



# General Instructions for Forms 1099, 1098, 5498, and W-2G

Section references are to the Internal Revenue Code.

## What's New for 2003



See the specific form instructions for more information on the changes listed below.

Except as otherwise noted, the following changes are the result of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA).

**Extension of time to file information returns.** Under Temporary Regulations section 1.6081-8T, effective for returns due after June 11, 2003, the requirements to request a 30-day extension of time to file information returns have changed. See **Extension** under Part **B** on page GEN-7.

**Regular gambling withholding.** The regular gambling withholding rate will be 25% (33.33% for certain noncash payments) for reportable payments.

**Backup withholding.** The backup withholding rate will be 28% for reportable payments.

**Form 1099-B.** JGTRRA reduced capital gains rates on distributions effective for transactions after May 5, 2003. Brokers and others report the profit or (loss) on **regulated futures or foreign currency** contracts in new boxes 6b and 9b of Form 1099-B. Form 1099-B has been reformatted to two forms per page to allow for the additional reporting.

Revenue Procedure 2002-50, 2002-29 I.R.B. 173, provides an **exception from reporting** by brokers on Form 1099-B for the sale of certain stock that was obtained from the exercise of a stock option and sold by the broker on the same day.

**Form 1099-DIV.** Because JGTRRA reduced the capital gains rates to 15% or 5% for certain individuals, the 2003 **Form 1099-DIV**, Dividends and Distributions, has been revised. Form 1099-DIV was reformatted to two forms per page to allow reporting of qualified dividends and capital gain distributions at the new rates. The new boxes and their titles are as follows:

- Box 1a - Total ordinary dividends
- Box 1b - Qualified dividends
- Box 2a - Total capital gain distr.
- Box 2b - Post-May 5 capital gain distr.
- Box 2c - Qualified 5-year gain
- Box 2d - Unrecap. Sec. 1250 gain
- Box 2e - Section 1202 gain
- Box 2f - Collectibles (28%) rate gain
- Box 3 - Nontaxable distributions
- Box 4 - Federal income tax withheld
- Box 5 - Investment expenses
- Box 6 - Foreign tax paid
- Box 7 - Foreign country or U. S. possession
- Box 8 - Cash liquidation distributions
- Box 9 - Noncash liquidation distributions

**Form 1099-MISC.** For 2003, the exemption from reporting substitute payments in lieu of dividends or interest of at least \$10 that are received by a broker for an individual has been eliminated.

**Forms 1098-E and 1098-T.** The following changes have been made.

**Form 1098-T.** Final Regulations section 1.6050S-1 issued in December 2002 describes the reporting rules for completing Form 1098-T for 2003. The reporting under the prior optional instructions and the final regulations is the same except as noted below.

Changes to the reporting rules include:

- No reporting is required for courses for which no academic credit is offered by the institution. This is true even if the student is enrolled in a degree program.
- No reporting is required for formal billing arrangements between an institution and a government entity, as well as arrangements between an institution and an employer.
- An insurer must file Form 1098-T for each individual to whom reimbursements or refunds of qualified tuition and related expenses were made in 2003.
- An institution or insurer, in addition to its name, address, and phone number, may also include information on a third party service provider.

**Magnetic media/electronic reporting.** For Forms 1098-E and 1098-T filed after December 31, 2003, you are required to file magnetically or electronically if filing 250 or more returns. See **Magnetic Media/Electronic Reporting** on page GEN-5 for more information.

**Penalties.** For Forms 1098-E and 1098-T filed after December 31, 2003, penalties may be imposed for failure to file or failure to furnish correct forms. However, under certain circumstances, the penalties may be waived. See page GEN-4 for more information.

**Form 1099-C.** The instructions for who must file Form 1099-C were changed to add the rules described in proposed regulations under section 6050P issued in June 2002. You may, but are not required to, follow the proposed regulations when preparing Form 1099-C for 2003. No penalties will be imposed on any organization until these regulations become final.

**New Form 1099-CAP, Changes in Corporate Control and Capital Structure.** Temporary Regulations section 1.6043-4T(b) requires a corporation to file Form 1099-CAP if control of the corporation was acquired or it underwent a substantial change in capital structure. In addition, Regulations section 1.6045-3T requires brokers, who as record holder of stock receive Form 1099-CAP from a corporation reporting under Regulations section 1.6043-4T, to file Form 1099-CAP with the IRS and actual owners.

**New Form 1099-H, Health Insurance Advance Payments.**



*At the time these instructions went to print, Form 1099-H had not been released for print.*

The Trade Act of 2002 created a new refundable credit to pay 65% of the eligible health insurance costs of eligible recipients of trade adjustment assistance (TAA), alternative TAA, and Pension Benefit Guaranty Corporation (PBGC) pensions.

The Trade Act of 2002 also provides that, beginning August 1, 2003, eligible TAAs, alternative TAAs, and PBGC pension recipients may receive advance payment of health insurance premiums. Advance payments will be made directly to the

recipients' health insurance providers under a program established by the Department of the Treasury. These advance payments will reduce the amount of the credit determined on **Form 8885**, Health Insurance Credit for Eligible Recipients. Form 1099-H is filed to report these advance payments to the IRS and eligible recipients.

**Form 1099-Q.** Form 1099-Q has been re-titled "Payments From Qualified Education Programs (Under Sections 529 and 530)." Any distribution or rollover made from a Coverdell ESA will be reported on Form 1099-Q, not Form 1099-R.

**Form 5498.** Box 11 is used to designate the year in which a required minimum distribution (RMD) is to be made. On the 2003 Form 5498, check the box if the participant must take an RMD in 2004. On Form 5498, or in a separate statement, report the required information.

The Arabian Peninsula has been added to the list of designated combat zones under the special reporting rules for the U.S. Armed Forces.

**New Form 5498-ESA, Coverdell ESA Contribution Information.** Report Coverdell ESA contributions on new Form 5498-ESA, not Form 5498. You must furnish Copy B (Form 5498-ESA) to the beneficiary for any calendar year by April 30 of the following year. File Copy A with the IRS by May 31 of the following year.

**Form 1099-R.** The following changes have been made:

- For Coverdell ESA distributions and contributions made in 2003 do not use Form 1099-R. Instead, report Coverdell ESA distributions on **Form 1099-Q**, Payments From Qualified Education Programs (Under Sections 529 and 530); report contributions on new **Form 5498-ESA**, Coverdell ESA Contribution Information.
- Reference to **deemed IRAs** (section 408(q)) has been added. See **IRA Distributions**.
- **Cost of current life insurance protection.** Notice 2002-8, 2002-4 I.R.B. 398, provides interim guidance for the valuation of current life insurance protection. Use of PS 58 rates has limited use after 2001. References to "PS 58 costs" have been replaced by "cost of current life insurance protection" in the instructions.
- The **Guide to Distribution Codes** has been revised as follows:
  1. **Code G** has been re-titled Direct rollover. Use Code G for a direct rollover from one qualified retirement plan to another.
  2. **Code H** has been deleted. Under the Economic Growth and Tax Relief Reconciliation Act of 2001, sections 641 and 642 allow rollovers from qualified retirement plans, section 403(b) annuities, and governmental section 457(b) plans to any such plans or arrangements; IRAs (except for required minimum distributions) can be rolled into an eligible retirement plan.
  3. **Code J** has been revised. Use Code J for early distribution from a Roth IRA, no known exception.
  4. **Code M** has been deleted.
  5. **Code Q** has been added. Use Code Q for qualified Roth IRA distributions.

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## Items You Should Note

### Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling **1-800-THE-LOST** (1-800-843-5678) if you recognize a child.

### Available Products

In addition to these general instructions, which contain general information concerning Forms 1099, 1098, 5498, and W-2G, we provide specific form instructions as separate products. Get the instructions you need for completing a specific form from the following list of separate instructions:

- **Instructions for Forms W-2G and 5754**
- **Instructions for Form 1098**
- **Instructions for Forms 1098-E and 1098-T**
- **Instructions for Forms 1099-A and 1099-C**
- **Instructions for Form 1099-B**
- **Instructions for Form 1099-CAP**
- **Instructions for Form 1099-DIV**
- **Instructions for Form 1099-G**
- **Instructions for Form 1099-H**
- **Instructions for Forms 1099-INT and 1099-OID**
- **Instructions for Form 1099-LTC**
- **Instructions for Form 1099-MISC**
- **Instructions for Forms 1099-MSA and 5498-MSA**
- **Instructions for Form 1099-PATR**
- **Instructions for Form 1099-Q**
- **Instructions for Forms 1099-R and 5498**
- **Instructions for Form 1099-S**
- **Instructions for Form 5498-ESA**

If you prefer to have all the specific and general instructions in one booklet, the **2003 Instructions for Forms 1099, 1098, 5498, and W-2G** is also available. See **How To Get Forms and Publications** on page GEN-3.

## Reporting Backup Withholding on Forms 1099 and W-2G

If you backup withhold on a payment, you must file the appropriate Form 1099 or Form W-2G with the IRS and furnish a statement to the recipient to report the amount of the payment and the amount withheld. This applies even though the amount of the payment may be below the normal threshold for filing Form 1099 or Form W-2G. See **Backup Withholding** on page GEN-3.

## Form 945. Withholding Tax Return

Report backup withholding, voluntary withholding on certain government payments, and withholding from gambling winnings, pensions, annuities, IRAs, military retirement, and Indian gaming profits on **Form 945**, Annual Return of Withheld Federal Income Tax. Generally, file Form 945 for 2003 by January 31, 2004. Any income tax withholding reported on **Form W-2**, Wage and Tax Statement, including withholding on distributions to plan participants from nonqualified plans, must be reported on **Form 941**, Employer's Quarterly Federal Tax Return. For more information, including the deposit requirements for Form 945, see the separate **Instructions for Form 945** and **Circular E**, Employer's Tax Guide (Pub. 15).

## Use Form 1096 To Send Forms to the IRS

You must send Copies A of all paper Forms 1099, 1098, 5498, and W-2G to the IRS with **Form 1096**, Annual Summary and Transmittal of U.S. Information Returns. Instructions for completing Form 1096 are contained on Form 1096. Also see part **D** on page GEN-8.

## Substitute Statements to Recipients

If you are using a substitute form to furnish statements to recipients (generally Copy B), be sure your substitute statements comply with the rules in **Pub. 1179**, General Rules and Specifications for Substitute Forms 1096, 1098, 1099, 5498, and W-2G (and 1042-S). Pub. 1179, which is revised annually, explains the requirements for format and content of substitute statements to recipients. **If you are using a substitute form to furnish information to recipients, it must comply with the requirements in Pub. 1179.**



*All substitute statements to recipients must contain the tax year, form number, and form name prominently displayed together in one area of the statement. For example, they could be shown in the upper right part of the statement.*

## Guide to Information Returns

See the chart on pages GEN-16 and GEN-17 for a brief summary of information return reporting rules.

## Taxpayer Identification Number (TIN) Matching

TIN Matching allows a payer or authorized agent who is required to file Forms 1099-B, DIV, INT, MISC, OID, and/or PATR, which report income subject to backup withholding, to match TIN and name combinations with IRS records before submitting the forms to the IRS. TIN Matching is one of the e-services products that will be offered beginning in 2003, and will be accessible through the IRS website, [www.irs.gov](http://www.irs.gov). It is anticipated payers who validate the TIN and name combinations before filing information returns will receive fewer backup withholding (CP2100) "B" notices and penalty notices.

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## Need Help?

### Information Reporting Call Site

If you have questions about reporting on Forms 1096, 1098, 1099, 5498, W-2, W-2G, and W-3, you may call a toll-free number, **1-866-455-7438**. You may still use the original telephone number, **304-263-8700** (not toll free). For TTY/TDD equipment, call 304-267-3367 (not toll free). The call site can also be reached by email at [mccirp@irs.gov](mailto:mccirp@irs.gov). The hours of operation for the call site are Monday through Friday from 8:30 a.m. to 4:30 p.m., Eastern time.

For other tax information related to business returns or accounts, call 1-800-829-4933; for TTY/TDD equipment, call 1-800-829-4059.

### Internal Revenue Bulletin

The Internal Revenue Bulletin (IRB), published weekly, contains newly issued regulations, notices, announcements, legislation, court decisions, and other items of general interest. You may find this publication useful to keep you up to date with current developments. See **How To Get Forms and Publications** below.

### Unresolved Tax Issues

If you have attempted to deal with an IRS problem unsuccessfully, you should contact the Taxpayer Advocate. The Taxpayer Advocate independently represents your interests and concerns within the IRS by protecting your rights and resolving problems that have not been fixed through normal channels.

While Taxpayer Advocates cannot change the tax law or make a technical decision, they can clear up problems that resulted from previous contacts and ensure that your case is given a complete and impartial review.

Your assigned personal advocate will listen to your point of view and will work with you to address your concerns. You can expect the advocate to provide:

- A "fresh look" at a new or on-going problem.
- Timely acknowledgement.
- The name and phone number of the individual assigned to your case.
- Updates on progress.
- Timeframes for action.
- Speedy resolution.
- Courteous service.

When contacting the Taxpayer Advocate, you should provide the following information:

- Your name, address, and employer identification number (EIN).
- The name and telephone number of an authorized contact person and the hours he or she can be reached.
- The type of tax return and year(s).
- A detailed description of the problem.
- Previous attempts to solve the problem and the office that had been contacted.
- A description of the hardship you are facing (if applicable).

You may contact a Taxpayer Advocate by calling a toll-free number, **1-877-777-4778**. Persons who have access to TTY/TDD equipment may call 1-800-829-4059 and ask for Taxpayer Advocate assistance. If you prefer, you may call, write, or fax the Taxpayer Advocate office in your area. See **Pub. 1546**, The

Taxpayer Advocate Service of the IRS, for a list of addresses and fax numbers.

## How To Get Forms and Publications



*Because the IRS processes paper forms by machine (optical character recognition equipment), you cannot file with the IRS Form 1096 or Copy A of Forms 1098, 1099, or 5498 that you print from the IRS website or the CD-ROM.*

**Personal computer.** You can access the IRS website 24 hours a day, 7 days a week, at [www.irs.gov](http://www.irs.gov) to:

- Access commercial tax preparation and e-file services.
- Download forms, instructions, and publications.
- Order IRS products on-line.
- See answers to frequently asked tax questions.
- Search publications on-line by topic or keyword.
- Send us comments or request help by email.
- Sign up to receive local and national tax news by email.

**You can also reach us using File Transfer Protocol at [ftp.irs.gov](ftp://ftp.irs.gov).**

**CD-ROM.** Order **Pub. 1796**, Federal Tax Products on CD-ROM, and get:

- Current year forms, instructions, and publications.
- Prior year forms, instructions, and publications.
- Frequently requested tax forms that may be filled in electronically, printed out for submission, and saved for recordkeeping.
- The Internal Revenue Bulletin.

Buy the CD-ROM on the Internet at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) from the National Technical Information Service (NTIS) for \$22 (no handling fee) or call **1-877-CDFORMS** (1-877-233-6767) toll free to buy the CD-ROM for \$22 (plus a \$5 handling fee).

**By phone and in person.** You can order forms and publications 24 hours a day, 7 days a week, by calling **1-800-TAX-FORM** (1-800-829-3676). You can also get most forms and publications at many IRS offices, post offices, and libraries.

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## Backup Withholding

Interest, dividends, rents, royalties, commissions, nonemployee compensation, and certain other payments (including broker and barter exchange transactions, reportable gross proceeds paid to attorneys, and certain payments made by fishing boat operators) may be subject to backup withholding at a 28% rate. To be subject to backup withholding, a payment must be a reportable interest or dividend payment under section 6049(a), 6042(a), or 6044 (if the patronage dividend is paid in money or qualified check), or an "other" reportable payment under section 6041, 6041A(a), 6043(c), 6045, 6050A, or 6050N. If the payment is one of these reportable payments, **backup withholding will apply if:**

1. The payee fails to furnish his or her taxpayer identification number (TIN) to you,
2. For interest, dividend, and broker and barter exchange accounts opened or instruments acquired after 1983, the payee fails to certify, under penalties of perjury, that the TIN provided is correct,
3. The IRS notifies you to impose backup withholding because the payee furnished an incorrect TIN ("B" notice),
4. For interest and dividend accounts or instruments, you are notified that the payee is subject to backup withholding (under section 3406(a)(1)(C), "C" notice), or
5. For interest and dividend accounts opened or instruments acquired after 1983, the payee fails to certify to you, under penalties of perjury, that he or she is **not** subject to backup withholding under **4** above.

Except as explained in **2** above, reportable "other" payments are subject to backup withholding only if **1** or **3** above applies.

Some payees are exempt from backup withholding. For a list of exempt payees and other information, see **Form W-9**, Request for Taxpayer Identification Number and Certification,



and the separate **Instructions for the Requester of Form W-9**.

**Backup withholding will not apply to the following:**

1. Real estate transactions reportable under section 6045(e),
2. Foreclosures and abandonments reportable under section 6050J,
3. Canceled debts reportable under section 6050P,
4. Distributions from Archer MSAs,
5. Long-term care benefits,
6. Distributions from any retirement account, including IRAs,
7. Section 404(k) distributions from an employee stock ownership plan (ESOP),
8. Fish purchases for cash reportable under section 6050R,
9. Unemployment compensation,
10. State or local income tax refunds, and
11. Qualified tuition program earnings.

**When to apply backup withholding.** Generally, the period for which the 28% should be withheld is as follows:

**1. Failure to furnish TIN in the manner required.** Withhold on payments made until the TIN is furnished in the manner required. Special backup withholding rules may apply if the payee has applied for a TIN. The payee may certify to this on Form W-9 by noting "Applied For" in the TIN block and by signing the form. This form then becomes an "awaiting-TIN" certificate, and the payee has 60 days to obtain a TIN and furnish it to you. If you do not receive a TIN from the payee within 60 days and you have not already begun backup withholding, begin backup withholding and continue until the TIN is provided.



*The 60-day exemption from backup withholding applies only to interest and dividend payments and certain payments made with respect to readily tradable instruments. Therefore, any other payment, such as nonemployee compensation, is subject to backup withholding even if the payee has applied for and is awaiting a TIN. For information about whether backup withholding applies during the 60-day period, see Regulations section 31.3406(g)-3.*

**2. Notice from the IRS that payee's TIN is incorrect ("B" notice).** You may choose to withhold on any reportable payment made to the account(s) subject to backup withholding after receipt of the "B" notice, but you must withhold on any reportable payment made to the account more than 30 business days after you received the "B" notice. Stop withholding within 30 days after you receive a certified Form W-9 (or other form that requires the payee to certify under penalty of perjury).



*The IRS will furnish a notice to you, and you are required to promptly furnish a copy of such notice, or an acceptable substitute, to the payee. For further information, see Regulations section 31.3406(d)-5 (recent amendments are effective after December 31, 2003) and Rev. Proc. 93-37, 1993-2 C.B. 477.*

*If you receive two incorrect TIN notices within 3 years for the same account, follow the procedures in Regulations section 31.3406(d)-5(g) and Rev. Proc. 93-37.*

**3. Notice from the IRS that payee is subject to backup withholding due to notified payee underreporting ("C" notice).** You may choose to withhold on any reportable payment made to the account(s) subject to backup withholding after receipt of the "C" notice, but you must withhold on any reportable payment made to the account more than 30 business days after you receive the "C" notice. The IRS will notify you in writing when to stop withholding, or the payee may furnish you a written certification from the IRS stating when the withholding should stop. In most cases, the stop date will be January 1 of the year following the year of the notice.



*You must notify the payee when withholding under this procedure starts. For further information, see Regulations section 31.3406(c)-1(d).*

**4. Payee failure to certify that he or she is not subject to backup withholding.** Withhold on reportable interest and dividends until the certification has been received.

For exceptions to these general timing rules, see section 3406(e).



*For information about backup withholding on gambling winnings, see the separate **Instructions for Forms W-2G and 5754**.*

**Reporting backup withholding.** Report backup withholding on Form 945. For more information, see the Instructions for Form 945. Also, report backup withholding and the amount of the payment on Forms W-2G, 1099-B, CAP, DIV, G, INT, MISC, OID, or PATR even if the amount of the payment is less than the amount for which an information return is normally required.

**Additional information.** For more information about backup withholding, see **Pub. 1679**, A Guide to Backup Withholding for Missing and Incorrect Name/TIN(s), and **Pub. 1281**, Backup Withholding on Missing and Incorrect Name/TIN(s) (Including Instructions for Reading Tape Cartridges).

## Penalties

The following penalties generally apply to the person required to file information returns. The penalties apply to paper filers as well as to magnetic media/electronic filers.

### Failure To File Correct Information Returns by the Due Date (Section 6721)

If you fail to file a correct information return by the due date and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to file timely, you fail to include all information required to be shown on a return, or you include incorrect information on a return. The penalty also applies if you file on paper when you were required to file on magnetic media, you report an incorrect TIN or fail to report a TIN, or you fail to file paper forms that are machine readable.

The amount of the penalty is based on when you file the correct information return. The penalty is:

- **\$15** per information return if you correctly file within 30 days (by March 30 if the due date is February 28); maximum penalty \$75,000 per year (\$25,000 for small businesses, defined below).
- **\$30** per information return if you correctly file more than 30 days after the due date but by August 1; maximum penalty \$150,000 per year (\$50,000 for small businesses).
- **\$50** per information return if you file after August 1 or you do not file required information returns; maximum penalty \$250,000 per year (\$100,000 for small businesses).



*If you **do not** file corrections and you do not meet any of the exceptions to the penalty described below, the penalty is **\$50** per information return.*

**Small businesses—lower maximum penalties.** You are a small business if your average annual gross receipts for the 3 most recent tax years (or for the period you were in existence, if shorter) ending before the calendar year in which the information returns were due are \$5 million or less.

**Exceptions to the penalty.** The following are exceptions to the failure to file penalty:

1. The penalty will not apply to any failure that you can show was due to reasonable cause and not to willful neglect. In general, you must be able to show that your failure was due to an event beyond your control or due to significant mitigating factors. You must also be able to show that you acted in a responsible manner and took steps to avoid the failure.

2. An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission does not prevent or hinder the IRS from processing the return, from correlating the information required to be shown on the return with the information shown on the payee's tax return, or from otherwise putting the return to its intended use. Errors and omissions that are never inconsequential are those

related to (a) a TIN, (b) a payee's surname, and (c) any money amount.

**3. De minimus rule for corrections.** Even though you cannot show reasonable cause, the penalty for failure to file correct information returns will not apply to a certain number of returns if you:

- a. Filed those information returns,
- b. Either failed to include all the information required on a return or included incorrect information, and
- c. Filed corrections by August 1.

If you meet all the conditions in a, b, and c above, the penalty for filing incorrect returns (but not for filing late) will not apply to the greater of 10 information returns or 1/2 of 1% of the total number of information returns you are required to file for the calendar year.

**Intentional disregard of filing requirements.** 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 \$100 per information return with no maximum penalty.

### Failure To Furnish Correct Payee Statements (Section 6722)

If you fail to provide correct payee statements and you cannot show reasonable cause, you may be subject to a penalty. The penalty applies if you fail to provide the statement by January 31 (see part H on page GEN-9), you fail to include all information required to be shown on the statement, or you include incorrect information on the statement. "Payee statement" has the same meaning as "statement to recipient" as used in part H on page GEN-9.

The penalty is \$50 per statement, no matter when the correct statement is furnished, with a maximum of \$100,000 per year. The penalty is **not** reduced for furnishing a correct statement by August 1.

**Exception.** An inconsequential error or omission is not considered a failure to include correct information. An inconsequential error or omission cannot reasonably be expected to prevent or hinder the payee from timely receiving correct information and reporting it on his or her income tax return or from otherwise putting the statement to its intended use. Errors and omissions that are never inconsequential are those relating to (a) a dollar amount, (b) a significant item in a payee's address, (c) the appropriate form for the information provided (i.e., whether the form is an acceptable substitute for the official IRS form), and (d) whether the statement was furnished in person or by "statement mailing," when required.

**Intentional disregard of payee statement requirements.** 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 \$100 per payee statement with no maximum penalty.

### Forms 1099-MSA, 1099-Q, 5498, 5498-ESA, and 5498-MSA

The penalties under sections 6721 and 6722 **do not** apply to:

Forms	Filed Under Code Section
1099-MSA and 5498-MSA	220(h)
5498	408(i) and 408(l)
5498-ESA	530(h)
1099-Q	529(d) and 530(h)

The penalty for failure to timely file Forms 1099-MSA, 5498-MSA, 5498, 5498-ESA, or 1099-Q is \$50 per return with no maximum, unless the failure is due to reasonable cause. See section 6693.

### Civil Damages for Fraudulent Filing of Information Returns

If you willfully file a fraudulent information return for payments you claim you made to another person, that person may be able to sue you for damages. You may have to pay \$5,000 or more.

### Magnetic Media/Electronic Reporting

Magnetic media reporting may be required for filing all information returns discussed in this publication (see **Who must file on magnetic media**) below. Acceptable forms of magnetic media are IBM 3480, 3490, or AS400 compatible tape cartridges; and 3 1/2-inch diskettes.



*If you are required to file on magnetic media, you may choose to file electronically instead. You may choose magnetic media or electronic filing even if you are not required to file on magnetic media.*

**Pub. 1220**, Specifications for Filing Forms 1098, 1099, 5498, and W-2G Electronically or Magnetically, is the revenue procedure for electronic reporting and magnetic media. Different types of payments, such as interest, dividends, and rents, may be reported on the same tape or other submission.

Electronic submissions are filed using the Filing Information Returns Electronically System (FIRE System). The FIRE System operates 24 hours a day, 7 days a week. You may access the FIRE System by dialing 304-262-2400, or go to [www.irs.gov](http://www.irs.gov) and type "FIRE System" in the "Search IRS Site for" box. Also see Pub. 1220 for more information.

**Due dates.** File Forms 1098, 1099, or W-2G on magnetic media by March 1, 2004. If you file electronically, you may file by March 31, 2004. File Form 5498, 5498-ESA, or 5498-MSA by May 31, 2004. See part H on page GEN-9 about providing Forms 1098, 1099, 5498, and W-2G or statements to recipients.

**Extension of time to file.** For information about requesting an extension of time to file, see **Extension** on page GEN-7.



*If you file on magnetic media or electronically, do not file the same returns on paper.*

**Who must file on magnetic media.** If you are required to file 250 or more information returns, you must file on magnetic media. The 250-or-more requirement applies separately to each type of form. For example, if you must file 500 Forms 1098 and 100 Forms 1099-A, you must file Forms 1098 on magnetic media, but you are not required to file Forms 1099-A on magnetic media.

The magnetic media filing requirement does not apply if you apply for and receive a hardship waiver. See **How to request a waiver from filing on magnetic media** on page GEN-6.



*The IRS encourages you to file on magnetic media or electronically even though you are filing fewer than 250 returns.*

**Filing requirement applies separately to originals and corrections.** The magnetic media filing requirements apply separately to original returns and corrected returns. Originals and corrections are not aggregated to determine whether you are required to file on magnetic media. For example, if you file 400 Forms 1098 on magnetic media and you are making 75 corrections, your corrections can be filed on paper because the number of corrections for Form 1098 is less than the 250 filing requirement. However, if you were filing 250 or more Form 1098 corrections, they would have to be filed on magnetic media.

**How to get approval to file on magnetic media.** File Form 4419, Application for Filing Information Returns Electronically/Magnetically, at least 30 days before the due date of the returns. File only one Form 4419 for all types of returns that will be filed on magnetic media. Once you have received approval, you need not reapply each year. The IRS will provide a written reply to the applicant and further instructions at the time of approval, usually within 30 days. A magnetic media reporting

package, which includes all the necessary transmittals and instructions, will be mailed to all approved filers.

**How to request a waiver from filing on magnetic media.** To receive a waiver from the required filing of information returns on magnetic media, submit **Form 8508**, Request for Waiver From Filing Information Returns Magnetically, at least 45 days before the due date of the returns. You cannot apply for a waiver for more than 1 tax year at a time. If you need a waiver for more than 1 tax year, you must reapply at the appropriate time each year.

If a waiver for original returns is approved, any corrections for the same types of returns will be covered under the waiver. However, if you submit original returns on magnetic media but you want to submit your corrections on paper, a waiver must be approved for the corrections if you must file 250 or more corrections.

If you receive an approved waiver, do not send a copy of it to the service center where you file your paper returns. Keep the waiver for your records only.

**Single application.** Submit both Forms 4419 and 8508 to apply for approval for filing returns on magnetic media, and if the approval is not granted, to apply for a waiver from the magnetic media requirement.

**Penalty.** If you are required to file on magnetic media but fail to do so, and you do not have an approved waiver, you may be subject to a penalty of \$50 per return for failure to file on magnetic media unless you establish reasonable cause. However, you can file up to 250 returns on paper; those returns will not be subject to a penalty for failure to file on magnetic media.

The penalty applies separately to original returns and corrected returns. See **Filing requirement applies separately to originals and corrections** on page GEN-5.

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## Paper Document Reporting

If you are required to file 250 or more information returns, see **Magnetic Media/Electronic Reporting** on page GEN-5.

**Common errors.** Be sure to check your returns to prevent the following common errors:

1. Duplicate filing. **Do not** send the same information to the IRS more than once.
2. Filer's name, address, and TIN are not the same on Form 1096 and the attached Forms 1099, 1098, 5498, or W-2G.
3. Decimal point to show dollars and cents omitted. For example, 1230.00 is correct, not 1230.
4. Two or more types of returns submitted with one Form 1096 (e.g., Forms 1099-INT and 1099-MISC with one Form 1096). You must submit a separate Form 1096 with each type of return.

**Required format.** Because paper forms are read by machine (optical character recognition equipment), all Forms 1096 and Copies A of Forms 1098, 1099, and 5498 must be prepared in accordance with the following instructions. If these instructions are not followed, you may be subject to a penalty of \$50 for each incorrectly filed document.

1. **Do not** cut or separate Copies A of the forms that are printed two or three to a sheet (except Form W-2G). Forms 1098, 1099, and 5498 are printed two or three to an 8 x 11 inch sheet. Form 1096 is printed one to an 8 x 11 inch sheet. These forms must be submitted to the IRS on the 8 x 11 inch sheet. If at least one form on the page is correctly completed, you must submit the entire page. Forms W-2G may be separated and submitted as single forms. Send the forms to the IRS in a flat mailing (not folded).

2. **No photocopies** of any forms are acceptable. See **How To Get Forms and Publications** on page GEN-3.

3. **Do not** staple, tear, or tape any of these forms. It will interfere with the IRS's ability to scan the documents.

4. Pinfeed holes on the form are **not** acceptable. Pinfeed strips outside the 8 x 11 inch area must be removed before submission, without tearing or ripping the form. Substitute forms prepared in continuous or strip form must be burst and stripped

to conform to the size specified for a single sheet (8 x 11 inches) before they are filed with the IRS.

5. **Do not** change the title of any box on any form. Do not use a form to report information that is not properly reportable on that form. If you are unsure of where to report the data, call the information reporting call site at 866-455-7438 (toll free).

6. Report information only in the appropriate boxes provided on the forms. Make only one entry in each box unless otherwise indicated in the form's specific instructions.

7. **Do not** submit any copy other than Copy A to the IRS.

8. **Do not** use prior year forms unless you are reporting prior year information; do not use subsequent year forms for the current year. Because forms are read by machine, you **must** use the current year form to report current year information.

9. Use the official forms or substitute forms that meet the specifications in the 2003 Pub. 1179. If you submit substitute forms that do not meet the current specifications and that are not machine scannable, you may be subject to a penalty of \$50 for each return for improper format.

10. **Do not** use dollar signs (\$) (they are preprinted on the forms), ampersands (&), asterisks (\*), commas (,), or other special characters in money amount boxes.

**Suggested format.** Below are suggestions that will allow the IRS to process the submitted forms in the most economical manner:

1. Although handwritten forms are acceptable, the IRS prefers that you type or machine print data entries using 10 pitch (pica) or 12 pitch (elite) black type. Use block print, not script characters. Insert data in the middle of the blocks well separated from other printing and guidelines, and take other measures to guarantee a dark black, clear, sharp image.

2. Do not enter 0 (zero) or "None" in money amount boxes when no entry is required. Leave the boxes blank unless the instructions specifically require that you enter a 0 (zero). For example, in some cases, you must enter 0 (zero) to make corrections. See **Corrected Returns on Paper Forms** on page GEN-11.

3. Do not enter number signs (#); for example, enter RT 2, not Rt. #2.

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## A. Who Must File

See the separate specific instructions for each form.

**Nominee/middleman returns.** Generally, if you receive a Form 1099 for amounts that actually belong to another person, you are considered a nominee recipient. You must file a Form 1099 (the same type of Form 1099 you received) for each of the other owners showing the amounts allocable to each. You must also furnish a Form 1099 to each of the other owners. File the new Form 1099 with Form 1096 with the Internal Revenue Service Center for your area. On each new Form 1099, list yourself as the "payer" and the other owner as the "recipient." On Form 1096, list yourself as the "filer." A husband or wife is not required to file a nominee return to show amounts owned by the other. The nominee, not the original payer, is responsible for filing the subsequent Forms 1099 to show the amount allocable to each owner.

**Successor/predecessor reporting.** A successor business (a corporation, partnership, or sole proprietorship) and a predecessor business (a corporation, partnership, or sole proprietorship) may agree that the successor will assume all or some of the predecessor's information reporting responsibilities. This would permit the successor to file one Form 1099, 1098, 5498, or W-2G for each recipient combining the predecessor's and successor's reportable amounts, including any withholding. If they so agree and the successor satisfies the predecessor's obligations and the requirements described on page GEN-7, the predecessor does not have to file the specified information returns for the acquisition year. If the successor and predecessor do not agree, or if the requirements described are not met, the predecessor and the successor each must file Forms 1099, 1098, 5498, and W-2G for their own reportable amounts as they usually would. For more information and the



rules that apply to filing combined Forms 1042-S, see Rev. Proc. 99-50, 1999-2 C.B. 757.

The combined reporting procedure is available when all the following conditions are met:

1. The successor acquires from the predecessor substantially all the property **(a)** used in the trade or business of the predecessor, including when one or more corporations are absorbed by another corporation under a merger agreement, or **(b)** used in a separate unit of a trade or business of the predecessor.
2. The predecessor is required to report amounts, including any withholding, on information returns for the year of acquisition for the period before the acquisition.
3. The predecessor is not required to report amounts, including withholding, on information returns for the year of acquisition for the period after the acquisition.

**Combined reporting agreement.** The predecessor and the successor must agree on the specific forms to which the combined reporting procedure applies and that the successor assumes the predecessor's entire information reporting obligations for these forms. The predecessor and successor may agree to:

1. Use the combined reporting procedure for all Forms 1099, 1098, 5498, and W-2G or
2. Limit the use of the combined reporting procedure to **(a)** specific forms or **(b)** specific reporting entities, including any unit, branch, or location within a particular business entity that files its own separate information returns. For example, if the predecessor's and successor's only compatible computer or recordkeeping systems are their dividends paid ledgers, they may agree to use the combined reporting procedure for Forms 1099-DIV only. Similarly, if the only compatible systems are in their midwest branches, they may agree to use the combined reporting procedure for only the midwest branches.

**Combined reporting procedure.** On each Form 1099, 1098, 5498, and W-2G filed by the successor, the successor must combine the predecessor's (before the acquisition) and successor's reportable amounts, including any withholding, for the acquisition year and report the aggregate. For transactional reporting on **Form 1099-B**, Proceeds From Broker and Barter Exchange Transactions, the successor must report each of the predecessor's transactions and each of its own transactions on each Form 1099-B. The successor may include with the form sent to the recipient additional information explaining the combined reporting.

For purposes of the combined reporting procedure, the sharing of TINs and other information obtained under section 3406 for information reporting and backup withholding purposes does not violate the confidentiality rules in section 3406(f).

**Statement required.** The successor must file a statement with the IRS indicating the forms that are being filed on a combined basis under Rev. Proc. 99-50. The statement must:

1. Include the predecessor's and successor's names, addresses, telephone numbers, EINs, and the name and telephone number of the person responsible for preparing the statement.
2. Reflect separately the amount of Federal income tax withheld by the predecessor and by the successor for each type of form being filed on a combined basis (e.g., Form 1099-R or 1099-MISC).
3. Be sent separately from Forms 1099, 1098, 5498, and W-2G by the forms' due date to: IRS-Martinsburg Computing Center, Attn: Chief, Information Returns Branch, Mail Stop 360, 230 Murall Dr., Kearneysville, WV 25430. **Do not** send Form 1042-S statements to this address. Instead, use the address given in the Instructions for Form 1042-S. See Rev. Proc. 99-50.

**Qualified settlement funds.** A qualified settlement fund must file information returns for distributions to claimants if any transferor to the fund would have been required to file if the transferor had made the distributions directly to the claimants.

For distributions to transferors, a fund is subject to the information reporting requirements of sections 6041 and 6041A and may be required to file Form 1099-MISC. For payments made by the fund on behalf of a claimant or transferor, the fund is subject to these same rules and may have to file Form 1099-MISC for the payment to a third party. For information reporting purposes, a payment made by the fund on behalf of a claimant or transferor is considered a distribution to the claimant or transferor and is also subject to information reporting requirements.

The same filing requirements, exceptions, and thresholds apply to qualified settlement funds as apply to any other payer. That is, the fund must determine the character of the payment (e.g., interest, fixed and determinable income, or gross proceeds from broker transactions) and to whom the payment is made (e.g., corporation or individual).

For more information, see Regulations section 1.468B-2(l). In addition, see proposed rules issued under section 468B relating to escrow and other similar funds (see 1999-1 C.B. 689).

**Payments to foreign persons.** See the **Instructions for Form 1042-S**, relating to U.S. source income of foreign persons, for reporting requirements relating to payments to foreign persons.

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## B. When To File

File Forms 1098, 1099, or W-2G on paper or magnetic media by March 1, 2004 (March 31, 2004, if filing electronically). Also file Form 1096 with paper forms. Brokers may file Forms 1096 and 1099-B anytime after the reporting period they elect to adopt (month, quarter, or year), but not later than the due date. File Form 1096 with Forms 5498, 5498-ESA, and 5498-MSA by May 31, 2004.

You will meet the requirement to file if the form is properly addressed and mailed on or before the due date. If the regular due date falls on a Saturday, Sunday, or legal holiday, file by the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday. See part **H** on page GEN-9 about providing Forms 1098, 1099, 5498, and W-2G or statements to recipients.

**Private delivery services.** You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing" rule for information returns. The most recent list of designated private delivery services was published in September 2002 by the IRS. The list includes only the following:

- Airborne Express (Airborne): Overnight Air Express Service, Next Afternoon Service, and Second Day Service.
- DHL Worldwide Express (DHL): DHL "Same Day" Service and DHL USA Overnight.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2 Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.



*Private delivery services cannot deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

**Reporting period.** Forms 1098, 1099, and W-2G are used to report amounts received, paid, credited, or canceled in the case of Form 1099-C, during the calendar year. Forms 5498, 5498-ESA, and 5498-MSA are used to report amounts contributed and the fair market value of an account for the calendar year.

**Extension.** Effective for returns due after June 11, 2003, for paper or magnetic media/electronic filing, you can get a 30-day extension of time to file by sending **Form 8809**, Application for Extension of Time To File Information Returns, to the address shown on Form 8809. No signature or explanation is required for the extension. However, you must file Form 8809 by the due

date of the returns in order to get the 30-day extension. You may apply for an additional 30-day extension but you will not be granted one without a detailed explanation. See Form 8809 for more information.



*If you are requesting extensions of time to file for **more than 50** payers, you must submit the extension requests magnetically or electronically. See Pub. 1220.*

For information on extensions for providing statements to recipients, see **Extension** on page GEN-11.

## C. Where To File

Send all information returns filed on paper to the following:

If your principal business, office or agency, or legal residence in the case of an individual, is located in	Use the following Internal Revenue Service Center address
Alabama, Arizona, Florida, Georgia, Louisiana, Mississippi, New Mexico, North Carolina, Texas, Virginia	Austin, TX 73301
Arkansas, Connecticut, Delaware, Kentucky, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia	Cincinnati, OH 45999
Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Wisconsin	Kansas City, MO 64999
Alaska, California, Colorado, District of Columbia, Hawaii, Idaho, Maryland, Montana, Nevada, Oregon, Utah, Washington, Wyoming	Ogden, UT 84201

If your legal residence or principal place of business or principal office or agency is outside the United States, file with the Internal Revenue Service Center, Cincinnati, OH 45999.

Send all information returns filed magnetically to IRS-Martinsburg Computing Center, Information Reporting Program, 230 Murall Drive, Kearneysville, WV 25430.

## D. Filing Returns With the IRS

The IRS strongly encourages the quality review of data before filing to prevent erroneous notices being mailed to payees (or others for whom information is being reported).

If you must file any Form 1098, 1099, 5498, or W-2G with the IRS and you are filing paper forms, you must send a Form 1096 with each type of form as the transmittal document. You must group the forms by form number and submit each group with a separate Form 1096. For example, if you file Forms 1098, 1099-A, and 1099-MISC, complete one Form 1096 to transmit Forms 1098, another for Forms 1099-A, and a third for Forms 1099-MISC. Specific instructions for completing Form 1096 are included on the form. Also, see **Transmitters, paying agents, etc.** below. For information about filing corrected returns, see **Corrected Returns on Paper Forms** on page GEN-11.

If you are filing on magnetic media, **Form 4804**, Transmittal of Information Returns Reported Magnetically, must accompany your submissions.



*Form 4804 is no longer required if you file information returns electronically. See **Magnetic Media/Electronic Reporting** on page GEN-5.*

For information on the preparation of transmittal documents for magnetic media and paper document reporting (Forms 4804 and 1096), see Rev. Proc. 84-24, 1984-1 C.B. 465.

Report payments on the appropriate form, as explained in the separate specific instructions.

See Pub. 1179 for specifications for private printing of substitute information returns. You may not request special consideration. Only forms that conform with the official form and the specifications in Pub. 1179 are acceptable.

**Transmitters, paying agents, etc.** A transmitter, service bureau, paying agent, or disbursing agent (hereafter referred to as "agent") may sign Form 1096 or Form 4804 on behalf of any person required to file (hereafter referred to as "payer") if the conditions in **1** and **2** below are met:

1. The agent has the authority to sign the form under an agency agreement (oral, written, or implied) that is valid under state law and
2. The agent signs the form and adds the caption "For: (Name of payer)."

Signing of the form by an authorized agent on behalf of the payer does not relieve the payer of the liability for penalties for not filing a correct, complete, and timely Form 1096 or Form 4804 and accompanying returns.

Forms 1098, 1099, 5498, W-2G, or acceptable substitute statements to recipients issued by a service bureau or agent should show the same payer's name as shown on the information returns filed with the IRS.

For information about the election to report and deposit backup withholding under the agent's TIN and how to prepare forms if the election is made, see Rev. Proc. 84-33, 1984-1 C.B. 502.

**Keeping copies.** Generally, keep copies of information returns you filed with the IRS or have the ability to reconstruct the data for at least 3 years, 4 years for Form 1099-C, from the due date of the returns. Keep copies of information returns for 4 years if backup withholding was imposed.

## E. Shipping and Mailing

Send the forms to the IRS in a flat mailing (not folded). If you are sending many forms, you may send them in conveniently sized packages. On each package, write your name and TIN, number the packages consecutively, and place Form 1096 in package number one. Postal regulations require forms and packages to be sent by First-Class Mail.

## F. Recipient Names and Taxpayer Identification Numbers (TINs)

**Recipient name.** Show the full name and address in the section provided on the information return. **If payments have been made to more than one recipient or the account is in more than one name, show on the first name line the name of the recipient whose TIN is first shown on the return.** You may show the names of any other individual recipients in the area below the first line, if desired. Form W-2G filers, see the Instructions for Forms W-2G and 5754.

For **sole proprietors**, you must show the individual's name on the first name line; on the second name line, you may enter the "doing business as (DBA)" name. You may not enter only the DBA name. For the TIN, enter either the individual's SSN or the EIN of the business (sole proprietorship). The IRS prefers that you enter the SSN.

For a single-member **limited liability company (LLC)** (including a foreign LLC with a U.S. owner) that is disregarded as an entity separate from its owner under Regulations section 301.7701-3, enter the individual's name only on the first name line and the LLC's name on the second name line. For the TIN, enter the individual's SSN (or EIN, if applicable). If the LLC is a corporation, partnership, etc., enter the entity's EIN.



**TINs.** TINs are used to associate and verify amounts you report to the IRS with corresponding amounts on tax returns. Therefore, it is important that you furnish correct names, social security numbers (SSNs), individual taxpayer identification numbers (ITINs), or employer identification numbers (EINs) for recipients on the forms sent to the IRS.

**Requesting a recipient's TIN.** If the recipient is a U.S. person (including a U.S. resident alien), the IRS suggests that you request the recipient complete Form W-9 (or Form W-9S, if appropriate). See the Instructions for the Requester of Form W-9 for more information on how to request a TIN.

If the recipient is a foreign person, the IRS suggests that you request the recipient complete the appropriate Form W-8. See the **Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY.**



*U.S. resident aliens who rely on a "saving clause" of a tax treaty are to complete Form W-9, not Form W-8BEN. See Form W-9.*

You may be subject to a penalty for an incorrect or missing TIN on an information return. See **Penalties** on page GEN-4. You are required to maintain the confidentiality of information obtained on a Form W-9/W-9S relating to the taxpayer's identity (including SSNs, EINs, and ITINs), and you may use such information only to comply with the tax laws.



*If the recipient does not provide a TIN, leave the box for the recipient's TIN blank on the Form 1098, 1099, 5498, or W-2G. See **Backup Withholding** on page GEN-3. Only one recipient TIN can be entered on the form.*

**The TIN for individual recipients of information returns is the SSN.** See the information about sole proprietors on page GEN-8. For other recipients, including corporations, partnerships, and estates, the TIN is the EIN. For LLCs, see the information on LLC on page GEN-8.

SSNs have nine digits separated by two hyphens (000-00-0000), and EINs have nine digits separated by only one hyphen (00-0000000).

**Electronic submission of Forms W-9.** Requesters may establish a system for payees and payees' agents to submit Forms W-9 electronically, including by fax. A requester is anyone required to file an information return. A payee is anyone required to provide a TIN to the requester.

**Payee's agent.** A payee's agent can be an investment advisor (corporation, partnership, or individual) or an introducing broker. An investment advisor must be registered with the Securities Exchange Commission (SEC) under The Investment Advisers Act of 1940. The introducing broker is a broker-dealer that is regulated by the SEC and the National Association of Securities Dealers, Inc., and that is not a payer. Except for a broker who acts as a payee's agent for "readily tradable instruments," the advisor or broker must show in writing to the payer that the payee authorized the advisor or broker to transmit the Form W-9 to the payer.

Generally, the electronic system must:

1. Ensure the information received is the information sent and document all occasions of user access that result in the submission.
2. Make reasonably certain the person accessing the system and submitting the form is the person identified on Form W-9.
3. Provide the same information as the paper Form W-9.
4. Be able to supply a hard copy of the electronic Form W-9 if the Internal Revenue Service requests it.
5. Require as the final entry in the submission an electronic signature by the payee whose name is on Form W-9 that authenticates and verifies the submission. The electronic signature must be under penalties of perjury and the perjury statement must contain the language of the paper Form W-9.



*For Forms W-9 that are not required to be signed, the electronic system need not provide for an electronic signature or a perjury statement.*

Additional requirements may apply. See Announcement 98-27, 1998-1 C.B. 865 and Announcement 2001-91, 2001-2 C.B. 221.

**Electronic submission of Forms W-9S.** See the Instructions for Forms 1098-E and 1098-T.

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## G. Filer's Name, Identification Number, and Address

The TIN for filers of information returns, including sole proprietors and nominees/middlemen, is the Federal EIN. However, sole proprietors and nominees/middlemen who are not otherwise required to have an EIN should use their SSNs. A sole proprietor is not required to have an EIN unless he or she has a Keogh plan or must file excise or employment tax returns. See **Pub. 583, Starting a Business and Keeping Records.**

The filer's name and TIN should be consistent with the name and TIN used on the filer's other tax returns. The name of the filer's paying agent or service bureau must not be used in place of the name of the filer.

To obtain an EIN, file **Form SS-4, Application for Employer Identification Number**, with the IRS. If you do not have your EIN by the time you must file information returns, enter "Applied For" in any space where the number must be entered.

Enter your street address including the room, suite, or other unit number on the forms.

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## H. Statements to Recipients (Borrowers, Debtors, Insureds, Participants, Payers/Borrowers, Policyholders, Students, Transferors, or Winners on Certain Forms)

If you are required to file Forms 1099, 1098, 5498, or W-2G, you must also furnish statements to recipients containing the information furnished to the IRS and, in some cases, additional information. Be sure that the statements you provide to recipients are clear and legible.

**Substitute statements.** If you are not using the official IRS form to furnish statements to recipients, see Pub. 1179 for specific rules about providing "substitute" statements to recipients. Generally, a substitute is any statement other than Copy B (and C in some cases) of the official form. You may develop them yourself or buy them from a private printer. However, the substitutes must comply with the format and content requirements specified in Pub. 1179.

**Telephone number.** You are required to include the telephone number of a person to contact on the following statements to recipients: W-2G, 1098, 1098-E, 1098-T, 1099-A, 1099-B, 1099-CAP, 1099-DIV, 1099-G (excluding state and local income tax refunds), 1099-H, 1099-INT, 1099-LTC, 1099-MISC (excluding fishing boat proceeds), 1099-OID, 1099-PATR, 1099-Q, and 1099-S. You may include the telephone number in any conspicuous place on the statements. This number must provide direct access to an individual who can answer questions about the statement. Although not required, if you report on other Forms 1099 and 5498, you are encouraged to furnish telephone numbers.

**Rules for furnishing statements.** Different rules apply to furnishing statements to recipients depending on the type of payment (or contribution) you are reporting and the form you are filing.



*If you are reporting a payment that includes noncash property, show the fair market value of the property at the time of payment. Although, generally, you are not required to report payments smaller than the minimum described for a form, you may prefer, for economy and your own convenience, to file Copies A for all payments. The IRS encourages this.*

See the heading below for the type of payment you are reporting. The headings are **(a) Interest, dividend, and royalty payments;** **(b) Real estate transactions;** and **(c) Other payments.**

**Interest, dividend, and royalty payments.** For payments of dividends under section 6042 (reported on Form 1099-DIV) or patronage dividends under section 6044 (reported on Form 1099-PATR), interest (including original issue discount) under section 6049 (reported on Form 1099-INT or 1099-OID), or royalties under section 6050N (reported on Form 1099-MISC or 1099-S), you are required to furnish an official IRS Form 1099 or an acceptable substitute Form 1099 to a recipient either in person, by First-Class Mail to the recipient's last known address, or electronically (see **Electronic recipient statements** on page GEN-11). Statements may be sent by intraoffice mail if you use intraoffice mail to send account information and other correspondence to the recipient.

**Statement mailing requirements for Forms 1099-DIV, 1099-INT, 1099-OID, and 1099-PATR, and forms reporting royalties only.** The following statement mailing requirements apply only to Forms 1099-DIV (except for section 404(k) dividends), 1099-INT (except for interest reportable in the course of your trade or business under section 6041), 1099-OID, 1099-PATR, and timber royalties reported under section 6050N (on Form 1099-MISC or 1099-S). The mailing must contain the official IRS Form 1099 or an acceptable substitute and may also contain the following **enclosures:** **(a)** Form W-2, applicable Form W-8, Form W-9, or other Forms W-2G, 1098, 1099, and 5498 statements; **(b)** a check from the account being reported; **(c)** a letter explaining why no check is enclosed; **(d)** a statement of the person's account shown on Forms 1099, 1098, or 5498; and **(e)** a letter explaining the tax consequences of the information shown on the recipient statement.

A statement of the person's account (year-end account summary) that you are permitted to enclose in a statement mailing may include information similar to the following: **(a)** tax-exempt interest (including accrued OID) and the part of such interest exempt from the alternative minimum tax or from state or local income tax; **(b)** the part of a mutual fund distribution that is interest on U.S. Treasury obligations; **(c)** accrued interest expense on the purchase of a debt obligation; and **(d)** the cost or other basis of securities and the gain/loss on the sale of securities.

No additional enclosures, such as advertising, promotional material, or a quarterly or annual report, are permitted. Even a sentence or two on the year-end statement describing new services offered by the payer is not permitted. Logos are permitted on the envelope and on any nontax enclosures.

**TIP** *The IRS intends to amend the regulations to allow the use of certain logos and identifying slogans on substitute statements to recipients that are subject to the statement mailing requirements. Until the new regulations are issued, the IRS will not assess penalties for the use of a logo (including the name of the payer in any typeface, font, or stylized fashion and/or a symbolic icon) or slogan on a statement to a recipient if the logo or slogan is used by the payer in the ordinary course of its trade or business. In addition, use of the logo or slogan must not make it less likely that a reasonable payee will recognize the importance of the statement for tax reporting purposes. See Notice 96-62, 1996-2 C.B. 228.*

A recipient statement may be perforated to a check or to a statement of the recipient's specific account. The check or account statement to which the recipient statement is perforated must contain, in bold and conspicuous type, the legend "Important Tax Return Document Attached."

The legend "Important Tax Return Document Enclosed" must appear in a bold and conspicuous manner on the outside of the envelope and on each letter explaining why no check is enclosed, or on each check or account statement that is not perforated to the recipient statement. The legend is not required on any tax form, tax statement, or permitted letter of tax

consequences included in a statement mailing. Further, you need not pluralize the word "document" in the legend simply because more than one recipient statement is enclosed.

**TIP** *If you provide recipient statements in a "separate mailing" that contains only recipient statements, Forms W-8 and W-9, and a letter explaining the tax consequences of the information shown on a recipient statement included in the envelope, you are not required to include the legend "Important Tax Return Document Enclosed" on the envelope.*

**Substitute forms.** You may furnish to the recipient Copy B of the official IRS form, or you may use substitute Forms 1099-DIV, 1099-INT, 1099-OID, or 1099-PATR, if they contain the same language as the official IRS forms and they comply with the rules in Pub. 1179, relating to substitute Forms 1099. Applicable box titles and numbers must be clearly identified, using the same wording and numbering as the official IRS form. However, for Form 1099-INT, if your substitute does not contain box 3, "Interest on U.S. Savings Bonds and Treas. obligations," you may omit "not included in box 3" from the box 1 title. For information on substitute Forms 1099-MISC, see **Other payments** below. For Forms 1099-S, see **Real estate transactions** below.

**TIP** *All substitute statements to recipients must contain the tax year, form number, and form name prominently displayed together in one area of the statement. For example, they could be shown in the upper right part of the statement.*

If you are using substitutes, the IRS encourages you to use boxes so that the substitute has the appearance of a form. The substitute form must contain the applicable instructions as on the front and back of Copy B of the official IRS form. See Pub. 1179 for additional requirements. Certain "composite" statements are permitted. See Pub. 1179.

**Real estate transactions.** You must furnish a statement to the transferor containing the same information reported to the IRS on Form 1099-S. You may use Copy B of the official IRS Form 1099-S or a substitute form that complies with Pub. 1179 and Regulations section 1.6045-4(m). You may use a Uniform Settlement Statement (under RESPA) as the written statement if it is conformed by including on the statement the legend shown on Form 1099-S and by designating which information is reported to the IRS on Form 1099-S. You may furnish the statement to the transferor in person, by mail, or electronically. Furnish the statement at or after closing but by January 31 of the following year.

The statement mailing requirements explained above **do not** apply to statements to transferors for proceeds from real estate transactions reported on Form 1099-S. However, the statement mailing requirements do apply to statements to transferors for timber royalties reportable under section 6050N on Form 1099-S.

**Other payments.** Statements to recipients for Forms 1098, 1098-E, 1098-T, 1099-A, 1099-B, 1099-C, 1099-CAP, 1099-G, 1099-H, 1099-LTC, 1099-MISC, 1099-MSA, 1099-Q, 1099-R, 5498, 5498-ESA, 5498-MSA, W-2G, 1099-DIV only for section 404(k) dividends reportable under section 6047, 1099-INT only for interest reportable in the course of your trade or business under section 6041, or 1099-S only for royalties need not be, but can be, a copy of the official paper form filed with the IRS. If you do not use a copy of the paper form, the form number and title of your **substitute** must be the same as the official IRS form. All information required to be reported must be numbered and titled on your substitute in substantially the same manner as on the official IRS form. However, if you are reporting a payment as "Other income" in box 3 of Form 1099-MISC, you may substitute appropriate explanatory language for the box title. For example, for payments of accrued wages to a beneficiary of a deceased employee required to be reported on Form 1099-MISC, you might change the title of box 3 to "Beneficiary payments" or something similar.





*All substitute statements to recipients must contain the tax year, form number, and form name prominently displayed together in one area of the statement. For example, they could be shown in the upper right part of the statement.*

Appropriate instructions to the recipient, similar to those on the official IRS form, must be provided to aid in the proper reporting of the items on the recipient's income tax return. For payments reported on Form 1099-B, rather than furnish appropriate instructions with each Form 1099-B statement, you may furnish to the recipient one set of instructions for all statements required to be furnished to a recipient in a calendar year.

Except for royalties reported on Form 1099-MISC, the statement mailing requirements explained earlier **do not** apply to statements to recipients for information reported on the forms listed earlier under **Other payments**. You may combine the statements with other reports or financial or commercial notices, or expand them to include other information of interest to the recipient. Be sure that all copies of the forms are legible. Certain "composite" statements are permitted. See Pub. 1179.

**When to furnish forms or statements.** Generally, you must furnish Forms 1098, 1099, and W-2G information by February 2, 2004. However, you may issue them earlier in some situations, as provided by the regulations. For example, you may furnish Form 1099-INT to the recipient on redemption of U.S. Savings Bonds at the time of redemption. Brokers and barter exchanges may furnish Form 1099-B anytime but not later than February 2, 2004.

Trustees or issuers of IRAs or SEPs must furnish participants with a statement of the value of the participant's account by February 2, 2004. Traditional IRA, Roth IRA, SEP, or SIMPLE contribution information must be furnished to the participant by May 31, 2004. However, Coverdell ESA contribution information must be furnished to the beneficiary by April 30, 2004.

Trustees of a SIMPLE must furnish a statement of the account balance and the account activity by February 2, 2004.

For real estate transactions, you may furnish the statement to the transferor at closing or by mail on or before February 2, 2004.

Filers of Form 1099-G who report state or local income tax refunds, credits, or offsets must furnish the statements to recipients **during** January 2004.

See the **Guide to Information Returns** on pages GEN-16 and GEN-17 for the date other information returns are due to the recipient.

You will meet the requirement to furnish the statement if it is properly addressed and mailed, or posted to a website, on or before the due date. If the regular due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

**Electronic recipient statements.** If you are required by sections 6041 through 6050T to furnish a written statement of an information return to a recipient, then you may furnish the statement (Copy B) electronically instead of on paper. This includes furnishing to the recipient Copy B of Forms 1098, 1098-E, 1098-T, 1099-A, B, C, CAP, DIV, H, INT, G, LTC, MISC, OID, PATR, and S. It also includes Forms 1099-R and 5498 (except for reporting contributions and distributions of pensions, traditional IRAs, Roth IRAs, and Archer MSAs); and Form W-2G (except for horse and dog racing, jai alai, sweepstakes, wagering pools, and lotteries).



*A trustee is permitted to electronically furnish the required statement to provide IRA owners the required minimum distribution if the procedures of section 6051 are followed. See Notice 2003-3, 2003-2 I.R.B. 258 for details.*

If you meet the requirements listed below, you are treated as furnishing the statement timely.

**Consent.** The recipient must consent in the affirmative and not have withdrawn the consent before the statement is

furnished. The consent by the recipient must be made electronically in a way that shows that he or she can access the statement in the electronic format in which it will be furnished.

You must notify the recipient of any hardware or software changes prior to furnishing the statement. A new consent to receive the statement electronically is required after the new hardware or software is put into service.

Prior to furnishing the statements electronically, you must provide the recipient a statement with the following statements prominently displayed:

- If the recipient does not consent to receive the statement electronically, a paper copy will be provided.
- The scope and duration of the consent. For example, whether the consent applies to every year the statement is furnished or only for the January 31 immediately following the date of the consent.
- How to obtain a paper copy after giving consent.
- How to withdraw the consent. The consent may be withdrawn at any time by furnishing the withdrawal in writing (electronically or on paper) to the person whose name appears on the statement. Confirmation of the withdrawal also will be in writing (electronically or on paper).
- Notice of termination. The notice must state under what conditions the statements will no longer be furnished to the recipient.
- Procedures to update the recipient's information.
- A description of the hardware and software required to access, print and retain a statement, and a date the statement will no longer be available on the website.

**Format, posting, and notification.** Additionally, you must:

- Ensure the electronic format contains all the required information and complies with the applicable revenue procedure for substitute statements to recipients. See Pub. 1179.
- Post, on or before the January 31 due date, the applicable statement on a website accessible to the recipient through October 15 of that year.
- Inform the recipient, electronically or by mail, of the posting and how to access and print the statement.

For more information, see Temporary Regulations section 31.6051-1T. For electronic furnishing of Forms 1098-E and 1098-T, see Temporary Regulations section 1.6050S-2T.

**Extension.** You may request an extension of time to provide the statements to recipients by sending a letter to IRS-Martinsburg Computing Center, Information Reporting Program, Attn: Extension of Time Coordinator, 240 Murall Drive, Kearneysville, WV 25430. The letter must include **(a)** your name, **(b)** your TIN, **(c)** your address, **(d)** type of return, **(e)** a statement that your extension request is for providing statements to recipients, **(f)** reason for delay, and **(g)** the signature of the payer or authorized agent. Your request must be postmarked by the date on which the statements are due to the recipients. If your request for an extension is approved, generally you will be granted a maximum of 30 extra days to furnish the recipient statements.

## I. Corrected Returns on Paper Forms



*To file corrections on magnetic media, see **Magnetic Media/Electronic Reporting** on page GEN-5 and Pub. 1220.*

If you filed a return with the IRS and later discover you made an error on it, you must:

- Correct it as soon as possible and file Copy A and Form 1096 with your Internal Revenue Service Center (see page GEN-8).
- Furnish statements to recipients showing the correction.

When making a correction, complete all required information (see **Filing Corrected Returns on Paper Forms** on page GEN-12).

- **Do not** cut or separate forms that are two or three to a page. Submit the entire page even if only one of the forms on the page is completed.
- **Do not** staple the forms to Form 1096.



## Filing Corrected Returns on Paper Forms

Identify the correction needed based on **Error Type 1, 2, or 3**; then follow the steps to make the corrections and file the form(s). Also see **Corrected Returns on Paper Forms** on page GEN-11.

Error Type 1	Correction
<p><b>No payee TIN (SSN, EIN, or ITIN)</b> or <b>Incorrect name and address</b></p> <p>This will require two separate returns to make the correction properly. Read and follow all instructions for both <b>Steps 1 and 2</b>.</p> <p><b>Note:</b> <i>You do not have to file a corrected return for an incorrect payer TIN or incorrect payer name and address.</i></p>	<p><b>Step 1.</b> Identify incorrect return submitted.</p> <p><b>A.</b> Prepare a new information return. <b>B.</b> Enter an “X” in the “CORRECTED” box (and date (optional)) at the top of the form. <b>C.</b> Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; however, enter 0 (zero) for all money amounts</p> <hr/> <p><b>Step 2.</b> Report correct information.</p> <p><b>A. Form 1098, 1099, 5498, or W-2G</b></p> <ol style="list-style-type: none"> <li>1. Prepare a new information return.</li> <li>2. Do not enter an “X” in the “CORRECTED” box at the top of the form. Prepare the new return as though it is an original.</li> <li>3. Include all the correct information on the form including the correct TIN, name, and address.</li> </ol> <p><b>B. Form 1096</b></p> <ol style="list-style-type: none"> <li>1. Prepare a new transmittal Form 1096.</li> <li>2. Enter the words “Filed To Correct TIN, Name, and/or Address” in the bottom margin of the form.</li> <li>3. Provide all requested information on the form as it applies to the returns prepared in <b>Steps 1 and 2</b>.</li> <li>4. File Form 1096 and Copy A of the return with the appropriate service center.</li> <li>5. Do not include a copy of the original return that was filed incorrectly.</li> </ol>

Error Type 2	Correction
<p><b>Incorrect money amount(s), code, or checkbox</b> or <b>Incorrect address,</b> or <b>A return was filed when one should not have been filed</b></p> <p>This error requires only one return to make the correction.</p> <p><b>Caution:</b> <i>If you must correct an address <b>and</b> a name or TIN, follow the instructions under <b>Error 1</b>, instead of these instructions.</i></p>	<p><b>A. Form 1098, 1099, 5498, or W-2G</b></p> <ol style="list-style-type: none"> <li>1. Prepare a new information return.</li> <li>2. Enter an “X” in the “CORRECTED” box (and date (optional)) at the top of the form.</li> <li>3. Enter the payer, recipient, and account number information exactly as it appeared on the original incorrect return; however, enter all correct money amounts in the correct boxes as they should have appeared on the original return, and enter the recipient’s correct address.</li> </ol> <p><b>B. Form 1096</b></p> <ol style="list-style-type: none"> <li>1. Follow the instructions under <b>Error Type 1, Step 2-B</b> (ignore Item B-2).</li> <li>2. File Form 1096 and Copy A of the return with the appropriate service center.</li> <li>3. Do not include a copy of the original return that was filed incorrectly.</li> </ol>

Error Type 3	Correction
<p><b>Original return filed using wrong type of return</b> (for example, a Form 1099-DIV was filed when a Form 1099-INT should have been filed).</p> <p>This will require two separate returns to make the correction properly. Read and follow all the instructions for both <b>Steps 1 and 2</b>.</p>	<p><b>Step 1.</b> Identify incorrect return submitted.</p> <p>Follow the instructions under <b>Error Type 1, Step 1</b>, using the same type of return that was used initially.</p> <hr/> <p><b>Step 2.</b> Report correct information on the correct type of return.</p> <p><b>A. Form 1098, 1099, 5498, or W-2G</b></p> <p>Follow the instructions under <b>Error Type 1, Step 2-A</b>, using the proper type of form.</p> <p><b>B. Form 1096</b></p> <p>Follow the instructions under <b>Error Type 1, Step 2-B</b>, except enter “Filed to Correct Document Type” in the bottom margin of Form 1096.</p>

**Form 1096.** Use a separate Form 1096 for each type of return you are correcting. For the same type of return, you may use one Form 1096 for both originals and corrections.

**CORRECTED checkbox.** Enter an "X" in the corrected checkbox only when correcting a form previously filed with the IRS or furnished to the recipient. When the type of error requires two returns to make the correction, see **Filing Corrected Returns on Paper Forms** on page GEN-12 to determine when to mark the "CORRECTED" checkbox.

**Account number.** If the account number was provided on the original return, the same account number must be included on both the original and corrected return to properly identify and process the correction. If the account number was not provided on the original return, do not include it on the corrected return. See **Account Number Box on Forms** on page GEN-15.

**Recipient's statement.** You may enter a date next to the "CORRECTED" checkbox. This will help the recipient in the case of multiple corrections.

**Filing corrected returns on paper forms.** The error charts on page GEN-12 give step-by-step instructions for filing corrected returns for the most frequently made errors. They are grouped under **Error Type 1, 2, or 3**, based on how the correction is made. Correction of errors may require the submission of more than one return. Be sure to read and follow the steps given.



*If you fail to file correct information returns or furnish a correct payee statement, you may be subject to a penalty. See **Penalties** on page GEN-4. Regulations section 301.6724-1 (relating to information return penalties) does not require you to file corrected returns for missing or incorrect TINs if you meet the reasonable cause criteria. You are merely required to include the correct TIN on the next original return you are required to file. However, if you do not meet the reasonable cause criteria, a reduced penalty may be imposed if the corrected returns are filed by August 1.*

*In addition, even if you meet the reasonable cause criteria, the IRS encourages you to file corrections for incorrect or missing TINs so that the IRS can update the payees' records.*

## J. Void Returns

An "X" in the "VOID" box at the top of the form will not correct a previously filed return. See **Corrected Returns on Paper Forms** on GEN-12 for instructions for making corrections.

**VOID box.** If a completed or partially completed Form 1098, 1099, or 5498 is incorrect and you want to void it before submission to the IRS, enter an "X" in the "VOID" box at the top of the form. For example, if you make an error while typing or printing a form, you should void it. The return will then be disregarded during processing by the IRS. Go to the next form on the page, or to another page, and enter the correct information; but **do not** mark the "CORRECTED" box. Do not cut or separate the forms that are two or three to a page. Submit the entire page even if only one of the forms on the page is a good return.

## K. Other Information Returns

The income information you report on the following forms must not be repeated on Forms 1099 or W-2G:

- Form W-2 reporting wages and other employee compensation.
- Forms 1042-S and 1000 reporting income.
- Form 2439 reporting undistributed long-term capital gains of a regulated investment company or real estate investment trust.
- Schedule K-1 of Form 1065 or 1065-B reporting distributive shares to members of a partnership.
- Schedule K-1 of Form 1041 reporting distributions to beneficiaries of trusts or estates.
- Schedule K-1 of Form 1120S reporting distributive shares to shareholders of S corporations.
- Schedule K of Form 1120-IC-DISC reporting actual and constructive distributions to shareholders and deferred DISC income.

- Schedule Q of Form 1066 reporting income from a REMIC to a residual interest holder.

## L. Payments to Corporations and Partnerships

Generally, payments to **corporations** are not reportable. However, you must report payments to corporations for the following:

- Medical and health care payments (Form 1099-MISC),
- Withheld Federal income tax or foreign tax,
- Barter exchange transactions (Form 1099-B),
- Substitute payments in lieu of dividends and tax-exempt interest (Form 1099-MISC),
- Interest or original issue discount paid or accrued to a regular interest holder of a REMIC (Form 1099-INT or 1099-OID),
- Acquisitions or abandonments of secured property (Form 1099-A),
- Cancellation of debt (Form 1099-C),
- Payments of attorneys' fees and gross proceeds paid to attorneys (Form 1099-MISC),
- Federal executive agency payments for services (Form 1099-MISC), and
- Fish purchases for cash (Form 1099-MISC).

Reporting generally is required for all payments to **partnerships**. For example, payments of \$600 or more made in the course of your trade or business to an architectural firm that is a partnership are reportable on Form 1099-MISC. However, see Regulations section 1.6049-4(c)(1)(ii)(A).

## M. Earnings on any IRA, Coverdell ESA, or Archer MSA

Generally, income earned in any IRA, Coverdell ESA, or Archer MSA, such as interest or dividends, is not reported on Forms 1099. However, distributions must be reported on Form 1099-R, 1099-Q, or 1099-MSA.

## N. Certain Grantor Trusts

Certain grantor trusts may choose to file Forms 1099 rather than a separate statement attached to **Form 1041**, U.S. Income Tax Return for Estates and Trusts. If you have filed Form 1041 for a grantor trust in the past and you want to choose the Form 1099 filing method for 2003, you must have filed a **final** Form 1041 for 2002. See Regulations section 1.671-4 and the **Instructions for Form 1041 and Schedules A, B, D, G, I, J, and K-1**.

## O. Special Rules for Reporting Payments Made Through Foreign Intermediaries and Foreign Flow-Through Entities on Form 1099

If you are the payer and have received a **Form W-8IMY**, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain U.S. Branches for United States Tax Withholding, from a foreign intermediary or flow-through entity, follow the instructions below for completing Form 1099. Definitions of the terms used in these instructions are on page GEN-14.

### Presumption Rules

**TIP** For additional information including details on the presumption rules, see the **Instructions for the Requester of Forms W-8BEN, W-8ECI, W-8EXP, and W-8IMY and Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities**. To order, see **How To Get Forms and Publications** on page GEN-3.

If you are the payer and do not have a Form W-9, appropriate Form W-8, or other valid documentation, or you

cannot allocate a payment to a specific payee, prior to payment, you are required to use certain presumption rules to determine the following:

- The status of the payee as a U.S. or foreign person and
  - The classification of the payee as an individual, trust, estate, corporation, or partnership.
- See Regulations sections 1.1441-1(b)(3), 1.1441-5(d) and (e), 1.6045-1(g)(3)(ii), and 1.6049-5(d).

Under these presumption rules, if you must presume that the payee is a U.S. nonexempt recipient subject to backup withholding, you must report the payment on a Form 1099. However, if before filing Form 1099 with the IRS the recipient is documented as foreign, then report the payment on a Form 1042-S.

On the other hand, if you must presume that the payee is a foreign recipient and prior to filing Form 1042-S with the IRS you discover that the payee is a U.S. nonexempt recipient based on documentation, then report all payments made to that payee during the calendar year on a Form 1099.

If you use the 90-day grace period rule to presume a payee is foreign, you must file a Form 1042-S to report all payments subject to withholding during the grace period. If you later discover that the payee is a U.S. nonexempt recipient subject to backup withholding, you must file a Form 1099 for all payments made to that payee after the discovery of the payee's U.S. status.

### Rules for Payments Made to U.S. Nonexempt Recipients Through a QI, NQI, or FTE

If you are the payer making a payment through a QI, NQI, or FTE for a U.S. nonexempt recipient on whose behalf the QI, NQI, or FTE is acting, use the following rules to complete Form 1099.

**Known recipient.** If you know that a payee is a U.S. nonexempt recipient and have the payee's name, address, and TIN (if a TIN has been provided), you must complete the Form 1099 with that information. Also, on the second name line below the recipient's name enter "IMY" followed by the name of the QI, NQI, or FTE.

For payments made to multiple recipients: **(a)** enter the name of the recipient whose status you relied on to determine the applicable rate of withholding and **(b)** on the second name line, enter "IMY" followed by the name of the QI, NQI, or FTE. However, if the QI has assumed primary Form 1099 reporting or backup withholding responsibility, you are not required to issue the Form 1099 or to backup withhold. See **Qualified intermediary** below.

**Unknown recipient.** If you cannot reliably associate a payment with valid documentation and are required to presume a payee is a U.S. nonexempt recipient:

1. File a Form 1099 and enter "unknown recipient" on the first name line.
2. On the second name line, enter "IMY" followed by the name of the QI, NQI, or FTE.
3. Enter the EIN of the QI, NQI, or FTE, if applicable, in the recipient's identification number box.
4. Furnish a copy of the Form 1099 with "unknown recipient" to the QI, NQI, or FTE who is acting on the recipient's behalf.



**CAUTION** A payer that is required to report payments made to a U.S. nonexempt recipient account holder but does not receive the necessary allocation information cannot report those payments on a pro rata basis. Report unallocated payments using the presumption rules on page GEN-13.

### Rules for Non-U.S. Payers

Non-U.S. payers (foreign persons that are not U.S. payers) generally have the same reporting obligations as U.S. payers. A U.S. payer is anyone who is:

- A U.S. person,
- Any U.S. governmental agency,
- A controlled foreign corporation (CFC),

- A foreign partnership that has one or more U.S. partners who, in the aggregate hold more than 50 percent of the gross income derived from the conduct of a U.S. trade or business,
- A foreign person who owns 50 percent or more of the gross income that is effectively connected with a U.S. trade or business, or
- A U.S. branch of a foreign bank or a foreign insurance company.

For more information, see Regulations section 1.6049-5(c)(5).

**Exceptions.** The following payments are **not** subject to reporting by a non-U.S. payer:

1. A foreign source reportable payment paid outside the U.S. For example, see Regulations section 1.6049-5(b)(6).
2. Gross proceeds from a sale effected outside the U.S. See Regulations section 1.6045-1(a).
3. An NQI or QI that provides another payer all the information sufficient for that payer to complete Form 1099 reporting. For example, see Regulations section 1.6049-5(b)(14). However, if an NQI or QI does not provide sufficient information for another payer to report a payment on Form 1099, the intermediary must report the payment.

### Rules for Reporting Payments Initially Reported on Form 1042-S

If an NQI or QI receives a Form 1042-S made out to an "unknown recipient" and, the NQI or QI has actual knowledge that the payee of the income is a U.S. nonexempt recipient, it must file a Form 1099 even if the payment has been subject to withholding by another payer. The NQI or QI reports the amount withheld by the other payer on Form 1099 as Federal income tax withheld.

### Definitions

**Foreign intermediary.** A foreign intermediary is any person who is not a U.S. person and acts as a custodian, broker, nominee, or otherwise as an agent for another person, regardless of whether that other person is the beneficial owner of the amount paid, a flow-through entity, or another intermediary. The intermediary can be a qualified intermediary or a nonqualified intermediary.

**Qualified intermediary (QI).** A qualified intermediary is a person that is a party to a withholding agreement with the IRS and is:

- A foreign financial institution or a foreign clearing organization (other than a U.S. branch or U.S. office of the institution or organization),
- A foreign branch or office of a U.S. financial institution or a foreign branch or office of a U.S. clearing organization,
- A foreign corporation for purposes of presenting claims of benefits under an income tax treaty on behalf of its shareholders, or
- Any other person the IRS accepts as a qualified intermediary and who enters into a withholding agreement with the IRS.

See Rev. Proc. 2000-12, 2000-1 C.B. 387, for procedures to apply to be a qualified intermediary.

**Nonqualified intermediary (NQI).** A nonqualified intermediary is any intermediary that is not a U.S. person and that is not a qualified intermediary.

**Foreign flow-through entity (FTE).** A flow-through entity is a foreign partnership (other than a withholding foreign partnership), a foreign simple trust or foreign grantor trust (other than a withholding foreign trust), or, for payments for which a reduced rate of withholding is claimed under an income tax treaty, any entity to the extent the entity is considered to be fiscally transparent under section 894 with respect to the payment by an interest holder's jurisdiction.

**Withholding foreign partnership or withholding foreign trust.** A withholding foreign partnership or withholding foreign trust is a foreign partnership or a foreign simple or grantor trust that has entered into a withholding agreement with the IRS in which it agrees to assume primary withholding responsibility for all payments that are made to it for its partners, beneficiaries, or owners.



**Nonwithholding foreign partnership, simple trust, or grantor trust.** A nonwithholding foreign partnership is any foreign partnership other than a withholding foreign partnership. A nonwithholding foreign simple trust is any foreign simple trust that is not a withholding foreign trust. A nonwithholding foreign grantor trust is any foreign grantor trust that is not a withholding foreign trust.

**Fiscally transparent entity.** An entity is treated as fiscally transparent with respect to an item of income to the extent that the interest holders in the entity must, on a current basis, take into account separately their shares of an item of income paid to the entity, whether or not distributed, and must determine the character of the items of income as if they were realized directly from the sources from which they were realized by the entity. For example, partnerships, common trust funds, and simple trusts or grantor trusts are generally considered to be fiscally transparent with respect to items of income received by them.

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## P. Account Number Box on Forms

You may use the **account number** box on all Forms 1099, 1098, 5498, and W-2G for an account number designation. The account number may be a checking account number, savings account number, serial number, or any other number you assign to the payee that is unique and will distinguish the specific account. This number must not appear anywhere else on the form, and this box may not be used for any other item unless the separate instructions indicate otherwise.

Showing the account number is optional. However, it may be to your benefit to include the recipient's account number on paper forms if your system of records uses the account number rather than the name or TIN for identification purposes. If you furnish the account number, the IRS will include it in future notices to you about backup withholding.

If you are using window envelopes to mail statements to recipients, and if you are using reduced rate mail, be sure the account number does not appear in the window because the Postal Service may not accept these for reduced rate mail.

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**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on these forms to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to figure and collect the right amount of tax.

Sections 220(h), 408, 408A, 529, 530, 6041, 6041A, 6042, 6043, 6044, 6045, 6047, 6049, 6050A, 6050B, 6050D, 6050E, 6050H, 6050J, 6050N, 6050P, 6050Q, 6050R, 6050S, 6050T and their regulations require you to file an information return with the IRS and furnish a statement to recipients. Section 6109 and its regulations require you to provide your taxpayer identification number on what you file.

Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to Federal and state agencies to enforce Federal nontax criminal laws and to combat terrorism. If you fail to provide this information in a timely manner, you may be subject to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file the following forms will vary depending on individual circumstances. The estimated average times are:

1096 . . . . .	13 minutes
1098 . . . . .	7 minutes
1098-E . . . . .	7 minutes
1098-T . . . . .	10 minutes
1099-A . . . . .	9 minutes
1099-B . . . . .	15 minutes
1099-C . . . . .	10 minutes
1099-CAP . . . . .	18 minutes
1099-DIV . . . . .	16 minutes
1099-G . . . . .	11 minutes
1099-H . . . . .	18 minutes
1099-INT . . . . .	13 minutes
1099-LTC . . . . .	13 minutes
1099-MISC . . . . .	16 minutes
1099-MSA . . . . .	8 minutes
1099-OID . . . . .	13 minutes
1099-PATR . . . . .	15 minutes
1099-Q . . . . .	8 minutes
1099-R . . . . .	18 minutes
1099-S . . . . .	8 minutes
5498 . . . . .	12 minutes
5498-ESA . . . . .	7 minutes
5498-MSA . . . . .	10 minutes
W-2G . . . . .	18 minutes

If you have comments concerning the accuracy of these time estimates or suggestions for making these forms simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. **Do not** send these forms to this address. Instead, see **Where To File** on page GEN-8.

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# Guide to Information Returns

(If any date shown falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.)

Form	Title	What To Report	Amounts To Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	Payments subject to withholding under Chapter 3 of the Code, including interest, dividends, royalties, pensions and annuities, gambling winnings, and compensation for personal services.	All amounts, except \$10 or more for interest on U.S. deposits paid to Canadian nonresident aliens	March 15	March 15
1098	Mortgage Interest Statement	Mortgage interest (including points) you received in the course of your trade or business from individuals and reimbursements of overpaid interest.	\$600 or more	February 28*	(To Payer/ Borrower) January 31
1098-E	Student Loan Interest Statement	Student loan interest received in the course of your trade or business.	\$600 or more	February 28*	January 31
1098-T	Tuition Statement	Qualified tuition and related expenses, reimbursements or refunds, and scholarships or grants (optional).	See instructions	February 28*	January 31
1099-A	Acquisition or Abandonment of Secured Property	Information about the acquisition or abandonment of property that is security for a debt for which you are the lender.	All amounts	February 28*	(To Borrower) January 31
1099-B	Proceeds From Broker and Barter Exchange Transactions	Sales or redemptions of securities, futures transactions, commodities, and barter exchange transactions.	All amounts	February 28*	January 31
1099-C	Cancellation of Debt	Cancellation of a debt owed to a financial institution, the Federal Government, a credit union, RTC, FDIC, NCUA, a military department, the U.S. Postal Service, the Postal Rate Commission, or any organization having a significant trade or business of lending money.	\$600 or more	February 28*	January 31
1099-CAP	Changes in Corporate Control and Capital Structure	Information about cash, stock, or other property from an acquisition of control or the substantial change in capital structure of a corporation.	Amounts of stock or property valued at \$100 million or more	February 28*	(To Shareholders) January 31
1099-DIV	Dividends and Distributions	Distributions, such as dividends, capital gain distributions, or nontaxable distributions, that were paid on stock, and liquidation distributions.	\$10 or more, except \$600 or more for liquidations	February 28*	January 31
1099-G	Certain Government Payments	Unemployment compensation, state and local income tax refunds, agricultural payments, and taxable grants.	\$10 or more for refunds and unemployment; \$600 or more for all others	February 28*	January 31
1099-H	Health Insurance Advance Payments	Health insurance premiums paid on behalf of certain individuals.	All amounts	February 28*	January 31
1099-INT	Interest Income	Interest income.	\$10 or more (\$600 or more in some cases)	February 28*	January 31
1099-LTC	Long-Term Care and Accelerated Death Benefits	Payments under a long-term care insurance contract and accelerated death benefits paid under a life insurance contract or by a viatical settlement provider.	All amounts	February 28*	(To Insured and Policyholder) January 31
1099-MISC	Miscellaneous Income  (Also, use this form to report the occurrence of direct sales of \$5,000 or more of consumer goods for resale.)	Rent or royalty payments; prizes and awards that are not for services, such as winnings on TV or radio shows.	\$600 or more, except \$10 or more for royalties	February 28*	January 31
		Payments to crew members by owners or operators of fishing boats including payments of proceeds from sale of catch.	All amounts		
		Payments to a physician, physicians' corporation, or other supplier of health and medical services. Issued mainly by medical assistance programs or health and accident insurance plans.	\$600 or more		
		Payments for services performed for a trade or business by people not treated as its employees. Examples: fees to subcontractors or directors, and golden parachute payments.	\$600 or more		
		Fish purchases paid in cash for resale.	\$600 or more		
		Substitute dividend and tax-exempt interest payments reportable by brokers.	\$10 or more		
		Crop insurance proceeds.	\$600 or more		
		Gross proceeds paid to attorneys.	All amounts		
1099-MSA	Distributions From an Archer MSA or Medicare+Choice MSA	Distributions from an Archer MSA or Medicare+Choice MSA.	All amounts	February 28*	January 31
1099-OID	Original Issue Discount	Original issue discount.	\$10 or more	February 28*	January 31
1099-PATR	Taxable Distributions Received From Cooperatives	Distributions from cooperatives to their patrons.	\$10 or more	February 28*	January 31

\*The due date is March 31 if filed electronically.

## Guide to Information Returns *(Continued)*

Form	Title	What To Report	Amounts To Report	Due Date	
				To IRS	To Recipient (unless indicated otherwise)
1099-Q	Payments From Qualified Education Programs (Under Sections 529 and 530)	Earnings from a qualified tuition program and Coverdell ESAs.	All amounts	February 28*	January 31
1099-R	Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.	Distributions from retirement or profit-sharing plans, any IRA, insurance contracts, and IRA recharacterizations.	\$10 or more	February 28*	January 31
1099-S	Proceeds From Real Estate Transactions	Gross proceeds from the sale or exchange of real estate.	Generally, \$600 or more	February 28*	January 31
4789	Currency Transaction Report	Each deposit, withdrawal, exchange of currency, or other payment or transfer by, through, or to financial institutions (other than casinos).	Over \$10,000	15 days after date of transaction	Not required
5471	Information Return of U.S. Persons With Respect To Certain Foreign Corporations	U.S. persons who are officers, directors, or shareholders in certain foreign corporations report information required by sections 6035, 6038, and 6046, and to compute income from controlled foreign corporations under sections 951-964.	See form instructions	Due date of income tax return	None
5472	Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business	Transactions between a 25% foreign-owned domestic corporation or a foreign corporation engaged in a trade or business in the United States and a related party as required by sections 6038A and 6038C.	See form instructions	Due date of income tax return	None
5498	IRA Contribution Information	Contributions (including rollover contributions) to any individual retirement arrangement (IRA) including a SEP, SIMPLE, and Roth IRA; Roth conversions; IRA recharacterizations; and the fair market value (FMV) of the account.	All amounts	May 31	(To Participant) For FMV/RMD Jan.31; For contributions, May 31
5498-ESA	Coverdell ESA Contribution Information	Contributions (including rollover contributions) to a Coverdell ESA.	All amounts	May 31	April 30
5498-MSA	Archer MSA or Medicare+Choice MSA Information	Contributions to an Archer MSA and the fair market value of an Archer MSA or Medicare+Choice MSA.	All amounts	May 31	(To Participant) May 31
8027	Employer's Annual Information Return of Tip Income and Allocated Tips	Receipts from large food or beverage operations, tips reported by employees, and allocated tips.	See separate instructions	Last day of February*	Allocated tips are shown on Form W-2, due January 31
8300 (IRS/FinCEN form)	Report of Cash Payments Over \$10,000 Received in a Trade or Business	Payments in cash (including certain monetary instruments) or foreign currency received in one transaction, or two or more related transactions, in the course of a trade or business. Does not apply to banks and financial institutions filing Form 4789, and casinos that are required to report such transactions on <b>Form 8362</b> , Currency Transaction Report by Casinos, or, generally, to transactions outside the United States.	Over \$10,000	15 days after date of transaction	(To Payer) January 31
8308	Report of a Sale or Exchange of Certain Partnership Interests	Sale or exchange of a partnership interest involving unrealized receivables or inventory items.	(Transaction only)	Generally, attach to Form 1065 or 1065-B	(To Transferor and Transferee) January 31
W-2G	Certain Gambling Winnings	Gambling winnings from horse racing, dog racing, jai alai, lotteries, keno, bingo, slot machines, sweepstakes, wagering pools, etc.	Generally, \$600 or more; \$1,200 or more from bingo or slot machines; \$1,500 or more from keno	February 28*	January 31
926	Return by a U.S. Transferor of Property to a Foreign Corporation	Transfers of property to a foreign corporation and to report information under section 6038B.	See form instructions	Attach to tax return	None
W-2	Wage and Tax Statement	Wages, tips, other compensation; social security, Medicare, withheld income taxes; and advance earned income credit (EIC) payments. Include bonuses, vacation allowances, severance pay, certain moving expense payments, some kinds of travel allowances, and third-party payments of sick pay.	See separate instructions	To SSA Last day of February*	To Recipient January 31
TD F 90-22.1	Report of Foreign Bank and Financial Accounts	Financial interest in or signature or other authority over a foreign bank account, securities account, or other financial account.	Over \$10,000	To Treasury Dept. June 30	To Recipient None

\*The due date is March 31 if filed electronically.



## Types of Payments

Below is an alphabetical list of some payments and the forms to file and report them. However, it is not a complete list of all payments, and the absence of a payment from the list does not indicate that the payment is not reportable. For information on a specific type of payment, see the separate instructions for the form(s) listed.

Type of Payment	Report on Form	Type of Payment	Report on Form
Abandonment	1099-A	Health care services	1099-MISC
Accelerated death benefits	1099-LTC	Health insurance advance payments	1099-H
Acquisition of control	1099-CAP	Income tax refunds, state and local	1099-G
Advance earned income credit	W-2	Indian gaming profits paid to tribal members	1099-MISC
Advance health insurance payments	1099-H	Interest income	1099-INT
Agriculture payments	1099-G	Interest, mortgage	1098
Allocated tips	W-2	IRA contributions	5498
Annuities	1099-R	IRA distributions	1099-R
Archer MSAs:		Life insurance contract distributions	1099-R, 1099-LTC
Contributions	5498-MSA	Liquidation, distributions in	1099-DIV
Distributions	1099-MSA	Loans, distribution from pension plan	1099-R
Attorneys, fees and gross proceeds	1099-MISC	Long-term care benefits	1099-LTC
Auto reimbursements:		Medicare+Choice Medical Savings Accounts:	
Employee	W-2	Contributions	5498-MSA
Nonemployee	1099-MISC	Distributions	1099-MSA
Awards:		Medical services	1099-MISC
Employee	W-2	Mileage:	
Nonemployee	1099-MISC	Employee	W-2
Barter exchange income	1099-B	Nonemployee	1099-MISC
Bonuses:		Military retirement	1099-R
Employee	W-2	Mortgage interest	1098
Nonemployee	1099-MISC	Moving expense	W-2
Broker transactions	1099-B, 1099-CAP	Nonemployee compensation	1099-MISC
Cancellation of debt	1099-C	Nonqualified plan distribution	W-2
Capital gain distributions	1099-DIV	Beneficiaries	1099-R
Car expense:		Original issue discount (OID)	1099-OID
Employee	W-2	Patronage dividends	1099-PATR
Nonemployee	1099-MISC	Pensions	1099-R
Changes in capital structure	1099-CAP	Points	1098
Charitable gift annuities	1099-R	Prizes:	
Commissions:		Employee	W-2
Employee	W-2	Nonemployee	1099-MISC
Nonemployee	1099-MISC	Profit-sharing plan	1099-R
Commodities transactions	1099-B	Punitive damages	1099-MISC
Compensation:		Qualified plan distributions	1099-R
Employee	W-2	Qualified tuition program payments	1099-Q
Nonemployee	1099-MISC	Real estate transactions	1099-S
Cost of current life insurance protection	1099-R	Recharacterized IRA contributions	1099-R, 5498
Coverdell ESA contributions	5498-ESA	Refunds, state and local tax	1099-G
Coverdell ESA distributions	1099-Q	Rents	1099-MISC
Crop insurance proceeds	1099-MISC	Retirement	1099-R
Damages	1099-MISC	Roth conversion IRA contributions	5498
Death benefits	1099-R	Roth conversion IRA distributions	1099-R
Accelerated	1099-LTC	Roth IRA contributions	5498
Debt cancellation	1099-C	Roth IRA distributions	1099-R
Dependent care payments	W-2	Royalties	1099-MISC
Direct rollovers	1099-Q, 1099-R, 5498	Timber, pay-as-cut contract	1099-S
Direct sales of consumer products for resale	1099-MISC	Sales:	
Directors' fees	1099-MISC	Real estate	1099-S
Discharge of indebtedness	1099-C	Securities	1099-B
Dividends	1099-DIV	Section 1035 exchange	1099-R
Education loan interest	1098-E	SEP contributions	W-2, 5498
Employee business expense reimbursement	W-2	SEP distributions	1099-R
Employee compensation	W-2	Severance pay	W-2
Excess deferrals, excess contributions, distributions of	1099-R	Sick pay	W-2
Fees:		SIMPLE contributions	W-2, 5498
Employee	W-2	SIMPLE distributions	1099-R
Nonemployee	1099-MISC	Student loan interest	1098-E
Fishing boat crew members proceeds	1099-MISC	Substitute payments in lieu of dividends or tax-exempt interest	1099-MISC
Fish purchases for cash	1099-MISC	Supplemental unemployment	W-2
Foreclosures	1099-A	Tax refunds, state and local	1099-G
Foreign persons' income	1042-S	Tips	W-2
401(k) contributions	W-2	Tuition	1098-T
404(k) dividend	1099-DIV	Unemployment benefits	1099-G
Gambling winnings	W-2G	Vacation allowance:	
Golden parachute:		Employee	W-2
Employee	W-2	Nonemployee	1099-MISC
Nonemployee	1099-MISC	Wages	W-2
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