

# **1099 DOS AND DON'TS**



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# COURSE OVERVIEW

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## Course Description

Understanding information reporting using the 1099 series of returns is crucial for the practitioner. Not only are there penalties for failure to file and inaccurate filing, but the IRS also uses these information returns in its document matching program to identify problems on Form 1040 and other tax returns. Unfortunately, winding your way through the maze of 1099 varieties can be a challenging task.

This course is designed to provide needed guidance through the thicket. General rules involving the 1099 series of information returns are discussed, including due dates, penalties, and the proper procedure for correcting errors. In addition, each of the 20 Form 1099 types is reviewed, with special emphasis on Forms 1099-NEC and 1099-MISC, the two most common information returns.

## Learning Objectives

Upon completion of this course, you will be able to:

- Identify the basic rules for preparing and filing Form 1099
- Recognize the exceptions to the requirement to file Form 1099
- Select the appropriate version of Form 1099 to file
- Define the types of transactions that trigger Form 1099 reporting
- Identify the specific information that must be included on each Form 1099 and the statements to recipients
- Understand the due dates and penalties associated with Form 1099 and statements to recipients

# 1099 DOS AND DON'TS

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## Background

Perhaps the most common of the "information returns" required by the Internal Revenue Code ("Code") is the ubiquitous Form 1099. Information returns are required reports of activities between the taxpayer and third parties. In addition to Form 1099, Forms 1098 (*Mortgage Interest Statement*), W-2 (*Wage and Tax Statement*), 1042-S (*Foreign Person's U.S. Source Income Subject to Withholding*), 5498 (*IRA Contribution Information*), 3921 (*Exercise of an Incentive Stock Option*), and 3922 (*Transfer of Stock Acquired Through an Employee Stock Purchase Plan*) are among the information returns required under the Code. Even some forms that look like tax returns are really information returns. For example, Form 990 (*Return of Organization Exempt From Income Tax*) is an information return, although it is often mistakenly referred to as a tax return.

Filing accurate information returns is crucial because the Internal Revenue Service ("IRS") compares the information contained on the various information returns against the taxpayers' tax returns under a document matching program. A mismatch will result in the generation of a so-called "CP 2000 Notice" (***Notice of Underreported Income***).<sup>1</sup> The CP 2000 Notice is among the most misleading items of IRS correspondence and is often misinterpreted by taxpayers and their advisors.

Bear in mind that information returns are just that - they provide information but do not determine tax liability. The fact that an amount has been reported as being paid to a taxpayer on a Form 1099, for example, is not conclusive proof that the taxpayer in fact received the income. Even if the reported information is accurate, it may be non-taxable (as may be the case with regard to cancellation of debt income). Nonetheless, the CP 2000 Notice is drafted in such a way that often misleads the recipient into thinking that an assessment has already been made and additional tax is due.

Nothing could be further from the truth. The taxpayer has no legally enforceable tax debt unless and until the IRS has made a proper assessment. If the asserted additional tax arises from an information return, the IRS must generally follow the deficiency assessment procedures that culminate in the sending of a Statutory Notice of Deficiency (the "90-Day Letter") to the taxpayer, after which the taxpayer has 90 days to file a Tax Court petition to contest the liability before any assessment is made. The CP 2000 Notice is really nothing more than a request for information to resolve the mismatch between the information return and the taxpayer's tax return.

## Common Filing Requirements

All of the various types of 1099s consist of a section that calls for the payer and recipient's identifying information (name, address, and taxpayer identification number) as well as an account number. The account number is selected by the filer of the form and may be a checking account number, savings account number, serial number, or any other number the filer assigns to the payee that is unique and will distinguish the specific account. An account number is only required if the payee has multiple accounts for a recipient for whom the payee is filing more than one information return of the same type (*i.e.*, more than one Form 1099-A, more than one Form 1099-S, etc.). The IRS encourages the filer to include the recipient's account number on paper forms if the filer's system of records uses the account number rather than the name or TIN for identification purposes. One advantage of using an account number under such circumstances is that the IRS will include the account number in future notices to the filer about backup withholding.

The account number may only appear in the account number box and must not appear anywhere else on the form. Furthermore, the account number box may not be used for any other item (unless the separate instructions indicate otherwise). Using unique account numbers ensures that corrected information returns will be processed accurately.

Taxpayer identification numbers ("TINs") are used to associate and verify amounts reported to the IRS with corresponding amounts on tax returns. Therefore, it is important that you furnish correct names, social security

numbers ("SSNs"), individual taxpayer identification numbers ("ITINs"), employer identification numbers ("EINs"), or adoption taxpayer identification numbers ("ATINs") for recipients on the forms sent to the IRS.

The TIN for individual recipients (including sole proprietors) is the SSN, ITIN, or ATIN. A single-member LLC may or may not have its own EIN. If it does not, use the TIN of the sole member. For other recipients, including corporations, partnerships, and estates, the TIN is the EIN. Income reportable after the death of an individual must reflect the TIN of the payee, that is, of the estate or of the surviving joint owner. SSNs, ITINs, and ATINs have nine digits separated by two hyphens (000-00-0000), and EINs have nine digits separated by only one hyphen (00-0000000).

If the recipient is a U.S. person (including a U.S. resident alien), the IRS suggests (but does not require) that you request the recipient complete Form W-9, ***Request for Taxpayer Identification Number and Certification***, or Form W-9S, ***Request for Student's or Borrower's Taxpayer Identification Number and Certification***, if appropriate. If the recipient is a foreign person, the IRS suggests that you request the recipient complete the appropriate Form W-8.

A taxpayer who is responsible for issuing a Form 1099 should make a diligent effort to obtain the recipient's TIN. If the TIN is not obtained immediately, the payer should send correspondence to the payee stating that the TIN is needed for this purpose. Send this correspondence via certified mail to record that the payee received it. Email requests can also be used. Note that the filing obligation is not relieved merely because the filer has not obtained the payee's TIN. If the TIN is not obtained, file Form 1099 with all information that the payer has, including the name, address, and amounts paid. In the box labeled "Recipient's Identification Number" write "refused to provide."

Filers of information returns in the Form 1099 series are permitted to truncate an individual payee's SSN, ITIN, or ATIN on payee statements. Filers may truncate a payee's identification number on the payee statement (including substitute and composite substitute statements) furnished to the payee in paper form or electronically. The payee statement is the copy of an information return designated "Copy B" on the form.

If a filer truncates an identification number on Copy B, other copies of the form furnished to the payee may also include a truncated number. To truncate an identification number, replace the first 5 digits of the 9-digit number with asterisks (\*) or "X"s (for example, SSN 123-45-6789 would appear on the paper payee statement as \*\*\*-\*\*-6789 or XXX-XX-6789). A filer may not truncate a payee's identification number on any forms filed with the IRS or with state or local governments. A ***filer's*** identification number may not be truncated. Furthermore, a payee's EIN may not be truncated.

Forms 1099-MISC, 1099-NEC, 1099-OID, and 1099-PATR also include a box labeled "2nd TIN not." The filer may enter an "X" in this box if the filer was notified by the IRS twice within 3 calendar years that the payee provided an incorrect TIN. If the filer marks this box, the IRS will not send the filer any further notices about this account. However, if the filer received both IRS notices in the same year or if the filer received them in different years but they both related to information returns filed for the same year, do not check the box at this time. For purposes of the two-notice-in-3-

years rule, the filer is considered to have received one notice. The filer is not required to send a second "B" notice upon receipt of the second notice.

When filing information returns by paper, the payer must file a completed Copy A of Form 1099. The payer must group the return by form number, and attach a separate Form 1096, Annual Summary and Transmittal of U.S. Information Returns, to each group. For example, if the payer has to file Forms 1099-A and Forms 1099-B for the taxable year, he or she must attach Form 1096 to transmit Forms 1099-A, and a second Form 1096 to transmit Forms 1099-B.

Several guidelines apply to paper document reporting:

- Use official forms or substitute forms that meet the specifications in IRS Publication 1179.
- Handwritten forms are acceptable if the handwriting is completely legible and accurate.
- Typed entries must use black ink in 12-point Courier font.
- Exclude dollar signs (\$) or number signs (#).
- Include the decimal point (00000.00).
- If a box does not apply, leave it blank. Do not enter 0 (zero) or "none" in money amount boxes when no entry is required.
- Send the entire page of Copy A of the information returns.
- Do not include copies or information from previously filed returns.
- Do not use prior or subsequent year forms.

## Electronic Filing

The law requires any corporation, partnership, employer, estate, or trust, who is **required to file 10 or more information returns for any calendar year**, to file them electronically. Even if filers have less than 10 information returns, the IRS encourages them to file those returns electronically as well.

Information returns are filed electronically via the Filing Information Returns Electronically ("FIRE") system. The FIRE System does not provide a fill-in form option for information return reporting. Taxpayers must have software that can produce a file in the proper format according to Pub. 1220. The FIRE System is available 24 hours a day, 7 days a week. The IRS also developed the Information Reporting Intake System (IRIS) which is an online portal for taxpayers to electronically file (e-file) information returns after December 31, 2022, for 2022 and later year returns.

The 10-or-more electronic filing requirement applies separately to each type of form. For example, if you must file 50 Forms 1098 and 5 Forms 1099-A, you must file Forms 1098 electronically, but you are not required to file Forms 1099-A electronically. Also, the electronic filing requirement applies separately to original returns and corrected returns. Originals and corrections are not aggregated to determine whether they are required to file electronically. For example, if you file 40 Forms 1098 electronically and you are making 3 corrections, you are not required to file the corrections electronically, your corrections can be filed on paper because the number of corrections for Form 1098 is

less than the 10-return filing requirement. However, if you are filing 10 or more Form 1098 corrections, they have to be filed electronically.

If a taxpayer is required to file 10 or more information returns of any one type during the year, they must file electronically. The electronic filing requirement does not apply if a taxpayer applies for and receives a hardship waiver. If a taxpayer is required to file electronically but fails to do so, and they do not have an approved waiver, they may be subject to a penalty. To receive a waiver from the required filing of information returns electronically, a taxpayer can submit Form 8508 at least 45 days before the due date of the returns for which they are requesting a waiver. A taxpayer cannot apply for a waiver for more than one tax year at a time. If a taxpayer needs a waiver for more than one tax year, they must reapply at the appropriate time each year. If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if a taxpayer submits original returns electronically but they want to submit corrections on paper, a waiver must be approved for the corrections if they must file 10 or more corrections.

Electronic reporting may be required for filing all Form 1099 information returns other than Form 1099-QA. Form 1099-QA can only be filed on paper.

## Due Dates for Filing with IRS

Forms 1099 must be filed with the IRS, with the appropriate copies and other information furnished to the recipients. Forms 1099 are filed with the IRS accompanied by Form 1096 if filed on paper. Filers required to file **10 or more** Forms 1099 for any calendar year, must file them electronically. All Forms 1099 are filed on a calendar year basis and are due to the IRS following the calendar year in which the reportable transaction or payment occurred. The due date for filing **most Forms 1099** with the IRS is February 28 (if filed on paper) or March 31 (if filed electronically) of the year following the calendar year of the reportable transaction or payment. The due date for filing **Form 1099-NEC Nonemployee Compensation** with the IRS is January 31 (if filed on paper or electronically) of the year following the calendar year of the reportable transaction or payment (the PATH Act accelerated the due date for filing Form 1099 that includes nonemployee compensation and Form W-2 from February 28 to January 31).

The taxpayer can request an initial or additional 30-day extension of time to file Forms 1099 with the IRS by completing **Form 8809, Application for Extension of Time to File Information Returns** (Treasury Regulations eliminated the automatic 30-day extension of time to file for forms that include nonemployee compensation and wages). The form may be submitted on paper, or online through the FIRE system either as a fill-in form or an electronic file.

<b>Form 8809</b> (Rev. August 2020)  Department of the Treasury Internal Revenue Service	<b>Application for Extension of Time To File Information Returns</b> (For Forms W-2, W-2G, 1042-S, 1094-C, 1095, 1097, 1098, 1099, 3921, 3922, 5498, and 8027) ▶ This form may be filled out online. See <i>How to file</i> below. ▶ Go to <a href="http://www.irs.gov/Form8809">www.irs.gov/Form8809</a> for the latest information.	OMB No. 1545-1081			
<p><b>Do not use this form to request an extension of time to (1) file Form 1040 or 1040-SR (use Form 4868), (2) file Form 1042 (use Form 7004), or (3) furnish statements to recipients (see Extensions under part M in the General Instructions for Certain Information Returns).</b></p>					
<b>1 Payer's/filer's information. Type or print clearly in black ink.</b>  Payer's/filer's name <input style="width: 500px;" type="text"/>  Address <input style="width: 500px;" type="text"/>  City <input style="width: 150px;" type="text"/> State <input style="width: 50px;" type="text"/> ZIP code <input style="width: 100px;" type="text"/>  Contact name <input style="width: 250px;" type="text"/> Telephone number <input style="width: 150px;" type="text"/>  Email address <input style="width: 500px;" type="text"/>		<b>2 Taxpayer identification number (TIN)</b> (Enter the payer's nine-digit number. Do not enter hyphens.) <div style="border: 1px solid black; height: 100px; width: 100%;"></div>			
<b>3 Check your method of filing information returns</b> (check only one box). Use a separate Form 8809 for each method.  <input type="checkbox"/> Electronic <input type="checkbox"/> Paper		<b>4 If you are requesting an extension for more than one payer/filer,</b> enter the total number of payers/filers and attach a typed list of names and TINs. If sending an individual Form 8809 for each request, do not enter an amount. See <i>How to file</i> below for details. ▶ <input style="width: 100px;" type="text"/>			
<b>5 Check this box <u>only</u> if you already requested the automatic extension and you now need an <b>additional</b> extension. See instructions. ▶</b> <input type="checkbox"/>					
<b>6 Check <u>only</u> the box(es) that apply. Do not enter the number of returns.</b>					
<b>Form(s)</b>	<b>✓ here</b>	<b>Form(s)</b>	<b>✓ here</b>	<b>Form(s)</b>	<b>✓ here</b>
W-2	<input type="checkbox"/>	5498	<input type="checkbox"/>	8027	<input type="checkbox"/>
1097, 1098, 1099, 3921, 3922, W-2G	<input type="checkbox"/>	5498-ESA	<input type="checkbox"/>	1094-C, 1095-C	<input type="checkbox"/>
1099-NEC	<input type="checkbox"/>	5498-QA	<input type="checkbox"/>	1095-B	<input type="checkbox"/>
1042-S	<input type="checkbox"/>	5498-SA	<input type="checkbox"/>	1099-QA	<input type="checkbox"/>
<b>7 If you are requesting an extension for Forms W-2 or 1099-NEC, or if you checked the box on line 5, you must meet one of the following criteria. Check the applicable box(es) that describes your need for an extension.</b>					
The filer suffered a catastrophic event in a federally declared disaster area that made the filer unable to resume operations or made necessary records unavailable . . . . . <input type="checkbox"/>		Death, serious illness, or unavoidable absence of the individual responsible for filing the information returns affected the operation of the filer . . . . . <input type="checkbox"/>			
Fire, casualty, or natural disaster affected the operation of the filer . . . . . <input type="checkbox"/>		The filer was in the first year of establishment . . . . . <input type="checkbox"/>			
		The filer did not receive data on a payee statement such as Schedule K-1, Form 1042-S, or the statement of sick pay required under section 31.6051-3(a)(1) in time to prepare an accurate information return . . . . . <input type="checkbox"/>			
Under penalties of perjury, I declare that I have examined this form, including any accompanying statements, and, to the best of my knowledge and belief, it is true, correct, and complete.					
<b>Signature ▶</b> <input style="width: 250px;" type="text"/>		<b>Title ▶</b> <input style="width: 150px;" type="text"/>		<b>Date ▶</b> <input style="width: 100px;" type="text"/>	

Extensions may be requested:

- Online by completing a fill-in Form 8809 through the FIRE System for an automatic 30-day extension (not available for Forms W-2, Form 1099-NEC, or additional 30-day extension requests for all form types listed on Form 8809). Acknowledgments are automatically displayed online if the request is made by the due date of the return.
- Electronically through the FIRE System.

- On paper Form 8809; mail Form 8809 to Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201-0209.

There are no automatic extension requests for Forms W-2, 1099-MISC, or 1099-NEC. Extension requests for Forms 1099-NEC, 1099-QA, 5498-QA, and W-2 must be submitted on paper with line 7 (regarding the reason for the request) **completed and signed** by the filer/transmitter or person duly authorized to sign a return. Line 7, if you are requesting an extension for Forms W-2 or 1099-NEC only, or if you checked the box on line 5 (check line 5 box only if you already requested the automatic extension and you now need an additional extension), you must meet one of the following criteria:

- The filer suffered a catastrophic event in a federally declared disaster area that made the filer unable to resume operations or made necessary records unavailable
- Death, serious illness, or unavoidable absence of the individual responsible for filing the information returns affected the operation of the filer
- Fire, casualty, or natural disaster affected the operation of the filer
- The filer was in the first year of establishment
- The filer did not receive data on a payee statement such as Schedule K-1, Form 1042-S, or the statement of sick pay required under section 31.6051-3(a)(1) in time to prepare an accurate information return

No signature is required for the automatic 30-day extension (not available for Forms W-2 or 1099-NEC). For an additional extension or to request a 30-day non-automatic extension for Forms W-2 or Forms 1099-MISC reporting NEC, Form 8809 must be signed by the filer/transmitter or person duly authorized to sign a return.

If requesting an extension for more than one payer/filer, enter the total number of payers/filers (line 4) and attach a list of names and TINs. Note: A list that contains names and TINs cannot be attached to the fill-in Form 8809.

Therefore, if requesting an extension for more than one payer/filer, must file electronically or on paper.

Form 8809 must be filed by the due date of the returns in order to get an extension. The due date of Form 8809 varies by the due date of the return for which you are requesting an extension and how that return will be filed (paper or electronically). If requesting an extension of time to file several types of returns, may use one Form 8809, but must file Form 8809 by the earliest due date. For example, if you are requesting an extension of time to file both Forms 1098 and 5498, you must file Form 8809 by February 28 (March 31 if you file electronically). You may complete more than one Form 8809 to avoid this problem. An extension cannot be granted if a request is filed after the filing due date of the information returns.

The automatic extension (if available) is 30 days from the original due date. If you receive an automatic extension, you may request one additional extension of not more than 30 days by submitting a second Form 8809 before the end of the first extension period. Only one extension of time to file Forms W-2 or 1099-NEC is available. You can only request

an additional extension of time to file other information returns or an extension of time to file Forms W-2 or 1099-NEC if you meet and select one of the criteria listed above (line 7).

Any approved extension of time to file will only extend the due date for filing the information returns with the IRS. It does not extend the due date for furnishing statements to recipients.

## Furnishing Statements to Recipients

Form recipient means the person to whom you are required by law to furnish a copy of the official form or information statement. The form recipient may be referred to by different names on various Forms 1099 and related forms (beneficiary, borrower, debtor, donor, employee, filer, homeowner, insured, participant, payee, payer, payer/borrower, payment recipient, policyholder, seller, shareholder, student, transferor, or, in the case of Form W-2G, winner).

Different rules apply to furnishing statements to recipients depending on the type of payment (or other information) being reported and the form being filed. The payer is required to furnish an official Form 1099, or an acceptable substitute Form 1099 when reporting payments of dividends (dividends reported on Form 1099-DIV and patronage dividends reported on Form 1099-PATR), interest (including OID and tax-exempt interest reported on Form 1099-INT or 1099-OID), or royalties (reported on Form 1099-MISC or 1099-S). The official or substitute Form 1099 must be furnished to the recipient, either in person, by first-class mail to the recipient's last known address, or electronically. The legend "Important Tax Return Document Enclosed" must appear in a bold and conspicuous manner on the outside envelope. For all other payment types, the payer may furnish a copy of the official paper form filed with the IRS, or any substitute statement which provides the form number, title, and all other information required to be shown in the same numbered and titled fashion as the official IRS form.

If you are not using the official IRS form to furnish statements to recipients, see Pub. 1179 for specific rules about providing "substitute" statements to recipients. Generally, a substitute is any statement other than Copy B of the official form. You may develop them yourself or buy them from a private printer. However, the substitutes must comply with the format and content requirements specified in Pub. 1179, which is revised annually.

All substitute statements to recipients must contain the tax year, form number, and form name prominently displayed together in one area of the statement. For example, they could be shown in the upper right part of the statement. If using a substitute form to furnish information statements to recipients (generally Copy B), be sure the substitute statements comply with the rules in Pub. 1179.

In all cases, the payer must furnish a payee statement to the recipient containing the same information provided to the IRS. In some cases, additional information may be required. However, in general, the payee statement must provide (1) the payer's name, address, and phone number, and (2) the aggregate amount of payments to the recipient made during the year.



Generally, the payee statement, in the required form, or a copy of Form 1099, must be furnished to the recipient by January 31 of the year following the calendar year of the reportable transaction or payment. However, Forms 1099-B Proceeds From Broker and Barter Exchange Transactions, 1099-S Proceeds From Real Estate Transactions, 1099-SB Seller's Investment in Life Insurance Contract, and 1099-MISC Miscellaneous Information (if reported amounts in box 8 substitute dividends and tax-exempt interest payments reportable by brokers or box 10 gross proceeds paid to attorneys) generally must be furnished to the recipient by February 15 of the year following the calendar year of the reportable transaction or payment. Also, Form 1099-LS generally must be furnished to reportable policy sale payment recipients by February 15 and furnished to issuers by January 15 of the year following the calendar year of the reportable transaction or payment.

Extensions of time to file do not extend the time for furnishing statements to recipients. If the payer is unable to furnish statements to recipients by the due date, the payer may request an extension of time to furnish the statements to recipients. While there is no official form for this type of extension (Form 8809 is not used for this purpose), the IRS will review **faxed** requests. **NOTE:** An extension of time to furnish statements to recipients is now a fax only submission to IRS.

The payer may request an extension of time to furnish statements to recipients by **faxing** a letter to:

Internal Revenue Service Technical Services Operation  
Attn: Extension of Time Coordinator  
Fax: 877-477-0572 (International Fax: 304-579-4105)

The letter must include (a) payer name, (b) payer TIN, (c) payer address, (d) type of return (specific 1099 family form, for example, Form 1099-C), (e) a statement that extension request is for providing statements to recipients, (f) reason for delay, and (g) the signature of the payer or authorized agent.

The request must be received no later than the date on which the statements are due to the recipients. If your request for an extension is **approved**, generally you will be **granted a maximum of 30 extra days** to furnish the recipient statements. Requests for extensions of time to furnish statements to recipients are not automatically approved.

**NOTE:** Do not submit an extension of time to furnish statements to recipients by mail.

Extensions of time to furnish statements to recipients must be made by faxing a letter and extensions of time to file information returns must be made using Form 8809.

## A Rogue's Gallery of Forms 1099

One of the things that makes Form 1099 reporting challenging, is that there is more than just one type of the form. In fact, there are 20 different versions of Form 1099. They are as follows:

- 1099-A: Acquisition or Abandonment of Secured Property

- 1099-B: Proceeds From Broker and Barter Exchange Transactions
- 1099-C: Cancellation of Debt
- 1099-CAP: Changes in Corporate Control and Capital Structure
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- 1099-INT: Interest Income
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- 1099-Q: Payments From Qualified Education Programs
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- 1099-R: Distributions From Pensions, Annuities, IRS, etc.
- 1099-S: Proceeds From Real Estate Transactions
- 1099-SA: Distributions From an HSA, Archer MSA, or Medicare Advantage MSA
- 1099-SB: Seller's Investment in Life Insurance Contract

Each different version of Form 1099 has its own purpose and filing requirements, which will be discussed in the following sections. All Forms 1099 are filed on a calendar year basis and the due date for filing **most Forms 1099** with the IRS is on or before **February 28 (if filed on paper)** or **March 31 (if filed electronically)** of the year following the calendar year of the reportable transaction or payment. If reporting nonemployee compensation payments, **Form 1099-NEC Nonemployee Compensation**, file Form 1099-NEC with the IRS on or before **January 31 (if filed on paper or electronically)** of the year following the calendar year of the reportable transaction or payment (the PATH Act accelerated the due date for filing Form 1099 that includes nonemployee compensation from February 28 to January 31).

The date by which the payee must be provided with a copy of Form 1099, or payee statement, is generally on or before January 31 of the year following the calendar year of the reportable transaction or payment, but there are some exceptions that will be explained in the discussion of each particular version of Form 1099 contained in the next sections.

## 1099-A: Acquisition or Abandonment of Secured Property

☐ CORRECTED (if checked)

LENDER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		OMB No. 1545-0877		<b>2021</b> <b>Form 1099-A</b> <b>Acquisition or Abandonment of Secured Property</b>
LENDER'S TIN	BORROWER'S TIN	1 Date of lender's acquisition or knowledge of abandonment	2 Balance of principal outstanding	
			\$	
BORROWER'S name		3	4 Fair market value of property	
			\$	
Street address (including apt. no.)		5 If checked, the borrower was personally liable for repayment of the debt . . . . . <input type="checkbox"/>		
City or town, state or province, country, and ZIP or foreign postal code		6 Description of property		
Account number (see instructions)				

Form **1099-A** (keep for your records) [www.irs.gov/Form1099A](http://www.irs.gov/Form1099A) Department of the Treasury - Internal Revenue Service

### Basic Requirements

Form 1099-A, *Acquisition or Abandonment of Secured Property*, is filed if the taxpayer lends money in connection with his or her trade or business and the taxpayer, in full or partial satisfaction of the debt, acquires an interest in property that is security for the debt. The amount of the original debt, the amount forgiven, and the fair market value of the property are irrelevant; Form 1099-A has to be filed regardless of these amounts. Form 1099-A is also used when the lending taxpayer has reason to know that the property has been abandoned. Note that this form is used by any taxpayer who lends money *in connection with* their trade or business; the taxpayer does not have to be primarily engaged in the trade or business of lending money. A copy of the form must be furnished to the borrower by January 31 of the year following the calendar year in which the lender acquires an interest in property that is security for the debt and the form must be filed with the IRS by February 28.

For this purpose, the term "property" means any real property, tangible personal property, or intangible property. Real property includes land, buildings, and anything else permanently affixed to either. Tangible personal property encompasses all types of property other than real property that can be seen or touched. Intangible property is personal property (i.e., not real property) that represents rights to specified items, such as patents, copyrights, licenses, etc.

However, no reporting is required for tangible personal property (such as a car) held *only* for personal use. But a Form 1099-A must be filed if the property is totally *or partly* held for use in a trade or business or for investment. Furthermore, no reporting is required if the property securing the loan is located outside the United States and the borrower has furnished the lender a statement, under penalties of perjury, that the borrower is an exempt foreign person (unless the lender knows that the statement is false).

Abandonment occurs when the objective facts and circumstances indicate that the borrower intended to, and has, permanently discarded the property from use. Whether the lender has "reason to know" of abandonment is based on all the facts and circumstances concerning the status of the property. For this purpose, the lender will be deemed to know all the information that would have been discovered through a reasonable inquiry when, in the ordinary course of business, the lender becomes aware, or should become aware, of circumstances indicating that the property has been abandoned.

If the taxpayer expects to commence a foreclosure, execution, or similar sale within three months of the date they had reason to know that the property was abandoned, reporting is required as of the date the taxpayer acquired an interest in the property or a third party purchases the property at such sale. If the taxpayer expected to but does not commence such action within three months, the reporting requirement arises at the end of the 3-month period.

If there are multiple owners of undivided interests in a single loan, such as in pools, fixed investment trusts, or other similar arrangements, the trustee, record owner, or person acting in a similar capacity must file Form 1099-A on behalf of all the owners of beneficial interests or participations. In this case, only one form for each borrower must be filed on behalf of all owners with respect to the loan. Similarly, for bond issues, only the trustee or similar person is required to report.

If more than one person lends money secured by property and one lender forecloses or otherwise acquires an interest in the property and the sale or other acquisition terminates, reduces, or otherwise impairs the other lenders' security interests in the property, the **other lenders** must file Form 1099-A for each of their loans. For example, if a first trust holder forecloses on a building, and the second trust holder knows or has reason to know of such foreclosure, the second trust holder must file Form 1099-A for the second trust even though no part of the second trust was satisfied by the proceeds of the foreclosure sale.

**Note:** If in the same calendar year, the taxpayer cancels a debt of \$600 or more in connection with a foreclosure or abandonment of secured property, it is not necessary to file both Form 1099-A and Form 1099-C, **Cancellation of Debt**, for the same debtor. The taxpayer may file Form 1099-C only. The taxpayer will meet the Form 1099-A filing requirement for the debtor by completing boxes 4 (debt description), 5 (debtor was personally liable for repayment of debt), and 7 (fair market value of property) on Form 1099-C. However, the taxpayer may file both Forms 1099-A and 1099-C; if do file both forms, do not complete boxes 4, 5, and 7 on Form 1099-C.

# 1099-B: Proceeds From Broker and Barter Exchange Transactions

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.			Applicable checkbox on Form 8949		OMB No. 1545-0715	<b>2021</b> Form <b>1099-B</b>	<b>Proceeds From Broker and Barter Exchange Transactions</b>
			1a Description of property (Example: 100 sh. XYZ Co.)				
PAYER'S TIN			RECIPIENT'S TIN		1b Date acquired	1c Date sold or disposed	<b>Copy 1 For State Tax Department</b>
					1d Proceeds	1e Cost or other basis	
RECIPIENT'S name			2 Short-term gain or loss <input type="checkbox"/> Long-term gain or loss <input type="checkbox"/> Ordinary <input type="checkbox"/>		3 If checked, proceeds from:		
					Collectibles <input type="checkbox"/> QOF <input type="checkbox"/>		
Street address (including apt. no.)			4 Federal income tax withheld		5 If checked, noncovered security <input type="checkbox"/>		
					6 Reported to IRS:		
City or town, state or province, country, and ZIP or foreign postal code			Gross proceeds <input type="checkbox"/> Net proceeds <input type="checkbox"/>		7 If checked, loss is not allowed based on amount in 1d <input type="checkbox"/>		
					8 Profit or (loss) realized in 2021 on closed contracts		
Account number (see instructions)			9 Unrealized profit or (loss) on open contracts—12/31/2020		9 Unrealized profit or (loss) on open contracts—12/31/2020		
					10 Unrealized profit or (loss) on open contracts—12/31/2021		
CUSIP number			FATCA filing requirement <input type="checkbox"/>		11 Aggregate profit or (loss) on contracts		
14 State name	15 State identification no.	16 State tax withheld	12 If checked, basis reported to IRS <input type="checkbox"/>		13 Bartering		

Form **1099-B**

www.irs.gov/Form1099B

Department of the Treasury - Internal Revenue Service

## Basic Requirements

Any person doing business as a broker must file Form 1099-B to report the gross proceeds from the sale or redemption of securities, futures transactions, commodities, or barter exchange transactions.<sup>2</sup> A "broker" includes a dealer, a barter exchange, as well as any other person who regularly acts as a middleman with respect to property or services in the ordinary course of a trade or business.<sup>3</sup> For example, a bank that regularly arranges sales for custodial accounts pursuant to instructions from the owner of the property is a broker.<sup>4</sup> A broker may be an obligor who regularly issues and retires its debt obligations or a corporation that regularly redeems its stock.<sup>5</sup> However, a broker excludes a corporation that purchases odd-lot shares from its stockholders on an irregular basis, a farm manager for someone else, or an international organization that redeems or retires its own debt.<sup>6</sup>

The broker is also required to file an information return if the broker holds shares in a corporation on behalf of a customer, unless the customer is an exempt recipient, if the broker knows or has reason to know based on readily available information that the corporation has engaged in a transaction involving an acquisition of control or substantial change in capital structure.<sup>7</sup> An acquisition of control occurs when one corporation acquires control of another corporation through stock purchase in excess of \$100 million or more, and the controlled corporation or its

shareholders must recognize gain as a result of the acquisition<sup>8</sup> "Control" is defined as ownership of stock possessing at least 50% of the total combined voting power of all classes of stock entitled to vote, or at least 50% of the total value of all classes of stock.<sup>9</sup> A change in capital structure occurs when the corporation undergoes a type of reorganization (such as a merger or consolidation), and the shareholders of the corporation receive cash or other property the fair market value of which exceeds \$100 million or more.<sup>10</sup>

As of 2011, brokers and other financial institutions must generally report the recipient's tax basis in the asset sales that are reflected on the 1099-B. There are several exclusions, exceptions, and phase-ins with respect to this requirement. For example, the requirement applies only to "covered securities," which are defined as:

1. Equity securities acquired on or after January 1, 2011;
2. Mutual fund and dividend reinvestment plan ("DRIP") shares acquired on or after January 1, 2012; and
3. Debt securities, options, and all other financial instruments acquired on or after January 1, 2014.

Also, as of 2013, brokers and financial institutions are required to file consolidated year-end 1099-B with respect to S corporation recipients.

A barter exchange is any person or organization with members or clients that contract with each other (or with the barter exchange) to jointly trade or barter property or services. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis. Persons who do not contract with a barter exchange but who trade services do not file Form 1099-B. However, they may have to file Form 1099-MISC.

For example, Phyllis, a lawyer agrees to provide legal services to Joe in connection with Joe's business. Joe is a hairstylist and Phyllis agrees to accept a year of free styling from Joe in lieu of her \$800 bill to Joe for legal services. This is a barter transaction and Joe is obligated to issue a Form 1099 to Phyllis reflecting the payment, even though the payment was made in the form of exchanged services rather than cash. Since a barter exchange was not used, Joe would report the payment on Form 1099-MISC, not on Form 1099-B.

## 1099-C: Cancellation of Debt

<input type="checkbox"/> CORRECTED (if checked)		OMB No. 1545-1424		<b>Cancellation of Debt</b>
CREDITOR'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Date of identifiable event	<b>2021</b> Form <b>1099-C</b>	
		2 Amount of debt discharged \$		
		3 Interest, if included in box 2 \$		
CREDITOR'S TIN	DEBTOR'S TIN	4 Debt description		
DEBTOR'S name				
Street address (including apt. no.)		5 If checked, the debtor was personally liable for repayment of the debt . . . . . <input type="checkbox"/>		
City or town, state or province, country, and ZIP or foreign postal code				
Account number (see instructions)		6 Identifiable event code	7 Fair market value of property \$	

Form **1099-C** (keep for your records) [www.irs.gov/Form1099C](http://www.irs.gov/Form1099C) Department of the Treasury - Internal Revenue Service

### Basic Requirements

Form 1099-C is used to report a canceled (i.e., "discharged" or forgiven) debt. However, it only applies to certain debts and certain taxpayers. As a result, Form 1099-C is perhaps the most commonly misunderstood of all the 1099 information returns.

Code section 6050P requires certain creditors to file Form 1099-C to report the discharge of any indebtedness in excess of \$600.<sup>11</sup> "Indebtedness" means any amount owed to a creditor, including the stated principal, fees, interest, penalties, administrative costs, and fines. The amount discharged may represent all or part of the total amount owed.<sup>12</sup>

Indebtedness is discharged on the date which an identifiable event occurs, such as discharge in a bankruptcy proceeding, the expiration of the statute of limitations on collection, or an agreement between the creditor and debtor to discharge indebtedness at less than full consideration.<sup>13</sup> However, the creditor has the discretion to report the discharge of indebtedness if the cancellation occurs before the date on which an identifiable event happens.<sup>14</sup> Once reported as a discharge, the creditor must be careful not to take any actions to collect the amount; such actions could be construed by the IRS as evidence that the debt has not been discharged, rendering the Form 1099-C filing fraudulent.

It is important to note that not all taxpayers are required to file Form 1099-C for the discharge of a debt. Form 1099-C reporting **only** applies if the creditor is: (1) a financial institution; (2) a federal agency; (3) a credit union; (4) a military department; or (5) any organization having **a significant trade or business of lending money**.<sup>15</sup> If the principal trade or business of an organization is selling nonfinancial goods or providing nonfinancial services and if the organization

extends credit to the purchasers of those goods or services in order to finance the purchases, then, these extensions of credit are not considered a significant trade or business of lending money.<sup>16</sup>

For example, suppose Company A, which was formed in Year 1 as a non-bank division of a manufacturing company, lends money to purchasers of the manufacturing company's products on a regular and continuing basis to finance the purchase of those products. Company A's gross income in Year 1 is \$4.7 million from interest and \$500,000 from fees and penalties from the lending activity. Assume the manufacturing company's principal activity is the manufacture and sale of non-financial products and other than financing the purchase of those products, the manufacturing company does not extend credit or otherwise lend money. Under these circumstances, that financing activity is not a significant trade or business of lending money and the manufacturing company is **not** required to report discharges of indebtedness.<sup>17</sup>

Note that in the example, Company A was a division of the manufacturing company. If instead Company A was a separate financing **subsidiary** of the manufacturing company, Company A would have a 1099-C reporting requirement for any canceled debt.

There are three safe harbors under which organizations will not be considered to have a significant trade or business of lending money:

1. An organization that was not required to report under Code Sec. 6050P in the previous calendar year, if gross income from lending money in the organization's most recent test year is both less than \$5 million and less than 15% of the organization's gross income for that test year.<sup>18</sup> A test year for any calendar year is an organization's tax year that ends before July 1 of the previous calendar year.<sup>19</sup>
2. An organization that was required to report for the previous calendar year, if gross income from lending money in each of the organization's three most recent test years is both less than \$3 million and less than 10% of the organization's gross income for that test year.<sup>20</sup>
3. An organization that does not have a test year for the calendar year in which the lending occurs, (*i.e.*, newly formed organizations).<sup>21</sup>

If one creditor discharges multiple indebtedness with respect to one debtor with each in an amount less than \$600, he or she need not aggregate such amounts unless each separate discharge was pursuant to a plan to evade the reporting requirements.<sup>22</sup> Discharged indebtedness must be reported regardless of whether the debtor is subject to tax on the discharged debt under applicable tax laws.<sup>23</sup> For example, the debtor may not be subject to tax if the debtor is insolvent or some other exception applies under Code section 108.

**Note:** If in the same calendar year, the taxpayer cancels a debt of \$600 or more in connection with a foreclosure or abandonment of secured property, it is not necessary to file both Form 1099-A, **Acquisition or Abandonment of Secured Property**, and Form 1099-C for the same debtor. The taxpayer may file Form 1099-C only. The taxpayer will meet the Form 1099-A filing requirement for the debtor by completing boxes 4 (debt description), 5 (debtor was personally liable



for repayment of debt), and 7 (fair market value of property) on Form 1099-C. However, the taxpayer may file both Forms 1099-A and 1099-C; if do file both forms, do not complete boxes 4, 5, and 7 on Form 1099-C.

## 1099-CAP: Changes in Corporate Control and Capital Structure

7373 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED			
CORPORATION'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Date of sale or exchange	OMB No. 1545-1814
		2 Aggregate amount rec'd*	Form <b>1099-CAP</b> (Rev. September 2019) For calendar year 20__
		\$	
CORPORATION'S TIN	SHAREHOLDER'S TIN	3 No. of shares exchanged	4 Classes of stock exchanged
SHAREHOLDER'S name			
Street address (including apt. no.)			
City or town, state or province, country, and ZIP or foreign postal code		5	
Account number (see instructions)		* The shareholder cannot claim a loss based on the amount in box 2.	
Form <b>1099-CAP</b> (Rev. 9-2019)    Cat. No. 35115M <a href="http://www.irs.gov/Form1099CAP">www.irs.gov/Form1099CAP</a> Department of the Treasury - Internal Revenue Service <b>Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page</b>			

## Basic Requirements

As discussed above, a broker must file Form 1099-B on behalf of its customer who holds shares in a corporation, which has engaged in a transaction or series of transactions resulting in an acquisition of control or substantial change in capital structure. Similarly, a domestic corporation must file a Form 1099-CAP with respect to each shareholder who receives cash, stock, or other property pursuant to the acquisition of control or substantial change in capital structure, and who is not an exempt recipient.<sup>24</sup>

The domestic corporation is not required to make a report if the shareholder is an exempt recipient. An exempt recipient includes:

- Any shareholder who receives only stock for its stock in a corporation;
- Any shareholder whose amount of cash plus fair market value of any stock or other property does not exceed \$1,000;
- Any shareholder from whom the corporation has received a properly completed exemption certificate; and
- Any shareholder who is a corporation, tax-exempt organization, individual retirement account, financial lending institution, or domestic or foreign government.<sup>25</sup>

The domestic corporation must be engaged in a transaction, or series of transactions, resulting in an acquisition of control or substantial change in capital structure.<sup>26</sup> An "acquisition of control" occurs when one corporation acquires

control of another corporation through stock purchase in excess of \$100 million or more, and the controlled corporation or its shareholders must recognize gain as a result of the acquisition.<sup>27</sup> "Control" is defined as ownership of stock possessing at least 50% of the total combined voting power of all classes of stock entitled to vote, or at least 50% of the total value of all classes of stock.<sup>28</sup> For example, the shareholders of a domestic corporation exchange their stock with the stock in a foreign corporation. After the transaction, the foreign corporation owns all of the outstanding stock in the domestic corporation. The shareholders must recognize gain, if any, on the stock-for-stock exchange. The domestic corporation must file Form 1099-CAP with respect to each shareholder who is not an exempt recipient.<sup>29</sup>

On the other hand, a "change in capital structure" occurs when the corporation merges, consolidates, or otherwise combines with another corporation or transfers all or substantially all of its assets to one or more corporations, and the shareholders of the former corporation receive cash or other property the fair market value of exceeds \$100 million or more.<sup>30</sup>

## 1099-DIV: Dividends and Distributions

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED					
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1a Total ordinary dividends		OMB No. 1545-0110	
		\$		<div style="font-size: 2em; font-weight: bold;">2021</div> <div style="font-weight: bold;">Form 1099-DIV</div>	
		1b Qualified dividends			
		\$			
		2a Total capital gain distr.		2b Unrecap. Sec. 1250 gain	
		\$		\$	
PAYER'S TIN	RECIPIENT'S TIN	2c Section 1202 gain		2d Collectibles (28%) gain	
		\$		\$	
		2e Section 897 ordinary dividends		2f Section 897 capital gain	
		\$		\$	
RECIPIENT'S name		3 Nondividend distributions		4 Federal income tax withheld	
		\$		\$	
Street address (including apt. no.)		5 Section 199A dividends		6 Investment expenses	
		\$		\$	
City or town, state or province, country, and ZIP or foreign postal code		7 Foreign tax paid		8 Foreign country or U.S. possession	
		\$			
		9 Cash liquidation distributions		10 Noncash liquidation distributions	
		\$		\$	
		11 Exempt-interest dividends		12 Specified private activity bond interest dividends	
		\$		\$	
Account number (see instructions)		13 State		14 State identification no.	
				15 State tax withheld	
				\$	
				\$	

Form **1099-DIV**      [www.irs.gov/Form1099DIV](http://www.irs.gov/Form1099DIV)      Department of the Treasury - Internal Revenue Service

## Basic Requirements

Pursuant to Code section 6042, a corporation must file Form 1099-DIV as to each shareholder receiving dividend distributions during the taxable year aggregating \$10 or more.<sup>31</sup> Generally, reporting is not required if the amount of

dividends paid to the shareholder during the year aggregates less than \$10, or if the payment is made to a taxpayer who is an exempt recipient, unless the corporation withheld and paid federal or foreign income tax on the dividend distribution.<sup>32</sup> Additionally, under Treasury Regulation section 1.6043-2, a corporation must file an information return (Form 1099-DIV) as to each shareholder receiving dividends of \$600 or more in full or partial liquidation of its capital stock during the taxable year.<sup>33</sup>

A dividend is any distribution of property made by a domestic or qualified foreign corporation to its shareholders out of earnings and profits, and any payment made by a stockbroker to any taxpayer as a substitute for such a distribution.<sup>34</sup> A dividend is deemed to have been paid when it is credited or set apart to the shareholder without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to the shareholder so that it may be drawn at any time.<sup>35</sup> If the corporation is unable to determine whether any part of the payment is a dividend by the time it is required to must file the information return, the entire payment must be reported as a dividend.<sup>36</sup>

## 1099-G: Certain Government Payments

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED					
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		<b>1</b> Unemployment compensation \$		OMB No. 1545-0120  <b>2021</b>  Form <b>1099-G</b>	
		<b>2</b> State or local income tax refunds, credits, or offsets \$			
PAYER'S TIN	RECIPIENT'S TIN	<b>3</b> Box 2 amount is for tax year		<b>4</b> Federal income tax withheld \$	
RECIPIENT'S name  Street address (including apt. no.)  City or town, state or province, country, and ZIP or foreign postal code		<b>5</b> RTAA payments \$		<b>6</b> Taxable grants \$	
		<b>7</b> Agriculture payments \$		<b>8</b> Check if box 2 is trade or business income <input type="checkbox"/>	
		<b>9</b> Market gain \$			
Account number (see instructions)		<b>10a</b> State	<b>10b</b> State identification no.	<b>11</b> State income tax withheld \$	
				\$	

Form **1099-G**[www.irs.gov/Form1099G](http://www.irs.gov/Form1099G)

Department of the Treasury - Internal Revenue Service

## Basic Requirements

A unit of the federal, state, or local government must file Form 1099-G for payments made to taxpayers of unemployment compensation, state or local income tax returns, credits or offsets, reemployment trade adjustment assistance payments, taxable grants, and agricultural payments. The government unit may designate an officer or employee to file the information return.

To trigger reporting, the amount of unemployment compensation, and state or local income tax refunds, offsets, and credits paid during the taxable year must be \$10 or more. It must be \$600 or more in the case of taxable grants and

reemployment trade adjustment assistance payments. Agricultural payments must be reported, regardless of the payment amount.

With respect to state and local income tax payments, the government unit is not required to furnish a copy of the information return to the taxpayer, if the unit determines that the taxpayer did not claim itemized deductions on his or her federal income tax return for the year giving rise to the refund, credit or offset.

## 1099-INT: Interest Income

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED					
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		Payer's RTN (optional)		OMB No. 1545-0112	
		1 Interest income		<div style="font-size: 2em; font-weight: bold;">2021</div> <div style="font-weight: bold;">Form 1099-INT</div>	
		\$			
PAYER'S TIN		RECIPIENT'S TIN		2 Early withdrawal penalty	
				\$	
RECIPIENT'S name		3 Interest on U.S. Savings Bonds and Treas. obligations		4 Federal income tax withheld	
				\$	
Street address (including apt. no.)		6 Foreign tax paid		5 Investment expenses	
				\$	
City or town, state or province, country, and ZIP or foreign postal code		8 Tax-exempt interest		7 Foreign country or U.S. possession	
				\$	
FATCA filing requirement <input type="checkbox"/>		10 Market discount		9 Specified private activity bond interest	
				\$	
Account number (see instructions)		12 Bond premium on Treasury obligations		11 Bond premium	
				\$	
		14 Tax-exempt and tax credit bond CUSIP no.		13 Bond premium on tax-exempt bond	
				\$	
		15 State		16 State identification no.	
		17 State tax withheld		\$	
				\$	

Form **1099-INT** [www.irs.gov/Form1099INT](http://www.irs.gov/Form1099INT) Department of the Treasury - Internal Revenue Service

## Basic Requirements

Code section 6049 requires that a payer who makes interest payments during the calendar year aggregating \$10 or more to any taxpayer must report the aggregate amount of such interest payments and the name and address of the taxpayer to whom paid (Form 1099-INT).<sup>40</sup> The term "interest" means interest on any obligation, deposit with persons carrying on a banking business, amounts paid by banking business in respect of deposits or other withdrawable shares, amounts held by an insurance company under an agreement to pay interest thereon, interest on deposits with brokers, and interest paid on amounts held by investment companies and on amounts invested by other pooled funds

or trusts.<sup>41</sup> The term "interest" does not include interest on any obligation issued by a natural person, or interest paid from sources outside of the United States, such as a foreign government or entity.<sup>42</sup>

## 1099-K: Payment Card and Third-Party Network Transactions

☐ VOID ☐ CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		FILER'S TIN	OMB No. 1545-2205  <b>2021</b>  Form <b>1099-K</b>	<b>Payment Card and Third Party Network Transactions</b>
		PAYEE'S TIN		
		1a Gross amount of payment card/third party network transactions \$		
1b Card Not Present transactions \$	2 Merchant category code	<b>Copy 1 For State Tax Department</b>		
3 Number of payment transactions	4 Federal income tax withheld \$			
Check to indicate if FILER is a (an): Payment settlement entity (PSE) <input type="checkbox"/> Electronic Payment Facilitator (EPF)/Other third party <input type="checkbox"/>			Check to indicate transactions reported are: Payment card <input type="checkbox"/> Third party network <input type="checkbox"/>	
PAYEE'S name			5a January \$	5b February \$
Street address (including apt. no.)			5c March \$	5d April \$
City or town, state or province, country, and ZIP or foreign postal code			5e May \$	5f June \$
PSE'S name and telephone number			5g July \$	5h August \$
			5i September \$	5j October \$
			5k November \$	5l December \$
Account number (see instructions)			6 State	7 State identification no.
				\$

Form **1099-K**

www.irs.gov/Form1099K

Department of the Treasury - Internal Revenue Service

## Basic Requirements

Under Code section 6050W, each **payment settlement entity** must file an information return for each calendar year disclosing (1) the name, address, and taxpayer identification of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and (2) the gross amount of the reportable payment transactions with respect to each participating payee.<sup>43</sup> As a result of this rule, businesses that do not constitute a payment settlement entity can exclude credit card payments from their other information reporting requirements. For example, if a business hires a contractor for services related to its trade or business and pays that contractor more than \$600 using a credit card, the business does not have to file a Form 1099-MISC for this contractor; instead, the contractor will likely receive a Form 1099-K from the credit card processing company.

In other words, banks and online payment networks (such as PayPal, Amazon.com, and Google) must report the gross amount that they processed annually on behalf of merchants who uses their network. For example, assume Anna sells widgets online. Anna sets up an account with PayPal to settle sales transactions with consumers. Thus, when a sale is

made online, the customer pays PayPal, which in turn pays Anna in settlement of the transaction.<sup>44</sup> Likewise, Anna could have the same relationship with a bank, so that the bank is contractually obligated to pay Anna when a consumer buys a widget using a credit or debit card.<sup>45</sup>

A "payment settlement entity" has a contractual obligation to make payments to participating payees in settlement of payment card transactions or third-party network transactions.<sup>46</sup> A "participating payee" is any person, including a government unit, who accepts either a payment card from a bank or any payment from a third party settlement organization in settlement of a third party network transaction.<sup>47</sup>

Prior to the *American Rescue Plan Act of 2021*, under the small business exception, the payment settlement entity was not required to file an information return if the participating payee had fewer than 200 transactions totaling less than \$20,000 in gross proceeds during the taxable year.<sup>48</sup> The term "gross proceeds" means the total dollar amount of the aggregate reportable payment transactions, without regard to any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts, or any other diminishing amounts.<sup>49</sup> Therefore, in the above example, if the consumer paid \$100 for the widget and PayPal deducted \$2 as a service fee, Anna's gross proceeds are still \$100.<sup>50</sup>

Under the *American Rescue Plan Act of 2021*, for calendar years after 2021, the Form 1099-K reporting thresholds for payments in settlement of third-party network transactions were lowered. The reporting threshold for payments made in settlement of payment card transactions did not change. *Notice 2023-10* delayed the implementation of the lower Form 1099-K reporting thresholds for calendar year 2022. *Notice 2023-74* further delayed the implementation of the lower Form 1099-K reporting thresholds for calendar year 2023.

Under the *American Rescue Plan Act of 2021*, a third-party settlement organization is required to report any information concerning **third-party network transactions** of any participating payee only if for the calendar year the gross amount of total reportable payment transactions **exceeds \$600** (previously \$20,000). There is **no minimum number of transactions** required for this reporting threshold (previously more than 200 transactions).

Under *Fact Sheet 2023-27*, the IRS is planning a threshold of **\$5,000** for payments in settlement of third-party network transactions **for calendar year 2024** to phase in the implementation of the lower Form 1099-K reporting thresholds under the new law (under the new law, the threshold for payments in settlement of third-party network transactions is \$600).

**Currently, the IRS is planning**—For calendar year 2024, payment settlement entities are required to report on Form 1099-K the following transactions:

- All payments made in settlement of *payment card transactions* (e.g., debit, credit, or stored-value cards)

- Payments in settlement of *third-party network transactions* if gross payments to a participating payee exceed \$5,000, regardless of the number of transactions with the participating payee

**TIP:** Reporting is not required for personal transactions such as birthday or holiday gifts, sharing the cost of a car ride or meal, or paying a family member or another for a household bill. These payments are not taxable and should not be reported on Form 1099-K.

## 1099-LS: Reportable Life Insurance Sale

☐ CORRECTED (if checked)

ACQUIRER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Amount paid to payment recipient	OMB No. 1545-2281 Form <b>1099-LS</b> (Rev. December 2019) For calendar year 20__	<b>Reportable Life Insurance Sale</b>
		\$		
		2 Date of sale		
ACQUIRER'S TIN	PAYMENT RECIPIENT'S TIN	Issuer's name		<b>Copy B For Payment Recipient</b>  This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.
PAYMENT RECIPIENT'S name		Acquirer's information contact name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. (if different from ACQUIRER)		
Street address (including apt. no.)				
City or town, state or province, country, and ZIP or foreign postal code				
Policy number				

Form **1099-LS** (Rev. 12-2019) (keep for your records) [www.irs.gov/Form1099LS](http://www.irs.gov/Form1099LS) Department of the Treasury - Internal Revenue Service

## BASIC REQUIREMENTS

This form is used by the acquirer of any interest in a life insurance contract (also known as a life insurance policy) in a reportable policy sale to report the acquisition. In general, a reportable policy sale is any direct or indirect acquisition of any interest in a life insurance contract if the acquirer, at the time of the acquisition, has no substantial family, business, or financial relationship with the person insured under that contract, apart from the acquirer's interest in such life insurance contract. The acquisition of an interest in a partnership, trust, or other entity that holds an interest in a life insurance contract may be an indirect acquisition of that interest in a life insurance contract and maybe a reportable policy sale.

Generally, file Form 1099-LS if you are the acquirer of any interest in a life insurance contract in a reportable policy sale. An acquirer is any person that acquires an interest in a life insurance contract (through direct acquisition or indirect acquisition of the interest) in a reportable policy sale.

You may not have to file Form 1099-LS if the interest in a life insurance contract was transferred to you gratuitously, if you qualify for an exception in Regulations section 1.6050Y-2(f), or if another acquirer or third-party information reporting contractor reports on your behalf under the unified reporting provisions of Regulations section 1.6050Y-2(b).



You may qualify for an exception in Regulations section 1.6050Y-2(f) if you are a foreign person, if you report reportable policy sale payments made to a person other than the seller under section 6041 or 6041A, or if you acquire a life insurance contract in a section 1035 exchange.

If you are the acquirer, you must file a separate Form 1099-LS for each payment recipient with respect to each interest in a life insurance contract you acquired in a reportable policy sale. Enter the name, address, and taxpayer identification number (TIN) of the payment recipient, the name of the issuer of the life insurance contract, the policy number of the life insurance contract, the amount paid to the payment recipient, and the date of the sale.

**Statements to Payment Recipient and Issuer** – If you are required to file Form 1099-LS, you must generally furnish a statement or acceptable substitute to each payment recipient and to the issuer. The requirement to furnish a statement to the issuer applies only with respect to a Form 1099-LS filed with respect to the seller and only if your acquisition of an interest in a life insurance contract in a reportable policy sale is a direct acquisition. Statements furnished to the issuer should be directed to the administrative office that, pursuant to the life insurance contract, processes transfers of ownership. You may not have to furnish statements to the payment recipient and issuer if another acquirer or third-party information reporting contractor reports on your behalf under the unified reporting provisions of Regulations section 1.6050Y-2(b).

**Payment Recipient** – In general, a reportable policy sale payment recipient (payment recipient) is any person that receives a reportable policy sale payment in a reportable policy sale. A payment recipient may include any seller in the reportable policy sale (any person that holds an interest in a life insurance contract and transfers that interest, or any part of that interest, to an acquirer in a reportable policy sale), as well as any broker or other intermediary that retains a portion of the cash or other consideration transferred in the reportable policy sale. However, a person other than a seller is not a payment recipient if that person received aggregate payments of less than \$600 with respect to a reportable policy sale.

**Issuer** – The issuer is the person responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract, on the date a Form 1099-LS is required to be furnished under section 6050Y(a), or their designee.



## 1099-LTC: Long-Term Care and Accelerated Death Benefits

<b>9393</b> <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-1519 <b>Form 1099-LTC</b> (Rev. October 2019)		<b>Long-Term Care and Accelerated Death Benefits</b>
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		<b>1</b> Gross long-term care benefits paid \$ _____	<b>2</b> Accelerated death benefits paid \$ _____	
PAYER'S TIN	POLICYHOLDER'S TIN	<b>3</b> Check one: <input type="checkbox"/> Per diem <input type="checkbox"/> Reimbursed amount		INSURED'S TIN  INSURED'S name
POLICYHOLDER'S name		INSURED'S name		
Street address (including apt. no.)		Street address (including apt. no.)		City or town, state or province, country, and ZIP or foreign postal code
City or town, state or province, country, and ZIP or foreign postal code		City or town, state or province, country, and ZIP or foreign postal code		
Account number (see instructions)	<b>4</b> Qualified contract (optional) <input type="checkbox"/>	<b>5</b> Check, if applicable (optional): <input type="checkbox"/> Chronically ill <input type="checkbox"/> Terminally ill	Date certified	

Form **1099-LTC** (Rev. 10-2019)      Cat. No. 23021Z      [www.irs.gov/Form1099LTC](http://www.irs.gov/Form1099LTC)      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

### Basic Requirements

Code section 6050Q requires insurance companies, government units, and viatical settlement providers to file Form 1099-LTC reporting the aggregate amount of qualified long-term care insurance and accelerated death benefits paid to any individual during the calendar year.<sup>51</sup> For the reporting requirements to apply, the applicable long-term care insurance must meet the requirements of Code section 7702B, including the requirement that the insured must be certified by a health care professional as chronically ill.<sup>52</sup> Additionally, the accelerated death benefit must be an amount paid under a life insurance contract for an insured individual who is terminally or chronically ill.<sup>53</sup>

### Overview of 1099-MISC: Miscellaneous Information and 1099-NEC: Nonemployee Compensation

#### Trade or business reporting only for Forms 1099-MISC and 1099-NEC

Report on Forms *1099-MISC Miscellaneous Information* and *1099-NEC Nonemployee Compensation* only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or 501(d), farmers' cooperatives that are exempt from tax under section 521, and widely held fixed investment trusts. Payments by federal, state, or local government agencies are also reportable.

Three different limitations apply to the use of Forms 1099-MISC and 1099-NEC. The first involves the nature of the payer and the transaction involved. The second limitation is on the type and amount of payment being made. The final limitation deals with the recipient.

Forms 1099-MISC and 1099-NEC apply only to persons engaged in a trade or business who make payments in the course of such trade or business to another person. Payments made in a person's personal capacity do not trigger Forms 1099-MISC or 1099-NEC requirement, such as amounts someone pays for landscaping or lawn service at their home.

Furthermore, not all payments made in the course of a trade or business trigger Forms 1099-MISC or 1099-NEC. Generally, only payments of at least \$600 (in the aggregate for the year) in rents; commissions, fees, and other compensation; premiums, annuities, remunerations, emoluments, or other fixed or determinable gains, profits, and income.<sup>56</sup> The Code requires Form 1099-MISC reporting of payments of at least \$10 for the year in royalties; or broker payments in lieu of dividends or tax-exempt interest.

Certain specified payments are not reported using the Forms 1099-MISC or 1099-NEC, such as payments to which Code section 6042(a)(1) (corporate dividend payments), 6044(a)(1) (patronage dividends<sup>57</sup>), 6047(e) (employee stock ownership plans), or 6049(a) (interest payments).

Form 1099-MISC Miscellaneous Information is no longer used to report **nonemployee compensation**. **Form 1099-NEC Nonemployee Compensation** is now used for this purpose. In other words, businesses must use Form 1099-NEC to report payments made to other persons, vendors, subcontractors, and independent contractors in the course of that trade or business when the aggregate payment is \$600 or more, and the payment is "fixed and determinable."<sup>58</sup> Income is fixed when it is paid in amounts definitely predetermined and is determinable whenever there is a basis of calculation by which the amount of gain or profit to be paid may be ascertained. For example, a salesman working by the month for a commission on sales that is paid or credited monthly receives determinable income.<sup>59</sup>

Due to the expansive breadth of the requirement to file Forms 1099-MISC and 1099-NEC under Code section 6041, these requirements sometimes overlap with other provisions of the Code, which may ostensibly require the same payments to be reported under such other provisions. When this occurs, tie-breaking rules apply. The tie-breaker rules come in two parts. First, attorney fees paid in the course of a trade or business must be reported under the trade or business reporting rules of section 6041, not section 6045(f).<sup>60</sup> Second, with respect to all other payments, the other provisions of the Code that apply to the payment will supersede section 6041; Treasury Regulation section 1.6041-1(a)(1)(ii) provides that business-related payments are excluded from reporting under Code section 6041 if such payments which are required, or maybe required, to be reported under another section of the Code.

For example, assume Ron's Restaurant, in the course of his business, pays \$600 to his attorney through a third-party payment network, such as PayPal. Paul is one of a substantial number of persons who have established accounts with PayPal, a third-party settlement organization that provides standards and mechanisms for settling the transactions and guaranteed payments to those persons for goods or services purchased through the network. Other third-party settlement organizations include credit card companies, such as American Express and Capital One. In this case, PayPal is responsible for making the payment to Paul. Therefore, Ron as the payer is not required to file an information return under Code section 6041 with respect to the transaction because the transaction is a third-party network transaction that is subject to reporting under Code section 6050W. Solely for purposes of determining whether Ron is eligible for relief from reporting under Code section 6041, the *de minimis* threshold for third-party network transactions in Treasury Regulation section 1.6050W-1(c)(4) is disregarded.<sup>61</sup> Instead, the payment to Paul would be reported on Form 1099-K by the third-party settlement organization.

As a consequence of these tie-breaker rules and the use of Form 1099-K, taxpayers are required to exclude from Forms 1099-MISC and 1099-NEC any payments made by credit card, debit card, gift card, or third-party payment network such as PayPal.

Some payments do not have to be reported on Forms 1099-MISC or 1099-NEC, although they may be taxable to the recipient. Payments for which Forms 1099-MISC or 1099-NEC are not required include all of the following:

- Generally, payments to a corporation (including a limited liability company (LLC) that is treated as a C or S corporation), except in certain cases. Reportable payments to corporations:
  - The following payments made to corporations must generally be reported on **Form 1099-MISC**:
    - Cash payments for the purchase of fish for resale
    - Medical and health care payments
    - Substitute payments in lieu of dividends or tax-exempt interest
    - Gross proceeds paid to an attorney
  - The following payments made to corporations must generally be reported on **Form 1099-NEC**:
    - Attorneys' fees
    - Payments by a federal executive agency for services (vendors)
    - Cash payments for the purchase of fish for resale
- Payments for merchandise, telegrams, telephone, freight, storage, and similar items.<sup>63</sup>
- Payments of rent to real estate agents or property managers. However, the real estate agent or property manager must use Form 1099-MISC to report the rent paid over to the property owner.<sup>64</sup>
- Wages paid to employees (report on Form W-2 Wage and Tax Statement).

- Military differential wage payments made to employees while they are on active duty in the U.S. Armed Forces or other uniformed services (report on Form W-2).
- Business travel allowances paid to employees (may be reportable on Form W-2).<sup>65</sup>
- Cost of current life insurance protection<sup>66</sup> (report on Form W-2 or Form 1099-R Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.).
- Payments to a tax-exempt organization including tax-exempt trusts (IRAs, HSAs, Archer MSAs, Coverdell ESAs, and ABLE (529A) accounts), the United States, a state, the District of Columbia, a U.S. possession or territory, or a foreign government.
- Payments made to or for homeowners from the Housing Finance Agency (HFA) Hardest Hit Fund or similar state program (report on Form 1098-MA).
- Compensation for injuries or sickness by the Department of Justice as a public safety officer disability or survivor's benefit, or under a state program that provides benefits for surviving dependents of a public safety officer who has died as the direct and proximate result of a personal injury sustained in the line of duty.
- Compensation for wrongful incarceration for any criminal offense for which there was a conviction under federal or state law.<sup>67</sup>

Furthermore, do not use Forms 1099-MISC or 1099-NEC to report the following:

- Form 1099-K payments – Payments made with a credit card or payment card and certain other types of payments, including third-party network transactions, must be reported on Form 1099-K by the payment settlement entity under section 6050W and are not subject to reporting on Forms 1099-MISC or 1099-NEC.<sup>100</sup>
- Fees paid to informers – A payment to an informer as an award, fee, or reward for information about criminal activity does not have to be reported if the payment is made by a federal, state, or local government agency, or by a nonprofit organization exempt from tax under section 501(c)(3) that makes the payment to further the charitable purpose of lessening the burdens of government.<sup>101</sup>
- Scholarships – Do not use Forms 1099-MISC or 1099-NEC to report scholarship or fellowship grants. Scholarship or fellowship grants that are taxable to the recipient because they are paid for teaching, research, or other services as a condition for receiving the grant are considered wages and must be reported on Form W-2. Other taxable scholarship or fellowship payments (to a degree or nondegree candidate) do not have to be reported to the IRS on any form unless section 6050S requires reporting of such amounts by an educational institution on Form 1098-T, Tuition Statement.<sup>102</sup>
- Canceled debt – A canceled debt is not reportable on Forms 1099-MISC or 1099-NEC. Canceled debts reportable under section 6050P must be reported on Form 1099-C.<sup>103</sup>
- Employee business expense reimbursements – Do not use Forms 1099-MISC or 1099-NEC to report employee business expense reimbursements. Report payments made to employees under a nonaccountable plan as wages on Form W-2. Generally, payments made to employees under an accountable plan are not reportable on Form W-2, except in certain cases when you pay a per diem or mileage allowance.<sup>104</sup>

## Payments made on behalf of another person for Forms 1099-MISC and 1099-NEC

For payments reportable under section 6041, if you make a payment on behalf of another person, who is the source of the funds, you may be responsible for filing Forms 1099-MISC or 1099-NEC. You are the payor for information reporting purposes if you perform management or oversight functions in connection with the payment, or have a significant economic interest in the payment (such as a lien). For example, a bank that provides financing to a real estate developer for a construction project maintains an account from which it makes payments for services in connection with the project. The bank performs management and oversight functions over the payments and is responsible for filing information returns for payments of \$600 or more paid to contractors.<sup>105</sup>

When an escrow agent maintains owner-provided funds in an escrow account for a construction project, performs management and oversight functions relating to the construction project, and makes payments for the owner and the general contractor, the escrow agent must file Forms 1099-MISC or 1099-NEC for reportable payments of \$600 or more. This requirement applies whether or not the escrow agent is a bank. If the contractor is the borrower of the funds, do not report on Forms 1099-MISC or 1099-NEC any loan payments made to the contractor/borrower.

## State or local sales taxes for Forms 1099-MISC and 1099-NEC

If state or local sales taxes are imposed on the service provider and you (as the buyer) pay them to the service provider, report them on Forms 1099-MISC or 1099-NEC as part of the reportable payment. However, if sales taxes are imposed on you (as the buyer) and collected from you by the service provider, do not report the sales taxes on Forms 1099-MISC or 1099-NEC.

## Payments to attorneys and Gross proceeds paid to attorneys for Forms 1099-MISC and 1099-NEC

**Payments to attorneys** – The term "attorney" includes a law firm or other provider of legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable in box 1 of **Form 1099-NEC**, under section 6041A(a)(1).

**Gross proceeds paid to attorneys** – Under section 6045(f), report in box 10 of **Form 1099-MISC**, payments that:

- Are made to an attorney in the course of your trade or business in connection with legal services, but not for the attorney's services, for example, as in a settlement agreement;
- Total \$600 or more; and
- Are not reportable by you in box 1 of Form 1099-NEC.

Generally, you are not required to report the claimant's attorney's fees. For example, an insurance company pays a claimant's attorney \$100,000 to settle a claim. The insurance company reports the payment as gross proceeds of \$100,000 in box 10 of Form 1099-MISC. However, the insurance company does not have a reporting requirement for the claimant's attorney's fees subsequently paid from these funds.

These rules apply whether or not:

- The legal services are provided to the payer;
- The attorney is the exclusive payee (for example, the attorney's and claimant's names are on one check); or
- Other information returns are required for some or all of a payment under another section of the Code, such as section 6041.

For example, a person who, in the course of a trade or business, pays \$600 of taxable damages to a claimant by paying that amount to a claimant's attorney is required to:

- Furnish Form 1099-MISC to the claimant, reporting damages pursuant to section 6041, generally in box 3; and
- Furnish Form 1099-MISC to the claimant's attorney, reporting gross proceeds paid pursuant to section 6045(f) in box 10.<sup>106</sup>

However, these rules do not apply to wages paid to attorneys that are reportable on Form W-2 or to profits distributed by a partnership to its partners that are reportable on Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc.

**Payments to corporations for legal services** – The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in box 1 of Form 1099-NEC) and/or gross proceeds (in box 10 of Form 1099-MISC) to corporations that provide legal services.

# 1099-MISC: Miscellaneous Information

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Rents		OMB No. 1545-0115		<b>Miscellaneous Information</b>
		\$		<b>2021</b>		
		2 Royalties				
		\$		Form <b>1099-MISC</b>		<b>Copy 1 For State Tax Department</b>
		3 Other income		4 Federal income tax withheld		
		\$		\$		
PAYER'S TIN	RECIPIENT'S TIN	5 Fishing boat proceeds		6 Medical and health care payments		
		\$		\$		
RECIPIENT'S name		7 Payer made direct sales totaling \$5,000 or more of consumer products to recipient for resale <input type="checkbox"/>		8 Substitute payments in lieu of dividends or interest		
		\$		\$		
		9 Crop insurance proceeds		10 Gross proceeds paid to an attorney		
Street address (including apt. no.)		\$		\$		
City or town, state or province, country, and ZIP or foreign postal code		11 Fish purchased for resale		12 Section 409A deferrals		
		\$		\$		
Account number (see instructions)	FATCA filing requirement <input type="checkbox"/>	13 Excess golden parachute payments		14 Nonqualified deferred compensation		
		\$		\$		
		15 State tax withheld		16 State/Payer's state no.		17 State income
		\$		\$		\$
		\$		\$		\$

Form **1099-MISC**[www.irs.gov/Form1099MISC](http://www.irs.gov/Form1099MISC)

Department of the Treasury - Internal Revenue Service

## Basic Requirements

Form 1099-MISC Miscellaneous Information is one of the most widely used form of 1099, primarily because of the number of different situations in which it is used. Form 1099-MISC is used to report 14 different items.

File Form 1099-MISC, Miscellaneous Information, for each person in the course of your business to whom you have paid the following during the year:

- At least \$10 in royalties (box 2) or broker payments in lieu of dividends or tax-exempt interest (box 8).
- At least \$600 in:
  - Rents (box 1);
  - Prizes and awards (box 3);
  - Other income payments (box 3);
  - Generally, the cash paid from a notional principal contract to an individual, partnership, or estate (box 3);
  - Any fishing boat proceeds (box 5);
  - Medical and health care payments (box 6);

- Crop insurance proceeds (box 9);
- Gross proceeds paid to an attorney (box 10);
- Fish purchased for resale (box 11);
- Section 409A deferrals (box 12); or
- Nonqualified deferred compensation (box 14).

You must also file Form 1099-MISC for each person from whom you have withheld any federal income tax (report in box 4) under the backup withholding rules regardless of the amount of the payment.

For box 7, payer made direct sales totaling \$5,000 or more, you may either file Form 1099-MISC or Form 1099-NEC to report sales totaling \$5,000 or more of consumer products to a person on buy-sell, deposit-commission, or other commission basis for resale.

Box 13 is used to report excess golden parachute payments.

**Trade or business reporting only** – Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit.

**Reportable payments to corporations** – The following payments made to corporations must generally be reported on Form 1099-MISC:

- Cash payments for the purchase of fish for resale reported in box 7 or box 11.
- Medical and health care payments reported in box 6.
- Substitute payments in lieu of dividends or tax-exempt interest reported in box 8.
- Gross proceeds paid to an attorney reported in box 10.

**Filing dates** – Form 1099-MISC is filed on a calendar year basis and the due date for filing Form 1099-MISC with the IRS is by February 28 (if filed on paper) or March 31 (if filed electronically) of the year following the calendar year of the reportable transaction or payment.

**Statements to recipients** – If you are required to file Form 1099-MISC, you must furnish a statement to the recipient. You can furnish each recipient with a single payee statement reporting all Form 1099-MISC payment types. Generally, you are required to furnish the payee statements to the recipients by January 31 of the year following the calendar year of the reportable transaction or payment. However, if reported amounts in box 8 (substitute dividends and tax-exempt interest payments reportable by brokers) or box 10 (gross proceeds paid to attorneys) of Form 1099-MISC, generally, you are required to furnish the payee statements to the recipients by February 15 of the year following the calendar year of the reportable transaction or payment.



## Specific Instructions for Completing Form 1099-MISC

### Box 1: Rents

Enter amounts of \$600 or more for all types of rents, such as any of the following:

- Real estate rentals paid for office space. However, the taxpayer does not have to report these payments on Form 1099-MISC if they paid them to a real estate agent or property manager (rather than to the owner).<sup>77</sup> But the real estate agent or property manager must use Form 1099-MISC to report the rent paid over to the property owner.
- Machine rentals (for example, renting a bulldozer to level a parking lot). If the machine rental is part of a contract that includes both the use of the machine and the operator, prorate the rental between the rent of the machine (report that in box 1) and the operator's charge (report that on Form 1099-NEC in box 1 as nonemployee compensation).
- Pasture rentals (for example, farmers paying for the use of grazing land).

Also, public housing agencies must report in box 1 rental assistance payments made to owners of housing projects.

If an arrangement between an owner of coin-operated amusements and an owner of a business establishment where the amusements are placed is a lease of the amusements or the amusement space, the owner of the amusements or the owner of the space, whoever makes the payments, must report the lease payments in box 1 of Form 1099-MISC if the payments total at least \$600. However, if the arrangement is a joint venture, the joint venture must file a Form 1065, U.S. Return of Partnership Income, and provide each partner with the information necessary to report the partner's share of the taxable income. Coin-operated amusements include video games, pinball machines, jukeboxes, pool tables, slot machines, and other machines and gaming devices operated by coins or tokens inserted into the machines by individual users.<sup>78</sup>

### Box 2: Royalties

Royalties are amounts paid for the right to use intangible property, such as a patent, copyright, secret process, etc., as well as the right to exploit natural resources such as gas, oil, coal, timber, sand, or gravel. Royalty agreements are sometimes referred to as license agreements.

Under Code section 6050N, every payer who makes payments of royalties, or similar amounts, aggregating **\$10 or more** must file Form 1099-MISC, reporting the aggregate amount of such payments and the name and address of the taxpayer to whom paid. Under the tie-breaker rules described above, to the extent Code section 6041 requires reporting of royalties paid in the course of a trade or business, this statute trumps Code section 6041.<sup>68</sup>

Examples of royalty payments required to be reported include royalty payments with respect to the right to exploit natural resources (such as oil, gas, coal, timber, and other mineral interests), as well as royalty payments for the right to exploit intangible property (such as copyrights, trade names, trademarks, artistic works, secret processes or formulas, and patents).<sup>69</sup>

Enter gross royalty payments (or similar amounts) of **\$10 or more**. Report royalties from oil, gas, or other mineral properties before reduction for severance and other taxes that may have been withheld and paid. Do not include surface royalties; they should be reported in box 1. Do not report oil or gas payments for a working interest in box 2; report payments for working interests in box 1 of Form 1099-NEC. Finally, do not report timber royalties made under a pay-as-cut contract; report these timber royalties on Form 1099-S, Proceeds From Real Estate Transactions.

Use box 2 to report royalty payments from intangible property such as patents, copyrights, trade names, and trademarks. Report the gross royalties (before reduction for fees, commissions, or expenses) paid by a publisher directly to an author or literary agent, unless the agent is a corporation. The literary agent (whether or not a corporation) that receives the royalty payment on behalf of the author must report the gross amount of royalty payments to the author on Form 1099-MISC whether or not the publisher reported the payment to the agent on its Form 1099-MISC.

### Box 3: Other Income

Enter other income of \$600 or more required to be reported on Form 1099-MISC that is not reportable in one of the other boxes on the form. Also, enter in box 3 prizes and awards that are not for services performed. Include the fair market value (FMV) of merchandise won on game shows. Also include amounts paid to a winner of a sweepstake not involving a wager. If a wager is made, report the winnings on Form W-2G, Certain Gambling Winnings.

If, not later than 60 days after the winner becomes entitled to the prize, the winner can choose the option of a lump sum or an annuity payable over at least 10 years, the payment of winnings is considered made when actually paid. If the winner chooses an annuity, file Form 1099-MISC each year to report the annuity paid during that year.

Do not include prizes and awards paid to employees. Report these on Form W-2. Also, do not include in box 3 prizes and awards for services performed by nonemployees, such as an award for the top commission salesperson. Report them in box 1 of Form 1099-NEC.

Prizes and awards received in recognition of past accomplishments in religious, charitable, scientific, artistic, educational, literary, or civic fields are not reportable if:

- The winners are chosen without action on their part,
- The winners are not expected to perform future services, and

- The payer transfers the prize or award to a charitable organization or governmental unit under a designation made by the recipient.<sup>79</sup>

Other items required to be reported in box 3 include the following:

**Deceased employee's wages** – When an employee dies during the year, you must report the accrued wages, vacation pay, and other compensation paid after the date of death. If you made the payment in the same year the employee died, you must report them only as social security and Medicare wages on the employee's Form W-2. If you made the payment after the year of death, do not report it on Form W-2.

For example, if Employer X made a \$3,000 payment after the year of death, the \$3,000 would not be subject to social security and Medicare taxes and would not be reported on Form W-2. However, the employer would file Form 1099-MISC and report the \$3,000 in box 3.

Whether the payment is made in the year of death or after the year of death, you must also report the payment to the estate or beneficiary on Form 1099-MISC. Report the payment in box 3. Enter the name and TIN of the payment recipient on Form 1099-MISC. For example, if the recipient is an individual beneficiary, enter the name and social security number of the individual; if the recipient is the estate, enter the name and employer identification number of the estate. The general backup withholding rules apply to this payment.

Death benefits from nonqualified deferred compensation plans or section 457 plans paid to the estate or beneficiary of a deceased employee are reportable on Form 1099-MISC. Do not report these death benefits on Form 1099-R. However, if the benefits are from a qualified plan, report them on Form 1099-R.

**Indian gaming profits, payments to tribal members** – If you make payments to members of Indian tribes from the net revenues of class II or class III gaming activities conducted or licensed by the tribes, you must withhold federal income tax on such payments. File Form 1099-MISC to report the payments and withholding to tribal members. Report the payments in box 3 and the federal income tax withheld in box 4.

A payment or series of payments made to individuals for participating in a medical research study or studies.

**Termination payments to former self-employed insurance salespeople.** These payments are not subject to self-employment tax and are reportable in box 3 (rather than box 1 of Form 1099-NEC) if all the following apply:

- The payments are received from an insurance company because of services performed as an insurance salesperson for the company;
- The payments are received after termination of the salesperson's agreement to perform services for the company;
- The salesperson did not perform any services for the company after termination and before the end of the year;

- The salesperson enters into a covenant not to compete against the company for at least 1 year after the date of termination;
- The amount of the payments depends primarily on policies sold by the salesperson or credited to the salesperson's account during the last year of the service agreement or to the extent those policies remain in force for some period after termination, or both; and
- The amount of the payments does not depend at all on length of service or overall earnings from the company (regardless of whether eligibility for payment depends on length of service).

If the termination payments do not meet all these requirements, report them in box 1 of Form 1099-NEC.

Generally, all punitive damages, any damages for nonphysical injuries or sickness, and any other taxable damages. Report punitive damages even if they relate to physical injury or physical sickness. Generally, report all compensatory damages for nonphysical injuries or sickness, such as employment discrimination or defamation. However, do not report damages (other than punitive damages):

1. Received on account of personal physical injuries or physical sickness;
2. That do not exceed the amount paid for medical care for emotional distress;
3. Received on account of nonphysical injuries (for example, emotional distress) under a written binding agreement, court decree, or mediation award in effect on or issued by September 13, 1995; or
4. That are for a replacement of capital, such as damages paid to a buyer by a contractor who failed to complete the construction of a building.

Damages received on account of emotional distress, including physical symptoms such as insomnia, headaches, and stomach disorders, are not considered received for a physical injury or physical sickness and are reportable unless described in item 2 or 3 above. However, damages received on account of emotional distress due to physical injuries or physical sickness are not reportable.

Also, report liquidated damages received under the Age Discrimination in Employment Act of 1967.

## **Box 4: Federal Income Tax Withheld**

The payer must file an information return on Form 1099-MISC for each person (other than an employee) for whom federal income tax was deducted and withheld from pay during the calendar year, without regard to any minimum amount.<sup>75</sup> These amounts have to be reported on the recipient's Form 1099-MISC for the year even if the amount is not currently includible in income for that tax year.

Enter any income tax withheld or backup withholding from payments to nonemployees in box 4. Generally, these amounts will be backup withholding. Backup withholding is withholding at the rate of 28% on payments made to a payee if:

- The payee has failed to furnish the payee's TIN or furnishes an "obviously incorrect number";
- The IRS or a broker has notified the payor that the TIN furnished by the payee is incorrect;
- There has been a notified payee underreporting with respect to interest and dividends; or
- The payee has failed to make the exemption certification (on Form W-9 ) with respect to interest and dividends.

Enter backup withholding, for example, persons who have not furnished their TINs to you are subject to withholding on payments required to be reported in boxes 1, 2 (net of severance taxes), 3, 5 (only with respect to cash payments to crew members for their share of proceeds from the catch), 6, 8, 9, and 10.

Backup withholding generally does not apply to any payment made to an organization exempt from tax under Code section 501(a), the U.S., a state, the District of Columbia, a U.S. possession or their political subdivisions, a foreign government or its political subdivisions, an international organization, or any wholly-owned agency or instrumentality of any of the above political entities. Furthermore, payments to a fiduciary or nominee account, or to an exempt recipient,<sup>80</sup> are not subject to backup withholding.

## Box 5: Fishing Boat Proceeds

Code section 6050A requires fishing boat operations to file Form 1099-MISC with respect to payments made to crewmembers. The form must describe (1) the identity of each crewmember, (2) the percentage of each crewmember's share of the catches and the percentage of the operator's share of such catches, (3) if the crewmember received his or her share in kind, the type and weight of such share, (4) if the crewmember received a share of the proceeds of such catches, the amount so received, and (5) any cash remuneration.<sup>73</sup>

If you are the operator of a fishing boat, enter the recipient's share of all proceeds from the sale of a catch or the FMV of a distribution in kind to each crew member of fishing boats with normally fewer than 10 crew members. A fishing boat has normally fewer than 10 crew members if the average size of the operating crew was fewer than 10 on trips during the preceding 4 calendar quarters.

In addition, report cash payments of up to \$100 per trip that are contingent on a minimum catch and are paid solely for additional duties (such as mate, engineer, or cook) for which additional cash payments are traditional in the industry. However, do not report on Form 1099-MISC any wages reportable on Form W-2.

## Box 6: Medical and Health Care Payments

Enter payments of \$600 or more made in the course of a trade or business to each physician or other supplier or provider of medical or health care services. Include payments made by medical and health care insurers under health, accident, and sickness insurance programs. Because an exception applies to the general rule that Form 1099-MISC does not have to be filed when payments are made to a corporation, include all medical and health care payments made in the course of a trade or business, even if the payee is a corporation. If payment is made to a corporation, list the corporation as the recipient rather than the individual providing the services. Payments to persons providing health care services often include charges for injections, drugs, dentures, and similar items. In these cases, the entire payment is subject to information reporting. You are not required to report payments to pharmacies for prescription drugs.

The exemption from issuing Form 1099-MISC to a corporation does not apply to payments for medical or health care services provided by corporations, including professional corporations. However, you are not required to report payments made to a tax-exempt hospital or extended care facility or to a hospital or extended care facility owned and operated by the United States (or its possessions or territories), a state, the District of Columbia, or any of their political subdivisions, agencies, or instrumentalities.

Also, generally, payments made under a flexible spending arrangement (FSA) or a health reimbursement arrangement (HRA) which is treated as employer-provided coverage under an accident or health plan for purposes of Code section 106 are exempt from the reporting requirements of Code section 6041 and do not have to be reported on Form 1099-MISC.

## Box 7: Payer Made Direct Sales of \$5,000 or More

Enter an "X" in the checkbox for sales by you totaling \$5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or any other person) anywhere other than in a permanent retail establishment. Do not enter a dollar amount in this box.

You may either use box 7 on Form 1099-MISC or box 2 on Form 1099-NEC to report the direct sales totaling \$5,000 or more. If you use Form 1099-MISC to report these sales, then you are required to file Form 1099-MISC with the IRS by February 28. However, if you use Form 1099-NEC to report these sales, then you are required to file Form 1099-NEC with the IRS by January 31.

The report you must give to the recipient for these direct sales need not be made on the official form. It may be in the form of a letter showing this information along with commissions, prizes, awards, etc.

## Box 8: Substitute Payments in Lieu of Dividends or Interest

Under Code section 6045(d), if a broker transfers the taxpayer's securities for use in a short sale or similar transaction, and receives a dividend or tax-exempt interest aggregating **\$10 or more** during the period that the transaction is open, the broker must report the transaction, using Form 1099-MISC to the IRS and the taxpayer, identifying the payment as being in lieu of a dividend, tax-exempt interest, or such other item.<sup>70</sup>

For example, suppose on September 1, 20x1, Bob Broker borrows 200 State Q Bonds (the interest upon which is exempt from tax under Code section 103) held for Charles Customer and transfers the bonds to Sally Seller for use in a short sale. The bonds each have a face value of \$100 and bear 12% stated annual interest paid semiannually on January 1 and July 1 of each year. The bonds were not issued with original issue discount. On November 1, 20x1, Sally closes the short sale and returns State Q Bonds to Bob. On January 1, 20x2, Bob receives a \$1,200 interest payment ( $6\% \times \$100 \times 200 \text{ bonds} = \$1,200$ ) from State Q with respect to Charles' bonds. Four hundred dollars (2 months the bonds were on loan  $\div$  6 months in the interest period =  $1/3 \times \$1,200 = \$400$ ) of the interest payment represents accrued interest on the obligations for the period during which the short sale was open and is a substitute payment in lieu of tax-exempt interest. Therefore, Bob must furnish a statement to Charles for 20x2 with respect to the \$400 substitute payment.<sup>71</sup>

"Substitute payment" means a payment in lieu of (a) a dividend, or (b) tax-exempt interest to the extent that interest (including original issue discount (OID)) has accrued while the securities were on loan. When securities are loaned, the borrower will receive these payments. Typically, the agreement between the lender and the borrower requires that the latter pay an amount to the former to compensate the lender (*i.e.*, the true owner of the securities) for the payments that he or she will not receive because of the loan.

Enter aggregate payments of **at least \$10** of substitute payments received by a broker for a customer in lieu of dividends or tax-exempt interest as a result of a loan of a customer's securities. For this purpose, a customer includes an individual, trust, estate, partnership, association, company, or corporation. It does not include a tax-exempt organization, the United States, any state, the District of Columbia, a U.S. possession or territory, or a foreign government.

## Box 9: Crop Insurance Proceeds

Enter crop insurance proceeds of \$600 or more paid to farmers by insurance companies unless the farmer has informed the insurance company that expenses have been capitalized under Code sections 278, 263A, or 447.

## Box 10: Gross Proceeds Paid to an Attorney

Enter gross proceeds of \$600 or more paid to an attorney in connection with legal services (regardless of whether the services are performed for the payer).

Gross proceeds paid to attorneys, under section 6045(f), report in box 10 payments that:

- Are made to an attorney in the course of your trade or business in connection with legal services, but not for the attorney's services, for example, as in a settlement agreement;
- Total \$600 or more; and
- Are not reportable by you in box 1 of Form 1099-NEC.

The exemption from reporting payments made to corporations does not apply to payments for legal services.

Therefore, you must report gross proceeds in box 10 of Form 1099-MISC to corporations that provide legal services.

Attorneys' fees paid to attorneys are not reportable in box 10 of Form 1099-MISC. You must report attorneys' fees in box 1 of Form 1099-NEC.

## Box 11: Fish Purchased for Resale

Form 1099-MISC, box 11 will now be used for any reporting under section 6050R, regarding cash payments for the purchase of fish for resale purposes, from an individual or corporation who is engaged in catching fish.

Code section 6050R requires every person (1) who is engaged in the trade or business of purchasing fish or other forms of aquatic life for resale from any person engaged in the trade or business of catching fish, and (2) who makes payments in cash in the course of such trade or business to such a person of \$600 or more during any calendar year for the purchase of fish, to file Form 1099-MISC with respect to each person to whom such a payment was made during such calendar year.<sup>72</sup>

If you are in the trade or business of purchasing fish for resale, you must report total cash payments of \$600 or more paid during the year to any person who is engaged in the trade or business of catching fish. You are required to keep records showing the date and amount of each cash payment made during the year, but you must report only the total amount paid for the year on Form 1099-MISC.

"Fish" means all fish and other forms of aquatic life. "Cash" means U.S. and foreign coin and currency and a cashier's check, bank draft, traveler's check, or money order. Cash does not include a check drawn on your personal or business account.



## Box 12: Section 409A Deferrals

Code section 409A governs nonqualified deferred compensation (NQDC) payments. Deferred compensation consists of amounts that are earned in a tax year but not paid until a subsequent tax year (payments made within two and a half months after the end of the year do not count). "Nonqualified" deferred compensation is not eligible for the special tax treatment afforded qualified plans (such as 401(k) plans and other qualified retirement plans). As such, the deferred payment is not deductible by the service recipient until actually paid, even if it is set aside in a trust for the service provider. Box 12 designed to include the amounts of NQDC that have been set aside for the service provider.

As long as the requirements of Code section 409A are complied with, these set aside amounts are not taxable to the service provider (nor deductible by the service recipient). Because the amount has no immediate tax consequence, the use of box 12 is completely optional.

If you complete this box, enter the total amount deferred during the year of at least \$600 for the nonemployee under all nonqualified plans. The deferrals during the year include earnings on the current year and prior year deferrals. Again, you do not have to complete this box.

## Box 13: Excess Golden Parachute Payments

An "excess" parachute payment is the amount by which any parachute payment exceeds the base amount (the average annual compensation for services includible in the individual's gross income over the most recent 5 tax years). Enter any excess golden parachute payments in box 13.

## Box 14: Nonqualified Deferred Compensation

The Form 1099-MISC reporting rules apply to any deferrals for the year under a nonqualified deferred compensation (NQDC) plan established under Code section 409A. This requirement applies whether or not the amount is paid to the recipient, and does not apply to deferrals for employees, which are required to be reported on Form W-2.

While Code section 6041(g)(2) requires a payer to report to a nonemployee any amount includible in gross income from an NQDC, it does not require the reporting of amounts includible in gross income that are treated as having been paid to a person with respect to whom a Form 1099-MISC is not required to be filed.<sup>74</sup>

NQDC amounts are generally reported in box 14 of Form 1099-MISC. If the taxpayer completes this box, the total amount deferred during the year for the nonemployee under all nonqualified plans should be included (assuming the aggregate amount for the year is \$600 or more). The deferrals during the year include earnings on the current year and prior year deferrals.

When an NQDC plan fails to meet the requirements of Code section 409A, the amounts deferred (for the year of the failure plus all previous years) become taxable. When this is the case, enter all amounts deferred (including earnings on amounts deferred) that are **includible in income** because the NQDC plan fails to satisfy the requirements of Code section 409A in box 14.

Enter all amounts deferred (including earnings on amounts deferred) that are includible in income under section 409A because the nonqualified deferred compensation (NQDC) plan fails to satisfy the requirements of section 409A. Do not include amounts properly reported on a Form 1099-MISC, corrected Form 1099-MISC, Form W-2, or Form W-2c for a prior year. Also, do not include amounts that are considered to be subject to a substantial risk of forfeiture for purposes of Code section 409A.

## 1099-NEC: Nonemployee Compensation

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		OMB No. 1545-0116		<b>Nonemployee Compensation</b>
		<b>2021</b> Form <b>1099-NEC</b>		
PAYER'S TIN	RECIPIENT'S TIN	1 Nonemployee compensation		<b>Copy 1 For State Tax Department</b>
		\$		
RECIPIENT'S name		2 Payer made direct sales totaling \$5,000 or more of consumer products to recipient for resale <input type="checkbox"/>		
Street address (including apt. no.)		3		
City or town, state or province, country, and ZIP or foreign postal code		4 Federal income tax withheld		
Account number (see instructions)		\$		
		5 State tax withheld	6 State/Payer's state no.	7 State income
		\$		\$
		\$		\$

Form **1099-NEC** [www.irs.gov/Form1099NEC](http://www.irs.gov/Form1099NEC) Department of the Treasury - Internal Revenue Service

## Basic Requirements

Form 1099-NEC Nonemployee Compensation is also one of the most widely used form of 1099. Form 1099-NEC is used to report 3 different items.

File Form 1099-NEC, Nonemployee Compensation, for each person in the course of your business to whom you have paid the following during the year. At least \$600 in:

- Services performed by someone who is not your employee (including parts and materials) (box 1); or
- Payments to an attorney (box 1).

You must also file Form 1099-NEC for each person from whom you have withheld any federal income tax (report in box 4) under the backup withholding rules regardless of the amount of the payment.

For box 2, payer made direct sales totaling \$5,000 or more, you may either file Form 1099-NEC or Form 1099-MISC to report sales totaling \$5,000 or more of consumer products to a person on buy-sell, deposit-commission, or other commission basis for resale.

Box 3 is currently not being used on Form 1099-NEC.

**Trade or business reporting only** – Report on Form 1099-NEC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit.

**Reportable payments to corporations** – The following payments made to corporations must generally be reported on Form 1099-NEC:

- Attorneys' fees reported in box 1.
- Payments by a federal executive agency for services (vendors) reported in box 1.
- Cash payments for the purchase of fish for resale reported in box 2.

**Filing date** – Form 1099-NEC is filed on a calendar year basis and the due date for filing Form 1099-NEC with the IRS is by January 31 (if filed on paper or electronically) of the year following the calendar year of the reportable transaction or payment. Section 6071(c) requires you to file Form 1099-NEC on or before January 31, using either paper or electronic filing procedures.

**Statements to recipients** – If you are required to file Form 1099-NEC, you must furnish a statement to the recipient. You can furnish each recipient with a single payee statement reporting all Form 1099-NEC payment types. You are required to furnish the payee statements to the recipients by January 31 of the year following the calendar year of the reportable transaction or payment.

## Specific Instructions for Completing Form 1099-NEC

### Box 1: Nonemployee Compensation

Enter nonemployee compensation (NEC) of \$600 or more. Include fees, commissions, prizes and awards for services performed as a nonemployee, and other forms of compensation for services performed for your trade or business by an individual who is not your employee. Include oil and gas payments for a working interest, whether or not services are performed. Also, include expenses incurred for the use of an entertainment facility that you treat as compensation to a nonemployee. Federal executive agencies that make payments to vendors for services, including payments to corporations, must report the payments in this box.

Sometimes taxpayers are confused about what constitutes nonemployee compensation. To help determine whether someone is an independent contractor or an employee, see Pub. 15-A. Generally, you must report a payment as nonemployee compensation if the following four conditions are met:

1. You made the payment to someone who is not your employee.
2. You made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations).
3. You made the payment to an individual, partnership, estate, or, in some cases, a corporation.
4. You made payments to the payee of at least \$600 during the year.

Generally, amounts paid to individuals that are reportable in box 1 are subject to self-employment tax. If payments to individuals are not subject to this tax, report the payments in box 3 of Form 1099-MISC. However, report section 530 (of the Revenue Act of 1978) worker payments in box 1 of Form 1099-NEC.

The following are some examples of payments to be reported in box 1:

- Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, engineers, etc.
- Fees paid by one professional to another, such as fee-splitting or referral fees.
- Payments by attorneys to witnesses or experts in legal adjudication.
- Payment for services, including payment for parts or materials used to perform the services if supplying the parts or materials was incidental to providing the service. For example, report the total insurance company payments to an auto repair shop under a repair contract showing an amount for labor and another amount for parts, if furnishing parts was incidental to repairing the auto.
- Commissions paid to nonemployee salespersons that are subject to repayment but not repaid during the calendar year.
- A fee paid to a nonemployee, including an independent contractor, or travel reimbursement for which the nonemployee did not account to the payer, if the fee and reimbursement total at least \$600.
- Payments to nonemployee entertainers for services. Use Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, for payments to nonresident aliens.
- Exchanges of services between individuals in the course of their trades or businesses. For example, an attorney represents a painter for nonpayment of business debts in exchange for the painting of the attorney's law offices. The amount reportable by each on Form 1099-NEC is the FMV of his or her own services performed. However, if the attorney represents the painter in a divorce proceeding, this is an activity that is unrelated to the painter's trade or business. The attorney must report on Form 1099-NEC the value of his or her services. But the painter need not report on Form 1099-NEC the value of painting the law offices because the work is in exchange for legal services that are separate from the painter's business.
- Taxable fringe benefits for nonemployees.

- Gross oil and gas payments for a working interest.
- Payments to an insurance salesperson who is not your common law or statutory employee. However, for termination payments to former insurance salespeople, report in box 3 of Form 1099-MISC.
- Directors' fees and other remuneration, including payments made after retirement, must be reported in box 1 of Form 1099-NEC in the year paid.
- Commissions paid to licensed lottery ticket sales agents. A state that has control over and responsibility for online and instant lottery games must file Form 1099-NEC to report commissions paid, whether directly or indirectly, to licensed sales agents. For example, State X retains control over and liability for online and instant lottery games. For online ticket sales, State X pays commissions by allowing an agent to retain 5% of the ticket proceeds the agent remits to State X. For instant ticket sales, State X pays commissions by providing tickets to the agent for 5% less than the proceeds to be obtained by the agent from the sale of those tickets. If the commissions for the year total \$600 or more, they must be reported in box 1 of Form 1099-NEC.
- Payments to section 530 (of the Revenue Act of 1978) workers. Generally, you must report payments to independent contractors on Form 1099-NEC in box 1.
- Transit passes and parking for independent contractors. Although you cannot provide qualified transportation fringes to independent contractors, the working condition and de minimis fringe rules for transit passes and parking apply to independent contractors. Tokens or farecards that enable an independent contractor to commute on a public transit system (not including privately operated vanpools) are excludable from the independent contractor's gross income and are not reportable on Form 1099-NEC if their value in any month is \$21 or less. However, if the value of a pass provided in a month is greater than \$21, the full value is part of the gross income and must be reported on Form 1099-NEC. The value of parking may be excludable from an independent contractor's gross income, and, therefore, not reportable on Form 1099-NEC if certain requirements are met.

Golden parachute payments are also reported in box 1. A parachute payment is any payment that meets all of the following conditions:

1. The payment is in the nature of compensation;
2. The payment is to, or for the benefit of, a "disqualified individual." A disqualified individual is one who at any time during the 12-month period prior to and ending on the date of the change in ownership or control of the corporation (the disqualified individual determination period) was an employee or independent contractor and was, in regard to that corporation, a shareholder, an officer, or a highly compensated individual;
3. The payment is contingent on a change in the ownership of a corporation, the effective control of a corporation, or the ownership of a substantial portion of the assets of a corporation (a change in ownership or control); and
4. The payment has (together with other payments described in 1, 2, and 3, above, made to the same individual) an aggregate present value of at least three times the individual's base amount.<sup>81</sup>

Note that "excess" golden parachute payments are not reported in box 1 of Form 1099-NEC, they are reported in box 13 of Form 1099-MISC.

Payments to attorneys, the term "attorney" includes a law firm or other provider of legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable in box 1 of Form 1099-NEC, under section 6041A(a)(1). The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees in box 1 of Form 1099-NEC to corporations that provide legal services. Gross proceeds paid to attorneys are not reportable in box 1 of Form 1099-NEC, they are reported in box 10 of Form 1099-MISC. Remember, Form 1099-NEC is solely for payments made in the course of a trade or business. Payments to an attorney made in the payer's personal capacity do not trigger a Form 1099-NEC.

Payments not reported in box 1:

- Expense reimbursements paid to volunteers of nonprofit organizations;
- Deceased employee wages paid in the year after death (report in box 3 of Form 1099-MISC);
- Payments more appropriately described as rent (report in box 1 of Form 1099-MISC), royalties (report in box 2 of Form 1099-MISC), other income not subject to self-employment tax (report in box 3 of Form 1099-MISC), interest (use Form 1099-INT);
- The cost of current life insurance protection (report on Form W-2 or Form 1099-R);
- An employee's wages, travel or auto allowance, or bonuses and prizes (report on Form W-2); and
- The cost of group-term life insurance paid on behalf of a former employee (report on Form W-2).

Form 1099-NEC, box 1 will no longer be used for reporting under section 6050R, regarding cash payments for the purchase of fish for resale purposes.

## **Box 2: Payer Made Direct Sales Totaling \$5,000 or More**

Enter an "X" in the checkbox for sales by you totaling \$5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or any other person) anywhere other than in a permanent retail establishment. Do not enter a dollar amount in this box.

You may either use box 2 on Form 1099-NEC or box 7 on Form 1099-MISC to report the direct sales totaling \$5,000 or more. If you use Form 1099-NEC to report these sales, then you are required to file Form 1099-NEC with the IRS by January 31.

The report you must give to the recipient for these direct sales need not be made on the official form. It may be in the form of a letter showing this information along with commissions, prizes, awards, etc.

### Box 3: Currently not being used

### Box 4: Federal Income Tax Withheld

Enter backup withholding. For example, persons who have not furnished their TINs to you are subject to withholding on payments required to be reported in box 1.

### 1099-OID: Original Issue Discount

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED					
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Original issue discount for the year	OMB No. 1545-0117		
		\$	Form <b>1099-OID</b>		
		2 Other periodic interest	(Rev. October 2019)		
		\$	For calendar year 20		
PAYER'S TIN	RECIPIENT'S TIN	3 Early withdrawal penalty	4 Federal income tax withheld		
		\$	\$		
		5 Market discount	6 Acquisition premium		
		\$	\$		
RECIPIENT'S name		7 Description			
Street address (including apt. no.)					
City or town, state or province, country, and ZIP or foreign postal code					
		8 Original issue discount on U.S. Treasury obligations	9 Investment expenses		
		\$	\$		
		10 Bond premium	11 Tax-exempt OID		
		\$	\$		
		FATCA filing requirement <input type="checkbox"/>			
Account number (see instructions)		12 State	13 State identification no.	14 State tax withheld	
				\$	
				\$	

Form **1099-OID** (Rev. 10-2019)[www.irs.gov/Form1099OID](http://www.irs.gov/Form1099OID)

Department of the Treasury - Internal Revenue Service

### Basic Requirements

Original Issue Discount ("OID") is a form of interest. It is the excess of a debt instrument's stated redemption price at maturity over its issue price (acquisition price for a stripped bond or coupon). Zero coupon bonds and debt instruments that pay no stated interest until maturity are examples of debt instruments that have OID. In essence, the interest on these instruments is paid all at once at maturity.

In general, OID is the excess of the stated redemption price at maturity over the issue price. The excess is treated as interest and allocated equally on a daily basis over the life of the debt obligation. OID, therefore, reflects the daily

portion of interest for each day during the taxable year in which the obligation is outstanding and constitutes taxable interest income to the holder of the debt obligation.

Under Code section 6045(c)(6), OID on any debt obligation must be reported on an annual basis. The same rules governing reporting of interest payments apply to OID. To the extent the OID equals or exceeds \$10 in a given year, the issuer or broker of the debt obligation must file Form 1099-OID with the IRS, and furnish a statement to the holder.

## 1099-PATR: Taxable Distributions Received From Cooperatives

☐ CORRECTED (if checked)

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Patronage dividends	OMB No. 1545-0118  <div style="font-size: 2em; font-weight: bold;">2021</div>	<b>Taxable Distributions Received From Cooperatives</b>
		2 Nonpatronage distributions		
		3 Per-unit retain allocations		
		Form <b>1099-PATR</b>		
PAYER'S TIN	RECIPIENT'S TIN	4 Federal income tax withheld	5 Redeemed nonqualified notices	<b>Copy B For Recipient</b>  This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.
		\$	\$	
RECIPIENT'S name		6 Section 199A(g) deduction	7 Qualified payments (Section 199A(b)(7))	
		\$	\$	
Street address (including apt. no.)		8 Section 199A(a) qual. items	9 Section 199A(a) SSTB items	
		\$	\$	
City or town, state or province, country, and ZIP or foreign postal code		10 Investment credit	11 Work opportunity credit	
		\$	\$	
Account number (see instructions)		12 Other credits and deductions	13 Specified Coop	
		\$	<input type="checkbox"/>	

Form **1099-PATR** (keep for your records) [www.irs.gov/Form1099PATR](http://www.irs.gov/Form1099PATR) Department of the Treasury - Internal Revenue Service

## Basic Requirements

File Form 1099-PATR, Taxable Distributions Received From Cooperatives, for each person to whom the cooperative has paid at least \$10 in patronage dividends and other distributions described in section 6044(b), or from whom you withheld any federal income tax under the backup withholding rules regardless of the amount of the payment. A cooperative determined to be primarily engaged in the retail sale of goods or services that are generally for personal, living, or family use of the members may ask for and receive an exemption from filing Form 1099-PATR.

Report on Form 1099-PATR only items of income, expenses, and credits that you properly pass through to patrons for reporting on the patron's tax return. Note: Report dividends paid on a cooperative's capital stock on Form 1099-DIV, Dividends and Distributions.

Generally, you are not required to file Form 1099-PATR for payments made to a corporation, a tax-exempt organization including tax-exempt trusts (HSAs, Archer MSAs, and Coverdell ESAs), the United States, a state, a possession, or the District of Columbia.

If you are required to file Form 1099-PATR, you must furnish a statement to the recipient.



The term "patronage dividend" means the amount paid to a patron by the cooperative: (1) on the basis of quantity or value of business done with or for such patron, (2) under an obligation of such cooperative to pay such amount, which obligation existed before the cooperative received the amount so paid, and (3) which is determined by reference to the net earnings of the cooperative from business done with or for its patrons.

## 1099-Q: Payments From Qualified Education Programs

3131 <input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED			
PAYER'S/TRUSTEE'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>		<b>1</b> Gross distribution <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	OMB No. 1545-1760  <b>Form 1099-Q</b> (Rev. November 2019)  For calendar year 20____
<div style="display: flex;"> <div style="flex: 1;">PAYER'S/TRUSTEE'S TIN</div> <div style="flex: 1;">RECIPIENT'S TIN</div> </div>		<b>2</b> Earnings <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	<b>Payments From Qualified Education Programs (Under Sections 529 and 530)</b>
RECIPIENT'S name  <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		<b>3</b> Basis <div style="border: 1px solid black; height: 20px; width: 100%;"></div>	
Street address (including apt. no.)  <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		<b>4</b> Trustee-to-trustee transfer <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code  <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		<b>5</b> Distribution is from: • Qualified tuition program— Private <input type="checkbox"/> or State <input type="checkbox"/> • Coverdell ESA <input type="checkbox"/>	
Account number (see instructions)  <div style="border: 1px solid black; height: 20px; width: 100%;"></div>		<b>6</b> Check if the recipient is not the designated beneficiary <input type="checkbox"/>	
Form <b>1099-Q</b> (Rev. 11-2019)    Cat. No. 32223J <a href="http://www.irs.gov/Form1099Q">www.irs.gov/Form1099Q</a> Department of the Treasury - Internal Revenue Service <b>Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page</b>			

## Basic Requirements

Under Code section 529(d), an officer or employee who is in control of a qualified tuition program must file Form 1099-Q reporting the taxpayer's contributions into such a program and distributions by the program to its beneficiaries.<sup>82</sup> A "qualified tuition program" is a program established and maintained by (1) a State or agency under which a person makes contributions to an account that is established for the purpose of meeting the qualified higher education expenses of a designated beneficiary of the account, or (2) an eligible education institution under which a person may purchase tuition credits or certificates on behalf of a designated beneficiary to the waiver or payment of qualified higher education expenses of the beneficiary.<sup>83</sup>

Similarly, under Code section 530(h), a trustee of a Coverdell education savings account ("ESA") must report contributions or distributions with respect to any such account during the taxable year.<sup>84</sup> A Coverdell ESA is a trust created or organized in the United States exclusively for the purpose of paying the qualified education expenses of a designated beneficiary of the trust (and designated as a Coverdell education savings account at the time created or organized) which meets the qualifications under Code section 530(b)(1), including the restrictions on contributions and who may qualify as trustee.

Generally, a qualified tuition program or Coverdell ESA account is exempt from taxation, notwithstanding the imposition of tax on unrelated business income of charitable organizations.<sup>85</sup> This means that the beneficiary will not be taxed on distributions made by such programs unless he or she engages in specified prohibited transactions.<sup>86</sup>

## 1099-QA: Distributions From ABLE Accounts

1A1A		<input type="checkbox"/> VOID	<input type="checkbox"/> CORRECTED
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Gross distribution	OMB No. 1545-2262  <b>2021</b> Form <b>1099-QA</b>
		\$	
		2 Earnings	
		\$	
PAYER'S TIN	RECIPIENT'S TIN	3 Basis	4 Program-to-program transfer <input type="checkbox"/>
		\$	
RECIPIENT'S name		5 Check if ABLE account terminated in 2021 <input type="checkbox"/>	6 Check if the recipient is not the designated beneficiary <input type="checkbox"/>
Street address (including apt. no.)			
City or town, state or province, country, and ZIP or foreign postal code			
Account number (see instructions)			

**Distributions  
From ABLE  
Accounts**

**Copy A**  
**For**  
**Internal Revenue**  
**Service Center**  
**File with Form 1096.**  
 For Privacy Act  
 and Paperwork  
 Reduction Act  
 Notice, see the  
**2021 General**  
**Instructions for**  
**Certain Information**  
**Returns.**

Form **1099-QA**
Cat. No. 67554X
[www.irs.gov/Form1099QA](http://www.irs.gov/Form1099QA)
Department of the Treasury - Internal Revenue Service

## BASIC REQUIREMENTS

Any state or its agency or instrumentality that establishes and maintains a qualified Achieving a Better Life Experience (ABLE) program must file a Form 1099-QA, Distributions From ABLE Accounts, with the IRS on or before February 28, for each ABLE account from which any distribution was made or which was terminated during the calendar year. The filing may be done by either an officer or employee of the state, or its agency, or instrumentality having control of the qualified ABLE program, or the officer's or employee's designee. Form 1099-QA can only be filed on paper.

Do not file Form 1099-QA for a change in the name of the designated beneficiary on an ABLE account if the new designated beneficiary is an eligible individual and a member of the family of the former designated beneficiary. For these purposes, a "member of the family" means a sibling, whether by blood or by adoption, and includes a brother, sister, stepbrother, stepsister, half-brother, or half-sister. If the new designated beneficiary is not an eligible individual for the tax year or is not a member of the family of the former beneficiary, the Form 1099-QA filed with respect to the former designated beneficiary should include in box 1 the fair market value (FMV) of the assets in the ABLE account on the date on which the change is made to the new designated beneficiary.

If you are required to file Form 1099-QA, you must also furnish a statement to the designated beneficiary of the ABLE account reporting distributions, and to each contributor who received a returned contribution (plus earnings)

attributable to the calendar year. Furnish a copy of Form 1099-QA or an acceptable substitute statement to each recipient, but only with regard to the amounts paid to that recipient.

## 1099-R: Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.			1 Gross distribution		OMB No. 1545-0119		<b>Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.</b>		
			\$		<b>2021</b> Form <b>1099-R</b>				
			2a Taxable amount						
			\$		2b Taxable amount not determined <input type="checkbox"/>		Total distribution <input type="checkbox"/>		
PAYER'S TIN		RECIPIENT'S TIN		3 Capital gain (included in box 2a)		4 Federal income tax withheld		<b>Copy 1</b> For State, City, or Local Tax Department	
				\$		\$			
RECIPIENT'S name				5 Employee contributions/ Designated Roth contributions or insurance premiums		6 Net unrealized appreciation in employer's securities			
				\$		\$			
Street address (including apt. no.)				7 Distribution code(s)		8 Other			
				IRA/SEP/SIMPLE <input type="checkbox"/>		\$ %			
City or town, state or province, country, and ZIP or foreign postal code				9a Your percentage of total distribution %		9b Total employee contributions			
						\$			
10 Amount allocable to IRR within 5 years		11 1st year of desig. Roth contrib.		12 FATCA filing requirement <input type="checkbox"/>		14 State tax withheld		15 State/Payer's state no.	
\$						\$		\$	
Account number (see instructions)				13 Date of payment		17 Local tax withheld		18 Name of locality	
						\$		\$	
						\$		\$	

Form **1099-R**

www.irs.gov/Form1099R

Department of the Treasury - Internal Revenue Service

## Basic Requirements

Code section 6047 provides that a payer must report any annual distributions to each taxpayer of \$10 or more from any retirement or profit-sharing plan, individual retirement arrangement, annuity, pension, insurance contract, or any other similar plan. The payer may report the distributions on Form 1099-R.

## 1099-S: Proceeds From Real Estate Transactions

☐ CORRECTED (if checked)

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0997  <b>2021</b>  Form <b>1099-S</b>	<b>Proceeds From Real Estate Transactions</b>
		2 Gross proceeds		
		\$		
FILER'S TIN	TRANSFEROR'S TIN	3 Address (including city, state, and ZIP code) or legal description		
TRANSFEROR'S name				
Street address (including apt. no.)		4 Transferor received or will receive property or services as part of the consideration (if checked) . . . ▶ <input type="checkbox"/>		
City or town, state or province, country, and ZIP or foreign postal code		5 If checked, transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) . . . . . ▶ <input type="checkbox"/>		
Account number (see instructions)		6 Buyer's part of real estate tax		
		\$		

Form **1099-S** (keep for your records) [www.irs.gov/Form1099S](http://www.irs.gov/Form1099S) Department of the Treasury - Internal Revenue Service

### Basic Requirements

Under Code section 6045(e)(1), a "real estate reporting person" must file an information return with respect to a transaction of \$600 or more that consists, in whole or part, of the sale or exchange of money, indebtedness, property or services of any present or future ownership in land, permanent structures, condominium unit, stock in a cooperative housing corporation, or any non-contingent interest in standing lumber.<sup>87</sup>

Generally speaking, a "real estate reporting person" is a middleman who, in the course of his or her trade or business, makes a payment on behalf of the payer in a real estate transaction, and either performs management or oversight functions with respect to that payment or has a significant economic interest in the payment.<sup>88</sup> This person includes an attorney or title company, a mortgage lender, and a broker for either the buyer or seller.<sup>89</sup>

The reporting requirements are subject to exceptions. For instance, there is no duty to report if the real estate transaction: (1) does not constitute a sale or exchange;<sup>90</sup> (2) is part of a transfer in full or partial satisfaction of indebtedness secured by the property so transferred;<sup>91</sup> (3) involves exempt properties such as in natural resources or burial plot;<sup>92</sup> and (4) involves exempt transferors such as a corporation or governmental unit.<sup>93</sup> Furthermore, the reporting requirement does not apply to sale or exchange of a residence for \$250,000 or less (\$500,000 if the seller is married), if the real estate reporting person received an acceptable written assurance from the seller that such residence is the principal residence of the seller and the full amount of the gain on such sale is excludible from gross income under Code section 121.<sup>94</sup>

## 1099-SA: Distributions From an HSA, Archer MSA, or Medicare Advantage MSA

9494		<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED	
TRUSTEE'S/PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		OMB No. 1545-1517 <b>Form 1099-SA</b> (Rev. November 2019) For calendar year 20	
		<b>Distributions From an HSA, Archer MSA, or Medicare Advantage MSA</b>	
PAYER'S TIN	RECIPIENT'S TIN	1 Gross distribution \$	2 Earnings on excess cont. \$
RECIPIENT'S name		3 Distribution code	4 FMV on date of death \$
Street address (including apt. no.)		5 HSA <input type="checkbox"/> Archer MSA <input type="checkbox"/> MA MSA <input type="checkbox"/>	
City or town, state or province, country, and ZIP or foreign postal code			
Account number (see instructions)			
Form <b>1099-SA</b> (Rev. 11-2019) Cat. No. 38471D www.irs.gov/Form1099SA Department of the Treasury - Internal Revenue Service			
<b>Do Not Cut or Separate Forms on This Page — Do Not Cut or Separate Forms on This Page</b>			

### Basic Requirements

A medical or health savings account is a trust in which enrolled participants contribute and withdraw money to cover qualified medical expenses.<sup>95</sup> Generally, the trust functions much like an individual retirement arrangement ("IRA") to the extent that the participant may invest the money placed in the trust; however, unlike an IRA, the gain is sheltered from taxation even after it's been withdrawn so long as it is used to pay for legitimate medical needs. The differences in a medical and health savings account generally depend on the types of benefits available. For instance, a health savings account provides broader eligibility coverage and allows lower deductibles than a medical savings account.

Under the information reporting rules, the trustee of the medical or health savings account must file an information return (Form 1099-SA) with respect to contributions, distributions, the earnings of excess contributions, and other reportable transactions as to each account beneficiary.<sup>96</sup> With respect to gross distributions, the amount may be paid directly to the health service provider or the account beneficiary.<sup>97</sup> Furthermore, in the case of a medical savings account where the account holder dies and the designated beneficiary is the account holder's spouse, the spouse is deemed to be the new account holder and the arrangement is treated as an Archer medical savings account. In all other cases, the arrangement ceases to be a medical savings account. Lastly, transfers between accounts are excluded.<sup>98</sup> The information return is due to the IRS by February 28 (March 31 if filing electronically), and to the account beneficiary by January 31.<sup>99</sup>

## 1099-SB: Seller's Investment in Life Insurance Contract

☐ CORRECTED (if checked)

ISSUER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		1 Investment in contract	OMB No. 1545-2281 Form <b>1099-SB</b> (Rev. December 2019) For calendar year 20 ____	<b>Seller's Investment in Life Insurance Contract</b>
		\$ _____		
		2 Surrender amount		
		\$ _____		
ISSUER'S TIN	SELLER'S TIN	Issuer's information contact name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no. (if different from ISSUER)		<b>Copy B For Seller</b> This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.
SELLER'S name				
Street address (including apt. no.)				
City or town, state or province, country, and ZIP or foreign postal code				
Policy number				
Form <b>1099-SB</b> (Rev. 12-2019)		(keep for your records)		www.irs.gov/Form1099SB
		Department of the Treasury - Internal Revenue Service		

### Basic Requirements

This form is used by the issuer of a life insurance contract (also known as a life insurance policy) to report the seller's investment in the contract and surrender amount with respect to an interest in a life insurance contract transferred in a "reportable policy sale" or transferred to a foreign person.

In general, a reportable policy sale is any direct or indirect acquisition of any interest in a life insurance contract if the acquirer, at the time of the acquisition, has no substantial family, business, or financial relationship with the person insured under that contract, apart from the acquirer's interest in such life insurance contract. See section 101(a)(3). Certain exceptions may apply. See Regulations section 1.101-1(c)(2). The acquisition of an interest in a partnership, trust, or other entity that holds an interest in a life insurance contract may be an indirect acquisition of that interest in a life insurance contract and may be a reportable policy sale.

In general, an issuer is any person that bears any part of the risk with respect to a life insurance contract and any person responsible for administering the contract, including collecting premiums and paying death benefits. An issuer's designee is also considered an issuer.

A seller is any person that holds an interest in a life insurance contract and transfers that interest, or any part of that interest, to an acquirer in a reportable policy sale or that owns a life insurance contract and transfers title to, possession of, or legal ownership of that contract to a foreign person.

An acquirer is any person that acquires an interest in a life insurance contract (through direct acquisition or indirect acquisition of the interest) in a reportable policy sale.

Generally, file Form 1099-SB if you are the issuer of a life insurance contract and either of the following occurs:

- You receive a statement from an acquirer in a reportable policy sale provided under section 6050Y(a), such as a copy of a Form 1099-LS, Reportable Life Insurance Sale, reporting the transfer of the life insurance contract, or an interest therein, in a reportable policy sale.
- You receive, from a source other than the issuer responsible for administering the life insurance contract (or its designee), notice of a transfer of the life insurance contract to a foreign person. In general, notice of a transfer to a foreign person means any notice that you receive of a transfer of title to, possession of, or legal ownership of a life insurance contract that includes foreign indicia, including information provided for nontax purposes such as a change of address notice for purpose of sending statements or for other purposes, or information relating to loans, premiums, or death benefits with respect to the contract, unless you know that no transfer of the contract has occurred or know that the transferee is a U.S. person. However, if you are not the issuer responsible for administering the life insurance contract, including collecting premiums and paying death benefits under the contract on the date the notice is received, you are not required to file Form 1099-SB if you or your designee provide the issuer responsible for administering the life insurance contract (or its designee) with such notice and with any available information necessary to accomplish reporting on the Form 1099-SB. You may not have to file Form 1099-SB if you qualify for an exception in Regulations section 1.6050Y-3(f) or if another issuer or third party information reporting contractor reports on your behalf under the unified reporting provisions of Regulations section 1.6050Y-3(b). You may qualify for an exception in Regulations section 1.6050Y-3(f) if the seller is a foreign beneficial owner, if you receive notice of a transfer to a foreign person but did not receive a written statement from an acquirer reporting the transfer as a reportable policy sale, or you received a written statement from an acquirer reporting your issuance of a life insurance contract in a section 1035 exchange as a reportable policy sale.

You must file a separate Form 1099-SB for each seller of an interest in a life insurance contract with respect to which you received a statement provided under section 6050Y(a) or for each seller of a life insurance contract with respect to which you received notice of a transfer to a foreign person. Enter the name, address, and taxpayer identification number (TIN) of the seller; the policy number of the life insurance contract; the seller's investment in the contract; and the surrender amount.

If you are required to file Form 1099-SB, you must furnish a statement or acceptable substitute to the seller, such as Copy B of Form 1099-SB.



## Summary of Forms 1099

Form	Title	What To Report	Amounts To Report	Due Date To IRS	Due Date To Recipient
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28*	To Borrower January 31
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28*	February 15**
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, the federal government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money.	\$600 or more	February 28*	January 31
1099-CAP	Changes in Corporate Control and Capital Structure	Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation.	Over \$1,000	February 28*	To Shareholders January 31, To Clearing Organization January 5
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock and liquidation distributions.	\$10 or more, except \$600 or more for liquidations	February 28*	January 31**
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for refunds and unemployment	February 28*	January 31
1099-INT	Interest Income	Interest income; market discount subject to an election under section 1278(b). Tax-exempt interest is also reported on this form.	\$10 or more (\$600 or more in some cases)	February 28*	January 31**



Form	Title	What To Report	Amounts To Report	Due Date To IRS	Due Date To Recipient
1099-K	Payment Card and Third Party Network Transactions	Payment card transactions.	All amounts	February 28*	January 31
		Third-party network transactions.	Gross amount exceeds \$600, regardless of # of transactions		
1099-LS	Reportable Life Insurance Sale	Payments made to a payment recipient in a reportable policy sale.	All amounts***	February 28*	To Payment Recipient February 15, To Issuer January 15
1099-LTC	Long-Term Care and Accelerated Death Benefits	Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider.	All amounts	February 28*	January 31
1099-MISC	Miscellaneous Information	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows.	\$600 or more, except \$10 or more for royalties	February 28*	January 31**
		Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch.	All amounts		
		Section 409A income from nonqualified deferred compensation plans (NQDCs).	All amounts		
		Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans.	\$600 or more		
		Fish purchases paid in cash for resale.	\$600 or more		
		Crop insurance proceeds.	\$600 or more		
		Substitute dividends and tax-exempt interest payments reportable by brokers.	\$10 or more		
		Gross proceeds paid to attorneys.	\$600 or more		February 15**
					February 15**

Form	Title	What To Report	Amounts To Report	Due Date To IRS	Due Date To Recipient
		A U.S. account for chapter 4 purposes to which you made no payments during the year that are reportable on any applicable Form 1099 (or a U.S. account to which you made payments during the year that do not reach the applicable reporting threshold for any applicable Form 1099).	All amounts (including \$0)		January 31**
		Aggregated direct sales of consumer goods for resale.	\$5,000 or more		
1099-NEC	Nonemployee Compensation	Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors and golden parachute payments.	\$600 or more	January 31	January 31
		Aggregated direct sales of consumer goods for resale.	\$5,000 or more		
1099-OID	Original Issue Discount	Original issue discount; market discount subject to an election under section 1278(b). Tax-exempt OID is also reported on this form.	\$10 or more	February 28*	January 31**
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives passed through to their patrons including any domestic production activities deduction and certain pass-through credits.	\$10 or more	February 28*	January 31
1099-Q	Payments From Qualified Education Programs (Under Sections 529 and 530)	Earnings from qualified tuition programs and Coverdell ESAs.	All amounts	February 28*	January 31
1099-QA	Distributions From ABLE Accounts	Distributions from ABLE accounts.	All amounts	February 28	January 31

Form	Title	What To Report	Amounts To Report	Due Date To IRS	Due Date To Recipient
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations.	\$10 or more	February 28*	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate and certain royalty payments.	Generally, \$600 or more	February 28*	February 15
1099-SA	Distributions From an HSA, Archer MSA, or Medicare Advantage MSA	Distributions from an HSA, Archer MSA, or Medicare Advantage MSA.	All amounts	February 28*	January 31
1099-SB	Seller's Investment in Life Insurance Contract	Seller's investment in a life insurance contract as determined by the issuer.	All amounts	March 1*	February 15

\* Due date is March 31 if filed electronically.

\*\* Due date is March 15 for reporting by trustees and middlemen of WHFITs.

\*\*\* See Regulations sections 1.6050Y-1(a)(16)(ii) and 1.6050Y-2(f)(2) for exceptions for amounts paid to persons other than sellers.

Also, no amounts are required to be reported on statements furnished to issuers. See Regulations section 1.6050Y-2(d)(2)(i)(A).

## Correcting Errors

The procedures necessary to correct an error on a filed Form 1099 depend on the nature of the error. For this purpose, errors are divided into two types. Type 1 errors are incorrect money amount(s), code or checkbox, incorrect payee name, or a return that was filed when one should not have been filed. These Type 1 errors require only one return to make the correction. The correction is made by: (1) preparing a new Form 1099; (2) entering an "X" in the "CORRECTED" box at the top of the form; and (3) correcting any recipient information, such as money amounts, that was incorrectly reported on the original return. Other information should be reported as it was on the original return. In addition, a Form 1096 transmittal form must be submitted. On Form 1096 provide all requested information as it applies to Part A, 1, and 2. File Form 1096 and Copy A of the return with the appropriate IRS Service Center and **do not** include a copy of the original return that was filed incorrectly.

Type 2 errors include no payee taxpayer identification number (i.e., social security number, employer identification number, etc.); an incorrect payee taxpayer identification number; an incorrect name and address; or an original return filed using wrong type of return (for example, a Form 1099-DIV was filed when a Form 1099-INT should have been filed). In the case of Type 2 errors, the taxpayer should first identify the incorrect return submitted. This is done by preparing a new information return. However, unlike the procedure for Type 1 errors, **do not** enter an "X" in the "CORRECTED" box at the top of the form. Instead, prepare the new return as though it is an original. Include all the correct information on the form including the correct taxpayer identification number, name, and address. Also prepare a new form 1096 transmittal and enter one of the following phrases in the bottom margin of the form:

- Filed To Correct TIN;
- Filed To Correct Name and Address; or
- Filed To Correct Return.

Provide all requested information on the form as it applies to the returns and file Form 1096 and Copy A of the return with the appropriate IRS Service Center. Again, **do not** include a copy of the original return that was filed incorrectly.

## Penalties

Failure to file a required information return, failure to furnish a required payee statement, or a failure to include all of the required information or the correct information on the return or payee statement can subject the taxpayer to penalties under Code section 6721 (Failure to File Correct Information Returns) and Code section 6722 (Failure to Furnish Correct Payee Statements).<sup>100</sup> The penalty is for **each return**, up to a maximum amount per calendar year. Note that each Form 1099 (as well as each Form W-2, etc.) constitutes a separate return for this purpose. Thus, if a taxpayer made payments to 10 different individuals for whom a Form 1099 was required, but failed to file any such forms, the taxpayer would be subject to a penalty for 10 returns. The penalty also applies for **each payee statement**, up to a maximum amount per calendar year.

These penalties can be reduced if corrective action is taken in a timely manner. For example, if the error is not corrected within 30 days, but is corrected on or before August 1 of the calendar year in which the filing was required, the applicable penalty is reduced per return and the aggregate maximum penalty is reduced as well.<sup>101</sup> If the error is corrected within 30 days after the required filing date, the penalty is reduced even more per return, with an even more reduced maximum penalty as well.<sup>102</sup> In fact, if the transgression is not the failure to file the information return, but merely an omission or inaccuracy with respect to the information contained in the return, there is no penalty if a corrected return is filed on or before August 1.<sup>103</sup>

Furthermore, the aggregate maximum penalty is different based on the taxpayer and the taxpayer's gross receipts. The taxpayer's gross receipts are based on the average annual gross receipts for the most recent three taxable years of the taxpayer.

If an incomplete or incorrect information return is filed with an intentional disregard for the reporting requirements, the penalty is increased per return, and none of the reductions described above are applicable. Even greater penalties may be imposed for intentional disregard under certain circumstances. For example, if the taxpayer intentionally disregards the requirements with respect to the filing of Form 8300 (to report cash payments of more than \$10,000), a \$25,000 (\$100,000 in the case of a corporation) per return penalty can be imposed, and/or imprisonment up to five years, plus the costs of prosecution.<sup>104</sup>

## Penalty Rates

The penalty rates and maximums for not filing correct information returns and/or not furnishing correct payee statements are reflected in the following table:

Time returns filed/payee statements furnished	2024 returns required to be filed/furnished in 2025
Not more than 30 days late	\$60 per return/ \$664,500 (\$232,500 for small businesses) per year maximum
More than 30 days late but by August 1	\$130 per return/ \$1,993,500 (\$664,500 for small businesses) per year maximum
After August 1 or Not at All	\$330 per return/ \$3,987,000 (\$1,329,000 for small businesses) per year maximum
Intentional Disregard	\$660 per return/ no maximum penalty
Penalties are adjusted annually for inflation.	

**Small businesses**—lower maximum penalties. A taxpayer is a small business if their average annual gross receipts for the 3 most recent tax years (or for the period they were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

**NOTE:** These penalty amounts are **per return** required to be filed and/or **per payee statement** required to be furnished.

Penalties for not filing correct information returns (Code Section 6721) may apply if:

- Don't file a correct information return by the due date and a reasonable cause is not shown;
- File on paper when the taxpayer was required to file electronically;
- Don't report a Taxpayer Identification Number (TIN);
- Report an incorrect TIN; or

- Don't file paper forms that are machine-readable.

Penalties for not providing correct payee statements (Code Section 6722) may apply if:

- The taxpayer doesn't provide a correct payee statement by the applicable date and a reasonable cause isn't shown;
- All required information isn't shown on the statement; or
- Incorrect information is included on the statement.

On the other hand, an inconsequential error or omission is not penalized.<sup>105</sup> An "inconsequential error or omission" means any failure that does not prevent or hinder IRS from processing the return, from correlating the information required to be shown on the return with the payee's tax return information, or from otherwise putting the return to its intended use. Errors as to monetary amounts included on the information return, as well as the recipient's taxpayer identification number and name are never considered inconsequential. Reg section 301.6721-1(c)(2).

As with all penalties under the Code, any of these penalties can be waived by the IRS if it is shown that the failure giving rise to the penalty is due to reasonable cause and not to willful neglect.<sup>106</sup> The parameters of "reasonable cause" are not fully defined, but there are some clues to be found in the Internal Revenue Manual, as well as in a variety of cases and rulings. Proper exposition of the concept is beyond the scope of this course, but in general, the taxpayer must show that he or she demonstrated ordinary business care and prudence. Among the facts that might be accepted as evidence of reasonable cause for a late filing are the death or serious illness of the taxpayer and fire or other casualty that resulted in the destruction of records.<sup>107</sup>

A 2011 case from the U.S. Court of Appeals for the 7th Circuit illustrates what happens when an unnecessary, though accurate, information return is filed.<sup>108</sup> Mary Lou Hayes sent the IRS a Form 1099-C declaring that she had discharged an unpaid \$30,000 debt owed to her by her former son-in-law, Robert Cavoto. Robert disputed that there ever was a debt and sued Mary Lou, claiming that she had willfully filed a fraudulent information return. Code section 7434 has been deemed to create a private right of action against anyone who "willfully files a fraudulent information return with respect to payments purported to be made."<sup>109</sup>

Although Hayes was not required to file a Form 1099-C, the trial court explained, she was not prohibited from doing so. Moreover, the court added, filing a Form 1099-C is not equivalent to filing a false return, so long as the information in the form is accurate.<sup>110</sup> The Seventh Circuit affirmed the trial court's decision.

## Special Filing Situations

### Nominees

A "nominee" is a taxpayer who receives a Form 1099 that reports amounts actually paid to another taxpayer. For example, a nominee might be an investment advisor (which could be a corporation, partnership, or individual) or an

introducing broker. An investment advisor must be registered with the Securities and Exchange Commission ("SEC") under the Investment Advisers Act of 1940. The introducing broker is a broker-dealer that is regulated by the SEC and the National Association of Securities Dealers, Inc., and that is not a payer. Except for a broker who acts as a payee's agent for "readily tradable instruments," the advisor or broker must show in writing to the payer that the payee authorized the advisor or broker to transmit the Form W-9, *Request for Taxpayer Identification Number and Certification*, to the payer.

Generally, if a taxpayer receives a Form 1099 for amounts that actually belong to another person, the recipient taxpayer must file the same type of Form 1099 with the IRS for each of the other taxpayers showing the amounts allocable to each. As a consequence, the original recipient will have documentation of money "in" (via the Form 1099 received as a nominee) and money "out" (via the Forms 1099 filed with respect to the actual recipients).

## Successors and Predecessors in a Merger or Sale of a Business

A successor business and a predecessor business may agree that the successor will assume all or some of the predecessor's information reporting responsibilities. This would permit the successor to file one Form 1099 for each recipient combining the predecessor's and successor's reportable amounts, including any withholding. If they so agree and the successor satisfies the predecessor's obligations and certain other conditions, the predecessor does not have to file the Forms 1099 for the acquisition year. If the successor and predecessor do not agree, or if the requirements described below are not met, the predecessor and the successor each must file Forms 1099 for their own reportable amounts as they usually would.

The combined reporting procedure is available when all the following conditions are met:

1. The successor acquires from the predecessor substantially all the property (a) used in the trade or business of the predecessor, including when one or more corporations are absorbed by another corporation under a merger agreement, or (b) used in a separate unit of a trade or business of the predecessor;
2. The predecessor is required to report amounts, including any withholding, on information returns for the year of acquisition for the period before the acquisition; and
3. The predecessor is not required to report amounts, including withholding, on information returns for the year of acquisition for the period after the acquisition.

The predecessor and the successor must agree on the specific forms to which the combined reporting procedure applies and that the successor assumes the predecessor's entire information reporting obligations for these forms. The predecessor and successor may agree to use the combined reporting procedure for all Forms 1099 or limit the use of the combined reporting procedure to (a) specific forms or (b) specific reporting entities, including any unit, branch, or location within a particular business entity that files its own separate information returns. For example, if the

predecessor's and successor's only compatible computer or recordkeeping systems are their dividends paid ledgers, they may agree to use the combined reporting procedure for Forms 1099-DIV only. Similarly, if the only compatible systems are in their Midwest branches, they may agree to use the combined reporting procedure for only the Midwest branches.

On each Form 1099 filed by the successor, the successor must combine the predecessor's pre-acquisition reportable amounts with its own, including any withholding, for the acquisition year and report the aggregate. For transactional reporting on Form 1099-B, ***Proceeds From Broker and Barter Exchange Transactions***, the successor must report each of the predecessor's transactions and each of its own transactions on each Form 1099-B. The successor may include with the form sent to the recipient additional information explaining the combined reporting. For purposes of the combined reporting procedure, the sharing of TINs and other information does not violate the confidentiality rules in Code section 3406(f).

The successor must file a statement with the IRS indicating the forms that are being filed on a combined basis under Rev. Proc. 99-50. The statement must:

- Include the predecessor's and successor's names, addresses, telephone numbers, EINs, and the name and telephone number of the person responsible for preparing the statement;
- Reflect separately the amount of federal income tax withheld by the predecessor and by the successor for each type of form being filed on a combined basis; and
- Be sent separately from Forms 1099 to Internal Revenue Service, Information Returns Branch, 230 Murall Drive, Mail Stop 4360, Kearneysville, WV 25430.

## Qualified Settlement Funds

A qualified settlement fund ("QSF") is a fund, trust, or account that is: (1) established by an order of (or approved by) a federal, state, or local government authority; (2) established in order to satisfy one or more contested or uncontested claims asserting liability for torts, breach of contract, environmental clean-up under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), or any violation of laws or claims identified in Revenue Rulings or Revenue Procedures; and (3) a trust under applicable state law, or whose assets are otherwise segregated from other assets of the transferor.

A QSF must file Forms 1099-MISC for distributions to claimants if any transferor to the fund would have been required to file if the transferor had made the distributions directly to the claimants. The same filing requirements, exceptions, and thresholds apply to QSFs as apply to any other payer. That is, the fund must determine the character of the payment (for example, interest, fixed and determinable income, or gross proceeds from broker transactions) and to whom the payment is made (for example, corporation or individual).



## Glossary

abandonment	The act of surrendering a claim to, or interest in, a particular asset.
annuity	An insurance product commonly used as part of a retirement strategy. There are many different types of annuities. An annuity may provide for immediate or deferred payments of a fixed or variable amount.
barter	An exchange of property for goods and/or services.
damages	A sum of money claimed or awarded in compensation for a loss or an injury.
debt instrument	A paper or electronic obligation that enables the issuing party to raise funds by promising to repay a lender in accordance with the terms of a contract.
dividend	The most common type of distribution from a corporation paid out of its earnings and profits.
fair market value	The price that a property would sell for in an open market assuming a willing buyer and seller would likely agree upon the price when acting freely, carefully, and with complete knowledge.
information returns	A tax document businesses are required to file to report certain business transactions to the Internal Revenue Service (IRS).
nominee	A person or firm into whose name securities or other properties are transferred in order to facilitate transactions while leaving the customer as the actual owner.
nonqualified deferred compensation	Compensation that has been earned by an employee, but not yet received from the employer.
pension	A type of retirement plan, usually tax-exempt, wherein an employer makes contributions toward a pool of funds set aside for an employee's future benefit.
royalties	Payments to an owner for the use of property, especially patents, copyrighted works, franchises or natural resources.
short sale	A market transaction in which an investor sells borrowed securities in anticipation of a price decline and is required to return an equal number of shares at some point in the future.
trust	A fiduciary relationship in which one party, known as a trustor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary.

viatical settlement	The sale or assignment of any part of the death benefit under a life insurance contract to a viatical settlement provider in the business of buying insurance contracts on the lives of insured individuals who are terminally or chronically ill.
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