

The next big payroll change: Information reporting for independent contractors

So you thought the IRS was finished tinkering with your payroll processes with the release of the first draft of the 2020 W-4 and Pub. 15-T? Nope. The IRS has another payroll change - it wants to resurrect an old tax form—Form 1099-NEC—on which you would report payments to independent contractors.

The first time this new form would be filed would be in 2021, for payments to independent contractors next year. And that's not a lot of time.

Yesterday

The last time the IRS used Form 1099-NEC was for the 1982 tax year.

OMB. No. 1545-0116
Statement for Recipients of **1982**
Nonemployee Compensation
Copy A
For Internal Revenue Service Center

For Official Use Only

Type or print PAYER'S name, address, ZIP code, and Federal identifying number.

83

Recipient's identifying number 1 Fees, commissions, and other compensation

Type or print RECIPIENT'S name, address, and ZIP code below (Name must align with arrow).

Name ▶

For Paperwork Reduction Act Notice and instructions on completing this form, see Instructions for Form 1096.

Form **1099-NEC** ☆ GPO: 1988-O-343-109 343-109-1 Department of the Treasury—Internal Revenue Service

Today

Cash payments of at least \$600 to noncorporate independent contractors are reported to them and the IRS on Form 1099-MISC in Box 7. Form 1099-MISC is also used to report certain nonwage payments to employees, like damages arising from a lawsuit and to report gross proceeds to any attorney.

9595 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	
		\$		<div style="font-size: 2em; font-weight: bold;">2019</div> <div style="font-weight: bold;">Miscellaneous Income</div>	
		2 Royalties			
		\$		Form 1099-MISC	
		3 Other income		4 Federal income tax withheld	
PAYER'S TIN		\$		Copy A For Internal Revenue Service Center	
		5 Fishing boat proceeds			
RECIPIENT'S TIN		\$		File with Form 1096. For Privacy Act and Paperwork Reduction Act Notice, see the 2019 General Instructions for Certain Information Returns.	
		7 Nonemployee compensation			
RECIPIENT'S name		\$		9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	
		10 Crop insurance proceeds			
Street address (including apt. no.)		\$		11	
		12			
City or town, state or province, country, and ZIP or foreign postal code		13 Excess golden parachute payments		14 Gross proceeds paid to an attorney	
		\$		\$	
Account number (see instructions)		FATCA filing requirement <input type="checkbox"/>	2nd TIN not <input type="checkbox"/>		
15a Section 409A deferrals		15b Section 409A income		16 State tax withheld	
\$		\$		\$	
				17 State/Payer's state no.	
				\$	
				18 State income	
				\$	

Form 1099-MISC Cat. No. 14425J www.irs.gov/Form1099MISC Department of the Treasury - Internal Revenue Service
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The problem: The Protecting Americans from Tax Hikes Act of 2015, or PATH Act, split the filing deadlines:

- For Forms 1099-MISC with Box 7 entries, the filing deadline is Jan. 31, regardless of whether you file on paper or electronically.
- For Forms 1099-MISC with entries in any other box, the filing deadlines remain Feb. 28 (paper filers) or March 31 (e-filers).

This split deadline has caused employers endless headaches, since the forms now need to be separated, depending on the boxes that are completed. And the IRS is serious about those filing deadlines. If you mistakenly slip in even one Form 1099-MISC with an entry in Box 7 with other forms and file all of them after January 31, the IRS will assess a late filing penalty on *all* the forms, even though only one was filed late.

Tomorrow

Here's a shot of the first draft of the new Form 1099-NEC.

7171 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-xxxx

2020

Nonemployee Compensation

Form 1099-NEC

Copy A
For Internal Revenue Service Center
File with Form 1096.

For Privacy Act and Paperwork Reduction Act Notice, see the 2020 General Instructions for Certain Information Returns.

DRAFT AS OF July 24, 2019 DO NOT FILE

PAYER'S TIN		RECIPIENT'S TIN		1 Nonemployee compensation \$		2 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>		3		4 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		FATCA filing requirement <input type="checkbox"/>		2nd TIN not <input type="checkbox"/>		5 State tax withheld \$		6 State/Payer's state no.		7 State income \$	
Account number (see instructions)															

Form 1099-NEC Cat. No. 72590N www.irs.gov/Form1099NEC Department of the Treasury - Internal Revenue Service

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The IRS originally said the boxes on Form 1099-NEC would be configured to mirror Form 1099-MISC. That doesn't appear to be the case, at least for this first draft.

Snag #1: Complementary changes will need to be made to the current 1099-MISC. A completely redesigned 1099-MISC could cause reprogramming headaches for employers, which will still need to complete Forms 1099-MISC to report damages to employees, distributions to estates of deceased employees and gross proceeds to attorneys. A possible solution would be to leave all the box numbers the same and just gray out Box 7.

Snag #2: Lots of states participate in an information sharing program with the IRS, so you don't have to file your 1099s with those states. But some states may not be prepared to deal with a new 1099.

Upshot: You may still need to file a 1099-MISC for your independent contractors for states not participating in information sharing, or for states that drop out of the information sharing program.

Communication is key

Of course, you have less interaction with independent contractors than you do with your employees. Nevertheless, it would be prudent to start thinking about how you're going to communicate these changes to your contingent workforce, because they're going to have questions when they get an entirely new form in the mail.

Care to comment

The IRS is taking comments on new Form 1099-NEC through the end of September.

Direct your written comments to: Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, D.C. 20224.