

Sy Accountancy Corporation

Member, American Institute of CPAs

704 Mira Monte Place, Pasadena, California 91101

Tel (626) 744-0200 • Fax (626) 744-0300 • vsy@victorsycpa.com • www.victorsycpa.com

FEDERAL PENALTIES FOR LATE W2s AND 1099s

By Victor Sy, CPA, MBA

There are penalties for the late filing of W2s (employment) and 1099s (independent contract). These penalties are based on the length of time that the returns are filed late.

There are two basic categories of information return penalties: late filing with the IRS and late furnishing to employees or independent contractors.

1. The following penalties apply for the late filing of W-2s and 1099s (due February 28):
 - A. **\$30** if filed within 30 days (**March 30** for W-2s and 1099s).
 - B. **\$60** if filed by **August 1**.
 - C. **\$100** if filed after **August 1** (or never filed).
2. The maximum penalties for the three types mentioned above are **\$250,000, \$500,000, and \$1,500,000** per year. These maximum penalties are lowered for small businesses to **\$75,000, \$200,000, and \$500,000** per year. (A "small" business is one with annual gross receipts of \$5 M or less for the last three years or since the business began, if less than three years).
3. There is a second group of penalties for furnishing W-2s and 1099s late to your employees or independent contractors by the required date (January 31 for W-2s and 1099s). The penalty is \$50 for each statement up to maximum of **\$250,000** a year.
4. The second group of penalties increase to at least **\$250** if the failure to provide W-2s and 1099s to workers is due to intentional disregard of rules. There is no maximum penalty for this.
5. These penalties also apply if the returns are incomplete or incorrect.
6. There are excuses for having these penalties abated.
7. **Excuse number 1**: If errors are corrected by August 1, incomplete or incorrect statements could be exempt from these penalties for a small number of returns (the greater of ten returns or 1/2% of the total number of returns that you are required to file).
8. **Excuse number 2**: These penalties will not apply if you can show that the failure to file or provide was due to "reasonable cause" and not to willful neglect.
9. **File Extension Form 8809** to get you 30 days of reprieve until March 31.
10. **File Extension Form 8809** again to get another 30 days until April 30.