

Section 6050W of the Internal Revenue Code, added by section 3091 of the Housing Assistance Tax Act of 2008, Div. C of Pub. L. 110-289

SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

- (a) In General.--Each payment settlement entity shall make a return for each calendar year setting forth--
- (1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and
 - (2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

- (b) Payment Settlement Entity.--For purposes of this section--
- (1) In general.--The term "payment settlement entity" means--
 - (A) in the case of a payment card transaction, the merchant acquiring entity, and
 - (B) in the case of a third party network transaction, the third party settlement organization.
 - (2) Merchant acquiring entity.--The term "merchant acquiring entity" means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.
 - (3) Third party settlement organization.--The term "third party settlement organization" means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.
 - (4) Special rules related to intermediaries.--For purposes of this section--
 - (A) Aggregated payees.--In any case where reportable payment transactions of more than one participating payee are settled through an intermediary--
 - (i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and
 - (ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.
 - (B) Electronic payment facilitators.--In any case where an electronic payment facilitator or other third

party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

(c) Reportable Payment Transaction.--For purposes of this section--

(1) In general.--The term “reportable payment transaction” means any payment card transaction and any third party network transaction.

(2) Payment card transaction.--The term “payment card transaction” means any transaction in which a payment card is accepted as payment.

(3) Third party network transaction.--The term “third party network transaction” means any transaction which is settled through a third party payment network.

(d) Other Definitions.--For purposes of this section--

(1) Participating payee.--

(A) In general.--The term “participating payee” means--

(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

(B) Exclusion of foreign persons.--Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address.

(C) Inclusion of governmental units.--The term “person” includes any governmental unit (and any agency or instrumentality thereof).

(2) Payment card.--The term “payment card” means any card which is issued pursuant to an agreement or arrangement which provides for--

(A) one or more issuers of such cards,

(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

(C) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card

as payment.

(3) Third party payment network.--The term "third party payment network" means any agreement or arrangement--

(A) which involves the establishment of accounts with a central organization by a substantial number of persons who--

(i) are unrelated to such organization,

(ii) provide goods or services, and

(iii) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,

(B) which provides for standards and mechanisms for settling such transactions, and

(C) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

(e) Exception for De Minimis Payments by Third Party Settlement Organizations.--A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if--

(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$20,000, and

(2) the aggregate number of such transactions exceeds 200.

(f) Statements to Be Furnished to Persons With Respect to Whom Information Is Required.--Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing--

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return.

The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically, and if so, the email address of the person required to make such return may be shown in lieu of the phone number.

(g) Regulations.--The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this

section, including rules to prevent the reporting of the same transaction more than once.

(b) Penalty for Failure to File.--

(1) Return.--Subparagraph (B) of section 6724(d)(1) is amended--

(A) by striking “or” at the end of clause (xx),

(B) by redesignating the clause (xix) that follows clause (xx) as clause (xxi),

(C) by striking “and” at the end of clause (xxi), as redesignated by subparagraph (B) and inserting “or”, and

(D) by adding at the end the following:

“(xxii) section 6050W (relating to returns to payments made in settlement of payment card transactions), and”

(2) Statement.--Paragraph (2) of section 6724(d) is amended by striking “or” at the end of subparagraph (BB), by striking the period at the end of the subparagraph (CC) and inserting “, or”, and by inserting after subparagraph (CC) the following:

“(DD) section 6050W(c) (relating to returns relating to payments made in settlement of payment card transactions).”

(c) Application of Backup Withholding.--Paragraph (3) of section 3406(b) is amended by striking “or” at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting “, or”, and by adding at the end the following new subparagraph:

“(F) section 6050W (relating to returns relating to payments made in settlement of payment card transactions).”

(d) Clerical Amendment.--The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by inserting after the item relating to section 6050V the following:

“Sec. 6050W. Returns relating to payments made in settlement of payment card transactions.”

(e) Effective Date.--

(1) In general.--Except as otherwise provided in this subsection, the amendments made by this section shall apply to returns for calendar years beginning after December 31, 2010.

(2) Application of backup withholding.--

(A) In general.--The amendment made by subsection (c) shall apply to amounts paid after December 31, 2011.

(B) Eligibility for TIN matching program.--Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986--

(i) the amendments made this section shall be treated as taking effect on the date of the enactment of this Act, and

(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.