

# 1099 ALERT!

## Rules:

If you paid any non-corporate person/entity \$600 or more for rents, services (including parts and materials), prizes and awards, or other income payments in the course of your trade or business, you are required to 1099 them. Yes, that includes your landlord, if you rent business property. It does not include me, because I am a corporation. Also report direct sales of over \$5000 of consumer products to a buyer for resale. Personal payments which are not related to your trade or business are not reportable. The IRS Schedule C form has questions on top asking if you were supposed to give anyone a 1099 and whether or not you did. If you answer that did have a 1099 requirement but did not send a 1099, you will probably be audited by correspondence and your deductions will be disallowed

CA & IRS are now denying deductions for payments made to independent contractors in audit if the taxpayer cannot prove a 1099 was issued!

**Any payments at all to an attorney for lawsuit proceeds**, even if they are incorporated, and **even if less than \$600**, now require a 1099 to be issued.

## Filing requirements:

Payees and recipients must receive 1099s by January 31<sup>st</sup>. They must be submitted to the IRS by February 28<sup>th</sup>.

## Exceptions:

1099s are not necessary for payments to a corporation or payments made to purchase inventory. These rules may be changed soon. I will keep you posted.

## Independent Contractor vs. Employee issues:

The IRS is heavily pursuing this issue again. They have performed random audits on it over a multi-year period, which has led to an audit task force and revised manuals for auditors. CA is also performing audits on it. Be sure to 1099 whomever you are required to. Make sure they know and believe that they are independent contractors. It may be prudent to have a written independent contractor agreement in place. CA is threatening tax preparers who knowingly allow their clients to classify employees as independent contractors with large penalties. Speak to me before you engage any 1099 contractors who may really be employees.

## Tip:

You should have a supply of W-9 forms. Get them from IRS web site, an IRS office, or from me if you have to. Make it a habit to have everyone who might become subject to a 1099 fill them out and keep them on file. This will prevent a lot of scrambling for info in January of each year.

If you would like me to prepare your 1099s, I will need the name, address, SSN or EIN (please specify which number you are providing for me) of the parties, and the total amounts paid during the year. Please try to get the information to me ASAP if you would like to be assured of having everything prepared timely. We will not prepare 1099s after February 10th.

## CA INDEPENDENT CONTRACTOR REPORTING

The State is going all out to collect deadbeat child support obligations. I'm sure they want to keep their eye out for non filers or under reporters of income too!

Anyone you pay as an Independent contractor, who would end up receiving a 1099 from you, and whom you will pay \$600 or more to during the year, must be reported to CA. This includes rent to your business premises landlord – you should file in Jan for them since you have an “ongoing contract” with them. The thing to understand about why this is different from a 1099 is that you will be reporting **during the year!** You do not get to wait until the following January. This means you have to have your books pretty together and up to date at all times.

### Exceptions

It is not required for an Independent Contractor who is a corporation, partnership, LLC, or LLP.

### How and When?

You must report anyone who provides services to you *within 20 days of the earlier of:*

- Making payment(s) of \$600 or more.
- Entering into a contract for \$600 or more for any calendar year.

In other words, the minute you have given someone over \$600, or you sign a contract which delineates that it will pay the person more than \$600, you do the form. This means you have to basically do it for your business landlord pretty immediately, since you have a contract with them to pay the rent.

You do the reporting on EDD form DE 542, available on the EDD website, [www.edd.ca.gov](http://www.edd.ca.gov), and mail the form to EDD within 20 days after one of the bulleted events. There are some very thorough fact sheets on the website regarding this whole process. You may mail the form to: Employment Development Department, PO Box 997350 MIC 96, Sacramento, CA 95899-7350, or you may alternatively fax it to 916-319-4410 (sometimes it is busy or doesn't answer, keep trying). You may also report online at the EDD web site. Click “payroll taxes” tab, “E Services for business” on the right, create a login, and click DE 542. The form does not accept EINs, only SSNs. If you find the website to be too cumbersome, acquire a form and fax or mail.

As I have told you before, EDD is not as flexible or forgiving as the IRS. They can assess you a penalty of \$24 for each person you fail to report, and, if they think you and the independent contractor are in cahoots regarding the failed reporting, the penalty goes up to \$490!!!!

My guess (they have not officially told me anything) is that you will start seeing these penalties soon. I have been telling you about this for several years now, so if you did not comply, and you are penalized, there isn't much I can do to help. I have decided that I will not create these forms anymore. If you want to report on someone, you will need to file it yourself. The Electronic version is very easy to do. You do not need to put dollar amounts in, just name address and Tax ID #.