

# 1099-NEC vs 1099-MISC. Which form should you use?

1099-NEC is a new form, as of the 2020 tax reporting year that has replaced some of the functions of 1099-MISC. In short, use 1099-NEC to report Non-Employee Compensation payments totaling \$600 or more made to non-corporations. This covers the information formerly in box 7 of 1099-MISC. Still, determining which form to use and when could be a little tricky.

It's important to understand what each form is used for, and when they're due.

## 1099-NEC is used primarily for contractors

Form 1099-NEC is for reporting payments of \$600 or more made to nonemployees who don't do business as corporations. This information used to go in Box 7 of Form 1099-MISC, but starting with 2020 earnings the IRS now wants it captured on Form 1099-NEC. This primarily impacts businesses that work with independent contractors and freelancers who do business as non-corporate entities. That includes self-employed workers, sole proprietors, partnerships, and limited liability companies.

Copy A and B of Form 1099-NEC are both due to the IRS and recipients by February 1st, whether filed by paper or electronically. This is different than most forms which have later dates and online filing extensions.

It is important to properly identify workers. For example, housekeeping staff may work for a corporate entity, but they also may be in business for themselves. The latter would require form 1099-NEC, while the alternative would not. It's important not to make assumptions. Simply saying "company" on a business card or website does not mean they're a corporate entity. If you're uncertain, reach out to the contractor. You could also request a Form W-9 from them to confirm what type of business entity they are. Finally, when in doubt - you're better off sending the forms unnecessarily than not filing them if they were in fact needed.

Additional Resource: See more on [New 1099-NEC forms: The myths and the need-to-know](#)

## 1099-MISC covers miscellaneous income

You'll still use 1099-MISC to report a variety of types of miscellaneous income including payments made for rent, prizes and awards, and medical payments.



File Form 1099-MISC for each person to whom you have paid during the year:

- At least \$10 in royalties or broker payments in lieu of dividends or tax-exempt interest.
- At least \$600 in:
  - Rents.
  - Prizes and awards.
  - Other income payments.
  - Medical and health care payments.
  - Crop insurance proceeds.
  - Cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish.
  - Generally, the cash paid from a notional principal contract to an individual, partnership, or estate.
  - Payments to an attorney.
  - Any fishing boat proceeds.

In addition, use Form 1099-MISC to report that you made direct sales of at least \$5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment.

Copy A of 1099-MISC is due to the IRS by March 1st if filing by paper, or March 31st if filing electronically. Copy B is due to recipients by February 1st. However there are two exceptions, 1099-MISC is due to the recipient by February 15th instead of February 1st if it includes:

- Substitute dividends and tax-exempt interest payments reportable by brokers of \$10 or more.
- Gross proceeds paid to attorneys of \$600 or more.

## **File 1099s correctly and on time to avoid penalties**

You may want to start on this process early this year, as any confusion or misfiled forms could result in penalties. With form 1099-NEC added to the mix, leaving yourself a bigger lead time to double-check your filings and correct any errors could save you from having to pay later.

## **Penalties may apply:**

- If you fail to file timely.
- If you fail to include all information required to be shown on a return.
- If you include incorrect information on a return.
- If you file on paper when you were required to file electronically.
- If you report an incorrect TIN.
- If you fail to report a TIN.
- If you fail to file paper forms that are not machine-readable and applicable revenue procedures provides for a machine-readable paper form.

## **Penalties increase the longer you wait to correct them**

If you realize you made a mistake, it's important to address it as quickly as possible to avoid paying increased fees.

## **The penalty is as follows:**

- \$50 per information return if you correctly file within 30 days (by March 30 if the due date is February 28); maximum penalty \$565,000 per year (\$197,500 for small businesses, defined below).
- \$110 per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$1,696,000 per year (\$565,000 for small businesses).
- \$280 per information return if you file after August 1 or you do not file required information returns; maximum penalty \$3,392,000 per year (\$1,130,500 for small businesses).