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Reg. Section 1.6050W-1(a)(6)

Information reporting for payments made in settlement of payment card and third party network transactions

(a) In general.

(1) General rule. Every payment settlement entity, as defined in paragraph (a)(4) of this section, must file an information return for each calendar year with respect to payments made in settlement of reportable payment transactions, as defined in paragraph (a)(3) of this section, setting forth the following information:

(i) The name, address, and taxpayer identification number (TIN) of each participating payee, as defined in paragraph (a)(5) of this section, to whom one or more payments in settlement of reportable payment transactions are made.

(ii) With respect to each participating payee, the gross amount, as defined in paragraph (a)(6) of this section, of-

(A) The aggregate reportable payment transactions for the calendar year; and

(B) The aggregate reportable payment transactions for each month of the calendar year.

(iii) Any other information required by the form, instructions or current revenue procedures.

(2) Payments in settlement of reportable payment transactions. A payment settlement entity, as defined in paragraph (a)(4) of this section (or an electronic payment facilitator, as defined in paragraph (d)(2) of this section), makes a payment in settlement of a reportable payment transaction if the payment settlement entity (or electronic payment facilitator) submits the instruction to transfer funds to the account of the participating payee for purposes of settling the reportable payment transaction.

(3) Reportable payment transaction. The term reportable payment transaction means any payment card transaction (as defined in paragraph (b)(1) of this section) and any third party network transaction (as defined in paragraph (c)(1) of this section).

(4) Payment settlement entity.

(i) Definition. The term payment settlement entity means a domestic or foreign entity that is-

(A) In the case of a payment card transaction, a merchant acquiring entity (as defined in paragraph (b)(2) of this section); and

(B) In the case of a third party network transaction, a third party settlement organization (as defined in paragraph (c)(2) of this section).

(ii) Multiple payment settlement entities. If two or more persons qualify as payment settlement entities (as defined in paragraph (a)(4)(i) of this section) with respect to a reportable payment transaction, then only the payment settlement entity that in fact makes payment in settlement of the reportable payment transaction must file the information return required by paragraph (a)(1) of this section.

(5) Participating payee.

(i) Definition. In general, the term participating payee means any person, including any governmental unit (and any agency or instrumentality thereof), who:

(A) In the case of a payment card transaction, accepts a payment card (as defined in paragraph (b)(3) of this section) as payment; and

(B) In the case of a third party network transaction, accepts payment from a third party settlement organization (as defined in paragraph (c)(2) of this section) in settlement of such transaction.

(ii) Foreign payees.

(A) In general. For payments pursuant to contractual obligations entered into after December 31, 2010, a payment settlement entity that is a person described as a U.S. payor or U.S. middleman in §1.6049-5(c)(5) is not required to make a return of information for payments to a participating payee with a foreign address as long as, prior to payment, the payment settlement entity has in its files documentation upon which the payment settlement entity may rely to treat the payment as made to a foreign person in accordance with §1.1441-1(e)(1)(ii). For purposes of this paragraph (a)(5)(ii), the provisions of §1.1441-1 shall apply by substituting the term payor for the term withholding agent and without regard to the limitation to amounts subject to withholding under chapter 3 of the Internal Revenue Code and the regulations under that chapter. Such a payment settlement entity need not make a return of information for payments made outside the United States (within the meaning of §1.6049-5(e)) to an offshore account (as defined in §1.6049-5(c)(1)) to a participating payee with only a foreign address if the name of the participating payee indicates that it is an entity listed as a per se corporation under §301.7701-2(b)(8)(i) and the payment settlement entity does not know or have reason to know that the participating payee is a United States person. A payment settlement entity may apply the grace period rules of §1.6049-5(d)(2)(ii) of the regulations for payments to a participating payee with only a foreign address, without regard to whether the amounts paid are described in §1.1441-6(c)(2) or are reportable under section 6042, 6045, 6049, or 6050N. For payments pursuant to contractual obligations entered into before January 1, 2011, a payment settlement entity that is a person described as a U.S. payor or U.S. middleman in §1.6049-5(c)(5) is not required to make a return of information for payments to a participating payee with a foreign address

as long as the payment settlement entity neither knows nor has reason to know that the participating payee is a United States person. For this purpose, a renewal of such a contractual obligation will not result in a new contractual obligation unless there is a material modification to the contractual obligation.

(B) Non-U.S. payor or middleman. A payment settlement entity that is not a person described as a U.S. payor or U.S. middleman in § 1.6049-5(c)(5) is not required to make a return of information for a payment to a participating payee that does not have a United States address as long as the payment settlement entity neither knows nor has reason to know that the participating payee is a United States person. If the participating payee has any United States address, the payment settlement entity may treat the participating payee as a foreign person only if the payment settlement entity has in its files documentation upon which the payment settlement entity may rely to treat the payment as made to a foreign person in accordance with § 1.1441-1(e)(1)(ii).

(C) Foreign address; United States address. For purposes of this section, foreign address means any address that is not within the United States, as defined in section 7701(a)(9) of the Internal Revenue Code (the States and the District of Columbia). United States address means any address that is within the United States.



(6) Gross amount. For purposes of this section, gross amount means the total dollar amount of aggregate reportable payment transactions for each participating payee without regard to any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts or any other amounts. The dollar amount of each transaction is determined on the date of the transaction.

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