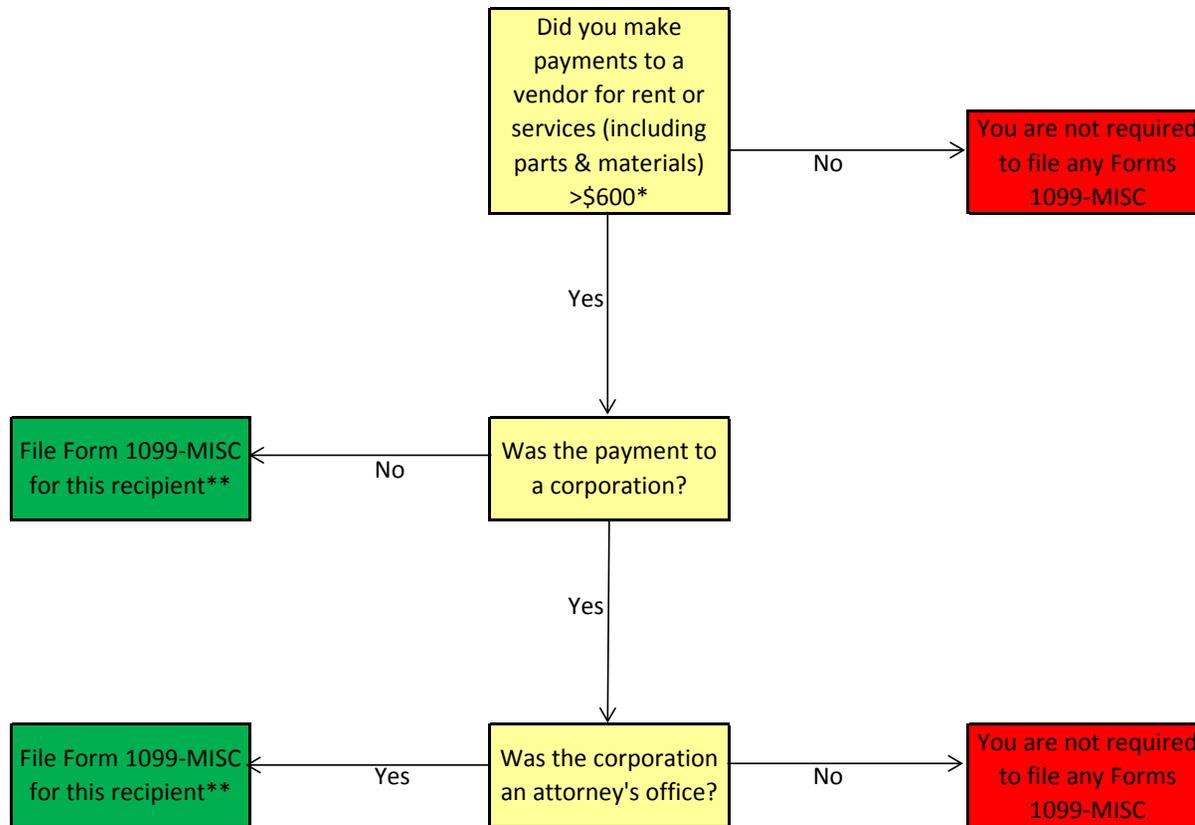


## 1099-MISC Filing Requirements



\* Form 1099-MISC only needs to be filed for payments for services in the ordinary course of business. A rental activity (residential or commercial) is not considered a trade or business and thus are exempt from issuing Form 1099-MISC.

\*\*Form 1099-MISC must be filed on original IRS forms obtained either through the IRS or your local office supply store. You cannot complete, print and file Form 1099-MISC from online forms. For complete instructions regarding filing Form 1099-MISC see IRS instructions <http://www.irs.gov/pub/irs-pdf/i1099misc.pdf>

Form 1099-MISC is the most common 1099 form filed, however there are also forms for interest and dividends paid. The instructions for each of these forms can be found on the IRS website as follows:

Form 1099-INT [http://www.irs.gov/pub/irs-pdf/i1099int\\_11.pdf](http://www.irs.gov/pub/irs-pdf/i1099int_11.pdf)

Form 1099-DIV [http://www.irs.gov/pub/irs-pdf/i1099div\\_11.pdf](http://www.irs.gov/pub/irs-pdf/i1099div_11.pdf)

<b>Category</b>	<b>Description</b>	<b>Form</b>
<b>Services</b>	Services performed for your trade or business by people not treated as your employees, such as contractors, subcontractors, accountants, directors, and contract labor for property maintenance and building repairs, referral fees, etc.	1099-MISC, Box 7, \$600 or more
<b>Rents</b>	However, rents paid to real estate agents is not required to be reported	1099-MISC, Box 1, \$600 or more
<b>Lease payments for coin-operated amusements (including video games)</b>		1099-MISC, Box 1, \$600 or more
<b>Payments to Attorneys (incorporated and unincorporated)</b>	See discussion below	1099-MISC, Box 7 or 14, \$600 or more,
<b>Payments for Medical &amp; health care services (incorporated and unincorporated)</b>		1099-MISC, Box 6, \$600 or more
<b>Punitive Damages</b>	See discussion below	1099-MISC, Box 3, all amounts
<b>Interest</b>		1099-INT
<b>Dividends</b>		1099-DIV

Category	Description	Form
Retirement distributions		1099-R
Real Estate Transactions	See discussion below	1099-S

Please note that this is not a complete list. The IRS will mail out a guide explaining the 2011 filing requirements to all businesses of record.

There is a penalty for failing to file, filing late, or filing incorrectly. The penalties range from \$30 to \$250 per failure depending on when and whether the failure is corrected. The maximum penalty range increases to \$75,000 to \$1,500,000. There is also another possible penalty for failure to collect backup withholding which equals the backup withholding.

### ***Form W-9***

Be sure that you obtain a signed and completed Form W-9 or similar form for all payees. A Form W-9 (attached) obtains the necessary information (correct name, address and TIN) needed to accurately file 1099s. In general, a payor must solicit a TIN from a payee on any account, even for “one-time” transactions. Failure to do so could result in backup withholding requirements.

### ***Backup Withholding***

Backup withholding is required on certain payments if:

1. Payee fails to furnish a tax ID number, i.e., failure to properly complete Form W9.
2. IRS notifies you to impose backup withholding because the payee furnished an incorrect tax ID number on a previously filed 1099. You will receive a “B” notice from the IRS listing the payees for whom you should start backup withholding. If you receive the B notice from the IRS, you should immediately contact those payees listed and obtain correct information. If you are unable to obtain correct information within 30 days, then you are required to backup withhold 28% of any future payments to them until correct information is obtained.

Please contact us if you have received a “B” Notice so that we can evaluate whether you need to start backup withholding.

## **Payments to Attorneys**

Attorney's fees of \$600 or more paid to unincorporated and incorporated entities, in the course of a trade or business, are reportable in box 7 of the Form 1099-MISC. Please note that the exemption from reporting payments made to corporations does not apply to payments for legal services.

If you make a payment to an attorney in connection with legal services and the attorney's fee cannot be determined, the gross proceeds paid to the attorney are reportable in box 14. The \$600 threshold amount does not apply to amounts to be reported in Box 14.

The IRS does not address how they will deal with discrepancies between 1099 amounts and amounts reported as income on attorney's returns. To avoid receiving inflated 1099's that may trigger a tax audit, attorneys should consider requesting two checks from the payor, one for the attorney's fee and another to be delivered directly to the client. If this is not possible, attorneys should maintain detailed records of the amount paid to or for the client so that they may easily justify the amounts included on their own returns. In an effort to avoid IRS inquiry, attorneys may want to consider attaching a statement to their business return documenting material 1099 discrepancies.

## **Punitive Damages**

Generally, all punitive damages, any damages for nonphysical injuries or sickness, and any other taxable damages are reportable in Box 3 of Form 1099-MISC. Report punitive damages even if they relate to physical injury or physical sickness. Generally, all compensatory damages for nonphysical injuries or sickness, such as employment discrimination or defamation, are also reportable in Box 3.

There is additional guidance provided by the IRS on back pay awards in **Pub. 957**, "Reporting Back Pay and Special Wage Payments to the Social Security Administration". A copy of this publication is available upon request.

## **Medical and Health Care Payments**

Payments of \$600 or more to each physician or provider of medical and health services should be reported in Box 6 of 1099-MISC, including amounts paid for injections, drugs and dentures. You are not required to report payments to pharmacies for prescription drugs. The corporate exemption does not apply to payments for medical and health care services; however, you are not required to report payments to tax-exempt hospitals or extended care facilities owned and operated by the government. Additionally, payments made under a flexible spending arrangement or a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan are exempt from 1099 reporting.

## **Real Estate Transactions**

You have the option of obtaining a written certification from the seller or other transferor stating that the property sold is the seller's principal residence and that the full gain on the sale or exchange is excludable from gross income. If you obtain this certification, you will not be required to file Form 1099-S. A sample certification letter

is available upon request.

**Partnership Transactions**

Please note that reporting generally is required for any payments of \$600 or more to a partnership.

*Please contact us if you have any questions or would like copies of any of the Forms or IRS documents mentioned above.*

*(Copies of forms or IRS documents may also be obtained at [www.irs.gov](http://www.irs.gov))*