

# General Form 1099-NEC and 1099-MISC Preparation Guidelines

By Chris Purnell, Tax Counsel

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Beginning with payments made in 2020, payors need to fill out and file [Form 1099-NEC](#), *Nonemployee Compensation*, for eligible payments made for services performed by a nonemployee. Payments that were once reported in Box 7 of [Form 1099-MISC](#), *Miscellaneous Income*, will now be reported on Form 1099-NEC, Line 1. Form 1099-MISC is still used to report certain payments, however, which means that your organization will need to determine which form to use in various circumstances.

The following guidelines are derived from the [instructions for Forms 1099-MISC and 1099-NEC](#), which we encourage you to review.

## Who Should (or Should Not) Receive a Form 1099-NEC or 1099-MISC?

The instructions note that you should use Form 1099-NEC for each person to whom you have paid at least \$600 for “services performed by someone who is not your employee (including parts and materials)” in the course of your business during the year.

Therefore, nonemployee compensation of \$600 or more should be reported on **Form 1099-NEC**, Line 1, to:

- Individuals.
- Sole proprietorships.
- Partnerships, including limited partnerships and professional partnerships.
- Limited liability companies, as long as they are single-member disregarded entities or have elected to be taxed as a partnership.
- Attorneys and law firms. Report attorneys’ fees of \$600 or more paid in the course of your trade or business for the attorney’s services to you. This is for lawyers and other providers of legal services

regardless of their business form, including law firms. But see “Gross proceeds payments to attorneys,” below.

- Independent contractors.
- Directors who receive directors’ fees and other remuneration, including payments made after retirement.

The following payments of \$600 or more over the course of the year should be reported on **Form 1099-MISC**:

- Rents. However, Form 1099-MISC should not be used if the payments are made to a real estate agent or property manager.
- Deceased employees. Report accrued wages, vacation pay, and other compensation paid after the year of death for any employees who died during the year. See page 3 of the instructions for details and an example.
- Gross proceeds payments to attorneys. Report payments made to an attorney in the course of your trade or business but not for the attorney’s services (such as for a settlement agreement). See pages 2 – 3 of the instructions for details and an example, as well as page 7 for where this amount should be recorded.

You do not need to send a Form 1099-NEC or 1099-MISC to:

- A C-corporation (but see pages 2 – 3 of the instructions).
- An S-corporation.
- A professional corporation (except for law firms; see above) and payments for medical or health care services (see page 6 of the instructions).

These guidelines can help your organization determine which form to use in various circumstances.

- A limited liability company that has elected to be taxed as a C corporation.
- A limited liability company that has elected to be taxed as an S corporation.
- A tax-exempt organization.
- Employees to whom you paid business travel allowances (however, these may be reportable on Form W-2, Wage and Tax Statement).
- Recipients of scholarships or fellowship grants that are taxable to the recipient because they are paid for research, teaching, or other services as a condition for receiving the grant. These are considered wages and are reported on Form W-2. You do not need to report other taxable scholarship or fellowship payments to the IRS.

Form 1099-NEC and 1099-MISC are prepared on a cash basis.

### Form 1099-NEC and 1099-MISC versus Form 1099-K

If you pay vendors using a credit card, debit card, or third-party payment service (such as PayPal), you are not required to include those payments on Form 1099-NEC or 1099-MISC. These types of payments are reported on Form 1099-K, *Payment Card and Third Party Network Transactions*. See the section entitled “Form 1099-K” on pages 2 and 8 of the instructions.

### IRS Form W-9

*Form W-9, Request for Taxpayer Identification Number and Certification*, is used to gather relevant information to aid a payor in completing Form 1099-NEC or 1099-MISC, including determining the type of entity to which it has made a payment.

You should always obtain a Form W-9 from each payee *before* you make a payment to the payee, because you may have a tax withholding obligation if the payee refuses to give you their taxpayer identification number. If you fail to withhold when you were required to do so, the IRS may hold you liable for the amount you should have withheld.

The information below outlines how Form W-9 should be prepared by various business entities.

### Corporations

If an organization is formed as a corporation, in Form W-9 Box 3 the corporation should check either the box for a C-corporation or an S-corporation. (It should check S-corporation only if it has filed an election to be taxed as an S-corporation.)

### Limited Liability Companies

If an organization is formed as a limited liability company, then it should either:

1. Check the individual/sole proprietor or single-member LLC box if it is a single-member LLC whose single member is an individual;
2. Check the C-corporation box if it is a single-member LLC whose single member is a C-corporation;
3. Check the S-corporation box if it is a single-member LLC whose single member is an S-corporation;
4. Check the Partnership box if it is a single-member LLC whose single member is a partnership;
5. Check the Trust/Estate box if it is a single-member LLC whose single member is a trust or estate; or
6. Check the Limited Liability Company box if it is a limited liability company that has more than one member and enter the letter (C, S, or P) corresponding to its elected tax status (C-corporation, S-corporation, or Partnership). It would not also check the corresponding check box above.

Please [contact](#) our CapinCrouse tax team with any questions.

### About the Author

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A licensed attorney, Chris advises exempt organizations of all sizes on a wide range of issues, including tax and employee benefit related matters, representation before state and federal tax authorities, and assistance with firm audit or advisory engagements to formulate advice and counsel on important operating and tax issues. Chris also assists clients with general tax issues, unrelated business income, charitable solicitation, and missionary employment structures. Prior to joining CapinCrouse in 2019, Chris served as the Executive Director of the Neighborhood Christian Legal Clinic, the nation’s largest Christian legal aid organization.

**Note: Although licensed to practice law in Indiana, Chris’s services through CapinCrouse do not involve the practice of law and consequently do not result in the creation of an attorney-client relationship.**

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