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1099-S - Who, What, Where, When, Why

Who has to report?

- If you are the person responsible for closing the transaction, you must file Form 1099-S. If a Closing Disclosure prescribed under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank) is used and a person is listed as the settlement agent on the Closing Disclosure, the person responsible for closing the transaction is the person listed as the settlement agent on that Closing Disclosure.
- If no Closing Disclosure is used, or if two or more Closing Disclosures are used, the person responsible for closing the transaction is, in the following order:
 - The transferee's attorney who is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or who prepares or reviews the preparation of the documents transferring legal or equitable ownership,
 - The transferor's attorney who is present at the delivery of either the transferee's note or a significant part of the cash proceeds to the transferor or who prepares or reviews the preparation of the documents transferring legal or equitable ownership, or
 - The disbursing title or escrow company that is most significant in disbursing gross proceeds.

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What has to be reported?

- Improved or unimproved land, including air space.
- Inherently permanent structures, including any residential, commercial, or industrial building.
- A condominium unit and its appurtenant fixtures and common elements, including land.
- Stock in a cooperative housing corporation (as defined in section 216).
- Any non-contingent interest in standing timber.

Where does it need to be reported?

- Simply: to the IRS
- Practically: through your Title Production Software (TPS)
 - This means that no matter the forms/signatures/closing documents utilized, ultimately the information contained in those documents must be input into your agency's TPS
 - The TPS compiles all the data and reports it directly to the IRS through the FIRE system

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1099-S - Who, What, Where, When, Why

When does it have to be reported?

- Title agencies must send all eligible sellers a copy of the 1099-S for the transaction(s) they were party to. The earlier this is done, the better, to avoid penalties for not abiding by the deadline. *Deadline: Postmarked by February 15, 2025.*
- Submit 1099-S forms to the IRS: This is the final step in the filing process. Once all deficiencies are resolved and information is ready, you can complete your 1099 forms and file the final version with the IRS as a paper filing or electronically on the FIRE website. If you're submitting a paper filing, there is a limit of 249 records. Deadlines: Paper filing postmarked by February 28, 2025; electronic filing submitted by March 31, 2025.

Why does it have to be reported?

- So the IRS can make \$\$\$
- It's a double-check, safety net in case a seller doesn't report the sale

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CORRECTED (if checked)

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone number		1 Date of closing	OMB No. 1545-0997 Form 1099-S (Rev. January 2022) For calendar year 20__	Proceeds From Real Estate Transactions
		2 Gross proceeds \$ _____		
FILER'S TIN	TRANSFEROR'S TIN	3 Address (including city, state, and ZIP code) or legal description		Copy B For Transferor <small>This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if this item is required to be reported and the IRS determines that it has not been reported.</small>
TRANSFEROR'S name				
Street address (including apt. no.)				
City or town, state or province, country, and ZIP or foreign postal code				
Account number (see instructions)		4 Transferor received or will receive property or services as part of the consideration (if checked) ▶ <input type="checkbox"/>	5 If checked, transferor is a foreign person (nonresident alien, foreign partnership, foreign estate, or foreign trust) ▶ <input type="checkbox"/>	6 Buyer's part of real estate tax \$ _____

Form **1099-S** (Rev. 1-2022) (keep for your records) www.irs.gov/Form1099S Department of the Treasury - Internal Revenue Service

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SUBSTITUTE FORM 1099-S
PROCEEDS FROM REAL ESTATE TRANSACTIONS
FOR THE TAX YEAR: 2015
OMB No. 1545-0997

SETTLEMENT AGENT/FILER'S NAME AND ADDRESS Birmingham Title Agency 26000 W. 12 Mile Rd. Southfield, MI 48034 (248)633-2737	Filer's Federal Tax ID Number: 12-2334455 Order Number: 15-Test-002	
SELLER/TRANSFEROR'S NAME AND ADDRESS Sam Sellerman 3434 Retirement Lane Birmingham, MI 48009	Transferor's Federal Tax ID Number: 112-23-3445	

1) Date of Closing: 11/27/15	2) Gross Proceeds: 325,000.00	4) X here if property or services received:	5) X here if foreign person:	6) Buyer's part of real estate tax: 391.23
3) Address or Legal Description: 1212 Happy Trails/Avoca MI 48006				

THIS IS IMPORTANT TAX INFORMATION AND IS BEING FURNISHED TO THE IRS. IF YOU ARE REQUIRED TO FILE A RETURN, A NEGLIGENCE PENALTY OR OTHER SANCTION MAY BE IMPOSED ON YOU IF THIS ITEM IS REQUIRED TO BE REPORTED AND THE IRS DETERMINES THAT IT HAS NOT BEEN REPORTED.

YOU ARE REQUIRED BY LAW TO PROVIDE BIRMINGHAM TITLE AGENCY WITH YOUR CORRECT TAXPAYER IDENTIFICATION NUMBER. IF YOU DO NOT PROVIDE BIRMINGHAM TITLE AGENCY WITH YOUR CORRECT TAXPAYER IDENTIFICATION NUMBER, YOU MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES IMPOSED BY LAW.

UNDER PENALTIES OF PERJURY, I CERTIFY THAT I AM A U.S. PERSON OR U.S. RESIDENT ALIEN AND THE NUMBER SHOWN ON THIS STATEMENT IS MY CORRECT TAXPAYER IDENTIFICATION NUMBER.

I ACKNOWLEDGE RECEIPT OF A COPY OF THIS STATEMENT.

Sam Sellerman _____ Date _____

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Who/What is Exempt from 1099 Reporting?

- Sale of a primary residence if it meets certain requirements (more on that with a Certificate of No Information on next slide)
 - If you don't obtain the certificate, you cannot mark the file as exempt
- Any transaction in which the transferor is a corporation, a governmental unit, or an exempt volume transferor (25+ properties to different transferees in a year)
- Any transaction that is not a sale – like a bequest, a gift, a financing, or a refinancing
- A transfer in full or partial satisfaction of a debt secured by the property. This includes a foreclosure, a transfer in lieu of foreclosure, or an abandonment
- A de minimis transfer for less than \$600
- Types of properties that are exempt:
 - Interest in surface or subsurface natural resources
 - A burial plot or vault
 - A manufactured structure used as a dwelling but only if such structure is not affixed to a foundation

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1099 Certification for No Information Reporting on the Sale or Exchange of a Principal Residence

Part II. Seller Assurances

True	False	Check "true" or "false" for assurances (1) through (5), and "true", "false", or "not applicable" for assurance (6).
[]	[]	(1) I owned and used the residence as my principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence.
[]	[]	(2) I have not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the residence.
[]	[]	(3) I (or my spouse or former spouse, if I was married at any time during the period beginning after May 6, 1997, and ending today) have not used any portion of the residence for business or rental purposes after May 6, 1997.

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1099 Certification for No Information Reporting on the Sale or Exchange of a Principal Residence

True False

(4) At least one of the following three statements applies:

The sale or exchange is of the entire residence for \$250,000 or less.

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and the gain on the sale or exchange of the entire residence is \$250,000 or less.

OR

I am married, the sale or exchange is of the entire residence for \$500,000 or less, and (a) I intend to file a joint return for the year of the sale or exchange, (b) my spouse also used the residence as his or her principal residence for periods aggregating 2 years or more during the 5-year period ending on the date of the sale or exchange of the residence, and (c) my spouse also has not sold or exchanged another principal residence during the 2-year period ending on the date of the sale or exchange of the principal residence.

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1099 Certification for No Information Reporting on the Sale or Exchange of a Principal Residence

True False

(5) During the 5-year period ending on the date of the sale or exchange of the residence, I did not acquire the residence in an exchange to which section 1031 of the Internal Revenue Code applied.

True False N/A

(6) If my basis in the residence is determined by reference to the basis in the hands of a person who acquired the residence in an exchange to which section 1031 of the Internal Revenue Code applied, the exchange to which section 1031 applied occurred more than 5 years prior to the date I sold or exchanged the residence.

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1099-S Cheat Sheet

- Approach every real estate *sale* transaction as reportable
- Automatic exemptions to reporting:
 - Refinance transactions
 - Seller is a Corporation
- Look for the 1099 Certification for No Information Reporting on the Sale or Exchange of a Principal Residence Form
 - If all answers are marked “True” (or “N/A” for #6), seller is exempt from reporting
 - If any answer is marked False, the transaction is reportable for that seller
- If you do not have the 1099 Certification, you cannot mark the seller exempt, even if they are. Get them to fill out the Certification.
- Lastly, understand your internal procedures as to WHICH title agency is responsible for the 1099-S reporting on a split transaction.

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1099-S Examples

Residence is being sold by two sellers, Mary Mom and Sammy Son. They are mother and son, and only the mother lives in the house as her primary residence. Is this a reportable transaction?

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1099-S Examples

Residence is being sold for \$550,000 by a married couple. They have lived at the house for ten years and both fill out the 1099-S Certification with all “True” responses. Is the sale reportable?

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1099-S Examples

Residence is being sold by one seller, This Is My Home, LLC. The sole owner of the LLC states that he lives in the house and it’s his primary residence. He fills out the 1099 Certification answering all the questions as “True”. Is this a reportable transaction?

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1099-S Examples

Residential investment property is being refinanced to get equity out of the property. The seller does not live on the property and asks you, the closer, if he needs to report the cash he receives from the loan as income through a 1099-S. Does he?

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Thanks for attending!

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