



TAXICAB, LIMOUSINE &  
PARATRANSIT ASSOCIATION

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# Dispatch

A bimonthly business report provided  
exclusively for the members of TLPA

## Update on the New Form 1099-K Rules: Q & A

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**T**his article provides an update to our October 2010 article regarding the new IRS Form 1099-K reporting rules for payments made in settlement of credit card transactions. This article follows a Q & A format in order to make the information as user-friendly as possible and to highlight a few recent "real world" inquiries from members regarding the practical impact of this new reporting obligation on the industry.

### Who has to file the new Form 1099-K for credit card transactions?

1. Generally, banks and other companies (such as PayPal) that process or settle credit card and other electronic payments must issue the new Form 1099-K to report the gross amount a business receives from such transactions starting in calendar year 2011.

I.R.C. §6050W. A transportation company that accepts credit cards as a form of payment should expect to receive a Form 1099-K in early 2012 from its bank (or other entity that settles electronic payment transactions) reporting total gross receipts from credit card transactions processed during the 2011 calendar year.

2. There is a special "aggregate payee" rule that requires a non-bank business to issue a Form 1099-K reporting the gross amount of proceeds of credit card transactions that it receives on behalf of another payee and distributes to the payee. For example, under this "aggregate payee" rule, if a transportation company receives the proceeds of credit card transactions from its bank (or other entity that settles electronic payment transactions), on behalf of its independent contractor drivers who accept credit card payments,

and that transportation company then distributes the proceeds to the driver, the transportation company must issue a Form 1099-K to each driver reporting the gross proceeds from credit card payments. I.R.C. §6050W(b)(4)(A); Treas. Reg. §1.6050W-1(d)(1); §1.6050W-1(e), Ex. 21.

Therefore, the transportation company will not only receive a Form 1099-K from its bank (or card processor), but it will also have to file a Form 1099-K for each independent contractor driver to whom it has paid or credited amounts on account of fares and tips paid by credit card, reporting the gross amount (disregarding any fees paid by the driver to the company for processing the credit card charges) paid to the independent contractor driver.

### Is there a minimum number of credit card transactions or a minimum dollar amount before Form 1099-K reporting is triggered?

No, there is no minimum threshold on either the number of credit card transactions or the total dollar amount that triggers the Form 1099-K filing requirement for banks or businesses that fall under the special "aggregate payee" rule discussed above. One credit card transaction is sufficient to trigger the Form 1099-K reporting obligation. The law does provide a *de minimis* reporting threshold – \$20,000 and 200 transactions – for "third party payment networks." Third party payment networks are companies like PayPal and Amazon that process payments for the transfer of goods and services between buyers and sellers over the Internet. The purpose of this *de minimis* rule is to exempt from reporting payments by

these networks to "occasional" sellers. However, the *de minimis* rule does not apply to credit card transactions or to the "aggregate payee" requirement that a transportation company issue Forms 1099-K to drivers who have accepted credit card transactions.

It is important that companies keep accurate records reflecting the amount of credit card fares submitted by each driver in order to prepare and file an accurate Form 1099-K for each independent contractor driver.

### Is my company required to report fares paid to drivers using company account vouchers on Form 1099-K?

No. The requirement that a company issue Forms 1099-K to drivers applies only to fares paid by credit card, and does not apply to fares paid using a company voucher.

### Does the Form 1099-K apply to me if I only have employee drivers?

No. Companies who have employee drivers and accept payment by credit card will receive a Form 1099-K from their merchant bank that processes credit card transactions, but are not required to issue Forms 1099-K to their employee drivers. Amounts paid to employee drivers, including amounts attributable to payments by credit cards, are instead required to be reported on each driver's Form W-2.

### What information do I need to request from my drivers in order to complete the Form 1099-K?

In order to avoid the back-up withholding rules, a company that will be required to issue Forms 1099-K to its drivers should obtain a completed and signed Form W-9 from each of its drivers. The driver must provide his Taxpayer Identification

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Number (Social Security Number or Employment Identification Number (EIN), if applicable) on the Form W-9. The IRS provides instructions regarding whether a driver should report his EIN or SSN when completing the Form W-9.

### If a driver pays his rent (lease payment) with his personal credit card, is this transaction reportable on Form 1099-K?

Yes. This type of transaction would be reportable by the bank that processes credit card payments for the transportation company. The bank will issue a Form 1099-K to the company reporting the gross amount of proceeds of credit card transactions settled during each calendar year.

### If a corporate business pays its monthly invoice/statement with a credit card, is this transaction reportable on Form 1099-K?

Yes. This type of transaction would be reportable by the bank that processes credit card payments for the transportation company just like the credit card transaction above between the driver and the company. The bank will issue a Form 1099-K to the company reporting the gross amount of proceeds of all credit card transactions settled during each calendar year.

### If a customer purchases a prepaid cab fare card (e.g., a gift card) with

### a credit card, is this transaction reportable on Form 1099-K?

Yes. This type of transaction would also be reportable by the bank that processes credit card payments for the transportation company. A prepaid cab fare card – gift card – is treated like a credit card transaction for purposes of the Form 1099-K rules. The bank will issue a Form 1099-K to the company, reporting the gross amount of proceeds from all credit card transactions settled during each calendar year. In turn, a transportation company will issue a Form 1099-K for each independent contractor driver to whom it has paid or credited amounts on account of fares and tips paid by credit card, reporting the gross amount of credit card fares (including prepaid cab fare cards) paid to the driver. Of course, the company is never required to issue a Form 1099-K to a passenger.

### If my company issues a credit/debit card to a driver as an alternative form of payment/reimbursement, is this a transaction reportable on Form 1099-K?

No. A transportation company does not have a Form 1099-K reporting obligation for merely issuing a credit/debit card to a driver in lieu of cash or check. In addition, cash advances on credit cards and debit card withdrawals from ATMs are not

treated as payment card transactions and therefore are not reportable on Form 1099-K.

If a driver uses the credit/debit card at an establishment that accepts payment cards then this type of transaction would be reportable by the bank that processes credit card payments for the merchant. The bank will issue a Form 1099-K to the merchant reporting the gross amount of proceeds from all credit card transactions settled during the calendar year.

Editorial Note: TLPA members should consult with their own accountants or legal counsel regarding the effect of the Form 1099-K information reporting requirements on their companies. ■

## Executive Committee Takes Action

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updated TLPA Pink Ride program at the Spring Conference & Expo in Chicago.

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