

Did your district send you a Form 1099-MISC?

Some parents have received tax form 1099-MISC for amounts their school reimbursed them for transportation, tuition, or other educational costs. According to SPEDWatch member Ronald Zullo, CPA, such reimbursements should *not* be counted as taxable income for the parent. If you feel your school has sent you a 1099-MISC form in error, Zullo suggests you write a letter to the issuer of the Form 1099-MISC (perhaps the Town Administrator, Town Accountant, or School Business Office; try to find out which office actually issued it.) using the following language:

RE: Form 1099-MISC Issued in Error

I am contacting you as a result of receiving a Form 1099-MISC for the tax year [2008]. After consulting with a professional knowledgeable in the area of tax reporting requirements, I have come to the conclusion that these payments are nontaxable and this Form 1099-MISC has been issued in error.

As you may know, the Internal Revenue Code of 1986 requires the issuance of Form 1099-MISC (with an entry in Box 7 for nonemployee compensation) for payments resulting from the performance of services by an unincorporated business (and, in some circumstances, for certain corporate payees). Generally, such payments must be reported to the extent that payments made to any particular payee exceed equal or exceed \$600.

Since I am not providing, for compensation, any services to the District as an independent contractor, I am requesting that the District issue a corrected (i.e. "voided") Form 1099-MISC. Note further that the payments made to me were for [*describe the services or reimbursement for which you are being paid*] and are clearly not taxable income to me.

Please note that time is of the essence. In order that I may timely file my income tax returns, I am requesting that you issue this corrected Form 1099-MISC without delay. It would be unfortunate if the District's error caused me to incur additional tax preparation costs due to either filing an extension, or filing an amended tax return at a later time. I understand that this is a confusing area of the tax code and that it probably only rarely comes up in

the district. Perhaps some other parents would not know to question whether these monies are taxable income to them. Please consider contacting them as well so that they are not burdened with an incorrect tax.

Thank you for your cooperation in this matter.

cc: Town Administrator, Board of Selectmen, School Committee, or someone at that level (who may be concerned with this type of exposure for the Town).

If you have been unsuccessful in resolving the matter with your school district you may wish to consider following up with another letter using the language below. **WARNING:** The language suggested below is a bit threatening in nature and may not be appropriate for your "first request" that a corrected 1099-MISC be issued. Please think carefully before using the following language:

Please note that the Internal Revenue Code sections 6721, 6722, and 7434 each provide for varying degrees of penalties for failing to issue a correct Form 1099-MISC. If such issuance of these information returns occurs on a widespread basis (i.e. these forms have been issued to a significant population of parents receiving nontaxable reimbursement), it certainly raises the specter that the District has acted with "intentional disregard" of the Internal Revenue Code and Treasury Regulations.

Moreover, I would expect that any additional income tax preparation costs (or erroneously-paid taxes) as a result of the District's error, and failure to correct such error, will be reimbursed by the District should it choose not to issue a corrected Form 1099-MISC in a timely manner. Parents of special needs children should not be required to pay additional income taxes as a result of the District's error.

SPEDWatch thanks Ron Zullo for his guidance on this subject.

