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HOLLMAN DEJONG & LAING S.C.

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.