

## Summary of Rules Regarding the Issuance of IRS Form 1099-Misc to Landlords

The IRS requires the filing of a Form 1099-Misc to report payments made to each non-corporate entity or person to whom you have paid at least \$600 in rents during a calendar year. Many Councils and Conferences were unaware of this IRS rule or assumed it did not apply to payments made on behalf of individuals. After extensive research and consulting with both our auditor and tax attorney we have found only a few exceptions that can be relied upon for rent payments made on behalf of Neighbors in Need.

The filing of the 1099-Misc is required for payments of rent of at least \$600 in a calendar year, *except*:

- For payments made to a corporation, including a limited liability company (LLC) that is treated as a C or S corporation. (In the information to follow we will provide instructions on how to determine if the property owner is a corporation by requesting that each landlord complete an IRS Form W-9).
- Payments of rent to real estate agents or property managers acting on behalf of a landlord (the real estate agent or property manager is required to file the 1099-MISC).
- Payments made to tax-exempt organizations including federal, state, and local governments.
- Payments made using a third-party payment network, such as a credit card, debit card, bank gift card (i.e. Visa Gift Card) or PayPal type service. **Note:** this exception does not apply to payments made by online bill pay, wire transfer or ACH.

Once it is determined that the payment is subject to the 1099-MISC rules, there are additional considerations:

- In order to gather the information necessary to file the required 1099, the Council or Conference must request a Form W-9 (Request for Taxpayer Identification Number and Certificate) from the landlord. On this form the landlord will provide his or her name as shown on their tax return, the federal tax classification (Individual, C Corporation....), address, and Taxpayer Identification Number. This Taxpayer Identification Number could be the landlord's Social Security Number or its Employer Identification Number. If a landlord is reluctant to provide its Social Security Number, the instructions included with the W-9 provide information regarding how to obtain an Individual Taxpayer Identification Number (ITIN). Even if it is determined that no 1099-MISC is required to be filed with the IRS, it is important that all W-9s received be retained in your records for at least 7 years. By keeping these W-9s in your records, you will have proof that you have taken the necessary steps required for due diligence.
- Rent payments to landlords must be accumulated over a calendar year and combined for all SVdPs using a common Taxpayer Identification Number (TIN).

Example 1: St. Mary's Conference pays \$300 in rent to John Smith, landlord, for a Neighbor in Need on 3/1/22 and then on 10/13/22 they make another \$300 payment for a different Neighbor in Need that also has John Smith as their landlord. Those payments are combined at the end of the calendar year and one 1099-MISC must be filed for \$600.

Example 2: In this example assume St. Mary's Conference and St. Joseph Conference both use the Taxpayer Identification Number (TIN) of their Council, Council A. Because St. Mary's Conference and St. Joseph's Conference are both using Council A's TIN, when on 11/15/22 St. Joseph's Conference pays \$150 in rent to John Smith, landlord, on behalf of one of their Neighbors in Need, that payment must be combined with the payments made by St. Mary's Conference, and Council A must file a 1099-MISC for \$750 (the \$600 paid by St. Mary's, plus the \$150 paid by St. Joseph's).

Because of this need to combine payments using a common TIN, it is very important to request the W-9 prior to making the first payment to the landlord. Once received, maintain a file with the landlord's W-9 and reuse this information each year that you make payments to this landlord. It is only necessary to request a new W-9 if there is a change or if the IRS notifies you that they are unable to match the information to their records.

The due dates for the filing of the various 1099 informational returns vary; however, forms 1099-MISC are required to be mailed to the recipient by January 31<sup>st</sup> following the end of the calendar year reporting period and filed with the IRS by February 28<sup>th</sup> if paper copies are filed or March 31<sup>st</sup> if filed electronically. Unfortunately, the penalties for late filing, failure to file and intentional disregard of the 1099 filing requirements are steep and currently range from \$50 per 1099 if 30 days or less late, to \$580 per 1099 for intentional disregard (for each late filed return.) The IRS adjusts these penalties annually and the 2024 penalties maximum penalties will increase to \$630 for each 1099 filing intentionally disregarded.

Please be aware that there may be other payments made by Councils and Conferences that require the filing of forms included in the 1099 series of informational reporting forms, for instance payments for the performance of services to make repairs to a Neighbor in Need's home or car may require the filing of form 1099-NEC.

**Please consult with your tax advisor or the IRS for additional information regarding rent and other payments that may require the filing of IRS 1099s.**

*While some Councils and Conferences may receive differing opinions from their advisors, we recommend that they make sure the source is a knowledgeable professional and that the guidance is well documented and received in writing.*