

# Merchant Card Reporting and Form 1099-K FAQs

March 2018

This document contains a detailed list of answers to questions you might have about IRS Form 1099-K reporting requirements.

Merchants should contact their tax advisor to understand the impact of Form 1099-K reporting on their business. **Information herein does not constitute tax, legal or other professional advice and must not be used as such.**

## FAQs

### Section 6050W

**Q: What is Internal Revenue Code (IRC) Section 6050W?**

**A:** Section 6050W was added to the IRC as part of the Housing & Economic Recovery Act of 2008. Its purpose is to improve voluntary tax compliance by businesses that accept purchases via payment cards, including credit, charge and prepaid cards.

**Q: What does IRC Section 6050W require?**

**A:** IRC Section 6050W requires that all merchant acquiring entities and payment companies, like American Express, report the annual gross dollar amount of payment card transactions settled for each of their merchant payees as well as the merchant's legal name and Taxpayer Identification number (TIN). Every January, payment companies will provide a Form 1099-K to each merchant reporting the prior tax year's transactions. Every March, a copy of the Form 1099-K will be filed with the IRS.

**Q: When did IRC Section 6050W go into effect?**

**A:** IRC Section 6050W became effective on January 1, 2011.

**Q: What information is being provided to the Internal Revenue Service (IRS) and why?**

**A:** Section 6050W of the IRC requires that U.S. merchant acquiring entities, like American Express, report the following information to each of their merchants and to the IRS:

- Gross dollar amount of payment card transactions settled, both monthly and annually;
- Legal name. Your legal name is typically the name you provided to the IRS if you filed a form SS-4, Application for Employer Identification Number, or used on your Federal tax returns; and
- Federal Taxpayer Identification Number (TIN). In most cases your TIN is either your social security number (SSN) or Employer Identification Number (EIN).

**Q: How is this information provided to the IRS?**

**A:** Every January, we must provide an information return, known as IRS Form 1099-K, to each Merchant to report the prior year's transactions. Every March, we must file a copy of the same form with the IRS.

**Q: Is American Express the only merchant acquiring company requiring this information?**

**A:** No. IRC Section 6050W applies to all U.S. merchant acquirers that make payment to merchants in settlement of payment card transactions.

## **Form 1099-K**

**Q: What is Form 1099-K?**

**A:** Form 1099-K is an information return the IRS has developed for compliance with IRC Section 6050W. This form reports the gross dollar amount of payment card transactions settled for a participating merchant during the prior tax year. In addition, the form will reflect the merchant's legal name and TIN. Forms 1099-K will be provided to merchants every January, and filed by merchant acquiring entities with the IRS in March.

**Q: Who issues a Form 1099-K?**

**A:** The IRS places responsibility for Form 1099-K reporting on merchant acquiring entities, including American Express, that make payments to merchants in settlement of payment card transactions.

**Q: Does Form 1099-K report a merchant's submission amount or settlement amount?**

**A:** The amount reported on the 1099-K is the merchant's total submissions, not the settlement amount. The report shows the total dollar amount of aggregated transactions in which a payment card is accepted as payment for each merchant without regard to any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts, or any other amounts.

## Merchant Steps

**Q: What steps do I need to take to help avoid automatic backup withholding?**

**A:** To avoid the potential of having backup withholding imposed on your Merchant Account, you should ensure the legal name and TIN on file with American Express matches the IRS records. You can verify your Merchant Account information at any time by logging into your Merchant Account at [americanexpress.com/merchant](https://americanexpress.com/merchant).

**Q: What happens if I do not provide my TIN?**

**A:** The law requires that American Express begin Federal backup withholding of 24% of the gross dollar amount of payment card transactions. The law also requires that American Express send the withheld funds directly to the IRS. Additionally, if the legal name and TIN combination provided to American Express does not match the information on record with the IRS, American Express may be required to impose backup withholding if notification is received from the IRS. There may also be state tax withheld where applicable and remitted to state tax authorities.

**Q: What happens if the legal name and TIN combination on file with American Express does not match the legal name and TIN combination on file with the IRS?**

**A:** If a Merchant's legal name and TIN on file with American Express and reported on a Form 1099-K do not match what the IRS has on file, your Merchant Account could potentially be subject to 24% Federal backup withholding (and potentially – state backup withholding). As required by law, all funds withheld will be promptly sent to the IRS or state tax authority.

## American Express Steps

**Q: Will American Express keep any portion of the U.S. Federal backup withholding tax withheld from a merchant?**

**A:** No. American Express will not keep any portion of the U.S. Federal Backup withholding tax withheld from a merchant. All backup withholding taxes will be promptly remitted to the IRS as required by law.

**Q: Why would American Express impose U.S. Federal backup withholding tax at a rate of 24%?**

**A:** American Express is required by law to withhold 24% of gross dollar payment card transactions settled for any merchant who has not provided a TIN. Additionally, American Express may be required to impose Federal backup withholding when a merchant's legal name and TIN reported on a Form 1099-K do not match IRS records.

**Q: What is Maine State Backup Withholding?**

**A:** Merchants who are physically located in the State of Maine and are subject to U.S. Federal backup withholding tax by the IRS are also subject to 5% State backup withholding.

**Q: What is California State Backup Withholding?**

A: Merchants who are physically located in the State of California and are subject to U.S. Federal backup withholding tax by the Internal Revenue Service (IRS) are also subject to 7% State backup withholding.

**Q: What is California Form 592-B?**

A: No later than January 31st of each year, the California Franchise Tax Board (FTB) requires that Form 592-B, California Resident and Non-resident Withholding Tax Statement, be issued to each California merchant subject to California back up withholding. The statement reports a merchant's legal name and TIN as well as the California gross income that was subject to backup withholding and the amount of income tax withheld during the prior tax year

## Key Terms

**Q: How is gross amount defined in IRC Section 6050W?**

A: IRC Section 6050W defines gross amount as the total dollar amount of aggregated transactions in which a payment card is accepted as payment for each merchant without regard to any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts, or any other amounts.

**Q: How is a merchant acquiring entity defined in IRC Section 6050W?**

A: IRC Section 6050W defines a merchant acquiring entity as the bank or other organization contractually obligated to make payment to merchants in settlement of payment card transactions.

**Q: What is a Federal Taxpayer Identification Number (TIN)?**

A: A TIN is an identification number used by the IRS in the administration of federal tax laws. In most cases, a TIN is either a social security number (SSN) or employer identification number (EIN).

**Q: What is your legal name?**

A: A merchant's legal name is typically the name the merchant provided to the IRS when it filed a form SS-4, Application for Employer Identification Number, and that it uses to file its Federal tax returns.

**Q: What is your legal status?**

A: Legal status describes how a merchant's business is classified for federal tax purposes. For example, partnership, corporation, or sole proprietorship.

**Q: What is U.S. Federal backup withholding tax?**

A: Backup withholding at the current rate of 24% is required to be imposed on payment card transactions reported on Form 1099-K to U.S. merchants that have not remitted their TINs to the payor or in certain instances that have been notified to the payor by IRS of name/TIN mismatches. Non-U.S. merchants that failed to document their foreign status will be subject to the 1099-K reporting and backup withholding. Backup withholding will begin January 1, 2013 and will appear on a merchant statement as "U.S. Withholding Tax".

**Q: What is an IRS Form W-8BEN?**

A: Form W-8BEN, Certificate of Foreign Status, may be furnished by a non-US merchant in order to be excluded from future Form 1099-K reporting and US Federal backup withholding tax.

FAQs Updated March 2018

**Information in this document does not constitute tax, legal or other professional advice, and must be not used as such**

**Q: Do franchise merchants receive Forms 1099-K?**

**A:** If the franchisee receives payments directly from the merchant acquiring entity, it will receive a Form 1099-K from the merchant acquiring entity. If a franchisee's purchase card transactions are processed through another company, that company may be required to issue Forms 1099-K to the franchisee.

**Non Profits**

**Q: Are nonprofit organizations and other tax-exempt business subject to IRC Section 6050W and Form 1099-K reporting?**

**A:** All U.S.-based businesses, including nonprofit organizations and other tax-exempt businesses, are subject to IRC Section 6050W and Form 1099-K reporting and, as such, the information they have on file with American Express should be verified. However, these organizations may not be subject to U.S. Federal backup withholding tax.

**Custom Contracts**

**Q: Do merchants with American Express custom contracts still have to provide a legal name and Taxpayer Identification Number (TIN)?**

**A:** All merchants, regardless of contract type, must ensure that their information on file is correct. To ensure accurate reporting and avoid potential backup withholding, a merchant should verify that their correct legal name and Taxpayer Identification Number (TIN) are on file with American Express. A merchant can verify this information at any time in the "Account Information" section in their OMS (Online Merchant Services) account at [americanexpress.com/merchant](http://americanexpress.com/merchant). Merchants should contact a tax, legal, or professional advisor to understand the impact of Form 1099-K reporting on their business. Information herein does not constitute tax / legal or other professional advice and must not be used as such.

**Canada**

**Q: If a U.S. merchant has locations in both the U.S. and in Canada, will Forms 1099-K furnished to them report both U.S. and Canadian payment card transactions or will they be reported separately?**

**A:** Under IRC 6050W, merchant acquiring entities must report the total amount of purchase card transactions settled for a U.S. merchant, regardless of where the transaction was settled.