

IMPORTANT UPDATE FOR PAYPAL AND VENMO USERS: IRS POSTPONES 1099-K REPORTING REQUIREMENT!

The IRS recently made a significant decision that could impact users of platforms like PayPal's Venmo and Etsy. It has chosen to delay a requirement set by a 2021 law, which mandates companies to send tax forms (1099-K) to customers involved in business transactions surpassing \$600.

Key Takeaways from the Delay

This delay for the 2024 filing season brings a sigh of relief for casual sellers, as they will not be receiving the 1099-K form for now, which usually contains information about gross payments made on these platforms. However, keep in mind that taxpayers are still responsible for reporting their income from these transactions on their tax returns.

Changes in Reporting Thresholds

For the upcoming filing season, the IRS is sticking to the old reporting threshold. This requires e-commerce companies to report transactions exceeding \$20,000 in gross payments and more than 200 transactions. However, there is a significant change in the pipeline! Starting in tax year 2024, the IRS plans to transition to a new rule, gradually increasing the reporting threshold from \$600 to \$5,000.

Steering Clear of Confusion

One reason behind this delay is the confusion among taxpayers about which transactions are reportable under the new law. For instance, sales between friends and family or selling personal items like used clothing, furniture, or other household goods at a loss might trigger a 1099-K, even though they don't result in tax liabilities. On the flip side, sales by small businesses generating profit could be taxable.

Congress' Response

Lawmakers are actively proposing various thresholds—\$5,000, \$10,000, and \$20,000—to simplify things for taxpayers. Meanwhile, the IRS is proceeding cautiously, working to implement the law while legislators explore potential solutions.

Your Input Matters: Seeking Feedback

The IRS wants your input! It is open to suggestions about the \$5,000 threshold for 2024 and

strategies to streamline reporting for taxable transactions. Tax professionals and anyone affected by these changes are encouraged to share their thoughts.

What to Expect Next

To sum up, personal transactions like splitting bills won't fall under the reporting requirements. But keep in mind, there's a \$5,000 threshold planned for 2024. The IRS aims to simplify the reporting process for taxpayers and tax pros amidst these changes.

Bottom Line

The IRS has hit pause and is transitioning to a \$5,000 threshold for 2024, all in an effort to strike a balance between compliance and reducing confusion for taxpayers. As the IRS continues to navigate these changes, your feedback remains critical in shaping a more manageable way to report taxable transactions.

SUPER LAWYERS RECOGNIZES 28 O'NEIL CANNON ATTORNEYS

Each year, *Super Lawyers* surveys the State of Wisconsin's 15,000 attorneys and judges, seeking the State's top attorneys. Recently, *Super Lawyers* published its lists for 2023, which include the Top 10 Attorneys in Wisconsin, Top 50 Attorneys in Wisconsin, Top 25 Attorneys in Milwaukee, Super Lawyers (consisting of the top 5% of attorneys in Wisconsin), and Rising Stars (consisting of attorneys who are 40 years old or younger or who have been in practice for 10 years or less).

Twenty-nine of our attorneys were recognized by *Super Lawyers*, which has referred to the firm as "the Milwaukee mid-sized powerhouse." Those attorneys are the following:

- Nick Chmurski:
 - Rising Star
- Doug Dehler:
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- Super Lawyer
- Pete Faust:
 - Super Lawyer
- John Gehringer:
 - Super Lawyer
- Joseph Gumina:
 - Super Lawyer
- Jessica Haskell:
 - Rising Star
- Mike Kennedy:
 - Rising Star
- Grant Killoran:
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- Trevor Lippman:
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- Patrick McBride:
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- Britany Morrison:
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- Joe Newbold:
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- Erica Reib:
 - Rising Star
- Chad Richter:
 - Super Lawyer
- Ryan Riebe
 - Rising Star
- John Schreiber:
 - Super Lawyer
- Jason Scoby:
 - Super Lawyer
- Steve Slawinski:
 - Super Lawyer
- Kelly Spott:
 - Rising Star
- Christa Wittenberg:
 - Rising Star

Super Lawyers is a national rating service that rates attorneys in all 50 states. The selection process utilized by *Super Lawyers* is multi-phased and includes independent research, peer

nominations, and peer evaluations. One court recently had this to say about *Super Lawyers*:

“[T]he selection procedures employed by [*Super Lawyers*] are very sophisticated, comprehensive and complex. It is abundantly clear . . . that [*Super Lawyers* does] not permit a lawyer to buy one’s way onto the list, nor is there any requirement for the purchase of any product for inclusion in the lists or any quid pro quo of any kind or nature associated with the evaluation and listing of an attorney or in the subsequent advertising of one’s inclusion in the lists.”

We are proud to be one of the few firms in Wisconsin that had more than 50% of its attorneys receive recognition by *Super Lawyers*.

TAX REFORM BILL PASSES WITH ADVOCACY FROM BRITANY MORRISON AND NANCY WILSON

Britany Morrison and Nancy Wilson, as directors of the Wisconsin State Bar’s Taxation Law Section Board, advocated for the inclusion of the Internal Revenue Code [Section 1202](#) stock provisions in Assembly Bill 406, now 2023 Wisconsin Act 36. The Taxation Law Section Board collaborated with its government liaison and lobbyist, who then successfully championed the proposed change. Act 36 rectifies Wisconsin’s tax statute, bringing it in line with the federal guidelines regarding the retroactive date for the 100% capital gain exclusion under IRC Section 1202.

The revised legislation aligns Wisconsin’s statutes with the federal rules concerning the exclusion of capital gains from the sale of shares of qualified small businesses, commonly known as 1202 Stock. It allows for a 50% exclusion rate upon sale for stock acquired after August 10, 1993, and before February 17, 2009; a 75% exclusion rate for stock acquired after February 17, 2009, and on or before September 27, 2010; and a full 100% exclusion for stock acquired after September 27, 2010. This marks a significant departure from Wisconsin’s previous limitation of a maximum 50% exclusion.

Thanks to the entire Section Board for helping to shape the future of taxation in Wisconsin.

IRS PREPARING FOR POTENTIAL GOVERNMENT SHUTDOWN: WHAT YOU NEED TO KNOW

As we approach the end of September, the possibility of a government shutdown looms large, and the Internal Revenue Service is making preparations for the potential impact on its operations. Below is a summary of the IRS's contingency plans and what taxpayers can expect in the event of a government shutdown.

Government Shutdown: A Looming Threat

If Congress fails to reach a short-term agreement to fund the government by the end of September, a government shutdown is likely to occur. The IRS, like other federal agencies, is not immune to the consequences of such an event.

IRS Contingency Plans

To mitigate the potential disruption caused by a government shutdown, the IRS has been developing contingency plans. While it was initially believed that the agency could continue its operations thanks to funds allocated through the Inflation Reduction Act, recent reports indicate a change in strategy.

The National Treasury Employees Union, which represents IRS employees, has suggested that the IRS is working on a new contingency plan that includes furloughing some of its workforce. While the full scope of this plan is yet to be disclosed, it raises questions about how IRS services will be affected.

Impact on Taxpayers

So, what does this mean for taxpayers? In the event of a government shutdown, several key IRS functions may be affected:

1. **Delayed Refunds:** Taxpayers who file paper returns will likely experience delays in receiving their refunds. Even electronic filers may encounter delays if their returns require further processing.
2. **Backlog Increase:** The IRS has been grappling with a backlog of tax returns, with 2.6 million returns pending at the end of the 2023 filing season. A shutdown could exacerbate this backlog, further delaying tax processing.
3. **Filing Deadlines:** It's essential to note that filing deadlines for certain entities remain unchanged. Calendar-year individuals and C corporations with filing extensions must still file their 2022 returns by October 16, and tax-exempt organizations with extensions must file by November 15. Employers must also meet their Q3 employment tax deadlines by October 31, 2023.

Uncertain Future

As the deadline for a government shutdown approaches, the situation remains uncertain. While federal agencies have backup plans in place to maintain essential services, there will undoubtedly be impacts on federal employees and the American public. In the coming weeks, taxpayers should stay informed about developments in the IRS's contingency plans and be prepared for potential disruptions to IRS services. O'Neil Cannon will continue to monitor the situation and provide updates as more information becomes available.

For questions or further information relating to the potential government shutdown's impact on the IRS, please contact [Britany E. Morrison](#).

CHAMBERS AND PARTNERS RECOGNIZES FAUST AND O'NEIL CANNON FOR M&A EXCELLENCE

Attorney Pete Faust and O'Neil Cannon's mergers and acquisitions team have been named by Chambers and Partners as among Wisconsin's best deal lawyers.

O'Neil Cannon is one of only seven Wisconsin law firms ranked by Chambers in the mergers and acquisition/general corporate category.

Faust, the firm's president and managing shareholder, is one of 23 Wisconsin lawyers individually honored by Chambers in the same category.

In addition to Faust, O'Neil Cannon's mergers and acquisitions team includes JB Koenings, Britany Morrison, Chad Richter, Jason Scoby, James DeJong, Dennis Hollman, Nicholas Chmurski, Michael Kennedy, Samuel Nelson, and Nancy Wilson.

Chambers is a London-based research firm that ranks the top lawyers and law firms in 185 countries. More than 200 Chambers researchers interview thousands of lawyers and clients as part of an in-depth analysis of the leading lawyers and law firms.

O'NEIL CANNON SERVES AS LEGAL ADVISOR TO

I3 PRODUCT DEVELOPMENT IN ITS SALE TO HELIOS TECHNOLOGIES

O'Neil Cannon advised i3 Product Development (i3) in its recent sale to Helios Technologies (NYSE: HLIO). i3, a custom engineering services firm with over 55 engineers, specializes in electronics, mechanical, industrial, embedded, and software engineering. Its solutions are used across many sectors, including medical, off-highway, recreational and commercial marine, power sports, health and wellness, agriculture, consumer goods, industrial, sports, and fitness. i3 has business locations in both Sun Prairie and Middleton, Wisconsin.

Helios Technologies is a global leader in highly engineered motion control and electronic controls technology for diverse end markets, including construction, material handling, agriculture, energy, recreational vehicles, marine, and health and wellness.

Josef Matosevic, Helios' President and Chief Executive Officer, stated, "The acquisition of i3 Product Development will turbocharge our efforts to be the most innovative company focused on the intersection of the hydraulics and electronics markets. This flywheel acquisition fits into our technology roadmap strategy like a glove and will continue to make us incredibly tough for our competition to follow."

The O'Neil Cannon deal team was led by Attorney Chad Richter with assistance provided by O'Neil Cannon attorneys Britany Morrison, Nick Chmurski, Erica Reib, Sam Nelson, and Michael Kennedy.

O'NEIL CANNON SERVES AS LEGAL ADVISOR TO DIAMOND VOGEL, INC. IN ACQUISITION OF SUBSIDIARY OF THE SHERWIN-WILLIAMS COMPANY

O'Neil Cannon advised Diamond Vogel, Inc. in its recent acquisition of N92 Menomonee Falls, LLC, a subsidiary of The Sherwin-Williams Company. The acquired business, founded in 1951 as Raabe Paint Company, is based in Menomonee Falls, Wisconsin. It employs approximately 100 employees and manufactures color-match touch up paint, custom aerosol, and other specialty coatings.

According to Jeff Powell, Diamond Vogel's President and CEO, the acquisition allows Diamond

Vogel to accelerate its aerosol growth strategy. In addition, the Menomonee Falls team's expertise in aerosol manufacturing adds depth and breadth to Diamond Vogel's already existing aerosol manufacturing capabilities. Diamond Vogel, Inc., based in Orange City, Iowa, is a manufacturer of high-quality paint and coatings. Diamond Vogel also has manufacturing operations in Sheboygan Falls, Wisconsin because of its previous acquisition of Faase Paint Company's aerosol manufacturing business.

The O'Neil Cannon deal team was led by Attorney Jim DeJong with assistance provided by O'Neil Cannon attorneys Britany Morrison, JB Koenings, Joseph Gumina, Nick Chmurski, and Sam Nelson.

TAX AND WEALTH ADVISOR ALERT: IRS POSTPONES \$600 PAYMENT PROCESSOR 1099-K REPORTING REQUIREMENT

In a year-end gift of sorts to tax professionals, payment processing companies, and individuals pursuing eBay and other small-transaction side hustles, the IRS has delayed a new transaction reporting requirement that some believed would cause confusion among taxpayers and tax preparers alike.

Many More Payments Were to Be Reported to the IRS

The new reporting requirement would have required companies such as Venmo, PayPal, eBay, and Etsy that process business-related payments to provide each individual who received more than a total of \$600 in reportable transaction payments from the company in 2022 with a form 1099-K and to report those payments to the IRS. Formerly the 1099-K reporting requirement was not triggered unless an individual received more than \$20,000 in reportable payments in more than 200 transactions in a calendar or tax year.

So, for example, if an eBay seller earned more than \$600 from eBay auctions in 2022, eBay would have been required to report that total to the IRS and to send the seller a form 1099-K reflecting those payments. This would be the case for any payment processor that made payments to individuals or businesses for business-related transactions (StubHub, Etsy, Airbnb, Venmo, Zelle, Square, and the like). In each case, if any one individual or company was paid more than \$600 for business-related transactions in 2022, the payment processor would have been required to report the total amount paid to the IRS, and the recipient of the payments would receive a form 1099-K reflecting that total.

Concerns About Errors and Confusion

There was widespread concern that given the lower reporting threshold of \$600 per year, many individual taxpayers would receive erroneous 1099-Ks that mistakenly included non-reportable transactions. A Venmo payment for splitting dinner checks with a friend is one example. Only properly reportable transactions, such as payments for business-related products or services, should trigger a 1099-K, and the risk of error with the lower threshold was significant. Of course, those erroneous amounts would also have been reported to the IRS, creating headaches for taxpayers, tax preparers, and the IRS.

The IRS Has Delayed the New Reporting Requirement

In late December 2022, the IRS issued a notice delaying the implementation of the \$600 threshold for the 1099-K reporting requirement until 2023, meaning taxpayers should not be receiving 1099-Ks from payment processors such as eBay and PayPal unless the old \$20,000/200-transaction threshold was reached during the year.

This does not mean taxpayers are not required to declare all their 2022 income, of course. It simply means that if a taxpayer's transactions for the year were under the \$20,000/200-transaction threshold, payments won't be reported to the IRS by the payment processors and the taxpayers won't receive a form 1099-K for amounts they've received.

Be Prepared for 2023

Note that the IRS is not abandoning the new \$600 reporting requirement; it's simply giving payment processors, tax professionals, and taxpayers another year to ensure they are prepared to implement it. This means that if you're a taxpayer and you receive payments from online transactions such as eBay, Etsy, StubHub, or Airbnb, or if you have clients pay you via Venmo or Paypal, it's essential for you to keep track of the money you receive via these payment processing services. You should also make sure you pay close attention to non-business payments you receive from friends and family when you split a dinner check or share a weekend cabin rental.

Keep track of expenses you incur related to the reportable payments you receive - for example, if you buy and resell concert tickets, the cost of the original ticket you purchased is an expense related to the money you receive from selling the ticket. Doing so will usually reduce your reportable income. And the more you keep good records, the easier it will be to ensure that any 1099-K forms you receive for 2023 payments are accurate and properly reflect the money you've been paid for goods or services you provided.

Note That Things May Change

The new \$600 threshold for 1099-K reporting provoked a predictable backlash from the payment processing industry. Some members have formed an advocacy group called the [Coalition for 1099-K Fairness](#) to draw attention to the new requirement and encourage the IRS to, at a minimum, delay its implementation. With the IRS's decision in late 2022 to postpone enforcement of the new rule for a year, at least one of this group's requests has been met (though the IRS did not specifically reference the Coalition when it issued its notice).

According to a survey conducted on behalf of the Coalition, millions of what they call "casual sellers" make less than \$5,000 per year selling used or pre-owned goods online. For most of these people, the Coalition argues that selling things online is not their primary source of income; think "side-gig." One industry concern is that if millions of people start receiving 1099-K forms for casual transactions, many may stop selling online to avoid the hassle of keeping records of revenues and expenses as though they are operating a full-fledged business.

On the other side is the idea that even "casual sellers" should include their income from smaller-scale transactions on their tax returns. And the thought is that if taxpayers are aware that the revenue they receive from these casual sales is being reported to the IRS, they will be more inclined to include it (or the portion that is properly reportable as income) on their tax returns.

That said, there is no dispute that the new \$600 reporting threshold is a drastic change from the old \$20,000/200-transaction threshold, and that complying with the new 1099-K reporting requirement will be significantly more burdensome for payment processors of all types. While the \$600 threshold may be changed in response to industry and taxpayer pressure, there is no guarantee this will happen, so payment processors and taxpayers should continue to act as though the threshold will remain where it is for 2023.

For questions or further information relating to form 1099-K reporting, please contact Attorney Britany E. Morrison.

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- Grant C. Killoran:
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- Patrick G. McBride:

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- Britany E. Morrison:
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- Erica N. Reib:
 - Rising Stars
- Chad J. Richter:
 - Super Lawyer
- John R. Schreiber:
 - Super Lawyer
- Jason R. Scoby:
 - Super Lawyer
- Steven J. Slawinski:
 - Super Lawyer
- Kelly M. Spott:
 - Rising Stars
- Christa D. Wittenberg:
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TAX AND WEALTH ADVISOR ALERT: UNDERSTANDING COMMON NOTICES INDIVIDUALS RECEIVE FROM THE IRS

Although tax season may end for many individuals after returns are filed on April 15, for others it may be just the beginning. Many people receive a notice from the IRS as they process returns. These communications from the IRS are common and aren't necessarily a sign of trouble. If you receive a notice, read it carefully, address it promptly, and consider whether you should contact a lawyer.

Most notices from the IRS are regarding incomplete or incorrect information on taxpayer's tax forms, but there are plenty of other reasons the agency might be contacting you. [The IRS website](#) notes that the IRS sends notices and letters to individuals for the following reasons:

- You are due money.
- You owe money.
- You need to provide additional information or clarify part of your tax return.
- You need to verify your identity.
- Your tax return has a processing delay.

Each notice or letter contains a lot of valuable information, so it is particularly important that you read it carefully. Any communication you receive from the IRS will have a code on the right side at either the top or the bottom. The codes on notices begin with CP. The codes on letters begin with LTR. Here are some common notices the IRS sends out, identified by code.

CP2000 Notice

The IRS sends taxpayers this notice when [the information they have on file](#) does not match the information provided on the tax return. There might need to be an adjustment to your tax forms.

For example, your employer originally sent you a W-2 with incorrect information. They later sent an amended W-2, but you used the incorrect W-2 when completing your taxes.

If the notice alerts you to a discrepancy in your tax filing, it will explain how the IRS determined the error. You can either agree and sign off on the proposed changes or explain why you disagree, including providing relevant documents. You typically will be given 30 days to respond.

CP3219A Notice

If you fail to resolve the issue highlighted by a CP2000 Notice, the IRS sends a [CP3219A](#)

Notice. Known as the Statutory Notice of Deficiency, this form gives you 90 days to reply. Like a CP2000 Notice, you can either agree or disagree with the changes when you respond.

Failure to reply to this notification can bar your ability to appeal and contest the issue in Tax Court.

CP3219N Notice

When the IRS has not received your tax return, they will send you this notice. You have 90 days to reply. If you believe you did not have to file a return but receive this notice, you should contact the IRS.

CP501 Notice

The IRS sends this to remind taxpayers that they have 21 days to pay any outstanding tax. If you cannot pay what you still owe, you can see if you qualify for a payment plan.

CP501 Notices are generally the first notice sent. If you do not reply within 15 days, the IRS will then send a CP503 notice. If you receive a CP503 notice but believe you have resolved the issue, you should contact the IRS for confirmation.

If you fail to respond to this notice, the IRS can levy interest and penalties as well as file a Notice of a Federal Tax Lien. Like other notices, you can disagree with the IRS's calculations. You should be prepared to offer documentation to show their error.

CP14 Notice

This communication closely relates to CP501. It lets you know that the IRS believes you underpaid the amount due on your taxes.

Similar to a CP501 Notice, failure to respond in the required time period can result in additional penalties and accruing interest.

Timely Action

If you have received communication from the IRS, you should act promptly.

Failure to act in a timely manner can cause serious problems. Additional fees and interest can accrue on unpaid tax. If you disagree with the IRS's determinations, failure to reply may bar you from appealing the decision.

It is especially critical to respond to an IRS notice if you're unable to pay the full amount you owe on your taxes, because the agency may allow you to arrange a payment plan.

Beware of Scams

There are scammers out there who will send fake IRS letters and notices in an effort to obtain your personal information or even a check. Whenever you get a communication from the IRS, examine it carefully to make sure it is legitimate. If you are unsure, contact the IRS directly or reach out to a tax professional or attorney for guidance.

Contact Qualified Tax Attorneys

If you have received a notification from the IRS, contact Attorney [Britany Morrison](#) at one of Wisconsin's premiere law firms, O'Neil Cannon