

Accurate and timely filing of 1099-MISC forms is becoming increasingly more important. It is critical that you become familiar with the recent changes to 1099 reporting requirements and penalty assessments.

Reporting Laws Repealed on April 14, 2011 with the “Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011”:

- Corporate information reporting: Businesses that pay any amount of \$600 or greater during the year to corporate providers of property and services will **NOT** be required to file 1099-MISC forms with each provider and with the IRS.
- Information reporting for rental property expense payments: Recipients of rental income from real estate who are not otherwise considered to be engaged in the trade or business of renting property will **NOT** be required to file 1099-MISC forms with the IRS and each service provider.

Increase in Information Return Penalties & Filing Compliance:

For information returns such as 1099-MISC forms, the penalties for failure to timely file returns with the IRS have increased dramatically. Forms are required to be issued **no later than January 31st** to payees and **February 28th** to the IRS.

Penalties now range from \$30 to \$100 **PER** 1099-MISC form that is correctly filed and are dependent on when the forms are submitted. Penalties can be assessed for the following:

- Not meeting the required filing deadlines for **BOTH** payees and the IRS.
- Omitting information such as SSNs or TINs.
- Using incorrect SSNs or TINs.

1099-MISC forms that have wrong information, such as a mismatch between names and SSNs, generate letters from the IRS that may require you to withhold and remit 28% of the vendor payments to the IRS. Failure to comply with this notice can also result in fines.

The penalty for intentional disregard of the filing requirements is \$250 **PER** 1099-MISC form for all filers. Beginning in 2012, these rates will be adjusted annually for inflation.

In addition, all 2011 federal business income tax returns have been modified to include questions that must be answered regarding the requirement to file 1099-MISC forms and whether or not these forms were actually filed.

Instructions for 1099-MISC Filing:

The instructions for 1099-MISC form processing located at <http://www.irs.gov/pub/irs-pdf/i1099msc.pdf> identify several rules and instructions we want to bring to your attention:

- 1099-MISC forms apply to payments in the course of your trade or business.
- 1099-MISC forms should be issued to any individual, partnership (including LLCs taxed as a partnership or as a disregarded entity), or estate where payments for services total \$600 or more for the year.
- 1099-MISC forms should be issued for rent paid to anyone other than a real estate company.
- 1099-MISC forms should be issued to **ALL** attorneys, even those classified as corporations.

In addition to these requirements, IRS rules also state that payments to undocumented workers are not deductible for federal income tax purposes. If you don't have a W-9 or tax ID on file, it is difficult to defend a worker as an independent contractor.

Independent Contractor vs. Employee:

The distinction between an independent contractor and an employee is a major focus area of the IRS and locally with the Texas Workforce Commission (TWC). It is essential that you recognize when a person in your employ should actually be classified as an employee rather than an independent contractor. The below link to the TWC website outlines items to consider when determining if a person is an independent contractor or employee.

<http://www.texasworkforce.org/ui/tax/forms/c8.pdf>

***If you have both employees and independent contractors and are audited by TWC, be prepared to encounter very strict scrutiny on whether your independent contractors are truly contractors and not employees.

Preparing for Year End:

To prepare for the 1099 form processing deadline of January 31st, we have several suggestions to help you stay in compliance prior to this deadline:

- Obtain a completed W-9 from all required individuals prior to issuing them payment.
- Ensure QuickBooks is set-up correctly for 1099 reporting by following the 1099 and 1096 Wizard:
 - Go to the Vendor Menu: Click on Print 1099/1096 and follow the 4 step process.
 - Many times, vendors are accidentally set-up as an "Other" type rather than "Vendor" type. Review your "Other Names" list and convert to vendors as appropriate. This is accomplished in QuickBooks as follows:
 - Go to the Lists menu
 - Click on the Other Names List
 - In the Other Names List double click the name you want to change
 - In the Edit Name window, click the Change Type... icon on the right
 - Select Vendor
 - Click OK to continue, and then click OK again
 - Watch out for duplicate vendor names. Make sure they are merged to one vendor.
- Reconcile your bank and credit card statements through December 31st.
 - Review uncleared checks and credit card charges and void/delete appropriate transactions.

If we will be issuing your 1099-MISC forms, we would like your reconciled QuickBooks file with 1099 information entered no later than **January 16th** to ensure the forms can be processed, reviewed and mailed by January 31st.

We hope you find this information helpful. If you have any questions or need assistance in gathering information and updating QB, please call or email us. We are happy to help!