

# **2010 INFORMATION RETURNS**

**BY**

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## **DISCLAIMER**

**The materials and forms in this manual are published by Tax Educators exclusively for the use of tax return preparers in completion of this course.**

**Tax Educators does not make express or implied warranties in regards to the use of the materials or forms**

**Each preparer must depend on his or her own knowledge of the law and expertise in the use or the modification of these materials.**

**Preparers must be aware that laws are constantly changing and that the information in this manual may be superceded at any time.**

**This course “Information Returns” information is provided in “general” to acquaint the student with filing requirements and information contained in the various IRS forms. Specific information on specific items may be obtained from IRS publications:**

**<http://search.irs.gov/pub/query.html?...>**

## **ACKNOWLEDGMENTS**

**Kleinrock - CCH**

**IRS: Forms & Publications**

**IRS: Letter Rulings**

**J. K. Lasser**

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## **INFORMATION RETURNS**

### INFORMATION REPORTING CALL SITE

The IRS operates a centralized call site to answer questions about reporting on information returns - Forms 1096, 1098, 1099, 5498, W2, W2G and W3

866-455-7438 (toll free)  
304-263-8700 (Not a toll free number)  
email: [mccirp@irs.gov](mailto:mccirp@irs.gov)

Personal Computer Web Site  
<http://www.irs.gov/index.html>  
for forms and instructions

Phone Order forms and Publications  
1-800-TAX-FORM  
(1-800-829-3676)

Bulletin Board Service (IRP-BBS)  
304-264-7070

CD-Rom  
Contains over 2,000 tax products (including many prior year forms)  
Can be purchased from Government Printing Office (GPO)  
To order the CD - Rom - call  
National Technical Information Service  
1-877-233-6767 or  
<http://www.irs.gov/formspubs/article/0,,id=108660,00.html>

## **INFORMATION RETURNS**

### **SPECIAL ITEMS**

#### **PHONE NUMBER REQUIREMENT ON STATEMENTS TO RECIPIENTS**

If phone number is required it must provide **direct** access to an individual who can answer questions about the statement.

#### **ELECTRONIC FILING**

If filing forms 1099, 1098 or W2G electronically due date is March 31  
Extended due date does not apply to magnetic media filing.

# **INFORMATION RETURNS**

## **BACKUP WITHHOLDING**

If backup withholding is made on a payment, must furnish recipient with a statement to the recipient to report the amount of the payment and the amount withheld.

**Applies even though the amount of the payment may be below the normal threshold for filing form 1099 or w-2G.**

### **Backup withholding applies to:**

Interest

Dividends

Rents

Royalties

Commissions

#### **Non employee compensation**

Certain other payments including broker and barter exchange transactions

Certain payments made by fishing boat operations.

**Gross proceeds paid to attorneys**

### **If the payment is one of the above and any of the following apply:**

1. Payee fails to furnish his or her taxpayer identification number
2. IRS notifies payer to impose backup withholding because payee furnished an incorrect number
3. For interest and dividend accounts or instruments, you are notified that the payee is subject to backup withholding under section 3406(a)(1)(C) - **“C” notice**
4. For interest and dividend accounts opened or instruments acquire after 1983, the payee fails to certify to you, under penalties of perjury that he or she is not subject to backup withholding
5. For interest, dividend, broker or barter exchange accounts opened or instruments acquired after 1983, the payee fails to certify, under penalties of perjury, that he or she is not subject to withholding under 3 above.

Except as explained in #5, reportable “other” payments are subject to backup withholding only if #1 or #2 applies.

### **Amount of withholding, if applicable - 28%**

## **INFORMATION RETURNS** **BACKUP WITHHOLDING**

### **EXEMPT FROM BACKUP WITHHOLDING**

1. Real estate transactions reportable under section 6045(b)
2. Canceled debts reportable under section 6050P
3. Distributions from Archer medical savings accounts
4. Long-term care benefits
5. Distributions from any retirement account, Including IRAs
6. Section 404(k) distributions from an employee stock ownership plan (ESOP)
7. Fish purchases for cash reportable under section 6050R
8. Unemployment compensation
9. Qualified tuition program earnings
10. Foreclosures and abandonments reportable under section 6050J
11. State or local income tax refunds
12. Sale of certain stock that was obtained from the exercise of a stock option and sold by the broker the same day.

### **PERIOD FOR WHICH THE 28% BACKUP WITHHOLDING SHOULD BE WITHHELD**

1. Failure to furnish TIN - until TIN is furnished  
If W9 is furnished with “applied for” (for interest and dividends ONLY) a 60 day waiting period applies. Begin backup withholding after the 60 days if TIN not obtained.
2. Notice from IRS that payee’s TIN is incorrect (“B” notice)  
May elect to withhold on any reportable payment after receipt of notice.  
Must withhold on any reportable payment made more than 30 business days after receiving “B” notice.  
Stop withholding within 30 days after receive certified form W9 (or acceptable substitute)
3. Notice from IRS that payee is subject to backup withholding due to notified payee under-reporting (“C” notice)  
Must start withholding on payments made on the 31<sup>st</sup> day after the date you receive notice from IRS  
May elect to withhold any time before the 31<sup>st</sup> day.  
**IRS will notify when to stop** - generally 1<sup>st</sup> day of the following year.  
**Must notify payee when withholding under this procedure starts.**
4. Payee failure to certify that he or she is not subject to backup withholding.  
Withhold until certification has been received.

### **REPORT BACKUP WITHHOLDING ON FORM 945.**

# **INFORMATION RETURNS**

## **PENALTIES**

**(FAILURE TO FILE CORRECT INFORMATION RETURNS BY DUE DATE)**

### **PENALTIES APPLY IF YOU CAN NOT SHOW REASONABLE CAUSE**

**Failure to file timely**

**Failure to include all information required to be shown**

**Include incorrect information**

**File on paper returns when required to file on magnetic media**

**Report an incorrect TIN or fail to report a TIN**

**Fail to file paper forms that are machine readable**

### **AMOUNT OF PENALTY BASED ON WHEN CORRECT RETURN IS FILED**

**\$15 per return if correctly file within 30 days - Maximum \$75,000 per year  
(\$25,000 maximum for small business)**

**\$30 per return if correctly file more than 30 days after due date but by  
August 1. Maximum \$150,000 per year (\$50,000 small business)**

**\$50 per return if file after August 1 or do not file required returns. Maximum  
penalty \$250,000 per year (\$100,000 small business)**

### **EXCEPTIONS TO PENALTY**

If can show due to reasonable cause and not to willful neglect  
Inconsequential error or omission (this can never be a TIN, a payee's  
Surname, or any money amounts.)

DeMinimis rule for correction if:

- a) Filed the returns
- b) Either failed to include all information or included incorrect  
Information
- c) Filed corrections by August 1.

If all conditions are met, the penalty for filing incorrect returns (but not  
for filing late, will not apply to greater of 10 information returns of ½ of 1%  
of the total number or returns required to be filed for the calendar year.

# **INFORMATION RETURNS**

## **PENALTIES**

### **(FAILURE TO FILE CORRECT INFORMATION RETURNS BY DUE DATE)**

#### **LOWER MAXIMUM PENALTIES FOR SMALL BUSINESSES**

A small business if average annual gross receipts for the 3 most recent tax years (Or for the period in existence, if shorter), ending before the calendar year in which the information returns were due are \$5 million or less.

#### **INTENTIONAL DISREGARD OF FILING REQUIREMENTS**

Penalty is at least \$100 per information return with NO MAXIMUM penalty

#### **FAILURE TO FURNISH PAYEE STATEMENTS**

Penalty applies if fail to provide the statement by January 31, fail to include all information required to be shown, or include incorrect information on the "Payee" statement.

\$50 per statement, regardless of when the correct statement is furnished, with maximum of \$100,000 per year. Penalty is **not** reduced for furnishing a correct statement by August 1.

#### **Intentional disregard of payee statement requirements**

\$100 per payee statement with no maximum penalty.

#### **FAILURE TO FILE FORMS 1099-MSA, 1099R (for Coverdell ESAs only) AND 5498 -MSA**

Penalty for failure to file timely - \$50 per return with no maximum unless due to reasonable cause

#### **CIVIL DAMAGES FOR FRAUDULENT FILING OF INFORMATION RETURNS**

If willfully file a fraudulent information return for payments you claim you made to another person, that person may be able to sue you for damages. You may have to pay \$5,000 or more.

# **INFORMATION RETURNS**

## **MAGNETIC MEDIA/ELECTRONIC REPORTING**

### **ACCEPTABLE FORMS**

Magnetic tape - Tape cartridge - 3 ½ inch diskettes

**DIFFERENT TYPES OF PAYMENTS (INTEREST, DIVIDENDS, RENTS) MAY BE REPORTED ON THE SAME TAPE OR OTHER SUBMISSION.**

**FILING ELECTRONICALLY SATISFIES ANY MAGNETIC MEDIA REQUIREMENTS**

### **WHO IS REQUIRED TO FILE MAGNETIC MEDIA**

If required to file 250 or more information returns

250 or more applies separately to each type of form.

(If required to file 500 form 1098 and 100 form 1099-A - not required to file the 1099-A on magnetic media)

**1098-E and 1098-T** May, but are not required to file on magnetic media

**FILING REQUIREMENT APPLIES SEPARATELY TO ORIGINALS AND CORRECTIONS**

If you file 400 forms 1098 on magnetic media and are making 75 corrections, you are not required to file the corrections on magnetic media, but may file them on paper.

### **APPROVAL TO FILE ON MAGNETIC MEDIA - FORM 4419**

At least 30 days before due date of the returns. Only one form for all types of returns. Once approved need not apply every year.

### **REQUESTING A WAIVER FROM FILING ON MAGNETIC MEDIA -FORM 8508**

May apply for only one year at a time. Re-apply if for another year.

Generally must be filed within 45 days before the due date of the returns

**PENALTY** If required to file on magnetic media but fail to do so and do not have an approved waiver - \$50 per return unless reasonable cause.

### **WHERE TO FILE MAGNETIC MEDIA**

**IRS -Martinsburg Computing Center**

**Information Reporting Program**

**230 Murall Drive**

**Kearneysville, WV 25430**

# INFORMATION RETURNS

## PAPER DOCUMENT REPORTING

### COMMON ERRORS

Duplicate filing

Filer's name, address, TIN -not the same on 1096 as on 1098, 1099, 5498, or W-2G

Decimal point to show dollars and cents omitted

Two or more types of returns submitted with one form 1096

### REQUIRED FORMAT

Do not cut or separate copies A of the forms that are printed two or three to page

If at least one form is completed, must submit the entire page

***Send to IRS in flat mailing (not folded)***

No photocopies of any forms are acceptable

***Do not staple***

Pinfeed holes on the forms are not acceptable - remove before submission

Do **not** change title of any box on any form.

Do **not** use a form to report information that is not properly reportable on **that** form

Make only one entry in each box unless otherwise indicated.

Do not submit any copy other than Copy "A"

Do not use prior year form or subsequent year forms

Use official forms or substitute forms that meet the specifications in the Publ 1179.

Do **not** use dollar signs (\$) ampersands (&) asterisks (\*) commas (,) or other special characters in money amount boxes.

Although handwritten forms **are** acceptable, IRS prefers type or machine print data entries using 10 pitch (pica) or 12 pitch (elite) black type. Block print, no script characters.

Do **not** use 0 (zero) or "None" in money amount boxes when no entry required.

Leave boxes blank unless specifically required to enter a 0 (zero)

In some cases, you must enter zero to make corrections.

Do **not** enter number signs (#) (i.e. enter RT 2, not Rt. #2)

## **INFORMATION RETURNS**

### **NOMINEE/MIDDLEMAN RETURNS**

Generally, if you receive a form 1099 for amounts that actually belong to another person, you are considered to be a nominee recipient.

You must file a form 1099 (the same type as you received) for each of the other owners, showing the amounts allocable to each.

### **REPORTING PERIOD**

Calendar year.

### **WHERE TO FILE-PAPER RETURNS**

***If principal business, office or agency or legal residence in the case of an individual is located in:***

Alabama, Arizona, Florida, Georgia,  
Louisiana, Mississippi, New Mexico, North  
Carolina, Texas, Virginia

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Arkansas, Connecticut, Delaware,  
Kentucky, Maine, Massachusetts, New  
Hampshire, New Jersey, New York, Ohio,  
Pennsylvania, Rhode Island, Vermont, West  
Virginia

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Illinois, Indiana, Iowa, Kansas, Michigan,  
Minnesota, Missouri, Nebraska, North  
Dakota, Oklahoma, South Carolina, South  
Dakota, Tennessee, Wisconsin

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Alaska, California, Colorado, District of  
Columbia, Hawaii, Idaho, Maryland,  
Montana, Nevada, Oregon, Utah,  
Washington, Wyoming

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Revenue - Cincinnati, OH 45999

***Use the following Internal Revenue Service Center address:***

Austin, TX 73301

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Cincinnati, OH 45999

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Kansas City, MO 64999

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Ogden, UT 84201

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If no legal address, file return with Internal

## **INFORMATION RETURNS**

### **STATEMENT MAILING REQUIREMENTS**

**Applicable only to 1099-DIV (except to section 404 (k) dividends; 1099 INT (except in the course of your trade or business under section 6041; 1099-OID, 1099-PATR and royalties reported under section 6050N (on form 1099MISC or 1099S).**

The envelope containing the Form 1099 to Payee **may also contain the following enclosures:**

- Forms W-2, W-8, W9 or other forms W2G, 1098, 1099 and 5498 statements
- A check from the account being reported
- A letter explaining why no check is enclosed
- A statement of the person's account shown on the form 1099
- A letter explaining the tax consequences of the information shown on the statement

**No additional enclosures, such as advertising, promotional material, or a quarterly or annual report are permitted.**

Logos are permitted on the envelope and on any nontax enclosures

**A recipient's statement may be perforated to a check or to a statement of the specific account. The check or statement to which the recipient statement is perforated must contain, in a bold and conspicuous type "IMPORTANT TAX DOCUMENT ATTACHED"**

**The legend "IMPORTANT TAX RETURN DOCUMENT ENCLOSED" must appear on the OUTSIDE of the envelope AND on each letter explaining why no check is enclosed or on each check or account statement that is NOT perforated to the recipient statement**

# **INFORMATION RETURNS**

## **FORM 1098 - MORTGAGE INTEREST STATEMENT**

Report mortgage interest (including points) received by you

**In course of your trade or business**

From an individual (including a sole proprietor)

\$600 or more (applies to EACH mortgage)

### **Not required to file for interest received from:**

Corporation

Partnership

Trust

Estate

Association

Company other than sole proprietorship

### **Mortgage - definition**

An obligation incurred after 1987

If real property located inside/outside the US secures all or part of obligation.

An obligation incurred after 1984 and before 1988 is a mortgage only if secured primarily by real property.

An obligation in existence on December 31, 1984 is not a mortgage if, at the time the obligation was incurred, the interest recipient reasonably classified the obligation as other than a mortgage, real property loan, real estate loan, or other similar type of obligation.

### **Real Property - definition**

Includes a manufactured home with a minimum living space of 400 square feet and minimum width of more than 102 inches of a kind customarily used at a fixed location, including certain mobile homes.

If property that secures the loan is not REAL property, you are not required to file form 1098. However, the borrower may be entitled to a deduction for qualified residence interest, such as may be the case for a boat, which has sleeping space and cooking and toilet facilities, that the borrower uses as a home.

### **Line of Credit and Credit Card Obligations**

If received on a mortgage (defined above) is reportable.

# INFORMATION RETURNS

## FORM 1098 - MORTGAGE INTEREST STATEMENT

### POINTS

The lender of record or a qualified person must file for 1098 to report all points paid by the payer of record in connection with the purchase of the **principal residence**.

Reported in year of closing regardless of accounting method used to report income.

### Reportable points:

1. Clearly designated as points (loan origination fee, loan discount fee, discount points, or points) includes amounts For VA and FHA loans.
2. Computed as a percentage of stated principal loan amount
3. Charged under an established business practice in the area where the loan was issued and do not exceed amount generally charged in that area
4. Paid for acquisition of the payer of record's principal residence.
5. Paid directly by the payer of record
  - From funds not borrowed from the lender
  - Seller paid points on behalf of payer of record

### Do not report points paid:

1. For loans to improve a principal residence
2. For loans to purchase or improve a residence that is not the payer of record's principal residence (second home)
3. For a home equity or line of credit loan even if secured by the principal residence.
4. For refinance of debt owed by the borrower
5. In lieu of items ordinarily stated separately such as appraisal fees, title fees, attorney fees, and property taxes.
6. To acquire a principal residence to the extent the points are **allocable to an amount of principal in excess of \$1 million**

## **INFORMATION RETURNS**

### **FORM 1098-E - STUDENT LOAN INTEREST STATEMENT**

If receive from a individual borrower interest of \$600 or more during the year  
In the course of trade or business. One borrower may have more than one student loan, reporting  
can be reported on the same 1098-E

#### **Qualified Student loan**

Subsidized, guaranteed, financed or otherwise treated as a student loan under a program  
of the Federal, state, or local government, or of a post secondary education institution.

Certified by the borrower as a student loan.

**Economic Growth and Tax Relief Reconciliation Act of 2001 eliminated the 60 month  
limitation during which interest paid of qualified education loans are deductible.**

**Lenders are not required to report Student Loan Interest on loans for mixed use.**  
**Report only interest on loans for which borrower certifies that all the loan proceeds**  
**are used solely to pay for qualified higher education expenses**

Use Box 2 to indicate it loan origination fees and/or capitalized interest are reported in Box 1

# **INFORMATION RETURNS**

## **FORM 1098-T - TUITION PAYMENTS STATEMENT**

You are required to file if you are an eligible educational institution and received qualified tuition and related expenses.

If you refund or reimburse tuition or related expenses to a student that equal or exceed payments of qualified tuition and related expenses received on behalf of the student during the year -not required to file 1098T

You are **not** required to file for a student whose tuition and related expenses were entirely waived or entirely paid with scholarships, non-resident aliens, employer paid tuition, student is enrolled in all non-credit courses..

### **Qualified tuition and related expenses:**

Tuition and fees a student must pay for academic credit while attending an eligible institution

### **Non - qualified expenses**

Amounts paid for any course or other education involving sports, games or hobbies, unless the course or other education is part of the student's degree program.

Charges and fees for room board, student activities, athletics, insurance, equipment transportation and similar personal, living or family expenses.

### **Eligible higher education institution**

College, university, vocational school or other post secondary educational institution that is described in section 481 of the Higher Education Act of 1965.

### **Academic term**

Enrolled for any semester, trimester, or quarter beginning in current year

## **INFORMATION RETURNS**

### **FORM 1099-A - ACQUISITION OR ABANDONMENT OF SECURED PROPERTY**

If you lend money in connection with trade or business and, in full or partial satisfaction of the debt, you acquire an interest in the property that is security for the debt

or

If you have reason to believe that the property has been abandoned.

Need not be in the business of lending money to be subject to this reporting requirement.

**If, in same calendar year, a debt is canceled in connection with the acquisition or abandonment of secured property and you would be required to file both 1099-A and 1099-C, for one debtor, you may file form 1099-C only.**

#### **PROPERTY:**

**Any real property, any intangible property and tangible personal property EXCEPT:**

Tangible personal property (such as a car) held only for personal use.

If property securing the loan is located outside the US and proper statements furnished to lender that the borrower is an exempt foreign person.

## **INFORMATION RETURNS**

### **FORM 1099-B - PROCEEDS FROM BROKER OR BARTER EXCHANGE**

Any person, including governmental unit and any subsidiary agency, doing business as a broker or barter exchange must file.

**For each person:**

For whom broker has sold (including short sales) stocks, bonds, commodities, regulated futures contracts, foreign currency contracts, forward contracts, debt instruments, etc.

Or who exchanged property or services through the barter exchange

### **FORM 1099-C - CANCELLATION OF DEBT** (Coordinate with form 1099-A)

For each debtor for whom you canceled a debt owed to you of \$600 or more

ONLY IF: You are a financial institution, a credit union or a Federal Government Agency or any agency listed below.

**An identifiable event has occurred.**

Debtor may be an individual, corporation, partnership, trust, estate, association, or company.

Who must file:

Financial institution

Credit union

Federal government agency

If lending money is considered your significant trade or business, or

One of the following:

Federal deposit insurance corporation

Resolution trust corporation

National credit Union Administration

Any military department

U S Postal service

Postal rate commission

## **INFORMATION RETURNS**

### **FORM 1099-CAP - CHANGES IN CORPORATE CONTROL AND CAPITAL STRUCTURE**

Furnished to Shareholders who receive cash, stock or other property from acquisition or change in capital structure.

Only transactions exceeding \$100 million are required to report.

#### Exempt Recipients

- any shareholder who receives less than \$1000 in cash and/or fair market value of any property or stock
- tax exempt organizations
- Individual Retirement Accounts
- U.S. Government or State
- Foreign entity
- Real Estate Investment Trust
- Regulated Investment Trust
- Common Trust Funds
- A corporation

## **INFORMATION RETURNS**

### **FORM 1099-DIV- DIVIDENDS AND DISTRIBUTIONS**

For each person to whom paid dividends (including capital gain dividends) and other distributions on stock

Of **\$10 or more**

For whom you have withheld and paid any foreign tax

For whom you have withheld any Federal income tax under backup requirements

To whom paid \$600 or more as part of a liquidation.

Dividends distributed under section 404(k) Employee Stock Ownership Plan or tax credit ESOP.

#### **Qualified Dividends**

1) Dividends paid during the year from domestic corporations and qualified foreign corporations

2) The 5% or 15% capital gains rate will apply to qualified dividends, if the stock to which it relates has been held more than 60 days of the 120 day period that begins 60 days prior to the ex-dividend date.

**S CORPORATIONS** - report only distributions made during the tax year out of accumulated earnings and profits.

### **FORM 1099-G - CERTAIN GOVERNMENT PAYMENTS**

\$10 or more in **unemployment compensation** including Railroad Retirement board payments for unemployment.

**Refunds, credits, or offsets of state or local income tax of \$10 or more**

**Any taxable grant administered by Federal, state, local program to provide subsidized energy financing or grants for projects designed to conserve or produce energy.**

**USDA agricultural subsidy payments**

## INFORMATION RETURNS

### FORM 1099-INT - INTEREST INCOME

For each person

To whom paid amounts reportable in boxes 1 and 3 of at **least \$10.**

OR - for whom withheld and paid any foreign tax on interest

OR - from whom withheld any Federal Income tax under backup withholding

Interest only if made in course of trade or business (if \$600 or more). Or for which you were a nominee/middleman.

Do **not** report OID interest on 1099-INT.

NOT required to file 1099-INT for payments made to:

Corporation

Tax exempt organization

Any IRA

Archer MSA

A U S Agency

A State

The District of Columbia

A U.S. Possession

A registered securities or commodities dealer.

**Tax exempt or tax deferred interest (municipal bonds / IRA)**

Box 2 - Report interest or principal forfeited because of an early withdrawal of time deposits. Do not reduce amount reported in box 1 by amount of forfeiture.

Box-3 - Interest on U.S. Savings Bonds, Treasury bills, Treasury notes and Treasury bonds. **Do not include these amounts in box 1.**

## **INFORMATION RETURNS**

### **FORM 1099-LTC - LONG TERM CARE AND ACCELERATED DEATH BENEFITS**

Payment of long term care benefits:

Payments made under a product that is advertised, marketed or offered as as a long term care insurance and Accelerated death benefits excludable in whole or part from gross income under section 101 (g) paid under a life insurance contract or paid by a viatical settlement provider.

#### **Report payments only if policyholder is an individual**

Includes payments to the policyholder, to the insured, or to third party.

#### **Accelerated death benefits:**

Any amount paid under a life insurance contract for an insured individual who has been terminally or chronically declared by a licensed health care practitioner as:

##### **Chronically ill**

Being unable to perform, without substantial assistance from another individual, at least two daily living activities for at least 90 days due to a loss of functional capacity or

Having a level of disability similar to the level of disability above.

Or requiring substantial supervision to protect the individual

From threats to health and safety due to severe cognitive impairment.

##### **Terminally ill**

Certified by a physician as having an illness or physical condition that can reasonably be expected to result in death in 24 months or less.

## **INFORMATION RETURNS**

### **1099-MISC - MISCELLANEOUS INCOME**

At least **\$10** in royalties or broker payments in lieu of dividends or tax exempt interest

At least **\$600** in

rents

services, (including parts and materials)

Prizes and awards

Other income payments

Medical and health care payments, regardless on form of entity

Cash payments for fish (or other aquatic life) purchased from anyone engaged in trade or business of catching fish.

Any fishing boat proceeds paid in cash

excess golden parachute payments

Attorney fees paid in the course of your trade or business

Direct sales of at least \$5,000 of consumer products to a buyer for resale.

Any person from whom you have withheld any Federal income tax under backup withholding regulations regardless of the amount of payment.

#### **Report only payments made in course of trade or business**

Engaged in trade or business if operate for gain or profit.

Non profit organizations are considered to be engaged in trade/business and are subject to reporting requirements (including farmers coops)

#### **Payments to attorneys**

Amounts paid over \$599 in course of trade or business reportable in box 7

For 1998 through 2000 - payments in connection with legal services and fee cannot be determined, the total amount paid to the attorney (gross proceeds) must be reported in box 13 with code "A".

Beginning 2001 - use box 14 to report gross proceeds paid in connection with legal services where the fee cannot be determined.

**Exemption from reporting made to corporations no longer applies to legal service payments.**

## **INFORMATION RETURNS**

### **1099-MISC - MISCELLANEOUS INCOME**

**Exceptions - payments not required to be reported on form 1099-MISC although they may be taxable to recipient.**

- Generally - Corporations (see below)
- Payments for merchandise
- Payments of rent to real estate agents
- Wages paid to employees (report on W2 form)
- Business travel allowances paid to employee (may be reportable on W2)
- PS58 costs
- Fees paid to informants
- Scholarships or fellowship grants (should be W2 if taxable)
- Difficulty of care payments if for not more than 10 children under 19 and not more than 5 individuals age 19 or older.
- Payment to tax-exempt organizations (i.e., USA, City or State Mun.)

#### **Payments reportable to corporations**

- Medical and health care payments reported in box 6
- Fish purchases for cash reported in box 7
- Attorney fees reported in box 7
- Gross proceeds paid to an attorney reported in box 14
- Payments by a Federal executive agency for services (vendors) rept'd in box 7
- Substitute payments in lieu of dividends or tax exempt interest report in box 8

#### **Deceased employee's wages paid to estate or beneficiary**

If paid in same year of death, must withhold social security and medicare taxes on the payment and **report them ONLY AS social security and medicare wages on form W2. Do not show the payment in box 1 of W2** Report in year of death, the accrued wages, vacation pay, and other compensation paid after the date of death on form 1099-MISC.  
If payment is made AFTER year of death, do not withhold social security and medicare taxes.

**Death benefits from qualified and non-qualified deferred compensation plans paid to estate or beneficiary of a deceased employee are not reportable on 1099-MISC. They are reported on 1099-R.**

# **INFORMATION RETURNS**

## **1099-MISC - MISCELLANEOUS INCOME**

### **Employee business expense reimbursements**

**Do NOT use form 1099-MISC to report**

If unaccountable plan generally reportable on form W2

If accountable plan, generally not reportable

**Payments to Independent contractors generally reported in box 7**

**Directors fees and other remuneration, including payments made after retirement - reportable in box 7**

**Commissions to lottery ticket sales agents - box 7**

**Escrow agent for construction project - must issue 1099s**

**Indian gaming profits, payments to tribal members**

Must withhold Federal income tax on payments and file 1099-MISC

### **Coin operated amusements**

If arrangement between owner and owner of a business establishment where amusements are placed is a lease of the amusements or the space, the owner of the amusements or the owner of the space, whoever makes the payments must report the lease payments in box 1 form 1099-MISC.

If the arrangement is a joint venture, the joint venture must file a form 1065 (Partnership Return)

### **Royalty payments**

Gross (before reduction for severance and other taxes) of \$10 or more.

Box 2.

(Surface royalties should be reported in box 1)

(Working interest of oil or gas reported in box 7)

(Timber royalties made under pay as cut contract - report on 1099S)

# INFORMATION RETURNS

## 1099-MISC - MISCELLANEOUS INCOME

### **Prizes and Awards**

Box 3 for prizes and awards that are **not** for services performed  
Fair market value of merchandise won on game shows.  
Do **not** include prizes and awards paid to employees (these on W2)  
Box 7 for prizes and awards for services performed by **non-employees**

Not reportable if in recognition of past accomplishments in religious  
charitable, scientific artistic, educational, literary, or civic fields IF

Winners are chosen without action on their part

Winners are not expected to perform future services

**AND** The payer transfers the prize or award to a charitable  
organization or governmental unit under a  
designation made by the recipient.

### **Other items reported in box 3**

Punitive damages (even if related to physical injury or physical sickness)  
Any damages for nonphysical injuries or sickness (employment discrimination)  
Any other taxable damages.

Damages received on account of emotional distress, including physical symptoms  
such as insomnia, headaches, and stomach disorders, are not considered received  
for physical injury or physical sickness and are **reportable** unless:

They do not exceed amount paid for medical care for emotional distress

Or they were received on account of nonphysical injuries under a  
written binding agreement, court decree, or mediation award in  
effect on or issued by September 13, 1995.

Liquidating damages under Age Discrimination in Employment act of 1967  
are reportable in box 3

Payments to non-employees - patients and members in Dept of Veterans Affairs  
hospitals and domicillaries under VA therapeutic or rehab programs

Termination payments for former self employed insurance agents (not subject  
to self employment taxes)

# INFORMATION RETURNS

## 1099-MISC - MISCELLANEOUS INCOME

### **Box 7 - Non-employee compensation**

- Fees (professional service fees such as attorneys, accountants, architects)
  - Fees paid by one professional to another - fee splitting or referral fees
- Directors fees
- Payments by attorneys to witnesses or experts in legal adjudication
- Commissions paid to non-employee sales persons
- Commissions paid to lottery ticket sales agents
- Fee paid to non-employee or travel reimbursement for which non-employee did not account to payer, if the fee and reimbursement total at least \$600
- Payments to non-employee entertainers for services
- Exchanges of services between individuals in course of their trades or businesses.
- Taxable fringe benefits for non-employees.
- Prizes and award for services performed
- Other forms of compensation for services performed for your trade or business by an individual who is not your employee (including parts or materials used to perform the services if supplying the parts or materials was incidental to providing the services.
- Fish purchases for cash
- Oil and gas payments for a working interest (whether or not services performed)
- Expenses incurred for use of an entertainment facility that you treat as compensation to a non-employee
- Federal executive agencies that make payments to vendors for services
- Payments to insurance salesperson who is not your common law or statutory employee. (Not termination payments - see box 3)
  
- Golden parachute payments - a payment made by a corporation to a certain officer, shareholder, or highly paid individual when a change in the ownership or control of the corporation occurs or when a change in the ownership of a substantial part of the corporate assets occurs. Enter TOTAL compensation in box 7. If you pay excess golden parachute payments enter them in Box 13.

## INFORMATION RETURNS

### 1099-MISC - MISCELLANEOUS INCOME

**Box 8** - Payments of at least \$10 received by a broker for a customer in lieu of dividends or tax exempt interest as a result of the transfer of customer's securities for use in a short sale. Do **not** file 1099-MISC if your customer is an **individual (in most cases)**.

**Box 9** - For reporting sales by you of \$5,000 or more of **consumer products** to a person on a buy-sell, deposit-commission, or other commission basis for resale (by the buyer or by any other person) anywhere other than in a permanent retail establishment. **Enter X in the box - Do not enter a dollar amount.**

**Box 10** - For crop insurance proceeds paid to farmers by insurance companies, unless the farmer has informed the insurance company that expenses have been capitalized.

**Box 11 and 12** - Reserved - make no entries

**Box 13** - Enter excess golden parachute payments.

**Box 14** - Gross proceeds paid to an attorney.

**Box 15** - This is for Payer's use to add information helpful to Payee.

**Box 16** - Enter amounts withheld for State tax

**Box 17** - Enter Payer's state no.

**Box 18** - Enter amount of income state tax was withheld on.

**Do NOT report on 1099-MISC**

PS58 costs

Employee wages, travel, or auto allowances or bonuses (w2)

Cost of group term life insurance paid on behalf of former employee (W2)

## **INFORMATION RETURNS**

### **1099- MSA**

#### **DISTRIBUTIONS FROM Archer MSA OR MEDICARE+CHOICE MSA**

Distribution may have been paid to a medical service provider or to the account holder.

Box 1 - Report total amount of distribution. Include earnings separately reported in box 2. (Not required to determine whether distribution is taxable)

Box 2 - Enter total amounts of earnings distributed with any excess contributions returned by due date of the account holder's tax return. Include this amount in box 1. Report earnings on other distributions ONLY in box 1.

Box 3 - Appropriate distribution code:

1. Normal distribution
2. Excess contributions distributions
3. Disability - made after account holder is disabled.
4. Death - Payments to decedent's beneficiary including an estate.
5. Prohibited transactions
6. Death distribution to non spouse beneficiary from MSA after year of death

Box 4- FMV of account on date of the account holders death

Box 5 - Mark the box if this distribution is from an M+C MSA.

### **1099-PATR - TAXABLE DISTRIBUTIONS RECEIVED FROM COOPERATIVES**

Distributions of patronage dividends and other distributions of at least \$10

Distributions on which Federal withholding tax was withheld under backup withholding

Co op determined to be primarily engaged in retail sales of goods or services that are generally for personal, living, or family use of the members may ask for and receive exemption from filing for 1099-PATR (Form 3491)

## **INFORMATION RETURNS**

### **FORM 1099-OID - ORIGINAL ISSUE DISCOUNT**

**Original Issue Discount** - The excess of an obligation's stated redemption price at maturity over its issue price (acquisition price for stripped bond or coupon). A discount of less than 1/4 of 1% of the stated redemption price at maturity, multiplied by the number of full years from the date of issue to maturity, is considered to be zero.

If the OID includible in gross income is at least \$10 and you are any of the following:

2. An issuer with any bond outstanding or other evidence of indebtedness  
In registered or bearer form issued with OID
3. An issuer of a certificate of deposit made, purchased, or renewed after  
1970 if the CD has OID and a term of more than 1 year.
4. A financial institution having other deposit arrangements such as  
time deposits or bonus-savings plans, if the arrangements have OID  
And a term of more than 1 year
5. A broker or other middleman holding an OID obligation, including CDs  
as nominee for the actual owner.
6. A real estate mortgage investment conduit (REMIC) of a holder of an  
ownership interest in a financial asset securitization investment trust  
(FASIT), or issuer of a collateralized debt obligation (CDO).
7. For any person for whom you withheld and paid any foreign tax on OID  
or from whom you withheld any Federal income tax under the backup  
withholding rules **even if the amount of the OID is less than \$10**

**1999 form 1099-OID revised to add box 6 "Original issue discount on U.S. Treasury obligations" and box 7 "Investment expenses" for single class REMIC to report regular interest holder's share of investment expenses included in box 1 and/or 2 and that may be deductible.**

## **INFORMATION RETURNS**

### **Form 1099Q - Qualified Tuition Program Payments**

File 1099Q if you made a distribution from a qualified tuition program defined under Section 529.

**Qualified Tuition Program** - Established and maintained by a private eligible educational institution or a state

Under a qualified tuition program a person may purchase tuition credits or certificates on behalf of a designated beneficiary that entitle the beneficiary to the waiver of payment of qualified higher education expenses; or

May make contributions to an account established to meet the higher education expenses of the designated beneficiary.

### **COVERDELL ESA**

**Report distributions from Coverdell ESAs on 1099Q**

**Report contributions or rollovers for Coverdell ESAs on Form 5498-ESA**

## INFORMATION RETURNS

### FORM 1099-R - DISTRIBUTION FROM PENSIONS, ANNUITIES, RETIREMENT OR PROFIT SHARING PLANS, IRAs, INSURANCE CONTRACTS ETC.

For distributions of \$10 or more

From the above plus

Death benefit payments made from a retirement plan that are not part of a pension, profit sharing or retirement plan.

Reportable disability payment made from retirement plan

Military retirement pay.

If awarded as property settlement, reported under the name and taxpayer identification number of the recipient, not those of the military retiree.

Charitable gift annuities distributions

Life insurance, annuity, and endowment contracts.

**IRA distributions** - except ROTH reported in box 1 and 2

**Roth** - report distribution in box 1 but generally leave box 2a blank

**Roth conversions** - Report conversion to Roth in boxes 1 and 2a even if the Conversion is with the same trustee. Use Code 2 in box 7 as appropriate.

For 1998 Roth conversion taxable over 4 years:

Must report the full amount converted on 1998 form 1099R

Need not issue form 1099-R for any future year

**Conduit IRAs**

If payable to participant report full amount in box 1 and 2a-Use code 1 or 7 in box 7 depending on participant's age.

If payable to trustee of or is transferred to an employer plan, report distribution in box 1, report 0 (zero) in box 2a and use Code H in box 7.

## **INFORMATION RETURNS**

### **1099R - continued**

#### **IRA revocation**

If traditional IRA is revoked during its first 7 days:

Gross distribution in box 1 - 1099R

If no earnings distributed enter -0- in box 21 and Code 8 in box 7

If earnings are distributed, enter the amount of earnings in box 2a

Code 1 if subject to early distribution tax

Code 8 if not subject to early distribution tax.

#### **Employer SEP or SIMPLE contribution made and plan revoked by employee**

Report the distribution as fully taxable.

#### **DEC - deductible voluntary contributions**

File two forms 1099R - one to report the distributions of DEC's

The other to report the distribution from the other part of the plan.

#### **Transfers**

Generally do not report transfers between trustees or issuers (unless they are direct rollovers from qualified plans) that involve no payment or distribution of funds to the participant including a trustee-to-trustee transfer from one IRA to another or one tax-sheltered annuity to another.

#### **Roth conversion is NOT considered a trustee to trustee transfer.**

Must be reported as a distribution even if with same trustee.

**SIMPLE IRAs** - Simple to Simple - not reportable. If from a SIMPLE to an IRA that is NOT a SIMPLE during the 2 year period beginning on the day contributions are first deposited in the SIMPLE

**Section 1035 exchange** - If partly taxable - report the taxable amount

#### **Transfer of IRA from one spouse to another under divorce or separation**

The transfer is tax free. Do not report on form 1099-R.

## **INFORMATION RETURNS**

### **1099R - continued**

**Direct rollover** An eligible rollover distribution is the taxable part of any distribution of the balance to the credit of the employee (including the net unrealized appreciation) from a qualified plan (or tax sheltered annuity but not an IRA **except:**

One of a series of substantially equal periodic payments made (at least annually) for:

- a) The life of the employee (or joint lives of employee and beneficiary).
- b) The life expectancy of the employee (or joint)
- c) A specified period of 10 years or more

A required minimum distribution.

Non taxable amounts, including a return of employee's investment in the contract (after-tax contributions)

Elective deferrals

Corrective distributions of excess deferrals and earnings

Corrective distributions of excess contributions and excess aggregate contributions

Loans treated as deemed distributions

Section 404(k) dividends

OPS 58 costs

Distributions to a payee other than the employee, the employee's surviving spouse, or a spouse or former spouse who is an alternate payee under a QDRO

To the extent an amount would be excludable from gross income as a death benefit exclusion (up to \$5,000) for amounts paid because of the death of an employee who died before August 21, 1996,

**Any part of an eligible rollover distribution that is not a direct rollover is subject to 20% income tax withholding.**

Report direct rollover in box 1 and 0 (zero) in box 2a.

Enter applicable code G in box 7.

Do not report payments subject to withholding of social security and medicare tax on this form (use form W2)

Do not report amounts totally exempt from tax such as worker's compensation and Dept of Veterans payments.

## **INFORMATION RETURNS**

### **1099R - CODES**

1. Early distribution, no known exception (not reached age 59 ½ )  
Even if employee/taxpayer is over 59 ½, use code 1 if a series of substantially equal periodic payments was modified within 5 years of the date of the first payment.
  2. Early distribution, exception applies (not reached age 59 ½)
  3. Disability
  4. Death (regardless of age of employee/taxpayer to indicate payment to a decedent's beneficiary, including estate or trust.  
Also use for death benefit payments made by an employer but not made as part of a pension, profit sharing or retirement plan.
  5. Prohibited transaction
  6. Section 1035 exchange -tax free exchange of life insurance, annuity, or endowment contracts
  7. Normal distribution from plan, including traditional IRA, if the employee/taxpayer is at least age 59 ½. **Do not use code 7 for a Roth or Coverdell ESA distribution.**
  8. Excess contributions plus earnings/excess deferrals taxable
  9. PS58 costs -Premiums paid by a trustee or custodial for current life or other insurance protection.
    - A. May be eligible for 10 year tax option
    - D. Excess contributions plus earnings/excess deferrals taxable in 2002
    - E. Excess annual additions under section 415
    - F. Charitable gift annuity
    - G. Direct rollover to IRA
    - J. Early distribution from a Roth IRA, no known exception
    - L. Loans treated as deemed distributions
    - N. Recharacterized IRA contribution made for 2005 & recharacterized in 2005.
    - P. Excess contributions plus earnings/excess deferrals taxable in 2005
    - Q. Qualified distribution from a Roth IRA
    - R. Recharacterized IRA contribution made for 2004 & recharacterized in 2005.
    - S. Early distribution from SIMPLE IRA in first 2 years, no known exception
    - T. Roth IRA distribution, exception applies.
- Box 8 - Current actuarial value of annuity contract that is part of lump sum distribution  
Do not include this amount in boxes 1 and 2a
- Box 9a - If total distribution and made to more than one person, enter percentage received by the person whose name appears on form 1099-R.
- Box 9b - Not required but may report total employee contributions in box 9b

## **INFORMATION RETURNS**

### **1099-S - PROCEEDS FROM REAL ESTATE TRANSACTIONS - REPORT SALE OR EXCHANGE OF REAL ESTATE**

#### **Reportable Real Estate**

Transaction that consists in whole or in part of the sale or exchange for money indebtedness, property, or services, of any present or future interest in:

Improved or unimproved land, including air space

Inherently permanent structures, including any residential, commercial or industrial building

Condominium unit and its appurtenant fixtures and common elements, including land

Stock in a cooperative housing corporation.

**Involuntary conversion** - sale of real estate under threat or imminence of seizure requisition, or condemnation is generally a reportable transaction.

**Timber royalties** - payments made under a pay-as-cut contract.

**Multiple Assets Sold** - Report the total gross proceeds from the entire transaction

## INFORMATION RETURNS

### 1099-S - PROCEEDS FROM REAL ESTATE TRANSACTIONS - REPORT SALE OR EXCHANGE OF REAL ESTATE

#### **Exceptions - generally NOT reportable**

Sale of exchange of a principal residence (including stock in cooperative housing corporation) for \$250,000 or less (\$500,000 or less for married filing joint) **and** received written assurance from seller that the full gain is excludable from sellers gross income.

Any transaction in which the transferor is a corporation (or considered to be a corporation), a governmental unit, including a foreign government Or an international organization, or exempt volume transferor.

**Exempt volume transfer** - someone who sold or exchanged during the year, who expects to sell or exchange during the year, or who sold or exchanged in either of the 2 previous years, at least 25 separate items of reportable real estate to at least 25 separate transferees. In addition, each item must Be held at date of closing of will be held primarily for sale to customers in the course of trade or business.

Any transaction that is not a sale or exchange, including a bequest, a gift, and a financing or refinancing that is not related to the acquisition of real estate.

A transfer in full or partial satisfaction of a debt secured by the property. This includes a foreclosure, a transfer in lieu of foreclosure, or an abandonment

A de minimis transfer for less than \$600 if it can be determined with certainty that the total money, services, and property received or to be received Is less than \$600 as measured on closing date.

## **INFORMATION RETURNS**

### **1099-S - PROCEEDS FROM REAL ESTATE TRANSACTIONS - REPORT SALE OR EXCHANGE OF REAL ESTATE**

**Not reportable if transaction not related to sale or exchange of reportable real estate.**

Interest in crops or surface or subsurface natural resources, water, ores, and other natural deposits, whether or not such crops or natural resources are severed from the land.

A burial plot or vault

Manufactured structure used as a dwelling that is manufactured and assembled a location different from that where it is used, but only if such structure is not affixed, on the closing date, to a foundation. Applicable to unaffixed mobile homes.

## **INFORMATION RETURNS**

### **FORM 5498**

### **IRA CONTRIBUTION INFORMATION**

Due by June 1, for each person for whom you maintained any individual retirement arrangement during the year.

Contributions to any IRA reported on form 5498

Contributions to Spousal IRA on separate form 5498

For contributions between January 1 and April 15, trustees and issuers should obtain the participant's designation of the year for which contributions made.

Receipt of a direct rollover from qualified plan or TSA to an IRA

Receipt of a conversion from an IRA to a Roth IRA

IRA revocation - report any regular or rollover contribution to revoked IRA

Inherited IRAs:

In the year the IRA owner dies, IRA trustee or issuer, generally must file a form 5498 and furnish an annual statement for the decedent and a form 5498 an annual statement for each non-spouse beneficiary.

## IRA CONTRIBUTION INFORMATION

### FORM 5498

**Box 1** - Enter contributions to a traditional IRA made in 2010 and through 4-15-2011 for 2010. Report gross contributions, including the amount allocable to cost of life insurance and including any excess contributions, even if excess contributions withdrawn.

Include employee contributions to an IRA under a SEP plan.

**Do not include contributions to SIMPLE, Roth, or Ed IRA or Roth Conversion.**

**Box 2** - Enter any rollover contributions made to any IRA received by you during 2010

**Box 3** - Enter amount converted from traditional IRA or SEP to Roth during 2010

**Box 4** - Enter any amounts recharacterized from one type of IRA to another.

**Box 5** - Enter the FMV of the account on December 31.

**Box 6** - For endowment contracts only, enter the amount included in box 1 allocable to the cost of life insurance.

**Box 7** - If you did not enter an amount in box 1, 3, 8, 9, or 10, even if you entered an amount in box 2 or 4, you must mark the appropriate box.

**IRA, SEP, SIMPLE, Roth IRA, "Rechar"**

**Box 8** - Enter **employer** contributions made to a SEP during 2010

**Box 9** - Enter **any** contributions made to a SIMPLE plan during 2010

**Box 10** - Enter any contributions made to a Roth IRA in 2010 and through April 15, 2011  
Do NOT deduct on your tax return

### FORM 5498-ESA - COVERDELL ESA CONTRIBUTION

Due by June 1, for each person for whom you maintain a Coverdell ESA.

Box 1, Report contributions made for 2009 through April 15<sup>th</sup>, 2011.

If the total contributions made to all your Coverdell ESAs for 2010 exceeded \$2,000. You must withdraw the excess, plus earnings, by June 1<sup>st</sup>, 2011, or you may owe a penalty.

Box 2, Report ANY rollover you made in 2010.

Use Form 1099Q - to report distributions.

## **INFORMATION RETURNS**

### **FORM 5498 - Archer MSA or MEDICAL+CHOICE MSA INFORMATION**

File on or before June 1, each person for whom you maintained a medical savings account during the year. Required to file if you are the trustee or custodian of an MSA.

**Rollovers** from one MSA to another MSA reported in box 4

**Total distribution, no contributions** - generally need not file nor furnish a statement to the participant to reflect that fair market value on December 31 was zero.

Report distributions, including distributions of excess contributions on 1099-MSA

**Inherited MSA-** In year of death generally must file 5498MSA and furnish statement for the decedent.

If account holder's surviving spouse acquires the MSA, the spouse becomes the account holder.

If beneficiary is any person other than the spouse, the account ceases to be an MSA on the date of death.

**Box 1** - Enter employee's or self employed person's regular contributions to MSA made in 2010 and through April 15, 2011 for 2010. Report gross contributions even if excess contributions are withdrawn.

**Box 2** - Enter total MSA contributions made in 2010 (including employer contributions)

**Box 3** - Enter the total MSA contributions made in 2010 for 2010

**Box 4** - Enter rollover contributions made to the MSA received in 2010, not included in boxes 1, 2 or 3 above.

**Box 5** - Enter fair market value of MSA or M+C MSA on December 31, 2010..

**Box 6** - Indicate form being filed for an M + C MSA

Contributions to an M+C MSA are not required to be reported but may be reported, keep a copy for your records.

**FMV of M+C MSA must be reported in box 5**

## INFORMATION RETURNS

### FORM W-2G - CERTAIN GAMBLING WINNINGS

Types of gambling grouped as follows:

- A. Horse racing, Dog racing, JaiAlai, and Other Wagering Transactions not discussed later.
- B. Sweepstakes, Wagering Pools, and Lotteries
- C. Bingo, Keno and Slot machines.

Generally reportable if amount paid reduced, at option of payer, by the wager is

- 1. \$600 or more and
- 2. At least 300 times the amount of the wager.

These requirements do **not** apply to winnings from bingo, keno and slot machines.

If winnings from **keno** game (reduced by the wager) are \$1,500 or more they are reportable as gambling winnings.

If the winnings (not reduced by the wager) are from **bingo or slot machines**, are \$1,200 or more, they are reportable as gambling winnings.

#### **Two types of withholding on gambling winnings**

Regular gambling withholding at 28% (38.88 for certain non cash payments)  
And backup withholding at 30%. If already subject to regular gambling withholding, not subject to backup withholding.

<u>If gambling winnings are from:</u>	<u>AND they are....</u>	<u>THEN you</u>
<u>Bingo, Keno, Slot Mach</u>	<u>Any amount</u>	<u>Do not withhold at 25%</u>
<u>Any wagering transaction</u>	<u>\$5,000 or less</u>	<u>Do not withhold at 25%</u>
Sweepstakes Wagering pool Lottery-Another wagering transaction when the winnings are at least 300 times the amount wagered	More than \$5,000	Withhold at 25%

## INFORMATION RETURNS

### NEW IN 2004:

Section 419 of the American Jobs Creation Act of 2004. (P.L. 108-357) exempted certain types of parimutuel winnings from withholding and reporting after October 22, 2004. See Foreign Persons on page W-2 for these exemptions relating to live dog racing and horse racing.

### FORM W-2G - CERTAIN GAMBLING WINNINGS

**Non cash payments** - Must be taken into account at its fair market value for purposes of reporting and withholding.

If FMV exceeds \$5,000, after deducting the price of the wager, the winnings are subject to 25% regular gambling withholding.

Tax computed and paid under either of two methods:

1. **Winner pays** the tax to payer. 25%
2. **Payer pays the tax = 33.33%** of FMV  
If method 2, the sum of the FMV plus the tax paid by payer is included in box 1

**Backup Withholding at 28% of gambling winnings (including winnings from bingo, keno, and slot machines) for Federal Income tax.**

#### Withhold at 28% if...

The winner does not furnish a correct taxpayer identification number

OR 25% has not been withheld or the winnings are from bingo, keno, or slot machines.

#### AND....

Reportable gambling winnings are not already subject to regular gambling withholding.

Reportable gambling winnings are from bingo, keno, or slot Machines.

Backup withholding applies to the total amount of the winnings reduced, at the option of the payer, by the amount wagered.

**Foreign persons** - Gambling winnings to nonresident alien individual or a foreign corporation are not subject to reporting or withholding on Form W-2G. Generally gambling winnings paid to a foreign person are subject to 30% withholding and are reportable on **forms 1042 and 1042-S**.

## **INFORMATION RETURNS**

### **FORM 5754 - STATEMENT FOR PERSONS RECEIVING GAMBLING WINNINGS**

When the person receiving gambling winnings subject to reporting or withholding is not the actual winner or is a member of a group of two or more winners on the same winning ticket.

Must provide name, address, TIN and respective shares of the winnings.

Form 5754 is not filed with IRS - Kept by payer for records.

2010



# FORMS

**In most cases, IRS requires that page 1 of information returns submitted to the IRS, be filed on “red” copies and they must be scannable, so, you must order then by mail.**

**For Federal forms go to this address**

**<http://www.irs.gov/formspubs/index.html>**