

# Reporting Attorney Payments to the IRS

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## ***Do I have to report to the IRS a payment I make to a lawyer?***

If you make payments to a lawyer, you may be required to file an IRS form to report that payment. For a payment to a lawyer to be reportable to the IRS, it must meet two conditions: (1) it must be made in connection with your trade or business; and (2) the aggregate amount paid to the lawyer during the calendar year must be \$600 or more. Thus, for example, if you are in the business of renovating kitchens, you must report payments to a lawyer of \$600 or more during the year for drafting contracts, collecting fees, etc. But, you do not have to report payments made to a lawyer for personal matters, such as estate planning or representing you in connection with a divorce or personal bankruptcy.

## ***If I have to report a payment, which IRS Form do I use?***

### *IRS Form 1099-NEC*

The IRS form you use to report a payment made to a lawyer depends on the reason for which you made the payment. If you made the payment for legal services that the lawyer rendered to you in connection with your trade or business, you report the payment in box 1 of **IRS Form 1099-NEC**. This form is **new for 2020**, and replaces **IRS Form 1099-MISC** for compensation payments made to non-employees. (See our previous alert on [New IRS Rules for Reporting Non-Employee Compensation](#).)

### *IRS Form 1099-MISC*

Specific rules are provided in the regulations for reporting payments to lawyers for services rendered to another person. This may happen when you make a payment to settle a dispute with another party (a claimant). The settlement payment often is made to the claimant's lawyer. If the payment to that lawyer is \$600 or more and made in connection with your trade or business, the payment must be reported in box 10 of IRS Form 1099-MISC.

A settlement payment to the lawyer may also require an IRS Form 1099-MISC to report the payment to the claimant, even though the payment is made to the lawyer. If the payment is for damages caused to the claimant and those damages are income to the claimant, the payment generally is reported in box 3 of IRS Form 1099-MISC.

IRS Forms 1099-NEC and 1099-MISC must be filed with the IRS and a copy must be furnished to the person receiving the payment. In the case of the settlement payment made to the lawyer mentioned above, an IRS

Form 1099-MISC must be filed and furnished showing the lawyer as the payee, and another IRS Form 1099-MISC must be filed and furnished showing the claimant as the payee.

In many cases, the claimant must use a portion of the settlement proceeds to pay the lawyer. Even though the amount the claimant receives after paying the lawyer is less than the amount paid to the lawyer, the IRS Form 1099-MISC for the claimant generally must include the full amount of the payment to the lawyer.

Generally, IRS Forms 1099-NEC and 1099-MISC are not required for payments made to corporations or limited liability companies that elect to be taxed as corporations. An exception applies for lawyers. A payment for legal fees must be reported even if the payment is made to a corporation or limited liability company taxed as a corporation.

A simple rule of thumb for payments made to lawyers is that (i) if the payment is for legal services rendered to you in connection with your trade or business, file IRS Form 1099-NEC, (ii) if the payment is for legal services rendered to another party, file IRS Form 1099-MISC.

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