



1099 INFORMATION

How do you determine if an individual is an employee or a contractor?

For help in determining whether or not an individual is an employee or contractor, see “Employee or Contractor” found on the Resources/Forms section of the MM website (GoodFaithAccounting.com).

Reporting requirements for Employees and Contractors:

| | Prior to compensation payment, your organization should obtain from the employee/contractor: | Taxes withheld: | At the end of the year, your organization should provide: |
|-------------------|----------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Employee | W-4 | Process through payroll, with appropriate taxes withheld based on W-4 input | <ul style="list-style-type: none"> • W-2 to the employee • W-2 and W-3 to the IRS |
| Contractor | W-9 | No taxes should be withheld, unless 28% backup withholding is necessary based on W-9 input | IF total compensation is \$2,000 or more during the year . . . <ul style="list-style-type: none"> • 1099 MISC to the contractor • 1099 MISC and 1096 to the IRS |

What is a 1099-MISC?

The IRS has several versions of the Form 1099 depending on each form’s individual purpose. The one most commonly used is the 1099-MISC. The IRS requires individuals, churches, and organizations (profit or nonprofit) to use this form to report specific kinds of taxable income paid to individuals and unincorporated entities.

An “unincorporated entity” typically includes sole proprietors, partnerships, and most limited liability companies. Often times, an incorporated entity will have “Inc.” following the name of the company. Corporations receiving payment for services are not required to receive a Form 1099-MISC.

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Who Should Receive a 1099-MISC?

- + Individuals and unincorporated entities who are not treated or hired as employees, but are paid to perform services (“services” include the performance of any action or labor that brings value or benefit to an individual or entity.)
- + Individuals and unincorporated entities paid \$2,000 or more in a calendar year for their services.
- + Individuals and unincorporated entities receiving rent or lease payments – for the rental of real property and equipment (An exception for benevolence payments is noted on page three.)

What information is needed to issue a 1099-MISC?

In all cases, a valid name, address, and Social Security Number (SSN) or a Federal Employer Identification Number (FEIN) of the person or entity receiving payment is required for the completion of the Form 1099-MISC. Because of this, payments made for services or rent should not be made without first obtaining this information. The IRS recommends the use of the Form W-9 to obtain the required information of a person or unincorporated entity receiving payment for services and rent.

Can I use a different form or does it have to be the W-9 form?

As long as the form has similar information and obtains the same information and certifications, you may use a different form.

What if the individual or entity refuses to provide the taxpayer identification number?

Payments should not be made to an individual or entity prior to obtaining the completed W-9. If an individual or entity won't provide the W-9, we recommend discontinuing the service with them. If you do pay an individual or entity that refuses to provide the information on the W-9, the payments will be subject to 28% backup withholding, which should be communicated to the individual or entity, as well as communicated to MM in conjunction with the check request

Assuming the requirements for receiving a 1099-MISC are met, the circumstances in which a Form 1099-MISC may or may not be required include, but are not limited to the following:

| Type of Payment | 1099 Required? | Explanation |
|--------------------------------------------------------------------------------------------------------------------------------|----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| A <i>love gift</i> or offering paid to a person whether the funds originated from the members of a church or the church itself | Maybe | If a love gift or offering is collected and then given to a person already being paid as an employee, the payment must be included in the employee's W-2 salary. If the recipient is not (or should not) be paid as an employee, a 1099-MISC must be issued to the recipient if they performed services (such as a guest speaker).* |
| Gifts to missionaries | Maybe | If the gift is paid directly to the missionary in his/her name, then a 1099 is absolutely required. If the gift is funneled through a sponsoring organization, and the check is made out to the sponsoring organization, then the 1099 MISC should be provided by the sponsoring organization rather than your organization. And the payment does not need to be reported as 1099 MISC income. |
| Benevolent gifts | No | Benevolent gifts to non-employees are not taxable, and a recipient should not receive a 1099. If the recipient is an employee, the amount must be added to their W-2 salary regardless of whether services were performed or it was simply a benevolent gift. |
| Payments to individuals who are not citizens of the U.S. | Maybe | If services are performed in the U.S., the recipient may receive a 1099. Payments to individuals who are not U.S. citizens are subject to additional federal regulations and thus are not recommended. |
| Payments to a limited liability company (LLC) | Yes | In most cases, LLC's are taxed as a partnership, which means they are required to receive a 1099 for payment of services. Because it can be difficult to know how an LLC is taxed, it is usually best to issue a 1099 to an LLC. |
| Rent or lease payments | Maybe | For real estate and personal property – unless it was a benevolent payment to a person in need or on behalf of a person in need. |
| Prizes and Awards | Maybe | Prizes and Awards for \$2,000 or more that are not for services performed. If it's a non-cash prize, the Fair Market Value must be reported. Prizes and Awards given to employees must be reported on a W-2. |
| Gifts and Gift Cards | Maybe | Gifts or gift cards given to employees should be added to the employees' W-2 unless the amount is minimal (\$25 or less). Gifts or gift cards given to non-employees are considered compensation unless it is \$25 or less for the year, and thus would require a completed W-9 |

* There are strict IRS regulations that dictate whether a person should be paid as an employee or as a contract laborer (i.e., recipient of a 1099-MISC versus a W-2). For more information, please review the document "Independent Contractor Versus Employee" located on the GoodFaithAccounting.com website.



If our organization knows that the person receiving compensation isn't going to receive more than \$2,000 in the year, do we still need the completed W-9 prior to processing the payment?

Your organization must have each person/entity complete the W-9 Form no matter what the payment amount might be. The form is used to collect the person's name, address and taxpayer identification number. It is *also* used to certify that the person is a U.S. citizen or "U.S. person," as defined on the form's instructions, and that you are therefore not employing someone you are not legally permitted to compensate. (Form W-8 should be used for nonresident aliens and foreign corporations.) Further, it is used to determine whether payments from your organization to the person/entity are subject to "backup withholding," which should be collected and submitted to the IRS by your organization. Regulations mandate that without the W-9 completed, your organization is required to withhold 28% for federal taxes. These requirements are still valid, and the income is still taxable, whether or not the person/entity receives compensation totaling \$2,000 or more.

What if the individual is not a U.S. citizen or resident alien?

Just because someone isn't a U.S. citizen or resident alien does not mean they are not subject to the income being reported/taxed. Generally, one of the W-8 forms should be completed; however, determining which W-8 form to use should be done on a case-by-case basis. Contact MM for details on the specific situation.

Who Should Not Receive a 1099-MISC?

- + Individuals paid as an employee should rarely, if ever, receive a 1099-MISC; these payments should be included in their W-2 salary.
- + Incorporated entities
- + Recipients of less than \$2,000 in a calendar year
- + Recipients of payments for the purchase of products
- + Non-employee recipients of a benevolence payment

As long as accurate information is reported, it is rarely a problem to send a 1099 to a recipient even if it is not required. There are often exceptions and gray areas to most IRS regulations. If there is a question about a specific situation not fully described above, please consult with a tax or accounting professional.