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LEGEND

Taxpayer: _____ and _____
, _____
_____ and _____

Customers: _____ who use Taxpayer's services to _____

Providers: third-party _____ providers who provide services and goods such as _____
and _____ services

Dear _____:

This is in response to your ruling request submitted by your authorized representative concerning the federal income tax reporting requirements for _____ and its consolidated subsidiaries under section 6050W of the Internal Revenue Code (Code) and the regulations thereunder. Specifically, _____ would like a ruling that _____ and its subsidiaries are not third party settlement organizations operating a third party payment network and therefore do not have an information reporting obligation under section 6050W.

FACTS

Taxpayer is an _____ company providing _____ services to its Customers through its _____ websites. Through the use of these sites, customers can search and compare information about _____ services, such as _____ and similar services from Providers.

Taxpayer-Customer Transactions

Under the contracts between Taxpayer and its Customers, Taxpayer agrees to

on behalf of its customers. This is Taxpayer's primary service to its Customers. In addition, Taxpayer also agrees to make payment to suppliers of goods or services. Other agreements are made between the Taxpayer and Customer that are not relevant here, such as _____ and _____.

The primary form of payment accepted by Taxpayer for its services is credit or debit card. It is understood by Taxpayer that these transactions between Taxpayer and its Customers are payment card transactions subject to information reporting under section 6050W. The relevant merchant acquiring entity or electronic payment facilitator will issue Form 1099-K to Taxpayer.

Taxpayer-Provider Transactions

Under the contracts between the Taxpayer and its Providers, the Taxpayer _____ with the Providers for _____ goods or services that the Taxpayer _____ for its Customers. Generally for _____

the Providers agree to bill the Taxpayer by invoice for the _____ amounts. For _____ services, Taxpayer will purchase and resell _____ or, as customary, _____ for its Customers. The latter scenario is settled by invoice and payment as with the other types of providers. Taxpayer's Customers are not parties to the contracts between Taxpayer and Providers.

After a Provider invoices Taxpayer for services or goods, the Taxpayer pays the Provider through its accounts payable system by an automated clearinghouse network, wire transfer, or check for the pre-negotiated amounts.

LAW AND ANALYSIS

Section 6050W

Section 6050W of the Code, as enacted by the Housing Assistance Tax Act of 2008, requires payment settlement entities to file an information return for each calendar year with respect to payments made in settlement of reportable payment transactions. Section 6050W covers two types of transactions: (1) payment card transactions and (2) third party network transactions. A payment settlement entity in the payment card context is a merchant acquiring entity; in the third party network context, it is a third party settlement organization (TPSO).

The Code and regulations define a merchant acquiring entity as the bank or other organization with the contractual obligation to make payments to participating payees in payment card transactions. A payment card transaction is any transaction in which a payment card is accepted as payment.

The Code and regulations define a TPSO as the central organization that has the contractual obligation to make payments to the participating payees of third party network transactions. Treas. Reg. § 1.6050W-1(c)(2). A third party network transaction is any transaction that is settled through a third party payment network. A central organization is a TPSO with a reporting obligation if it provides a third party payment network that allows purchasers to transfer funds to providers of goods and services. Treas. Reg. § 1.6050W-1(c)(2).

A third party payment network is provided for when there is an arrangement that (i) involves the establishment of accounts with the central organization by a substantial number of providers of goods and services, (ii) who are unrelated to the central organization, (iii) who have agreed to settle transactions with purchasers according to the terms of the agreements, (iv) provides standards and mechanisms for settling the transactions and (v) guarantees payment to the providers of goods and services in settlement of transactions with purchasers. Treas. Reg. § 1.6050W-1(c)(3).

Example 17, *healthcare network*, of the section 6050W regulations illustrates a rationale for the non-existence of a third party network that applies to the Taxpayer. Treas. Reg. § 1.6050W-1(e). The health care network is operated by a health carrier that (i) collects premiums from covered members, pursuant to a contractual agreement between the covered member and the health carrier, to allow the covered members access to the health care network and (ii) pays health care providers, pursuant to a separate contractual agreement between the health care provider and the health carrier, to compensate the health care providers for services rendered to covered members. The example concludes that the health carrier is not a TPSO operating a third party payment network that enables purchasers to transfer funds to providers of goods and services. The health carrier effectively engages in two separate agreements with the transfer of funds from a purchaser to a provider not being the primary purpose of its arrangement with the covered members and health care providers.

Analysis

For Taxpayer's agreements with its Customers, it is a participating payee in the payment card context because it accepts credit and debit cards as payment. The relevant merchant acquiring entity has an obligation under section 6050W to report payments made in settlement of Taxpayer's payment card transactions.

Taxpayer is not a TPSO because it does not enable purchasers, Taxpayer's Customers, to transfer funds through the use of a payment network to providers of goods and

services, the Providers. Instead, the Taxpayer engages in two separate agreements: (1) an agreement with Customers to _____ on behalf of its Customers and (2) an agreement with Providers to _____ and to pay amounts invoiced by Providers through an automated clearinghouse network, wire transfer or check.

For Taxpayer's agreements with its Providers, the primary business model of the Taxpayer is to _____

_____ .¹ Additionally, for its services to its Customers, Taxpayer is the _____ on such transactions, even though the value of the goods or services furnished by the Provider is inherent in the _____ by the Taxpayer. The service Taxpayer provides, much like the health carrier, is not focused on the transfer of funds from the Customer to the Provider. It is focused, instead, on _____ needs. For its transactions with its Providers, Taxpayer is obligated only to _____ established in its separate contract with the Provider. The _____ is not known to the Customer nor is the Customer party to the Taxpayer-Provider contract. As a result, Taxpayer's primary function is not the facilitation of the transfer of funds from a purchaser to a provider of goods and services.

CONCLUSION

Based exclusively on the information provided and the representations made, we have determined that Taxpayer does not have a reporting obligation under section 6050W as a TPSO.

This letter ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Internal Revenue Code provides that it may not be used or cited as precedent.

Sincerely,

Charles A. Hall
Senior Technician Reviewer, Branch 1
(Procedure & Administration)

cc:

¹ In certain Taxpayer-Provider arrangements, the Taxpayer outright purchases goods from Providers and resells them to Customers, thereby not being a third party in its sales to Customers.