



New Information Regarding Due Dates and Other Requirements for Filing Information Returns Relating to Credit Card and Debit Card Payments

This memorandum reminds financial institutions and other organizations that handle payment transactions that they must now file information returns with New York State. The memorandum describes the new reporting requirements and provides the due dates for the returns and other important information.

General information regarding the filing requirements for information returns related to credit card and debit card payments

Chapter 57 of the Laws of 2010 (New York State budget legislation for 2010-2011), amended the Tax Law to require the filing of annual information returns with the Tax Department relating to credit and debit card payments to payees who have a New York State address or who are New York State taxpayers (referred to as *New York State payees*). These amendments follow the provisions of section 6050W of the Internal Revenue Code (IRC) that require annual reports to be filed with the Internal Revenue Service (IRS) by payment settlement entities, third party settlement organizations, electronic payment facilitators, or other third parties acting on behalf of payment settlement entities (referred to as *reporting entities*) reflecting the transactions with their payees.¹

Under these amendments, a reporting entity that is required to file the information returns under section 6050W of the IRC must also file with the Tax Department either duplicates **of all** the information returns filed with the IRS or duplicates of any information returns related to New York State payees. The duplicate information returns required by New York State must be filed within 30 days of the filing of the information returns required by the IRS under section 6050W of the IRC.

Due dates for filing the information returns with the Tax Department

Under the IRS rules, information returns under section 6050W are due by February 28th of the following year if the return **is not filed electronically**, or by March 31 of the following year if **filed electronically**. Accordingly, the first duplicate information returns must be filed

¹ This legislation was previously described in TSB-M-10(7)C, *Summary of Budget Bill Corporation Tax Changes Enacted in 2010*, TSB-M-10(13)I, *Summary of Budget Bill Personal Income Tax Changes Enacted in 2010*, and TSB-M-10(18)S, *Summary of 2010 Sales and Use Tax Budget Legislation*.

with the Tax Department by either March 29, 2012, or April 30, 2012, depending on whether the information returns are filed with the IRS in a paper format or electronically.²

If the IRS grants a reporting entity an extension of time to file its information returns, the extension will automatically apply for New York State purposes. Accordingly, the due date for filing the duplicate information return with the Tax Department will be 30 days after the extended due date.

Also, if the due date for filing the duplicate information return with the Tax Department falls on a Saturday, Sunday or a day which is a legal holiday in New York State, the return will be considered timely filed if it is filed on the next day that is not a Saturday, Sunday or legal holiday.

New York State taxpayer information available to reporting entities

For reporting entities that choose to file information returns related only to New York State payees, the Tax Department will make available a database of New York State taxpayers and persons registered for sales tax purposes. The data base will be made available no later than 45 days prior to the entity's deadline for filing the information return. A reporting entity is prohibited from using this list or database for any purposes other than to enable them to comply with these filing requirements, and must sign a confidentiality agreement as to the contents of the data base.

Penalty for failure to file information returns with the Tax Department

A \$50 penalty may be imposed for each failure to file a duplicate information return with the Tax Department, with an annual maximum penalty of \$250,000. The Tax Department has the authority to waive all or a portion of this penalty if it is shown that the failure to file was due to reasonable cause and not due to willful neglect, or if doing so promotes compliance with the Tax Law, or effective tax administration by the Tax Department.

Additional information on filing requirements

All information returns filed under the authority of this new law must be filed electronically. In addition, the Tax Department suggests that for ease of compliance for the reporting entity, duplicates of **all information returns required to be filed with the IRS** be filed with the Tax Department, rather than just those for taxpayers with a New York State address or New York State taxpayers. Although the information returns may include information related to out-of-state payees, the Tax Department is prohibited from using any information not related to New York State payees.

²**Note:** Based on information available at the time TSB-Ms-10-(7)C, (13)I and (18)S were issued, they indicated that the first information returns filed with the Tax Department were going to be due on March 1, 2012.

TSB-M-12(2)C, (2)I, (2)S
Corporation Tax
Income Tax
Sales Tax
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Additional information regarding these filing requirements, including instructions for filing the information returns with the Tax Department, will be available on the Tax Department's Web site at *www.tax.ny.gov*.

(Tax Law section 1703)

NOTE: A TSB-M is an informational statement of existing department policies or of changes to the law, regulations, or department policies. It is accurate on the date issued. Subsequent changes in the law or regulations, judicial decisions, Tax Appeals Tribunal decisions, or changes in department policies could affect the validity of the information presented in a TSB-M.