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THE TAX LAWYER

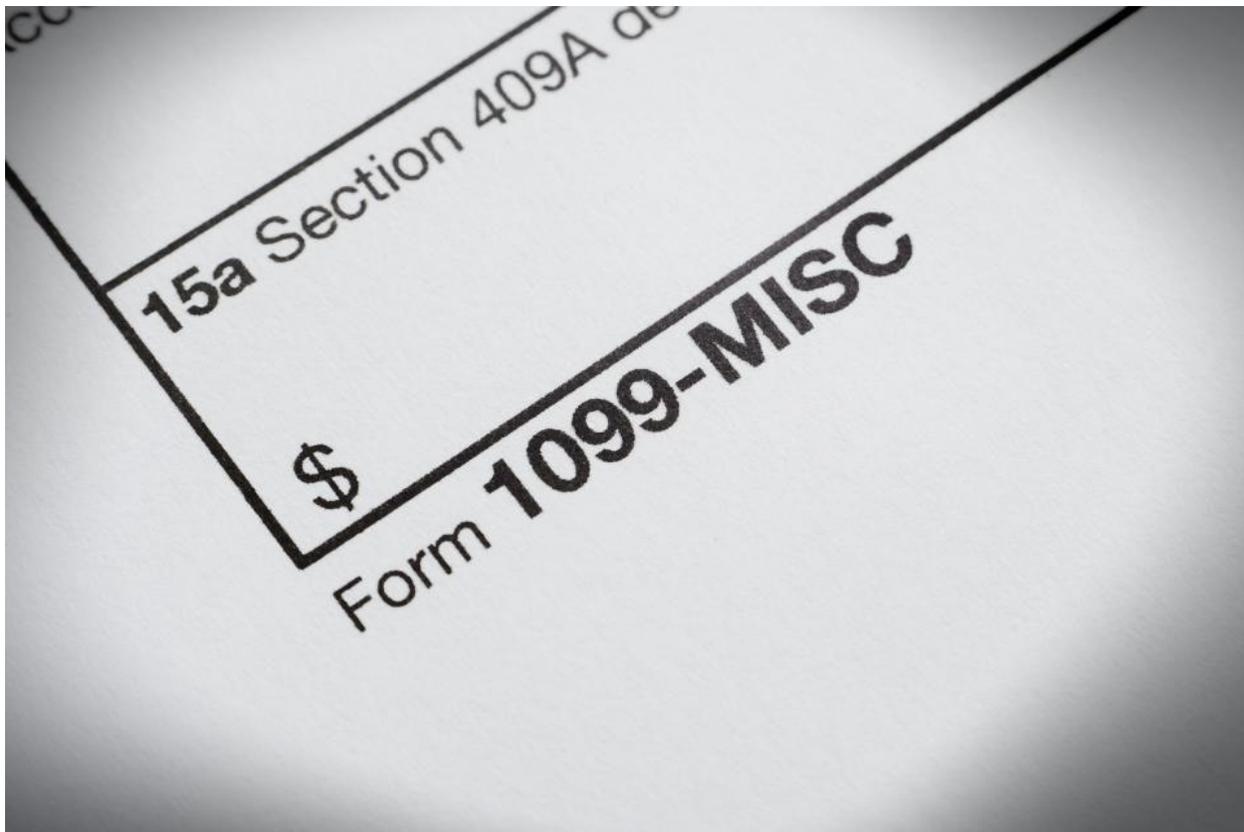
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TAXES 02/06/19

## Your Form 1099 Reports Too Much To IRS, Can You Sue?

Did you receive any IRS [Forms 1099](#) that you think are wrong? Maybe someone paid you \$1,000, but *reported* that they paid you \$10,000? The 1099 rules are complex and voluminous, and mistakes happen. But how should you handle it? And what if you think someone *intentionally* misreported? There's no easy answer. Some reporting rules (for example, to lawyers and their clients) call for duplicate reporting, one form to both lawyer and client for the *entire* amount, as though there was twice as much money as there was. That can make it seem as if \$1,000 was really \$2,000. But more generally, incorrect Forms 1099 are not uncommon. At a minimum, one can read the 1099 regulations broadly, erring on the side of reporting. When in doubt, issue a Form 1099, many say. A few observers may even think of issuing IRS Forms 1099 in a kind of punitive way, to turn the tax tables on someone.

If you receive a Form 1099 you think is wrong, you can ask the payer to correct it. They can destroy the incorrect one if they have not already sent it to the IRS. If it's too late, they can issue a corrected form. A corrected form is supposed to supersede the prior one, if properly done. Can you sue the party who issued the bad form? Suing usually is a waste of time. Issuers face penalties for errors, but most of those penalties apply to failures to issue the forms. There are a few examples of private lawsuits over tax reporting forms. But the IRS will refuse to get involved, and most such suits fail. So stick to trying to get your situation corrected, or explained to the IRS on your return. Issuing Forms 1099 is something businesses do to verify that payments were made, and to help support tax deductions.



Of course, by issuing a Form 1099, you are generally also sticking the recipient with paying taxes on the item. In that sense, some IRS Forms 1099 may conceivably be issued with a kind of punitive intent. Boxer Floyd Mayweather Jr. once [sent an IRS Form 1099 to a strip club to report that he spent \\$20,000](#). Mayweather Promotions LLC sent the form to the Hustler Club [for \\$20,000](#), mostly cash tips for dancers. The club claimed it didn't see the money paid to the 'independent contractors.' Still, the club must report it. Forms 1099 are critical to tax returns, and you are almost guaranteed an audit or tax notice if you fail to report one. Each Form 1099 is [matched to your Social Security number](#), so the IRS can easily spew out a tax bill if you fail to report one. It matters a lot, especially [now that the IRS has six years to audit, not three](#).

Forms 1099 are controlled by your Social Security number, so even if an issuer has your *old address*, the information will be reported to the IRS (and your state tax authority). Forms 1099 remind you that you earned interest, received a consulting fee, or were paid some other kind of income. There are many varieties, including [1099-INT](#) for interest, [1099-DIV](#) for dividends, [1099-G](#) for tax refunds, [1099-R](#) for pensions and [1099-MISC](#) for miscellaneous income. These forms are sent by payors to you and the IRS. If you don't include the reported item on your tax return, the IRS issues a notice.

In fact, apart from wages, *whatever* you were paid is likely to be reported on a Form 1099. Companies big and small churn them out. If you're in business—

even as a sole proprietor—you also may need to *issue* them. The most common is Form 1099-MISC, which can cover just about any kind of income. Consulting income, or non-employee compensation is a big category. If you don't receive a Form 1099, you may not want to ask for it. If you *don't* receive a Form 1099 you expect, just report the income. Reporting *extra* income that doesn't match a Form 1099 is not a problem. The IRS does not consider that a mismatch. Only the *reverse* is a problem.

If you call or write the payor asking for a Form 1099, the payor may issue it incorrectly. Alternatively, you may end up with two, one issued in the ordinary course (even if you never received it), and one issued because you asked for it. The IRS computer may think you had twice the income you really did. For example, if you settled a lawsuit, don't ask for a Form 1099. Just report it, if it is income. Generally, everything is income, including money for settling a lawsuit. One of the few exceptions is lawsuit recoveries for physical injuries. That is one of [10 things to know about taxes on legal settlements](#).

*This is not legal advice. For tax alerts or tax advice, email me at [Wood@WoodLLP.com](mailto:Wood@WoodLLP.com).*