

# INFORMATIONAL GUIDE

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1099-NEC or 1099-MISC?

What's Changed — and Why It Matters



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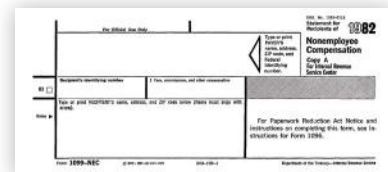
## 1099-NEC or 1099-MISC? What's Changed — and Why It Matters

In a move that will impact business owners and tax professionals across the nation, the IRS has released the 2020 Form 1099-NEC. The new form replaces Form 1099-MISC for reporting nonemployee compensation (in Box 7), shifting the role of the 1099-MISC for reporting all other types of compensation.

As a result of the new 1099-NEC and redesigned 1099-MISC, the overall process for reporting nonemployee compensation is changing for the 2020 tax year. We've compiled the essential details regarding the changes, so you know what to expect and how to handle the forms properly.

### Why is the 1099-NEC Replacing Form 1099-MISC (Box 7)?

The Protecting Americans from Tax Hikes Act of 2015 (the PATH Act) -- enacted on December 18, 2015 -- created a unique situation for tax filers. In addition to moving the due date for Form 1099-MISC Forms containing data in Box 7; (nonemployee compensation), from February 28 to January 31, the legislation eliminated the automatic 30-day filing extension. If an employer filed a batch of multiple 1099-MISC forms (potentially with data in Box 7 (nonemployee compensation) and without) after the January 31st deadline, the IRS could mistakenly treat them all as late returns and apply fines.



Beyond the time-management and administrative issues for the IRS to properly process the forms, some misaligned deadlines on the taxpayer side opened the door to fraud. To resolve the various issues, the IRS revived Form 1099-NEC, effectively separating Box 7 (nonemployee compensation) from the 1099-MISC, as well as staggering the filing due dates.

### 2020 Instructions for Form 1099-NEC

The new 1099-NEC (NEC stands for Non-Employee Compensation) is based on an old form that has been out of use since 1982. To use the "reinstated" 1099-NEC properly, you need to understand what is considered nonemployee compensation. Previously reported on Box 7 of the 1099-MISC, the new 1099-NEC will capture any payments to nonemployee service providers, such as independent contractors, freelancers, vendors, consultants and other self-employed individuals (commonly referred to as 1099 workers).

According to the IRS, a combination of these four conditions distinguishes a reportable payment:

- ✓ It is made to someone who is not your employee.
- ✓ It is made for services in the course of your trade or business.
- ✓ It was made to an individual, partnership, estate, or, in some cases, a corporation.
- ✓ Payments were \$600 or more for the calendar year.

#### TYPICAL EXAMPLES:

- Professional service fees to attorneys (including law firms established as corporations), accountants and architects
- Fees paid by one professional to another
- Payments for services, including payment for parts or materials used to perform the services if they were incidental
- Commissions paid to nonemployee salespeople not repaid during the year

#### EXCEPTIONS:

- Payments for merchandise, telegrams, phone, freight, storage or similar items
- Payments to a tax-exempt organization, including tax-exempt trusts; federal, state, and local governments; or a foreign government

## A Closer Look at Form 1099-NEC

Here is the new Form 1099-NEC, and the key areas to be aware of:

### Payer's information:

Name, address, telephone number and TIN

**Box 1:** Nonemployee compensation if you paid this person \$600 or more during the year

**Box 4:** Any federal income tax withheld

**FATCA filing requirement:** To be checked for assets held in foreign countries

**Boxes 5, 6 and 7:** If applicable, state taxes withheld, state identification number and amount of earned income in the state

**Recipient's information:** Name, address, and TIN

## Critical Dos and Don'ts with Form 1099-NEC

- ✓ Do verify that the recipient's taxpayer ID is correct. You must have Form W-9 from each recipient with the current taxpayer ID before you complete Form 1099-NEC.
- ✗ Don't use Form 1099-NEC to report personal payments.
- ✗ Don't use Form 1099-NEC to report employee wages; use Form W-2 instead.
- ✗ Don't report gross proceeds to an attorney (not fees) on Form 1099-NEC; use Form 1099-MISC instead.
- ✗ Don't use Form 1099-NEC to report payments of rent to real estate agents or property managers; use Form 1099-MISC instead.

## Filing and Submitting Form 1099-NEC

- Distribute to recipients by January 31. (For 2021, the date is Feb. 1, since Jan. 31 falls on a Sunday).
- File with the IRS by Jan. 31 (again, Feb. 1 in 2021) through paper or electronic filing.
- As part of the Taxpayer First Act, many businesses will no longer be able to submit paper forms. For tax year 2020, the electronic filing threshold is 100 forms. Which means any business with 100 forms or more are required to e-file.

**Please note:** You must also file Form 1099-NEC (report in box 4) for anyone from whom you withheld federal income tax under the backup withholding rules, regardless of the amount.

## 2020 Instructions for Form 1099-MISC

Because nonemployee compensation reporting has been removed from Form 1099-MISC for the 2020 tax season and beyond, the IRS has redesigned Form 1099-MISC.

The biggest change is Box 7, which was previously used for reporting nonemployee compensation. The revised form includes other changes to the box numbers for reporting miscellaneous compensation, as follows:

The image shows Form 1099-MISC (2020) with several boxes highlighted and annotated with callouts:

- Box 7:** Direct sales of \$5,000 or more (points to Box 7: Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale).
- Box 9:** Crop insurance proceeds (points to Box 9: Crop insurance proceeds).
- Box 10:** Gross proceeds to an attorney (points to Box 10: Gross proceeds paid to an attorney).
- Box 12:** Section 409A deferrals (points to Box 12: Section 409A deferrals).
- Box 14:** Nonqualified deferred compensation (points to Box 14: Nonqualified deferred compensation).
- Boxes 15, 16 and 17:** If applicable, state taxes withheld, state identification number and amount of earned income in the state (points to Boxes 15, 16, and 17).

Additional callouts on the form include:

- Box 7:** PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.
- Box 9:** RECIPIENT'S name, Street address (including apt. no.), City or town, state or province, country, and ZIP or foreign postal code.
- Box 10:** PAYER'S TIN, RECIPIENT'S TIN.
- Box 12:** Account number (see instructions), FATCA filing requirement, 2nd TIN not.
- Box 14:** Form 1099-MISC, Cat. No. 14425J, www.irs.gov/Form1099MISC, Department of the Treasury - Internal Revenue Service.

## Critical Dos and Don'ts with Form 1099-MISC

- ✓ Do report gross proceeds to an attorney (not fees) on Form 1099-MISC.
- ✓ Do complete a 1099-MISC if you made royalty payments of at least \$10 during the year.
- ✓ Do use Form 1099-MISC for miscellaneous income, such as rents, royalties, and medical and health care payments.
- ✗ Don't use Form 1099-MISC to report personal payments.
- ✗ Don't use Form 1099-MISC to report employee wages; use Form W-2 instead.

## Filing and Submitting Form 1099-MISC

- Distribute to recipients by January 31. (For 2021, the date is Feb. 1, since Jan. 31 falls on a Sunday).
- File with the IRS by Feb. 28 (Mar. 1 in 2021) if filing by paper, Mar. 31 if filing electronically.
- As part of the Taxpayer First Act, many businesses will no longer be able to submit paper forms. For tax year 2020, the electronic filing threshold is 100 forms. Which means any business with 100 forms or more are required to e-file.

**Please note:** You must also file Form 1099-MISC for anyone from whom you withheld federal income tax under the backup withholding rules, regardless of the amount.