

1099 vs W-2: The difference between employees and contractors

It is the end of the year, and that means that tax season is approaching. While individuals have until April 18, 2023, to file their personal income taxes, businesses have to start thinking about tax requirements a bit sooner. Forms such as IRS Form W-2 and IRS Form 1099 need to be sent out by the end of January.

Both forms provide end-of-year compensation information that employees and contractors need for tax purposes. However, there is sometimes some confusion on which to send — and you don't want to get it wrong. If you're not quite sure about the differences between a 1099 and a W-2, keep reading to learn which form to send and how to fill out and file them.

What is a W-2?

A W-2 is a tax form that businesses send to their employees as well as the government. This form provides calculations of the total amount paid to the employee, federal and state income tax withheld, medicare and social security taxes withheld, and allocated tips. Employees need this document in order to file their personal income taxes each year.

Employers are required to file a Form W-2 for wages paid to each employee from whom:

- Income, Social Security, or Medicare taxes were withheld.
- Income tax would have been withheld if the employee had claimed no more than one withholding allowance or had not claimed exemption from withholding on a Form W-4, (Employee's Withholding Allowance Certificate).

What is a 1099?

A 1099 is a form used to report non-employee compensation. Usually, when you hear about 1099s during tax season, people are referring to IRS form 1099-NEC, the tax form that is sent to independent contractors in place of a W-2 form.

If your business made nonemployee compensation payments totaling \$600 or more to a nonemployee or withheld federal income tax from a nonemployee's payment this year, you will need to file form 1099-NEC (one per payee) with the IRS and send a copy to each payee. Examples of nonemployees are contract workers, freelancers, or sole proprietors that you have done business with.

When to send a 1099 vs. a W-2

It's important to understand the difference between an independent contractor and an employee. An

independent contractor should fill out a W-9 when they are hired and receive a 1099-NEC at the end of the year. An employee should fill out a W-4 form when they are hired and receive a W-2 form.

Maintaining accurate employee classifications not only helps you know what tax form to send out in January, but also prevents a variety of compliance problems including misclassification penalties.

An independent contractor is a person that provides services or contract work to a business without creating an employer-employee relationship. These are often freelancers, gig workers, or independent business owners that provide services to a variety of businesses, rather than acting as an employee of your business.

To stay compliant, you should be providing contractors with a high degree of autonomy when it comes to when, where, and how they perform their work. You should not be treating these workers like your regular staff when it comes to scheduling or managerial oversight.

The IRS advises employers to consider the following criteria when deciding whether an individual should be classified as a 1099 contractor or a W-2 employee:

1. **Behavioral.** Does the company control or have the right to control what the worker does and how the worker does his or her job? This can also include whether work hours are set by the business or worker. Independent contractors should have a high degree of control over their own activities.
2. **Financial.** Are the business aspects of the worker's job controlled by the business? Does the business provide all necessary tools or equipment or does the worker provide their own tools? It can also help to look at whether the worker is reimbursed for expenses incurred while completing the work. Some expenses may be included on independent contractor invoices, but the basic tools or programs required to complete the work are often provided by the contractor. For example, a graphic designer employed as an independent contractor would likely use their own computer and design software whereas employees often have work devices and any necessary software program subscriptions provided.
3. **Type of Relationship.** Are there written contracts or employee-type benefits (i.e. pension plan, insurance, vacation pay, etc.)? Will the relationship continue and is the work performed a key aspect of the business? Is the worker treated as a supplemental resource to the business' internal staff or are they working alongside them during similar hours and on similar projects?

1099 workers also are not generally paid through regular payroll and do not typically have taxes withheld from their checks or deposits. The payment procedures and timeline for independent contractors should be laid out in their written contract. If you are paying someone through your normal employee payroll process with income tax withholdings, you typically need to send them a W-2.

It's important to remember that W-2s are not just for full-time employees. Part-time staff, interns, and temporary employees can all be classified as W-2 workers. Anyone that was hired as an employee and given a W-4 form during onboarding should receive a W-2 at the end of the year rather than a 1099. Though there are some rare cases where an individual may receive both a W-2 and a 1099 from the same employer.

1099 vs W-2 filing requirements and procedures

Form W-2 filing requirements

Employers must send Copy A of Form W-2 to the Social Security Administration (SSA) to report the wages paid

and taxes collected for their employees during the previous calendar year. Employers also have to send a copy of the W-2 to the employee. Booth copies must be sent out by January 31.

Employers also need to report and deposit payroll taxes to the internal revenue service (IRS) every quarter. they must report income and employment taxes withheld from their employees on an Employer's Quarterly Federal Tax Return (Form 941) and deposit these taxes in full to an authorized bank or financial institution pursuant to Federal Tax Deposit Requirements. Employers are also responsible for filing a FUTA return annually, and depositing those taxes.

Form 1099 NEC filing requirements

Payers need to file form 1099-NEC by January 31 of each year. The IRS used to give automatic 30-day extensions to file, but they phased that out in 2021 so be sure to file on time this year. Though businesses can still request extensions if the business meets certain hardship conditions. You may e-file or submit the forms on paper via the mail.

You can find the latest version of form 1099-NEC on the official [irs.gov](https://www.irs.gov) site [here](#). You will notice that the IRS publication PDF of the form has several copies. Here is the list of form 1099-NEC copies:

- Copy A: Federal Copy for the IRS
- Copy 1: State Tax Department Copy
- Copy B: Recipient Copy
- Copy C: Payer Copy
- Copy 2: State and Local Copies

If you are mailing these forms, always double-check that you are mailing each copy to the right recipient. While the different copies look almost the same, it is important to send the right version to the right destination.

How to fill out a 1099 vs a W-2

Both of these forms are relatively simple to fill out as long as you have maintained good employment and payroll records. Businesses that use comprehensive payroll software can often have the forms automatically generated with the employee's stored information and compensation data.

What information needs to be included on form 1099 NEC?

The 1099-NEC for is a fairly short form that most small business owners should be able to fill out on their own, though tax professionals can also help. Here are the key pieces of information you'll need to fill out on the form:

- **Payer's Name and Address.** List your business name and registered business address for your business.

- **Payer's TIN.** Provide your business' Taxpayer Identification Number (TIN). The TIN is a nine-digit number that is issued either by the Social Security Administration or by the IRS. You may also know this as your Employer Identification Number (EIN)
- **Recipient's TIN.** This is the independent contractor's taxpayer identification number. In many cases, the recipient's TIN will be their social security number. You can find each non-employee's TIN on their W-9 form.
- **Recipient's Name and Address.** Here you will include the recipient's full legal name or registered business name and their address. This information can be found on form W-9 as well.
- **The Total Amount of Nonemployee Compensation Paid.** The amount that you paid to the non-employee.

What information needs to be included on a W-2 form?



The W-2 form does require a bit more information, largely due to all of the different taxes that need to be listed. Here are the key pieces of information that you need to include on a W-2 form:

- **Employer Identification Number.** This is a 9-digit number that employers apply for through the IRS. If you can't remember your EIN, look at the previous year's tax forms. You can also call the IRS Business and Specialty Tax Line at 800-829-4933 to ask for your EIN.
- **Employee name and address.** You'll need to list the employee's full legal name and address.
- **Control number.** Each form needs a control number that identifies the unique W-2 form in your records. It is usually automatically assigned by your payroll processing software if you use own to create your W-2s.
- **The wages, tips, and other compensation paid to the employee.** Calculate the total compensation paid to the employee for the tax year. This does include tips but typically doesn't include payments like expense reimbursement unless they count as fringe benefits.
- **Federal income taxes withheld.** This is the amount of money that you withheld from the employee's paycheck for federal taxes.
- **Social security wages.** This is the total compensation paid to the employee that is subject to social security tax. Wages of up to \$147,000 are subject to social security taxes for tax year 2022.
- **Social security tax withheld.** This is the amount of money withheld from the employee's paycheck for social security taxes.

- **Medicare wages.** This is the total compensation paid to the employee that is subject to medicare tax. There is no upper limit for how much of the employee's wages can be subject to Medicare.
- **Medicare tax withheld.** This is the amount of money withheld from the employee's paycheck for social security taxes.

Frequently asked questions about W-2s vs 1099s

Should I send form 1099-NEC or 1099-MISC to independent contractors?

Independent contractors should receive a 1099-NEC. Previously, IRS Form 1099-MISC was the form sent to contractors, which can cause some confusion for employers, but the IRS introduced the 1099-NEC form in 2020 and now requires employers to use this form for independent contractors.

Form 1099-MISC is still used for miscellaneous income, such as:

1. Rents
2. Prizes and awards
3. Other income payments
4. Generally, the cash paid from a notional principal contract to an individual, partnership, or estate
5. Any fishing boat proceeds
6. Medical and health care payments
7. Crop insurance proceeds
8. Payments to an attorney
9. Section 409A deferrals
10. Nonqualified deferred compensation

What if I don't know whether an employee should be classified as a W-2 worker or a 1099 worker?

If you are having trouble understanding if a worker is an employee or an independent contractor after reviewing the IRS guidelines and any applicable state laws, you can file [Form SS-8](#) and let the IRS decide.

Form SS-8 is the Determination of Worker Status for Purposes of Federal Employment Taxes and Income Tax Withholding form. The IRS will review the facts and circumstances as reported on the form and make a

determination of the worker's status.

What are the benefits of using 1099 workers?

Using 1099 labor can be very helpful for business owners, as long as they are using these workers for the intended purpose and not in place of employees. 1099 workers can help you with specific projects or specific tasks that require skills outside of their current employee's skillset.

Sometimes you need someone to work on an as-needed basis to meet business needs but don't require a permanent staff member with fixed hours. For example, you may need a graphic designer to create marketing materials or social media imagery for a few hours per month. In this case, it makes perfect sense to use a 1099 worker to supplement your existing staff rather than expanding your staff.

Using 1099 labor can also be quicker and more cost-effective than hiring employees for short-term projects, as the onboarding times are often faster and you won't have to worry about unemployment insurance claims when the project ends.

There is also a financial benefit to using 1099 workers. 1099 workers have to pay their own taxes. Payers do not need to pay payroll taxes for 1099 workers, withhold taxes from their paychecks, or pay unemployment taxes. 1099 workers pay their own self-employment taxes. Businesses also don't need to provide benefits like health insurance, retirement plans, or workers' compensation to 1099 staff. This can result in a lot of cost savings.