

Shelby County Government Finance Department Guideline Summary of Form 1099-MISC Reporting Requirements

Note & Disclaimer: This document outlines in summary form the understanding of Finance Department personnel of those amounts that should be and should not be reported to the Internal Revenue Service on Form 1099-MISC. While this document does offer guidance on what Shelby County will report, there may be unusual situations or facts related to a particular payment that requires a more expert opinion. This document does NOT intend to offer tax advice to any recipient of County payments whether those payments are reported on Form 1099-MISC or not and no one should rely on this information. Individuals should seek their own professional advice

I. What NOT to report:

A. Types of Vendors (regardless of nature of payment):

1. Payments to corporations, **except payments for medical services and attorney payments.**

- Can rely on the use of words in the name that represents the vendor as a corporation, such as Inc, Corporation, PC, LLC, etc. However, "Company" is not specific enough to imply incorporation.
- Can rely on written statement by the vendor that it is a corporation submitted together with a copy of the corporate resolution or other document clearly indicating corporate status or submitted with a Form W-9.

2. Payments to federal, state, and local governments and governmental entities. Includes foreign governments.

3. Payments to tax-exempt organizations.

B. Nature of Payments (regardless of type of vendor):

1. Payments for merchandise, telephone, freight, storage, and similar charges.
2. Payments to pharmacies for prescription drugs.
3. Payments of rent to rental agents.
4. Payments of interest on government bonds.
5. Payments to an informer as an award, fee, or reward for information relating to criminal activity.
6. Payments to individuals as scholarships or fellowship grants (within the meaning of IRC §117(b)(1)).
7. Payments under the County's "on-the-job-injury" (OJI) program on account of personal injuries or sickness. Death benefits paid from OJI are reportable.
8. Damages paid on account of personal injuries or sickness by lawsuit or agreement (see Internal Revenue Regulations §1.104-1(c)). Punitive damages would be reportable. This applies to non-employees and to employees for cases pursued outside the OJI process. Included as non-reportable payments are damages for emotional distress caused by the personal injury or sickness. (Note that other types of damages not involving personal injuries or sickness, as well as related damages for emotional distress, are reportable.) Payments to an attorney or to an attorney and one or more other parties would be reportable; see the discussion below for Boxes 7 and 14.
9. "Difficulty-of-care" payments.
10. Amounts reportable on Form W-2 (to an employee)
 - Employee salary and wages, bonuses, etc.
 - Allowance for automobile or travel (nonaccountable plan)
 - Taxable life insurance premium for employee

- Group term life insurance for former employee
- Prizes and awards to employees

II. What to report:

Box 1 - Rents

Rent payments, but not payments to rental agents or real estate agencies. Includes rent of real estate (land, buildings, office space) and machine or equipment rental (bulldozer).

Box 2 - Royalties

Royalties paid for severance of oil, minerals, etc., and payments for use of intellectual property. Include the gross proceeds before reductions for taxes paid, commissions, agent fees, expenses, or other amounts withheld or deducted. Note the threshold for reporting royalties is \$10 or more per year.

Box 3 – Other Income

1. Payments to jurors or election workers.
2. Punitive damages, even if related to physical injury or physical sickness.
3. Damages for nonphysical injuries or sickness; any other taxable damages, including damages for emotional distress caused by the nonphysical injury or sickness giving rise to the basic damages.
4. Compensatory damages for nonphysical injuries or sickness, such as employment discrimination or defamation.
5. If an amount is reportable in Box 3 for damages as noted above, the amount is reportable in this box for the individual who was damaged, even if paid jointly to an attorney. If damages are reportable in this box, the amount reportable to the damaged party also includes attorney fees paid, even if those fees were paid separately to the attorney alone. Attorney fees paid to the attorney alone will be reported in Box 7 to the attorney; amounts paid jointly to an attorney and the damaged party will also be reported in Box 14. (Note that for non-physical injuries or sickness the same amounts may be reportable to both the damaged party and an attorney.)
6. Deceased employee's wages paid to estate or beneficiary. All wages paid after the death of an employee (accrued wages at time of death, accumulated leave, the payment for one additional pay period per County policy, etc.) should be payable only to a beneficiary or to "The Estate of (deceased employee)," regardless of when the wages were earned. The Form 1099 would be reported under the name and tax ID of the party to whom the payment is made, which cannot be the employee. Note that these wages would not be reported as wages taxable for federal income tax purposes on Form W-2, but would be reported on Form 1099. No federal income tax withholding is required. IF the employee was subject to social security and/or Medicare taxes, and the payment is made in the same calendar year as the death, the applicable social security and/or Medicare taxes should be deducted. These taxes and taxable wages would be added to amounts reported on Form W-2, but would not be reported as taxable wages for income tax purposes. If the payments are made in a year after the death, no social security and/or Medicare taxes are deducted or reported.
7. Prizes and awards (not for services performed).
8. Any other amounts required to be reported on Form 1099-MISC that is not reportable in one of the other boxes on the form.
9. Amounts paid as death benefits - other than through an established life insurance plan and other than through the provisions of a retirement plan -are reported on Form 1099 in the name of and the tax ID of the party to whom the payment is made. Shelby County has a policy of paying a benefit for an employee who dies in

the line of duty (within the scope of employment) an amount equal to annual salary multiplied by a factor. This amount is subject to reporting in Box 3 and is not subject to any tax deductions. (I.R.C. §101(b) at one time provided an exclusion of \$5,000 of such payments, but that was repealed in 1996.) See also the item above about payment of wages for a deceased employee.

10. Amounts awarded as back wages would normally be reportable as wages on Form W-2 and not on Form 1099. However, if attorney fees in addition to back wages are awarded, the attorney fees would be reported to the employee in Box 3 and any amount paid to the attorney would be reported to the attorney in either Box 7 or Box 14.

Box 6 – Medical and Health Care Payments

1. Payments made to each physician or other supplier or provided of medical or health care services. Include amounts charged for injections, drugs, etc. A key requirement is that the payment be for “services” rather than supplies and materials that will be used to help provide services.
2. Report amounts paid to a corporation that is the provider, as well as individual medical professionals or partnerships.
3. Includes a party engaged in the billing and collecting of payments for medical and health care services
4. Do NOT report payments to providers of health services made under a flexible spending or a health reimbursement arrangement.
5. Do NOT report amounts paid to a provider that is a tax-exempt or governmental facility.
6. Do NOT report payments to pharmacies for prescription drugs.

Box 7 – Nonemployee Compensation

1. Payments to a nonemployee individual, partnership, or estate for personal services, including commissions, fees, consulting services payments, or any other compensation for services.
 - Includes professional fees paid to architects, engineers, accountants, and other professionals as an individual or partnership and not a corporation (except attorneys).
 - Includes total payments made in cases where part of the payment is for services and part for supplies, travel on a nonaccountable basis, parts, etc., incurred in connection with the personal services provided.
 - Does NOT include payments made for medical services reportable in Box 6.
2. Payments to contractors or subcontractors.
3. Payments to witnesses or experts in legal cases.
4. Payments to entertainers.
5. Taxable fringe benefits to nonemployees.
6. Prizes and awards to a nonemployee (that are not compensation and are taxable income under IRC §74)
7. Payments to or for services of attorneys (any payment where the attorney or law firm is a named payee, even if paid to a corporation). The amount reported in Box 7 would be cases where the amount paid is all expected to be retained by the attorney (or the firm of attorneys).
 - See information for Box 14 when a payment is made jointly to an attorney and another party or is made only to an attorney but the attorney is responsible for distribution to other parties.
 - If separate payments are made to the attorney and to an individual, only the amount paid to the attorney is reported for that payee. However, the total of both payment amounts is reported to the individual if the damages to the individual are reportable. (Note: this could require double reporting; see information under Box 3 and Box 14.)

- See the information under Box 3 for instances where the amount reported to an attorney might also be reportable for the damaged party.
8. Life insurance benefits paid due to death of a dependent or person other than the insured

- Excludes benefits paid due to death of the insured

Box 14 – Gross Proceeds Paid to an Attorney (coded as “C” in AMS)

1. Includes payments to an attorney, law firm, or legal corporation for legal services, settlements, etc., where there is reason to expect the attorney to make distribution to one or more additional party(ies).
2. Include payments made jointly to an attorney (or firm) and another party.
3. If a payment is made jointly to two or more attorneys (a law firm name with multiple lawyer’s names would be one attorney), report the payment in this Box under the tax ID of the party to whom we deliver or mail the payment.
4. See information under Box 3 and Box 7. Where amounts paid are reportable to both an attorney and a damaged party, the County will usually record the amount through the accounts payable process as reportable to the attorney. Manual notations will be made when duplicate reporting to a damaged individual is also required so the yearend 1099 reporting data can be adjusted for the second reportable party.

III. Amount to report:

1. The amount includible in the gross taxable income of the payee is generally the amount reported. In some cases this includes amounts the recipient will need to include in gross income before certain deductions to arrive at taxable income.
2. Attorneys – gross payment, including amounts made payable jointly to an attorney and another party (ies)
3. Where an individual renders personal services (such as to repair an item) include amounts paid to the individual that may have included parts, materials, or travel expenses on a nonaccountable basis.
4. If any federal income tax is withheld under the backup withholding requirements, report the gross amount paid (before deduction of tax) in the appropriate box and report the tax withheld in Box 4.
5. For royalties (box 2), report if \$10 or more paid during the calendar year.
6. For all other amounts required to be reported on Form 1099-MISC, report if cumulative payments are \$600 or more during the calendar year.

VI. Form W-9

- A. Form W-9 should be secured from every vendor or party the County will pay when there is any possibility that party will be paid amounts that must be reported on Form 1099-MISC. Since the County will not have to have the Part II certification, the same information as on the Form W-9 provided by letter or some other form is acceptable. The following information is needed:
 1. Name of the taxpayer – the name of an individual, partnership, corporation, estate, or other organization. In the case of a sole proprietorship, this should be the name of the individual.
 2. Business name, if different from the “Name” above. This is most often needed for sole proprietorships. This is not required.
 3. Type of entity. The applicable box should be checked. This information is needed to help determine if payments are reportable on Form 1099.
 4. Address. This is required in order to mail the Form 1099 and provide an address to the IRS on the Form 1099.
 5. Taxpayer Identification Number (TIN). This is required to avoid required backup withholding. For individuals the number will usually be the SSN of the individual.

However, individual's can have an EIN and often will when they also have a "doing business as" (dba) name.

6. Certification signature. The County has no payments where the signature is required. However, a signature is desirable so the County should not publish that we will not insist on the signature. If the form is submitted without a signature it will accepted.

- B. Form W-9 from Attorneys or Law Firms. If the County has a Form W-9 from an attorney or law firm for any reason and subsequently issue payments to the attorney only or to a different dual payee, the existing Form W-9 is adequate for the attorney.

V. Backup Withholding

A. When Backup Withholding Applies

1. Much of the discussion of backup withholding in IRS documents or in the I.R.C. relates to backup withholding on payments for interest and dividends. This procedure does not cover interest payments and the County does not pay dividends. Thus the County can disregard all the discussions related to interest and dividends. The imposition of backup withholding for failure to sign the certification on Form W-9 applies only to interest and dividends, so the County will never be in position to worry about whether or not the certification in Part II of the Form W-9 is signed or not. The one exception to when the County must have a signed Form W-9 is when we have been notified by the IRS that the County used an incorrect tax ID number or the name does not match the number used.
2. Backup withholding will apply if a payment is made that is subject to reporting on Form 1099-MISC and the County does not have the tax ID of the payee. The usual form for getting this is the Form W-9, but can accept anything that contains all the information provided on the W-9. If no number is provided because the payee has stated in writing that a tax ID has been (not will be) applied for, then the County does not have to withhold from payments made within 60 days of the notification that the application for a number has been made.
3. Backup withholding *may* apply if the Internal Revenue Service notifies the County that a taxpayer identification number previously used is incorrect. See Section B below.

B. IRS Notification that Taxpayer ID is Incorrect

1. On occasion the IRS will advise the County of incorrect taxpayer numbers used on Forms 1099 that were filed. They may be incorrect because the number does not match or because the name and number do not agree with files available to the IRS.
2. When the first notice is received, County records should be reviewed. If it is found that an error was made and the County has different information that contributed to the IRS' determination of an incorrect number, the only action required is to correct County files.
3. The IRS requires that one of two precise letters (referred to a "B-notices") be mailed if a correctable error is not found. These are set forth in documentation kept in an office notebook on Form 1099 reporting. IRS Publication 1281 and pages from a Kleinrock Publishing guide, with "Section" headings numbered 619.x should be reviewed for more explanation.

C. Amount of Backup Withholding

Backup withholding is in the amount of 28% of the reportable payment. There are no allowances or other factors that would change the withholding. Once withholding has been made on a proper basis, the amount withheld must be remitted to the IRS and cannot be

refunded to the payee even if information is submitted that permits future payments to be made without withholding.