



PERSONAL INCOME TAX BULLETIN 2023-01

Submission of Federal Form 1099-MISC and 1099-NEC and Non-Resident Withholding on Pennsylvania-Source Compensation, Net Profits, and Lease Payments

Issued: July 18, 2023

This Bulletin replaces and supersedes Informational Notice Personal Income Tax 2017-01.

Purpose

This Bulletin provides guidance regarding: (1) When and how to file Federal 1099-MISC and 1099-NEC forms with the Pennsylvania Department of Revenue, and (2) Pennsylvania tax withholding obligations of payors making certain payments of Pennsylvania source income to nonresidents.

Federal Form 1099-MISC/NEC Filing Obligations

In General

Anyone who pays any taxable class of Pennsylvania source income to a resident or non-resident individual, entity treated as a partnership for PA Personal Income Tax purposes, or single member limited liability company and is required to file a Federal Form 1099-MISC or 1099-NEC to the US Secretary of the Treasury with respect to such payment is required to:

1. File a copy of the Federal Form 1099-MISC or 1099-NEC with the Department by January 31 of the next year; and
2. Provide a copy of the Federal Form 1099-MISC or 1099-NEC to the payee by March 31 of the next year.

The copy of the Federal Form 1099-MISC or 1099-NEC filed with the Department must contain information regarding the Pennsylvania source income and state tax withheld.

Filing

If the payor is required to perform electronic filing for Pennsylvania employer withholding purposes, the Federal Form 1099-MISC or 1099-NEC must be filed electronically with the Department. Electronic submission should be made through the Department's myPATH system.



Payors who are not required to file the 1099-MISC or 1099-NEC electronically are encouraged to file electronically via myPATH. Alternatively, the payor can submit the form to the Department by mail at the following address: The Pennsylvania Department of Revenue, P.O. Box 280412, Harrisburg, PA 17128-0412.

If a corrected Federal Form 1099-MISC or 1099-NEC is issued to a payee and the amounts related to income from sources within Pennsylvania changes for nonresident recipients or the total amount changes for resident recipients, a corrected Federal Form 1099-MISC or 1099-NEC must be forwarded to the Department.

Withholding on Compensation and Net Profits

A person who is required to file a Federal 1099-MISC or 1099-NEC, as referenced above, for a non-resident individual or disregarded entity with a nonresident owner for payments of Pennsylvania source compensation or net profits is required to withhold Pennsylvania Personal Income Tax from such payments.

Withholding is optional for payors paying a payee less than \$5,000 annually. If a payor is unsure of the total amount of payments that will be made to a payee, the Department encourages the payor to withhold and remit income tax from all payments to the payee.

Note: Payors **should not withhold** on payments to those who are not subject to Pennsylvania Personal Income Tax, such as a: corporation, partnership, S corporation, multi-member limited liability company, and disregarded entity owned by a corporation or partnership. Payees who are not subject to the withholding requirement should supply payors with REV-1832 (withholding exemption certificate).

Payors that withhold from a payee are:

1. Required to apply for a withholding account by completing a Pennsylvania Online Business Tax Registration electronically through myPATH.
2. Required to electronically file quarterly withholding returns and annual reconciliations with the Department through myPATH.
3. Required to electronically remit the withheld monies through myPATH.
4. Liable for withheld taxes in the same manner as employers withholding employee compensation; and
5. Liable for taxes not withheld in the same manner as employers withholding employee compensation.

Payors are required to remit withheld taxes according to the following schedule:

- Quarterly – If total withholding is less than \$1,200 per calendar year (under \$300 per quarter), the taxes are due the last day of April, July, October and January.



- Monthly – If total withholding is \$1,200 or more but less than \$4,000 per calendar year (\$300 to \$999.99 per quarter), the taxes are due the 15th day of the following month.
- Semi-Monthly – If total withholding is \$4,000 or more but less than \$20,000 per calendar year (\$1,000 to \$4,999.99 per quarter), the taxes are due within three banking days of the close of the semi-monthly period.
- Semi-Weekly – If total withholding is \$20,000 or more per calendar year (\$5,000 or greater per quarter).

Payors are also required to file quarterly reconciliation returns (W-3) and an annual withholding reconciliation statement (REV-1667) including copies of the 1099-MISC and 1099-NEC statements for each payee.

Governmental payors, including Pennsylvania's State System of Higher Education and its institutions, are exempt from this requirement.

Payees are required to file a copy of the 1099-MISC or 1099-NEC with their Pennsylvania income tax return.

Withholding on Lease Payments

A lessee who, in the course of a trade or business, rents Pennsylvania real estate from a non-resident lessor (individual, estate, or trust) is required to withhold Pennsylvania Personal Income Tax from the payments to the non-resident lessor.

Withholding is optional for a lessee who pays less than \$5,000 in rent annually. If the lessee is unsure of the total amount of annual rental payments, the Department encourages the lessee to withhold and remit Pennsylvania Personal Income tax from all rental payments to the non-resident lessor.

A lease payment includes, but is not limited to, rents, royalties, bonus payments, damage rents and other payments made pursuant to a lease.

Lessees withholding tax are required to file a Federal Form 1099-MISC with both the lessor and the Department showing the amount paid to them and the amount of the withholding.

Note: Lessees **should not withhold** on payments to those who are not subject to Pennsylvania Personal Income Tax, such as a: C corporation, partnership, S corporation, multi-member limited liability company, and disregarded entity owned by a corporation or partnership. Payees who are not subject to the withholding requirement should supply payors with REV-1832 (withholding exemption certificate).

Lessees that withhold from a lessor are:

1. Required to apply for a withholding account by completing a Pennsylvania Online Business Tax Registration through myPATH.



2. Required to electronically file quarterly withholding returns and annual reconciliations with the Department through myPATH.
3. Required to electronically remit the withheld monies through myPATH.
4. Liable for withheld taxes in the same manner as employers withholding employee compensation.
5. Liable for taxes not withheld in the same manner as employers withholding employee compensation.

Lessees are required to remit taxes on income according to the following schedule:

- Quarterly – If total withholding is less than \$1,200 per calendar year (under \$300 per quarter), the taxes are due the last day of April, July, October and January.
- Monthly – If total withholding is \$1,200 or more but less than \$4,000 per calendar year (\$300 to \$999.99 per quarter), the taxes are due the 15th day of the following month.
- Semi-Monthly – If total withholding is \$4,000 or more but less than \$20,000 per calendar year (\$1,000 to \$4,999.99 per quarter), the taxes are due within three banking days of the close of the semi-monthly period.
- Semi-Weekly – If total withholding is \$20,000 or more per calendar year (\$5,000 or greater per quarter).

Lessees are also required to file reconciliation returns for each quarter (W-3), and an annual withholding reconciliation statement (REV-1667) including the 1099-MISC statements for each lessor.

Governmental entities do not conduct “trade or business” and therefore are exempt from this requirement.

Lessors having tax withheld who receive a copy of the Federal Form 1099-MISC from the lessees are required to file a copy thereof with their Pennsylvania tax return.