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# Form 1099-K Reporting Requirements – What’s New and Are We in Compliance with the Old Rules?

November 8, 2022



# Agenda



## Section 6050W Requirements

# IRC § 6050W

Section 6050W generally requires **payment settlement entities (“PSEs”)** to file information returns to report payments made to **participating payees** (“payees”) in settlement of **payment card transactions** and **third-party network transactions**.



# Reportable Transactions – Third Party Network Transactions

**Third Party Network Transaction:** any transaction settled through a third-party network

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- **Third Party Network:** any agreement or arrangement that involves
  - The establishment of accounts with a central organization
    - By a substantial number of providers of goods or services who are unrelated to the organization
    - Who have agreed to settle transactions for the provision of goods and services in accordance with agreement/arrangement
  - **Standards and mechanisms** for settling the transactions; and
  - Agreement/Arrangement **guarantees** payment to the provider of the goods or services

**Third Party Settlement Organization:** provides the third-party network that enables purchasers to transfer funds to merchants.

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## Who must file? Payment Settlement Entities (PSE)s

**PSE for Payment Card Transactions:**

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- **Merchant Acquiring Entity:** Defined as the bank or other organization that is **contractual** merchant to settle the transaction

**PSE for Third Party Network Transactions:**

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- **Third Party Settlement Organization:** Defined as the central organization that has the **contractual obligation** to make payments to participating payees of third-party network transactions

**What does it mean to “make a payment”?**

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- Submit instructions to transfer funds to the account of the participating payee in settlement of the reportable payment transaction

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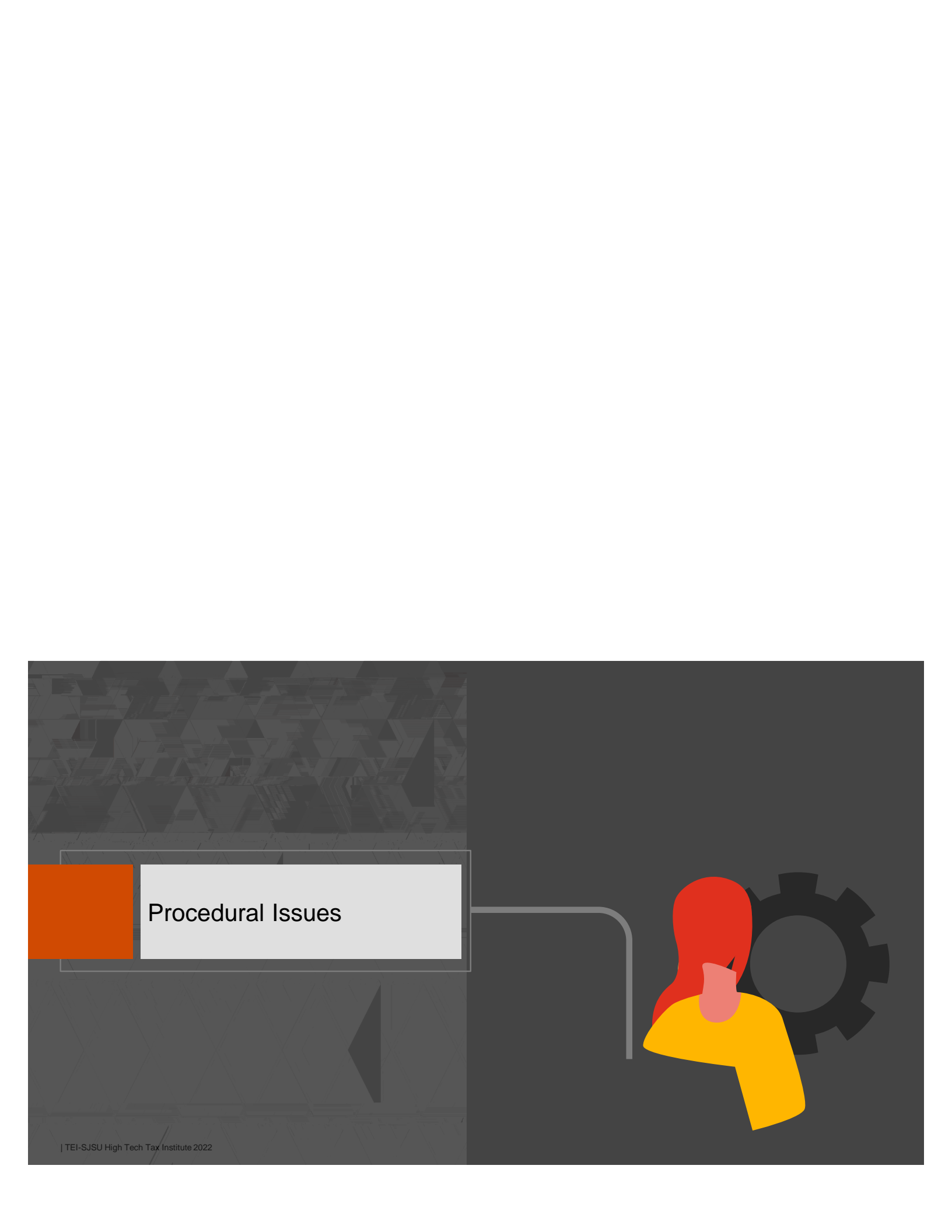


## Special Rules

- If two or more persons qualify as the PSE (contractually obligated to make payment), only the PSE that in fact makes payment in settlement of the reportable transaction is required to file
- Person with filing requirement can enter into an agreement designating another person to file.
  - **But** person with filing requirement is still liable for penalties if the designee fails to file.
- **Example – Payment Processors**
  - PSE can include in contract with an EPF, that the PSE will be required to file the Form 1099-K.
  - However, the EPF will retain potential penalty liability for non-filing.



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Procedural Issues

# Filing/Penalties

- Required to file Form 1099-K with IRS
  - Due Feb. 28 or Mar. 31, if filed electronically
  - 30 days extension - Form 8809 and IRS letter (payee statement)
  - SALT deadlines vary by state even if CF/SF participation
- Must furnish the participating payee with a payee statement
- Penalties for
  - IRC 6721 – failing to timely file a correct information return;
    - Name/TIN mismatch
    - Missing TIN
  - IRC 6722 – failure to furnish a timely correct payee statement
- Penalties can be
  - Reduced by correcting errors within 30 days of the due date
  - Abated based on reasonable cause
  - Increased in instances of intentional disregard



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## Electronic Payee Statements

See Treas. Reg. § 1.6050W-2 (General Instructions to Forms 1099)

- **Payee consents** to receive 1099-K statement (or all federal tax statements) electronically
- Payee does not withdraw consent effective before statement is furnished
- Furnisher notifies payee of any material changes in hardware or software required to access the statement
- Furnisher makes certain disclosures regarding the furnisher's procedures for consent, withdrawal of consent, updating contact information, and hardware/

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## Industry Twist & Practical Challenges

### Internet Payment Service Providers

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- Card payments
- ACH Transactions
- Purchase lenders

### Platforms

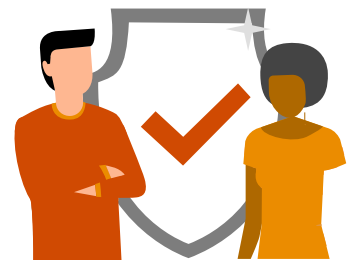
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- Pet walkers
- Technology support
- Hosts
- Drivers and Delivery Services
- Marketplaces and sellers of goods
- Auctions

### Issues related to lower reporting threshold –

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- Casual users
- Increased reporting costs 5-10X more information returns than in prior years
- Missing TINs



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**Thank you**



## What Does the IRS Have to Say?

PLR 202112002	PLR 201539025
PLR 201907006	PLR 201535008
PLR 201836008	PLR201413002
PLR 201719009	PLR 201240005
PLR 201622011	PLR 201219013
PLR 201619006	PLR 201201001
PLR 201604003	

