SUPPORTING STATEMENT

Internal Revenue Service

Nonemployee Compensation

Form 1099-NEC

OMB Control No. 1545-0116

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Section 6041 of the Internal revenue Code requires an information return to be filed for payments of $600 or more in rents, prizes and awards (but not for services rendered), medical payments by health insurers, nonemployee compensation and crop insurance proceeds and any amount of fishing boat proceeds, $10 or more of royalties, certain substitute payments, golden parachute payments, and an indication of direct sales of $5,000 or more. Form 1099-MISC has been used since 1982 to report all of these payments, as well as any federal income tax withholding under the backup withholding rules regardless of the amount of the payment.

The Protecting Americans from Tax Hikes Act of 2015 (PATH Act) (P.L. 114-113, Sec. 201) accelerated the due date for filing of Form 1099 that includes nonemployee compensation (NEC) from February 28 to January 31 of each year and eliminated the automatic 30-day extension for forms that include NEC. As a result, continuing to include NEC on Form 1099-MISC would increase the submission burden on taxpayers because they would have to separate those forms with NEC from those without. It also would require analysis of Forms 1099-MISC by the IRS to be able to determine the proper due date and apply late filing penalties appropriately. To alleviate the burden and eliminate confusion regarding due dates, IRS reinstated Form 1099-NEC so that nonemployee compensation is reported separately from the Form 1099-MISC.

2. USE OF DATA

The information collected on Form 1099-NEC will be used to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of nonemployee compensation on his or her income tax return. This information collection tool will aid taxpayers in meeting their tax obligations per IRC section 6041 while reducing the burden of separating forms 1099 that include nonemployee compensation from those that do not include nonemployee compensation.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Form 1099-NEC can be filed electronically. It is expected that approximately 68% of the information will be collected electronically.

4. EFFORTS TO IDENTIFY DUPLICATION

The information to be obtained through this collection is unique and is not already available for use or adaptation from another source. Taxpayers will no longer be required to report nonemployee compensation on Form 1099-MISC.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

There is no flexibility to reduce burden on small businesses or other small entities because the statutes apply to small businesses and small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Form 1099-NEC, Nonemployee Compensation, reflects the annual reporting of income required per IRC 6041. If reported less frequently, the agency could not verify compliance with the reporting rules, nor verify that the recipient has included the proper amount of nonemployee compensation on his or her income tax return.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Seven comments were received in response to the Federal Register notice (84 FR 38104), dated August 5, 2019.

**Comment 1** made by Debbie Stevens of PPG Partners, LLC Kenosha, WI was to confirm that there is a new Form 1099-NEC and if so when it would be available.

The IRS referred Ms. Stevens to www.IRS.gov/Form1099MISC for 2019 Form and its Instructions,

to www.IRS.gov/Form1099 for general instructions for 2019 and to www.IRS.gov/DraftForms to view a draft copy of Form 1099-NEC for 2020. The IRS also advised that comments may be made about the form at [www.IRs.gov/FormsComments](http://www.IRs.gov/FormsComments). The IRS further advised that instructions for Form 1099-NEC are not ready yet and they will be combined with Form 1099-MISC at a later date. They will be available at www.IRS.gov/DraftForms, when they are released for comments.

**Comment 2** made by Evan Scarbrough, Auditor II, City of Detroit, was a request for a copy of the form and instructions on submitting a comment letter for Form 1099 NEC.

The IRS referred Mr. Scarbrough to www.IRS.gov/DraftForms to see Form 1099-NEC and [www.IRS.gov/FormsComments](http://www.IRS.gov/FormsComments) to respond to any comments. The IRS further advised that instructions for Form 1099-NEC are not ready yet, but they will be included with Instructions for Form 1099-MISC, which will be available later this year. Also copies of 1099-NEC may be ordered at [www.IRS.gov/FormsPubs](http://www.IRS.gov/FormsPubs) and reiterated that Form 1099-NEC are for tax year 2020 with a processing year of 2021.

**Comment 3** made by Wendy Walker, Solution Principal at Sovos, requested draft instructions for the proposed Form 1099-NEC.

The IRS responded that Instructions for 2020 Form 1099-NEC, are being combined with Instructions for 2020 Form 1099-MISC, and will be named as “Instructions for Forms 1099-MISC and 1099-NEC. They will be released for public comments by mid to end October, 2019.

**Comment 4** was received from Miri Gillihan, EA of ADA Tax Professionals requesting that the form be made available to file in black and white as opposed to red drop-out ink.

The IRS responded that the requirement for red drop-out ink as specified in Pub. 1179, is necessary for scanning the approximately 10- 30 million forms that are filed on paper annually. The IRS provides a system for ordering and delivering forms to issuers, at no cost, both online (www.IRS.gov/orderforms) and by phone (800-829-3676 (800-TAX-FORM)). They should receive their order within 10 business days.

If issuers need only one form, they, too, can order from the NDC. They should receive their order within 10 business days.

**Comment 5** was received from American Payroll Association, stating its support of IRS’ decision to reinstate the Form 1099-NEC and requesting that the Service provide additional guidance to inform taxpayers that although there are new nonemployee compensation reporting requirements, the worker classification provisions are unchanged and complex.

The IRS responded that information will be added to the Form 1099-NEC webpage on

IRS.gov, which will be created shortly after the final release of the form to the public, informing the

public that while the vehicle for reporting nonemployee compensation has changed from Form

1099-MISC to Form 1099-NEC, the reporting requirement is not new, has not changed, and will apply to current worker classification.

**Comment 6** was received from the state of Iowa expressing concerns about the overall cost of implementing the proposed changes as well as ongoing costs the state will incur over time. The state of Iowa suggests that the IRS do reprogramming to allow for extraction of the NEC information form the Form 1099-MISC. The state of Iowa also suggests that the Form 1099-NEC be implemented in tax year 2021 as opposed to tax year 2020.

Lastly the state of Iowa requested a copy of the Form 1099-MISC.

The IRS responded by thanking the state of Iowa for its comments and advised that they would be taken into consideration.

The IRS also advised that the draft of the 2020 Form 1099-MISC was released on 8/20/2019 and is available at www.irs.gov/draftforms.

**Comment 7** was received from The Small Business Committee (SBC) of the Institute of Management Accountants (IMA). The IMA expressed concerns that the new Form 1099-NEC will lead to an increase in compliance costs and confusion for taxpayers. The IMA suggests that the IRS work with software vendors and its own information systems department to recognize the different information and corresponding deadlines on the existing Form 1099-MISC, thereby eliminating the need for a new Form 1099-NEC.

The IRS responded by thanking the IMA for its comments and advised that they will be taken into consideration.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payments or gift will be provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request as part of the “Filing Information Returns Electronically (Fire)” system and a Privacy Act System of Records notices (SORN) has been issued for these systems under Treas./IRS 24.030-Customer Account Data Engine Individual Master File; and Treas./IRS 34.037–IRS Audit Trail and Security Records System. The Internal Revenue Service PIAs can be found at: <https://www.irs.gov/uac/Privacy-Impact-Assessments-PIA>. *or at*: <https://www.irs.gov/pub/irs-pia/fire-pia.pdf>.

Title 26 USC 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Form 1099-NEC, under section 6041 requires that an information return be filed for payments of at least $600 made in the course of a trade or business for services performed by someone who is not an employee, cash payments for fish and withholding of federal income tax under the backup withholding rules.

It is anticipated that there will be 70,802,480 respondents with a response time of .08 hours totaling 5,900,206 burden hours.

The burden estimate is as follows:

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Form | Number of Respondents | Responses per Respondent | Annual Responses | Hours per Response | Total Burden |
| Form 1099-NEC | 70,802,480 | 1 | 70,802,480 | .08  (5 minutes) | 5,900,206 |
| Totals | 70,802,480 | 1 | 70,802,480 | .08  (5 minutes) | 5,900,206 |

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

After consultation with various functions within the Service, we have determined that the cost of developing, printing, processing distribution, and overhead for Form 1099-NEC is $458,322.00.

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized startup expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as; complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Product** | **Aggregate Cost per Product (factor applied)** |  | **Printing and Distribution** |  | **Government Cost Estimate per Product** |
| Form 1099-NEC | $83,165 |  | $337,170 |  | $420,335 |
| Instruction Form 1099-NEC | $14,216 |  | $23,771 |  | $37,987 |
| **Total** | **$97,381.00** |  | **$360,941.00** |  | **$458,322.00** |
| Table costs are based on 2018 actuals obtained from IRS Chief Financial Office and Media and Publications | | | | | |
| \* New product costs will be included in the next collection update. | | | | | |

15. REASONS FOR CHANGE IN BURDEN

The Form 1099-NEC was previously approved by OMB in 1981 and expired in 1982. As of 1982 the information relating to nonemployee compensation was collected on Form 1099-MISC (OMB Control No. 1545-0115). The Internal Revenue Service subsequently discontinued use of Form 1099-NEC and allowed OMB Control Number 1545-0116 to expire. In light of the PATH Act changes, IRS is reviving the Form 1099-NEC and reinstating OMB No. 1545-0116.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
|  | **Requested** | **Program Change Due to New Statute** | **Program Change Due to Agency Discretion** | **Change Due to Adjustment in Agency Estimate** | **Change Due to Potential Violation of the PRA** | **Previously Approved** |
| Annual Number of Responses | 70,802,480 | 63,188,480 | 0 | 0 | 7,614,000 | 0 |
| Annual Time Burden (Hr) | 5,900,206 | 3,970,206 | 0 | 0 | 1,930,000 | 0 |

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.