

Tax Notes

New IRS Forms: 1099-NEC and 1099-MISC

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The IRS has released a new form for 2020 – [Form 1099-NEC](#) to be used to report payments for nonemployee compensation which were previously reported using [Form 1099-MISC](#), Box 7, Nonemployee Compensation (NEC). The 1099-MISC will continue to be used for other types of payments traditionally reported on Form 1099-MISC.

Nonemployee Compensation Reporting Conditions

Generally speaking, nonemployee compensation must be reported if the following **four** conditions are met:

1. Payment is made for services in the course of the payor's trade or business. (This includes government agencies and nonprofit organizations.)
2. Payment is made to an individual, partnership, estate or, in certain cases, a corporation.
3. Payment is made to someone who is not the payor's employee.
4. Payments made to the payee are, in total, at least \$600 throughout the year.

Background and Timing

In 1918, the IRS released Form 1099 to report payments made in 1917. Employers were required to use this form to report salaries paid in excess of \$800. For many years, Form 1099-NEC reported nonemployee compensation. In 1983, the IRS eliminated the Form 1099-NEC and required reporting nonemployee compensation on Form 1099-MISC.

Beginning with payments for services paid in 2017, §201, PL 114-113, of the Protecting Americans from Tax Hikes Act (PATH Act) required that a payor who reported nonemployee compensation must file Form 1099-MISC by January 31st of the following year. However, if a payor were only reporting payments other than nonemployee compensation, they had until March 31st of the following year to file Form 1099-MISC with the IRS. This led to confusion among taxpayers as to when they must properly file.

In order to alleviate this confusion, the IRS brought back the Form 1099-NEC. Beginning with tax year 2020, payments made for nonemployee compensation are reported on Form 1099-NEC. The due date for Form 1099-NEC is January 31st and the automatic 30-day extension is eliminated.

Form 1099-MISC is no longer used to report nonemployee compensation and payments reported on the 1099-MISC will not be required to be filed by January 31st. Form 1099-MISC can be filed by March 1, if paper filed, or March 31st if electronically filed. This should alleviate taxpayer confusion regarding IRS filing deadlines.

Changes to Form 1099-MISC

Due to the creation of Form 1099-NEC, there are revisions to Form 1099-MISC. Box 7, formerly used to report nonemployee compensation, is now a checkbox, which was previously reported in Box 9. The checkbox reports direct sales of \$5,000 or more of consumer products to a buyer for resale. The report you must give 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.

The 2020 Form 1099-MISC added a box for nonqualified deferred compensation and removed §409A income. Nonqualified deferred compensation is income that is includible in income under §409A because the

nonqualified deferred compensation plan fails to satisfy the requirements of 409A. Amounts that are considered to be subject to substantial risk of forfeiture for purposes of §409A income should not be included in this box. Other revisions include rearrangement of box numbers for reporting certain types of income.

Withholdings

Form 1099-MISC and 1099-NEC both have a box for federal and state withholdings. This box is used for backup withholdings. For example, persons who did not provide their required tax ID numbers are subject to withholding on payments. Report the withholdings in boxes #4 and #15 on the 1099-Misc and boxes #4 and #5 on the 1099-NEC. Best practice is to always require a completed Form W-9, Request for Taxpayer Identification Number.

Contact Us

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