



# IRS Nationwide Tax Forum | 2023

## Comingled 1099-K

Alan Pinck, EA

[www.NAEA.org](http://www.NAEA.org)

# Learning Objectives

Today our presentation will:

- Provide a little history of the 1099-K
- Help you identify what type of income is reported and where to report it
- Help you explain to your client why they received the 1099-K

# Introduction

- What is the 1099-K?
- Who will receive a 1099-K?
- Who issues the 1099-K?
- Do I have income to report if I receive a 1099-K?
- Where do I report the income?
- What if it is not income but a reimbursement?
- The answers to these questions and more.....

# The History Of the 1099-K

- Initiated to lessen the underreporting of income
- Mandated in Housing & Economic Recovery Act of 2008
- Started in 2011 tax year issued in 2012
- Initially it was informational
- Designed to help the government monitor 3<sup>rd</sup> party transactional reporting
- Governed under IRC § 6050W

# 1099-K Reporting Thresholds

- Until the 2023 tax year \$20,000 or 200 transactions
- Now \$600 regardless of transactions
- Sent to anyone who receives payment via a third-party settlement organization
- Should not be sent for personal payments although.....
- Will not be sent to those who pay via a third-party settlement organization

# The 1099-K Comes From

- Payment settlement entity
  - Collects the funds on behalf of another
  - Then disburses to the payee
- Merchant acquiring entity
- Examples; Credit Card processors, PayPal, Cash App, Venmo...
- Third party settlement organization
- Examples; EBay, Amazon, Airbnb, Uber, Etsy.....

# 1099-Ks Will Be Issued for Various Reasons

- Merchant fees for a business (already being seen)
- Sales of personal assets may or may not be taxable
- Hobby income
- Hobby income which may be a surprise
- Resale of items that may be occasional not a business  
concert tickets or the latest sneaker

# There Are Different Sources of Funds Reported

- Money changing hands through a merchant service like Venmo or PayPal could be income or a reimbursement
- Money changing hands through a sale of something like eBay or Etsy, could be a personal, business or a hobby sale



## Continued.....

- Money changing hands through a rental App like Airbnb, VRBO or RV-Share, is it a rental for profit or not
- Payment from an App as a service provider like UBER, Door Dash or Lyft, this is a business

# Explaining the 1099-K to Our Client

- For some it may be easy, and they will understand for others it may be a bit more challenging
- Helping our clients understand why they received it as well as how to prevent incorrect issuance in the future
- If it is income the help them understand the importance of recordkeeping

## Be Careful Make Sure You Understand

- We need to interview our clients when they bring a 1099-K in, so we know how to address it on the return
- Make sure you ask all the questions you can think of to understand why and explain to them as well
- Consider adding a question during your interview
- They will not like personal gains are income, but losses are not deductible be careful not to lead them

# 1099-K & Income For Businesses

- A business needs to be sure the bookkeeping is tight
  - The 1099-K will report gross income which includes processing fees
- Potential non-income can be part of the gross
  - Sales tax received or tips in a service business

## Continued.....

- Potential income duplication in a service business
  - 1099-NEC is sent but paid by credit card
- Potential personal money reported in business 1099-K
  - Reimbursement from friends or family

# Reporting Business Income From a 1099-K

- Best practice report all 1099 income in gross receipts, do not reduce may create a mismatch notice
- Issuer required to report gross IRC §6050W(a)(2)
- Back out as other expense non-income items
  - Tips, sales tax, charge backs as examples
- Be clear as to what is being backed out and why
- When income is duplicated by a 1099-NEC request a corrected 1099-NEC from sender

## Example Backing out Non-Business Items

- Fred has an online retail operation that he runs as a Sole Prop, he only accepts credit cards for payment. He collects sales tax and occasionally issues refunds
- Fred's 1099-K totals \$90,000. Fred keeps very good books and knows he has collected \$6,200 in sales tax and refunded \$800
- Fred will report the \$90,000 as gross revenues (Box 1), \$800 as returns & allowances (Box 2) & \$6,200 in Part V other expenses sales tax included in gross 1099-K not taken as expense.

# Example of Duplicated Reporting

- Wilma is a webmaster and accepts payment for her services in check or credit card. She has a client Rockstone that sent her payments of \$400 via check and \$800 via credit card. Rockstone sent her a 1099-NEC for \$1,200 which they would not correct.
- Wilma received a 1099-K for \$40,000 and 1099-NEC for \$1,200.
- Wilma will report the \$41,200 as gross revenues. She will also deduct in Part V of her Schedule C the \$800 duplicated income referring to the combined amount on her 1099-NEC



# Example of Reporting Comingled Funds

- Betty has a tax practice and she accepts Venmo for payments, She also used her Venmo account to receive reimbursement from her siblings for their parent's anniversary present of \$450.
- Venmo sends Betty a 1099-K in the amount of \$10,450, \$10,000 for preparation fees and the \$450 reimbursement.
- Betty will report the entire \$10,450 as gross receipts on Schedule C and in Part V deduct \$450 as personal reimbursement reported on 1099-K

# Landlords & 1099-K

- More tenants want to use an App for payments
- Income reported on Schedule E as with any real property rents
- Need to watch out for deposits included in 1099-K
  - Backout of gross as other expense if included
- Rent amount may be different if other fees are on top of rent
  - Water and Trash as examples
- Be sure you understand the lease

## Example Landlords & 1099-K

- Barney has a single-family rental that he rents for \$1,000 a month plus an additional \$50 a month for water and sewer. He has a new tenant moving in January 1 and pays an additional \$1,000 deposit and uses an App for all payments.
- Barney receives a 1099-K in the amount of \$13,600 (12x\$1,050+\$1,000).
- Barney will report \$13,600 on Line 3 of Form Schedule E, he will report his actual water and trash expense on Line 17 Utilities and the \$1,000 deposit on Line 19 Other with an explanation security deposit held

# Individuals and the 1099-K

- May or may not be income
- When it is not income try to have sender correct it
- Unless corrected, when 1099-K is received it needs to be reported on tax return to avoid a mismatch
- Depending on why it was issued will determine where we report it

# 1099-K That Is Not Income

- Generally matters when TP has a business accepting payments via an App
- Be sure to designate as non-business when possible
- Reimbursements between friends or family using an App
- Gifts received via an App
- Refunds from a purchase using an App may create an inadvertent 1099-K
- If not corrected it needs to be reported

## Example of 1099-K That is Not Income

- Wilma and Betty go on a cruise together. Betty pays \$3,000 for both tickets and Wilma reimburses her for her \$1,500 cost via an App.
- Betty receives a 1099-K from that App for the \$1,500 and try's unsuccessfully to get it corrected.
- Betty has a reporting requirement to account for the 1099-K.

# Reporting Previous Example

- When we have a 1099-K that is not income do not ignore it
- We report the entire amount on Sched 1, line 8z
- We report an offsetting amount on Sched 1, line 24z
- Be sure to explain the reason for the offset in Betty's case she will report it as a reimbursement from her friend reported on 1099-K
- When multiple 1099-Ks are received that are not income you can combine or itemize but the reporting is the same

# Sale of Personal Assets With a Gain

- Income is considered a taxable gain reported on Form 8949
- Treat it as long term if asset was held for  $>1$  year
- Treat as short term if held for  $<1$  year
- Do not forget to adjust the basis of the asset by any costs associated with the transaction
- Record keeping may be an issue when it comes to basis



# Example of Sale of Personal Asset with Gain

- Barney collects watches and sells one in 2022 to buy another. He remembers paying \$1,200 in 2010 for the watch when he purchased it and he sold it for \$2,400. There was a \$100 transaction fee on the sale.
- Barney will report the transaction on Form 8949 Part II with Box F checked. He will use the cost basis of \$1,100 (\$1,200 + \$100 (transaction fee)), which will flow to the Sch D.

# Sale of Personal Assets at a Loss

- With certain exceptions most personal losses are not deductible (IRC §165)
- In many cases it is more common to lose money on the sale of a personal asset than make money
- Yet we still need to report it

## Example of Sale of Personal Assets at a Loss

- Pebbles sold her bedroom set. She paid \$1,800 for it and sold it for \$800 and received payment via an app.
- She has two options to report it, either:
  - On Form 8949, but would need to use Code L in column (f) and \$1,000 in column (g) to show it is a personal loss; or
  - She can use the Sch 1 Line 8z to report the income of \$800 of income and Line 24z to report \$800 of basis, so that she would not recognize any loss on the return. On both Lines report as “personal items sold at a loss.”

# Handling Multiple 1099-Ks Received

- Happens when there are multiple types of payment platforms are used
- In most cases for a business, reporting is the same: we will add them up and report as one amount
- As mentioned, good recordkeeping is necessary to avoid under- or overreporting

## Example of Handling Multiple 1099-Ks

- Bam Bam has an olive oil store; he has a store front as well as an online presence on Amazon. Bam Bam will receive at least two 1099-Ks: one from the merchant provider and one from Amazon.
- Bam Bam will report the gross income combining both 1099-Ks as well as any cash transaction as gross receipts. He will then need to take all expenses, refunds, and charge backs into account as deductions.

## Example of Handling Multiple 1099-Ks Received (Personal)

- Pebbles sold her TV on eBay for \$600; it cost her \$1,200 when she bought it. She also loaned Bam Bam \$800 which he paid back via an app. She received two 1099-Ks: one from eBay and one from the app.
- She may either combine the amounts of income and offsets or itemize.
- It is most likely best to itemize and show each as a separate transaction as follows...

## Continued...

- Pebbles will report \$600 “Form 1099-K personal items sold at a loss” and \$800 “Form 1099-K received in error” on Sch 1 lines 8z and 24z.
- This will address income on both 1099-Ks and back it out to show it is not taxable.

# Business, Hobby, or Other

- We need to understand our client's intent to properly report
- When there is income, it is generally taxable as we know
- How it is taxed depends on what type of income
- If it is business income, it is subject to income and SE tax
- If it is a hobby, it is ordinary income
- If it is capital gain, it is subject to capital gain rates
- With resale of items, it can be any of the 3



# Reselling of Fad Items

- We see the resale of the hot concert ticket or most wanted holiday gift for gains all the time
- Is this a business or is this just lucky timing? It will depend on the number of transactions and their regularity
- We will be seeing both income and losses in these transactions
- Once a 1099-K is received, we need to report them either way

# Example of Reporting Reselling of Fad Items

- Fred purchased two tickets to the final show of the longest running show on Broadway. He sees he can get \$3,000 for the pair, which he paid \$1,500 for.
- He sells them through StubHub and receives a 1099-K for \$3,000.
- With this being a one-time thing, he is not in business and will report the \$3,000 income on Form 8949 Part I check Box (C) as a short-term capital gain.

## Continued.....

- Wilma is a symphony season ticket holder and cannot go to three shows this year so she sells her tickets on StubHub. She paid \$250 per ticket and was able to sell them for \$200 each.
- She receives a 1099-K for \$600. She will report the \$600 on Sch 1 Line 8z “1099-K Personal Items Sold at a Loss” and she will report \$600 on Sch 1 Line 24z “1099-K Personal Items Sold at a Loss.”

# Hobby Income Reporting

- Some hobbies have costs related to them
- Hobby expenses are currently not deductible under TCJA provisions
- We do report gross income which is the gross receipts less for cost of goods sold (Treas. Regs. §1.183-1(e))
- When netting the COGS from the gross receipts, remember no personal losses are allowed

# Example of Hobby Income Reporting

- Betty knits baby booties as a hobby and Barney encourages her to try to sell them on Etsy. She calculates her cost to be \$2 per pair and sells them for \$10 per pair. She sells 61 pairs and receives a 1099-K from Etsy for \$610.
- Betty will report \$488 on Sch 1 Line 8j with the explanation “1099-K hobby income \$610 - \$122 COGS” It is encouraged to show your math to avoid any correspondences.

# Airbnb, VRBO, HomeToGo, RV Share...

- The list of these sites seems to grow every year
- We may see 1099-Ks this year that we have not seen in the past
- If a client comes in with one, we need to know what they did to receive it in order to report correctly
- If the rental was of an RV, boat, tent (non-real property) it is reported on Sch 1 Line 81 and expenses on Sch 1 Line 24b
- Remember vacation rental & passive activity rules apply

## Continued...

- If the rental was the TP's home or vacation home and more than 14 days it is reported on Sch E as a rental
- When personal use is also involved there are the vacation rental rules we need to take into consideration
- If the home was only rented out for 14 days or less, it will not be income under IRC §280A(g) (AKA the Augusta Rule). If this is the case, you will report it on Sch 1 Line 8z and back it out on Line 24z

# Example of Reporting RV Rental

- Bam Bam has a camper that he rents occasionally through RV-Share when he is not using it himself. He rents it out for 20 days at \$100 per day and receives a 1099-K in the amount of \$2,000. He incurs advertising and various fees associated with the app of \$200.
- Bam Bam will report the \$2,000 income on Sch 1 Line 81 and the \$200 of associated expenses on Sch 1 Line 24b.



## Example of Reporting Short Term Rental Activity

- Wilma has a second home on the beach and she lists it on Airbnb as a short-term rental. She uses it regularly when it is not rented. She receives a 1099-K from Airbnb for \$18,000 and tells you it was rented for 95 days and she personally used it for 45 days.
- This is clearly a rental and the \$18,000 is reported on Sch E Line 3. She will be allowed all expenses directly related to the rental and prorate the other expenses per the vacation rental rules under IRC §280A. For more, see Pub 527 worksheet.

## Example of Reporting < 15 Day Rental of Home

- Pebbles has a home in Phoenix. In February the NFL Super Bowl was played in the city. Pebbles decides to post her home on VRBO for \$1,000 a night and she gets it rented for 11 nights. Pebbles receives a 1099-K for \$11,000.
- Pebbles will report the income on Sch 1 Line 8z “1099-K rental of home not taxable per IRC §280A(g)...\$11,000”. And the same on Sch 1 Line 24z which will cancel it out.
- Even though Pebbles incurred expenses, under IRC §280A(g)(1) the expenses are not deductible.

# What We May Learn

- We may learn a client has not told us about a side gig
- We may learn a client that has an income-producing hobby activity
- We may learn we have a client who is renting their home occasionally
- We may learn that a client has been playing the Stub-Hub game
- We will learn we need to deal with in all of these situations

# When You Find Out Your Client Has a Side Gig

- We may find out that a client has been driving for Uber only occasionally, so they never received the 1099-K
- We need to include the income and expenses on a Sch C
- We also need to ask them how long this has been going on
- If in prior years, you need to encourage them to amend those returns
- Circular 230 Practitioners: Remember §10.21 Knowledge of Clients Omissions

# When You Find Out Your Client Is Renting Their Home

- We may find out a client is renting their main home or vacation home
- We need to include the income and appropriate expenses on Sch E
- We also need to ask them how long the activity has been going on
- If in prior years, we need to encourage the client to amend

# When You Learn Your Client Has an Income-Producing Hobby

- Remember to capture any COGS
- No deductions currently allowed
- Ask how long this is going on
- Explain proper bookkeeping principles
- Encourage amendment of returns when warranted

# When We Have a Client Selling Personal Assets

- Have your client try to find their cost basis
- We cannot do it for them
- They need to be able to support any basis reported
- Teach them to keep track of what they spend on items they may sell in the future
- Consider having this conversation with all clients regardless if they have a reporting requirement

# When Do We Need to Amend a Prior Year?

- When we are aware of unreported income in a prior year
- We are not required to amend a return to report a sale of a personal asset at a loss
- As mentioned, we are responsible to tell our clients when we know of an omission
- If the client does not want to amend, we cannot force them to do so, we may want to reconsider who we work with in the future



# Conclusion

- The 1099-K lowered thresholds are here, and we will see more than ever before
- We will be seeing them from different sources than we have in the past
- We will have to spend a little extra time explain to our clients how this affects them
- These forms are going to create more work for us and our clients so let's look forward to another fun tax season!

# Additional Reading

- About the 1099-K [www.irs.gov/forms-pubs/about-form-1099-k](https://www.irs.gov/forms-pubs/about-form-1099-k)
- 1099-K FAQs [www.irs.gov/site-index-search?search=1099K+FAQs&field\\_pup\\_historical\\_1=1&field\\_pup\\_historical=1](https://www.irs.gov/site-index-search?search=1099K+FAQs&field_pup_historical_1=1&field_pup_historical=1)
- Gig Economy Tax Center [www.irs.gov/businesses/gig-economy-tax-center](https://www.irs.gov/businesses/gig-economy-tax-center)
- Pub 527, Rental Property
- Pub 535, Business Expenses