

Part III - Administrative, Procedural, and Miscellaneous

Transitional Penalty Relief for Information Reporting Relating to Payment Card and Third Party Network Transactions

Notice 2011-89

PURPOSE

This notice provides transitional relief from penalties for a section 6050W filer reporting incorrect information on information returns (Form 1099-K) and payee statements filed under section 6050W of the Internal Revenue Code. The relief provided by this notice 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 section 6050W filer makes a good faith effort to accurately file the appropriate information return and the accompanying payee statement.

BACKGROUND

Under section 6050W, added by section 3091 of the Housing Assistance Tax Act of 2008, Div. C of Pub. L. No. 110-289, 122 Stat. 2653 (the Act), a payment settlement entity (“payor”) making payment to a participating payee (“payee”) in settlement of reportable payment transactions must make an information return for each calendar year to be filed with the Internal Revenue Service setting forth the gross amount of such

reportable payment transactions, as well as the name, address, and taxpayer identification number (TIN) of the payee. A similar statement must be furnished to the payee setting forth the gross amount of such reportable payment transactions, as well as the name, address and phone number of the information contact of the person required to make such return.

Section 6050W applies to two types of transactions: (1) payment card transactions and (2) third party network transactions. All payments made in settlement of payment card transactions must be reported in the manner described above. Payments made in settlement of third party network transactions need be reported only if gross payments to a payee exceed \$20,000 and the number of such transactions exceeds 200 with respect to the participating payee. The information is to be reported to the IRS on Form 1099-K, *Merchant Card and Third Party Network Payments*.

Section 6721 imposes penalties on a person for, among other things, failing to include all required information or including incorrect information on an information return. Section 6722 imposes penalties on a person for, among other things, failing to include all required information or including incorrect information on a payee statement.

DISCUSSION

Sections 6721 and 6722 are applicable to section 6050W payors that must file information returns for payments made in settlement of reportable payment transactions. Prior to the enactment of section 6050W, payors were not required to file the specific type of information return or to furnish the specific type of payee statement now required by section 6050W. In order to provide additional time to develop appropriate procedures for compliance with these new reporting requirements, the IRS

will not impose penalties under sections 6721 and 6722 on payors that must file information returns and payee statements provided that they make good-faith efforts in filing accurate Forms 1099-K and furnishing the accompanying payee statements.

This notice does not apply to a payor who erroneously fails to file an information return or payee statement. Additionally, the relief provided by this notice only applies to information returns and payee statements pertaining to reportable payments made in calendar year 2011.

DRAFTING INFORMATION

The principal author of this notice is Girish Prasad of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this notice, please contact Girish Prasad at (202) 622-4910 (not a toll-free call).