

Require information reporting on merchant payment reimbursements

Present Law

Present law imposes a variety of information reporting requirements on participants in certain transactions. These requirements are intended to assist taxpayers in preparing their income tax returns and to help the IRS determine whether such returns are correct and complete. For example, every person engaged in a trade or business generally is required to file information returns for each calendar year for payments of \$600 or more made in the course of the payor's trade or business.¹ Payments to corporations generally are excepted from this requirement. Certain payments subject to information reporting also are subject to backup withholding if the payee has not provided a valid taxpayer identification number ("TIN").

Under present law, any person required to file a correct information return who fails to do so on or before the prescribed filing date is subject to a penalty that varies based on when, if at all, the correct information return is filed.

Description of Proposal

The proposal requires any qualified payment facilitator to report annually to the IRS the aggregate amount of payments made to participating merchants in settlement of purchases made through an electronic payment mechanism (e.g., a credit card, debit card, or other electronic payment).

The proposal defines a "qualified payment facilitator" as any person enrolling or accepting a participating merchant to accept an electronic payment mechanism. The proposal defines a "participating merchant" as any taxpayer that is a party to a continual agreement to accept an electronic payment mechanism as payment for goods and services. An "electronic payment mechanism" is defined as any account or card sponsored or issued by an electronic payment organization and which, upon presentation to a participating merchant, represents an agreement to pay the participating merchant through the electronic payment organization. An "electronic payment organization" means an entity that sets the standards and provides the mechanism for effectuating payment between a purchaser and a participating merchant in an electronic payment transaction.

Under the proposal, the qualified payment facilitator is the person required to report payments to participating merchants even if such qualified payment facilitator is not directly

¹ Sec. 6041(a).

making payments to the participating merchant. For example, a qualified payment facilitator that has enrolled a participating merchant to accept an electronic payment mechanism is responsible for information reporting under the proposal, even if such qualified payment facilitator contracts with an independent party to process the settlement payments made to the participating merchant. An example of a person responsible for reporting under the proposal is a bank that enrolls merchants to accept a particular type of payment card and then makes payment, or contracts with an independent party to make payment, to a merchant after such a payment card has been accepted by such merchant as payment for goods or services.

Under the proposal, payments subject to information reporting are not subject to backup withholding requirements if the qualified payment facilitator or electronic payment organization has validated the participating merchant's TIN in a manner prescribed by the Secretary. Finally, present law penalties relating to the failure to file correct information returns would apply to the new information reporting requirements required under the proposal.

Effective Date

The proposal is effective for payments made after December 31, 2009.