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THE TAX LAWYER

Sep. 30 2010 — 9:52 am

I'm Sending An IRS 1099: 1099 Are You Outta Your Mind?

No, this is not a Gekko-repriced Grand Slam breakfast slogan from Denny's. It's not even a price for anything, though there is a price to pay if you get one. It's the ubiquitous tax form nearly all businesses must send out in January. Who's covered? Just about everyone or so it would seem. And following up on this posting, [The Truth About IRS Forms 1099](#), more are on the way soon.

The general threshold is \$600. If you pay someone \$600 or more for services during the course of the year (cumulatively, so it could be in several smaller checks), you must report. One of the most common forms is the [1099-MISC](#) for miscellaneous payments. There are several categories of payments on a 1099-MISC—little boxes the payor fills in—like nonemployee compensation or other income.

There are many special categories of Forms 1099. There's a [1099-INT](#) for interest; [1099-DIV](#) for dividends; [1099-G](#) for state and local tax refunds and [unemployment benefits](#); [1099-R](#) for pensions and payouts from your individual retirement accounts; [1099-B](#) for broker transactions and barter exchanges; [1099-S](#) for real estate transactions, etc. There are lots of rules and regulations, and if you're in business, you need to comply. Soon (after 2011) not only payments for **services** will be covered, but payments for **property** too, as well as payments made to corporations that were traditionally exempt. Penalties for failing to issue the nettlesome forms are up too.

But you may find there are surprising variations in how people interpret the rules. For example, take lawsuit settlements. If you're in business and pay a plaintiff to settle a lawsuit against you, you generally must report the payment. However, if the payment isn't income to the plaintiff because it's for personal physical injuries—say the plaintiff fell and was hurt on your business premises—you ***shouldn't*** send a 1099. So say the IRS's [instructions](#) to Form 1099-MISC.

It turns out there's lots of room for interpretation, and what constitutes personal physical injury/sickness isn't clear. See [Bruises, Settlements, and the Proposed 104 Regs.](#) Often a plaintiff who ***thinks*** his recovery is tax free and won't incur the wrath of a Form 1099 finds out differently the following January. That can be an unpleasant surprise, so consider making the ***lack*** of a Form 1099 explicit in the settlement agreement in appropriate cases. See [10 Things to Know About Taxes on Damages.](#)

Another foible relates to how settlement checks are cut. If you're a plaintiff and receiving a settlement, you might think the biggest Form 1099 you could receive would correspond to the amount on your check. Say you sue a company for stiffing you on a consulting contract that was to pay you \$100,000. You hire a contingent fee lawyer who charges 40% and eventually you settle for \$75,000. Your lawyer gets the check from the defendant, and you get a net check from your lawyer for \$45,000. Will the defendant issue you a Form 1099 for \$45,000?

Nope. In most cases, you'll get a 1099 for the full \$75,000. (In fact, the defendant usually must issue a 1099 to your lawyer for the full amount too!) That means you'll need to consider how and where on your tax return to deduct your legal fees if you can. See [The Only Good Legal Fees Are Tax Deductible Legal Fees.](#) There are variations possible depending on exactly how checks are cut, and separate checks are usually a good idea.

Whatever you do, plan ahead and get some advice so you know what to expect. For further reading, check out:

[Can Settlement Checks Obviate Withholding and Form 1099?](#)

[10 Things to Know About Taxes on Damages](#)

IRS Speaks Out on Employment Lawsuit Settlements

Attorney Fees: To Deduct or Not to Deduct

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