

AMERICAN PAYROLL ASSOCIATION

January 24, 2020

«FirstName» «LastName»

«Title»

«Agency»

«Street»

«City», «State» «Zip»

Re: Questions Regarding State Use of the Internal Revenue Service's Form 1099-NEC for Reporting Nonemployee Compensation

Dear «Title» «LastName»:

The American Payroll Association (APA) would like to discuss the state's plans for filing and reporting nonemployee compensation. Effective for payments made after December 31, 2019, nonemployee compensation will no longer be reported on the IRS Form 1099-MISC and will be reported on a new IRS Form 1099-NEC.

Relevant information may be found on the Internet:

- 2020 Form 1099-NEC
www.irs.gov/pub/irs-pdf/f1099nec.pdf
- 2020 Form 1099-MISC
www.irs.gov/pub/irs-pdf/f1099misc.pdf
- Forms 1099-MISC and 1099-NEC Instructions
www.irs.gov/pub/irs-pdf/i1099misc.pdf

The IRS is implementing the new Form 1099-NEC because of the provision in the Protecting Americans from Tax Hikes Act of 2015 (PATH Act) which changed the filing date for Form 1099-MISC reporting nonemployee compensation to January 31, while retaining the filing due dates of February 28 (paper filing) and March 31 (electronic filing) for Form 1099-MISC to report amounts other than nonemployee compensation. Because of the confusion with multiple filing dates for one form, the IRS has moved the reporting of

nonemployee compensation for payments made after December 31, 2019, to Form 1099-NEC with a filing date of January 31 for both paper and electronic filing. Beginning with the 2020 Form 1099-MISC, there will only be two filing dates (February 28 for paper filing and March 31 for electronic filing).

Sufficient time is needed for developers of accounts payable and payroll management systems to accommodate any related state changes required with the removal of the reporting of nonemployee compensation payments from Form 1099-MISC to Form 1099-NEC and for accounts payable and payroll professionals to learn about the state requirements and use of the updated software.

Explanation of Request

With the IRS's release of the final Forms 1099-NEC and 1099-MISC for 2020, the Form 1099-MISC no longer has an entry for nonemployee compensation. Consequently, over the next few months, the state tax authority may need to revise regulations, forms, and instructions to either adopt the new federal Form 1099-NEC for reporting nonemployee compensation or the state may choose to retain its Form 1099-MISC equivalent for reporting nonemployee compensation.

About APA

APA is a nonprofit association serving the interests of about 21,000 payroll and accounts payable professionals nationwide. APA's primary mission is to educate its members and the payroll and accounts payable industry about the best practices associated with paying America's workers while complying with applicable federal, state, and local laws and regulations. APA members are directly responsible for preparing and filing Forms 1099-MISC and 1099-NEC.

APA has long served an important role in our nation's tax collection system as a conduit between payroll and accounts payable departments, employers, and government authorities. APA goal is to improve the efficiency of government tax collections and reporting through electronic payment and reporting programs and improved employer compliance.

Background

The IRS will require all payers of nonemployee compensation to file the new federal Form 1099-NEC on February 1, 2021 (January 31, 2021, is a Sunday), while the 2020 Form

1099-MISC will be filed on March 1, 2021 (paper forms – February 28, 2021, is a Sunday) or March 31, 2021 (electronic filing).

The state may need to consider whether to:

- Create and support a separate state form reporting nonemployee compensation along with a state form reporting the data elements on the 2020 Form 1099-MISC in both paper and electronic formats,
- Support a separate state form reporting all data elements reported on the 2019 Form 1099-MISC in both paper and electronic formats, and/or
- Allow filing of state information on the separate Forms 1099-MISC and 1099-NEC in both paper and electronic formats.

In addition, the IRS has informed the APA that the Form 1099-NEC will not be part of the IRS's Filing Returns Electronically (FIRE) Combined Federal/State Filing Program (CF/SF) in the foreseeable future. The CF/SF program reduces the payer's burden for filing Form 1099-MISC and nine other information returns with the IRS sharing data from approved filers with state tax departments.

Key questions APA would like answered regarding the 2020 reporting for Forms 1099-NEC and 1099-MISC are:

- Will the state allow electronic and paper filing of the 2020 Form 1099-NEC?
- If electronic filing is required for Form 1099-NEC, is there a threshold for this requirement and, if so, what is the threshold?
- Will the state develop a separate form like the Form 1099-NEC? If a state Form 1099-NEC is developed, must employers use the state form or can they still use the IRS Form 1099-NEC for state filing?
- If the state allows filing Forms 1099-MISC and 1099-NEC will each form's filing date coincide with the IRS's filing dates? If the state's filing dates do not coincide with the IRS's filing dates, please provide the filing dates for paper and electronic filing for each form.
- Will the state develop an optional form reporting all data elements on the 2019 Form 1099-MISC?

- If the state participates in the CF/SF program, will it require separate electronic filing of Form 1099-NEC?
- If the state requires electronic filing and does not participate in the CF/SF program, will the state follow the electronic filing threshold for Form 1099-MISC when filing Form 1099-NEC?
- If the state requires electronic filing of Form 1099-NEC, will the state use the file format defined by the IRS in Publication 1220, *Specifications for Electronic Filing of Forms 1097, 1098, 1099, 3922, 5498, and W-2G* for Form 1099-NEC?

APA would like to discuss this issue further with your office to provide meaningful feedback and can be reached through Alice Jacobsohn at 202-248-3901 or ajacobsohn@americanpayroll.org. Again, please inform us of your plans for the upcoming year and how we might be of assistance. Thank you.

Sincerely,



Pete Isberg
Cochair, APA State and Local Topics
Subcommittee



Bruce Phipps, CPP
Cochair, APA State and Local Topics
Subcommittee



Carlanna Livingstone, CPP
Cochair, APA State and Local Topics
Subcommittee



Alice P. Jacobsohn, Esq.
Senior Manager, Government Relations
American Payroll Association