

# Merchant Card Reporting and FAQs

## Form 1099-K

Updated March 2018

### What you Need to Know

The following is a brief overview of the Internal Revenue Code Section 6050W, along with the steps that American Express is taking to comply with this provision.

### Overview

It is important that you are aware of Section 6050W of the Internal Revenue Code (IRC). It is an Internal Revenue Service (IRS) requirement in which merchant acquiring entities, like American Express, must report the annual gross (and monthly) amount of payment card transactions submitted for each Merchant Payee.

Every January, American Express will provide each Merchant Payee with a Form 1099-K, which was developed by the IRS, reporting the prior year's transactions. A copy of the same form is filed with the IRS. Properly documented non-U.S. (foreign) merchants are generally not subject to these Form 1099-K information reporting requirements.

As of January 1, 2018, American Express is required by law to withhold and send to the IRS 24% of the gross amount payments owed to U.S. merchants who fail to provide their Taxpayer Identification Number (TIN) to American Express, or whose legal name or TIN does not match IRS records. This process is known as U.S. Federal backup withholding tax, or backup withholding, and will appear on a merchant statement as "U.S. Withholding Tax". There may also be state tax withheld where applicable and remitted to state tax authorities.

Please consult your tax advisor to understand the impact of Form 1099-K reporting on your business

## 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 submitted 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 payee 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 payee 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 and third party network 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 will also be filed with the IRS.

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

**A:** The IRS generally places responsibility for Form 1099-K reporting on merchant acquiring entities, including American Express, who 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:** Federal Tax law requires that American Express begin Federal backup withholding on 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 the IRS notifies us that the information on file with us does not match IRS records. 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 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.

**Q: What do I do if I receive a B Notice?**

**A:** The B Notice letter will outline the steps required to resolve the discrepancy on the account.

**Q: How do I recover the funds that have been withheld on my account?**

**A:** The annual 1099K will include the total amount withheld from the payee's account for that tax year. You should consult a tax for information about refunds of withheld tax.

**[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: 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](#)**

**Legal Name**

The legal name of an entity is typically the name you provided to the IRS when you filed a Form SS-4 to request your Federal Employer Identification Number (EIN), or that you use to file your federal tax returns.

**Taxpayer Identification Number (TIN)**

The TIN is used by the IRS in the administration of tax laws. In most cases, your TIN is either a social security number (for individuals) or EIN (for entities). The TIN you provided to AXP must match what is on file with the IRS.

**Legal Status**

Legal status describes how your company is classified for tax purposes. For example, you might be a partnership, corporation or sole proprietorship.

**Gross Amount**

Gross amount means the total dollar amount of transactions in which a payment card is accepted without regard to any adjustments for credits, cash equivalents, discount amounts, fees, refunded amounts, or any other amounts.

**U.S. Federal backup withholding tax**

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 if American Express has been notified by the IRS of name/TIN mismatches. Non-U.S. merchants that fail to document their foreign status will be subject to the 1099-K reporting and backup withholding. Backup withholding will begin January 1, 2018 and will appear on a merchant statement as "U.S. Withholding Tax".

**B Notice**

A B Notice is a backup withholding notice. This notice advises the merchant of a discrepancy in the Legal Name or TIN listed on their merchant account and advises the date withholding will begin.