

TaxAct Professional
1099K Explosion!

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1

Course Objectives

- At the end of this course, you will be able to:
 - Explain the information reported on the Form 1099-K
 - Report sales of personal property reported on Form 1099-K
 - Differentiate business income from hobby income
 - Nominee the 1099-K income to another person, business, or entity
 - Report fraudulent 1099-Ks



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2

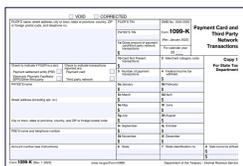
Section 1
A Little History Lesson

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1099-K – What Is It?

- Form 1099-K, Payment Card and Third-Party Network Transactions, is an IRS information return that reports certain payment transactions.
- The IRS expects use of the 1099-K to improve “voluntary tax compliance.”



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| 4

4

1099-K History

- The 1099-K form was first introduced in 2012 as a requirement for reportable payment transactions defined as payment card transactions or third-party network transactions.
- Per the 2012 instructions:
 - A TPSO [Third Party Settlement Organization] is required to report any information concerning third party network transactions of any participating payee only if for the calendar year:
 - The gross amount of total reportable payment transactions exceeds \$20,000 AND
 - The total number of such transactions exceeds 200.

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| 5

5

And Nothing Changed Until...

- The American Rescue Plan of 2021 changed that \$20,000 threshold to **SIX HUNDRED DOLLARS**, beginning with payments transactions settled after December 31, 2021!
- No number of transactions is mentioned! (Apparently the IRS is working on this requirement.)

Wow, that's a HUGE change!!

Go big or go home, I always say.

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| 6

6

Maybe Too Big of a Change?

- The AICPA sent a letter to the Senate Finance Committee and the House Ways and Means Committee, expressing "deep concerns" about the \$600 threshold
- It was noted that the \$600 threshold was based on § 6041 of the tax code, called Information at Source, established in 1954
 - (And never adjusted for inflation)
- Today that \$600 would be about \$7,015...just sayin'...

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17

7

Delayed Implementation

- Friday, December 23rd, 2022, the IRS issued Notice 2023-10, announcing that calendar year 2022 would be regarded as a **transition period** for the new 1099-K reporting requirements.
- Tuesday, November 21, 2023, the IRS issued Notice 2023-74, announcing that calendar year 2023 would be regarded as a further **transition period**.
- As of now, the IRS is planning for a threshold of **\$5,000** for tax year 2024 as part of a phase-in to implementation plan. Still no minimum number of transactions.

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8

The Elephant in the Room



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More Income to Report?

- Just to be clear, taxpayers were always required to report any income received...
- The 1099K is just "helping" the IRS "help" the taxpayers to do so.
- (But the Joint Committee on Taxation estimates that the new reporting requirement will increase revenue by over a billion dollars...so there's that.)

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| 10

10

IRS Fact Sheets

- The IRS issued a Fact Sheet in December 2022.
 - The FS addressed a number of concerns about the new reporting requirement.
 - Then it was updated on March 22, 2023.
 - Then it was updated again in February 2024 (FS-2024-03).
- There's also an hour-long you-tube video:
<https://www.youtube.com/watch?v=Kb5dVhwAcV0>



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Section 2 About the Form

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And Yet More Details

Dollar amount of transactions broken down by month

8a January	8b February
\$	\$
8c March	8d April
\$	\$
8e May	8f June
\$	\$
8g July	8h August
\$	\$
8i September	8j October
\$	\$
8k November	8l December
\$	\$

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16

And More

Filer's TIN

Client's TIN

IMPORTANT - This is the number that needs to be somewhere on the tax return!!!

FILER'S TIN
PAYEE'S TIN
1a Gross amount of payment card/third party network transactions
\$

The dollar value in Box 1a is GROSS. NOTHING IS SUBTRACTED OUT, INCLUDING FEES PAID TO THE THIRD PARTY OR CREDIT CARD PROCESSOR!

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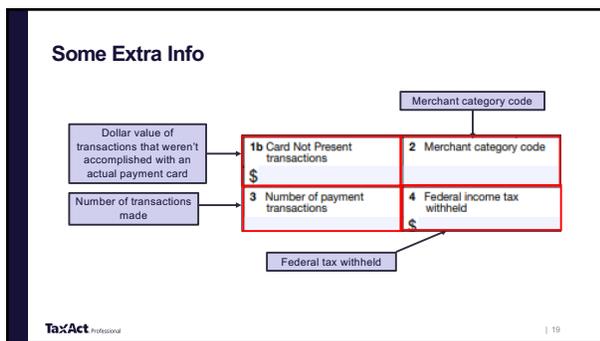
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Gross Amount

- Gross really does mean **gross**.
- There are **no adjustments** for credits, cash equivalents, discount amounts, fees, refunded amounts, or anything else.
- Care must be taken to report the gross amount on the tax return and then to subtract out any fees, credits, refunds, discounted amounts, etc.

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18



19

Merchant Category Code??

- Merchant category codes (MCCs) are four-digit numbers that describe a merchant's primary business activities.
- MCCs are used by credit card issuers to identify the type of business in which a merchant is engaged.
- MCCs are used to track spending habits and to allot credit card points for qualified purchases.
- There are over 600 MCCs.
- (The credit card company may award extra points for restaurants, or flights, or the like.)

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20

MCC Examples

MCC	Description
4011	Railroads - Freight
4111	Suburban and Local Commuter Passenger Transportation, Including Ferries
4122	Passenger Railways
4119	Ambulance Services
4121	Taxi cabs and Limousines
4131	Bus Lines
4214	Motor Freight Carriers, Trucking, Moving & Storage, Local Delivery
4215	Courier Services and Ground Freight Forwarders
4225	Warehousing or Storage of Farm Products, Refrigerated & Household Goods

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21

What if There are Multiple MCCs?

- If a taxpayer has receipts classified under more than one MCC, the merchant acquiring entity gets to choose to either:
 - File separate Form 1099-K, Payment Card and Third-Party Network Transactions, reporting the gross reportable transaction amounts attributable to each MCC, **or**
 - File a single Form 1099-K reporting gross reportable transaction amounts and the MCC that corresponds to the largest portion of total gross receipts.
- Which means it's then up to the taxpayer and tax preparer to sort out the income between the different businesses.

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22

Finally, State Stuff

6 State	7 State identification no.	8 State income tax withheld
		\$
		\$

This section would be filled out if state tax had been withheld.

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23

Due Dates

- Entities are required to provide copies of the 1099-Ks to taxpayers by January 31st.
- You might need to warn clients to bring those forms in, as they might not have received this form before.

Yes! Those are tax forms! I need to see them!



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| 24

24

Section 3
When Your Client Gets the Form

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The Most Important Question

- * The most important question will be this: **Why did the client get this form?**
- * After that is answered, you'll check to make sure the 1099K is accurate!
- * Is the dollar amount correct?
Is the correct TIN reported?

Why did my client get this form?



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26

When a 1099-K May Be Issued

- * If a taxpayer sells goods and/or services and accepts payment cards or compensation through a third-party settlement organization, a 1099-K may be issued.
- * Simply making a purchase using a credit card or third-party settlement organization does not generate a 1099-K.
- * (The IRS is interested in people **receiving** money, not **spending** money.)

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27

So...

- Business income ←
- Hobby income ←
- Gig aka side hustle income ←
- Sale of personal items ←
- Possibly rental income ←
- And possibly nontaxable transactions between friends and family! ←
 - Most payment entities have some sort of way to distinguish business from non-business payments but not everyone does this correctly

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28

Section 5

Sale of Personal Property

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Reporting the Sale of a Personal Item

- Calculate gain or loss
- Sales price – purchase price = gain or loss (ST or LT)
- Loss is not deductible
- Gain is reported on Form 8949 and Schedule D
- Loss reported on Form 8949 or Schedule 1

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30

Sale of Personal Items

I miss my boat.

- Example: Boat cost \$15,000 and sold for \$20,000 two years later.
- Reported on Form 8949 and Schedule D, LT gain.
- It was sold through a third-payment party processor, and your client had to pay \$100 in fees.

What is his gain?



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Sale of Personal Items

I can take a loss on my tax return!

- Example: Janice bought a refrigerator for \$1,000 and sold it later for \$600.
- Payment was made through a 3rd party payment settler and that \$600 was reported on a 1099-K.

Janice is sure she has a loss of \$400 that she can take on her tax return. Do you agree?

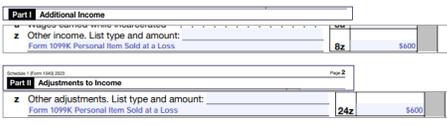


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Sale of Personal Items

- Janice will report that \$600 on Schedule 1, Line 8z as "Other income" with a description of "Form 1099K Personal Item Sold at a Loss" and then report \$600 as an offsetting entry on Schedule 1 Part II, Line 24z.
- The IRS matching software is satisfied, and Janice pays no tax on that \$600.



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Gain on Personal Items

- Bob bought concert tickets for \$500. A few weeks later, he sold them for \$900 through Paypal.
- Paypal sent him a 1099-K for \$900.
- Bob paid Paypal a fee of \$26.
- Bob does not sell concert tickets for a living; this was a one-off thing.

I made four hundred bucks!

How will we put this on his tax return?



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Reporting Gain on Personal Items

SCHEDULE D: LINE 12 You aren't required to report these transactions on Form 1099 (see instructions).

You must check Box A, B, or C below. Check only one box. If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

(A) Short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above)

(B) Short-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS

(C) Short-term transactions not reported to you on Form 1099-B

1	BI Description of property (Example: 100 ac. XYZ Co.)	B2 Date acquired (Mo., day, yr.)	B3 Date sold or disposed of (Mo., day, yr.)	B4 Proceeds (Sales price less expenses)	B5 Cost or other basis (See the Basis section and the Column 5B or the separate instructions.)	B6 Adjusted, if any, to gain or loss (If you enter an amount in column 6B, enter "0" in column 6C.) See the separate instructions.	B7 Gain or loss Enter the amount from column 6B and combine the result with column 6C.
	CONCERT TICKETS	03/01/2022	03/10/2023	900	500		400

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38

Loss on Long-Term Personal Items

- Alice sold her guitar for \$800 on a social media platform.
- She received a 1099-K for \$800.
- This is a personal item, not used in any professional capacity.
- She purchased it long ago for \$3,000 but doesn't have a receipt.
- But she can't deduct a loss in any case.



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Loss on Long-Term Personal Items

- The IRS matching software is satisfied, and Alice pays no tax on that \$800.

You must check Box D, E, or F below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many items with the same box checked as you need.

(D) Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above)

(E) Long-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS

(F) Long-term transactions not reported to you on Form 1099-B

1	NO	RS	RI	RE	RE	RE	RE	RE	RE
1	Description of property (include full name, EIN, etc.)	Date acquired (MM/YY or YY)	Adjusted cost basis (or other basis)	Adjusted sales price (or other sales price)	Cost or other basis (see the instructions)	Adjusted sales price (or other sales price)	Capital gain or loss (see the instructions)	Capital gain or loss (see the instructions)	Capital gain or loss (see the instructions)
SALE OF PERSONAL ITEM		01/01/2018	0701/2024	800	3000	L		2200	L

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Or Schedule 1

- The IRS matching software is satisfied, and Alice pays no tax on that \$800.

Part I Additional Income

2 Other income. List type and amount:
 Form 1099-K Personal Item Sold at a Loss **8z** **\$800**

Part II Adjustments to Income

2 Other adjustments. List type and amount:
 Form 1099-K Personal Item Sold at a Loss **24z** **\$800**

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Form 8949 or Schedule 1?

Schedule 1 is a lot faster.

- According to the Fact Sheet, personal gains are reported on Form 8949 and personal losses may be reported on Form 8949 OR Schedule 1.
 - Schedule 1 is easier to fill out.
- The Schedule 1 option is not available for gains.
- Personal losses aren't deductible either way.

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42

Multiple Personal Items Sold

- Steven purchased tickets for two separate sporting events, each \$250, total \$500.
- A month later, he realized he wouldn't be able to attend the events, and he sold the tickets in two separate transactions.
- One set of tickets sold for \$800, and the other set sold for \$200.
- Steven received a 1099K for \$1,000.

How will we put this on his tax return?



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Multiple Personal Items Sold

- The loss on the second set cannot offset the gain on the first set!
- Steven has a gain of $\$800 - \$250 = \$550$, with no offsetting loss.



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Reporting Steven's Ticket Sales

- Per the IRS Fact Sheet, the gain must be reported on Form 8949.

Booker and may wish to tell you which box to check.

Part I Short-Term. Transactions involving capital assets you held 1 year or less are generally short-term (see instructions). For long-term transactions, see page 2.
Note: You may aggregate all short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the totals directly on Schedule D, line 1c; you aren't required to report these transactions on Form 8949 (see instructions).

You must check Box A, B, or C below. Check only one box. If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

A Short-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above)
 B Short-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS
 C Short-term transactions not reported to you on Form 1099-B

1	BE Description of property (Example: 100 shares ABC Co.)	BI Date acquired (Mo.-Day.-Yr.)	B2 Date sold or disposed of (Mo.-Day.-Yr.)	B3 Purchase price (see instructions)	B4 Cost or other basis (see the Basis section and see Column (d) in the separate instructions)	Adjustment, if any, to gain or loss		B6 Sales or disposal amount (see instructions)	B7 Sales or disposal amount (see instructions)
						B5 Code(s) from instructions	B8 Amount of adjustment		
	SPORTING EVENT TICKETS	02/01/2024	03/01/2024	800	250			550	

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45

Lisa Cleans House

- You ask for a list of what sold and for how much, and what she had originally paid for the items.
- She (eventually) comes up with a list.
 - Dining room set cost \$5,000 six years ago, sold for \$1,000
 - Couch cost her \$1,500 five years ago, sold for \$200
 - FAX machine cost her \$500 3 years ago, sold for \$25
 - Necklace that cost \$500, sold for \$750
 - Ruby ring that cost \$650, sold for \$1,000
 - Painting that cost \$1,000, sold for \$75
- She adds it all up and concludes that she got \$3,050 for stuff that she paid \$9,150 for.



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Lisa Cleans House

• “See?” she says. “I took a loss of about SIX GRAND! Tax deductible!”

Do you agree?



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Lisa Cleans House

- And now you get to be the bearer of bad news.
- She'll pay tax on the items that were sold at a gain, but cannot take a loss on the items sold at a loss.
- Nor can the gains and losses be netted out.
- This is the “Heads I win, tails you lose” principal of personal property taxation.



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51

Breaking It Down

Perhaps put it all on Form 8949...

You must check Box D, E, or F below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

(A) Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see Note above)

(B) Long-term transactions reported on Form(s) 1099-B showing basis wasn't reported to the IRS

(C) Long-term transactions not reported to you on Form 1099-B

1	B1 Description of property (Example: 100 sh. XYZ Co.)	B2 Date acquired (MM, day, yr)	B3 Date sold or disposed of (MM, day, yr)	B4 Proceeds (see instructions)	B5 Cost or other basis (see the Basis column and see Column H in the separate instructions)	B6 Adjusted gain, loss, to gain or loss (For enter an amount in column B) Enter the separate instructions. See the separate instructions.	B7 Gain or (loss) Subtract column 6 from column 5 and combine the result with column 6a
	NECKLACE	01/01/2020	03/01/2024	750	500		250
	RUBY RING	01/01/2021	08/15/2024	1000	650		350
	PERSONAL ITEMS	VARIOUS	09/01/2024	1300	8000	L	6700

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52

Lisa's Taxes

- If she paid any fees on these transactions, those would be added to basis to reduce the amount of her gain.
- Clients need to be warned to keep records of what they sold!



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| 53

53

Quiz!!

- If your client receives a 1099-K for the sale of a personal item at a loss, you should:
 - A. Report the amount of the loss on Schedule 1
 - B. Zero out the reported gross income on Form 8949 so that no taxes are paid.
 - Zero out the reported gross income on Schedule 1 so that no taxes are paid.
 - Ignore it, as no tax is due.

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| 54

54

Section 6
Friends and Family Transactions

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Friends and Family Transactions

- Money sent between friends and family members as reimbursements or gifts are not required to be reported on a 1099-K, as such funds are not payments for goods or services.
 - Money sent to college kid for expenses
 - Money sent as gifts
 - Money sent as reimbursements
- But even though there should be no tax consequences, a 1099-K might be sent in error.

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56

Personal Reimbursements

- Jennifer and Jane went to a concert together.
- Jennifer bought the tickets and Jane reimbursed her via an online payment processor.
- A 1099-K should not be issued because the money is not payment for the sale of goods or the provision of services.
- But if Jane didn't hit the right buttons, Jennifer might get a 1099-K!
- If Jennifer is unable to get it corrected by the online payment processor, she can report it as other income and then subtract it out.



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Jennifer's Schedule 1

Part I Additional Income

z Other income. List type and amount: <small>Form 1099K Received in Error</small>	8z	\$200
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Transfer from Form 1099-K

Part II Adjustments to Income

z Other adjustments. List type and amount: <small>Form 1099K Received in Error</small>	24z	\$200
--	------------	-------

* IRS matching software is satisfied and Jennifer pays no tax.

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58

Tax Advocate Service Tip

"Use caution when paying or receiving payments from friends or family members using cash payment apps. For example, reimbursing a friend who picks up a restaurant check for one's own share of the meal or sending a gift by cash payment app may erroneously be reported on Form 1099-K if such transactions, along with any others during the year, amount to \$600 or more. **Payment services generally allow users to designate a payment as personal, which should prevent such a mistake.** Be sure to ask those friends or family members to correctly designate the payment as a non-business-related transaction and then make a note yourself of what the payment was for and from whom it was received."

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ADVOCATE
SERVICE
YOUR VOICE AT THE IRS

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Section 7 Cryptocurrency Transactions

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Cryptocurrency 1099-Ks

- Many exchanges are issuing 1099-Ks reporting total proceeds on sales and trades of digital assets
 - Gemini
 - Bitstamp
 - eToro
 - Cash App (yes, you can sell crypto in the Cash App app)
 - Venmo (yes, you can sell crypto in the Venmo app)
 - Crypto.com



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61

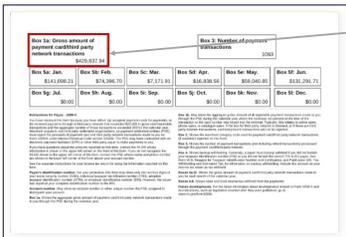
Cryptocurrency 1099-Ks

- This is investment property, not personal property!
- Both gains and losses are reported on Form 8949.

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Cryptocurrency 1099-Ks



Shows gross amount! Taxpayer actually had a loss that year!

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63

Section 8
**Miscellaneous
1099Ks**

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Dependent 1099-Ks

- From the IRS Fact Sheet:
- Q2. What should I do if my child or other dependent receives a Form 1099-K? (added Feb. 06, 2024)
- A2. If your child or dependent provided services for others and was paid through a payment app or sold items through an online marketplace and received a Form 1099-K, your child or dependent may need to file a tax return. Use the form along with other records to help them figure and report the correct taxable income when they file the appropriate tax return.



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Crowdfunding 1099-Ks

- From the IRS Fact Sheet:
- Q9. If I received a Form 1099-K for donations I received through crowdfunding, am I required to report the proceeds reported? (Added Feb. 06, 2024)
- A9. You may receive a Form 1099-K for money raised through crowdfunding. Some money raised through crowdfunding may be taxable to you, and you may be required to report it on your income tax return. However, some money raised may be considered a gift and would not be taxable.

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Zelle is NOT Sending Out 1099-Ks

- Zelle doesn't report to the IRS for business or personal use of its platform.
- Evidently, it doesn't count as a third-party payment network, so the usual reporting requirements don't apply to it.



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67

Section 4

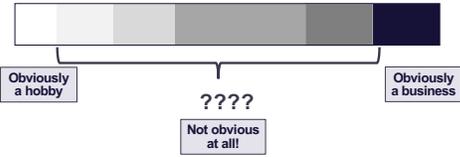
Hobby or Business?

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Hobby Income

- Is it a hobby or a business?
- This can be a very difficult call, lots of gray area!



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Use the 9 Factors from Reg §1.183-2

The 9 factors :

1. The manner in which the taxpayer carried on the activity
2. The expertise of the taxpayer or his or her advisers
3. The time and effort expended by the taxpayer in carrying on the activity
4. The expectation that the assets used in the activity may appreciate in value
5. The success of the taxpayer in carrying on other similar or dissimilar activities
6. The taxpayer's history of income or losses with respect to the activity
7. The amount of occasional profits, if any, which are earned
8. The financial status of the taxpayer
9. Elements of personal pleasure or recreation

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| 70

70

The Nine Factors

- It isn't a case of how many factors indicate a business vs how many factors indicate a hobby.
- And no one factor weighs more heavily than the others.
- It's entirely FACTS AND CIRCUMSTANCES.

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| 71

71

Hobbies per IRS Audit Technique Guide

- | | |
|--|--------------------|
| • Airplane charter | • Stamp collecting |
| • Artistry | • Dog breeding |
| • Auto racing | • Writing |
| • Bowling | • Entertaining |
| • Horse breeding | • Farming |
| • Horse racing | • Fishing |
| • Motocross racing | • Yacht charter |
| • Photography | • Gambling |
| • Craft sales | |
| • Direct sales (Avon®, Tupperware® and the like) | |

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| 72

72

Very Different Tax Treatment

- Business can deduct all expenses, qualify for self-employment health insurance, QBID deduction, IRA contribution.
 - But does pay FICA tax!
- Hobby has very limited expenses (only COGS), does not qualify for self-employment health insurance, nor QBID, nor IRA contribution.
 - But doesn't pay FICA tax!
- The question is NOT which tax treatment is better for the taxpayer, but of which tax treatment is **correct** for the situation.
- Take notes; you may be called upon to defend your decision!

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| 73

73

Quiz!!

- Which of the following is **not** one of the nine factors in differentiating a hobby from a business?
 - a. The manner in which the taxpayer carried on the activity
 - b. The expertise of the taxpayer or his or her advisers
 - c. The time and effort expended by the taxpayer in carrying on the activity
 - d. The expectation that the assets used in the activity may appreciate in value
 - e. The age of the taxpayer
 - f. The success of the taxpayer in carrying on other similar or dissimilar activities

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| 74

74

Section 5

1099-K Tax Treatment Business and Hobby Examples

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Business Income

- You may discover that your client has been operating a business for years and you knew nothing about it.
- Amend, amend, amend.
- Or fire the client.

I didn't know it was taxable!

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76

Business 1099-K Issues

- Robert sells ceramics on Etsy
- He let his kid sister, Laurie, use his Etsy account to sell some jewelry that she had made herself.
 - Laurie sold \$1,000 worth of jewelry
- Laurie got the \$1,000, but that amount was included in Robert's 1099K!
- Robert sold only \$25,000 worth of stuff, but the 1099K says \$26,000

What should Robert do?

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Robert's Ceramics

- Report the full 1099K amount in gross receipts on his Schedule C.

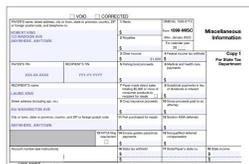
- Nominee that \$1,000 to Laurie as an "Other Expense."

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Let Laurie Know!

- Should Robert issue a 1099-MISC to Laurie?
- The IRS has not provided guidance on this.



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79

Christine's Ornaments

- Christine sells Christmas ornaments online
- She receives a 1099-K for \$7,500.
- She pays settlement fees of \$750.
- Cost of goods sold is \$1,500.
- She has dedicated a room in her home to this activity.
- Christine has a W-2 job and clearly defines this as hobby income.



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80

Christine's Reporting

Part I Additional Income	
z Other income. List type and amount: Form 1099K Hobby Income	8z \$7,500
Part II Adjustments to Income	
z Other adjustments. List type and amount: Form 1099K Hobby Cost of Goods Sold	24z \$1,500

Are settlement fees part of COGs?

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| 81

81

Shared Terminals

I think I'd know if I made a hundred grand.

- Peter brings in a 1099-K showing gross income of \$100,000.
- It seems way too high to him!
- After comparing his own records with the monthly amounts shown on the 1099-K, he recalls that Wendy, who shares the office with him, uses the same payment terminal for her business. Whoops!
- Some of this \$100,000 must belong to Wendy!
- What now?



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82

Peter and Wendy

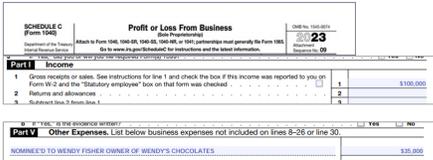
- Peter produces his P&L, showing gross income of \$65,000.
- Peter calls the PSE on the 1099-K but is told that they don't have any information about Wendy's business and all this income therefore needs to be reported under his EIN.
- The full \$100,000 must show up on Peter's Schedule C (or 1120S or whatever).
- The remaining \$35,000 gets nominee'd to Wendy.
- Unfortunately, Peter doesn't know Wendy's EIN, but he does know her name and the name of the business.

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Peter's Schedule C

- Potential issues with this solution! A sales tax audit may expect sales tax to be paid by Peter for the full \$100,000!
- So possibly subtract it out on Returns and Allowances?



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84

Moving Forward

- It would be a good idea for Peter to talk to Wendy to let her know this is happening. And he might even ask for her EIN so he can add that to the description of the \$35,000 adjustment.
- And Peter should cut Wendy off from using his terminal.



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85

Wrong EIN on the 1099-K

- Bill is upset.
- He received a 1099-K under his SSN instead of his S-Corp's EIN!
- He tried calling the PSE and filer of the 1099-K to get this corrected and got nowhere. (Surprise.)
- Now what?



PAYEE'S TIN	
123-45-6789	
1a Gross amount of payment card/third party network transactions	
\$	\$250,000

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86

Bill's 1099-K

- You could handle this a few different ways.
- Report it on Schedule C and nominee it to the S Corp.
- Or report it on Schedule 1 and nominee it to the S Corp.
- He has to pay tax on the income, of course, but we want it to go on the right tax form.



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87

Joe Sold His Business

- Joe sold his S Corp during the year to Chester.
- He forgot to cancel his agreement with the third-party settler that provided his payment terminal!
- Now he has a 1099-K showing gross income of \$350,000.
- But this includes income after the business was sold to the new owner.
- Now what??



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88

Joe Sold His Business

- Joe's bookkeeper produces a P&L showing that his gross income was \$225,000
 - \$150,000 was through the third-party payment settler and \$75,000 was through other methods of payments (cash and checks)
- Joe should report the 1099K of \$350,000 plus the \$75,000 of other types of payment, total \$425,000
- The extra of \$200,000 of 1099K money must be nominee'd to the new owner

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Joe's 1120-S

0 Is the corporation electing to be an S corporation beginning with this tax year? See instructions. Yes No

W Check if: (1) Final return (2) Name change (3) Address change (4) Amended return (5) S election termination

I Enter the number of shareholders who were shareholders during any part of the tax year 1

J Check if corporation: (1) Aggregated activities for section 465 at-risk purposes (2) Grouped activities for section 469 passive activity purposes

Caution: Include only trade or business income and expenses on lines 1a through 21. See the instructions for more information.

1a	Gross receipts or sales	1a	\$425,000
b	Returns and allowances	tb	

• Other expense statement: \$200,000 1099-K income nominee'd to new owner, Chester Blankenfield, EIN not known

• Or possibly as Returns and Allowances or a negative "Other Income"

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Keeping It Clean

Joe should contact Chester to let him know what's going on!



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Moving Forward

• And hopefully Joe immediately calls the payment terminal company and cancels service!

For those who don't recognize this, it's a phone.



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92

Double Counting

- Brigitte is a bookkeeper.
- She receives 1099-NEC forms from her clients, reporting how much money they paid her.
- Several of her clients use a third-party payment processor so she gets a 1099-K from that processor for the same money that the 1099-NECs are reporting!
- (Those clients don't need to send her 1099-NEC forms if they are using a third-party payment settler for payments, but they don't know that.)



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Double Counting

- Brigitte finds this out when she gets an IRS letter asking for more tax money.
- You send a letter to the IRS explaining the situation, which they accept.
- The following year, you add together the income reported on the 1099-NECs that she created for her clients PLUS the amount on the 1099-K...
- And then subtract the excess amount as double-counting!



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Brigitte's Schedule C

Double accounting of income from 1099-K

Line	Description	Amount
1	Gross receipts or sales	130,000
2	Returns and allowances	0
3	Cost of goods sold (from line 4)	0
4	Cost of goods sold (from line 3)	0
5	Other income, including interest and state gasoline or fuel tax credit or refund (see instructions)	0
6	Other expenses, including depreciation	130,000
7	Net profit or loss	0

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Cash Back

- Harriet operates a small hair salon.
- She allows customers to request cash back so that the customers can give cash tips to stylists.
- She didn't realize that this "cash back" money was going to show up on her 1099-K.
- Expense that cash back money on Schedule C, Part V, Other Expenses!

Line	Description	Amount
1	Gross receipts or sales	130,000
2	Returns and allowances	0
3	Cost of goods sold (from line 4)	0
4	Cost of goods sold (from line 3)	0
5	Other income, including interest and state gasoline or fuel tax credit or refund (see instructions)	0
6	Other expenses, including depreciation	130,000
7	Net profit or loss	0

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Roger's Rentals

- Roger owns a tuxedo renting business.
- He also has a house he rents out on Airbnb.
- He uses the same payment terminal for both .
- (He figures they're both rental businesses, so it's OK, right?)
- Two different kinds of income reported on two separate forms!
- Now what??



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Roger's Rentals

- Probably have to report full amount on either Schedule C or E and nominee a portion over to the other form.
- Roger has to maintain accurate records so he knows how much is for the tuxedo business and how much is for the Airbnb.



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Dave's Divorce

- Dave was divorced as of December 31st of the previous year.
- He received a 1099-K for his ex-wife's Etsy sales showing gross sales of \$30,000.
- It's under his SSN because he was the primary taxpayer, so that's what made sense to them at the time.
- Now what?

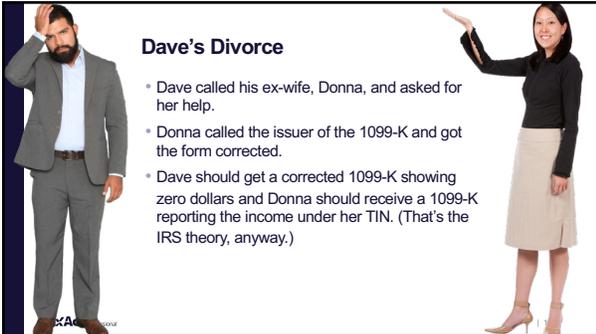


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99

Dave's Divorce

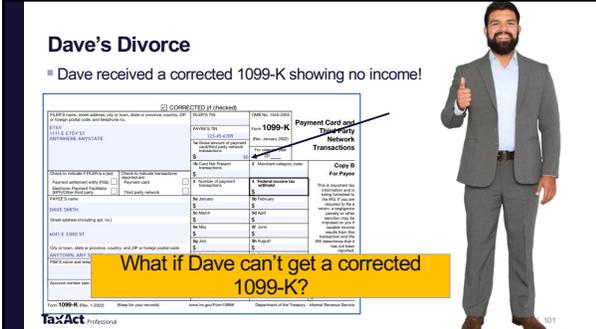
- Dave called his ex-wife, Donna, and asked for her help.
- Donna called the issuer of the 1099-K and got the form corrected.
- Dave should get a corrected 1099-K showing zero dollars and Donna should receive a 1099-K reporting the income under her TIN. (That's the IRS theory, anyway.)



100

Dave's Divorce

■ Dave received a corrected 1099-K showing no income!



What if Dave can't get a corrected 1099-K?

101

Getting a 1099-K Corrected

- If the taxpayer believes the information on a Form 1099-K is incorrect or has been issued in error, that taxpayer can contact the filer, whose name appears in the upper left corner on the front of the form.
- Or the taxpayer may contact the payer, or the payment settlement entity (PSE), name and phone number shown in the lower left corner of the form.
- If the taxpayer cannot get this form corrected, then it must be reported on the tax return and adjusted as needed so that the taxpayer pays the correct amount of tax.

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102

Quiz!

- Which of the following are true?
 - a. Income from different businesses may end up reported on the same 1099-K if they share a payment terminal.
 - b. The payment settlers know how much is "cash back" and therefore they don't include in the GROSS amount of the 1099-K form.
 - c. Nominee-ing income to someone else will inevitably result in an audit.
 - d. An individual may nominee income to an S Corporation.
 - e. It's a good idea for businesses to share payment terminals, as it reduces expenses.

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103

Section 6

Fraudulent 1099-Ks

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Fraudulent Accounts

- There are reports of people who have had their identities stolen and used to sell products on platforms such as eBay.
- The person whose identity was stolen then received a 1099-K with their SSN on it.
- One 1099-K was for \$180,000!

Re: Received a 1099-K form yesterday from ebay, I haven't sold anything on ebay.

write - I know this week is crazy with the seller updates, but could you please jump this one up the ladder? Between the community...



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105

Per Fraud.org

- "It is still unclear what the underlying problem is that is resulting in the IRS 1099-K forms being sent out. eBay representatives have reportedly said that the documents were likely sent out in error, and that recipients should toss them out.
- "We believe this is poor advice, given the unresolved status of the issue on eBay's end.
- "There are potential implications from unauthorized usage of consumers' Social Security numbers, and consumers need to keep a paper trail in order to best regain control over their identity (if it has been compromised)."

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| 106

106

Fraud.org's Advice

- **If you receive a tax document showing unrecognized income**
 - Contact the business that distributed the 1099-K, W-2, or other income report. Finding out if the business actually believes you (or whoever used your Social Security number) may owe taxes or if it was simply a clerical error could help in determining if you were a victim of identity theft.

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107

Fraud.org's Advice

- **If you receive a tax document showing unrecognized income**
 - Check your bank and credit card statements for unauthorized activity. While this may not always be a sign that your identity has been stolen (and having a stolen identity does not always result in unauthorized financial charges), they often go together. If someone stole your SSN, they very well may have access to other sensitive information like online banking passwords, credit and debit card information, and other credentials that would allow them to make payments on your behalf.

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| 108

108

Fraud.org's Advice

- If you receive a tax document showing unrecognized income
 - Search your email (and letter mail) for a data breach notice. People who are victims of a data breach are at greater risk of having their identities stolen. Again, although it's not a one-to-one correlation between breach victims and identity theft, finding out if your credentials appeared in a leak could help piece together the problem.

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| 109

109

Fraud.org's Advice

- If you receive a tax document showing unrecognized income
 - Visit IdentityTheft.gov. If you believe you are the victim of identity theft (someone else has used your Social Security number or other credentials to take actions on your behalf), IdentityTheft.gov has more detailed steps you can take that are specific to your situation.

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| 110

110

PayPal

I was notified by the IRS of unreported income from PayPal via 1099K in 2016. After pulling my own transcripts from the IRS, I found that PayPal reported income in 2016 against my name and SSN, but the report I have ever been associated with and does not exist in past had a PayPal merchant account. Since it is virtually impossible to have a PayPal merchant account, how do I get this clarified so I can prove to the actual customer service representative, how do I get this clarified so I can prove to the IRS I did not actually receive these funds and make sure this does not happen again?

Did you ever get help? We just got a 1099K from PayPal for my husband and he doesn't have a PayPal account and we don't sell anything.

Unfortunately I did not get help from PayPal. After hours and hours of trying to get through to someone I gave up. I had to write a letter to the IRS to explain this whole mess. I haven't heard back from them yet, but this whole thing has cost me a ton of time and stress. Maybe a class action lawsuit will.

I just received one too. I am in the same situation I don't sell anything and I don't have a merchant account.

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111

What Do We Do in the Tax Office?

- The client should certainly do whatever they can to report the fraud...
- But having them pay tax on a fraudulent 1099-K is not an option.

z Other income. List type and amount: FRAUDULENT FORM 1099K RECEIVED	8z	\$25,000
z Other adjustments. List type and amount: FRAUDULENT FORM 1099K RECEIVED	24z	\$25,000

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112

Section 7 Documentation

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Document, Document, Document!!

Got it!

- Keep copies of all forms received.
- Take notes of what the taxpayer told you about the form.
- Take notes of what you advised the taxpayer to do if something needed to be corrected.
- (Because the IRS may have questions a few years from now, after you've forgotten the entire incident.)



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114

Tax Preparer's Documentation Example – Roger's Rentals

- Roger brought in a 1099K with combined income from his tuxedo rental business and his Airbnb rental business.
- He was able to separate out the income using his own records.
- I advised him to get a separate payment terminal for the Airbnb business or, at a minimum, to keep accurate records of which business was receiving the income.
- He was further advised regarding not providing significant services for the Airbnb rental so as to avoid Schedule C treatment.
- The 1099K and Roger's written records are attached.

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115

Tax Preparer's Documentation Example – Fraudulent 1099-K

- Betty received a 1099-K from eBay.
- Betty stated that she does not have an e-Bay account and has never utilized their services.
- Betty provided a handwritten list of the actions she had taken with respect to getting the 1099-K corrected (unsuccessfully).
- I explained to Betty that the income was being reported in her tax return and then subtracted out so that she wouldn't pay tax on that income but be prepared to answer any IRS questions.
- Betty indicated that she understood.

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| 116

116

Tax Preparer's Documentation Example – Brigitte's Books

- This 1099-K was showing income that had already been correctly reported.
- I wrote a letter to the IRS, enclosing all 1099 forms and explaining the duplication in reporting.
- I then suggested to Brigitte that next year we would report BOTH the income from the 1099 forms and the 1099-K forms and then subtract out the duplicate reporting so as to not get IRS letters in the future.
- She indicated that she understood and agreed.

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117

**Thank You for Being With
Us Today!!**

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118
