

October 20, 2011

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, NW
Washington, DC 20224

RE: *Request to Delay Backup Withholding Penalty Provision of New IRS Merchant Reporting Rules*

Dear Commissioner Shulman:

The Electronic Funds Transfer Association (EFTA) requests that the Internal Revenue Service (IRS) take any necessary action to delay for one year implementation of the backup withholding penalty provision in the new section 6050W of the Internal Revenue Code.

EFTA is the nation's leading non-profit, inter-industry trade Association dedicated to the advancement of electronic payment systems and commerce. The Association's nearly 300 members represent a broad spectrum of perspectives that engender accurate and effective analysis of electronic payments and commerce issues. Members include the nation's leading financial institutions, electronic payments networks, card companies, ATM networks, owners, and processors, hardware and software manufacturers, and technology providers.

When the new merchant reporting requirements were included in the 2008 Housing and Economic Recovery Act, the EFTA worked diligently with our membership to inform them of compliance requirements, regulatory developments and timelines. I can confidently write that EFTA members have invested great time, effort and expense building new systems, collecting merchant taxpayer identification numbers (TINs) and preparing to report gross payments on the new Form 1099-K. I appreciate that the IRS also has its share of challenges in providing the necessary guidance to the industry.

Despite the best efforts of all parties involved, more operational work is needed to achieve compliance. I refer to the following recent developments to support delay of the backup withholding penalty provision:

- Final IRS regulations under Section 6050W were published only four months prior to the January 1, 2011 effective date.
- This summer the IRS issued new rules adjusting the process by which the foreign status of merchants could be established.
- A July 2011 report by the Treasury Inspector General for Tax Administration raised questions as to IRS' readiness to administer the program. Specifically, the IRS may not resolve merchant TIN mismatches in a timely manner.
- Just last month, the IRS revised the form 1099-K merchant acquirers must use when reporting merchant card transactions. The new form includes a box for each merchant's IRS merchant category code (MCC). Acquirers currently do not use this code to classify merchants.

Again, the EFTA understands that everyone is working diligently to achieve the goals of Section 6050W. It is always difficult to anticipate the challenges brought on by new government regulation. As more work is required to achieve compliance with new Section 6050W, the EFTA believes the IRS should delay, for one year, implementation of the 28% backup withholding requirement.

Thank you, in advance, for your time and consideration to this matter. Please do not hesitate to contact me if I can provide further information.

Sincerely,

A handwritten signature in black ink, appearing to read "Kurt Helwig". The signature is stylized with a large initial "K" and a long, sweeping underline.

Kurt Helwig
President & CEO

Copy: The Honorable Mary Landrieu
The Honorable Olympia Snowe
The Honorable Max Bacus
The Honorable Orrin Hatch
The Honorable Sam Graves
The Honorable Jaime Herrera
The Honorable Dave Camp
The Honorable Sander Levin

Attached: EFTA Board of Directors List