

FORM 1099 REPORTING

The IRS requires businesses (including nonprofit organizations) to report various payments you make to non-employees each year during the ordinary course of business. These payments are reported on IRS Form 1099, of which the most common are the 1099-MISC, 1099-NEC, 1099-DIV and 1099-INT:

Form 1099-MISC – Miscellaneous Income

You must issue a 1099-MISC if in the course of your trade or business you made payments to any one payee in aggregate of:

- \$10 or more for royalties (box 2) or broker payments in lieu of dividends or tax-exempt interest (box 8).
- At least \$600 in:
 - Rents (box 1);
 - Prizes and awards (box 3);
 - Other income payments (box 3);
 - Generally, the cash paid from a notional principal contract to an individual, partnership, or estate (box 3);
 - Any fishing boat proceeds (box 5);
 - Medical and health care payments (box 6);
 - Crop insurance proceeds (box 9);
 - Gross proceeds paid to an attorney (box 10) (in connection with legal services such as a settlement agreement)
 - Cash payments for fish (or other aquatic life) you purchase from anyone engaged in the trade or business of catching fish (box 11);
 - Section 409A deferrals (box 12); or
 - Nonqualified deferred compensation (box 14).
- Each person you have withheld federal income tax (box 4) under backup withholding rules regardless of the amount of the payment.

You may use either Form 1099-MISC (box 7) or Form 1099-NEC (box 2) to report that you made direct sales totaling \$5,000 or more of consumer products to a person on buy-sell, deposit-commission, or other commission basis for resale.

NOTE: If you use Form 1099-NEC to report sales then you are required to file form 1099-NEC by January 31st.

Form 1099-NEC – Nonemployee Compensation

You must issue a 1099-NEC if in the course of your trade or business you made payments to any one payee where any of the following conditions are met:

- At least \$600 in:
 1. Services performed by someone who is not your employee (including parts and materials) (box 1), includes government agencies and nonprofit organizations
 2. Payments to an attorney (box 1). (general attorney services)
- Each person you have withheld federal income tax under backup withholding rules regardless of the amount of the payment.

You may use either Form 1099-MISC (box 7) or Form 1099-NEC (box 2) to report that you made direct sales totaling \$5,000 or more of consumer products to a person on buy-sell, deposit-commission, or other commission basis for resale.

Due to recent tax law changes, we strongly recommend all landlords issue 1099's for services meeting the above criteria.

Examples of payments not required to be reported on Form 1099-MISC or 1099-NEC includes amounts paid for:

- Merchandise, inventory, freight, storage and similar items
- Utilities such as electricity, gas, oil, sewer, water, telephone and similar services
- Rent paid to a real estate agent
- Wages to employees
- Business travel allowances paid to employees (may be reportable on Form W-2)
- Life insurance premiums or distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, and IRAs
- Services, fees, commissions, rents etc. provided by a tax-exempt organization, the U.S. Government or any state (1099-MISC ONLY)
- Services, fees, commissions, rents, etc. provided by a corporation (identified by "Inc." in the name or a Limited Liability Company (LLC) that has elected to be taxed as a corporation). However, in all cases a 1099-MISC must be issued in the following cases:
 - o Medical and health care payments
 - o Payments that you withheld federal income tax or foreign tax on
 - o Barter exchange transactions
 - o Payments to attorneys for legal services or settlements.

Form 1099-DIV – Dividend Income

If you are a C corporation (or certain S corporations that once operated as a C Corporation), you must file Form 1099-DIV for each person:

- To whom you paid dividends and other distributions valued at \$10 or more (in aggregate) in money or other property,
- To whom you have paid \$600 or more in money or other property as part of a liquidation.
- For whom you have withheld and paid any foreign tax on dividends and other distributions on stock, or
- For whom you have withheld any federal income tax on dividends under the backup withholding rules.

Form 1099-INT – Interest Income

For the most part, this only applies to interest paid to individuals and does not include payments to banks or any other financial institutions. You must issue a 1099-INT for each person:

- To whom you paid interest of \$600 or more on a loan to any non-corporate payee,
- For whom you withheld and paid any foreign tax on interest, or
- From whom you withheld (and did not refund) any federal income tax under the backup withholding rules regardless of the amount of the payment.

Filing Requirements – Form 1099

If you need to issue Form 1099-MISC, 1099-NEC, 1099-DIV or 1099-INT based on the above information you must:

- Provide copies to recipients by **January 31, 2023**. The due date is extended to **February 15, 2023** (1099-MISC ONLY), if you are reporting payments in boxes 8 or 10.
- Provide copies to the IRS by **January 31, 2023**, if you are reporting non-employee compensation payments in Box 7. Otherwise, file by **February 28, 2023** (1099-MISC ONLY) or 3/31/23 for e-file.
- File electronically if forms are issued to more than 250 recipients.
- Use preprinted (in red ink) forms for Copy A (to be transmitted to the IRS) while all other copies can be printed on plain paper.
- Include Form 1096 – Annual Summary Transmittal of U.S. Information Returns with each type of 1099 (1099-MISC, NEC, DIV, INT) you are required to file. You must use the preprinted form (in red ink) for your transmittal to the IRS.

Penalties

The IRS uses a tiered structure to levy penalties for late filers. The later your 1099-MISC forms are filed, the higher the penalty. If you file your information return within 30 days of the original January 31 due date, a fine of \$50 per return must be paid with a maximum fine of \$588,500 per year. If you are later than 30 days but before August 1, you face a penalty of \$110 per return and a maximum fine of \$1,766,000 per year. Filing after August 1 means a \$280 per return fine with a \$3,532,500 maximum. The IRS does cut small businesses some slack by reducing the maximums to **\$206,000, \$588,500 and \$1,177,500 (for small businesses) per year when your average annual gross receipts are \$5million or less for the past three tax years. You must get the W-9's from independent contractors you engage so that you are able to timely file.**

FORM W-2 – WAGE AND TAX STATEMENT

For all employees you are to issue a Form W-2 you must:

- Provide copies to recipients by **January 31, 2023**.
- Provide copies to the SSA by **January 31, 2023**. A 30-day extension can be requested on Form 8809.
- File electronically if forms are issued to more than 250 recipients.
- All copies can be printed on plain paper for filing (if printed from approved software like QuickBooks.)
- Include Form W-3 –Transmittal of Wage and Tax Statements with the copies you are required to file with the Social Security Administration (SSA). You can use copies printed on plain paper for your transmittal to the SSA.

The IRS uses a tiered structure to levy penalties for late filers. The penalty is \$50 per Form W-2 if you correctly file within 30 days of the due date, \$110 per Form W-2 if you correctly file more than 30 days after the due date but by **August 1** and \$290 per Form W-2 if you file after **August 1**, do not file corrections, or do not file required Forms W-2. The maximum penalty is \$1,177,500 for small businesses.

Timely filing of W-2s is also required in order to be eligible for the Qualified Business Income Deduction.

W-2 Reporting of Employer-Provided Health Care Coverage

All Vermont employers who file W-2s, must include the total cost of employer-sponsored health care coverage on the employee's W-2 Box 12 as code DD. This reporting is for informational purposes only and is excludable from the employee's income.

Employer-Provided Health Insurance Reporting

For employers with at least 50 full-time employees, including full-time equivalent employees, on average during the prior year, the employer is considered an Applicable Large Employer (ALE). ALE members must file a Form 1095-C, *Employer-Provided Health Insurance Offer and Coverage* and Form 1094-C, *Transmittal of Employer-Provided Health Insurance Offer and Coverage Informational Returns*, with the IRS no later than **February 28, 2023 or March 31, 2023** for electronic filing. A penalty of \$280 per return and a maximum fine of \$3,426,000 can be assessed if a failure to file occurs. ALE Members must also remit a copy of the employee 1095-C or equivalent by **January 31, 2023** to the respective employee.

BONUSES

Bonuses and other payments to employees (including Christmas bonuses) are wages and are subject to payroll tax and income tax withholding. The general rule is that you must withhold at a flat 22% rate for federal income taxes on these payments, but you can do more if the employee requests. We also generally recommend withholding at a 7% rate for Vermont taxes. The benefit to withholding on year-end bonuses is that the IRS and Vermont treat withholdings as paid evenly throughout the year, no matter when the wages and withholdings actually occur. By increasing withholdings on a bonus, an individual can reduce or eliminate an underpayment of taxes penalty.

COMPANY VEHICLES

The personal use of a company vehicle by an employee or shareholder is a taxable fringe benefit and accordingly, must be reported on the employee's/shareholder's W-2. The IRS has provided three methods to value the use of a car, but for all intents and purposes, the only one technically available for shareholders is to use tables provided by the IRS. The personal use percentage is determined by dividing the personal miles driven by the total miles driven during the year. Based on the IRS tables and personal use percentage, the value of the use is calculated. This amount is then to be included in the gross wages of the employee and is subject to payroll tax and income tax withholding. For shareholders, it may also be charged to a shareholder loan account.

The employer may elect out of income tax withholding by notifying the employees at the beginning of the year, but social security taxes must still be withheld. The amount must be reported on the employee's W-2, unless the employee reimburses the company for the personal use. It is most common to calculate the personal use value and add it to the employee's gross wages at year-end. For assistance in calculating the value of personal use and properly reporting it on the W-2, please contact us. **The worksheet is attached.**

HEALTH INSURANCE AND HSA PLANS FOR S CORPORATION SHAREHOLDERS

For those of you operating as S corporations, you should be aware that the shareholder's premiums for health insurance are nondeductible on the corporate books as such, but rather should be reported and deducted as wages. 100% of such premiums are deductible in calculating adjusted gross income on the shareholder's personal return. **To obtain the deduction, shareholders must add the premiums to their W-2's.** However, these are not considered social security taxable wages, so no FICA tax needs to be withheld on the premiums. The result is that the premiums are not deducted as health insurance expense by the corporation, but as wages paid to the shareholder. **If an S corporation owner does not include the premiums as taxable wages, then the owner can't take a deduction for self-employed health insurance and is instead limited to deducting the premiums on Schedule A subject to a 7.5% adjusted gross income floor.**

For those with HSA Plans, **company contributions** to shareholder HSA accounts should be added to the W-2's along with the health insurance premiums. Since shareholder employees are not allowed to defer pre-tax HSA contributions from their wages, any personal contributions the business pays on behalf of shareholders should be treated as company contributions.

Please keep in mind that health insurance premiums for S corporation shareholders includes not only health insurance, but also dental insurance, vision insurance and long-term care insurance premiums (up to an annual limit). It does not include life or disability insurance.

GROUP TERM LIFE INSURANCE

The cost of employer-provided group term life insurance coverage **in excess of \$50,000** must be treated as taxable income. As such, employers are responsible for reporting the value of any such coverage on the employee's W-2. This amount is subject to Social Security and Medicare taxes. The taxable value of the excess coverage is determined by using a table provided by the IRS. For assistance in calculating the value to include on an employee's W-2 Form, please contact us or your payroll service.

If any of the above reporting requirements apply to your business and you are uncertain how to report them, please contact us or your payroll service immediately.



**YEAR-END PAYROLL REPORTING WORKSHEET -
PROVIDE TO YOUR PAYROLL SERVICE PRIOR TO FINAL PAYROLL**

Company: _____ Employee: _____

Please process the following as part of my payroll for the period _____:

- Health insurance premiums for greater than 2% shareholders of an S Corporation
- Please add \$ _____ to box 1 of the above employee's W-2 wages for year-end reporting purposes. In accordance with IRS regulations, this amount should not be subject to withholdings for Social Security, Medicare, FUTA, SUTA, Federal Income Tax or State Income Tax. Please include the above amount in box 14 with a description of "2% HI"
- HSA Contributions for greater than 2% shareholders of an S Corporation
Please add \$ _____ to box 1 of the above employee's W-2 wages for year-end reporting purposes. In accordance with IRS regulations, this amount should not be subject to withholdings for Social Security, Medicare, FUTA, SUTA, Federal Income Tax or State Income Tax. Please include the above amount in box 14 with a description of "2% HSA"
- Personal use of company vehicle
Please add \$ _____ to box 1 of the above employee's W-2 wages for year-end reporting purposes. In accordance with IRS regulations, this amount should be subject to withholdings for Social Security, Medicare, FUTA, or SUTA. Please include the above amount in box 14 with a description of "Auto"
 - Withhold Federal Income Tax and State Income Tax
 - Do not withhold Federal Income Tax and State Income Tax
- Group term life insurance of \$ _____
Please add \$ _____ to the above employee's W-2 wages for year-end reporting purposes. In accordance with IRS regulations, this amount should be subject to withholdings for Social Security, Medicare but not subject to FUTA, SUTA, Federal Income Tax or State Income Tax. Please include the above amount in box 12 with a code of "C"
- Bonus
Please add \$ _____ as a bonus to the above employee's W-2 wages.
 - The bonus should have withholdings for all payroll taxes and income taxes in accordance with general processing policies for bonuses.
 - The bonus should be paid out as follows:

Gross bonus amount	\$	
Social Security withholding	\$	
Medicare withholding	\$	
Federal Income tax withholding	\$	
VT State Income tax withholding	\$	_____
Net bonus amount	\$	_____



**WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE**

**EMPLOYER’S WORKSHEET TO CALCULATE EMPLOYEE’S TAXABLE INCOME
RESULTING FROM EMPLOYER-PROVIDED VEHICLE FOR CALENDAR YEAR 2022**

As a result of increasing IRS scrutiny, we are requesting more documentation as it pertains to company provided automobile mileage. Use the worksheet provided to calculate the value of personal use of any company-owned vehicles. The personal use should be added to the employee’s W-2 or recorded as a shareholder loan. We will be requesting a completed copy of these worksheets as we begin preparing the business tax return for **2022**. As part of that worksheet, we will also be asking for confirmation that you have documentation to support the business use of the vehicle as indicated on the worksheet. We will also need total mileage for the vehicle with the assumption that all other mileage will be treated as personal use (**per IRS guidelines, estimates are not acceptable**). We appreciate your understanding with regard to the need for the added documentation. **If desired, we can also provide sample auto usage policies to distribute to your employees.*

EMPLOYEE: _____

DESCRIPTION OF VEHICLE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO ANY EMPLOYEE: _____

DATE VEHICLE FIRST MADE AVAILABLE TO THIS EMPLOYEE: _____

- A. Last year’s odometer reading _____
- B. This year’s odometer reading _____
- C. Total miles for the year _____ (B-A)
- D. Business miles _____
- E. Personal miles _____ (C-D)
- F. Personal % _____ (E / C)

METHOD I – ANNUAL LEASE VALUE METHOD (For autos available 30 days or more)

Fair market value of vehicle (to be re-determined at the beginning of the first year and every four years thereafter) \$ _____

Annual lease value, per attached chart \$ _____

Enter number of days during the year that the vehicle was available x _____

Divide by number of days in tax year ÷ _____

Prorated annual lease value = _____

Personal use % (personal/total miles, per “F” above) x _____%

Personal annual lease value \$ _____

If fuel is provided by employer, enter personal miles _____ x 5.5 cents + _____

Personal use taxable income (to be added to employee W-2) = \$ _____



WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE

EMPLOYER'S WORKSHEET TO CALCULATE EMPLOYEE'S
TAXABLE INCOME RESULTING FROM EMPLOYER-PROVIDED
VEHICLE FOR CALENDAR YEAR **2022**

METHOD II – STANDARD MILEAGE RATE METHOD

Generally, in order to qualify to use the cents-per-mile method, the vehicle must: (1) be expected to be regularly used in the employer's business throughout the calendar year, or (2) be driven at least 10,000 miles per year, and (3) have a fair market value of \$56,100 or less for passenger automobile, truck or van. Once this method is adopted for a particular vehicle, it must be continued until the vehicle no longer qualifies.

Enter personal miles _____ x \$0.585 = \$ _____

If fuel is NOT provided by the
employer enter personal miles _____ x \$0.055 = (_____)

Personal use taxable income (to be added to employee W-2) \$ _____

METHOD III – SPECIAL COMMUTING METHOD

This method may only be used for vehicles covered by a written policy that allows commuting but no other personal use. DO NOT USE if employee is a 1% or more owner, an officer with compensation of \$120,000 or more, or an individual with compensation equaling or exceeding \$245,000.

Number of commuting round trips made _____

Value per round trip _____ x _____ \$3.00

Personal use taxable income (to be added to employee W-2) \$ _____



WORKSHEET TO CALCULATE INCOME
FROM PERSONAL USE OF COMPANY VEHICLE

ANNUAL LEASE VALUE TABLE

<u>AUTOMOBILE</u>	<u>ANNUAL</u>	<u>AUTOMOBILE</u>	<u>ANNUAL</u>
<u>FAIR MARKET VALUE</u>	<u>LEASE VALUE</u>	<u>FAIR MARKET VALUE</u>	<u>LEASE VALUE</u>
\$ 0- 999	600	22,000-22,999	6,100
1,000- 1,999	850	23,000-23,999	6,350
2,000- 2,999	1,100	24,000-24,999	6,600
3,000- 3,999	1,350	25,000-25,999	6,850
4,000- 4,999	1,600	26,000-27,999	7,250
5,000- 5,999	1,850	28,000-29,999	7,750
6,000- 6,999	2,100	30,000-31,999	8,250
7,000- 7,999	2,350	32,000-33,999	8,750
8,000- 8,999	2,600	34,000-35,999	9,250
9,000- 9,999	2,850	36,000-37,999	9,750
10,000-10,999	3,100	38,000-39,999	10,250
11,000-11,999	3,350	40,000-41,999	10,750
12,000-12,999	3,600	42,000-43,999	11,250
13,000-13,999	3,850	44,000-45,999	11,750
14,000-14,999	4,100	46,000-47,999	12,250
15,000-15,999	4,350	48,000-49,999	12,750
16,000-16,999	4,600	50,000-51,999	13,250
17,000-17,999	4,850	52,000-53,999	13,750
18,000-18,999	5,100	54,000-55,999	14,250
19,000-19,999	5,350	56,000-57,999	14,750
20,000-20,999	5,600	58,000-59,999	15,250
21,000-21,999	5,850		

For vehicles having a fair market value in excess of \$59,999, the Annual Lease Value is equal to:
 (.25 x automobile fair market value) + \$500.

Example 1 (ALV):

Yr/Make/Model: 2016 Chevrolet	
Placed in Service: 8-1-18	
FMV as of 8-1-18:	\$24,468.60
ALV:	\$ 6,600.00
Personal Mileage/Total Mileage:2529/12042	<u>21%</u>
Value of personal use:	\$ 1,386.00
Fuel Valuation: 2529 x \$.055 per mile	\$ <u>139.10</u>
Total Taxable Income:	\$ 1,525.10

Example 2 (part-year valuation):

Yr/Make/Model: 2016 Jeep Grand Cherokee	
Placed into Service: 10-9-19	
FMV as of 10-9-19:	\$18,692.80
ALV:	\$ 5,100.00
Prorated ALV: \$5,100 x (83 days / 365)	\$ 1,159.73
Personal Mileage/Total Mileage: 1092/6472	<u>17%</u>
Value of personal use:	\$ 197.15
Fuel Valuation: 1092 x \$.055 per mile	<u>60.06</u>
Total Taxable Income:	\$ 257.21



**EMPLOYEE REPRESENTATION REGARDING
USE OF COMPANY VEHICLE**

**TO BE COMPLETED BY ALL EMPLOYEES WHO WERE
PROVIDED A VEHICLE**

The **IRS requires** employers to provide certain information on their tax return with respect to the vehicles provided to employees. This information is also used to calculate the amount of the fringe benefit to be included on your Form W-2 income.

The IRS generally requires that written records be maintained to document the business use of vehicles. Since the company policy requires employees to maintain the detailed records, please provide answers to the following questions. If you were provided more than one vehicle that was used during the year, you need to prepare a separate statement for each vehicle.

The completed form must be returned no later than _____ (date) or 100% of the value of the use of the vehicle will be included in your Form W-2 income.

Employee name _____

Description of vehicle _____

Reporting period from _____ to _____

Odometer reading: Beginning _____ Ending _____

Employee Representation	YES	NO
(1) Was the vehicle available for your personal use during off-duty hours?	_____	_____
(2) Did you have another vehicle available for your personal use (this includes a vehicle you own personally)?	_____	_____
(3) Are you an officer or 1% or more owner of the business?	_____	_____
(4) How many commuting round trips did you make in this vehicle?	_____	
(5) For the reporting period specified above, please provide the number of miles for each of the following categories:		
Commuting miles	_____	
Other personal (non-commuting) miles	_____	
Total personal and commuting miles	_____	
Total business miles	_____	
Total miles	_____	
(6) Did the employer pay the cost of fuel consumed by this vehicle?	_____	_____

(EMPLOYEE SIGNATURE)

(DATE)

SAMPLE AUTOMOBILE USAGE POLICIES

1. POLICY PROHIBITING ALL PERSONAL USE OF COMPANY VEHICLES

Management has adopted the following policy regarding personal use of Company-owned vehicles:

Vehicles owned or leased by this Company are to be used solely for Company business. There shall be no personal use of the vehicles (including commuting to and from work). Individuals driving Company vehicles may have occasions where an incidental stop is necessary between business stops. Such use shall not be considered to be in violation of this policy.

The Company requires that vehicles not in use shall be parked in designated areas on the Company premises. No personal items are to be stored in the vehicles. Company materials and supplies are to be secured in the trunk, lock boxes or within the Company offices.

Keys are to be returned to _____ upon the close of business each day.

SAMPLE AUTOMOBILE USAGE POLICIES

2. POLICY PROHIBITING ALL PERSONAL USE OF COMPANY VEHICLES EXCEPT COMMUTING

Management has adopted the following policy regarding personal use of Company-owned vehicles:

For business reasons, certain employees have been designated to drive a Company-owned vehicle to and from their residence. This shall be the only authorized personal use of the vehicle. Individuals driving Company vehicles may have occasions where an incidental stop is necessary between business stops. Such use shall not be considered to be in violation of this policy.

The Company requires that no personal items other than incidentals be stored in the vehicle. The vehicle is to be locked when not in use with work articles stored either in the lock box or trunk during times when the vehicle is not in use.

The Company will compute a daily value for the commuting which will be included in the employee's Form W-2 at the end of the calendar year. Such amount will be the minimum allowed by federal income tax laws.

Note: Internal Revenue Service regulations require the Company to maintain evidence which would enable the IRS to determine whether use of the vehicle is in accordance with policy maintained by the Company.

SAMPLE AUTOMOBILE USAGE POLICIES

3. POLICY REGARDING CUT-OFF DATE TO CALCULATE THE VALUE OF PERSONAL USE OF COMPANY-OWNED VEHICLES

Management has adopted the following policy regarding computation of the taxable value of the personal and commuting use of Company-owned vehicles:

The personal and commuting use of Company vehicles will be computed for the twelve months ending _____ (October 31, November 30 or December 31).

Annually, the Company requires you to provide complete accounting of the personal use of the vehicle as of _____. The taxable value of the personal use will be computed using the least costly method allowable by tax law.

This income will be considered paid as of _____ and federal, state (if appropriate) and Social Security/Medicare* withholding will be deducted from your _____ paycheck.

OR

The taxable value and related withholding amounts will be reflected on your Form W-2 at year-end.

Please address your questions to _____

*The Company may elect to withhold only Social Security/Medicare. If so the paragraph should read as follows:

This income will be considered paid as of _____ and Social Security/Medicare withholding will be deducted from your _____ paycheck.