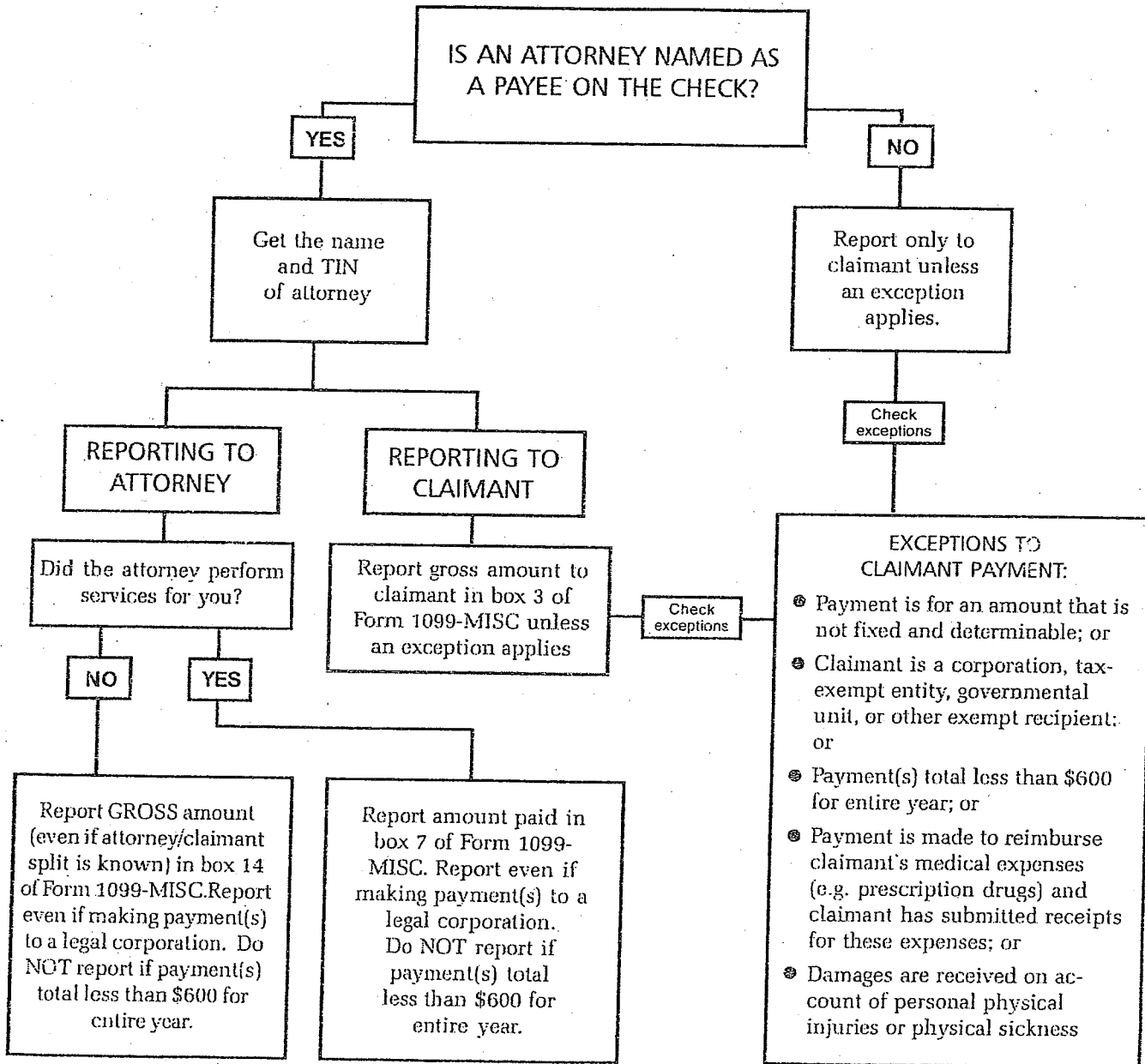


DECISION CHART

Form 1099-MISC Reporting of Settlements and Payments to Attorneys



SEE NOTES ON DAMAGES ON THE FOLLOWING PAGE

Identifying the Types of Damages

DAMAGES

Damages are defined as monetary compensation that the law awards to one who has been injured by another. If you must report amounts paid to a claimant, your legal department or insurance carrier must inform you of the payment breakdown, or must provide you with a copy of the jury verdict or settlement agreement, that identifies the types of damages awarded.

You may also need to contact your legal department for additional assistance to determine whether the types of damages awarded are legally categorized as compensatory for physical injury, compensatory for emotional injury, punitive or other damages.

Failure to obtain this information is insufficient to render these types of payments nonreportable; the "non-fixed and determinable" income rule does not provide an excuse for not reporting, because the information is out there somewhere and you have access to those who can provide it to you.

PHYSICAL INJURY DAMAGES

You do not need to report those amounts paid to a claimant as compensation for personal physical injuries, such as loss of limb, broken bones, closed-head injuries, loss of sight, other physical injury, or death.

PUNITIVE DAMAGES

You must report in box 3 of Form 1099-MISC those amounts, if any, paid as punitive or exemplary damages (i.e., those amounts assessed against the wrongdoer, but paid to the claimant, as punishment for the wrongdoer's malicious or willful misconduct).

EMOTIONAL INJURY DAMAGES

You must report in box 3 of Form 1099-MISC those amounts paid to the claimant as compensation for emotional injuries (e.g., insomnia, depression, anxiety, pain and suffering, etc.). However, damages received on account of emotional distress due to physical injuries or physical sickness are not reportable (e.g., claimant suffers depression as a result of the loss of a limb).

CATEGORIZING THE DAMAGES

Settlements and damage awards may contain amounts attributable to each category of damages identified above.

You must ask your legal department or the attorney handling the negotiations to categorize the damages for you if you cannot determine how to report such payments.

A settlement award or jury verdict may also include amounts attributable to such "injuries" as property damage, breach of contract, back pay and other items. Property damage awards are generally not fixed and determinable amounts and, therefore, no reporting is required. Breach of contract damages are reportable, though the standard payee exemptions (e.g., payee is a corporation) apply. Any amounts of a damage award attributable to back pay must be reported on a form W-2, regardless of whether the claimant is currently an employee of the defendant employer.

Including the Attorney Fee on Claimant's Form 1099

Proposed Regulation 246249-96 (the "middleman" regulation) instructs payors always to report the gross amount of the payment to the claimant (if the payment is a reportable payment) irrespective of whether the payor knows how much of

the payment the attorney is to receive as fees and irrespective of whether one or two checks are issued -- one to the attorney and one to the claimant. The IRS is firm in its position that the gross amount should be reported, regardless of potential conflicts with federal law.