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If you have any comments on this draft, you can submit them to us on our IRS.gov page titled Comment on Forms and Publications, where you may make comments anonymously if you wish. You can also email us at taxforms@irs.gov. Please include the form or publication number in the subject. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each suggestion. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

2013

Instructions for Form 1099-MISC

Department of the Treasury
Internal Revenue Service

Miscellaneous Income

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Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Form 1099-MISC and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form1099misc*.

What's New

Pilot program for truncating an individual's identifying number on paper payee statements has ended. Filers of Form 1099-MISC must show the recipient's complete identifying number on all copies of the form.

Reminder

In addition to these specific instructions, you should also use the 2013 General Instructions for Certain Information Returns. Those general instructions include information about the following topics.

- Backup withholding.
- Electronic reporting requirements.
- Penalties.
- Who must file (nominee/middleman).
- When and where to file.
- Taxpayer identification numbers.
- Statements to recipients.
- Corrected and void returns.
- Other general topics.

You can get the general instructions from IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676)

Specific Instructions

File Form 1099-MISC, Miscellaneous Income, for each person to whom you have paid during the year:

- At least $10 in royalties (see the instructions for box 2) or broker payments in lieu of dividends or tax-exempt interest (see the instructions for box 8);
- At least $600 in rents, services (including parts and materials), 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, or, generally, the cash paid from a notional principal contract to an individual, partnership, or estate;
- Any fishing boat proceeds; or
- Gross proceeds of $600 or more paid to an attorney. See *Payments to attorneys*, later.

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. You must also file Form 1099-MISC for each person from whom you have withheld any federal income tax under the backup withholding rules regardless of the amount of the payment.

CAUTION *Be sure to report each payment in the proper box because the IRS uses this information to determine whether the recipient has properly reported the payment.*

Trade or business reporting only. Report on Form 1099-MISC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or (d), farmers' cooperatives that are exempt from tax under section 521, and widely held fixed investment trusts. Payments by federal, state, or local government agencies are also reportable.

Exceptions. Some payments do not have to be reported on Form 1099-MISC, although they may be taxable to the recipient. Payments for which a Form 1099-MISC is not required include all of the following.

- Generally, payments to a corporation. But see *Reportable payments to corporations*, later.
- Payments for merchandise, telegrams, telephone, freight, storage, and similar items.
- Payments of rent to real estate agents. But the real estate agent must use Form 1099-MISC to report the rent paid over to the property owner. See Regulations section 1.6041-1(e)(5), Example 5, and the instructions for box 1.
- Wages paid to employees (report on Form W-2, Wage and Tax Statement).
- Military differential wage payments made to employees while they are on active duty in the Armed Forces or other uniformed services (report on Form W-2).
- Business travel allowances paid to employees (may be reportable on Form W-2).
- Cost of current life insurance protection (report on Form W-2 or Form 1099-R, Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.).
- Payments to a tax-exempt organization including tax-exempt trusts (IRAs, HSAs, Archer MSAs, and

Coverdell ESAs), the United States, a state, the District of Columbia, a U.S. possession, or a foreign government.

- Payments made to or for homeowners from the HFA Hardest Hit Fund or the Emergency Homeowners' Loan Program or similar state program (report on Form 1098-MA).

Form 1099-K. Payments made with a credit card or payment card and certain other types of payments, including third party network transactions, must now be reported on Form 1099-K by the payment settlement entity under section 6050W and are not subject to reporting on Form 1099-MISC. See the separate Instructions for Form 1099-K.

Fees paid to informers. A payment to an informer as an award, fee, or reward for information about criminal activity does not have to be reported if the payment is made by a federal, state, or local government agency, or by a nonprofit organization exempt from tax under section 501(c)(3) that makes the payment to further the charitable purpose of lessening the burdens of government. For more information, see Regulations section 1.6041-3(l).

Scholarships. Do not use Form 1099-MISC to report scholarship or fellowship grants. Scholarship or fellowship grants that are taxable to the recipient because they are paid for teaching, research, or other services as a condition for receiving the grant are considered wages and must be reported on Form W-2. Other taxable scholarship or fellowship payments (to a degree or nondegree candidate) do not have to be reported by you to the IRS on any form. See section 117(b)-(d) and Regulations section 1.6041-3(n) for more information.

Difficulty-of-care payments. Do not use Form 1099-MISC to report difficulty-of-care payments that are excludable from the recipient's gross income. Difficulty-of-care payments to foster care providers are not reportable if paid for fewer than 11 children under age 19 and fewer than six individuals age 19 or older. Amounts paid for more than 10 children or more than five other individuals are reportable on Form 1099-MISC.

Canceled debt. A canceled debt is not reportable on Form 1099-MISC. Canceled debts must be reported on Form 1099-C, Cancellation of Debt, by financial institutions, credit unions, Federal Government agencies, certain agencies connected with the Federal Government, and an organization where the lending of money (such as finance and credit card companies) is a significant trade or business. See the Instructions for Forms 1099-A and 1099-C.

Reportable payments to corporations. The following payments made to corporations generally must be reported on Form 1099-MISC.

- Medical and health care payments reported in box 6.
- Fish purchases for cash reported in box 7.
- Attorneys' fees reported in box 7.
- Gross proceeds paid to an attorney reported in box 14.
- Substitute payments in lieu of dividends or tax-exempt interest reported in box 8.
- Payments by a federal executive agency for services (vendors) reported in box 7.

CAUTION *Federal executive agencies may also have to file Form 8596, Information Return for Federal Contracts, and Form 8596-A, Quarterly Transmittal of Information Returns for Federal Contracts, if a contracted amount for personal services is more than $25,000. See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at www.irs.gov/pub/irs-irbs/irb03-26.pdf for details.*

Payments to attorneys. The term attorney includes a law firm or other provider of legal services. Attorneys' fees of $600 or more paid in the course of your trade or business are reportable in box 7 of Form 1099-MISC.

Gross proceeds paid to attorneys. Under section 6045(f), report in box 14 payments that:

- Are made to an attorney in the course of your trade or business in connection with legal services, for example, as in a settlement agreement,
- Total $600 or more, and
- Are not reportable by you in box 7.

Generally, you are not required to report the claimant's attorney's fees. For example, an insurance company pays a claimant's attorney $100,000 to settle a claim. The insurance company reports the payment as gross proceeds of $100,000 in box 14. The insurance company does not have a reporting requirement for the claimant's attorney's fees subsequently paid from these funds.

These rules apply whether or not the legal services are provided to the payer and whether or not the attorney is exclusive payee (for example, the attorney's and claimant's names are on one check) or other information returns are required for some or all of a payment under section 6041A(a)(1). For example, a person who, in the course of a trade or business, pays $600 of taxable damages to a claimant by paying that amount to a claimant's attorney is required to furnish Form 1099-MISC to the claimant under section 6041 and furnish Form 1099-MISC to the claimant's attorney under section 6045(f). For more examples and exceptions relating to payments to attorneys, see Regulations section 1.6045-5.

However, these rules do not apply to wages paid to attorneys that are reportable on Form W-2 or to profits distributed by a partnership to its partners that are reportable on:

- Schedule K-1 (Form 1065), Partner's Share of Income, Deductions, Credits, etc., or
- Schedule K-1 (Form 1065-B), Partner's Share of Income (Loss) From an Electing Large Partnership.

Payments to corporations for legal services. The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in box 7) or gross proceeds (in box 14) as described earlier to corporations that provide legal services.

Taxpayer identification numbers (TINs). To report payments to an attorney on Form 1099-MISC, you must obtain the attorney's TIN. You may use Form W-9, Request for Taxpayer Identification Number and Certification, to obtain the attorney's TIN. An attorney is required to promptly supply its TIN whether it is a corporation or other entity, but the attorney is not required to certify its TIN. If the attorney fails to provide its TIN, the

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attorney may be subject to a penalty under section 6723 and its regulations, and you must backup withhold on the reportable payments.

Fish purchases. If you are in the trade or business of purchasing fish for resale, you must report total cash payments of $600 or more paid during the year to any person who is engaged in the trade or business of catching fish. Report these payments in box 7. You are required to keep records showing the date and amount of each cash payment made during the year, but you must report only the total amount paid for the year on Form 1099-MISC.

"Fish" means all fish and other forms of aquatic life. "Cash" means U.S. and foreign coin and currency and a cashier's check, bank draft, traveler's check, or money order. Cash does not include a check drawn on your personal or business account.

Deceased employee's wages. If an employee dies during the year, you must report the accrued wages, vacation pay, and other compensation paid after the date of death. If you made the payment in the same year the employee died, you must withhold social security and Medicare taxes on the payment and report them only as social security and Medicare wages on the employee's Form W-2 to ensure that proper social security and Medicare credit is received. On the Form W-2, show the payment as social security wages (box 3) and Medicare wages and tips (box 5) and the social security and Medicare taxes withheld in boxes 4 and 6; do not show the payment in box 1 of Form W-2.

If you made the payment after the year of death, do not report it on Form W-2, and do not withhold social security and Medicare taxes.

Whether the payment is made in the year of death or after the year of death, you also must report the payment to the estate or beneficiary on Form 1099-MISC. Report the payment in box 3 (rather than in box 7 as specified in Rev. Rul. 86-109, 1986-2 C.B. 196). See the *Example* that follows. Enter the name and TIN of the payment recipient on Form 1099-MISC. For example, if the recipient is an individual beneficiary, enter the name and social security number of the individual; if the recipient is the estate, enter the name and employer identification number of the estate. The general backup withholding rules apply to this payment.

Death benefits from nonqualified deferred compensation plans or section 457 plans paid to the estate or beneficiary of a deceased employee are reportable on Form 1099-MISC. Do not report these death benefits on Form 1099-R. However, if the benefits are from a qualified plan, report them on Form 1099-R. See the Instructions for Forms 1099-R and 5498.

Example. Before Employee A's death on June 15, 2013, A was employed by Employer X and received $10,000 in wages on which federal income tax of $1,500 was withheld. When A died, X owed A $2,000 in wages and $1,000 in accrued vacation pay. The total of $3,000 (less the social security and Medicare taxes withheld) was paid to A's estate on July 20, 2013. Because X made the payment during the year of death, X must withhold social security and Medicare taxes on the $3,000 payment and must complete Form W-2 as follows.

- Box 1—10000.00 (does not include the $3,000 accrued wages and vacation pay)
- Box 2—1500.00
- Box 3—13000.00 (includes the $3,000 accrued wages and vacation pay)
- Box 4—Social security tax withheld on the amount in box 3
- Box 5—13000.00 (includes the $3,000 accrued wages and vacation pay)
- Box 6—Medicare tax withheld on the amount in box 5

Employer X also must complete Form 1099-MISC as follows.

- Boxes for recipient's name, address, and TIN—the estate's name, address, and TIN.
- Box 3—3000.00 (Even though amounts were withheld for social security and Medicare taxes, the gross amount is reported here.)

If Employer X made the payment after the year of death, the $3,000 would not be subject to social security and Medicare taxes and would not be shown on Form W-2. However, the employer would still file Form 1099-MISC.

Employee business expense reimbursements. Do not use Form 1099-MISC to report employee business expense reimbursements. Report payments made to employees under a nonaccountable plan as wages on Form W-2. Generally, payments made to employees under an accountable plan are not reportable on Form W-2, except in certain cases when you pay a *per diem* or mileage allowance. For more information, see the Instructions for Forms W-2 and W-3; Pub. 463, Travel, Entertainment, Gift, and Car Expenses; and Pub. 1542, Per Diem Rates. For information on reporting employee moving expense reimbursements on Form W-2, see the Instructions for Forms W-2 and W-3.

Independent contractor or employee. Generally, you must report payments to independent contractors on Form 1099-MISC in box 7. See the instructions for box 7.

TIP *Section 530 of the Revenue Act of 1978 as extended by section 269(c) of P.L. 97-248 deals with the employment tax status of independent contractors and employees. To qualify for relief under section 530, employers must file Form 1099-MISC. Additional requirements for relief are discussed in Rev. Proc. 85-18, 1985-1 C.B. 518. Also see Pub. 15-A, Employer's Supplemental Tax Guide, for special rules that may apply to technical service specialists and test proctors and room supervisors.*

Transit passes and parking for independent contractors. Although you cannot provide qualified transportation fringes to independent contractors, the working condition and *de minimis* fringe rules for transit passes and parking apply to independent contractors. Tokens or farecards that enable an independent contractor to commute on a public transit system (not including privately operated van pools) are excludable from the independent contractor's gross income and are

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not reportable on Form 1099-MISC if their value in any month is $21 or less. However, if the value of a pass provided in a month is greater than $21, the full value is includible in gross income and is reportable on Form 1099-MISC. The value of parking may be excludable from an independent contractor's gross income, and, therefore, not reportable on Form 1099-MISC if certain requirements are met. See Regulations section 1.132-9(b), Q/A-24.

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Directors' fees. You must report directors' fees and other remuneration, including payments made after retirement, on Form 1099-MISC in the year paid. Report them in box 7.

Commissions paid to lottery ticket sales agents. A state that has control over and responsibility for online and instant lottery games must file Form 1099-MISC to report commissions paid, whether directly or indirectly, to licensed sales agents. For example, State X retains control over and liability for online and instant lottery games. For online ticket sales, State X pays commissions by allowing an agent to retain 5% of the ticket proceeds the agent remits to State X. For instant ticket sales, State X pays commissions by providing tickets to the agent for 5% less than the proceeds to be obtained by the agent from the sale of those tickets. If the commissions for the year total $600 or more, they must be reported in box 7 on Form 1099-MISC. See Rev. Rul. 92-96, 1992-2 C.B. 281.

Escrow agent; construction project. When an escrow agent maintains owner-provided funds in an escrow account for a construction project, performs management and oversight functions relating to the construction project, and makes payments for the owner and the general contractor, the escrow agent must file Form 1099-MISC for reportable payments of $600 or more. This requirement applies whether or not the escrow agent is a bank. If the contractor is the borrower of the funds, do not report on Form 1099-MISC any loan payments made to the contractor/borrower.

Indian gaming profits, payments to tribal members. If you make payments to members of Indian tribes from the net revenues of class II or class III gaming activities conducted or licensed by the tribes, you must withhold federal income tax on such payments. File Form 1099-MISC to report the payments and withholding to tribal members. Report the payments in box 3 and the federal income tax withheld in box 4. Pub. 15-A contains the necessary “Tables for Withholding on Distributions of Indian Gaming Profits to Tribal Members.”

State or local sales taxes. If state or local sales taxes are imposed on the service provider and you (as the buyer) pay them to the service provider, report them on Form 1099-MISC as part of the reportable payment. However, if sales taxes are imposed on you (as the buyer) and collected from you by the service provider, do not report the sales taxes on Form 1099-MISC.

Widely held fixed investment trusts (WHFITs). Trustees and middlemen of WHFITs must report items of gross income attributable to a trust income holder (TIH) on the appropriate Form 1099. A tax information statement that includes the information provided to the IRS on Forms 1099, as well as additional information identified in Regulations section 1.671-5(e), must be furnished to TIHs. For details, see the 2013 General Instructions for Certain Information Returns.

Statements to recipients. If you are required to file Form 1099-MISC, you must provide a statement to the recipient. For more information about the requirement to furnish a statement to each recipient, see part M in the 2013 General Instructions for Certain Information Returns.

2nd TIN not. You may enter an “X” in this box if you were notified by the IRS twice within 3 calendar years that the payee provided an incorrect TIN. If you mark this box, the IRS will not send you any further notices about this account. However, if you received both IRS notices in the same year, or if you received them in different years but they both related to information returns filed for the same year, do not check the box at this time. For purposes of the two-notices-in-3-years rule, you are considered to have received one notice. You are not required to send a second “B” notice upon receipt of the second notice. See part N in the 2013 General Instructions for Certain Information Returns for more information.

TIP *For information on the TIN Matching System offered by the IRS, see the 2013 General Instructions for Certain Information Returns.*

Recipient's Identification Number

Enter the recipient's identification number using hyphens in the proper format. SSNs, ITINs, and ATINs should be in the XXX-XX-XXXX format. EINs should be in the XX-XXXXXXX format. You should make every effort to insure that you have the correct type of number reported in the correct format.

Account Number

The account number is required if you have multiple accounts for a recipient for whom you are filing more than one Form 1099-MISC. Additionally, the IRS encourages you to designate an account number for all Forms 1099-MISC that you file. See part L in the 2013 General Instructions for Certain Information Returns.

Box 1. Rents

Enter amounts of $600 or more for all types of rents, such as any of the following.

- Real estate rentals paid for office space. However, you do not have to report these payments on Form 1099-MISC if you paid them to a real estate agent. But the real estate agent must use Form 1099-MISC to report the rent paid over to the property owner. See Regulations section 1.6041-1(e)(5), Example 5.
- Machine rentals (for example, renting a bulldozer to level your parking lot). If the machine rental is part of a contract that includes both the use of the machine and the operator, prorate the rental between the rent of the machine (report that in box 1) and the operator's charge (report that as nonemployee compensation in box 7).
- Pasture rentals (for example, farmers paying for the use of grazing land).

Public housing agencies must report in box 1 rental assistance payments made to owners of housing projects. See Rev. Rul. 88-53, 1988-1 C.B. 384.

Coin-operated amusements. If an arrangement between an owner of coin-operated amusements and an owner of a business establishment where the amusements are placed is a lease of the amusements or the amusement space, the owner of the amusements or the owner of the space, whoever makes the payments, must report the lease payments in box 1 of Form 1099-MISC if the payments total at least $600. However, if the arrangement is a joint venture, the joint venture must file a Form 1065, U.S. Return of Partnership Income, and provide each partner with the information necessary to report the partner's share of the taxable income. Coin-operated amusements include video games, pinball machines, jukeboxes, pool tables, slot machines, and other machines and gaming devices operated by coins or tokens inserted into the machines by individual users. For more information, see Rev. Rul. 92-49, 1992-1 C.B. 433.

Box 2. Royalties

Enter gross royalty payments (or similar amounts) of $10 or more. Report royalties from oil, gas, or other mineral properties before reduction for severance and other taxes that may have been withheld and paid. Do not include surface royalties. They should be reported in box 1. Do not report oil or gas payments for a working interest in box 2; report payments for working interests in box 7. Do not report timber royalties made under a pay-as-cut contract; report these timber royalties on Form 1099-S, Proceeds From Real Estate Transactions.

Use box 2 to report royalty payments from intangible property such as patents, copyrights, trade names, and trademarks. Report the gross royalties (before reduction for fees, commissions, or expenses) paid by a publisher directly to an author or literary agent, unless the agent is a corporation. The literary agent (whether or not a corporation) that receives the royalty payment on behalf of the author must report the gross amount of royalty payments to the author on Form 1099-MISC whether or not the publisher reported the payment to the agent on its Form 1099-MISC.

Box 3. Other Income

Enter other income of $600 or more required to be reported on Form 1099-MISC that is not reportable in one of the other boxes on the form.

Also enter in box 3 prizes and awards that are not for services performed. Include the fair market value (FMV) of merchandise won on game shows. Also include amounts paid to a winner of a sweepstakes not involving a wager. If a wager is made, report the winnings on Form W-2G, Certain Gambling Winnings.

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Illustrated example.

The completed Form 1099-MISC illustrates the following example. Z Builders is a contractor that subcontracts drywall work to Ronald Green, a sole proprietor who does business as Y Drywall. During the year, Z Builders pays Mr. Green $5,500. Z Builders must file Form 1099-MISC because they paid Mr. Green $600 or more in the course of their trade or business, and Mr. Green is not a corporation.

9595 ☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no.		1 Rents	OMB No. 1545-0115	
Z Builders 123 Maple Avenue Oaktown, AL 00000 555-555-1212		$	2013	Miscellaneous Income
		2 Royalties $	Form 1099-MISC	
		3 Other income $	4 Federal income tax withheld $	Copy A For Internal Revenue Service Center File with Form 1096.
PAYER'S Federal identification number 10-9999999	RECIPIENT'S identification number 123-00-6789	5 Fishing boat proceeds $	6 Medical and health care payments $	
RECIPIENT'S name Ronald Green dba/ Y Drywall		7 Nonemployee compensation $ 5500.00	8 Substitute payments in lieu of dividends or interest $	For Privacy Act and Paperwork Reduction Act Notice, see the 2013 General Instructions for Certain Information Returns
Street address (including apt. no.) 456 Flower Lane		9 Payer made direct sales of $5,000 or more of consumer products to a buyer (recipient) for resale ► ☐	10 Crop insurance proceeds $	
City, state, and ZIP code Oaktown, AL 00000		11	12	
Account number (see instructions)	2nd TIN not. ☐	13 Excess golden parachute payments $	14 Gross proceeds paid to an attorney $	
15a Section 409A deferrals $	15b Section 409A income $	16 State tax withheld $ $	17 State/Payer's state no.	18 State income $ $

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If, not later than 60 days after the winner becomes entitled to the prize, the winner can choose the option of a lump sum or an annuity payable over at least 10 years, the payment of winnings is considered made when actually paid. If the winner chooses an annuity, file Form 1099-MISC each year to report the annuity paid during that year.

Do not include prizes and awards paid to your employees. Report these on Form W-2. Do not include in box 3 prizes and awards for services performed by nonemployees, such as an award for the top commission salesperson. Report them in box 7.

Prizes and awards received in recognition of past accomplishments in religious, charitable, scientific, artistic, educational, literary, or civic fields are not reportable if:

- The winners are chosen without action on their part,
- The winners are not expected to perform future services, and
- The payer transfers the prize or award to a charitable organization or governmental unit under a designation made by the recipient. See Rev. Proc. 87-54, 1987-2 C.B. 669.

Other items required to be reported in box 3 include the following.

1. Payments as explained earlier under *Deceased employee's wages*.

2. Payments as explained earlier under *Indian gaming profits, payments to tribal members*.

3. A payment or series of payments made to individuals for participating in a medical research study or studies.

4. Termination payments to former self-employed insurance salespeople. These payments are not subject to self-employment tax and are reportable in box 3 (rather than box 7) if all the following apply.

a. The payments are received from an insurance company because of services performed as an insurance salesperson for the company.

b. The payments are received after termination of the salesperson's agreement to perform services for the company.

c. The salesperson did not perform any services for the company after termination and before the end of the year.

d. The salesperson enters into a covenant not to compete against the company for at least 1 year after the date of termination.

e. The amount of the payments depends primarily on policies sold by the salesperson or credited to the salesperson's account during the last year of the service agreement or to the extent those policies remain in force for some period after termination, or both.

f. The amount of the payments does not depend at all on length of service or overall earnings from the company (regardless of whether eligibility for payment depends on length of service).

If the termination payments do not meet all these requirements, report them in box 7.

5. Generally, all punitive damages, any damages for nonphysical injuries or sickness, and any other taxable damages. Report punitive damages even if they relate to physical injury or physical sickness. Generally, report all compensatory damages for nonphysical injuries or sickness, such as employment discrimination or defamation. However, do not report damages (other than punitive damages):

a. Received on account of personal physical injuries or physical sickness;

b. That do not exceed the amount paid for medical care for emotional distress;

c. Received on account of nonphysical injuries (for example, emotional distress) under a written binding agreement, court decree, or mediation award in effect on or issued by September 13, 1995; or

d. That are for a replacement of capital, such as damages paid to a buyer by a contractor who failed to complete construction of a building.

Damages received on account of emotional distress, including physical symptoms such as insomnia, headaches, and stomach disorders, are not considered received for a physical injury or physical sickness and are reportable unless described in b or c above. However, damages received on account of emotional distress due to physical injuries or physical sickness are not reportable.

Also report liquidated damages received under the Age Discrimination in Employment Act of 1967.

Taxable back pay damages may be wages and reportable on Form W-2. See Pub. 957, Reporting Back Pay and Special Wage Payments to the Social Security Administration.

Foreign agricultural workers. Report in box 3 compensation of $600 or more paid in a calendar year to an H-2A visa agricultural worker who did not give you a valid taxpayer identification number. You must also withhold federal income tax under the backup withholding rules. For more information, go to IRS.gov and enter “foreign agricultural workers” in the search box.

Box 4. Federal Income Tax Withheld

Enter backup withholding. For example, persons who have not furnished their TIN to you are subject to withholding on payments required to be reported in boxes 1, 2 (net of severance taxes), 3, 5 (to the extent paid in cash), 6, 7 (except fish purchases for cash), 8, 10, and 14. For more information on backup withholding, including the rate, see part N in the 2013 General Instructions for Certain Information Returns.

Also enter any income tax withheld from payments to members of Indian tribes from the net revenues of class II or class III gaming activities conducted or licensed by the tribes.

Box 5. Fishing Boat Proceeds

Enter the individual's share of all proceeds from the sale of a catch or the FMV of a distribution in kind to each crew

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member of fishing boats with normally fewer than 10 crew members. A fishing boat has normally fewer than 10 crew members if the average size of the operating crew was fewer than 10 on trips during the preceding 4 calendar quarters.

In addition, report cash payments of up to $100 per trip that are contingent on a minimum catch and are paid solely for additional duties (such as mate, engineer, or cook) for which additional cash payments are traditional in the industry. However, do not report on Form 1099-MISC any wages reportable on Form W-2.

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Box 6. Medical and Health Care Payments

Enter payments of $600 or more made in the course of your trade or business to each physician or other supplier or provider of medical or health care services. Include payments made by medical and health care insurers under health, accident, and sickness insurance programs. If payment is made to a corporation, list the corporation as the recipient rather than the individual providing the services. Payments to persons providing health care services often include charges for injections, drugs, dentures, and similar items. In these cases the entire payment is subject to information reporting. You are not required to report payments to pharmacies for prescription drugs.

The exemption from issuing Form 1099-MISC to a corporation does not apply to payments for medical or health care services provided by corporations, including professional corporations. However, you are not required to report payments made to a tax-exempt hospital or extended care facility or to a hospital or extended care facility owned and operated by the United States (or its possessions), a state, the District of Columbia, or any of their political subdivisions, agencies, or instrumentalities.

CAUTION *Generally, payments made under a flexible spending arrangement (as defined in section 106(c)(2)) or a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan for purposes of section 106 are exempt from the reporting requirements of section 6041.*

Box 7. Nonemployee Compensation

Enter nonemployee compensation of $600 or more. Include fees, commissions, prizes and awards for services performed as a nonemployee, other forms of compensation for services performed for your trade or business by an individual who is not your employee, and fish purchases for cash. Include oil and gas payments for a working interest, whether or not services are performed. Also include expenses incurred for the use of an entertainment facility that you treat as compensation to a nonemployee. Federal executive agencies that make payments to vendors for services, including payments to corporations, must report the payments in this box. See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at *www.irs.gov/pub/irs-irbs/irb03-26.pdf*.

What is nonemployee compensation? If the following four conditions are met, you must generally report a payment as nonemployee compensation.

- You made the payment to someone who is not your employee;
- You made the payment for services in the course of your trade or business (including government agencies and nonprofit organizations);
- You made the payment to an individual, partnership, estate, or, in some cases, a corporation; and
- You made payments to the payee of at least $600 during the year.

Self-employment tax. Generally, amounts reportable in box 7 are subject to self-employment tax. If payments to individuals are not subject to this tax and are not reportable elsewhere on Form 1099-MISC, report the payments in box 3. However, report section 530 (of the Revenue Act of 1978) worker payments in box 7.

Examples. The following are some examples of payments to be reported in box 7.

- Professional service fees, such as fees to attorneys (including corporations), accountants, architects, contractors, engineers, etc.
- Fees paid by one professional to another, such as fee-splitting or referral fees.
- Payments by attorneys to witnesses or experts in legal adjudication.
- Payment for services, including payment for parts or materials used to perform the services if supplying the parts or materials was incidental to providing the service. For example, report the total insurance company payments to an auto repair shop under a repair contract showing an amount for labor and another amount for parts, if furnishing parts was incidental to repairing the auto.
- Commissions paid to nonemployee salespersons that are subject to repayment but not repaid during the calendar year.
- A fee paid to a nonemployee, including an independent contractor, or travel reimbursement for which the nonemployee did not account to the payer, if the fee and reimbursement total at least $600. To help you determine whether someone is an independent contractor or an employee, see Pub. 15-A.
- Payments to nonemployee entertainers for services. Use Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, for payments to nonresident aliens.
- Exchanges of services between individuals in the course of their trades or businesses. For example, an attorney represents a painter for nonpayment of business debts in exchange for the painting of the attorney's law offices. The amount reportable by each on Form 1099-MISC is the FMV of his or her own services performed. However, if the attorney represents the painter in a divorce proceeding, this is an activity that is unrelated to the painter's trade or business. The attorney must report on Form 1099-MISC the value of his or her services. But the painter need not report on Form 1099-MISC the value of painting the law offices because

the work is in exchange for legal services that are separate from the painter's business.

- Taxable fringe benefits for nonemployees. For information on the valuation of fringe benefits, see Pub. 15-B, Employer's Tax Guide to Fringe Benefits.
- Gross oil and gas payments for a working interest.
- Payments to an insurance salesperson who is not your common law or statutory employee. See Pub. 15-A for the definition of employee. However, for termination payments to former insurance salespeople, see the instructions for box 3.
- Directors' fees as explained under *Directors' fees*, earlier.
- Commissions paid to licensed lottery ticket sales agents as explained under *Commissions paid to lottery ticket sales agents* , earlier.
- Payments to section 530 (of the Revenue Act of 1978) workers. See the *TIP* under *Independent contractor or employee*, earlier.
- Fish purchases for cash. See *Fish purchases*, earlier.

Nonqualified deferred compensation (Section 409A) income. Include in box 7 the amount of all deferrals (plus earnings) reported in box 15b that are includible in gross income because the nonqualified deferred compensation (NQDC) plan fails to satisfy the requirements of section 409A. See Regulations sections 1.409A-1 through 1.409A-6.

Golden parachute payments. A parachute payment is any payment that meets all of the following conditions.

1. The payment is in the nature of compensation.
2. The payment is to, or for the benefit of, a disqualified individual.
3. The payment is contingent on a change in the ownership of a corporation, the effective control of a corporation, or the ownership of a substantial portion of the assets of a corporation (a change in ownership or control).
4. The payment has (together with other payments described in 1, 2, and 3, above, made to the same individual) an aggregate present value of at least three times the individual's base amount.

A disqualified individual is one who at any time during the 12-month period prior to and ending on the date of the change in ownership or control of the corporation (the disqualified individual determination period) was an employee or independent contractor and was, in regard to that corporation, a shareholder, an officer, or a highly compensated individual.

For more details, see Regulations section 1.280G-1. Also, see Rev. Proc. 2003-68, which is on page 398 of Internal Revenue Bulletin 2003-34 at www.irs.gov/pub/irs-irbs/irb03-34.pdf, concerning the valuation of stock options for purposes of golden parachute payment rules. For the treatment of unvested shares of restricted stock, see Rev. Rul. 2005-39, available at www.irs.gov/irb/2005-27_IRB/ar08.html.

Independent contractor. Enter in box 7 the total compensation, including any golden parachute payment. For excess golden parachute payments, see the box 13 reporting instructions.

For employee reporting of these payments, see Pub. 15-A.

Payments not reported in box 7. Do not report in box 7, nor elsewhere on Form 1099-MISC, the cost of current life insurance protection (report on Form W-2 or Form 1099-R); an employee's wages, travel or auto allowance, or bonuses (report on Form W-2); or the cost of group-term life insurance paid on behalf of a former employee (report on Form W-2).

Box 8. Substitute Payments in Lieu of Dividends or Interest

Enter aggregate payments of at least $10 received by a broker for a customer in lieu of dividends or tax-exempt interest as a result of a loan of a customer's securities. For this purpose, a customer includes an individual, trust, estate, partnership, association, company, or corporation. See Notice 2003-67, which is on page 752 of Internal Revenue Bulletin 2003-40 at www.irs.gov/pub/irs-irbs/irb03-40.pdf. It does not include a tax-exempt organization, the United States, any state, the District of Columbia, a U.S. possession, or a foreign government. File Form 1099-MISC with the IRS and furnish a copy to the customer for whom you received the payment. Also, file Form 1099-MISC for and furnish a copy to an individual for whom you received a payment in lieu of tax-exempt interest.

Substitute payment means a payment in lieu of (a) a dividend or (b) tax-exempt interest to the extent that interest (including OID) has accrued while the securities were on loan.

Box 9. Payer Made Direct Sales of $5,000 or More

Enter an “X” in the checkbox for sales by you of $5,000 or more of consumer products to a person on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or any other person) anywhere other than in a permanent retail establishment. Do not enter a dollar amount in this box.

If you are reporting an amount in box 7, you may also check box 9 on the same Form 1099-MISC.

The report you must give to the recipient for these direct sales need not be made on the official form. It may be in the form of a letter showing this information along with commissions, prizes, awards, etc.

Box 10. Crop Insurance Proceeds

Enter crop insurance proceeds of $600 or more paid to farmers by insurance companies unless the farmer has informed the insurance company that expenses have been capitalized under section 278, 263A, or 447.

Boxes 11 and 12. Reserved

Make no entries in these boxes.

Box 13. Excess Golden Parachute Payments

Enter any excess golden parachute payments. An excess parachute payment is the amount of the excess of any parachute payment over the base amount (the average annual compensation for services includible in the

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individual's gross income over the most recent 5 tax years). See Q/A-38 through Q/A-44 of Regulations section 1.280G-1 for how to compute the excess amount.

See *Golden parachute payments* , earlier, for more information.

Box 14. Gross Proceeds Paid to an Attorney

Enter gross proceeds of $600 or more paid to an attorney in connection with legal services (regardless of whether the services are performed for the payer). See *Payments to attorneys*, earlier.

Box 15a. Section 409A Deferrals

You do not have to complete this box. For details, see Notice 2008-115, available at *www.irs.gov/irb/2008-52_IRB/ar10.html*.

If you complete this box, enter the total amount deferred during the year of at least $600 for the nonemployee under all nonqualified plans. The deferrals during the year include earnings on the current year and prior year deferrals. For additional information, see Regulations sections 1.409A-1 through 1.409A-6.

For deferrals and earnings under NQDC plans for employees, see the Instructions for Forms W-2 and W-3.

Box 15b. Section 409A Income

Enter all amounts deferred (including earnings on amounts deferred) that are includible in income under section 409A because the NQDC plan fails to satisfy the requirements of section 409A. Do not include amounts properly reported on a Form 1099-MISC, corrected Form 1099-MISC, Form W-2, or Form W-2c for a prior year. Also, do not include amounts that are considered to be subject to a substantial risk of forfeiture for purposes of section 409A. For additional information, see Regulations sections 1.409A-1 through 1.409A-6; Notice 2008-113, available at *www.irs.gov/irb/2008-51_IRB/ar12.html*; Notice 2008-115; Notice 2010-6, which is available at *www.irs.gov/irb/2010-03_IRB/ar08.html*; and Notice 2010-80, available at *www.irs.gov/irb/2010-51_IRB/ar08.html*.

The amount included in box 15b is also includible in box 7.

Boxes 16–18. State Information

These boxes, and Copies 1 and 2, are provided for your convenience only and need not be completed for the IRS. Use the state information boxes to report payments for up to two states. Keep the information for each state separated by the dash line. If you withheld state income tax on this payment, you may enter it in box 16. In box 17, enter the abbreviated name of the state and the payer's state identification number. The state number is the payer's identification number assigned by the individual state. In box 18, you may enter the amount of the state payment. Use Copy 1 to provide information to the state tax department. Give Copy 2 to the recipient for use in filing the recipient's state income tax return.

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To help us develop a more useful index, please let us know if you have ideas for index entries. See “Comments and Suggestions” in the “Introduction” for the ways you can reach us.

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