

March 3, 2021

The Honorable Chuck Schumer  
Majority Leader  
U.S. Senate  
United States Capitol  
Washington, DC 20510

The Honorable Mitch McConnell  
Minority Leader  
U.S. Senate  
United States Capitol  
Washington, DC 20510

Dear Leader Schumer and Leader McConnell:

The undersigned groups submit these comments in response to a provision in the House passed *American Rescue Plan* that would lower the Form 1099-K reporting thresholds for Third Party Settlement Organizations (TPSOs) under I.R.C. § 6050W.

We have serious reservations about the proposed changes to the reporting requirements which would significantly lower the threshold for Form 1099-K reporting. This proposal would dramatically expand the scope of those who receive Form 1099-K, sweep in casual participants in the marketplace, and disrupt the gig and shared economy ecosystems during a time when the priority should be enabling greater access to flexible earning opportunities while the country continues to recover from the pandemic. These changes would also increase compliance costs for TPSOs and small businesses. Additionally, the effective date makes compliance extremely difficult for all companies.

### **Effective date**

This amendment would significantly lower the reporting requirement threshold for TPSOs to file 1099-K forms reporting the gross amount paid in settlement by a TPSO to a payee from the uniform federal standard of \$20,000 and 200 transactions to \$600 regardless of the number of transactions.

We strongly recommend that Congress refrains from changing the reporting requirements, however if it were to move forward, the effective date would need to be moved to tax year 2023 in order for TPSOs to be able to fully comply. Otherwise, the current effective date provides less than 9 months for TPSOs to be ready to comply. Alternatively, a waiver of penalties and fines for the first two years could be provided if companies demonstrate good faith attempts to comply.

### **Benefits of electronic payments for law enforcement**

Federal and state law provide an extensive regulatory framework designed to stop money laundering and ensure those records are preserved for use by law enforcement as necessary. The Bank Secrecy Act, 31 U.S.C. § 5311 *et seq.* and its implementing regulations 31 C.F.R. Chapter X, requires TPSOs that are money transmitters to register with the Financial Crimes Enforcement Network (FinCEN), and have effective anti-money laundering compliance programs in place including maintaining records of customer identity for certain funds transfers of \$3,000 or more. Additionally, TPSOs who are money transmitters must also file Suspicious Activity Reports with FinCEN for transactions which are conducted or attempted, at or through the TPSO, and which

involves or aggregates funds or assets of \$2,000 or more and the TPSO knows, suspects, or has reason to suspect that the transaction is suspicious and file Currency Transaction Reports (CTR) for transactions involving more than \$10,000 in cash.

We recommend harmonizing the reporting threshold between Form 1099-K and FinCEN's CTRs. Standardizing both thresholds at \$10,000 would provide certainty and consistency to financial institutions and TPSOs without hampering small and micro businesses or law enforcement in the United States.

Sincerely,

Electronic Transactions Association  
Financial Innovation Now  
National Federation of Independent Business (NFIB)  
National Small Business Association  
TechNet  
U.S. Chamber of Commerce