

Congress of the United States
Washington, DC 20510

November 29, 2022

The Honorable Douglas O'Donnell
Acting Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, D.C. 20224

Dear Acting Commissioner O'Donnell:

We are writing regarding the recent changes to Form 1099-K reporting requirements.

As you are aware, the Form 1099-K reporting thresholds were lowered under the American Rescue Plan Act (ARPA) of 2021. Specifically, ARPA amended section 6050W(e) of the Internal Revenue Code and decreased the de minimis threshold for reporting on third-party settlement organizations (TPSOs) from \$20,000 on 200 or more transactions to any qualifying transaction over \$600. This legislation went into effect with payments made after December 31, 2021, meaning all payments that occur throughout 2022 are subject to the lower threshold.

Prior to 2022, Form 1099-Ks were only issued to taxpayers who had gross payments of \$20,000 or more and had more than 200 digital transactions. Now, taxpayers will receive Form 1099-Ks if they are paid more than \$600 and have any number of digital transactions. This lower threshold means many small business owners, freelancers, independent contractors, and participants in the gig economy will be receiving Form 1099-Ks for the first time in 2023, especially taxpayers who have been doing these activities as side gigs or hobbies.

Additionally, these changes require TPSOs, such as PayPal, Venmo, and other online marketplaces that connect buyers and sellers, to collect sensitive taxpayer information and share this private information with the Internal Revenue Service (IRS). Unfortunately, the IRS has already shown an inability to properly secure personal digital data. For example, three new reports from the Treasury Inspector General (IG) for Tax Administration found that IRS cloud services for storing and sharing data were implemented without key security controls and that “security vulnerabilities within the [IRS’s] mainframe platform can lead to unauthorized access, increased vulnerability to attacks, and unauthorized data sharing, all of which compromise the integrity, confidentiality, and availability of the platform and taxpayer data.”¹

¹ <https://www.treasury.gov/tigta/auditreports/2022reports/202220050fr.pdf>

In addition to major privacy and security concerns, rather than reduce the so-called “tax gap,” this new requirement will be confusing and unworkable. We have heard from numerous constituents, accountants, and other tax professionals who have expressed confusion regarding this new requirement and misunderstanding on what transactions will be subject to taxation and reporting. This increased reporting will further complicate the already difficult tax compliance burden that small businesses and individual filers face.

Furthermore, small business owners, freelancers, and numerous other workers are already struggling to stay afloat due to lingering effects of detrimental COVID-19 era policies and four-decade high inflation; the last thing they need is additional government red tape. Rather, our priority should be to enable greater access to flexible earning opportunities as businesses and our economy recover.

We are strongly opposed to the changes made to the de minimis reporting threshold, and we urge you to delay implementation of this disastrous policy for at least one calendar year. Furthermore, we ask that you provide answers to the following questions by December 12, 2022:

1. Please clarify what kind of personal income is subject to taxation. For example, would money sent through Venmo or PayPal from a roommate for rent be subject taxation? Would a colleague reimbursing another colleague for a meal be subject to taxation? Would gas money sent from a mother to her child be subject to taxation?
2. Will taxpayers receive a Form 1099-K for the transactions described above?
3. If a taxpayer receives a Form 1099-K in error, how can the individual remedy the situation? Have you issued any guidance to taxpayers?
4. If a small business owner, independent contractor, or gig economy worker uses the same TPSO account for personal transactions and business transactions, how will this reporting change affect these individuals? How do you intend to determine if these transactions are personal or business transactions?
5. How should TPSOs determine if transactions are personal or business transactions? Have you issued any guidance to these companies?
6. What business expenses and basis calculations will be deductible against reported Form 1099-K income?
7. How will cash back payments be affected? If a business allows customers to get cash back using their debit card, will this be reported on a Form 1099-K?
8. Will alimony payments, child support payments, life insurance proceeds, or annuity payments be subject to taxation or reporting?

9. Will there be a grace period for Form 1099-K filers?
10. How will you use the additional data obtained from the Forms 1099-K?
11. Given the IRS's previous leaks, how do you plan to prioritize the protection and privacy of Americans' confidential data?
12. Given the current backlog facing the IRS, how do you plan to process the additional millions of Forms 1099-K you will receive in 2023?
13. In accordance with the Paperwork Reduction Act, please provide a cost-expense burden calculation for Forms 1099-K based on new reporting requirements.

Sincerely,



Ralph Norman
Member of Congress



Elise Stefanik
Member of Congress



Vern Buchanan
Member of Congress



Carol Miller
Member of Congress



Nancy Mace
Member of Congress



Ken Buck
Member of Congress



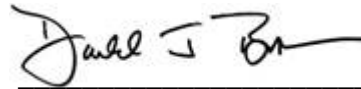
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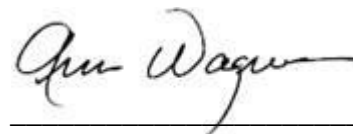
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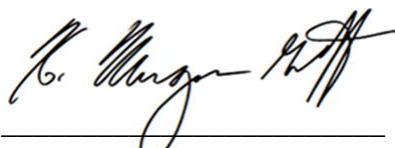
Ann Wagner
Member of Congress



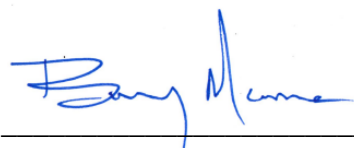
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Scott Franklin
Member of Congress



H. Morgan Griffith
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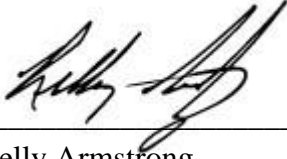
Barry Moore
Member of Congress



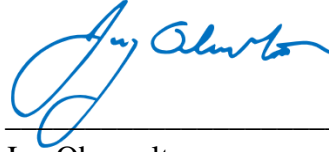
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W. Gregory Steube
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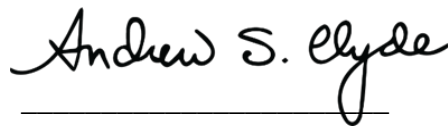
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