

Clearing the Confusion: 1099-MISC or 1099-NEC?



Who:

The IRS has released the 2020 Form 1099-NEC (Non-Employee Compensation), in a move that will impact business owners and tax professionals across the nation.

Why:

Back in 2015, the PATH (Protecting Americans from Tax Hikes) Act changed the due date for 1099-MISC forms with data in box 7 from March 31 to January 31. However, the filing date for non-box 7 forms remained March 31. As a result of the two different deadlines for the same form, late 1099-MISC forms for non-employee compensation sometimes led to the counting of non-box 7 forms as late.

Conclusion:

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. You should now use the 1099-MISC for non-box 7 reporting. The type of payments typically required to be reported on this form include royalties, rent, prizes and awards. 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. In some cases, you will need to file both a 1099-NEC and a 1099-MISC for the same individual.

When:

2020 Information Returns			
Form	Recipient Due Date	IRS Due Date (Paper Filing)	IRS Due Date (Electronic Filing)
1099-NEC	February 1, 2021	February 1, 2021	February 1, 2021
1099-MISC (No Data in Box 8 or 10)	February 1, 2021	March 1, 2021	March 31, 2021
1099-MISC (With Data in Box 8 or 10)	February 16, 2021	March 1, 2021	March 31, 2021

Where:

Both Forms	Box #	1099-NEC	1099-MISC
Payer Information	Box 1	Nonemployee compensation	Rents
Recipient Information	Box 2	Reserved (blank)	Royalties
	Box 3	Reserved (blank)	Other income
	Box 4	Federal income tax withheld	Federal income tax withheld
	Box 5	State tax withheld	Fishing boat proceeds
	Box 6	State/Payer's state no.	Medical and healthcare payments
	Box 7	State income	Payer make direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale
	Box 8	N/A	Substitute payments in lieu of dividends or interest
	Box 9	N/A	Crop insurance proceeds
	Box 10	N/A	Gross proceeds paid to an attorney
	Box 11	N/A	Reserved (blank)
	Box 12	N/A	Section 409A deferrals
	Box 13	N/A	Excess golden parachute payments
	Box 14	N/A	Nonqualified deferred compensation
	Box 15	N/A	State tax withheld
	Box 16	N/A	State/Payer's state no.
	Box 17	N/A	State income

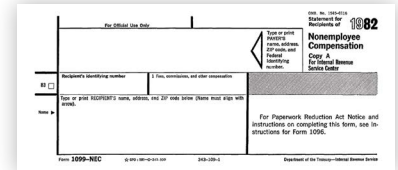
1099-NEC or 1099-MISC? What's Changed — and Why It Matters

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 diagram shows the 2020 Form 1099-MISC form with several callouts explaining changes to the boxes:

- Box 7:** Direct sales of \$5,000 or more. This box is highlighted in red.
- Box 9:** Crop insurance proceeds. This box is highlighted in red.
- Box 10:** Gross proceeds to an attorney. This box is highlighted in red.
- Box 12:** Section 409A deferrals. This box is highlighted in red.
- Box 14:** Nonqualified deferred compensation. This box is highlighted in red.
- Boxes 15, 16 and 17:** If applicable, state taxes withheld, state identification number and amount of earned income in the state. These boxes are highlighted in red.

The form also includes the following text:

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 \$

2 Royalties \$

3 Other income \$

4 Federal income tax withheld \$

5 Fishing boat proceeds \$

6 Medical and health care payments \$

7 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale

8 Substitute payments in lieu of dividends or interest \$

9 Crop insurance proceeds \$

10 Gross proceeds paid to an attorney \$

11 \$

12 Section 409A deferrals \$

13 Excess golden parachute payments \$

14 Nonqualified deferred compensation \$

15 State tax withheld \$

16 State/Payer's state no. \$

17 State income \$

Form 1099-MISC Cat. No. 14425J www.irs.gov/Form1099MISC Department of the Treasury - Internal Revenue Service

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Miscellaneous Income

2020

Form 1099-MISC

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.

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.