

Purchasing Department

2150 Keith Bridge Road, Cumming GA 30040

1099 Withholding

Tax Status	Receive 1099
Single Individual, Sole Proprietors	Yes
LLC - Single Member	Yes
LLC - Partnership	Yes
LLC- C corp or S corp	No

When do business owners need to file a 1099 for their contractors?

The 1099 form is generally intended to be filed for “persons” who provide goods or services to your company. If your contractors are sole proprietors who do not have a business entity set up for their business, you can file a 1099 form for them — they are filing taxes as individual people who do not have a business structure.

However, if your contractors are set up to do business as LLCs, it gets a bit more complicated. There is no simple answer to the question of “Does an LLC get 1099 forms?”. Not all LLCs are set up for the same tax treatment. Whether or not you have to file a 1099 for your LLC contractors depends on how their LLCs file their taxes — if they file taxes as a single-member LLC, they are considered a “disregarded entity” (with all the income simply passing through to the LLC owner’s individual tax return), then the LLC can be considered a “person” for tax purposes and you should file a 1099 for them.

If your contractor is an LLC that files taxes as a corporation ([S Corporation](#) or [C Corporation](#)), they are treated as a corporation for tax purposes and this means that they generally do not have to receive a 1099.

How do you find out if your contractor's LLC gets a 1099?

If you're trying to figure out if your contractor's LLC gets a 1099 form or not, ask your contractors to fill out an IRS [Form W-9](#), "Request for Taxpayer Identification Number and Certification." This is a standard step in getting ready for tax time. On this form, your contractors have to check a box showing how their business is set up for tax purposes: individual/sole proprietor, C Corporation, S Corporation, Partnership or LLC. If the contractor does business as an LLC, they must also check a box on the Form W-9 to show whether the LLC is taxed as a corporation or partnership. If the box is checked to show that the LLC is taxed as a corporation (C Corporation or S Corporation), then you do not have to file a 1099 for that contractor.

However, if the LLC is taxed as a partnership or is a single-member LLC (disregarded entity), the contractor needs to receive a 1099 form and you need to file a 1099 for this contractor.

The simple rule of thumb is: if the LLC files as a corporation, then no 1099 is required. But for all other contractors who are set up as LLCs (but not filing as corporations), your business will need to file 1099 forms for them.

What happens if I file a 1099 for a contractor's LLC that doesn't require one?

Sometimes contractors might check the wrong box on their Form W-9 or not file a W-9 in time; if you have any doubt as to whether or not your contractors should get a 1099, it's often best to just go ahead and file the 1099 forms for them. Even if it turns out that your contractors do not require the 1099, you will not be penalized for filing these "extra" 1099 forms. However, if your contractors were supposed to get a 1099 and you did not file one, you risk having to pay a penalty to the IRS of \$100 for each 1099 that was not filed.

So by all means, try to get your contractors to clarify their tax status by filling out Form W-9 (which you keep with your business records). But if you're not certain about your contractors' tax status, it's often a good idea to just go ahead and file 1099 forms for them, even if they do not require one. This way you are covered either way, and you can avoid paying penalties to the IRS.

