

## **POSSIBLE FILING REQUIREMENT FORMS 1099 AND W-2**

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### **Form 1099**

If, the prior year, you paid a total of \$600 or more to any unincorporated<sup>1</sup> independent contractor, freelancer, or other individual *in the course of your trade or business*, you must now issue a 1099 to that payee.

This reporting requirement applies to business owners as well as landlords who are considered to be “in the business” of rental real estate.<sup>2</sup> Individuals do not have a filing requirement for personal outlays, such as payments to gardeners and housekeepers. However, if you would like to claim a deduction on your tax return for medical expenses or other miscellaneous itemized deductions, you may have to issue a 1099 for amounts paid to a home healthcare worker, nanny or babysitter, even your accountant.

Forms 1099 must be issued to all payees by January 31<sup>st</sup>; copies along with Form 1096 must be submitted to the IRS by February 28<sup>th</sup>. *The penalty for late filing can be as much as \$50 for each unfiled Form 1099.*<sup>3</sup>

### **Form W-2**

If you had employees in the prior year, you should have filed quarterly payroll tax returns with the IRS and the California EDD throughout the year. The next quarterly tax forms are due January 31<sup>st</sup>. You must now also issue W-2s to all employees by January 31<sup>st</sup> and submit copies of the issued W-2's to the SSA by February 28<sup>th</sup>. *The penalties for filing W-2s late are similar to the 1099 penalties above.*

You will need the following information to prepare the requisite forms, including Form W-3 with must be submitted to the Social security Administration:

- Payee's name, address, and Social Security Number
- Amount paid during the previous year

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<sup>1</sup> To clarify, you must issue a 1099 even to businesses if they are not incorporated. In CA, an incorporated business is required to clearly identify itself as an incorporated business entity. If you don't see an appropriate designation on the business card or invoice, it is safe to assume that the payee is not incorporated and is, therefore, subject to 1099 reporting. The IRS defines a non-corporate entity is an individual sole proprietor, partnership, or limited liability company (LLC).

<sup>2</sup> Landlords, in the ordinary situation of renting out a house or two, do not have to issue 1099s to service providers since they are not deemed to be “in business”. However, example, if you are a real estate professional, you materially participate in the rental activity, and you treat the rental activities as non-passive, you are in a trade or business and must issue 1099s.

<sup>3</sup> Please note that both federal and state tax authorities will disallow tax deductions claimed on your tax return for payments made but not substantiated with requisite 1099 forms.

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