

Justification of No Material / Nonsubstantive Change

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

The American Payroll Association (APA) provided the following suggestions/explanations:

- 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

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 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*

After consideration and review the IRS believes that there is currently no duplicate reporting requirement for golden parachute payments (or excess golden parachute payments). However, the IRS generally agrees with the APA to the extent it is recommending both that (a) golden parachute payments to nonemployees be reported in Box 1 of Form 1099-NEC; and (b) excess golden parachute payments to nonemployees be reported in a new box on Form 1099-NEC (instead of in Box 14 of Form 1099-MISC). Implementation of that change would appear to simplify taxpayer reporting requirements by having nonemployee parachute payments and excess parachute payments on the same form while not reducing the amount of information collected by the IRS.