

IRS provides two-year transition period for new minimum threshold for Form 1099-K reporting

December 3, 2024

In brief

What happened?

The IRS on November 26 issued [Notice 2024-85](#) (Notice) announcing that calendar years 2024 and 2025 will be regarded as the final transition periods for purposes of enforcement and administration with respect to the implementation of the amendments made by the American Rescue Plan Act of 2021 (ARP) to the Section 6050W(e) minimum threshold for Form 1099-K, *Payment Card and Third Party Network Transactions*, reporting by third-party settlement organizations (TPSOs).

The Notice requires TPSOs (e.g., online marketplaces, payment apps) to report payments in settlement of third-party network transactions with respect to a participating payee when the total amount of payments for those transactions exceeds \$5,000 during calendar year 2024, \$2,500 during calendar year 2025, and \$600 during calendar year 2026 and thereafter. The Notice also obsoleted Notice 2011-42 and provides transitional relief for calendar year 2024 from certain penalties for TPSOs making payments to participating payees in settlement of third-party network transactions that fail to impose backup withholding tax on these payments.

Why is it relevant?

This final transition period provided by the Notice is intended to facilitate an orderly transition for TPSO compliance with Section 6050W(e) and participating payee compliance with income tax reporting. Without this Notice, TPSOs would be required to start reporting after the \$600 threshold is met. The Notice provides TPSOs with the promised relief they have been waiting for all year.

Actions to consider

TPSOs that have not taken steps to collect participating payees' taxpayer identification numbers (TINs) in the proper manner should use this narrow relief window to obtain the TINs to avoid the obligation to impose backup withholding tax beginning January 1, 2025.

Some states have passed legislation that does not conform to the federal reporting thresholds. TPSOs should review the states where their participating payees reside to determine whether a lower reporting threshold applies in a given calendar year and take steps to comply with the state Form 1099-K reporting standards.

Observation: Representative Carol Miller (R-WV) in 2023 introduced [legislation](#) that would reinstate the original reporting threshold of \$20,000 and 200 transactions. This legislation has not passed; however, the continued efforts by some members of Congress to include modifications to the reporting thresholds in proposed legislation suggests that Congress ultimately could enact a reporting threshold that is higher than \$600. TPSOs should stay alert for future developments.

In detail

Transition period for enforcement and administration for calendar years 2024 and 2025

ARP amended Section 6050W(e) to provide that, for Form 1099-K reporting for calendar years beginning after December 31, 2021, a TPSO must report payments in settlement of third-party network transactions with respect to any participating payee that exceed a minimum threshold of \$600 in aggregate payments, regardless of the number of such transactions. Prior to the amendment, TPSOs were required to report when a participating payee incurred more than 200 transactions and received more than \$20,000 in aggregate payments during a calendar year. Subsequent notices have delayed the implementation of the \$600 threshold for calendar years prior to 2024. See our Insight, [IRS announces delay in Form 1099-K reporting threshold for 2023](#), for more information.

The Notice provides that a TPSO is not required to report payments in settlement of third-party network transaction with respect to a participating payee unless the gross amount of aggregate payments exceeds \$5,000 for calendar year 2024 or \$2,500 for calendar year 2025, regardless of the number of transactions. The Notice also provides that the IRS will not assert penalties under Sections 6721 or 6722 for a TPSO that fails to file or furnish a Form 1099-K with respect to a payee unless the gross amount of aggregate payments to be reported exceeds \$5,000 for calendar year 2024 or \$2,500 for calendar year 2025, regardless of the number of transactions. The threshold is reduced to the ARP-mandated amount of \$600 for calendar years beginning after December 31, 2025.

Observation: The increase of the 2024 filing threshold from \$600 to \$5,000 is likely to significantly reduce the number of Forms 1099-K that TPSOs are required to file for 2024. However, because the transition relief has come late in the year, some TPSOs already may have modified their systems to utilize the \$600 threshold because of uncertainty as to whether relief would be provided. If these TPSOs now are unable to modify their systems to apply the \$5,000 threshold, they will not suffer any penalty for filing Form 1099-K for aggregate payments that are below the \$5,000 threshold, because reporting is always permitted, even for amounts below a filing threshold.

The Notice provides that the IRS will not regard calendar year 2024 or 2025 as a transition period with respect to Section 6050W requirements not modified by ARP (e.g., provisions relating to payment card transactions).

The Notice also provides that calendar years 2024 and 2025 will be regarded as the final transition periods for purposes of IRS enforcement and administration of the Section 6050W(e) information reporting requirements.

Transition period for enforcement and administration of backup withholding for calendar year 2024

Section 3406(a) provides that a TPSO must perform backup withholding on the first reportable payment made to a participating payee that has not provided its TIN or other documentation. Reg. 31.3406(b)(3)-5(b) provides that the amount to be withheld must be determined without regard to any de minimis thresholds. Notice 2011-42 modified that rule to require backup withholding only for payments made by a TPSO when a participating payee engaged in more than 200 transactions. Therefore, regardless of the proposed changes to the de minimis thresholds for Section 6050W reporting, TPSOs were not required to backup withhold until they had engaged in 200 transactions with a participating payee.

Notice 2024-85 provides that the IRS will not assert Section 6651 or 6656 penalties with respect to a TPSO's failure to timely withhold, deposit, and pay backup withholding taxes during calendar year 2024. TPSOs that have performed backup withholding must file Form 945, *Annual Return of Withheld Federal Income Tax*, and Form 1099-K with the IRS and furnish a copy to the payee.

Significantly, Notice 2024-85 obsoleted Notice 2011-42. That means that beginning on January 1, 2025, TPSOs must impose backup withholding on the first reportable payment when a participating payee fails to provide adequate documentation (e.g., US TIN, Form W-8). A US participating payee may provide its TIN in any manner, including on a Form W-9.

Observation: While characterized merely as an obsolescence in a notice providing transition relief, the removal of the de minimis backup withholding threshold provided under Notice 2011-42 reflects a substantial increase in TPSOs' withholding obligations with little notice. In less than a month, TPSOs must modify their systems to be able to impose backup withholding on every payment -- even very small transactions -- made to an undocumented participating payee. For TPSOs that were accustomed to handling small numbers of transactions and previously may not have needed to have systems in place to backup withhold, this represents a dramatic change to their obligations. TPSOs that have not properly documented their participating payees with either a US TIN (e.g., Social Security Number, Employer Identification Number) or obtained a reliable Form W-8 should take steps to impose backup withholding on January 1, 2025, or delay payment until the information is provided, as the relief ends on December 31, 2024.

For calendar years 2025 and after, the IRS will assert Section 6651 or 6656 penalties for a TPSO's failure to timely withhold, deposit, and pay backup withholding tax.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

Tax Controversy & Regulatory Services

Candace Ewell, Washington

+1 202-280-9278

candace.b.ewell@pwc.com

Christine Flohr, Washington

+1 202-680-4286

christine/f.flohr@pwc.com

Jason Spitzer, Washington

+1 202-758-4846

jason.spitzer@pwc.com

Global Information Reporting

Danielle Nishida, Los Angeles

+1 818-359-3489

danielle.nishida@pwc.com

Jerry Khan, New York

+1 718-213-2260

jerry.khan@pwc.com

Robert Limerick, New York

+1 917-968-2580

robert.limerick@pwc.com

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