

To: Representative

Washington, DC 20515

Cert. mail #:

Senator

Washington, DC 20510

Cert. mail #:

Senator

Washington, DC 20510

Cert. mail #:

From:

Re: **Petition to Correct my Legal Conclusions about “Trade or Business” Tax Laws if Erroneous, or to Investigate Widespread Misapplication of these Laws by Government**

Dear

In this letter I present my legal conclusions about:

1. The meaning of the term **“trade or business”** in federal tax laws.
2. Who is required by law to **pay** self-employment income tax.
3. Who is required by law to **report** which payment information to the IRS.

Understanding who **is** subject to the laws on information reporting and self-employment income taxes will enable us to understand who is **not** subject to those laws.

I then ask you to correct me if you can show me I am wrong.

My legal conclusions are based solely on the Internal Revenue Code (IRC) as interpreted by the US Supreme Court. If you find no fault with my findings in the law, then please treat this letter as my **petition** for Congress to **investigate and stop** the broad misapplication of these laws by the Internal Revenue Service (IRS), the Department of Justice (DOJ), and even some federal judges.

Nearly all federal laws and IRS forms and publications related to the federal law on self-employment income tax and third-party information reports (such as IRS 1099 and K-1 forms) depend on the legal definition of the term “*trade or business*” in the IRC. To correctly understand these laws and forms, we must know the meaning of this term as used in the federal tax laws.

1. Definition of the term “Trade or Business”

The definition of the statutory term “*trade or business*” is found in IRC § 7701, Definitions, paragraph (a)(26) (Attachment A), which states:

“(a) *When used in this title* [Title 26, the Internal Revenue Code], ... (26) *The term “trade or business” includes **the performance of the functions of a public office.***”^{1 2}

So, we see from this unexpectedly short IRC definition that the term “*trade or business*” only includes “*the performance of the functions of a public office*” (doing government work). Does the term “*trade or business*” include ordinary trades and ordinary businesses? For the answer, we need

¹ Emphasis added to all quotes in this letter unless noted otherwise.

² The quotes and attachments in this letter referencing the IRC (Title 26) or other titles of the United States Code (U.S.C.) were taken directly from the official code published on the website of the Office of the Law Revision Counsel of the US House of Representatives found at uscode.house.gov. Only pertinent pages are attached, with quotes highlighted for your convenience.

to look to the Supreme Court of the United States (U.S. Supreme Court) for guidance.

U.S. Supreme Court on Statutory Definitions

The US Supreme Court affirmed a well-established rule of law in Stenberg v. Carhart, 530 U.S. 914, 942 (2000) (Attachment B) ³, stating:

*“When a **statute** includes an explicit definition, we must follow **that definition**, even if it varies from that term’s **ordinary meaning**. Meese v. Keene, 481 U. S. 465, 484–485 (1987) (‘It is axiomatic [obvious] that the statutory definition of [a] term **excludes unstated meanings** of that term’)”*

This clearly means that we cannot rely on the commonly understood meanings or dictionary definitions, and that everything is automatically **excluded** unless it is specifically **included** in the **statutory** (legal) definition.

This rule of law especially applies to tax laws. In case you have **any** doubt about this, take note of the US Supreme Court’s **unanimous** ruling in Gould v. Gould, 245 US 151, 153 (1917) (Attachment C), which states that:

*“In the interpretation of statutes [laws] **levying** [imposing] taxes, it is the established rule **not** to extend their provisions **by implication** beyond the clear import of the language used, or to enlarge their operations so as to embrace [include] matters not **specifically** pointed out. In case of doubt, they are construed **most strongly** against the government [power to tax] and in favor of the citizen [not being taxed].”*

³ The quotes and attachments in this letter referencing opinions of the Supreme Court of the United States (“US Supreme Court”) were taken directly from the official “United States Reports”. Official United States Reports before 1991 can be found on the Library of Congress website at loc.gov/collections/united-states-reports, and from 1991 on can be found on the US Supreme Court’s web page at supremecourt.gov/opinions/USReports.aspx. Only pertinent pages are attached, with quotes highlighted for your convenience.

Therefore, there can be no doubt that the ordinary meanings of the words ‘trade’ and ‘business’ do not legally apply to the IRC definition of the term “*trade or business*”, which clearly **only** includes “*the performance of the functions of a public office*” or **doing government work**.

However, the term “*public office*” does not refer to any ‘public office’ anywhere in the world. The term refers only to a **federal** “*public office*”. This is made clear by 4 USC § 72, “**Public offices; at seat of Government**” (Attachment D), which states:

“All offices attached to the **seat of government** [all **public offices**] shall be exercised in the District of Columbia, and **not elsewhere** [not in the 50 states], except as otherwise expressly provided by law [for military bases, et cetera].”

This complies with the U.S. Constitution, which states in Article 1, Section 8, clause 17 (Attachment E):

“The Congress shall have Power ... To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may ... become the **Seat of the Government of the United States** [the federal government] ...”⁴

In other words, the phrase “*trade or business*” when used in IRC § 6051(a) really means work done on behalf of the **federal** government.

2. Self-employment Income Tax Law

The IRC requirement to pay self-employment income tax is found in IRC § 1401(a) & (b) (Attachment F), which imposes three separate taxes for

⁴ This quote and attachment were taken directly from the transcription of the Constitution of the United States (U.S. Constitution) published by the federal government’s U.S. National Archives and Records Administration on their web page [archives.gov/founding-docs/constitution-transcript](https://www.archives.gov/founding-docs/constitution-transcript).

Social Security and Medicare on “*self-employment income*”.

The term “*self-employment income*” is defined in IRC § 1402(b) (Attachment G), which states:

*“The term ‘self-employment income’ means the **net earnings from self-employment** derived by an individual ...”*

The term “*net earnings from self-employment*” is defined in IRC § 1402(a) (Attachment G), which states:

*“The term ‘net earnings from self-employment’ means the gross income derived by an individual from any **trade or business** [doing federal government work] carried on by such individual, less the deductions allowed by this subtitle which are attributable to such **trade or business** [federal government work], plus his distributive share ... from any **trade or business** [official federal government work] carried on by a partnership of which he is a member ...”*

Clearly, in the definition of the term “*trade or business*”, Congress chose to **only** include individuals who are doing the work of federal public offices. As we know from the U.S. Supreme Court decisions on page 3 of this letter, **all** other individuals are necessarily **excluded** from this special definition.

3. Third-party Information Reporting Laws

The IRS requires certain payers to report certain payment information on IRS Form 1099-NEC, “Non-employee Compensation” (Attachment H), based on IRC § 6041(a), “Information at Source” (Attachment I):

*“All persons engaged in a **trade or business** [doing federal government work] and making payment in the course of such **trade or business** [federal government work] to another person ...shall render [provide] a true and accurate return*

[report] *to the Secretary ...*”

IRS publication “2021 Instructions for Forms 1099-MISC and 1099-NEC” (Attachment J) ⁵ is even more strongly worded. On page 8 the IRS cautions:

*“Report on Form 1099-NEC **only** when payments are made in the course of your **trade or business** [federal government work].”*

Likewise, the IRS web page, “[Am I Required to File a Form 1099 or Other Information Return?](#)” (Attachment K), states that 1099-MISC and other 1099 forms (1099-INT, -DIV, -R, -K, -S, -B, -A, and -C), plus 1098 and 8937 forms, are to be used only to report payments made “*as part of your **trade or business***” (federal government work) for payments made “*in the course of your **trade or business*** [federal government work]”. Emphasis added.

The same IRS web page also states:

*“You are **not** required [IRS emphasis] to file information return(s) **if ... You are not engaged in a trade or business** [not doing federal government work].”*

Getting the TIN for 1099 Forms

To properly report “*trade or business*” payments to the IRS each January, a person “*engaged in a trade or business*” (doing federal government work) must obtain the taxpayer identification number from the person to whom they made the payment or payments.

This purpose of Form W-9 can be confirmed by looking at the bottom of the W-9 form (Attachment L) at the section titled “*Purpose of Form*”, which

⁵ The forms and quotes in this letter and attachments that reference the Internal Revenue Service (IRS) were taken directly from the [irs.gov](https://www.irs.gov) website. Only pertinent pages are attached, with quotes highlighted for your convenience.

states:

*“An individual or entity who is **required** to file an information return with the IRS [a Form 1099 “Payer”] must obtain your correct taxpayer information number (TIN) ...to report on an information return the amount paid to you, or other amount **reportable** on an information return.”*

The W-9 “*Purpose of Form*” section then lists several examples of various 1099 and 1098 forms, such as 1099-MISC.

If a person is **not** “*engaged in a **trade or business***” (doing federal government work), they are **not** “***required** to file an information return [such as IRS Form 1099 or K-1] with the IRS*”. Therefore, they are **not** required to “*obtain your correct taxpayer information number (TIN)*”, with an IRS Form W-9 or by any other means.

Summary

We see from all the above that only persons engaged in a “**trade or business**” (federal government work) are required (or authorized) to:

- 1) File and pay self-employment income tax.
- 2) Report payment information to the IRS on an IRS Form 1099, K-1, or other form.
- 3) Request a TIN from a payee on an IRS Form W-9 or by any other means.

My Legal Conclusions

Given all the above:

1. The **only** contractors required to **pay self-employment taxes** are those in which the contract work is connected with performing (doing) federal government work.

2. The **only** “*trade or business*” required to **file IRS 1099 forms** or other federally taxable payment information is a federal government agency or instrumentality.

According to the U.S. Supreme Court’s affirmations of well-established rules of law applying especially to tax laws, **all non-federal** contractors **in the 50 states** (or for that matter, anywhere else in the world) are therefore **excluded** from the above quoted “*trade or business*” tax laws.

My Declaration

I hereby declare that I do **no** federal government work, so I receive **no** “*trade or business*” income. Therefore I receive **no** “*self-employment income*” and am not required by federal law to file and pay self-employment income taxes.

Nor am I paid by any entity who **does** the work of government, so I receive **no** payments from any person “*engaged in a trade or business*”. Therefore, any 1099 or K-1 forms or other information returns being sent to the IRS and reporting payments made to me as if those payments were taxable income, are incorrect.

Petition Summary

Thank you for the service you are providing for our country as a member of Congress. **I am asking you**, as my representative in Congress, to please **correct me if** you find my legal conclusions are in error. In this way I, and whoever pays me or advises whoever pays me, can properly comply with these “*trade or business*” related laws and I can pay my **fair share** of self-employment income taxes.

However, if instead you see that my legal conclusions, based solely on the stated meaning of the law itself as understood by the U.S. Supreme Court, are correct, then I ask that you and your fellow members of Congress

put a stop to the widespread **misapplication** of these “*trade or business*” laws by the Internal Revenue Service, the Department of Justice, and even certain federal judges.

In either case, I kindly ask that you respond to my petition with a specific, on point reply within 60 days of your receipt of this letter.

Sincerely,

List of Attached Documents

- A. IRC § 7701(a)(26), Definition of the IRC term “Trade or Business”
- B. Stenberg v. Carhart, 530 U.S. 914, 942 (2000)
- C. Gould v. Gould, 245 US 151, 153 (1917)
- D. 4 USC § 72, Public offices; at seat of Government
- E. U.S. Constitution, Article 1, Section 8, clause 17
- F. IRC § 1401(a) & (b), Rate of tax on self-employment income
- G. IRC § 1402(a) & (b), Definition of IRC terms “*net earnings from self-employment*” and “*self-employment income*”
- H. IRS Form 1099-NEC, Non-employee Compensation
- I. IRC § 6041(a), Information at Source
- J. IRS publication, 2021 Instructions for Forms 1099-MISC and 1099-NEC
- K. IRS web page, “Am I Required to File a Form 1099 or Other Information Return?”
- L. IRS Form W-9, Request for Taxpayer Identification Number and Certification

26 USC 7701: Definitions

Text contains those laws in effect on August 9, 2021

From Title 26-INTERNAL REVENUE CODE

Subtitle F-Procedure and Administration

CHAPTER 79-DEFINITIONS

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§7701. Definitions

(a) When used in this title, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof-

(1) Person

The term "person" shall be construed to mean and include an individual, a trust, estate, partnership, association, company or corporation.

(2) Partnership and partner

The term "partnership" includes a syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and which is not, within the meaning of this title, a trust or estate or a corporation; and the term "partner" includes a member in such a syndicate, group, pool, joint venture, or organization.

(3) Corporation

The term "corporation" includes associations, joint-stock companies, and insurance companies.

(4) Domestic

The term "domestic" when applied to a corporation or partnership means created or organized in the United States or under the law of the United States or of any State unless, in the case of a partnership, the Secretary provides otherwise by regulations.

(5) Foreign

The term "foreign" when applied to a corporation or partnership means a corporation or partnership which is not domestic.

(6) Fiduciary

The term "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity for any person.

(7) Stock

The term "stock" includes shares in an association, joint-stock company, or insurance company.

(8) Shareholder

The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(9) United States

The term "United States" when used in a geographical sense includes only the States and the District of Columbia.

(10) State

The term "State" shall be construed to include the District of Columbia, where such construction is necessary to carry out provisions of this title.

(11) Secretary of the Treasury and Secretary**(A) Secretary of the Treasury**

The term "Secretary of the Treasury" means the Secretary of the Treasury, personally, and shall not include any delegate of his.

(B) Secretary

Development under part A or part B of title I of the Housing Act of 1949, as amended, or located within any area covered by a program eligible for assistance under section 103 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended, and loans made for the improvement of any such real property,

(vii) loans secured by an interest in educational, health, or welfare institutions or facilities, including structures designed or used primarily for residential purposes for students, residents, and persons under care, employees, or members of the staff of such institutions or facilities,

(viii) property acquired through the liquidation of defaulted loans described in clause (v), (vi), or (vii),

(ix) loans made for the payment of expenses of college or university education or vocational training, in accordance with such regulations as may be prescribed by the Secretary,

(x) property used by the association in the conduct of the business described in subparagraph (B), and

(xi) any regular or residual interest in a REMIC, but only in the proportion which the assets of such REMIC consist of property described in any of the preceding clauses of this subparagraph; except that if 95 percent or more of the assets of such REMIC are assets described in clauses (i) through (x), the entire interest in the REMIC shall qualify.

At the election of the taxpayer, the percentage specified in this subparagraph shall be applied on the basis of the average assets outstanding during the taxable year, in lieu of the close of the taxable year, computed under regulations prescribed by the Secretary. For purposes of clause (v), if a multifamily structure securing a loan is used in part for nonresidential purposes, the entire loan is deemed a residential real property loan if the planned residential use exceeds 80 percent of the property's planned use (determined as of the time the loan is made). For purposes of clause (v), loans made to finance the acquisition or development of land shall be deemed to be loans secured by an interest in residential real property if, under regulations prescribed by the Secretary, there is reasonable assurance that the property will become residential real property within a period of 3 years from the date of acquisition of such land; but this sentence shall not apply for any taxable year unless, within such 3-year period, such land becomes residential real property. For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi).

(20) Employee

For the purpose of applying the provisions of section 79 with respect to group-term life insurance purchased for employees, for the purpose of applying the provisions of sections 104, 105, and 106 with respect to accident and health insurance or accident and health plans, and for the purpose of applying the provisions of subtitle A with respect to contributions to or under a stock bonus, pension, profit-sharing, or annuity plan, and with respect to distributions under such a plan, or by a trust forming part of such a plan, and for purposes of applying section 125 with respect to cafeteria plans, the term "employee" shall include a full-time life insurance salesman who is considered an employee for the purpose of chapter 21.

(21) Levy

The term "levy" includes the power of distraint and seizure by any means.

(22) Attorney General

The term "Attorney General" means the Attorney General of the United States.

(23) Taxable year

The term "taxable year" means the calendar year, or the fiscal year ending during such calendar year, upon the basis of which the taxable income is computed under subtitle A. "Taxable year" means, in the case of a return made for a fractional part of a year under the provisions of subtitle A or under regulations prescribed by the Secretary, the period for which such return is made.

(24) Fiscal year

The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December.

(25) Paid or incurred, paid or accrued

The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under subtitle A.

(26) Trade or business

The term "trade or business" includes the performance of the functions of a public office.

(27) Tax Court

The term "Tax Court" means the United States Tax Court.

(28) Other terms

Any term used in this subtitle with respect to the application of, or in connection with, the provisions of any other subtitle of this title shall have the same meaning as in such provisions.

Syllabus

STENBERG, ATTORNEY GENERAL OF NEBRASKA,
ET AL. v. CARHART

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE EIGHTH CIRCUIT

No. 99–830. Argued April 25, 2000—Decided June 28, 2000

The Constitution offers basic protection to a woman's right to choose whether to have an abortion. *Roe v. Wade*, 410 U. S. 113; *Planned Parenthood of Southeastern Pa. v. Casey*, 505 U. S. 833. Before fetal viability, a woman has a right to terminate her pregnancy, *id.*, at 870 (plurality opinion), and a state law is unconstitutional if it imposes on the woman's decision an "undue burden," *i. e.*, if it has the purpose or effect of placing a substantial obstacle in the woman's path, *id.*, at 877. Postviability, the State, in promoting its interest in the potentiality of human life, may regulate, and even proscribe, abortion except where "necessary, in appropriate medical judgment, for the preservation of the [mother's] life or health." *E. g.*, *id.*, at 879. The Nebraska law at issue prohibits any "partial birth abortion" unless that procedure is necessary to save the mother's life. It defines "partial birth abortion" as a procedure in which the doctor "partially delivers vaginally a living unborn child before killing the . . . child," and defines the latter phrase to mean "intentionally delivering into the vagina a living unborn child, or a substantial portion thereof, for the purpose of performing a procedure that the [abortionist] knows will kill the . . . child and does kill the . . . child." Violation of the law is a felony, and it provides for the automatic revocation of a convicted doctor's state license to practice medicine. Respondent Carhart, a Nebraska physician who performs abortions in a clinical setting, brought this suit seeking a declaration that the statute violates the Federal Constitution. The District Court held the statute unconstitutional. The Eighth Circuit affirmed.

Held: Nebraska's statute criminalizing the performance of "partial birth abortion[s]" violates the Federal Constitution, as interpreted in *Casey* and *Roe*. Pp. 922–946.

(a) Because the statute seeks to ban one abortion method, the Court discusses several different abortion procedures, as described in the evidence below and the medical literature. During a pregnancy's second trimester (12 to 24 weeks), the most common abortion procedure is "dilation and evacuation" (D&E), which involves dilation of the cervix, removal of at least some fetal tissue using nonvacuum surgical instruments, and (after the 15th week) the potential need for instrumental

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F. Supp. 2d, at 471; *A Choice for Women*, 54 F. Supp. 2d, at 1155; *Causeway Medical Suite*, 43 F. Supp. 2d, at 614–615; *Planned Parenthood of Central N. J. v. Verniero*, 41 F. Supp. 2d 478, 503–504 (NJ 1998); *Eubanks v. Stengel*, 28 F. Supp. 2d 1024, 1034–1035 (WD Ky. 1998); *Planned Parenthood of Southern Ariz., Inc. v. Woods*, 982 F. Supp. 2d 1369, 1378 (Ariz. 1997); *Kelley*, 977 F. Supp. 2d, at 1317; but cf. *Richmond Medical Center v. Gilmore*, 144 F. 3d 326, 330–332 (CA4 1998) (Luttig, J., granting stay).

Regardless, even were we to grant the Attorney General's views "substantial weight," we still have to reject his interpretation, for it conflicts with the statutory language discussed *supra*, at 940. The Attorney General, echoed by the dissents, tries to overcome that language by relying on other language in the statute; in particular, the words "partial birth abortion," a term ordinarily associated with the D&X procedure, and the words "partially delivers vaginally a living unborn child." Neb. Rev. Stat. Ann. §28–326(9) (Supp. 1999). But these words cannot help the Attorney General. They are subject to the statute's further *explicit statutory definition*, specifying that both terms include "delivering into the vagina a living unborn child, or a substantial portion thereof." *Ibid.* When a statute includes an explicit definition, we must follow that definition, even if it varies from that term's ordinary meaning. *Meese v. Keene*, 481 U.S. 465, 484–485 (1987) ("It is axiomatic that the statutory definition of the term excludes unstated meanings of that term"); *Colautti v. Franklin*, 439 U.S., at 392–393, n. 10 ("As a rule, 'a definition which declares what a term "means" . . . excludes any meaning that is not stated'"); *Western Union Telegraph Co. v. Lenroot*, 323 U.S. 490, 502 (1945); *Fox v. Standard Oil Co. of N. J.*, 294 U.S. 87, 95–96 (1935) (Cardozo, J.); see also 2A N. Singer, Sutherland on Statutes and Statutory Construction §47.07, p. 152, and n. 10 (5th ed. 1992) (collecting cases). That is to say, the statute, read "as a whole," *post*, at 998

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as was assumed by the Missouri court. Deaths were occurring between the time of the levy and the time when so much of it as might be paid would be paid in. The assessment was for the purpose of keeping up a fund of \$300,000 to meet deaths promptly, as they occurred. Without giving the figures in detail it is enough to say that it clearly appears that the amount of the assessment, \$322,378.48, was not in excess of what the subsequently rendered Connecticut judgment allowed. It necessarily was levied as an estimate. There was no probability that it would lead to even a temporary excess over \$300,000, to be applied to the next assessment laid. We are of opinion that full faith and credit was not given to the Connecticut record and that for that reason the present judgments must be reversed.

Judgments reversed.

GOULD v. GOULD.

ERROR TO THE SUPREME COURT OF THE STATE OF NEW YORK.

No. 41. Submitted November 8, 1917.—Decided November 19, 1917.

Alimony paid monthly to a divorced wife under a decree of court is not taxable as "income" under the Income Tax Act of October 3, 1913, 38 Stat. 114, 166.

In the interpretation of taxing statutes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. Doubts are resolved against the Government.

168 App. Div. 900, affirmed.

THE case is stated in the opinion.

Mr. Martin W. Littleton and Mr. Owen N. Brown for plaintiff in error.

Mr. John L. McNab for defendant in error.

MR. JUSTICE McREYNOLDS delivered the opinion of the court.

A decree of the Supreme Court for New York County entered in 1909 forever separated the parties to this proceeding, then and now citizens of the United States, from bed and board; and further ordered that plaintiff in error pay to Katherine C. Gould during her life the sum of three thousand dollars (\$3,000.00) every month for her support and maintenance. The question presented is whether such monthly payments during the years 1913 and 1914 constituted parts of Mrs. Gould's income within the intentment of the Act of Congress approved October 3, 1913, 38 Stat. 114, 166, and were subject as such to the tax prescribed therein. The court below answered in the negative; and we think it reached the proper conclusion.

Pertinent portions of the act follow:

"SECTION II. A. Subdivision 1. That there shall be levied, assessed, collected and paid annually upon the entire net income arising or accruing from all sources in the preceding calendar year to every citizen of the United States, whether residing at home or abroad, and to every person residing in the United States, though not a citizen thereof, a tax of 1 per centum per annum upon such income, except as hereinafter provided; / . . .

"B. That, subject only to such exemptions and deductions as are hereinafter allowed, the net income of a taxable person shall include gains, profits, and income derived from salaries, wages, or compensation for personal service of whatever kind and in whatever form paid, or from professions, vocations, businesses, trade, commerce,

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or sales, or dealings in property, whether real or personal, growing out of the ownership or use of or interest in real or personal property, also from interest, rent, dividends, securities, or the transaction of any lawful business carried on for gain or profit, or gains or profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise, or descent:”

In the interpretation of statutes levying taxes it is the established rule not to extend their provisions, by implication, beyond the clear import of the language used, or to enlarge their operations so as to embrace matters not specifically pointed out. In case of doubt they are construed most strongly against the Government, and in favor of the citizen. *United States v. Wigglesworth*, 2 Story, 369; *American Net & Twine Co. v. Worthington*, 141 U. S. 468, 474; *Benziger v. United States*, 192 U. S. 38, 55.

As appears from the above quotations, the net income upon which subdivision 1 directs that an annual tax shall be assessed, levied, collected and paid is defined in division B. The use of the word itself in the definition of “income” causes some obscurity, but we are unable to assert that alimony paid to a divorced wife under a decree of court falls fairly within any of the terms employed.

In *Audubon v. Shufeldt*, 181 U. S. 575, 577, 578, we said: “Alimony does not arise from any business transaction, but from the relation of marriage. It is not founded on contract, express or implied, but on the natural and legal duty of the husband to support the wife. The general obligation to support is made specific by the decree of the court of appropriate jurisdiction. . . . Permanent alimony is regarded rather as a portion of the husband’s estate to which the wife is equitably entitled, than as strictly a debt; alimony from time to time may be regarded as a portion of his current income or earnings;”

The net income of the divorced husband subject to taxation was not decreased by payment of alimony under the court's order; and, on the other hand, the sum received by the wife on account thereof cannot be regarded as income arising or accruing to her within the enactment.

The judgment of the court below is

Affirmed.

WEAR, IMPEADED SUB. NOM. WEAR SAND
COMPANY, ET AL. *v.* STATE OF KANSAS EX REL.
BREWSTER, ATTORNEY GENERAL.

ERROR TO THE SUPREME COURT OF THE STATE OF KANSAS.

No. 30. Argued November 12, 1917.—Decided November 26, 1917.

A specific intent to accept the tidal test of navigability, and so to extend riparian ownership *ad filum aquæ* on non-tidal streams which are navigable in fact, is not predicable of a statute adopting the common law of England in general terms only, particularly if enacted later than the decision in *The Genessee Chief*, 12 How. 443. Hence such a statute, passed by Kansas Territory in 1859 and retained by the State, affords no basis even in purport for denying the power of the Supreme Court of Kansas to apply the test of navigability in fact, as part of the common law, in determining the ownership of a river bed as between the State and riparian owners deriving title under a federal patent issued, before statehood, in 1860.

In a mandamus proceeding to test the right of a State to levy charges on sand dredged from a stream by a riparian owner under claim of title *ad filum aquæ*, the latter has not a constitutional right to have the question of navigability determined by a jury.

Whether in such a case the state court may take judicial notice that the stream is navigable is a question of local law. So *held* where judicial notice was taken of the navigability of the Kaw River, the principal river of Kansas, at the state capital, and the decision was supported by the meandering of the stream in original public surveys, and by various state and federal statutes and decisions cited.

4 USC 72: Public offices; at seat of Government

Text contains those laws in effect on September 13, 2022

From **Title 4-FLAG AND SEAL, SEAT OF GOVERNMENT, AND THE STATES**
CHAPTER 3-SEAT OF THE GOVERNMENT

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§72. Public offices; at seat of Government

All offices attached to the seat of government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.

(July 30, 1947, ch. 389, 61 Stat. 643 .)

Attachment E

CONSTITUTION OF THE UNITED STATES OF AMERICA—1787¹

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

ARTICLE. I.

SECTION 1. All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

¹This text of the Constitution follows the engrossed copy signed by Gen. Washington and the deputies from 12 States. The small superior figures preceding the paragraphs designate clauses, and were not in the original and have no reference to footnotes.

In May 1785, a committee of Congress made a report recommending an alteration in the Articles of Confederation, but no action was taken on it, and it was left to the State Legislatures to proceed in the matter. In January 1786, the Legislature of Virginia passed a resolution providing for the appointment of five commissioners, who, or any three of them, should meet such commissioners as might be appointed in the other States of the Union, at a time and place to be agreed upon, to take into consideration the trade of the United States; to consider how far a uniform system in their commercial regulations may be necessary to their common interest and their permanent harmony; and to report to the several States such an act, relative to this great object, as, when ratified by them, will enable the United States in Congress effectually to provide for the same. The Virginia commissioners, after some correspondence, fixed the first Monday in September as the time, and the city of Annapolis as the place for the meeting, but only four other States were represented, viz: Delaware, New York, New Jersey, and Pennsylvania; the commissioners appointed by Massachusetts, New Hampshire, North Carolina, and Rhode Island failed to attend. Under the circumstances of so partial a representation, the commissioners present agreed upon a report, (drawn by Mr. Hamilton, of New York,) expressing their unanimous conviction that it might essentially tend to advance the interests of the Union if the States by which they were respectively delegated would concur, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the Second Monday of May following, to take into consideration the situation of the United States; to devise such further provisions as should appear to them necessary to render the Constitution of the Federal Government adequate to the exigencies of the Union; and to report such an act for that purpose to the United States in Congress assembled as, when agreed to by them and afterwards confirmed by the Legislatures of every State, would effectually provide for the same.

Congress, on the 21st of February, 1787, adopted a resolution in favor of a convention, and the Legislatures of those States which had not already done so (with the exception of Rhode Island) promptly appointed delegates. On the 25th of May, seven States having convened, George Washington, of Virginia, was unanimously elected President, and the consideration of the proposed constitution was commenced. On the 17th of September, 1787, the Constitution as engrossed and agreed upon was signed by all the members present, except Mr. Gerry of Massachusetts, and Messrs. Mason and Randolph, of Virginia. The president of the convention transmitted it to Congress, with a resolution stating how the proposed Federal Government should be put in operation, and an explanatory letter. Congress, on the 28th of September, 1787, directed the Constitution so framed, with the resolutions and letter concerning the same, to "be transmitted to the several Legislatures in order to be submitted to a convention of delegates chosen in each State by the people thereof, in conformity to the resolves of the convention."

On the 4th of March, 1789, the day which had been fixed for commencing the operations of Government under the new Con-

SECTION. 2. ¹The House of Representatives shall be composed of Members chosen every second Year by the People of the several States, and the Electors in each State shall have the Qualifications requisite for Electors of the most numerous Branch of the State Legislature.

²No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen.

³Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for a Term of Years, and excluding Indians not taxed, three fifths of all other Persons.² The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

⁴When vacancies happen in the Representation from any State, the Executive Authority thereof shall issue Writs of Election to fill such Vacancies.

⁵The House of Representatives shall chuse their Speaker and other Officers; and shall have the sole Power of Impeachment.

SECTION. 3. ¹The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof,³ for six Years; and each Senator shall have one Vote.

stitution, it had been ratified by the conventions chosen in each State to consider it, as follows: Delaware, December 7, 1787; Pennsylvania, December 12, 1787; New Jersey, December 18, 1787; Georgia, January 2, 1788; Connecticut, January 9, 1788; Massachusetts, February 6, 1788; Maryland, April 28, 1788; South Carolina, May 23, 1788; New Hampshire, June 21, 1788; Virginia, June 25, 1788; and New York, July 26, 1788.

The President informed Congress, on the 28th of January, 1790, that North Carolina had ratified the Constitution November 21, 1789; and he informed Congress on the 1st of June, 1790, that Rhode Island had ratified the Constitution May 29, 1790. Vermont, in convention, ratified the Constitution January 10, 1791, and was, by an act of Congress approved February 18, 1791, "received and admitted into this Union as a new and entire member of the United States."

²The part of this clause relating to the mode of apportionment of representatives among the several States has been affected by section 2 of amendment XIV, and as to taxes on incomes without apportionment by amendment XVI.

³This clause has been affected by clause 1 of amendment XVII.

²Immediately after they shall be assembled in Consequence of the first Election, they shall be divided as equally as may be into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the second Year, of the second Class at the Expiration of the fourth Year, and of the third Class at the Expiration of the sixth Year, so that one third may be chosen every second Year; and if Vacancies happen by Resignation, or otherwise, during the Recess of the Legislature of any State, the Executive thereof may make temporary Appointments until the next Meeting of the Legislature, which shall then fill such Vacancies.⁴

³No Person shall be a Senator who shall not have attained to the Age of thirty Years, and been nine Years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State for which he shall be chosen.

⁴The Vice President of the United States shall be President of the Senate, but shall have no Vote, unless they be equally divided.

⁵The Senate shall chuse their other Officers, and also a President pro tempore, in the Absence of the Vice President, or when he shall exercise the Office of President of the United States.

⁶The Senate shall have the sole Power to try all Impeachments. When sitting for that Purpose, they shall be on Oath or Affirmation. When the President of the United States is tried, the Chief Justice shall preside: And no Person shall be convicted without the Concurrence of two thirds of the Members present.

⁷Judgment in Cases of Impeachment shall not extend further than to removal from Office, and disqualification to hold and enjoy any Office of honor, Trust or Profit under the United States: but the Party convicted shall nevertheless be liable and subject to Indictment, Trial, Judgment and Punishment, according to Law.

SECTION. 4. ¹The Times, Places and Manner of holding Elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by Law make or alter such Regulations, except as to the Places of chusing Senators.

²The Congress shall assemble at least once in every Year, and such Meeting shall be on the first Monday in December,⁵ unless they shall by Law appoint a different Day.

SECTION. 5. ¹Each House shall be the Judge of the Elections, Returns and Qualifications of its own Members, and a Majority of each shall constitute a Quorum to do Business; but a smaller Number may adjourn from day to day, and may be authorized to compel the Attendance of absent Members, in such Manner, and under such Penalties as each House may provide.

²Each House may determine the Rules of its Proceedings, punish its Members for disorderly Behaviour, and, with the Concurrence of two thirds, expel a Member.

³Each House shall keep a Journal of its Proceedings, and from time to time publish the same, excepting such Parts as may in their

Judgment require Secrecy; and the Yeas and Nays of the Members of either House on any question shall, at the Desire of one fifth of those Present, be entered on the Journal.

⁴Neither House, during the Session of Congress, shall, without the Consent of the other, adjourn for more than three days, nor to any other Place than that in which the two Houses shall be sitting.

SECTION. 6. ¹The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the United States.⁶ They shall in all Cases, except Treason, Felony and Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate in either House, they shall not be questioned in any other Place.

²No Senator or Representative shall, during the Time for which he was elected, be appointed to any civil Office under the Authority of the United States, which shall have been created, or the Emoluments whereof shall have been increased during such time; and no Person holding any Office under the United States, shall be a Member of either House during his Continuance in Office.

SECTION. 7. ¹All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose or concur with Amendments as on other Bills.

²Every Bill which shall have passed the House of Representatives and the Senate, shall, before it become a Law, be presented to the President of the United States; If he approve he shall sign it, but if not he shall return it, with his Objections to that House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If after such Reconsideration two thirds of that House shall agree to pass the Bill, it shall be sent, together with the Objections, to the other House, by which it shall likewise be reconsidered, and if approved by two thirds of that House, it shall become a Law. But in all such Cases the Votes of both Houses shall be determined by yeas and Nays, and the Names of the Persons voting for and against the Bill shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.

³Every Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) shall be presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, shall be re-passed by two thirds of the Senate and House of Representatives, according to the Rules and Limitations prescribed in the Case of a Bill.

SECTION. 8. ¹The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Ex-

⁴This clause has been affected by clause 2 of amendment XVIII.

⁵This clause has been affected by amendment XX.

⁶This clause has been affected by amendment XXVII.

cises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

²To borrow Money on the credit of the United States;

³To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

⁴To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

⁵To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

⁶To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

⁷To establish Post Offices and post Roads;

⁸To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

⁹To constitute Tribunals inferior to the supreme Court;

¹⁰To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations;

¹¹To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

¹²To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

¹³To provide and maintain a Navy;

¹⁴To make Rules for the Government and Regulation of the land and naval Forces;

¹⁵To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

¹⁶To provide for organizing, arming, and disciplining, the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

¹⁷To exercise exclusive Legislation in all Cases whatsoever, over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the Same shall be, for the Erection of Forts, Magazines, Arsenals, dock-Yards, and other needful Buildings;—And

¹⁸To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

SECTION. 9. ¹The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

²The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of

Rebellion or Invasion the public Safety may require it.

³No Bill of Attainder or ex post facto Law shall be passed.

⁴No Capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.⁷

⁵No Tax or Duty shall be laid on Articles exported from any State.

⁶No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another: nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

⁷No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

⁸No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

SECTION. 10. ¹No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in Payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

²No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing it's inspection Laws: and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Controul of the Congress.

³No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

ARTICLE. II.

SECTION. 1. ¹The executive Power shall be vested in a President of the United States of America. He shall hold his Office during the Term of four Years, and, together with the Vice President, chosen for the same Term, be elected, as follows

²Each State shall appoint, in such Manner as the Legislature thereof may direct, a Number of Electors, equal to the whole Number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or Person holding an Office of Trust or Profit under the United States, shall be appointed an Elector.

³The Electors shall meet in their respective States, and vote by Ballot for two Persons, of whom one at least shall not be an Inhabitant of the same State with themselves. And they shall

⁷This clause has been affected by amendment XVI.

26 USC 1401: Rate of tax

Text contains those laws in effect on December 21, 2020

From Title 26-INTERNAL REVENUE CODE

Subtitle A-Income Taxes

CHAPTER 2-TAX ON SELF-EMPLOYMENT INCOME**Jump To:**

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§1401. Rate of tax**(a) Old-age, survivors, and disability insurance**

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 12.4 percent of the amount of the self-employment income for such taxable year.

(b) Hospital insurance**(1) In general**

In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to 2.9 percent of the amount of the self-employment income for such taxable year.

(2) Additional tax**(A) In general**

In addition to the tax imposed by paragraph (1) and the preceding subsection, there is hereby imposed on every taxpayer (other than a corporation, estate, or trust) for each taxable year beginning after December 31, 2012, a tax equal to 0.9 percent of the self-employment income for such taxable year which is in excess of-

(i) in the case of a joint return, \$250,000,

(ii) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under clause (i), and

(iii) in any other case, \$200,000.

(B) Coordination with FICA

The amounts under clause (i), (ii), or (iii) (whichever is applicable) of subparagraph (A) shall be reduced (but not below zero) by the amount of wages taken into account in determining the tax imposed under section 3121(b)(2) with respect to the taxpayer.

(c) Relief from taxes in cases covered by certain international agreements

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(Aug. 16, 1954, ch. 736, 68A Stat. 353 ; Sept. 1, 1954, ch. 1206, title II, §208(a), 68 Stat. 1093 ; Aug. 1, 1956, ch. 836, title II, §202(a), 70 Stat. 845 ; Pub. L. 85–840, title IV, §401(a), Aug. 28, 1958, 72 Stat. 1041 ; Pub. L. 87–64, title II, §201(a), June 30, 1961, 75 Stat. 140 ; Pub. L. 89–97, title I, §111(c)(4), title III, §321(a), July 30, 1965, 79 Stat. 342 , 394; Pub. L. 90–248, title I, §109(a)(1), (b)(1), Jan. 2, 1968, 81 Stat. 835 , 836; Pub. L. 92–336, title II, §204 (a)(1), (b) (1), July 1, 1972, 86 Stat. 420 , 421; Pub. L. 92–603, title I, §135(a)(1), (b)(1), Oct. 30, 1972, 86 Stat. 1362 , 1363; Pub. L. 93–233, §6(b)(1), Dec. 31, 1973, 87 Stat. 955 ; Pub. L. 94–455, title XIX, §1901(a)(154), Oct. 4, 1976, 90 Stat. 1789 ; Pub. L. 95–216, title I, §101(a)(3), (b)(3), title III, §317(b)(1), Dec. 20, 1977, 91 Stat. 1511 , 1512, 1539; Pub. L. 98–21, title I, §124(a), (b), Apr. 20, 1983, 97 Stat. 89 ; Pub. L. 101–508, title XI, §11801(a)(36), (c)(16), Nov. 5, 1990, 104 Stat. 1388–521 , 1388–527; Pub. L. 108–203, title IV, §415, Mar. 2, 2004, 118 Stat. 530 ; Pub. L. 111–148, title IX, §9015(b)(1), title X, §10906(b), Mar. 23, 2010, 124 Stat. 871 , 1020; Pub. L. 111–152, title I, §1402(b)(1)(B), Mar. 30, 2010, 124 Stat. 1063 ; Pub. L. 113–295, div. A, title II, §221(a)(89), (90), Dec. 19, 2014, 128 Stat. 4050 .)

REFERENCES IN TEXT

Section 233 of the Social Security Act, referred to in subsec. (c), is classified to section 433 of Title 42, The Public Health and Welfare.

26 USC 1402: Definitions

Text contains those laws in effect on December 21, 2020

From Title 26-INTERNAL REVENUE CODE

Subtitle A-Income Taxes

CHAPTER 2-TAX ON SELF-EMPLOYMENT INCOME**Jump To:**

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§1402. Definitions**(a) Net earnings from self-employment**

The term "net earnings from self-employment" means the gross income derived by an individual from any trade or business carried on by such individual, less the deductions allowed by this subtitle which are attributable to such trade or business, plus his distributive share (whether or not distributed) of income or loss described in section 702(a)(8) from any trade or business carried on by a partnership of which he is a member; except that in computing such gross income and deductions and such distributive share of partnership ordinary income or loss-

(1) there shall be excluded rentals from real estate and from personal property leased with the real estate (including such rentals paid in crop shares, and including payments under section 1233(a)(2) of the Food Security Act of 1985 (16 U.S.C. 3833(a)(2)) to individuals receiving benefits under section 202 or 223 of the Social Security Act) together with the deductions attributable thereto, unless such rentals are received in the course of a trade or business as a real estate dealer; except that the preceding provisions of this paragraph shall not apply to any income derived by the owner or tenant of land if (A) such income is derived under an arrangement, between the owner or tenant and another individual, which provides that such other individual shall produce agricultural or horticultural commodities (including livestock, bees, poultry, and fur-bearing animals and wildlife) on such land, and that there shall be material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) in the production or the management of the production of such agricultural or horticultural commodities, and (B) there is material participation by the owner or tenant (as determined without regard to any activities of an agent of such owner or tenant) with respect to any such agricultural or horticultural commodity;

(2) there shall be excluded dividends on any share of stock, and interest on any bond, debenture, note, or certificate, or other evidence of indebtedness, issued with interest coupons or in registered form by any corporation (including one issued by a government or political subdivision thereof), unless such dividends and interest are received in the course of a trade or business as a dealer in stocks or securities;

(3) there shall be excluded any gain or loss-

(A) which is considered as gain or loss from the sale or exchange of a capital asset,

(B) from the cutting of timber, or the disposal of timber, coal, or iron ore, if section 631 applies to such gain or loss, or

(C) from the sale, exchange, involuntary conversion, or other disposition of property if such property is neither-

(i) stock in trade or other property of a kind which would properly be includible in inventory if on hand at the close of the taxable year, nor

(ii) property held primarily for sale to customers in the ordinary course of the trade or business;

(4) the deduction for net operating losses provided in section 172 shall not be allowed;

(5) if-

(A) any of the income derived from a trade or business (other than a trade or business carried on by a partnership) is community income under community property laws applicable to such income, the gross income and deductions attributable to such trade or business shall be treated as the gross income and deductions of the spouse carrying on such trade or business or, if such trade or business is jointly operated, treated as the gross income and deductions of each spouse on the basis of their respective distributive share of the gross income and deductions; and

(B) any portion of a partner's distributive share of the ordinary income or loss from a trade or business carried on by a partnership is community income or loss under the community property laws applicable to such share, all of such distributive share shall be included in computing the net earnings from self-employment of such partner, and no part of such share shall be taken into account in computing the net earnings from self-employment of the spouse of such partner;

(iv) in the case of a member of a partnership, if his distributive share of the gross income of the partnership derived from such trade or business (after such gross income has been reduced by the sum of all payments to which section 707(c) applies) is more than the upper limit and his distributive share (whether or not distributed) of income described in section 702(a)(8) derived from such trade or business (computed under this subsection without regard to this sentence) is less than the lower limit, his distributive share of income described in section 702(a)(8) derived from such trade or business may, at his option, be deemed to be the lower limit.

For purposes of the preceding sentence, gross income means-

(v) in the case of any such trade or business in which the income is computed under a cash receipts and disbursements method, the gross receipts from such trade or business reduced by the cost or other basis of property which was purchased and sold in carrying on such trade or business, adjusted (after such reduction) in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection; and

(vi) in the case of any such trade or business in which the income is computed under an accrual method, the gross income from such trade or business, adjusted in accordance with the provisions of paragraphs (1) through (7) and paragraph (9) of this subsection;

and, for purposes of such sentence, if an individual (including a member of a partnership) derives gross income from more than one such trade or business, such gross income (including his distributive share of the gross income of any partnership derived from any such trade or business) shall be deemed to have been derived from one trade or business.

The preceding sentence and clauses (i) through (iv) of the second preceding sentence shall also apply in the case of any trade or business (other than a trade or business specified in such second preceding sentence) which is carried on by an individual who is self-employed on a regular basis as defined in subsection (h), or by a partnership of which an individual is a member on a regular basis as defined in subsection (h), but only if such individual's net earnings from self-employment as determined without regard to this sentence in the taxable year are less than the lower limit and less than 66 2/3 percent of the sum (in such taxable year) of such individual's gross income derived from all trades or businesses carried on by him and his distributive share of the income or loss from all trades or businesses carried on by all the partnerships of which he is a member; except that this sentence shall not apply to more than 5 taxable years in the case of any individual, and in no case in which an individual elects to determine the amount of his net earnings from self-employment for a taxable year under the provisions of the two preceding sentences with respect to a trade or business to which the second preceding sentence applies and with respect to a trade or business to which this sentence applies shall such net earnings for such year exceed the lower limit.

(b) Self-employment income

The term "self-employment income" means the net earnings from self-employment derived by an individual (other than a nonresident alien individual, except as provided by an agreement under section 233 of the Social Security Act) during any taxable year; except that such term shall not include-

(1) in the case of the tax imposed by section 1401(a), that part of the net earnings from self-employment which is in excess of (i) an amount equal to the contribution and benefit base (as determined under section 230 of the Social Security Act) which is effective for the calendar year in which such taxable year begins, minus (ii) the amount of the wages paid to such individual during such taxable years; or

(2) the net earnings from self-employment, if such net earnings for the taxable year are less than \$400.

For purposes of paragraph (1), the term "wages" (A) includes such remuneration paid to an employee for services included under an agreement entered into pursuant to the provisions of section 3121(l) (relating to coverage of citizens of the United States who are employees of foreign affiliates of American employers), as would be wages under section 3121(a) if such services constituted employment under section 3121(b), and (B) includes compensation which is subject to the tax imposed by section 3201 or 3211. An individual who is not a citizen of the United States but who is a resident of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or American Samoa shall not, for purposes of this chapter be considered to be a nonresident alien individual. In the case of church employee income, the special rules of subsection (j)(2) shall apply for purposes of paragraph (2).

(c) Trade or business

The term "trade or business", when used with reference to self-employment income or net earnings from self-employment, shall have the same meaning as when used in section 162 (relating to trade or business expenses), except that such term shall not include-

(1) the performance of the functions of a public office, other than the functions of a public office of a State or a political subdivision thereof with respect to fees received in any period in which the functions are performed in a position compensated solely on a fee basis and in which such functions are not covered under an agreement entered into by such State and the Commissioner of Social Security pursuant to section 218 of the Social Security Act;

(2) the performance of service by an individual as an employee, other than-

- (A) service described in section 3121(b)(14)(B) performed by an individual who has attained the age of 18,
- (B) service described in section 3121(b)(16),

Nonemployee
Compensation☐ CORRECTED (if checked)

PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		OMB No. 1545-0116 Form 1099-NEC (Rev. January 2022) For calendar year 20 ____	
PAYER'S TIN	RECIPIENT'S TIN	1 Nonemployee compensation \$	
RECIPIENT'S name		2 Payer made direct sales totaling \$5,000 or more of consumer products to recipient for resale <input type="checkbox"/>	
Street address (including apt. no.)		3	
City or town, state or province, country, and ZIP or foreign postal code		4 Federal income tax withheld \$	
Account number (see instructions)		5 State tax withheld \$	6 State/Payer's state no. \$
		7 State income \$	

Copy B

For Recipient

This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this income is taxable and the IRS determines that it has not been reported.

Form **1099-NEC** (Rev. 1-2022)

(keep for your records)

www.irs.gov/Form1099NEC

Department of the Treasury - Internal Revenue Service

26 USC 6041: Information at source

Text contains those laws in effect on August 6, 2020

From Title 26-INTERNAL REVENUE CODE

Subtitle F-Procedure and Administration

CHAPTER 61-INFORMATION AND RETURNS

Subchapter A>Returns and Records

PART III-INFORMATION RETURNS

Subpart B-Information Concerning Transactions With Other Persons

Jump To:

[Source Credit](#)

[Amendments](#)

[Effective Date](#)

[Miscellaneous](#)

\$6041. Information at source**(a) Payments of \$600 or more**

All persons engaged in a trade or business and making payment in the course of such trade or business to another person, of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income (other than payments to which section 6042(a)(1), 6044(a)(1), 6047(e), 6049(a), or 6050N(a) applies, and other than payments with respect to which a statement is required under the authority of section 6042(a)(2), 6044(a)(2), or 6045), of \$600 or more in any taxable year, or, in the case of such payments made by the United States, the officers or employees of the United States having information as to such payments and required to make returns in regard thereto by the regulations hereinafter provided for, shall render a true and accurate return to the Secretary, under such regulations and in such form and manner and to such extent as may be prescribed by the Secretary, setting forth the amount of such gains, profits, and income, and the name and address of the recipient of such payment.

(b) Collection of foreign items

In the case of collections of items (not payable in the United States) of interest upon the bonds of foreign countries and interest upon the bonds of and dividends from foreign corporations by any person undertaking as a matter of business or for profit the collection of foreign payments of such interest or dividends by means of coupons, checks, or bills of exchange, such person shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the amount paid and the name and address of the recipient of each such payment.

(c) Recipient to furnish name and address

When necessary to make effective the provisions of this section, the name and address of the recipient of income shall be furnished upon demand of the person paying the income.

(d) Statements to be furnished to persons with respect to whom information is required

Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing-

- (1) the name, address, and phone number of the information contact of the person required to make such return, and
- (2) the aggregate amount of payments to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. To the extent provided in regulations prescribed by the Secretary, this subsection shall also apply to persons required to make returns under subsection (b).

(e) Section does not apply to certain tips

This section shall not apply to tips with respect to which section 6053(a) (relating to reporting of tips) applies.

(f) Section does not apply to certain health arrangements

This section shall not apply to any payment for medical care (as defined in section 213(d)) made under-

- (1) a flexible spending arrangement (as defined in section 106(c)(2)), or
- (2) a health reimbursement arrangement which is treated as employer-provided coverage under an accident or health plan for purposes of section 106.

(g) Nonqualified deferred compensation

Subsection (a) shall apply to-



Instructions for Forms 1099-MISC and 1099-NEC

Miscellaneous Information and Nonemployee Compensation

Section references are to the Internal Revenue Code unless otherwise noted.

Future Developments

For the latest information about developments related to Forms 1099-MISC and 1099-NEC and their instructions, such as legislation enacted after they were published, go to [IRS.gov/Form1099MISC](https://www.irs.gov/Form1099MISC) or [IRS.gov/Form1099NEC](https://www.irs.gov/Form1099NEC).

What's New

Form 1099-MISC title change. The title for Form 1099-MISC has been changed from Miscellaneous Income to Miscellaneous Information.

Form 1099-MISC, box 11. Box 11 includes any reporting under section 6050R, regarding cash payments for the purchase of fish for resale purposes, from an individual or corporation who is engaged in catching fish. For further information, see the instructions for [box 11](#), later.

Form 1099-NEC, box 1. Box 1 will not be used for reporting under section 6050R, regarding cash payments for the purchase of fish for resale purposes.

Form 1099-NEC, box 2. Payers may use either box 2 on Form 1099-NEC or box 7 on Form 1099-MISC to report any sales totaling \$5,000 or more of consumer products for resale, on buy-sell, deposit-commission, or any other basis. For further information, see the instructions later for [box 2](#) (Form 1099-NEC) or [box 7](#) (Form 1099-MISC).

Form 1099-NEC resized. We have reduced the height of the form so it can accommodate 3 forms on a page.

Electronic filing of returns. The Taxpayer First Act of 2019, enacted July 1, 2019, authorized the Department of the Treasury and the IRS to issue regulations that reduce the 250-return requirement for 2021 tax returns. If those regulations are issued and effective for 2021 tax returns required to be filed in 2022, we will post an article at [IRS.gov](https://www.irs.gov) explaining the change.

Reminders

General instructions. In addition to these specific instructions, you should also use the 2021 General Instructions for Certain Information Returns. Those general instructions include information about the following topics.

- Who must file.
- When and where to file.
- Electronic reporting.
- Corrected and void returns.
- Statements to recipients.
- Taxpayer identification numbers (TINs).

- Backup withholding.
- Penalties.
- The definitions of terms applicable for the purposes of chapter 4 of the Internal Revenue Code that are referenced in these instructions.
- Other general topics.

You can get the general instructions from [General Instructions for Certain Information Returns](https://www.irs.gov/1099GeneralInstructions) at [IRS.gov/1099GeneralInstructions](https://www.irs.gov/1099GeneralInstructions) or go to [IRS.gov/Form1099MISC](https://www.irs.gov/Form1099MISC) or [IRS.gov/Form1099NEC](https://www.irs.gov/Form1099NEC).

Online fillable copies. To ease statement furnishing requirements, Copies B, C, 1, and 2 have been made fillable online in a PDF format available at [IRS.gov/Form1099MISC](https://www.irs.gov/Form1099MISC) and [IRS.gov/Form1099NEC](https://www.irs.gov/Form1099NEC). You can complete these copies online for furnishing statements to recipients and for retaining in your own files.

Filing dates. Section 6071(c) requires you to file Form 1099-NEC on or before January 31, 2022, using either paper or electronic filing procedures. File Form 1099-MISC by February 28, 2022, if you file on paper, or March 31, 2022, if you file electronically.

Specific Instructions for Form 1099-MISC

File Form 1099-MISC, Miscellaneous Information, for each person in the course of your business to whom you have paid the following during the year.

- At least \$10 in royalties (see the [instructions for box 2](#)) or broker payments in lieu of dividends or tax-exempt interest (see the [instructions for box 8](#)).
- At least \$600 in:
 1. Rents ([box 1](#));
 2. Prizes and awards ([box 3](#));
 3. Other income payments ([box 3](#));
 4. Generally, the cash paid from a notional principal contract to an individual, partnership, or estate ([box 3](#));
 5. Any fishing boat proceeds ([box 5](#));
 6. Medical and health care payments ([box 6](#));
 7. Crop insurance proceeds ([box 9](#));
 8. Gross proceeds paid to an attorney ([box 10](#)) (see [Payments to attorneys](#), later);
 9. Section 409A deferrals ([box 12](#)); or
 10. Nonqualified deferred compensation ([box 14](#)).

You may either file Form 1099-MISC or Form 1099-NEC to report sales totaling \$5,000 or more of consumer products

Box 8. Substitute Payments in Lieu of Dividends or Interest

Enter aggregate payments of at least \$10 of substitute payments received by a broker for a customer in lieu of dividends or tax-exempt interest as a result of a loan of a customer's securities. Substitute payment means a payment in lieu of (a) a dividend, or (b) tax-exempt interest to the extent that interest (including original issue discount) has accrued while the securities were on loan. For this purpose, a customer includes an individual, trust, estate, partnership, association, company, or corporation. See Notice 2003-67, which is on page 752 of Internal Revenue Bulletin 2003-40 at [IRS.gov/irb/2003-40_IRB#NOT-2003-67](https://www.irs.gov/irb/2003-40_IRB#NOT-2003-67). It does not include a tax-exempt organization, the United States, any state, the District of Columbia, a U.S. possession or territory, or a foreign government. File Form 1099-MISC with the IRS and furnish a copy to the customer for whom you received the substitute payment.

Box 9. Crop Insurance Proceeds

Enter crop insurance proceeds of \$600 or more paid to farmers by insurance companies unless the farmer has informed the insurance company that expenses have been capitalized under section 278, 263A, or 447.

Box 10. Gross Proceeds Paid to an Attorney

Enter gross proceeds of \$600 or more paid to an attorney in connection with legal services (regardless of whether the services are performed for the payer). See [Payments to attorneys](#), earlier.

Box 11. Fish Purchased for Resale

If you are in the trade or business of purchasing fish for resale, you must report total cash payments of \$600 or more paid during the year to any person who is engaged in the trade or business of catching fish. You are required to keep records showing the date and amount of each cash payment made during the year, but you must report only the total amount paid for the year on Form 1099-MISC.

"Fish" means all fish and other forms of aquatic life. "Cash" means U.S. and foreign coin and currency and a cashier's check, bank draft, traveler's check, or money order. Cash does not include a check drawn on your personal or business account.

Box 12. Section 409A Deferrals

You do not have to complete this box. For details, see Notice 2008-115, available at [IRS.gov/irb/2008-52_IRB#NOT-2008-115](https://www.irs.gov/irb/2008-52_IRB#NOT-2008-115).

If you complete this box, enter the total amount deferred during the year of at least \$600 for the nonemployee under all nonqualified plans. The deferrals during the year include earnings on the current year and prior year deferrals. For additional information, see Regulations sections 1.409A-1 through 1.409A-6. See the instructions for [box 14](#), later.

For deferrals and earnings under NQDC plans for employees, see the Instructions for Forms W-2 and W-3.

Box 13. Excess Golden Parachute Payments

Enter any excess golden parachute payments. An excess parachute payment is the amount over the base amount (the average annual compensation for services includible in the individual's gross income over the most recent 5 tax years).

See Q/A-38 through Q/A-44 of Regulations section 1.280G-1 for how to compute the excess amount.

See [Golden parachute payments](#), later, for more information.

Box 14. Nonqualified Deferred Compensation

Enter all amounts deferred (including earnings on amounts deferred) that are includible in income under section 409A because the nonqualified deferred compensation (NQDC) plan fails to satisfy the requirements of section 409A. Do not include amounts properly reported on a Form 1099-MISC, corrected Form 1099-MISC, Form W-2, or Form W-2c for a prior year. Also, do not include amounts that are considered to be subject to a substantial risk of forfeiture for purposes of section 409A. For additional information, see Regulations sections 1.409A-1 through 1.409A-6; Notice 2008-113, available at [IRS.gov/irb/2008-51_IRB#NOT-2008-113](https://www.irs.gov/irb/2008-51_IRB#NOT-2008-113); Notice 2008-115; Notice 2010-6, available at [IRS.gov/irb/2010-03_IRB#NOT-2010-6](https://www.irs.gov/irb/2010-03_IRB#NOT-2010-6); and Notice 2010-80, available at [IRS.gov/irb/2010-51_IRB#NOT-2010-80](https://www.irs.gov/irb/2010-51_IRB#NOT-2010-80).

Boxes 15–17. State Information

These boxes may be used by payers who participate in the Combined Federal/State Filing Program and/or who are required to file paper copies of this form with a state tax department. See Pub. 1220 for more information regarding the Combined Federal/State Filing Program. They are provided for your convenience only and need not be completed for the IRS. Use the state information boxes to report payments for up to two states. Keep the information for each state separated by the dash line. If you withheld state income tax on this payment, you may enter it in box 15. In box 16, enter the abbreviated name of the state and the payer's state identification number. The state number is the payer's identification number assigned by the individual state. In box 17, you may enter the amount of the state payment.

If a state tax department requires that you send them a paper copy of this form, use Copy 1 to provide information to the state tax department. Give Copy 2 to the recipient for use in filing the recipient's state income tax return.

Specific Instructions for Form 1099-NEC

File Form 1099-NEC, Nonemployee Compensation, for each person in the course of your business to whom you have paid the following during the year.

- At least \$600 in:
 1. Services performed by someone who is not your employee (including parts and materials) ([box 1](#)); or
 2. Payments to an attorney ([box 1](#)). (See [Payments to attorneys](#), later.)

File Form 1099-NEC or Form 1099-MISC to report sales totaling \$5,000 or more of consumer products to a person on buy-sell, deposit-commission, or other commission basis for resale.



If you use Form 1099-NEC to report sales totaling \$5,000 or more, then you are required to file Form 1099-NEC with the IRS by January 31.

You must also file Form 1099-NEC for each person from whom you have withheld any federal income tax (report in

[box 4](#)) under the backup withholding rules regardless of the amount of the payment.



Be sure to report each payment in the proper box because the IRS uses this information to determine whether the recipient has properly reported the payment.

Trade or business reporting only. Report on Form 1099-NEC only when payments are made in the course of your trade or business. Personal payments are not reportable. You are engaged in a trade or business if you operate for gain or profit. However, nonprofit organizations are considered to be engaged in a trade or business and are subject to these reporting requirements. Other organizations subject to these reporting requirements include trusts of qualified pension or profit-sharing plans of employers, certain organizations exempt from tax under section 501(c) or 501(d), farmers' cooperatives that are exempt from tax under section 521, and widely held fixed investment trusts. Payments by federal, state, or local government agencies are also reportable.

Reportable payments to corporations. The following payments made to corporations must generally be reported on Form 1099-NEC.

- Attorneys' fees reported in [box 1](#).
- Payments by a federal executive agency for services (vendors) reported in [box 1](#).



Federal executive agencies may also have to file Form 8596, Information Return for Federal Contracts, and Form 8596-A, Quarterly Transmittal of Information Returns for Federal Contracts, if a contracted amount for personal services is more than \$25,000. See Rev. Rul. 2003-66, which is on page 1115 of Internal Revenue Bulletin 2003-26 at [IRS.gov/pub/irs-irbs/irb03-26.pdf](https://www.irs.gov/pub/irs-irbs/irb03-26.pdf) for details.

- Cash payments for the purchase of fish for resale reported in [box 2](#).

Payments to attorneys. The term "attorney" includes a law firm or other provider of legal services. Attorneys' fees of \$600 or more paid in the course of your trade or business are reportable in [box 1](#) of Form 1099-NEC, under section 6041A(a)(1).

Gross proceeds paid to attorneys. Gross proceeds are not reportable by you in [box 1](#) of Form 1099-NEC. See the Form 1099-MISC, [box 10](#), instructions, earlier.

Payments to corporations for legal services. The exemption from reporting payments made to corporations does not apply to payments for legal services. Therefore, you must report attorneys' fees (in [box 1](#) of Form 1099-NEC) or gross proceeds (in [box 10](#) of Form 1099-MISC) as described earlier to corporations that provide legal services.

Taxpayer identification numbers (TINs). To report payments to an attorney on Form 1099-NEC, you must obtain the attorney's TIN. You may use Form W-9, Request for Taxpayer Identification Number and Certification, to obtain the attorney's TIN. An attorney is required to promptly supply its TIN whether it is a corporation or other entity, but the attorney is not required to certify its TIN. If the attorney fails to provide its TIN, the attorney may be subject to a penalty under section 6723 and its regulations, and you must backup withhold on the reportable payments.

Independent contractor or employee. Generally, you must report payments to independent contractors on Form 1099-NEC in [box 1](#). See the [instructions for box 1](#).



Section 530 of the Revenue Act of 1978 as extended by section 269(c) of P.L. 97-248 deals with the employment tax status of independent contractors and employees. To qualify for relief under section 530, employers must file Form 1099-NEC. Additional requirements for relief are discussed in Rev. Proc. 85-18, 1985-1 C.B. 518. Also see Pub. 15-A for special rules that may apply to technical service specialists and test proctors and room supervisors.

Transit passes and parking for independent contractors. Although you cannot provide qualified transportation fringes to independent contractors, the working condition and de minimis fringe rules for transit passes and parking apply to independent contractors. Tokens or farecards that enable an independent contractor to commute on a public transit system (not including privately operated van pools) are excludable from the independent contractor's gross income and are not reportable on Form 1099-NEC if their value in any month is \$21 or less. However, if the value of a pass provided in a month is greater than \$21, the full value is part of the gross income and must be reported on Form 1099-NEC. The value of parking may be excludable from an independent contractor's gross income, and, therefore, not reportable on Form 1099-NEC if certain requirements are met. See Regulations section 1.132-9(b), Q/A-24.

Directors' fees. You must report directors' fees and other remuneration, including payments made after retirement, on Form 1099-NEC in the year paid. Report them in [box 1](#).

Commissions paid to lottery ticket sales agents. A state that has control over and responsibility for online and instant lottery games must file Form 1099-NEC to report commissions paid, whether directly or indirectly, to licensed sales agents. For example, State X retains control over and liability for online and instant lottery games. For online ticket sales, State X pays commissions by allowing an agent to retain 5% of the ticket proceeds the agent remits to State X. For instant ticket sales, State X pays commissions by providing tickets to the agent for 5% less than the proceeds to be obtained by the agent from the sale of those tickets. If the commissions for the year total \$600 or more, they must be reported in [box 1](#) of Form 1099-NEC. See Rev. Rul. 92-96, 1992-2 C.B. 281.

Payments made on behalf of another person. For payments reportable under section 6041, if you make a payment on behalf of another person, who is the source of the funds, you may be responsible for filing Form 1099-NEC. You are the payor for information reporting purposes if you perform management or oversight functions in connection with the payment, or have a significant economic interest in the payment (such as a lien). For example, a bank that provides financing to a real estate developer for a construction project maintains an account from which it makes payments for services in connection with the project. The bank performs management and oversight functions over the payments and is responsible for filing information returns for payments of \$600 or more paid to contractors. For more information, see Regulations section 1.6041-1(e).

Attachment K



Am I Required to File a Form 1099 or Other Information Return?

If you made or received a payment during the calendar year as a small business or self-employed (individual), you are most likely required to file an information return to the IRS. This page is applicable to specific and limited reporting requirements. For more detailed information, please see [General Instructions for Certain Information Returns](#) or specific form instructions.

Do **not** file Copy A of information returns downloaded from the IRS website. The [official printed version](#) of the IRS form is scannable, but the online version of it, printed from the website, is not. A penalty may be imposed for filing forms that cannot be scanned.

- [Made a Payment](#)
- [Received a Payment and Other Reporting Situations](#)
- [Not Required to File Information Returns](#)

Need a Form or Publication?

Search, view and download IRS forms, instructions and publications

[Search Forms & Publications](#)

Made a Payment

If, **as part of your trade or business**, you **made** any of the following types of payments, use the link to be directed to information on filing the appropriate information return.

- Payments, **in the course of your trade or business**: [\(1099-MISC\)](#) **(Note: It is important that you place the payment in the proper box on the form. Refer to the instructions for more information.)**
 - Services performed by independent contractors or others (not employees of your business) (Box 7)
 - Prizes and awards and certain other payments (see *Instructions for Form 1099-MISC, Box 3. Other Income*, for more information)
 - Rent (Box 1)
 - Royalties (Box 2)
 - Backup withholding or federal income tax withheld (Box 4)
 - Crewmembers of your fishing boat (Box 5)
 - To physicians, physicians' corporation or other supplier of health and medical services (Box 6)

Related Topics

- [A Guide to Information Returns](#)
- [Information Return Reporting](#)

- For a purchase of fish from anyone engaged in the trade or business of catching fish (Box 7)
- Substitute dividends or tax exempt interest payments and you are a broker (Box 8)
- Crop insurance proceeds (Box 10)
- Gross proceeds of \$600 or more paid to an attorney (generally, Box 7, but see instructions as Box 14 may apply)
- Interest on a business debt to someone (excluding interest on an obligation issued by an individual) **(1099-INT)**
- Dividends or other distributions to a company shareholder **(1099-DIV)**
- Distribution from a retirement or profit plan or from an IRA or insurance contract **(1099-R)**
- Payments to merchants or other entities in settlement of reportable payment transactions, that is, any payment card or third party network transaction **(1099-K)**

Received a Payment and Other Reporting Situations

If, as part of your trade or business, you **received** any of the following types of payments, use the link to be directed to information on filing the appropriate information return.

- Payment of mortgage interest (including points) or reimbursements of overpaid interest from individuals **(1098)**
- Sale or exchange of real estate **(1099-S)**
- You are a broker and you sold a covered security belonging to your customer **(1099-B)**
- You are an issuer of a security taking a specified corporate action that affects the cost basis of the securities held by others **(Form 8937)**
- You released someone from paying a debt secured by property or someone abandoned property that was subject to the debt **(1099-A)** or otherwise forgave their debt to you **(1099-C)**
- You made direct sales of at least \$5,000 of consumer products to a buyer for resale anywhere other than a permanent retail establishment **(1099-MISC)**

Additional Information:

- If you are a recipient or payee of an Incorrect Form 1099-MISC contact the payor. If you cannot get this form corrected, attach an explanation to your tax return and report your income correctly.
- If you are a recipient or payee expecting a Form 1099-MISC and have not received one, contact the payor.

Not Required to File Information Returns

You are **not** required to file information return(s) if any of the following situations apply:

- **You are not engaged in a trade or business.**
- You are engaged in a trade or business and
 - the payment was made to another business that is incorporated, but was not for medical or legal services or
 - the sum of all payments made to the person or unincorporated business is less than \$600 in one tax year

Need help? If you have questions about information reporting, you may call [866-455-7438](tel:866-455-7438) (toll-free) or [304-263-8700](tel:304-263-8700) (not toll free). Persons with a hearing or speech disability with access to TTY/TDD equipment can call [304-579-4827](tel:304-579-4827) (not toll free).

Page Last Reviewed or Updated: 23-Sep-2020

Form

W-9(Rev. October 2018)
Department of the Treasury
Internal Revenue Service**Request for Taxpayer
Identification Number and Certification**► Go to www.irs.gov/FormW9 for instructions and the latest information.**Give Form to the
requester. Do not
send to the IRS.**Print or type.
See Specific Instructions on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
2 Business name/disregarded entity name, if different from above	
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)
6 City, state, and ZIP code	
7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number									
				-				-	
or									
Employer identification number									
					-				

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ►	Date ►
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.
- If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.