 1099 that says otherwise, provided that the check was not made available to you in 2026

List the Form 1099 and Explain

However, putting the payment on your 2027 tax return rather than 2026 is still going to be a mismatch. How big a mismatch that would be and what it might trigger will depend. IRS Forms 1099 are key to your tax filing. Still, if you have numerous Forms 1099 and if you are reporting at least as much income as the total of your Forms 1099, it may be perfectly okay. But what if you have only one Form 1099 that reports a single 2026 payment that you want to report in 2027 because the check arrived in early January?

You can still complete your 2026 tax return, noting that the payment reported on a 2026 Form 1099 did not reach you until 2027. However, some people might report the payment in 2026, given the prominence of the single payment. Of course, if you want to avoid this kind of situation in the first place, particularly with significant payments, it pays to try to nail down the timing.

Payments Conditioned on Timing

Suppose that you are asked to sign a legal settlement agreement before the payment will be issued. The settlement agreement might say that once you sign, you will be paid within 30 days. If you agree to settle a case in December, but the settlement agreement specifies that the money is to be paid in January, when is the amount taxable? It is taxable in January when the payment arrives. The mere fact that you *could have* agreed to take the settlement in December does not make it December income.

You are free to condition your agreement (and the execution of a settlement agreement) on the payment in January. The key will be what the settlement says before it is signed. If you sign the settlement agreement and condition the settlement on payment next year, there is no constructive receipt. In much the same way, you are free to sell your house, but to insist on receiving installment payments, even though the buyer is willing to pay cash.

However, if your purchase agreement specifies that you are to receive cash, it is then too late to change the deal and say you want payments over time. The same thing happens with legal settlement agreement agreements. Suppose that a settlement agreement calls for payment in 30 days, and on the 30th day, the defense is about to make payment. But you say wait, please pay me in January. In that case, technically, you can be taxed in December, since the funds were made available to you.

The settlement agreement did not specifically call for payment in January, and since you are entitled to the money in December, technically, the IRS can tax you then. The legal rights in the documents are important.

Receipt by Your Lawyer

Speaking of legal rights, what happens if you settle a lawsuit, and the settlement proceeds are sent to your lawyer's trust account in December of 2026. In January, your lawyer subtracts the legal fees and costs, and sends you your net recovery. Is your share taxed in 2026 or 2027? Most people would probably assume that this is 2027 income. However, even though the plaintiff may not have actually received the money, his lawyer has.

For tax purposes, a lawyer is the agent of his client, so there are tax cases that say this is 2026 income. Whether you have any flexibility on this point may be influenced by the tax forms that are issued. In most cases of taxable settlements, the defendant is required to issue an IRS Form 1099 to the plaintiff, and to the lawyer. In effect, there are often two Forms 1099, each for the full amount of the settlement.

Even if the lawyer may not disburse the plaintiff's share until 2027, if the defendant issues the plaintiff a Form 1099 saying the payment was made in 2026, the plaintiff may have limited choices. Consider how the IRS taxes legal settlements and legal fees. If you don't plan ahead you may end up with an IRS Form 1099 you don't really want.