



## **Tax Bulletin on 1099 Form Filing Requirements**

2011 Income Tax Forms are now including the following questions:

- Did the corporation/partnership make any payments in 2011 that would require it to file Form(s) 1099?
- If yes, did the corporation/partnership file or will it file all required Forms 1099?

For returns that Gallagher, Flynn & Company, LLP (GFC) prepares, we will need an answer to those questions as applicable. Therefore, we are providing the following guidance on Form 1099-MISC preparation and deadlines:

**Form 1099-MISC** is used to report certain types of payments made in the course of a trade or business. If you are in a business or self-employed, you may need to submit this report to both the Internal Revenue Service (IRS) and the person or business whom you paid.

### **When is Form 1099-MISC Required?**

Businesses will need to fill out a Form 1099-MISC for persons, vendors, subcontractors, independent contractors, and others in the following circumstances:

#### **\$600 or more per year is paid for:**

- cash payments to fishermen,
- crop insurance proceeds,
- medical and health care payments,
- prizes and awards,
- proceeds paid to attorneys,
- rents,
- services (including parts and materials), and
- other types of payments not covered by another information reporting document.

#### **\$10 or more per year is paid for**

- broker payments in lieu of dividends or tax-exempt interest, and
- royalties.

In addition, use Form 1099-MISC to report that you made direct sales of at least \$5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment. You must also file Form 1099-MISC for each person from whom you have withheld any federal income tax under the backup withholding rules regardless of the amount of the payment.

**Reporting such payments is required if the recipient of the payment is not a corporation -- for example, when the recipient is an individual, partnership, a limited liability company treated as a partnership, or sole proprietorship.**

**However, reporting is required if the recipient is a corporation for the following:**

- medical and health care payments reported in Box 6,
- fish purchases for cash reported in Box 7,
- attorneys' fees reported in Box 7,
- gross proceeds paid to an attorney reported in Box 14,
- substitute payments in lieu of dividends or tax-exempt interest reported in Box 8, and
- payments by a federal executive agency for services (vendors) reported in Box 7.

A 1099-MISC is **generally not required** for payments for merchandise, telegrams, telephone, freight, storage, and similar items.

**Report Payments Made by Cash or Check, but Not Payments Made by Credit Card**

Starting with the 2011 tax year, the IRS is instructing businesses that payments made via credit card and other third party payment processing services need not be reported on Form 1099-MISC. Please refer to the *Instructions for Form 1099-MISC*, especially the *What's New* section on [www.irs.gov](http://www.irs.gov).

**Steps to Take to Prepare for 1099-MISC Forms**

You should request that your vendors, contractors, and other payment recipients submit to you a Form W-9. Form W-9 will provide you with the legal name, address, and taxpayer identification number for the vendor, which is the information you will need when preparing any Form 1099-MISCs.

You should also keep track of your payments in your bookkeeping system. You will need to know whether the payment falls under any of the categories listed above for reportable payments, whether your payments to a particular recipient reaches the \$10 or \$600 threshold for reporting, and finally you will need to know the exact amount you paid the recipient for the year.

**Penalties for Filing Form 1099-MISC Late**

If you fail to file correct information on Form 1099-MISCs and return by the due date without showing reasonable cause, you may be subject to a penalty. The penalty applies if you fail to file timely, fail to include all information required to be shown on a Form 1099-MISC return, or you include incorrect information on a return. Form 1099-MISC penalty also applies if you file on paper when you were required to file them electronically, report an incorrect TIN (Tax Identification Number), fail to report a TIN, or fail to file paper Form 1099-MISCs that are machine readable. The amount of the Form 1099-MISC deadline penalty is based on when you file the correct information return.

The following penalties will be in effect for the year 2011:

- \$30 penalty for filing a 1099 not more than 30 days late;
- \$60 penalty for filing a 1099 more than 30 days late and before August 1;
- \$100 penalty for filing a 1099 on or after August 1;
- \$250 penalty for intentional failure to file.

### **Deadlines for 1099-MISC Forms**

- Send Copy B and Copy 2 of Form 1099-MISC to the recipient by January 31, 2012. If you are reporting payments in Boxes 8 or 14, the due date is extended to February 15, 2012.
- File Copy A of Form 1099-MISC with the IRS by February 28, 2012.
- If you file electronically, the due date is April 2, 2012.
  - To file electronically, you must have software that generates a file according to the specifications in *Pub. 1220*.
  - If you are required to file electronically (250 or more information returns), but fail to do so and do not have an approved waiver, you may be subject to a penalty of \$50 per return for failure to file electronically unless you establish reasonable cause.
- Businesses can request a 30-day extension to file Form 1099-MISC with the IRS using Form 8809. An extension does not permit additional time for providing them to the recipient.

### **Other common 1099s that need to be filed and their due dates include:**

#### **Form 1099-DIV:**

- Send Copy B of Form 1099-DIV to the recipient by January 31, 2012.
- File Copy A of Form 1099-DIV with the IRS by February 28, 2012.
- If you file 1099's electronically, the due date is April 2, 2012

#### **Form 1099-INT:**

- Send Copy B of Form 1099-INT to the recipient by January 31, 2012.
- File Copy A of Form 1099-INT with the IRS by February 28, 2012.
- If you are required to file Form 1099-INT electronically, the due date is April 2, 2012.

#### **Form 1099-R:**

- Send Copies 1, B, and C of the Form 1099-R to the recipient by January 31, 2012.
- File Copy A of Form 1099-R with the IRS by February 28, 2012.
- If you are required to file Form 1099-R electronically, the due date is April 2, 2012.

### **Form 1096-Annual Summary and Transmittal of U.S Information Returns**

This form is required to transmit paper Form 1099s. Form 1096 is required for each type of Form 1099 that you are required to file. If after you file your Form 1099s and discover additional forms that are required to be filed, file the new forms with a new Form 1096. Do not include copies or information from previously filed returns!

Please call if you need further guidance on Form 1099 preparation and filing. Additionally, the IRS website contains instructions for all forms.