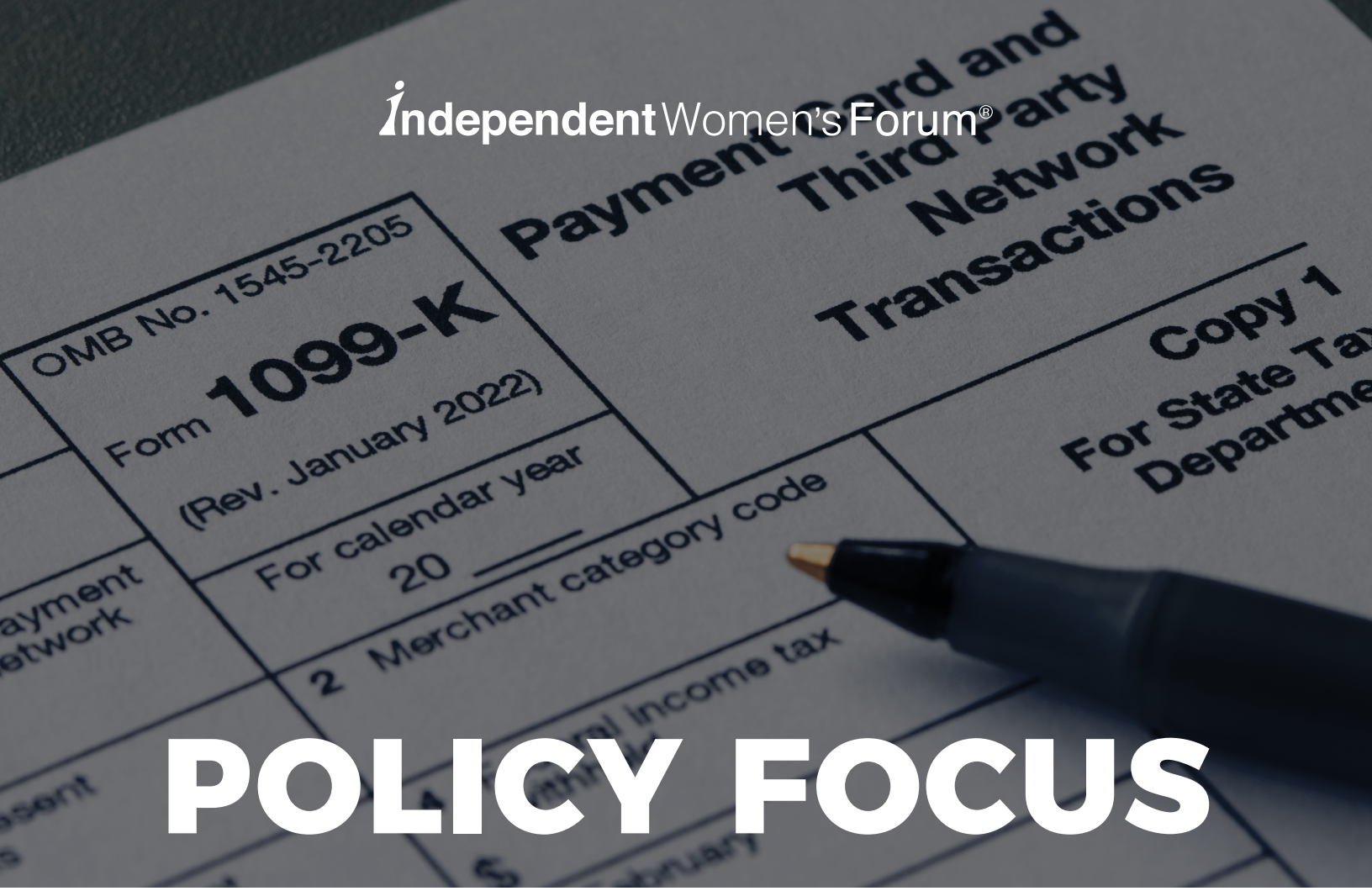

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Repealing Burdensome IRS Form 1099-K Reporting Rules

By Patrice Onwuka, Director, Center for Economic Opportunity

HIGHLIGHT

Millions of people who resell items online or use gig platforms to supplement household income may be surprised by new tax reporting requirements instituted by the 2021 American Rescue Plan. Selling $600 or more will trigger mandated reporting of income on Form 1099-K and lead to increased confusion, compliance costs, and perhaps even a tax bill.

INTRODUCTION

The American Rescue Plan (ARP) enacted inflationary fiscal spending that has driven up prices on everyday necessities such as food, shelter, and clothing. Many Americans earn additional income as a buffer against inflation by reselling items such as books, clothing, concert tickets, and exercise equipment through digital marketplaces. Freelancers and gig economy workers also earn income through digital platforms. Women, especially, have discovered that so-called re-commerce

and independent contracting offer flexible opportunities to earn money.

These transactions occur digitally through third-party websites and apps. In many instances, they do not create tax liabilities and individuals are not running businesses but are casual sellers. However, some in Congress view casual sellers and gig workers as tax cheaters and believe that the federal government should raise revenue from them by increasing income-reporting requirements.

IRS, the recipient, and perhaps the recipient's state. There are nearly two dozen kinds of 1099 forms. They are intended to help tax filers determine how much income they received during the year and what kind of income should be reported on tax returns. Because 1099 forms include a person's Social Security number or taxpayer identification number, the IRS is aware of the income that he or she received and whether or not the individual has reported that income on his or her tax returns.

Congress created this regulatory mess; Congress should work to reverse this bad policy. Americans should not be straddled with unnecessary red tape that will deter future economic activity and financially burden families at a time when they need economic relief.

To fund the ARP, liberals in Congress lowered the threshold that triggers income reporting for third-party transactions on IRS Form 1099-K from $20,000 in sales and more than 200 transactions to just $600 through any number of transactions. Tens of millions of 1099-K forms will be sent to individuals—even if they do not owe taxes for their activities. This will create new headaches for millions of tax filers in 2023 and new hurdles for an already-beleaguered IRS to manage the tax filing season.

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THE NUTS AND BOLTS OF IRS FORM 1099-K

An IRS 1099 form is a record that a person or entity gave or paid money. The payer fills out the 1099 forms and sends copies to the

Income generated from engaging in online selling, gig work, or independent contracting may be captured by different 1099 forms. For example, when a business hires an independent contractor and makes payment(s) of $600 or more, it must issue a Form 1099-NEC. This reporting requirement dates back over a century, but recently, Congress has made changes that will affect millions of tax filers.

New 1099-K Reporting Requirements

Because of the expansion of the gig economy, some lawmakers have become concerned that income derived through emerging digital business models might not be captured. The IRS believes that underreported business and self-employment income not subject to third-party reporting accounts for a substantial portion of uncollected taxes. By increasing reporting by third-party networks, the agency anticipates that tax compliance will improve.

Congress established new reporting requirements in the 2008 Housing and Economic Recovery Act, and the IRS finalized these changes in Form 1099-K in 2012.

Form 1099-K reports electronic payments to independent contractors and online sellers made through third-party payment networks such as PayPal or Venmo. Congress set the filing threshold for Form 1099-K reporting at $20,000 in payments and 200 transactions in a calendar year. At this threshold, few users of third-party payment networks were impacted.

Concerningly, in 2021 Congress lowered this reporting threshold in an effort to fund the $1.8 trillion American Rescue Plan. Beginning in the 2022 tax year, online networks are required to file a Form 1099-K with the IRS and sellers if they've received at least $600 in total during the calendar year. Unlike the previous threshold, there is no minimum number of transactions to meet before reporting is triggered. The Joint Committee on Taxation **estimates** that tax compliance under these changes will raise $8.4 billion over ten years.

WIDE-REACHING IMPACTS OF NEW FORM 1099-K REPORTING REQUIREMENTS

The universe of third-party networks that are affected is wide—from online reselling marketplaces such as eBay, Etsy, Poshmark, OfferUp, Shopify, and Amazon to payment processors including PayPal, Venmo, and Cash App to gig-economy companies such as Uber and Lyft and even ticket sellers such as Ticketmaster and StubHub.

The original $20,000/200 transaction threshold was intended to ensure tax compliance for sellers with substantial taxable online income such as businesses. However, the lower $600 threshold will capture people making small transactions such as resellers of children's clothing, people who resell concert tickets, or those who transfer money to friends and family to pay for dinner. In addition, people who provide services such as tutoring and babysitting, but are paid through these apps, will be affected.

Here is an example:

Jane is a stay at home mother and in 2022 she sold or sent cash through various apps:

$75	for used kid's clothing on eBay
$100	for a chair she sold on LetGo
$75	to a friend for a girls' night out dinner
$100	for a used stroller she sold on OfferUp
$200	for old work clothing and shoes she sold on Poshmark
$55	for unused Disney on Ice tickets

That's **$605 total for the year** and she will now receive a Form 1099-K.

These individuals do not depend on online selling as their primary source of income, and the sales or transfers are likely not taxable. As a result, some **30 to 50 million** new 1099-K forms are expected to be sent to tax filers and the IRS in early 2023 for the 2022 tax year. Individuals may receive forms from multiple vendors, which will increase their compliance burdens, cause unnecessary confusion, and may deter online selling in the future.

Economic Hardship

Given high food and energy prices, re-commerce provides many households with a financial buffer against inflation. A **survey** by the 1099-K Coalition reveals how economically-damaging this new reporting requirement will be to casual online sellers. Of U.S. adults who sold goods online in 2021 and made less than $20,000 in sales, nine out

of ten say selling online is not their primary source of income, and eight out of ten were selling used or pre-owned goods online. Some 40 percent of sellers said the reporting change posed an economic hardship, and of these people, three out of four of them said they sell online to help pay for necessary personal expenses such as medicine, housing, and clothing. This is especially true for low-income households earning less than $50,000 per year and racial minority households such as African Americans and Hispanics.

Women are significantly affected by this new reporting burden. Some 86 percent of women with children in the survey said they sell used or pre-owned goods online, and most of them made less than $5,000 in sales. Research indicates that women constitute a greater share of gig-economy workers if transportation platforms such as ridesharing and delivery apps are excluded. Women seek higher flexibility in work. Policies that restrict flexible earning opportunities will have an outsized impact on women.

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People often change their behaviors in response to policies that incentivize some actions or penalize others. This reporting requirement will discourage women and households from online reselling and engaging in flexible gig work. **Nearly 70 percent** of casual online sellers say they will stop selling online in response to the new requirements. Part of the reason for the chilling effect in online selling is concern that non-taxable income will be reported to the IRS by third-party platforms or confusion over what kind of income from online sales should even be reported.

Environmental sustainability is an additional reason that casual sellers find online reselling appealing. However, over half say that because of the new requirements, they will be more likely to discard their pre-owned items instead of selling them, leading to more landfill trash.

Worsening Tax Complexity

Tax filings have grown increasingly more complex over the years, even despite recent **tax reform efforts in 2017**. This new Form 1099-K reporting requirement will complicate the 2023 tax season greatly and impose costs on households.

Many casual sellers may think that reporting income means that a tax bill will be due, but that is not necessarily the case. The IRS considers the sale of pre-owned goods to be non-taxable income, so long as they were resold for less than the original purchase price. However, the burden will be on casual sellers to provide proof (such as a receipt) of the original purchase price or that they earned no taxable income. Imagine a college student digging up original receipts for the textbooks she resold online or a mother looking for the receipts for various children's items she resold. If sellers made multiple sales or regularly sold items, this would create

a time-consuming burden. And if, out of caution, they overreport income, they could mistakenly end up with an IRS bill.

Advocates for the reporting changes ignore the downsides of heightened tax complexity (on top of an already complex tax code), increased compliance costs, and opportunity costs for increased revenue. In 2022, Americans spent more than **6.5 billion hours**—equal to 3.1 million full-time workers dedicated to filing tax returns—to comply with IRS tax filing and reporting requirements. The Tax Foundation computed this to be $313 billion each year in lost productivity or 1.4 percent of the U.S. GDP. This was before the new Form 1099-K reporting requirements were instituted.

tax returns from the prior year and still had millions of new returns to process by year's end. Furthermore, more taxpayers contacted the IRS during the 2021 tax filing season and found it more difficult to obtain assistance than before the pandemic. For example, call volume increased five-fold in 2021, relative to 2019. Yet, the agency only answered 15 percent of its calls in the 2021 filing season compared to 67 percent in 2019.

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Tax filers may also spend money hiring tax experts to sort out the new reporting requirements and file their tax returns appropriately, their own time trying to understand the reporting requirements, and time trying to access help from the IRS. Every hour spent on compliance is an hour not spent on personal activities such as caring for a loved one or building a business. Economists call this opportunity cost.

IRS Woes

For years, the IRS has struggled to manage the annual tax filing season. The new 1099-K reporting requirement will only worsen the agency's performance this tax season. According to a **Government Accountability Office (GAO) report**, the agency began the 2021 tax season with a backlog of 8 million

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The IRS collects a tremendous amount of data from individuals, employers, businesses, and financial institutions. Any discrepancies in their systems could generate letters from the IRS claiming an individual owes money and must pay immediately or prove his or her innocence. It could also lead to audits.

In addition, this new reporting rule opens taxpayers up to new data privacy and security issues. To comply with the reporting requirements, third-party platforms are asking new users for their Social Security numbers. Those platforms risk being hacked to access the personal data they collect.

The IRS data-security track record is also unnerving. Recently, the IRS **disclosed** that it inadvertently leaked private taxpayer financial data. In 2016, the IRS suffered a massive **data breach** causing the private information of Americans to be stolen and used to access tax refunds. This is on top of the agency distributing **tens of millions of dollars** in fraudulent tax refunds because of lax oversight, inadequate internal processes, and biased IRS agents targeting conservative groups and donors for extra scrutiny.

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Multiple U.S. Treasury Inspector General reports raised concerns about IRS vulnerabilities in how it collects and stores taxpayer data and protocols to track who accesses and modifies records. **One report** concluded, "Security vulnerabilities within the mainframe platform can lead to unauthorized access, increased vulnerability to attacks, and unauthorized data sharing, all of which compromise the integrity, confidentiality, and availability of the platform and taxpayer data."

Fears about audits, new tax liabilities, and compliance costs create enough worry for taxpayers. Privacy and security concerns will only compound the stress of the tax filing season.

SOLUTIONS

Congressional lawmakers from both sides of the aisle recognize the harmful impact that this new reporting rule will create and have proposed legislation to repeal or raise the reporting threshold.

Conservatives introduced the Stop the Nosy Obsession with Online Payments (SNOOP) Act (**Senate** and **House of Representatives**) and the Saving the Gig Economy Taxpayers Act (**Senate** and **House**), both of which would return the Form 1099-K reporting threshold to $20,000 and 200 transactions. Liberals do not support full repeal of the American Rescue Plan provision, but have introduced the Cut Red Tape for Online Sales Act (**Senate** and **House**) to raise the threshold to $5,000.

The new reporting requirement was set to take effect on January 1, 2023, impacting the 2023 tax filing season (for the tax year 2022). When bipartisan **emergency legislation** delaying the requirement for a year was not passed, the IRS **unilaterally delayed** implementation for one year.

Repealing this measure will stave off a host of unnecessary and avoidable economic, compliance, privacy, and security concerns. It provides a cautionary lesson to policymakers that good intentions can still trigger negative consequences.

WHAT YOU CAN DO

Get Informed

Learn more about the 1099-K reporting rules. Visit:

- 1099-K Fairness Coalition
- Internal Revenue Service
- National Taxpayers Union Foundation

Talk to Your Friends

Help your friends and family understand these important issues. Share this information, tell them about what's going on and encourage them to join you in getting involved.

Become a Leader in the Community

Start an Independent Women's Network chapter group so you can get together with friends each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

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Please visit us on our website iwf.org to get more information and consider making a donation to IWF.

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ABOUT INDEPENDENT WOMEN'S FORUM

Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility. IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.