

Supporting Statement
Internal Revenue Service (IRS)
Form 1099-MISC, Miscellaneous Information
OMB # 1545-0115

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Sections 6041, 6045(d), and 6050(A) 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 is used to report all of these payments. You also must file

Form 1099-MISC for each person from whom you have withheld any federal income tax, under the backup withholding rules regardless of the amount of the payment.

2. USE OF DATA

IRS uses the information to verify compliance with the reporting rules and to verify that the recipient has included the proper amount of income on his or her income tax return.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Form 1099-MISC is electronically enabled.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

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

This collection has no impact on small businesses or entities. The recordkeeping/reporting requirement is considered to be the minimum necessary to insure compliance with existing regulations under §301.6041-1.

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

Form 1099-MISC, Miscellaneous Information, reflects the annual reporting of income from section 6041. Less frequently reporting will not allow the agency to verify compliance with the reporting rules, nor verify that the recipient has included the proper amount of income 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

In response to the Federal Register notice dated April 29, 2022 (87 FR 25568), IRS received one comment regarding Form 1099-MISC.

The organization that submitted this comment:

- 1) American Payroll Association

IRS RESPONSE TO COMMENT

Comment/Concern	Rec	From	IRS Response
<p>The APA is asking the IRS for the following:</p> <ol style="list-style-type: none"> 1. Move Box 14 (excess golden parachute payments) on Form 1099-MISC to Form 1099-NEC; American Payroll Association – Comments on Forms 1099-MISC and 1099-NEC Page 3 of 3 2. Move Boxes 12 (IRC § 409A deferrals) and 15 (nonqualified deferred compensation) from Form 1099-MISC to Form 1099-NEC; and 3. Clarify in the instructions whether reporting of nonemployee nonqualified deferred compensation plan distributions is required only in Box 1 on Form 1099-NEC and not reported in Box 15 on Form 1099-MISC. <p>Duplicate Reporting of Golden Parachute Payments A nonemployee’s golden parachute payment is currently reported on both Forms 1099-NEC and 1099-MISC when the payment is subject to the excess golden parachute payment excise tax rules. The following explains this double reporting:Golden parachute</p>	<p>6/24/22</p>	<p>APA</p>	<p>IRS reviewed the American Payroll Association’s (APA) comment letter regarding the duplicate reporting requirements for nonemployee excess golden parachute payments and nonqualified deferred compensation violations under IRC sections 280G and 409A, respectively, on Forms 1099-MISC and 1099-NEC. IRS appreciate the APA’s recommendation that reporting of these items be required only on Form 1099-NEC, and generally agree that elimination of duplicative reporting requirements would reduce the possibility of inconsistent data reporting and be more efficient for payroll departments and their employers. In the future, these duplicate reporting requirements should be eliminated, however, it’s our understanding that the IRS is currently working through a period of transition with respect to the reporting requirements for these and other items. Until that transition period is complete, duplicate reporting may be necessary to ensure the IRS information return matching systems can accurately assist with sound tax administration. We</p>

payments are reported on Form 1099-NEC, Box 1 (*Instructions for Forms 1099-NEC and 1099-MISC*, pages 10 and 11). On Form 1099-NEC, “Instructions for Recipient ... Box 1. Shows nonemployee compensation. If the amount in this box is SE income, report it on Schedule SE, as well as Schedules C or F (Form 1040) if a sole proprietor, or on Form 1065 and Schedule K-1 (Form 1065) if a partnership, and the recipient/partner completes Schedule SE (Form 1040).”

- Excess golden parachute payments are to be reported on Form 1099-MISC, Box 14 (*Instructions for Forms 1099-NEC and 1099-MISC*, page 7): On Form 1099-MISC, “Instructions for Recipient ... Box 14. Shows your total compensation of excess golden parachute payments subject to a 20% excise tax. See your tax return instructions for where to report.” The *2021 Instructions for Form 1040* refers to excess parachute payments in *Instructions for Schedule 2 Additional Taxes*, Line 17K, for the calculation of the excise tax.

Duplicate Reporting of Nonqualified Deferred Compensation

The following explains the duplicate reporting of compensation for a nonemployee in a nonqualified deferred compensation (NQDC) plan that does not meet the requirements of IRC § 409A:

- The value of an NQDC plan for a nonemployee in a plan that does not meet the requirements of IRC § 409A is reported in Box 15 on Form 1099-MISC (*Instructions for Forms 1099-NEC and 1099-MISC*, page 7).

will be available to work with IRS Forms and Pubs in dealing with these issues during development of the upcoming versions of these forms and related instructions. In addition, IRS will be pleased to be involved in future discussions on this topic with the APA’s representatives.

<p>The <i>Instructions for Forms 1099-NEC and 1099-MISC</i> (pages 10 and 11) does not include guidance on whether the value of an NQDC plan that fails to meet § 409A requirements is also reported in Box 1 on Form 1099-NEC.</p> <ul style="list-style-type: none"> • Distributions from a nonemployee’s NQDC plan, which meet the requirements of § 409A, are included in income based on IRC § 1.451-2, under the constructive receipt of income rules. The <i>Instructions for Forms 1099-R and 5498</i> (page 2) tell employers to report distributions to nonemployees on Form 1099-NEC. • The combination of instructions for Forms 1099-NEC, 1099-MISC, and 1099-R appear to require employers to provide a nonemployee, who receives a distribution from an NQDC plan that fails § 409A, with a Form 1099-NEC and Form 1099-MISC reporting the same distribution information. <p>The APA recognizes that the reporting deadline for information on the Form 1099-NEC is different from that of the Form 1099-MISC. In addition, the Form 1099-NEC reflects amounts subject to self-employment tax that do not apply to amounts reported on Form 1099-MISC. However, eliminating duplicate reporting would reduce the possibility of inconsistent data reporting and be more efficient for payroll departments and their employers.</p>			

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

No payments or gift has been 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

The burden estimate is as follows:

Form	Number of Respondents	Responses per Respondent	Annual Responses	Hours per Response	Total Burden
Form 1099-MISC	99,447,800	1	30,000	.31	30,828,818
Totals	99,447,800	1	30,000	.31	30,828,818

The following regulations impose no additional burden. Please continue to assign OMB number 1545-0115 to these regulations:

- 1.6041-1(a) 1.6041A-1
- 1.6041-1(d) 1.6045-2(a)
- 1.6041-1(e) 1.6045-2(f)
- 1.6041-1(g) 1.6050A-1
- 1.6041-4(a) 1.6050-2
- 1.6041-6

We have reviewed these regulations and have determined that the reporting requirements contained in them are entirely reflected on Form 1099-MISC. The justification appearing in Item 1 of Supporting Statement applies both to these regulations and to Form 1099-MISC.

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

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-MISC	\$133,547	\$328,709	\$462,256
Instructions for 1099-MISC	\$22,829	\$23,771	\$46,600
Total	0	\$352,480	0
Table costs are based on 2021 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

IRS is renaming Form 1099-MISC, “**Miscellaneous Income**” to Form 1099-MISC, “**Miscellaneous Information**”, due to some items reported on this form, are not always income, such as “attorney proceeds” that may have gone into an escrow account. The form change will not affect the burden.

There is no change to the paperwork burden previously approved by OMB. IRS is making this submission for renewal purposes.

	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 for this IC	99,447,800	0	0	0	0	99,447,800
Annual IC Time Burden (Hours)	30,828,818	0	0	0	0	30,828,818

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

IRS believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form sunsets as of the expiration date. Taxpayers are not likely to be aware that the IRS 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 for this collection.

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.