

**Internal Revenue Service**

Department of the Treasury  
Washington, DC 20224

Number: **201719009**  
Release Date: 5/12/2017  
Index Number: 6050W.00-00

Third Party Communication: None  
Date of Communication: Not Applicable

Person To Contact:  
, ID No.

Telephone Number:

Refer Reply To:  
CC:PA:02  
PLR-125683-16  
Date:  
February 15, 2016

Legend

Taxpayer:

Platform:

Seller:

Buyer:

Dear \_\_\_\_\_ :

This is in response to the August 16, 2016 ruling request submitted on your behalf by your authorized representative concerning your federal income tax reporting requirements under section 6050W of the Internal Revenue Code (Code) and the regulations thereunder. Specifically, you would like a ruling that:

1. Taxpayer is a third party settlement organization (TPSO) within the meaning of section 6050W and the regulations thereunder;
2. Each Seller that receives payment from Taxpayer is a participating payee, as that term is defined in section 6050W(d)(1)(A)(ii), and each consolidated Buyer payment from Taxpayer to a Seller is the reportable payment transaction described in section 6050W(c)(1); and
3. Taxpayer must report on Form 1099-K, Payment Card and Third Party Network Transactions, the gross amount of all payments from Taxpayer to a Seller, including fees deducted by Taxpayer, if payments to that Seller exceed the reporting threshold in section 6050W(e).

## FACTS

Taxpayer is a \_\_\_\_\_ company which developed and operates an \_\_\_\_\_ intended to facilitate \_\_\_\_\_.

\_\_\_\_\_ Taxpayer contracts with over 50 Sellers, who are unrelated to Taxpayer, and who offer \_\_\_\_\_ through the Platform.

Buyers use the Platform to pay the Seller for the Buyer's \_\_\_\_\_. The cost to each Buyer is determined by the Platform; the cost varies based on the number of Buyers and the \_\_\_\_\_. The Buyer pays this amount by credit card.

Taxpayer consolidates all Buyer payments received with respect to a \_\_\_\_\_ and, after deducting an administrative fee of approximately \_\_\_\_\_, transfers the consolidated Buyer payments to the Seller. Taxpayer remits the consolidated Buyer payment to the Seller after each \_\_\_\_\_. Pursuant to the terms of use, to which each party agrees when using the Platform, Taxpayer is contractually obligated to settle payments between Buyers and Sellers for Buyers' \_\_\_\_\_ expenses, as determined by the Platform.

## LAW &amp; ANALYSIS

*Section 6050W*

Section 6050W of the Code, as enacted by the Housing Tax Assistance Tax Act of 2008, requires payment settlement entities to file an information return for each calendar year with respect to payments made in settlement of reportable payment transactions. The annual information return must set forth (1) the name, address, and taxpayer identification number (TIN) of the participating payee to whom payments were made and (2) the gross amount of the reportable payment transactions with respect to that payee. I.R.C. § 6050W(a). The regulations define gross amount to mean the total dollar amount of the 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. Treas. Reg. § 1.6050W-1(a)(6). Taxpayers required to make returns under section 6050W do so by filing Forms 1099-K, Payment Card and Third Party Network Transactions.

Section 6050W covers two types of reportable payment transactions: (1) payment card transactions and (2) third party network transactions. I.R.C. § 6050W(c). A payment settlement entity in the payment card context is a merchant acquiring entity; in the third

party network context, it is a third party settlement organization (TPSO). I.R.C. § 6050W(b)(1).

The Code and regulations define a merchant acquiring entity as the bank or other organization with the contractual obligation to make payments to participating payees in payment card transactions. A payment card transaction is any transaction in which a payment card is accepted as payment. I.R.C. § 6050W(b)(2)-(3), 6050W(c)(2); Treas. Reg. § 1.6050W-1(b)(1)-(2).

The Code and regulations define a TPSO as the central organization that has the contractual obligation to make payments to the participating payees of third party network transactions. I.R.C. § 6050W(b)(3); Treas. Reg. § 1.6050W-1(c)(2). A third party network transaction is any transaction that is settled through a third party payment network. I.R.C. § 6050W(c)(3). A central organization is a TPSO with a reporting obligation if it provides a third party payment network that allows purchasers to transfer funds to providers of goods and services. Treas. Reg. § 1.6050W-1(c)(2).

A third party payment network is any agreement or arrangement that (i) involves the establishment of accounts with a central organization by a substantial number of providers of goods or services who are unrelated to the central organization and who have agreed to settle transactions for the provision of goods and services with purchasers according to the terms of agreements; (ii) provides standards and mechanisms for settling transactions; and (iii) guarantees payments to the providers of goods and services in settlement of transactions with the purchasers. I.R.C. § 6050W(d)(3); Treas. Reg. § 1.6050W-1(c)(3). Neither the Code nor the regulations defines what constitutes a “substantial number” of providers for the purposes of defining a third party payment network. However, in its technical explanation of the Housing Assistance Tax Act of 2008, the Joint Committee on Taxation interpreted the term “substantial number” to mean, for example, more than 50 providers of goods and services. Joint Committee on Taxation, Technical Explanation of Division C of H.R. 3221, The “Housing Assistance Tax Act of 2008” as Scheduled for Consideration by the House of Representatives on July 23, 2008 (JCX-63-08) at 61, July 23, 2008.

A participating payee, in the case of a third party network transaction, is any person who accepts payment from a third party settlement organization in the settlement of such transaction. I.R.C. § 6050W(d)(1)(A)(ii).

A TPSO is not required to report third party network transactions for a participating payee unless the amount to be reported exceeds \$20,000 and the aggregate number of transactions with that participating payee exceeds 200. I.R.C. § 6050W(e).

A payer that is a common law employer with respect to a payee cannot be a TPSO with respect to that payee. See Treas. Reg. § 1.6041-2(a)(1). Wage payments to an

employee are reported on a Form W-2, Wage and Tax Statement. See, e.g., Treas. Reg. § 31.6051-2(a).

### *Analysis*

If Taxpayer is not the common law employer of the Sellers, Taxpayer is a TPSO with respect to payments made to Sellers because it is a central organization that has the contractual obligation to make payments to the participating payees of a third party network transaction and provides a third party payment network that allows purchasers of services to transfer funds to providers of services.

Taxpayer has established a third party payment network because it has an arrangement: (1) through which a substantial number of providers of services who are unrelated to Taxpayer have established accounts with Taxpayer and have agreed to settle transactions for the provision of services; (2) which provides standards and mechanisms for settling transactions, as provided in Taxpayer's terms of use; and (3) which guarantees that persons providing services pursuant to this arrangement will be paid for providing these services, as also provided in Taxpayer's terms of use.

Here, the providers of services are the Sellers who make [redacted] available to Buyers.<sup>1</sup> Over 50 of these Sellers, who are unrelated to Taxpayer, have established accounts with Taxpayer to settle transactions for the provision of [redacted] services. The standards and mechanisms for settling transactions between Sellers and Buyers for the provision of [redacted] services are provided in Taxpayer's terms of use, along with a guarantee that Sellers will be paid for their services. Taxpayer is, therefore, a TPSO.

Each Seller offering [redacted] services and receiving payment for such services from Taxpayer is a participating payee because each Seller accepts payment from a TPSO in the settlement of a third party network transaction.

A third party network transaction occurs when a Seller provides a [redacted] for which the Seller is entitled to receive payment from Buyers via Taxpayer's third party payment network. Each [redacted] is a single transaction, even if multiple Buyers submit payment for the same [redacted]. Taxpayer's practice of remitting payment to the Seller after each [redacted], rather than on a less frequent basis, is not determinative of what constitutes a transaction.

As a TPSO, Taxpayer is required to report third party network transactions for a participating payee – here, a Seller – when the amount to be reported exceeds \$20,000 and the aggregate number of transactions with that Seller exceeds 200. Taxpayer must report the gross amount of all reportable payment transactions with respect to that Seller on a Form 1099-K.

---

<sup>1</sup> Although the term "goods and services" is not defined in section 6050W or the regulations under that section, such term includes the [redacted] offered by Sellers to Buyers through Taxpayer's Platform.

The rulings contained in this letter do not address the worker classification status of any Seller or whether Taxpayer is the common law employer of any Seller.

## CONCLUSIONS

1. If Taxpayer is not the common law employer of the Sellers, Taxpayer is a TPSO within the meaning of section 6050W and Treas. Reg. § 1.6050W-1;
2. If Taxpayer is not the common law employer of the Sellers, each Seller that receives payment from Taxpayer is a participating payee, as that term is defined in section 6050W(d)(1)(A)(ii), and each \_\_\_\_\_ provided by a Seller, and for which the Seller is contractually entitled to receive payment via Taxpayer's third party payment network, is a third party network transaction described in section 6050W(c)(3);
3. If Taxpayer is not the common law employer of the Sellers, Taxpayer must report on Form 1099-K the gross amount of all payments from Taxpayer to a Seller, including fees deducted by Taxpayer, if payments to that Seller exceed the reporting threshold for third party settlement organizations in section 6050W(e).

The rulings contained in this letter do not address the worker classification status of any Seller or whether Taxpayer is the common law employer of any Seller.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Melissa A. Henkel  
Senior Technician Reviewer, Branch 2  
(Procedure & Administration)

cc: