

IRM PROCEDURAL UPDATE

DATE: 12/16/2013

NUMBER: WI-21-1213-1747

SUBJECT: Form 1099-K, Payment Card, Third Party Network Transactions and BUWH

AFFECTED IRM(s)/SUBSECTION(s): 21.7.4

CHANGE(s):

IRM 21.7.4.4.10(3) & (4) & (6) Corrected the IRM to state that Schedule K-1 should be attached to claim BUWH, not Form 1099.

3. The payor is required to report the amount withheld on Schedule K-1 to the payee. The payee must claim the credit for BUWH on its related income tax return. For example:
 - A trust on Form 1041
 - A corporation on Form 1120
 - An exempt organization on Form 990-T, *Exempt Organization Business Income Tax Return*.

NOTE: Exempt organizations which file Form 990, as well as organizations which are exempt from filing Form 990, must file Form 990-T to receive their credit for BUWH

- Form 990-PF, *Return of Private Foundation*, filers on Form 990-PF
4. Shareholders of an S corporation (Form 1120S) and the partners in a partnership (Form 1065) claim the credit for BUWH on their Form 1040, *U.S. Individual Income Tax Return*. BUWH is credited to a partner on Schedule K-1, which must accompany any claim for the withholding (i.e. Form 1040, Form 1040-X). See paragraph (6) below.
 5. Form 990-T and Form 990-PF used for refund of erroneous BUWH are not handled as a "claim for refund" case. Therefore, do not route these cases to the Area Office.
 6. Schedule K-1 must be attached when the taxpayer submits a claim for BUWH #
[REDACTED] # Follow procedures in IRM 21.5.3.4.2, *Tax Decrease or Credit Increase Processing*, if Schedule K-1 is not received.

IRM 21.7.4.4.24(9) thru (14) Updated the information on Form 1099-K, Payment Card and Third-Party Network Transactions.

9. Notice 2011-89, provides transitional relief from penalties for reporting incorrect information on informational returns (Form 1099-K) and payee statements filed under section 6050W of the Internal Revenue Code. The relief provided by Notice 2011-89 is available for information returns and payee statements to be filed only in 2012, based on payments made in calendar year 2011, provided that the IRC 6050W filer makes a good faith effort to accurately file the appropriate information return and the accompanying payee statement.
10. Notice 2013-56, extends the penalty relief provided in Notice 2011-89 to certain errors on information returns and payee statements required to be filed and furnished in 2013 and 2014. The notice provides relief from penalties under sections 6721 and 6722 for returns and statements required to be filed and furnished in:
 - a. 2013 based on payments made in calendar year 2012 if they have: (1) missing TINs, or (2) obviously incorrect TINs (as described in IRC 3406(h)(1), or (3) incorrect name and TIN combinations, and
 - b. 2014 based on payments made in calendar year 2013, but only in cases where the 2013 Form 1099-K contains an incorrect name and TIN combination.
11. Notice 2013-56 , also informs payors that the IRS will not issue CP2100/CP2100A Notices based on incorrect name and TIN combinations reported on Forms 1099-K due before 2014. The IRS will begin sending CP2100/CP2100A Notices with respect to Forms 1099-K in late 2014. These CP2100/CP2100A Notices will be based on incorrect name and TIN combinations reported on Forms 1099-K required to be filed in 2014 for calendar year 2013 payments.
12. CP2100/CP 2100A Notices are not necessary to trigger backup withholding if the payee either did not provide a TIN or provided an obviously incorrect TIN. Payors should continue to backup withhold on calendar year 2013 payments to payees who failed to provide a TIN or who provided an obviously incorrect TIN. See the chart below:

Type of 1099-K TIN Error	TY 2012 and TY 2013 Reporting (Payments made in Calendar Year 2011 and 2012)	TY 2014 Reporting (Payments made in Calendar Year 2013)
Missing/Obviously Incorrect	CP2100/2100A: No notice issued by IRS for 1099-K errors Backup Withholding (BWH):: Do not	CP2100/2100A: Notices will be issued in late 2014 for 1099-K errors Backup Withholding (BWH):: Begin backup

	backup withhold Penalties: Subject to penalty relief	withholding immediately (before receipt of CP2100/ 2100A) Penalties:: Subject to penalties
Incorrect TIN/Name Combination	CP2100/2100A: No notice issued by IRS for 1099-K errors Backup Withholding (BWH): Do not backup withhold Penalties: Subject to penalty relief	CP2100/2100A: Notices will be issued in late 2014 for 1099-K errors Backup Withholding (BWH): Follow normal BWH procedures for when a CP2100/2100A is received Penalties: Subject to penalty relief

13. There is no requirement to report the amount of merchant card and third-party network payments received on a separate line of the taxpayers return. Taxpayers will include the total amount of receipts, including those included on Form 1099-K, on the gross receipts line.
14. See the Third Party Reporting Information Center, on www.irs.gov and the Instructions for Form 1099K, for more information. In addition, more information can be found on SERP under the IRM Supplemental tab. Click on the Form 1099-K, Payment Card and Third-Party Networks Transactions link for Frequently Asked Questions and more.