

1099 Misc and 1099-NEC Reporting: Payments to Limited Liability Companies, Corporations, and Attorneys

Limited Liability Companies

What is a Limited Liability Company (LLC)?

A Limited Liability Company is a cross between a partnership and a corporation.

LLC's are a popular business entity because like a corporation the owners have limited personal liability for the debts and actions of the LLC. They also have the management flexibility and benefit of pass-through taxation like a partnership. Owners of an LLC are called members. There is no maximum number of members and most states allow for an LLC to have only one member.

How is a Limited Liability Company Taxed?

A Limited Liability Company is usually taxed as a partnership but can elect to be taxed as a corporation. Only a very small percentage of LLC's will make the corporate tax election. When an LLC is taxed as a partnership, the LLC pays no federal income tax and profits and losses are passed through to its members. Each member reports his or her share of profit or loss on his or her personal tax return.

When the University sets up a Limited Liability Company as a vendor should it be marked as a "Withholding" vendor so they will receive a 1099-Misc or a 1099-NEC?

Since most Limited Liability Companies are taxed as partnerships they should be marked as withholding and receive a 1099-Misc or a 1099-NEC. The only exception to this rule is if the University has a W-9 from the vendor indicating the company is an LLC that is treated as a corporation for tax purposes; then it can be treated as being exempt from 1099-Misc reporting.

Exceptions to the Corporate Exemption

Should a Corporation ever receive a 1099-Misc or a 1099-NEC?

There are three situations where corporations should still receive a 1099-Misc.

1. There is no corporate exemption for 1099-Misc Box 6 "Medical and Health Care Payments". Note: Box 6 should be used for Medical Services payments.
2. There is no corporate exemption for 1099-Misc Box 10 "Gross proceeds paid to an attorney"
3. This is no corporate exemption for attorney payments reported in 1099-NEC Box 1 "Nonemployee Compensation"

Attorney Reporting

What reporting code in PeopleSoft should be used for payments to attorneys?

When an attorney or law firm performs services for the University, report these payments as 1099-NEC Box 1 "Nonemployee Compensation". When the University pays an attorney or law firm for a settlement or for services for someone other than the University, report those payments as 1099-Misc Box 10 "Gross proceeds paid to an attorney".