

Do I have to file a 1099?



There are two primary criteria to determine if you need to file a 1099: have you paid at least \$600 to nonemployees, and if so, were any made to non-corporate entities? All taxable payments made to employees must be included on their W-2s. It's important to understand the difference between W-2s and 1099s. Most businesses will likely file the new 1099-NEC form to report payments to nonemployees. However, determining when to use 1099-NEC can be tricky. Finally, 1099-MISC is still around and a catch-all that many businesses may still need to file.

W-2s are for employees, 1099s aren't

Use a W-2 to report wages paid and taxable fringe benefits provided to employees, as employees. It shows that the employer withheld taxes on the employee's behalf. A 1099-NEC covers a wide variety of payments made to nonemployees - who could be freelancers, independent contractors, cleaning services, and more. The 1099-NEC shows the IRS that a business paid at least \$600 to his individual, giving it a way to verify their income. However, the recipient is ultimately responsible for paying estimated income and self-employment taxes. There are a wide variety of 1099 forms that represent different kinds of income - such as income made from interest, the cancellation of debt, and proceeds from real estate transactions. With that in mind, most businesses will not have to file these 1099s, as they only relate to niche situations.

You'll most likely be dealing with Form 1099-NEC

Form 1099-NEC is new this year, but it will likely be one of the most common 1099s filed. The 1099-NEC is used to report payments of \$600 or more made to nonemployees who don't do business as corporations. This

information used to be included on Form 1099-MISC, but starting with 2020 earnings the IRS now expects this information to be captured on Form 1099-NEC. The 1099-MISC is still around, however, and captures different items of income paid to different payees.

Form 1099-NEC primarily relates to independent contractors and freelancers your business has worked with. This includes only individuals who do business in noncorporate forms, like sole proprietorships, partnerships, or limited liability companies not treated as corporations. This is a wide category and there are some pitfalls you may find yourself in. Below we'll explore a few things to watch out for.

Form 1099-NEC is due to both the IRS and recipients by February 1st, whether filed by paper or electronically.

Identifying if a worker is a corporation or not.

This can be a challenge in some cases. For example, housekeeping staff may work for a corporate entity, but depending on the business arrangement, they also may be in business for themselves. Simply having business cards or even a website does not necessarily mean that they are corporations - so it's important to check with your independent contractors to determine their business arrangement and if a 1099-NEC form needs filed or not. You can confirm their business arrangement by sending them Form W-9.

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Pay extra attention when using freelance sites.

Most times a 1099-NEC form should be filed for freelancers and independent contractors you deal with (as long as you paid them \$600 or more). However, the way you interact with these workers may influence if you need to file a tax form or not. If you worked directly with a freelancer, you probably do, but if you used a freelance platform like Upwork, you may not. In the case of Upwork, a site commonly used to connect individuals, businesses, and freelancers, your payments are made directly to Upwork, not the freelancer. This means you do not need to send a 1099-NEC form to freelancers on this platform, Upwork handles the proper tax filings. If you've used a platform like this to engage with your freelance workers, check their specific policies when determining if you need to file a 1099.

Don't misclassify employees as independent contractors.

Some businesses faced heavy fines for misclassifying workers as independent contractors instead of employees. While some businesses have done so to cut costs by avoiding taxes, others may make an honest mistake. There are three criteria to consider when determining if a worker is an employee or an independent contractor.

1. **Behavior.** The more control you have over the worker and how they work, the more likely it is they are an employee. Even if you choose not to direct the work, simply having the right to do so counts.
2. **Financial.** Independent contractors often make a personal investment in equipment and don't see expenses reimbursed. If you provide them equipment and reimburse expenses, a worker is more likely to be an employee. Also, in many cases, employees pay employees a regular wage while paying contractors a flat fee for a job. However, many freelancers like lawyers and web designers may also charge hourly - so this isn't a hard rule.
3. **Relationship.** Hiring a worker with the intent of a relationship that continues indefinitely as compared to for a specific job or time period, indicates they're more likely to be an employee. In addition, providing benefits indicates employee status, however, a lack of benefits does not necessarily mean a worker is an independent contractor.

How you classify your workers can be challenging as there are guidelines but no steadfast rules in place. When doing so, try to consider all factors in good faith and weigh each factor to determine which final classification

best aligns with your relationship with the worker.

Additional Resources: See what the [IRS has to say](#) on worker classification.

What's Form 1099-MISC still used for?

Although Form 1099-NEC has taken over one function of Form 1099-MISC, many businesses may still find themselves needing to file this form. Here's what the IRS says about when to use Form 1099-MISC.

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.

1099-MISC is due to the IRS by March 1st if filing by paper, or March 31st if filing electronically. It is due to recipients by February 1.

Additional Resources: Learn more about [when different 1099s are due](#).