

# **TaxAct** Professional **1099K Explosion!**

## 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



Section 1

# A Little History Lesson

# 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.”

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-2205		<b>Payment Card and Third Party Network Transactions</b>
FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		FILER'S TIN	Form <b>1099-K</b>	
		PAYEE'S TIN	(Rev. January 2022)	
1a Gross amount of payment card/third party network transactions \$		For calendar year 20		
		2 Merchant category code		
1b Card Not Present transactions \$		3 Number of payment transactions	4 Federal income tax withheld \$	<b>Copy 1 For State Tax Department</b>
Check to indicate if FILER is a (an): Payment settlement entity (PSE) <input type="checkbox"/> Electronic Payment Facilitator (EPF)/Other third party <input type="checkbox"/>		Check to indicate transactions reported are: Payment card <input type="checkbox"/> Third party network <input type="checkbox"/>		
PAYEE'S name		5a January \$	5b February \$	
Street address (including apt. no.)		5c March \$	5d April \$	
City or town, state or province, country, and ZIP or foreign postal code		5e May \$	5f June \$	
PSE's name and telephone number		5g July \$	5h August \$	
Account number (see instructions)		5i September \$	5j October \$	
		5k November \$	5l December \$	
		6 State	7 State identification no.	
		8 State income tax withheld \$		
		\$		

Form **1099-K** (Rev. 1-2022)      www.irs.gov/Form1099K      Department of the Treasury - Internal Revenue Service

## 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.

## 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.

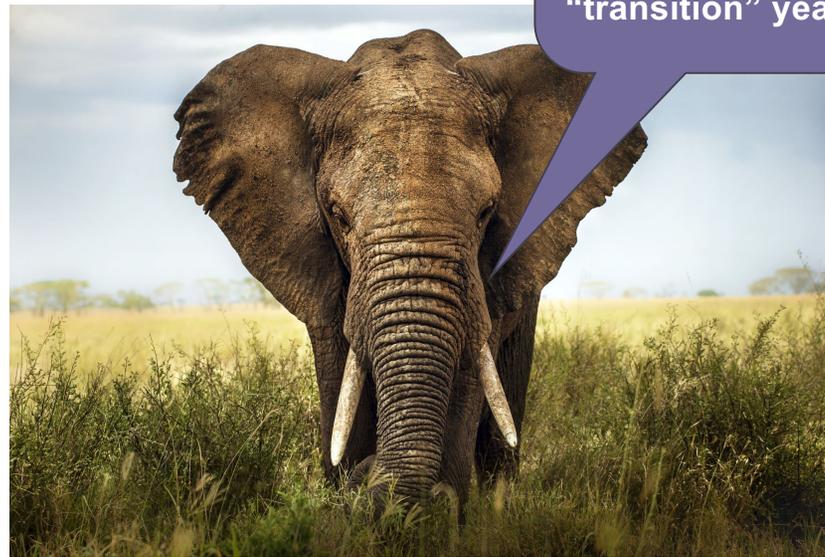
## Maybe Too Big of a Change?

- 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'...

## Delayed Implementation

- Friday, December 23<sup>rd</sup>, 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.

# The Elephant in the Room



It's been delayed two years in a row now...any bets on a third "transition" year?

I wouldn't take that bet.



## 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.)

## 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>

I don't wanna  
watch the  
video.



Section 2

# About the Form

# The Form

VOID     CORRECTED

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.		FILER'S TIN	OMB No. 1545-2205 Form <b>1099-K</b> (Rev. January 2022)		<b>Payment Card and Third Party Network Transactions</b>
		PAYEE'S TIN	For calendar year 20 ____		
Check to indicate if FILER is a (an): Payment settlement entity (PSE) <input type="checkbox"/> Electronic Payment Facilitator (EPF)/Other third party <input type="checkbox"/>		Check to indicate transactions reported are: Payment card <input type="checkbox"/> Third party network <input type="checkbox"/>		<b>Copy 1 For State Tax Department</b>	
		1a Gross amount of payment card/third party network transactions \$ _____			
PAYEE'S name		1b Card Not Present transactions \$ _____		3 Number of payment transactions _____	
		Street address (including apt. no.)		4 Federal income tax withheld \$ _____	
City or town, state or province, country, and ZIP or foreign postal code		5a January \$ _____		5b February \$ _____	
		PSE'S name and telephone number		5c March \$ _____	
Account number (see instructions)		5e May \$ _____		5d April \$ _____	
		6 State _____		5f June \$ _____	
_____		5g July \$ _____		5h August \$ _____	
		5i September \$ _____		5j October \$ _____	
_____		5k November \$ _____		5l December \$ _____	
		7 State identification no. _____		8 State income tax withheld \$ _____	
_____		_____		\$ _____	

Form **1099-K** (Rev. 1-2022)      www.irs.gov/Form1099K      Department of the Treasury - Internal Revenue Service

Watch to make sure you know what year the form is reporting.

# Details, Details

This is who created and sent the form.

Is the filer a “payment settlement entity” (PSE) or an “electronic payment facilitator” (EPF) or “Other third party”?

Were the transactions done through a payment card or third-party network?

VOID  CORRE

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

Check to indicate if FILER is a (an):	Check to indicate transactions reported are:
Payment settlement entity (PSE) <input type="checkbox"/>	Payment card <input type="checkbox"/>
Electronic Payment Facilitator (EPF)/Other third party <input type="checkbox"/>	Third party network <input type="checkbox"/>

PAYEE'S name

Street address (including apt. no.)

City or town, state or province, country, and ZIP or foreign postal code

PSE'S name and telephone number

Account number (see instructions)

# And More Details

Your client's info

Payment Settlement Entity's name and telephone number

Account number

VOID  CORRE

FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.

Check to indicate if FILER is a (an):  
Payment settlement entity (PSE)   
Electronic Payment Facilitator (EPF)/Other third party

Check to indicate transactions reported are:  
Payment card   
Third party network

PAYEE'S name

Street address (including apt. no.)

City or town, state or province, country, and ZIP or foreign postal code

PSE'S name and telephone number

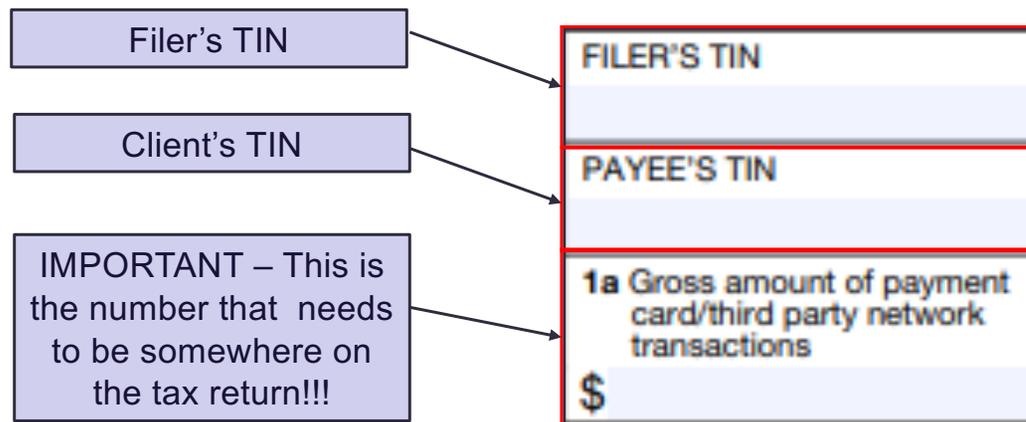
Account number (see instructions)

## And Yet More Details

Dollar amount of transactions broken down by month

5a January \$	5b February \$
5c March \$	5d April \$
5e May \$	5f June \$
5g July \$	5h August \$
5i September \$	5j October \$
5k November \$	5l December \$

## And More

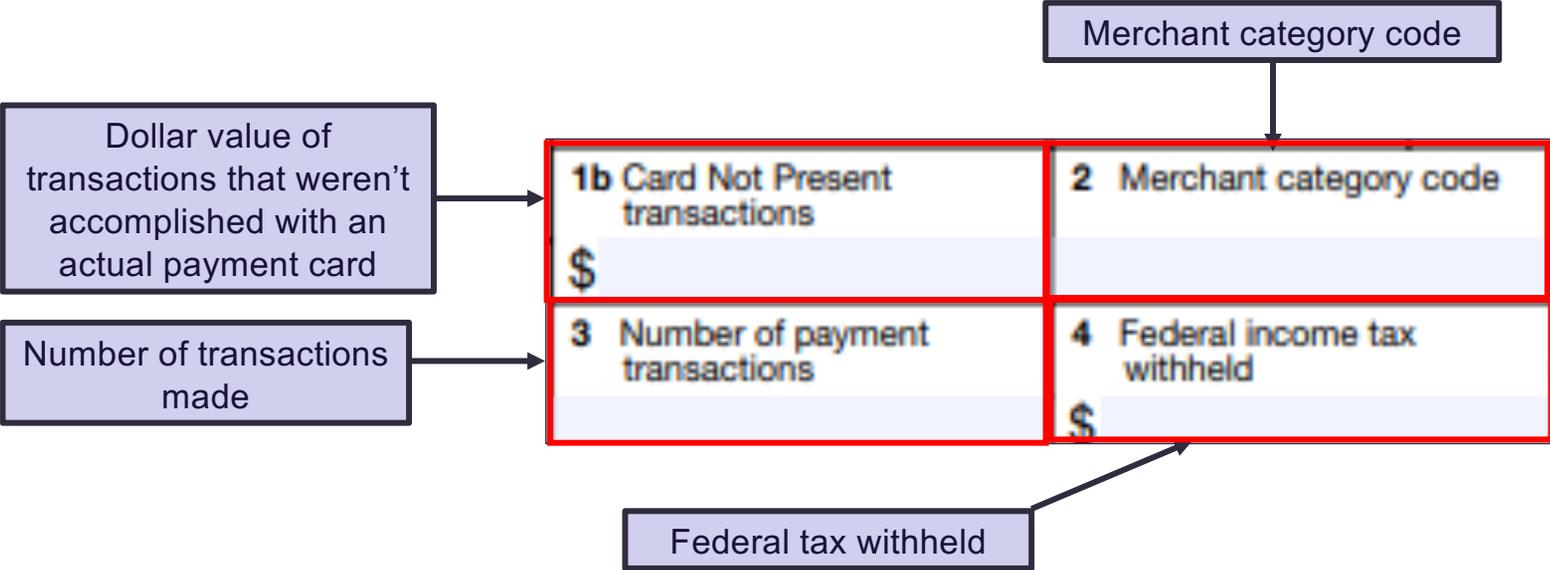


**The dollar value in Box 1a is GROSS.  
NOTHING IS SUBTRACTED OUT, INCLUDING FEES PAID  
TO THE THIRD PARTY OR CREDIT CARD PROCESSOR!**

## 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.

# Some Extra Info



## 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.)

# MCC Examples

MCC	Description
4011	Railroads - Freight
4111	Suburban and Local Commuter Passenger Transportation, Including Ferries
4112	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

## 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.

## 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.

## Due Dates

- Entities are required to provide copies of the 1099-Ks to taxpayers by January 31<sup>st</sup>.
- 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!



Section 3

# When Your Client Gets the Form

## 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?



## 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.)

## 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

Section 5

# Sale of Personal Property

## 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

## 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?



## 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?



# 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.

<b>Part I Additional Income</b>			
<b>z</b>	Other income. List type and amount: Form 1099K Personal Item Sold at a Loss	<b>8z</b>	\$600

Schedule 1 (Form 1040) 2023		Page 2	
<b>Part II Adjustments to Income</b>			
<b>z</b>	Other adjustments. List type and amount: Form 1099K Personal Item Sold at a Loss	<b>24z</b>	\$600

# Schedule 1

<b>SCHEDULE 1</b> (Form 1040)		<b>Additional Income and Adjustments to Income</b>		OMB No. 1545-0074
Department of the Treasury Internal Revenue Service		Attach to Form 1040, 1040-SR, or 1040-NR. Go to <a href="http://www.irs.gov/Form1040">www.irs.gov/Form1040</a> for instructions and the latest information.		<b>2023</b> Attachment Sequence No. <b>01</b>
Name(s) shown on Form 1040, 1040-SR, or 1040-NR			Your social security number	
<b>Part I Additional Income</b>				
1	Taxable refunds, credits, or offsets of state and local income taxes		1	
2a	Alimony received		2a	
b	Date of original divorce or separation agreement (see instructions):			
3	Business income or (loss). Attach Schedule C		3	
4	Other gains or (losses). Attach Form 4797		4	
5	Rental real estate, royalties, partnerships, S corporations, trusts, etc. Attach Schedule E		5	
6	Farm income or (loss). Attach Schedule F		6	
7	Unemployment compensation		7	
8	Other income:			
a	Net operating loss	8a ( )		
b	Gambling	8b		
c	Cancellation of debt	8c		
d	Foreign earned income exclusion from Form 2555	8d ( )		
e	Income from Form 8853	8e		
f	Income from Form 8889	8f		
g	Alaska Permanent Fund dividends	8g		
h	Jury duty pay	8h		
i	Prizes and awards	8i		
j	Activity not engaged in for profit income	8j		
k	Stock options	8k		
l	Income from the rental of personal property if you engaged in the rental for profit but were not in the business of renting such property	8l		
m	Olympic and Paralympic medals and USOC prize money (see instructions)	8m		
n	Section 951(a) inclusion (see instructions)	8n		
o	Section 951A(a) inclusion (see instructions)	8o		
p	Section 461(f) excess business loss adjustment	8p		
q	Taxable distributions from an ABL account (see instructions)	8q		
r	Scholarship and fellowship grants not reported on Form W-2	8r		
s	Nontaxable amount of Medicaid waiver payments included on Form 1040, line 1a or 1d	8s ( )		
t	Pension or annuity from a nonqualified deferred compensation plan or a nongovernmental section 457 plan	8t		
u	Wages earned while incarcerated	8u		
z	Other income. List type and amount:	8z		
9	Total other income. Add lines 8a through 8z		9	
10	Combine lines 1 through 7 and 9. This is your <b>additional income</b> . Enter here and on Form 1040, 1040-SR, or 1040-NR, line 8		10	



Schedule 1 (Form 1040) 2023		Page <b>2</b>	
<b>Part II Adjustments to Income</b>			
11	Educator expenses	11	
12	Certain business expenses of reservists, performing artists, and fee-basis government officials. Attach Form 2106	12	
13	Health savings account deduction. Attach Form 8889	13	
14	Moving expenses for members of the Armed Forces. Attach Form 3903	14	
15	Deductible part of self-employment tax. Attach Schedule SE	15	
16	Self-employed SEP, SIMPLE, and qualified plans	16	
17	Self-employed health insurance deduction	17	
18	Penalty on early withdrawal of savings	18	
19a	Alimony paid	19a	
b	Recipient's SSN		
c	Date of original divorce or separation agreement (see instructions):		
20	IRA deduction	20	
21	Student loan interest deduction	21	
22	Reserved for future use	22	
23	Archer MSA deduction	23	
24	Other adjustments:		
a	Jury duty pay (see instructions)	24a	
b	Deductible expenses related to income reported on line 8l from the rental of personal property engaged in for profit	24b	
c	Nontaxable amount of the value of Olympic and Paralympic medals and USOC prize money reported on line 8m	24c	
d	Reforestation amortization and expenses	24d	
e	Repayment of supplemental unemployment benefits under the Trade Act of 1974	24e	
f	Contributions to section 501(c)(18)(D) pension plans	24f	
g	Contributions by certain chaplains to section 403(b) plans	24g	
h	Attorney fees and court costs for actions involving certain unlawful discrimination claims (see instructions)	24h	
i	Attorney fees and court costs you paid in connection with an award from the IRS for information you provided that helped the IRS detect tax law violations	24i	
j	Housing deduction from Form 2555	24j	
k	Excess deductions of section 67(e) expenses from Schedule K-1 (Form 1041)	24k	
z	Other adjustments. List type and amount:	24z	
25	Total other adjustments. Add lines 24a through 24z	25	
26	Add lines 11 through 23 and 25. These are your <b>adjustments to income</b> . Enter here and on Form 1040, 1040-SR, or 1040-NR, line 10	26	

Schedule 1 (Form 1040) 2023



## Can I Put That on Form 8949?

- Per IRS FactSheet:
- **You can use Form 8949 and Schedule D to report the sale of a personal item at a loss instead of Schedule 1** if, for example, you have other transactions that require you to file Form 8949 and Schedule D anyway. Because the loss isn't deductible, enter an adjustment when reporting the proceeds and basis of the personal item on Form 8949 as follows.
- Enter "L" in column (f) as the code explaining the loss is nondeductible. Then enter the amount of the nondeductible loss as a positive number in column (g). In the example of the refrigerator sale above, enter \$700 in column (d) for the proceeds, \$1,000 in column (e) for the cost or other basis, "L" in column (f), and \$300 in column (g) as the amount of the adjustment. This will result in \$0 as the gain or loss in column (h).

# Can I Put That on Form 8949?

**Part II Long-Term.** Transactions involving capital assets you held more than 1 year are generally long-term (see instructions). For short-term transactions, see page 1.

**Note:** You may aggregate all long-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 8a; you aren't required to report these transactions on Form 8949 (see instructions).

**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.

(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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	SALE OF PERSONAL ITEM	01/01/2020	07/01/2024	600	1000	L	400	0

L = Code for nondeductible loss!

## 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.

How will we put this on his tax return?

I made four hundred bucks!



# Reporting Gain on Personal Items

Schedule D, line 1a; you aren't required to report these transactions on Form 8949 (see instructions).

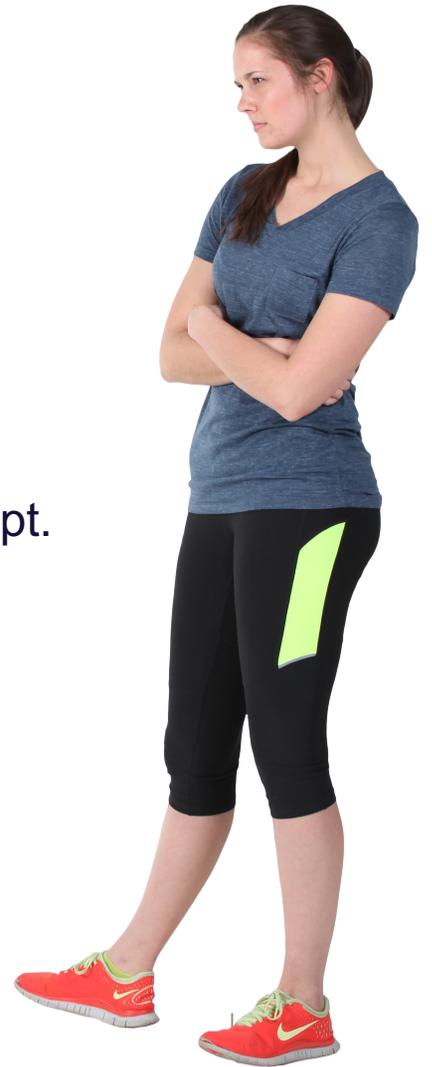
**You must check Box A, B, or C below. Check only one box.** If more than one box applies for your short-term transactions, complete a separate Form 8949, page 1, for each applicable box. If you have more short-term transactions than will fit on this page for one or more of the boxes, complete as many 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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	CONCERT TICKETS	02/01/2022	02/15/2022	\$900	\$526			\$374

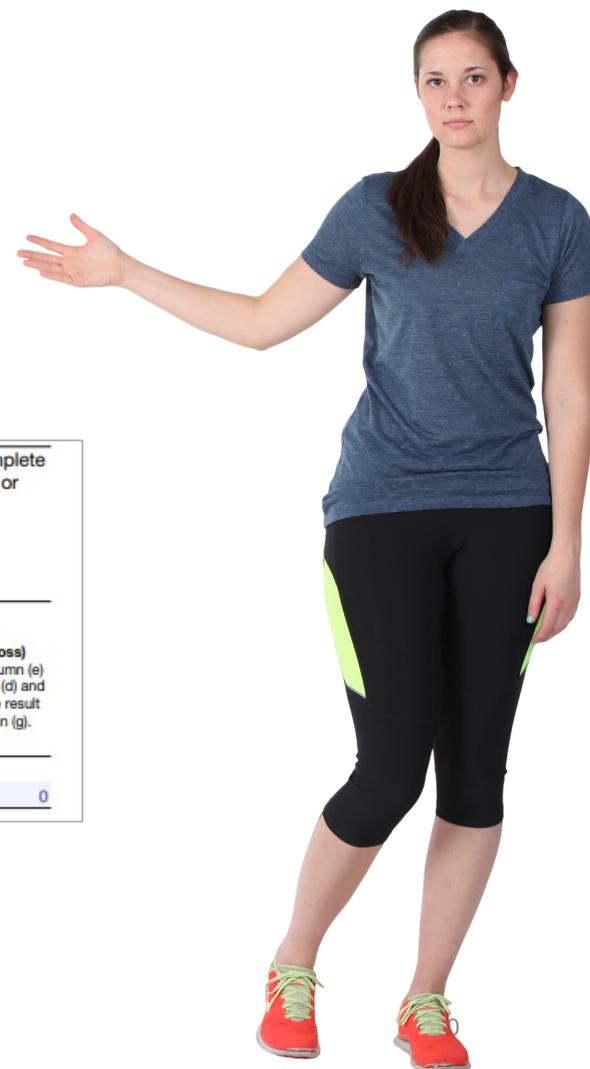
## Loss on Long-Term Personal Items

- 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.



# 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 forms 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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	SALE OF PERSONAL ITEM	01/01/2019	07/01/2024	800	3000	L	2200	0

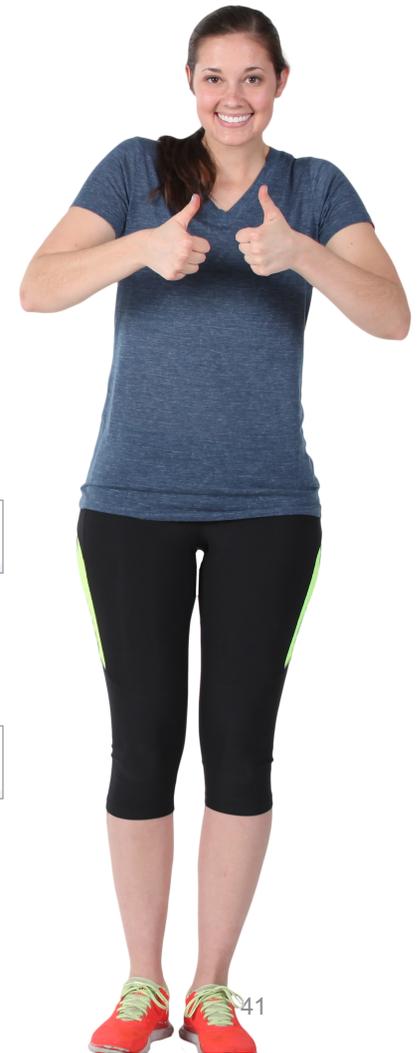
## Or Schedule 1

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

Part I Additional Income			
<b>z</b> Other income. List type and amount:			
Form 1099K Personal Item Sold at a Loss	8z	\$800	

Schedule 1 (Form 1040) 2023		Page 2	
Part II Adjustments to Income			
<b>z</b> Other adjustments. List type and amount:			
Form 1099K Personal Item Sold at a Loss	24z	\$800	



## Form 8949 or Schedule 1?

- 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.

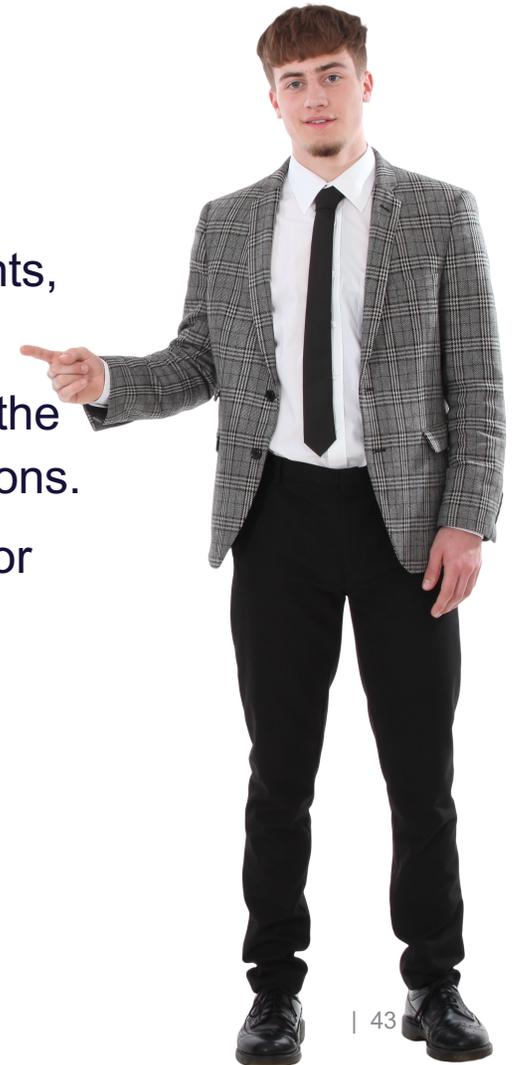
Schedule 1 is a lot faster.



## 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?



## 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.



# Reporting Steven's Ticket Sales

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

*broker and may even 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 1a; 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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	SPORTING EVENT TICKETS	02/01/2024	03/01/2024	800	250			550

# Reporting Steven's Ticket Sales

- Here's the reporting for the tickets that were purchased for \$250 and sold for \$200, per the IRS Fact Sheet.

Part I Additional Income			
<b>z</b>	Other income. List type and amount: FORM 1099K SALE OF PERSONAL ITEMS SOLD AT A LOSS	<b>8z</b>	200
<b>9</b>	Total other income. Add lines 8a through 8z . . . . .	<b>9</b>	200
<b>10</b>	Combine lines 1 through 7 and 9. This is your <b>additional income</b> . Enter here and on Form 1040, 1040-SR, or 1040-NR, line 8 . . . . .	<b>10</b>	200

Schedule 1 (Form 1040) 2023 <span style="float: right;">Page 2</span>			
Part II Adjustments to Income			
<b>z</b>	Other adjustments. List type and amount: FORM 1099K SALE OF PERSONAL ITEMS SOLD AT A LOSS	<b>24z</b>	200
<b>25</b>	Total other adjustments. Add lines 24a through 24z . . . . .	<b>25</b>	200
<b>26</b>	Add lines 11 through 23 and 25. These are your <b>adjustments to income</b> . Enter here and on Form 1040, 1040-SR, or 1040-NR, line 10 . . . . .	<b>26</b>	200

# Reporting Steven's Ticket Sales

I am a little worried about that matching software.

- Or both on Form 8949, more likely to satisfy matching software!



Schedule D, line 1a, 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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	SPORTING EVENT TICKETS	01/01/2024	06/30/2024	800	250			550
	SPORTING EVENT TICKETS	01/01/2024	07/15/2024	200	250	L	50	0

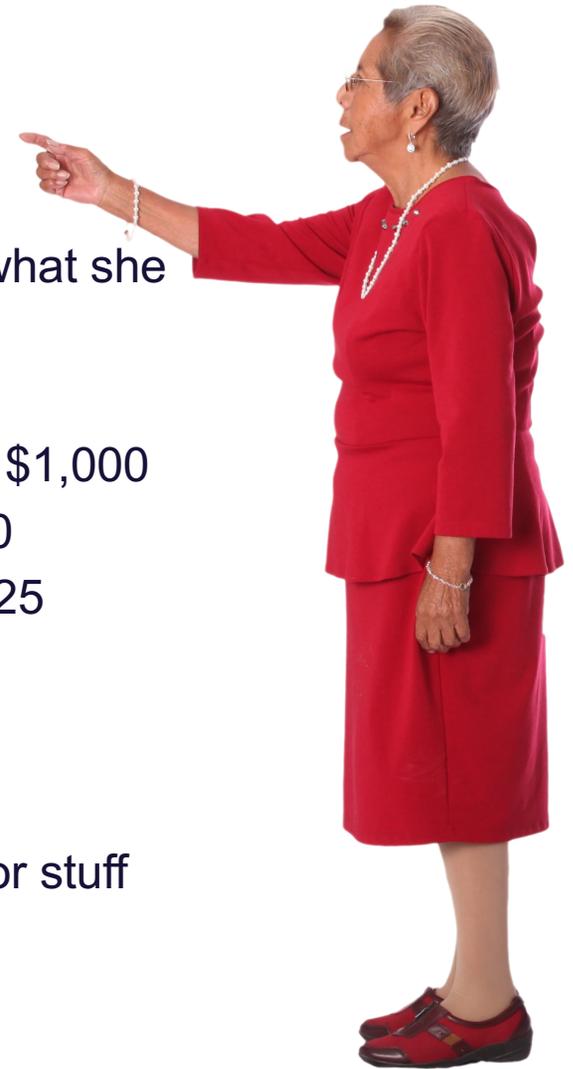
## It Can Get Confusing

- Lisa cleaned house.
- She sold various items of furniture and jewelry on eBay.
- Lisa received a 1099-K for \$3,050
- She's in a panic and you're not too happy yourself.



## 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.



## Lisa Cleans House

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

Do you agree?



## 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.



# Breaking It Down

Perhaps put it all on Form 8949...

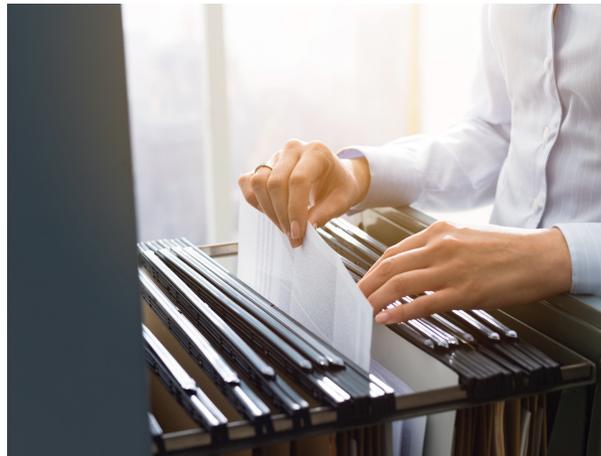
**You must check Box D, E, or F below. Check only one box.** If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many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

**(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	(a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed of (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis See the <b>Note</b> below and see <i>Column (e)</i> in the separate instructions.	Adjustment, if any, to gain or loss If you enter an amount in column (g), enter a code in column (f). <b>See the separate instructions.</b>		(h) <b>Gain or (loss)</b> Subtract column (e) from column (d) and combine the result with column (g).
						(f) Code(s) from instructions	(g) Amount of adjustment	
	NECKLACE	01/01/2020	07/01/2024	750	500			250
	RUBY RING	01/01/2022	08/15/2024	1000	650			350
	PERSONAL ITEMS	VARIOUS	09/01/2024	1300	8000	L	6700	0

## 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!



## 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.

Section 6

# Friends and Family Transactions

## 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.

## 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.



# Jennifer's Schedule 1

Part I Additional Income	
<b>z</b> Other income. List type and amount: Form 1099K Received in Error	8z \$200

Schedule 1 (Form 1040) 2023 Page 2

Part II Adjustments to Income	
<b>z</b> Other adjustments. List type and amount: Form 1099K Received in Error	24z \$200

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

## 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.”

Section 7

# Cryptocurrency Transactions

## 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



## Cryptocurrency 1099-Ks

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

# Cryptocurrency 1099-Ks

<b>Box 1a: Gross amount of payment card/third party network transactions</b> \$429,837.94		<b>Box 3: Number of payment transactions</b> 1063			
<b>Box 5a: Jan.</b> \$141,098.21	<b>Box 5b: Feb.</b> \$74,396.70	<b>Box 5c: Mar.</b> \$7,171.91	<b>Box 5d: Apr.</b> \$16,838.56	<b>Box 5e: May.</b> \$59,040.85	<b>Box 5f: Jun.</b> \$131,291.71
<b>Box 5g: Jul.</b> \$0.00	<b>Box 5h: Aug.</b> \$0.00	<b>Box 5i: Sep.</b> \$0.00	<b>Box 5j: Oct.</b> \$0.00	<b>Box 5k: Nov.</b> \$0.00	<b>Box 5l: Dec.</b> \$0.00

**Instructions for Payee - 1099-K**  
 You have received this form because you have either: (a) accepted payment cards for payments, or (b) received payments through a third party network that exceeded \$20,000 in gross total reportable transactions and the aggregate number of those transactions exceeded 200 for the calendar year. Merchant acquirers and third party settlement organizations, as payment settlement entities (PSE), must report the proceeds of payment card and third party network transactions made to you on Form 1099-K under Internal Revenue Code section 6050W. The PSE may have contracted with an electronic payment facilitator (EPF) or other third party payer to make payments to you.  
 If you have questions about the amounts reported on this form, contact the FILER whose information is shown in the upper left corner on the front of this form. If you do not recognize the FILER shown in the upper left corner of the form, contact the PSE, whose name and phone number are shown in the lower left corner of the form above your account number.  
 See the separate instructions for your income tax return for using the information reported on this form.  
**Payee's identification number.** For your protection, this form may show only the last four digits of your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN). However, the issuer has reported your complete identification number to the IRS.  
**Account number.** May show an account number or other unique number the PSE assigned to distinguish your account.  
**Box 1a.** Shows the aggregate gross amount of payment card/third party network transactions made to you through the PSE during the calendar year.  
**Box 1b.** May show the aggregate gross amount of all reportable payment transactions made to you through the PSE during the calendar year where the card was not present at the time of the transaction or the card number was keyed into the terminal. Typically, this relates to online sales, phone sales, or catalogue sales. If the box for third party network is checked, or if these are third party network transactions, card not present transactions will not be reported.  
**Box 2.** Shows the merchant category code used for payment card/third party network transactions (if available) reported on this form.  
**Box 3.** Shows the number of payment transactions (not including refund transactions) processed through the payment card/third party network.  
**Box 4.** Shows backup withholding. Generally, a payer must backup withhold if you did not furnish your taxpayer identification number (TIN) or you did not furnish the correct TIN to the payer. See Form W-9, Request for Taxpayer Identification Number and Certification, and Publication 505, Tax Withholding and Estimated Tax, for information on backup withholding. Include this amount on your income tax return as tax withheld.  
**Boxes 5a-5l.** Shows the gross amount of payment card/third party network transactions made to you for each month of the calendar year.  
**Boxes 6-8.** Shows state and local income tax withheld from the payments.  
**Future developments.** For the latest information about developments related to Form 1099-K and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form1099k.

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

Section 8

# Miscellaneous 1099Ks

## 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.



## 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.

## 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.

The Zelle logo consists of the word "zelle" in a white, lowercase, sans-serif font, with a registered trademark symbol (®) to the upper right of the letter "e". The logo is centered within a solid purple rectangular background.

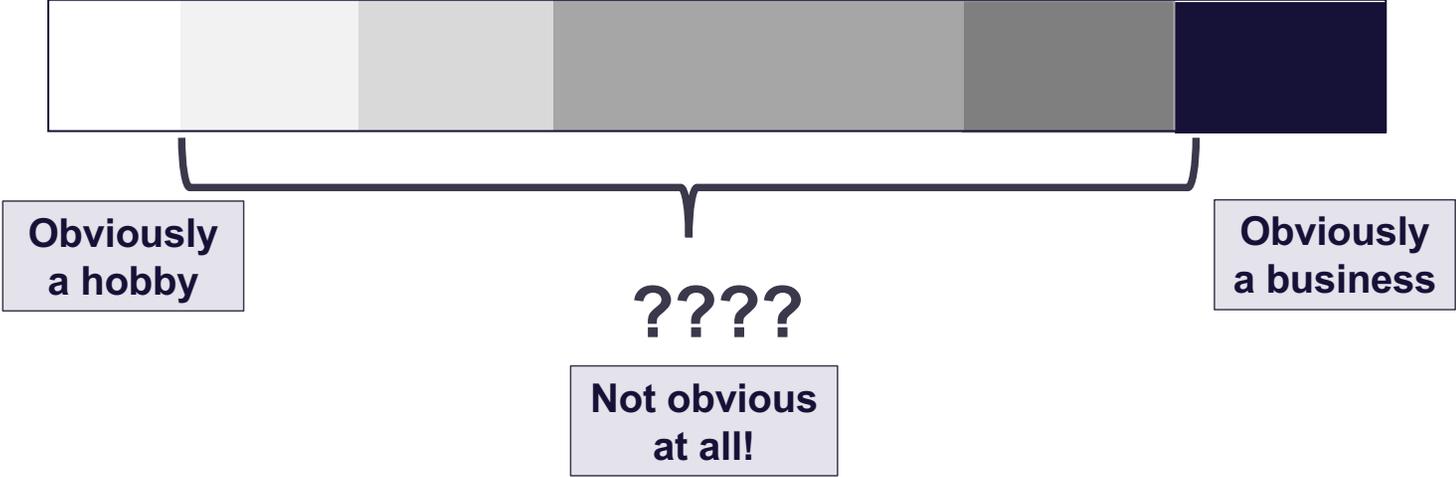
zelle®

Section 4

# Hobby or Business?

# Hobby Income

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



## 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

## 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**.

## Hobbies per IRS Audit Technique Guide

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

## 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!

## 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

Section 5

# 1099-K Tax Treatment Business and Hobby Examples

## 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!



## 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?



# Robert's Ceramics

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

<b>SCHEDULE C</b> <b>(Form 1040)</b>  Department of the Treasury Internal Revenue Service	<b>Profit or Loss From Business</b> (Sole Proprietorship)  Attach to Form 1040, 1040-SR, 1040-SS, 1040-NR, or 1041; partnerships must generally file Form 1065. Go to <a href="http://www.irs.gov/ScheduleC">www.irs.gov/ScheduleC</a> for instructions and the latest information.	OMB No. 1545-0074  <b>2023</b> Attachment Sequence No. <b>09</b>
<b>Part I Income</b>		
<b>1</b> Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked <input type="checkbox"/>		<b>1</b> \$26,000
<b>2</b> Returns and allowances		<b>2</b>

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

<b>SCHEDULE C</b> <b>(Form 1040)</b>  Department of the Treasury Internal Revenue Service	<b>Profit or Loss From Business</b> (Sole Proprietorship)  Attach to Form 1040, 1040-SR, 1040-SS, 1040-NR, or 1041; partnerships must generally file Form 1065. Go to <a href="http://www.irs.gov/ScheduleC">www.irs.gov/ScheduleC</a> for instructions and the latest information.	OMB No. 1545-0074  <b>2023</b> Attachment Sequence No. <b>09</b>
<b>Part V Other Expenses.</b> List below business expenses not included on lines 8–26 or line 30.		
NOMINEE'D TO LAURIE KING SSN 123-45-6789		<b>\$1,000</b>

# Let Laurie Know!

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

<input type="checkbox"/> VOID <input type="checkbox"/> CORRECTED		OMB No. 1545-0115	
PAYER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  <b>ROBERT KING</b> 123 MADISON AVE ANYWHERE, ANYTOWN		1 Rents	Form <b>1099-MISC</b> (Rev. January 2022) For calendar year 20__
		2 Royalties	
		3 Other income	4 Federal income tax withheld
		\$ 1,000	\$
PAYER'S TIN	RECIPIENT'S TIN	5 Fishing boat proceeds	6 Medical and health care payments
XXX-XX-XXXX	YYY-YY-YYYY	\$	\$
RECIPIENT'S name		7 Payer made direct sales totaling \$5,000 or more of consumer products to recipient for resale <input type="checkbox"/>	8 Substitute payments in lieu of dividends or interest
LAURIE KING		\$	\$
Street address (including apt. no.)		9 Crop insurance proceeds	10 Gross proceeds paid to an attorney
456 WASHINGTON AVE		\$	\$
City or town, state or province, country, and ZIP or foreign postal code		11 Fish purchased for resale	12 Section 409A deferrals
ANYWHERE, ANYTOWN		\$	\$
		13 FATCA filing requirement <input type="checkbox"/>	14 Excess golden parachute payments
		\$	\$
Account number (see instructions)		15 Nonqualified deferred compensation	
		\$	\$
		16 State tax withheld	17 State/Payer's state no.
		\$	\$
		\$	18 State income
		\$	\$

**Miscellaneous Information**

**Copy 1 For State Tax Department**

Form **1099-MISC** (Rev. 1-2022)    www.irs.gov/Form1099MISC    Department of the Treasury - Internal Revenue Service

## 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.



# Christine's Reporting

Part I Additional Income	
<b>z</b> Other income. List type and amount: Form 1099K Hobby Income	<b>8z</b> \$7,500

Schedule 1 (Form 1040) 2023 Page 2	
Part II Adjustments to Income	
<b>z</b> Other adjustments. List type and amount: Form 1099K Hobby Cost of Goods Sold	<b>24z</b> \$1,500

Are settlement fees part of COGs?

## Shared Terminals

- 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?

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



## 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.

# 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?

<b>SCHEDULE C</b> <b>(Form 1040)</b>  <small>Department of the Treasury Internal Revenue Service</small>	<b>Profit or Loss From Business</b> <small>(Sole Proprietorship)</small>  <small>Attach to Form 1040, 1040-SR, 1040-SS, 1040-NR, or 1041; partnerships must generally file Form 1065. Go to <a href="http://www.irs.gov/ScheduleC">www.irs.gov/ScheduleC</a> for instructions and the latest information.</small>	<small>OMB No. 1545-0074</small>  <span style="font-size: 2em; font-weight: bold;">2023</span> <small>Attachment Sequence No. 09</small>
---	--	---

If "Yes," did you or will you file required Form(s) 1099?  Yes  No

<b>Part I Income</b>		
<b>1</b>	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked <input type="checkbox"/>	<b>1</b> <span style="float: right;">\$100,000</span>
<b>2</b>	Returns and allowances	<b>2</b>
<b>3</b>	Subtract line 2 from line 1	<b>3</b>

b If "Yes," is the evidence written?  Yes  No

<b>Part V Other Expenses.</b> List below business expenses not included on lines 8–26 or line 30.	
NOMINEE'D TO WENDY FISHER OWNER OF WENDY'S CHOCOLATES	\$35,000

## 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.

Well, this sucks.

My tax accountant told me I had to cut you off. It's nothing personal, Wendy.

## 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?

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



## 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.

OK, so not really a problem.



## 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??



## 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

# Joe's 1120-S

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

**H** 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.

<b>1a</b> Gross receipts or sales . . . . .	<b>1a</b> \$425,000	
<b>b</b> Returns and allowances . . . . .	<b>1b</b>	

- 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"

## Keeping It Clean

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



## 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.



## Double Counting

- Brigette 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.)



## 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!



# Brigette's Schedule C

SCHEDULE C (Form 1040)		Profit or Loss From Business (Sole Proprietorship)		OMB No. 1545-0074	
Department of the Treasury Internal Revenue Service		Go to <a href="http://www.irs.gov/ScheduleC">www.irs.gov/ScheduleC</a> for instructions and the latest information. Attach to Form 1040, 1040-SR, 1040-NR, or 1041; partnerships must generally file Form 1065.		2022 Attachment Sequence No. 09	
Name of proprietor BRIGETTE BISHOP		Social security number (SSN) 123-45-6789			
A Principal business or profession, including product or service (see instructions) BOOKKEEPER		B Enter code from instructions 5   4   1   2   1   9			
C Business name. If no separate business name, leave blank. BRIGETTE'S BOOKS LLC		D Employer ID number (EIN) (see instr.) 8   6   0   0   0   0   0   0			
E Business address (including suite or room no.) City, town or post office, state, and ZIP code					
F Accounting method: (1) <input checked="" type="checkbox"/> Cash (2) <input type="checkbox"/> Accrual (3) <input type="checkbox"/> Other (specify)					
G Did you "materially participate" in the operation of this business during 2022? If "No," see instructions for limit on losses				<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	
H If you started or acquired this business during 2022, check here				<input type="checkbox"/> Yes <input type="checkbox"/> No	
I Did you make any payments in 2022 that would require you to file Form(s) 1099? See instructions				<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
J If "Yes," did you or will you file required Form(s) 1099?				<input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Part I Income</b>					
1	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked	<input type="checkbox"/>	1	\$100,000	
2	Returns and allowances		2		
3	Subtract line 2 from line 1		3		
4	Cost of goods sold (from line 42)		4		
5	Gross profit. Subtract line 4 from line 3		5		
6	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)		6		
7	Gross income. Add lines 5 and 6		7	\$100,000	
D If "Yes," is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No					
<b>Part V Other Expenses.</b> List below business expenses not included on lines 8-26 or line 30.					
DOUBLE ACCOUNTING OF INCOME FROM 1099-K				\$20,000	

Double accounting of income from 1099-K

TaxAct Professional

# 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!

b If "Yes," is the evidence written? <input type="checkbox"/> Yes <input type="checkbox"/> No	
<b>Part V Other Expenses.</b> List below business expenses not included on lines 8-26 or line 38.	
CASH BACK REPORTED ON 1099K	\$500

Cash back reported on 1099K

## 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??



## 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.



## Dave's Divorce

- Dave was divorced as of December 31<sup>st</sup> 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?





## 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.)



# Dave's Divorce

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

<input checked="" type="checkbox"/> CORRECTED (if checked)		OMB No. 1545-2205 Form <b>1099-K</b> (Rev. January 2022)		<b>Payment Card and Third Party Network Transactions</b>
FILER'S name, street address, city or town, state or province, country, ZIP or foreign postal code, and telephone no.  <b>ETSY</b> 1111 E ETSY ST ANYWHERE ANystate		FILER'S TIN  PAYEE'S TIN 123-45-6789		
Check to indicate if FILER is a (an): Payment settlement entity (PSE) <input type="checkbox"/> Electronic Payment Facilitator (EPF) <input type="checkbox"/> Other third party <input type="checkbox"/>		1a Gross amount of payment card/third party network transactions \$ 0		<b>Copy B For Payee</b>  This is important tax information and is being furnished to the IRS. If you are required to file a return, a negligence penalty or other sanction may be imposed on you if taxable income results from this transaction and the IRS determines that it has not been reported.
Check to indicate transactions reported are: Payment card <input type="checkbox"/> Third party network <input type="checkbox"/>		1b Card Not Present transactions \$		
PAYEE'S name  <b>DAVE SMITH</b>		2 Merchant category code		
Street address (including apt. no.)  6041 E 33RD ST		3 Number of payment transactions		
City or town, state or province, country, and ZIP or foreign postal code ANYTOWN, ANY STATE		4 Federal income tax withheld \$		
PSE'S name and telephone number		5a January \$		
Account number (see instructions)		5b February \$		
		5c March \$		
		5d April \$		
		5e May \$		
		5f June \$		
		5g July \$		
		5h August \$		

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



## 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.

## 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.

Section 6

# Fraudulent 1099-Ks

## 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.**

wrote: - I know this week is crazy with the seller update, but could you please pump this one up the ladder? Between the community,...



## 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).”

## 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.

## 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.

## 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.

## Fraud.org's Advice

- **If you receive a tax document showing unrecognized income**
  - Visit [IdentityTheft.gov](https://www.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](https://www.identitytheft.gov) has more detailed steps you can take that are specific to your situation.

# PayPal

I was notified by the IRS of unreported income from PayPal via 1099K in 2018. After pulling my own transcripts from the IRS, I found that PayPal did in fact report over \$20k of income in 2018 against my name and SSN, but the report I have ever been associated with and does not exist in public. I had a PayPal merchant account. Since it is virtually impossible to get an 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?

I just got one as well for hundreds of thousands of dollars over 1700 transactions that were never made by me....get your \$%^# together paypal. Worst company I have ever dealt with.

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 sale anything and I don't have a merchant account.

## 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.

<b>z</b> Other income. List type and amount: _____ FRAUDULENT FORM 1099K RECEIVED	<b>8z</b>	<b>\$25,000</b>
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<b>z</b> Other adjustments. List type and amount: _____ FRAUDULENT FORM 1099K RECEIVED	<b>24z</b>	<b>\$25,000</b>
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Section 7

# Documentation

## 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.)



## 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.

## 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.

## Tax Preparer's Documentation Example – Brigette'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 Brigette 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.

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