



C.A.R.  
LEGAL  
TOOLS

# TAX WITHHOLDING & REPORTING FOR BROKERS

# 1099 Reporting For Real Estate Brokers

Is the listing broker entitled to the cooperating broker's taxpayer ID?

What can the cooperating broker expect to receive from the listing broker?

What if the cooperating broker chooses not to cooperate with the listing broker's tax requests?

When are forms required to be filed?

What should a salesperson do if receiving a request from the listing broker?

Listing Broker must report payments of \$600.00 or more to buyer's brokers



Buyer's broker = cooperating broker or selling broker



Applies to brokers, not salesperson because payment goes through broker



In order to fulfill the requirement, the listing broker needs the buyer's broker's taxpayer ID number

Who says so?  
The California  
Franchise  
Tax Board and IRS

# 1099-NEC for Nonemployee Compensation And 1099-MISC



Beginning in 2020, Form 1099-NEC must be used to report payments by a business made to a person who is not an employee



Most real estate agents are treated as independent contractors for state and federal tax purposes. Thus, any payments made to them must reported using 1099-NEC



Form 1099- MISC must still be used by property managers reporting rental property expenses

# Form 1099-NEC

## How Does The Listing Broker Comply With The Law?



Listing Broker requests buyer's broker taxpayer ID on form W-9 or substitute W-9 such as C.A.R. for DLT (Declaration of License and Tax Reporting)



Listing broker sends IRS form 1099-NEC to buyer's broker and files 1099-NEC with IRS and FTB

Form 1099-NEC (Rev. January 2022) Nonemployee Compensation. Copy 1 For State Tax Department. Includes fields for Payer's name, TIN, Recipient's name, TIN, compensation amount, and various tax withholdings.

# Form W-9

Part I Taxpayer Identification Number (TIN). Includes instructions for entering TIN and Social Security Number, and a field for Employer identification number.

# C.A.R. Form DLT

- 2. TAX REPORTING - SUBSTITUTE W-9:** The Listing Broker is required to report to the applicable state and federal tax collection agency payments made to the Cooperating Broker identified above UNLESS THE COOPERATING BROKER IS A CORPORATION. If a taxpayer identification number is not provided, Listing Broker may withhold, from the payment to the Cooperating Broker, the amount required for withholding by the state and federal tax collection agencies, unless an exemption to reporting is documented below, or elsewhere in writing. For a copy of the W-9 instructions go to <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

**A. Cooperating Broker** is (check the appropriate box):  an Individual/Sole Proprietor,  a Partnership, or  a Corporation and no tax reporting is required. If the Corporation's name is different from Broker's name above, the Corporation's name is

# When Does the Listing Broker Take Action?

The Listing Broker sends W-9 or DLT to buyer's broker before close of escrow

- Buyer's broker completes as soon as possible before close of escrow and returns to listing broker or risks deduction from payment



Listing Broker sends IRS form 1099-NEC to the buyer's broker by January 31 of the following year after payment



The Listing Broker sends IRS form 1099-NEC to the IRS by January 31 of the following year after payment



# What Can Happen if the Buyer's Broker Does Not Comply with the Listing Broker's Request?

## FORM W-9



The Listing broker must withhold 28% of payment due and forward to the IRS as “back-up withholding”

### Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments. This is called “backup withholding.” Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,

You do not certify your TIN when required (see the Part III instructions)

DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a “disregarded entity.” See Regulations section 301.7701-2(c)(2)(iii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, “Business name/disregarded entity name.” If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

# EXCEPTIONS?



YES, If the Buyer's Broker is a corporation



Buyer's Broker must still fill out and sign DLT affirming Broker's status as a corporation

Declaration Regarding Real Estate License and Tax Reporting (DLT)



2. **TAX REPORTING - SUBSTITUTE W-9:** The Listing Broker is required to report to the applicable state and federal tax collection agency payments made to the Cooperating Broker identified above **UNLESS THE COOPERATING BROKER IS A CORPORATION**. If a taxpayer identification number is not provided, Listing Broker may withhold, from the payment to the Cooperating Broker, the amount required for withholding by the state and federal tax collection agencies, unless an exemption to reporting is documented below, or elsewhere in writing. For a copy of the W-9 instructions go to <http://www.irs.gov/pub/irs-pdf/fw9.pdf>.

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What should a buyer's salesperson or broker-associate do if receiving W-9 or DLT from listing broker?



Give the form to your broker as soon as possible for completion (if you care about getting paid)



Return the signed form to listing broker as soon as possible (if you care about getting paid)



Form **W-9**  
(Rev. December 2014)  
Department of the Treasury  
Internal Revenue Service

Print or type  
See Specific Instructions on page 2.

|   |   |
|---|---|
| 1 | Name (as shown on   |
| 2 | Business name/dis   |
| 3 | Check appropriate<br><input type="checkbox"/> Individual/sole p<br>single-member L<br><input type="checkbox"/> Limited liability c<br><b>Note.</b> For a sing<br>the tax classifica<br><input type="checkbox"/> Other (see instru |
| 5 | Address (number,  |
| 6 | City, state, and ZIP  |
| 7 | List account numb   |

**Part I Taxpay**

Enter your TIN in the app  
backup withholding. For  
resident alien, sole propri  
entities, it is your employ  
TIN on page 3.

**Note.** If the account is in  
guidelines on whose num

# ADDITIONAL RESOURCES

QUICK GUIDE

LEGAL Q&A