



TAX BULLETIN 20-10
Virginia Department of Taxation
October 30, 2020

**IMPORTANT INFORMATION REGARDING REPORTING
REQUIREMENTS FOR PAYMENT SETTLEMENT ENTITIES**

**REPORTING REQUIREMENTS FOR FORM 1099-K FILERS
WITH VIRGINIA PARTICIPATING PAYEES**

Federal law requires payment settlement entities to submit Form 1099-K to the Internal Revenue Service ("IRS") reporting certain information related to payment card transactions and third party network transactions. Pursuant to Item 282 Y of the 2020 Appropriation Act (House Bill 30, Chapter 1289), payment settlement entities that are required to submit Form 1099-K to IRS must now generally submit duplicates of such forms to the Department of Taxation ("the Department").

In addition, under this Act, House Bill 730 (Chapter 248 of the 2020 Acts of Assembly), and Senate Bill 211 (Chapter 63 of the 2020 Acts of Assembly), third-party settlement organizations must submit Form 1099-K information to the Department and certain participating payees using the de minimis thresholds imposed for purposes of federal Form 1099-MISC. This bulletin provides additional information regarding these Virginia-specific reporting requirements.

Reporting Requirement for 1099-K Filers

Under federal law, a bank or other organization that enrolls a business to accept payment cards and contracts with the business to make payment on such card transactions is required to file Form 1099-K reporting the business's payment card transactions for each calendar year and to provide a copy of Form 1099-K to the business. Similarly, third party settlement organizations are generally required to file Form 1099-K reporting certain information related to third party network transactions. Pursuant to Item 282 Y of the 2020 Appropriation Act, a copy of Form 1099-K must now also be provided to the Department.

Specifically, Internal Revenue Code ("IRC") § 6050W requires payment settlement entities to annually submit Form 1099-K to the IRS for payments made in settlement of

reportable payment transactions. For purposes of this requirement, “payment settlement entity” means:

- In the case of a payment card transaction, the merchant acquiring entity (defined as the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions); and
- In the case of a third party network transaction, the third party settlement organization (defined as the central organization which has the contractual obligation to make payment to participating payees of third party network transactions).

Virginia law now requires that a payment settlement entity submit to the Department either (1) a duplicate of each Form 1099-K that it submits to the IRS or (2) a duplicate of each Form 1099-K that it submits to the IRS related to a participating payee with a Virginia state address or that is a Virginia taxpayer. Under federal law, a participating payee is defined as follows:

- In the case of a payment card transaction, any person who accepts a payment card as payment, and
- In the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of that transaction.

This Virginia filing requirement applies to reportable payment transactions made on or after January 1, 2020.

Reporting Threshold for Third-Party Settlement Organizations

Under IRC § 6050W(e), third party settlement organizations are required to submit Form 1099-K with respect to third party network transactions of a participating payee, if for the calendar year, reportable payment transactions with the participating payee exceed \$20,000, and the total number of transactions with the participating payee exceeds 200.

For Virginia purposes, third-party settlement organizations must now report to the Department, and to any participating payee, all information required to be reported for federal tax purposes on Form 1099-K using the thresholds imposed for purposes of Form 1099-MISC under IRC § 6041(a). Therefore, for Virginia tax purposes, third-party settlement organizations must submit Form 1099-K information to the Department to the extent that they make payments of \$600 or more in a taxable year to another person who is not an employee in pursuit of the organization’s trade or business. This may require certain third-party settlement organizations to report Form 1099-K to the Department even if they were not required to submit such information to the IRS.

This enhanced reporting requirement applies only with respect to participating payees with a Virginia mailing address. This requirement applies to reportable payment transactions made on or after January 1, 2020.

Reporting Methods and Deadlines

Payment settlement entities are required to submit Form 1099-K information to the Department using an electronic medium as prescribed by the Tax Commissioner. All such information must be reported to the Department electronically and, where applicable, to participating payees by mail, within 30 days of the applicable federal deadline for submitting such information. Accordingly, the deadlines under Virginia law for submitting Form 1099-K for transactions occurring during calendar year 2020 are as follows:

- March 2, 2021: Form 1099-K must generally be submitted to participating payees.
- March 30, 2021: Payment settlement entities that submitted Form 1099-K to the IRS by paper must generally submit Form 1099-K to the Department.
- April 30, 2021: Payment settlement entities that submitted Form 1099-K to the IRS electronically must generally submit Form 1099-K to the Department.
- April 30, 2021: Third-party settlement organizations that are not otherwise required to submit Form 1099-K to the IRS must generally submit Form 1099-K to the Department.

The Tax Commissioner has the authority upon request to waive the requirement to submit Form 1099-K if it is determined that the requirement would create an unreasonable burden on the payment settlement entity. In addition, the Tax Commissioner has the authority upon request to waive the requirement to submit such information to the Department electronically if it is determined that the requirement would create an unreasonable burden on the payment settlement entity. All requests for such waivers must be submitted to the Tax Commissioner in writing and should be directed to the following address:

Virginia Department of Taxation
Waiver Requests - Form 1099-K Reporting
P.O. Box 27423
Richmond, VA 23261

Virginia Withholding Requirements

Under *Va. Code* § 58.1-472, every employer making payment of wages is generally required to withhold Virginia income tax with respect to the wages of each employee for each payroll period. Such employers are required to file withholding returns and make periodic withholding payments throughout the year. In addition to filing periodic withholding returns throughout the year, pursuant to *Va. Code* § 58.1-478, employers are required to file an annual withholding return, which must be accompanied by written

statements for each employee who had Virginia income tax withheld. Examples of written statements include Forms W-2 and 1099.

The new Virginia-specific requirements with respect to the submission of Form 1099-K information have no impact on the existing requirements specified in *Va. Code* § 58.1-472 and *Va. Code* § 58.1-478 with respect to employer withholding.

This Tax Bulletin is available online in the [Laws, Rules & Decisions](#) section of the Department's website. If you have additional questions, please visit the Department's website at <http://www.tax.virginia.gov>, or contact the Department at (804) 367-8037.