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## Form 1099-MISC General Guidelines

### **Introduction**

The information below is intended to provide general guidelines for the Form 1099-MISC. It is not intended to cover all the various IRS requirements involved in completing or using the form.

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 some limited liability companies. Often times, an "incorporated entity" will have "Inc." following the name of the company. Incorporated entities receiving payment for services are not required to receive a Form 1099-MISC.

### **Who Should Receive a Form 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 \$600 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

In all cases, a valid name, address, and Taxpayer Identification Number (TIN) should be obtained from each individual or business **BEFORE a payment is made** to them. The most effective way to obtain this information is by requiring the completion of IRS Form W-9 (for a US person including resident aliens). US corporations are the only ones not required to provide this information. The TIN may be a Social Security Number (SSN) or Employer Identification Number (EIN).

Non-resident aliens and foreign corporations should instead complete IRS Form W-8. Although uncommon, if this situation should arise, please contact us and we will work with you to get the proper form completed.

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In addition to the requirements for receiving a 1099 as noted previously, the circumstances in which a 1099 may or may not be required include, but are not limited to, the following:

Type of Payment	1099 Required?	Explanation
<i>A 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 employee, the payment <u>must</u> be included in the employee's W-2 salary. If the recipient is not (or should not) be paid as an employee, a 1099 must be issued to the recipient. *
Benevolent gifts	Maybe	Benevolent gifts are not taxable and a recipient should not receive a 1099 <u>unless</u> the recipient performed services for the payer. If the services were performed as an employee, the amount must be added to their W-2 salary regardless of the purpose of the gift. If the recipient performed services, and he / she is not an employee, the payment is taxable income to the recipient and it must be reported on a 1099.
Payments to individuals who are <u>not</u> citizens of the U.S.	Maybe	If services are performed in the U.S., the recipient must receive a 1099. These payments could also be subject to additional IRS regulations.
Payments to U.S. citizens for services performed outside the U.S.	Yes	U.S. citizens receiving payment for non-employee services performed outside the U.S. must be given a 1099. These payments could also be subject to additional IRS regulations.
Payments to a limited liability company (LLC)	Maybe	If the individual or business completing the W-9 selects "Limited liability company" as their federal tax classification, they must also further classify themselves as a C corporation, S corporation or Partnership. Only those classified as a Partnership must then be given a 1099 for payment received.
Rent or lease payments	Yes	For real estate and personal property

\* 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 Position Paper titled "Independent Contractor Verses Employee" located on the [www.MMSMidwest.com](http://www.MMSMidwest.com) website.

### **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 \$600 in a calendar year
- Recipients of payments for the purchase of products

As long as accurate information is reported, it is never 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.