

Town of Littleton, Massachusetts

FORM 1099-MISC  
Vendor Tax Guideline  
02/20/08

**I. Scope** - This guideline summarizes Form 1099-MISC (Form 1099) tax reporting requirements.

**II. Background** The Accounting Office handles Form 1099 tax reporting for payments made through Accounts Payable with a vendor-specific vendor code.

When the Town is responsible for Form 1099 reporting, the Town Accountant is responsible for providing properly formatted Form 1099 data and creating magnetic media files and accompanying transmittals for the IRS/DOR and paper forms for the payees in late January.

Although the IRS has been considering issuing revised tax reporting requirements for electronic commerce including purchasing cards (i.e. credit cards), current tax law generally requires that purchasing cards follow the regular 1099 reporting requirements. When purchasing card transactions are subject to tax reporting, the Town, not the merchant bank, appears to be required to issue the Forms 1099. For example if the Town purchasing card is used to purchase services from an unincorporated vendor, such purchases should be reported by the Town on Form 1099.

**III. Form 1099 Reportable Payments** Form 1099 is used to report most non-employee compensation, rents, royalties, and certain other vendor payments. Exceptions to issuing Form 1099 exist for certain types of vendors and for certain types of payments. Exceptions include the following:

- **Payments to Corporations** - Payments to corporate vendors generally do not need to be reported on Form 1099 unless the payment is for legal services or for certain medical services (see below). A payment to "ABC Corporation" or "DEF Company, Incorporated" would generally qualify for the corporate exception. A payment to "XYZ Company" would not qualify because it is not clear if "XYZ Company" is a corporation. The Form W-9 may be helpful to assist in the determination of whether an entity is a corporation. Payments to partnerships and other non-corporate entities generally must be reported on Form 1099.

**Special Rule for Legal Services** - Payments made by the Town to an attorney in connection with legal services (whether or not the services are performed for the Town) must be reported on Form 1099. *This requirement applies to payments made to attorneys practicing as corporations.*

**Special Rule for Medical Services** - Payments made by the Town to corporations engaged in providing medical and health care services or engaged in billing in respect to providing such services, generally must be reported on Form 1099.

- Expense Reimbursements under an Accountable Plan - Expense reimbursements to employees should generally not be reported on Form 1099. To qualify for this exception, employees must submit documentation such as receipts that substantiate the amount, time, place, and business purpose of the expense. Employees must return any advances that exceed documented expenses. Payments related to employee fringe benefits are governed by special rules and may be subject to tax reporting even if receipts are submitted. Such payments should be reviewed for compliance with Town Payroll Tax Guidelines and should be reviewed with the Town Treasurer.

Payments made by the Town to independent contractors under an accountable plan for reimbursement of business expenses are generally not reported on Form 1099.

- Payments for Merchandise - Payments made by the Town to vendors for merchandise, telegrams, telephone, freight and storage and similar charges do not need to be reported on Form 1099. The Internal Revenue Service has not published a meaningful definition of "merchandise", so this term should be construed narrowly because of the risk of severe penalties for failure to file Form 1099. The IRS has indicated that payments for a combination of merchandise and services are reportable. For example, if the Town were to hire an unincorporated contractor to repair a roof at a cost of \$1,000 consisting of \$700 for materials and \$300 for labor, the entire \$1,000 would be reported on Form 1099. The authority for this position is Revenue Ruling 81-232.
- Payments of Wages - Wages paid by the Town should generally be reported on Form W-2 and should not be reported on Form 1099. Contracts for services must be scrutinized to determine if the Town has the requisite control over the work performed to create an employee relationship. Questions about employee vs. independent contractor classification should be referred to the Town Treasurer's Office. Payments for employment services should generally be made through the payroll system to ensure proper payroll tax reporting and withholding.

This is not an all-inclusive list of exceptions to Form 1099 reporting. Other exceptions are less likely to apply. For example, although payments of less than \$600 need not be reported (less than \$10 in the case of royalties), the Town should generally report all payments of less than \$600, because the \$600 limit appears to apply at the state level. A complete listing of Form 1099 exceptions are contained in Treasury Regulation 1.6041.

**IV. Vendor Tax Identification Numbers** All Forms 1099 must include payee tax identification numbers (TINs). A TIN is a social security number issued by the Social Security Administration, an Employer Identification Number issued by the IRS, or an Individual Tax Identification Number issued by the IRS. Individual Tax Identification Numbers are generally restricted to certain foreign vendors who are not eligible for social security numbers. Tax identification numbers are generally obtained by having the vendor complete Form W-9. The State Comptroller has directed that "No tax reportable payment should be made without a Form W-9 indicating that the Tax Identification Number is on file." If a reportable payment is made to a vendor without a tax identification number, backup withholding at the rate of 28% should be deducted at the time of payment.

**V. Vendor Name and Address** All Forms 1099 must include accurate and properly formatted vendor names and addresses. Vendor names and addresses are generally obtained by having the vendor complete Form W-9. The IRS matches Form 1099 vendor names and tax identification numbers to its master file. If the vendor name is not accurate or properly formatted, the Town may receive a CP2100 notice from the IRS. The CP2100 notice generally requires that the Town obtain a new Form W-9 or begin backup withholding on future payments. One of the common causes of such notices is failure to enter a sole proprietor's business name or DBA name on the second line of the Form 1099 -- with the owner's name going on the first line. Detailed information on proper formats for vendor names is contained in IRS [Publication 1281](#).

**VI. Electronic/Fax Forms W-9** - The IRS permits a requester of a Form W-9 to establish an electronic system (including via fax) for payees to submit Forms W-9. The electronic system requires that the requester be reasonably certain that the person sending the Form W-9 is the individual identified on the Form W-9. Examples of how to obtain this type of certainty for a fax system include having the sender's fax number displayed at the top of the fax (printed from the receiving fax machine) or faxing the payee a partially completed Form W-9 and receiving the completed Form W-9 via fax. Once the appropriate fax submission has been made, the faxed Form W-9 is required to be retained by the requester as a substitute for the original.

More information on the subject can be found in the IRS's Instructions for the Requester of Form W-9 which can be obtained [on the IRS Web page](#).