

**DIANE FAULDS, EA
864 GRAND AVE., STE 500
SAN DIEGO, CA 92109
TEL: 858-299-4848**

E-MAIL: diane@fauldstax.com

November 24, 2021

2021 Form 1099 Filing Requirements & Due Dates

This document is meant to provide you with a general overview of what you need to know concerning the preparation and issuance of Forms 1099-MISC and 1099-NEC for 2021. The following general guidelines are meant to assist you in either preparing the required information returns yourself or to help you gather the appropriate information so that we may prepare the forms on your behalf. This information serves as an overview and does not detail all of the related filing requirements. If you have additional questions, please contact us.

Included with this memorandum are the following separate attachments for your reference and use:

- Form W-9 with general instructions
- Instructions for Form 1099-MISC and 1099-NEC

The following are the general guidelines for issuing Forms 1099-MISC and Form 1099-NEC:

1. In the course of trade or business, Form 1099-MISC must be issued to each individual or partnership (see points #4 and 5) to which you paid for goods or services in 2021 as summarized below.
 - a. Payments made with a credit card, payment card or other third-party payment facilitator such as PayPal or Venmo do not need to be reported on either Form 1099-MISC or Form 1099-NEC.
2. Form 1099-MISC is required for 2021 royalty payments in excess of \$10.
3. Form 1099-MISC is required for 2021 payments for goods or services of \$600 or more. Examples of such payments include, but are not limited to:
 - a. Rents
 - b. Commission payments
 - c. Directors' fees
 - d. Gross proceeds paid to attorneys not in connection for the attorney's services.
4. Form 1099-NEC is required for 2021 payments for services of \$600 or more.
 - a. Payments to independent contractors
 - b. Payments for professional services such as legal, accounting, engineering, architecture, etc.
 - c. Services (including parts and materials)

5. Generally, payments to corporations are not required to be reported on Form 1099-MISC or Form 1099-NEC. However, Form 1099-MISC must be issued to corporations for 2021 payments of \$600 or more related to medical and health care payments and Form 1099-NEC for 2021 payments of \$600 or more related to legal services.
6. Forms 1099-MISC and Form 1099-NEC are required to be issued to the recipients on or before **February 1, 2022**.
7. Forms 1099-MISC and Form 1099-NEC are required to be filed with the IRS on or before **February 1, 2022**.
8. There are multiple potential IRS penalties for unreported (non-filed) Forms 1099-MISC. The penalties vary depending on the file date of the Forms.
 - Failure to File Penalties: The failure to file penalty is a maximum of \$270 per each unfiled Form 1099-MISC or Form 1099-NEC, up to \$1,113,000 for small businesses. If any failure to file a correct information return is due to intentional disregard of the filing or correct information requirements, the penalty is at least \$540 per information return with no maximum penalty.
 - Failure to Furnish Payee Statement Penalties: The failure to furnish correct payee statements penalty is also a maximum of \$270 per each unfurnished Form 1099-MISC or Form 1099-NEC, up to \$1,113,000 for small businesses. If any failure to provide a correct payee statement is due to intentional disregard of the requirements to furnish a correct payee statement, the penalty is at least \$540 per payee statement with no maximum penalty.
9. In order to gather accurate information required to be reported on Form 1099-MISC or Form 1099-NEC, a completed Form W-9 should be obtained from all potential Form 1099-MISC recipients before doing business with them. If completed Forms W-9 were not previously obtained, these should be gathered from applicable vendors as soon as possible.
10. On September 18, 2019, California passed AB 5. AB 5 codifies the California Supreme Court's ruling in Dynamex. Most workers are presumed to be an employee, unless the entity hiring the worker satisfies a three-factor test, referred to as the ABC test. In California, all three of these conditions must be met in order to treat the worker as an independent contractor
 - a. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact
 - b. The worker performs work that is outside the usual course of the hiring entity's business; and
 - c. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

If you have any questions regarding Form 1099-MISC requirements or filing procedures, please contact Diane Faulds at (858) 299-4848 or via email at diane@fauldstax.com.