

SAVING GIG ECONOMY TAXPAYERS ACT

DECEMBER 10, 2024.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Missouri, from the Committee on Ways and Means, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 190]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 190) to amend the Internal Revenue Code of 1986 to reinstate the exception for de minimis payments by third party settlement organizations with respect to returns relating to payments made in settlement of payment card and third party network transactions, as in effect prior to the enactment of the American Rescue Plan Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Saving Gig Economy Taxpayers Act”.

SEC. 2. REINSTATEMENT OF EXCEPTION FOR DE MINIMIS PAYMENTS AS IN EFFECT PRIOR TO ENACTMENT OF AMERICAN RESCUE PLAN ACT.

(a) IN GENERAL.—Section 6050W(e) of the Internal Revenue Code of 1986 is amended to read as follows:

“(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if—

“(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$20,000, and

“(2) the aggregate number of such transactions exceeds 200.”

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to returns for calendar years beginning after December 31, 2021.

I. SUMMARY AND BACKGROUND

A. PURPOSE AND SUMMARY

The bill, H.R. 190, the “Saving Gig Economy Taxpayer Act,” as ordered reported by the Committee on Ways and Means on September 11, 2024.

The bill reverts to the previous *de minimis* reporting exception for third party settlement organizations. A third party settlement organization is not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds \$20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.

B. BACKGROUND AND NEED FOR LEGISLATION

The American Rescue Plan Act (ARPA) of 2021 targeted hard-working Americans by reducing the 1099-K reporting thresholds from \$20,000 in earnings and 200 individual transactions to only \$600, increasing taxes and paperwork burdens on workers, especially those in the gig economy, already trying to make ends meet in the Biden-Harris cost of living crisis. In December 2022, the Biden-Harris Administration’s IRS unilaterally delayed implementation of this provision for tax year 2022; it did so again in November 2023 for tax year 2023. In December 2023, Ways and Means Republicans sent a letter to IRS Commissioner Daniel Werfel call-

ing on him to testify before the Committee regarding the Biden-Harris Administration’s refusal to implement their own policy which they forced into law without bipartisan support. In February 2024, Commissioner Werfel testified in front of the Ways and Means Committee and evaded questions regarding the IRS’s authority to change the Form 1099–K threshold without Congressional authorization. The IRS said it plans to increase the threshold from \$600 to \$5,000 for tax year 2024. Then, two days before Thanksgiving 2024, the IRS announced it would again delay implementation of the law. It also confirmed it would implement a \$5,000 threshold for one year, \$2,500 for the next year, and then finally implement the threshold in the law of \$600.

ARPA clearly created a \$600 threshold level. The IRS has not implemented the law for three straight years and now says it will not do so until five years after the effective date in ARPA. Creating its own threshold, which Congress has not authorized, is an affront to Congress’s authority. The IRS does not have the legal authority to create tax policy out of thin air. The repeated delay of implementation has allowed Democrats in Congress to avoid facing accountability for the consequences of their own policy choices. The repeated delays also demonstrate that the ARPA policy is not workable and should be reversed.

The Biden-Harris Administration knew this rule would hit low- and middle-income Americans violating their pledge to not raise taxes on those making less than \$400,000, which is why they have delayed its implementation each year since ARPA was enacted. According to the Joint Committee on Taxation (JCT), 90 percent of the tax burden would fall on filers that make less than \$200,000. These unilateral decisions circumvented the law and allowed the Biden Administration to avoid sending over 44 million tax forms in an election year. The *Saving Gig Economy Taxpayers Act* stops the attack on the gig economy and American workers Reverts thresholds for third-party settlement organizations back to pre-ARPA reporting requirements.

C. LEGISLATIVE HISTORY

Background

H.R. 190 was introduced on January 9, 2023, and was referred to the Committee on Ways and Means.

Committee Hearings

On March 10, 2023, the Committee held a hearing entitled “President Biden’s Fiscal Year 2024 Budget Request with Treasury Secretary Yellen.”

On April 21, 2023, the Committee held a field hearing entitled “The State of the American Economy: The South.”

On April 27, 2023, the Committee held a hearing entitled “Accountability and Transparency at the Internal Revenue Service with IRS Commissioner Werfel.”

On February 15, 2024, the Committee held a hearing entitled “Hearing with Commissioner of the Internal Revenue Service, Daniel Werfel.”

On April 30, 2024, the Committee received testimony from Janet L. Yellen, United States Secretary of the Treasury.

Committee Action

The Committee on Ways and Means marked up H.R. 190, the “Saving Gig Economy Taxpayers Act” on September 11, 2024, and ordered the bill, as amended, favorably reported (with a quorum being present).

D. DESIGNATED HEARING

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop and consider H.R. 190:

On March 10, 2023, the Committee held a hearing entitled “President Biden’s Fiscal Year 2024 Budget Request with Treasury Secretary Yellen.”

On April 21, 2023, the Committee held a field hearing entitled “The State of the American Economy: The South.”

On April 27, 2023, the Committee held a hearing entitled “Accountability and Transparency at the Internal Revenue Service with IRS Commissioner Werfel.”

On February 15, 2024, the Committee held a hearing entitled “Hearing with Commissioner of the Internal Revenue Service, Daniel Werfel.”

On April 30, 2024, the Committee received testimony from Janet L. Yellen, United States Secretary of the Treasury.

II. EXPLANATION OF THE BILL

A. REINSTATEMENT OF EXCEPTION FOR DE MINIMIS PAYMENTS AS IN EFFECT PRIOR TO ENACTMENT OF AMERICAN RESCUE PLAN ACT (SEC. 2 OF THE BILL AND SEC. 6050W(e) OF THE CODE)

PRESENT LAW

Present law requires persons to file an information return concerning certain transactions with other persons.¹ The person filing an information return is also required to provide the person for whom the information return is being filed with a written statement showing the information that was reported to the IRS, which generally includes aggregate payments made, and the contact information for the payor.² These returns are intended to assist taxpayers in preparing their income tax returns and to help the IRS determine whether such income tax returns are correct and complete.

Returns relating to payments made in settlement of payment card and third party network transactions

Since 2012 (for payments received in 2011), payment settlement entities are required to report to the IRS and to businesses that receive these payments the gross amount of payments made in settlement of payment card transactions and third party network transactions.³

Specifically, any payment settlement entity making a payment to a participating payee in settlement of reportable payment trans-

¹ Secs. 6041 through 6050Y.

² See, e.g., sec. 6041(d).

³ Sec. 6050W; Pub. L. No. 110-289 (2008), sec. 3091(a) enacted sec. 6050W, effective generally for returns for calendar years beginning after December 31, 2010.

actions must report annually to the IRS and to the participating payee the gross amount of such reportable payment transactions, as well as the name, address, and TIN of the participating payee.⁴ A “reportable payment transaction” means any payment card transaction and any third party network transaction.⁵

A “payment settlement entity” means, in the case of a payment card transaction, a merchant acquiring entity (defined below) and, in the case of a third party network transaction, the third party settlement organization.⁶ A “participating payee” means, in the case of a payment card transaction, any person who accepts a payment card as payment and, in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.⁷ A “person” includes a governmental unit. A “person” generally does not include someone with a foreign address.⁸

Returns relating to payments made in settlement of payment card transactions

For purposes of the reporting requirement, the term “merchant acquiring entity” means a bank or other organization with the contractual obligation to make payments to participating payees in settlement of payment card transactions.⁹ A “payment card transaction” means any transaction in which a payment card is accepted as payment.¹⁰ A “payment card” is defined as any card (e.g., a credit card or debit card) which is issued pursuant to an agreement or arrangement which provides for: (1) one or more issuers of such cards; (2) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment; and (3) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.¹¹ Thus, a bank that enrolls a business to accept credit cards and contracts with the business to make payment on credit card transactions must report to the IRS the business’s gross credit card transactions for each calendar year on a Form 1099-K, Payment Card and Third Party Network Transactions. The bank also must provide a copy of the information return to the business.

Returns relating to payments made in settlement of third party network transactions

The statute also requires reporting on a third party network transaction. The term “third party network transaction” means any transaction which is settled through a third party payment network.¹² A “third party payment network” is defined as any agreement or arrangement: (1) that involves the establishment of accounts with a central organization by a substantial number of persons (generally considered to be more than 50) who are unrelated

⁴ Sec. 6050W(a).

⁵ Sec. 6050W(c)(1).

⁶ Sec. 6050W(b).

⁷ Sec. 6050W(d)(1).

⁸ Sec. 6050W(d)(1)(B) and (C).

⁹ Sec. 6050W(b)(2).

¹⁰ For this purpose, the acceptance as payment of any account number or other indicia associated with a payment card also qualifies as a payment card transaction.

¹¹ Sec. 6050W(d)(2).

¹² Sec. 6050W(c)(3).

to such organization, provide goods or services, and agree to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement; (2) that provides for standards and mechanisms for settling such transactions; and (3) that guarantees persons providing goods or services pursuant to such agreement or arrangement will be paid for providing such goods or services.¹³

In the case of a third party network transaction, the payment settlement entity is the third party settlement organization, which is defined as the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.¹⁴ Thus, an organization generally is required to report if it provides a network enabling buyers to transfer funds to sellers who have established accounts with the organization and have a contractual obligation to accept payment through the network. However, an organization operating a network which merely processes electronic payments (such as wire transfers, electronic checks, and direct deposit payments) between buyers and sellers, but does not have contractual agreements with sellers to use such network, is not required to report. Similarly, an agreement to transfer funds between two demand deposit accounts will not, by itself, constitute a third party network transaction.

De minimis payment exception

A third party payment network does not include any agreement or arrangement that provides for the issuance of payment cards as defined by the provision.¹⁵ In addition, there is an exception for *de minimis* payments that applies to payments made by third party settlement organizations but not to payments made by merchant acquiring entities. For calendar years beginning after December 31, 2021, a third party settlement organization is required to report third party network transactions with any participating payee that exceed a minimum threshold of \$600 in aggregate payments, regardless of the aggregate number of such transactions.¹⁶ In other words, there is not a threshold requirement for the number of transactions. In addition, third party network transactions only include transactions for the provision of goods or services. Reporting is not required for other transactions, including personal gifts, charitable contributions, and reimbursements.

The previous exception for *de minimis* payments for calendar years beginning prior to January 1, 2022, provided that a third party settlement organization was not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds \$20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.

Notwithstanding the revisions to the *de minimis* payment exception, the IRS allowed third party settlement organizations to delay implementation of the \$600 aggregate payment threshold for cal-

¹³ Sec. 6050W(d)(3).

¹⁴ Sec. 6050W(b)(3).

¹⁵ Sec. 6050W(d)(3).

¹⁶ Sec. 6050W(e); American Rescue Plan Act, Pub. L. No. 117-2, Title IX, sec. 9674, March 11, 2021, amending sec. 6050W(e), effective generally for returns for calendar years beginning after December 31, 2021.

endar years 2022 and 2023.¹⁷ As a result, for these years, reporting was not required unless the third party settlement organization's receipts were over the prior threshold—\$20,000 and more than 200 transactions. The IRS stated that the reason for this delay was the complexity of the threshold change enacted under the American Rescue Plan Act.¹⁸ In addition, the IRS has said that due to the large number of individual taxpayers affected by the new law, the IRS is planning for a threshold of \$5,000 for calendar year 2024 as part of a phase-in to implement the \$600 reporting threshold.¹⁹

Rules regarding reporting requirements

There are also reporting requirements on intermediaries who receive payments from a payment settlement entity and distribute such payments to one or more participating payees.²⁰ Such intermediaries are treated as participating payees with respect to the payment settlement entity and as payment settlement entities with respect to the participating payees to whom the intermediary distributes payments. Thus, for example, in the case of a corporation that receives payment from a bank for credit card sales conducted at the corporation's independently-owned franchise stores, the bank is required to report to the corporation and to the IRS the gross amount of reportable payment transactions settled with respect to the corporation (notwithstanding the fact that the corporation does not accept payment cards and would not otherwise be treated as a participating payee). In turn, the corporation, as an intermediary, is required to report the gross amount of reportable payment transactions allocable to each franchise store. The bank has no reporting obligation with respect to payments made by the corporation to its franchise stores.

In addition, if a payment settlement entity contracts with a third party facilitator to settle reportable payment transactions on behalf of the payment settlement entity, the third party facilitator is required to file the annual information return in lieu of the payment settlement entity.²¹

The payment settlement entity is required to file information returns to the IRS on or before February 28 (March 31 if filing electronically) of the year following the calendar year for which the returns must be filed.²² Statements are required to be furnished to the participating payees on or before January 31 of the year following the calendar year for which the return was required to be made.²³

¹⁷ Notice 2023–10, 2023–3 I.R.B. 403, January 17, 2023, and Notice 2023–74, 2023–51 I.R.B. 1484, December 18, 2023.

¹⁸ IR–2023–221, Nov. 21, 2023, available at <https://www.irs.gov/newsroom/irs-announces-delay-in-form-1099-k-reporting-threshold-for-third-party-platform-payments-in-2023-plans-for-a-threshold-of-5000-for-2024-to-phase-in-implementation>.

¹⁹ *Ibid.*

²⁰ Sec. 6050W(b)(4).

²¹ Sec. 6050W(b)(4)(B); Treas. Reg. sec. 1.6050W–1(d)(2).

²² Treas. Reg. sec. 1.6050W–1(g). Taxpayers that file these information returns that report reportable payment transactions are entitled to a 30-day automatic extension of time to file. Treas. Reg. sec. 1.6081–8(a) (effective for requests for extension of time to file certain information returns due after December 31, 2016).

²³ Sec. 6050W(f); Treas. Reg. sec. 1.6050W–1(h).

The Secretary has exercised authority under these rules to issue guidance to implement the reporting requirement, including rules to prevent the reporting of the same transaction more than once.²⁴

The reportable payment transactions subject to information reporting generally are subject to backup withholding requirements. In addition, the information reporting penalties apply for any failure to file a correct information return or furnish a correct payee statement with respect to the reportable payment transactions. Any person who is required to file an information return or furnish a payee statement but who fails to do so on or before the prescribed due date is subject to a penalty that varies based on when, if at all, the correct information return is filed or furnished. Penalties are imposed for failure to file the information return²⁵ or furnish payee statements.²⁶ No penalty is imposed if the failure is due to reasonable cause.²⁷ Both the failure to file and failure to furnish penalties are adjusted annually to account for inflation.

REASONS FOR CHANGE

The Committee believes that the previous *de minimis* reporting threshold should be reinstated because the lower threshold means that millions of individuals will receive Form 1099-Ks for the first time next year—often in instances where there is no tax liability, creating significant confusion and administrative challenges. For example, selling a used piece of furniture for less than the original purchase price will not create any taxable income. However, the Committee notes that these transactions may trigger reporting requirements if the previous threshold is not reinstated, yielding confusion for online platforms and taxpayers, which could result in overreporting of income and therefore overpayment of taxes as well as ineligibility for certain tax benefits. The Committee believes reverting back to the previous reporting threshold is necessary to prevent numerous individuals from having to hire tax professionals and keep onerous records and receipts or from being misled into thinking the arrival of a Form 1099-K represents taxable income they must report.

EXPLANATION OF PROVISION

The provision reverts to the previous *de minimis* reporting exception for third party settlement organizations, and the same threshold the IRS has followed for calendar years 2022 and 2023. A third party settlement organization is not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds \$20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.

The provision does not change the clarification that reporting is not required on transactions which are not for goods or services.

The obligations of a merchant acquiring entity are unchanged. For example, if a company is considered a merchant acquiring enti-

²⁴Treas. Reg. sec. 1.6050W-1(a)(4)(ii).

²⁵Sec. 6721.

²⁶Sec. 6722. Section 6723 also imposes a penalty for failure to comply timely with a specified information reporting requirement. However, this penalty applies in narrow circumstances and is unlikely to apply to payment settlement entities under section 6050W. See Treas. Reg. sec. 301.6723-1(a)(4).

²⁷Sec. 6724(a).

ty, it must issue a Form 1099–K to all participating payees who have received payments of any amount starting with the first dollar. On the other hand, if a business that provides an online marketplace for sales of goods such as clothing, cars, furniture, etc. is considered a third party settlement organization, under this provision, it does not have to provide a Form 1099–K to sellers participating on its web-based platform who have received payments of \$20,000 or less or to sellers who have engaged in 200 or fewer transactions.

EFFECTIVE DATE

The provision applies as if included in section 9674 of Public Law No. 117–2, the American Rescue Plan Act (enacted on March 11, 2021). Thus, the provision applies to returns for calendar years beginning after December 31, 2021.

III. VOTE OF THE COMMITTEE

Pursuant to clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of H.R. 190, the “Saving Gig Economy Taxpayers Act,” on September 11, 2024.

H.R. 190 was ordered favorably reported to the House of Representatives as amended by a roll call vote of 22 yeas to 16 nays (with a quorum being present). The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
Mr. Smith (MO)	X	.....	.....	Mr. Neal .....	.....	X	.....
Mr. Buchanan	X	.....	.....	Mr. Doggett .....	.....	X	.....
Mr. Smith (NE)	X	.....	.....	Mr. Thompson .....	.....	X	.....
Mr. Kelly	X	.....	.....	Mr. Larson .....	.....	X	.....
Mr. Schweikert	X	.....	.....	Mr. Blumenauer .....	.....	X	.....
Mr. LaHood	X	.....	.....	Mr. Davis .....	.....	X	.....
Dr. Wenstrup	X	.....	.....	Ms. Sanchez .....	.....	X	.....
Mr. Arrington .....	.....	.....	.....	Ms. Sewell .....	.....	.....	.....
Dr. Ferguson	X	.....	.....	Ms. DelBene .....	.....	X	.....
Mr. Estes .....	.....	.....	.....	Ms. Chu .....	.....	X	.....
Mr. Smucker	X	.....	.....	Ms. Moore .....	.....	X	.....
Mr. Hern	X	.....	.....	Mr. Kildee .....	.....	X	.....
Ms. Miller	X	.....	.....	Mr. Beyer .....	.....	X	.....
Dr. Murphy .....	.....	.....	.....	Mr. Evans .....	.....	.....	.....
Mr. Kustoff	X	.....	.....	Mr. Schneider .....	.....	X	.....
Mr. Fitzpatrick	X	.....	.....	Mr. Panetta .....	.....	X	.....
Mr. Steube	X	.....	.....	Mr. Gomez .....	.....	X	.....
Ms. Tenney	X	.....	.....	Mr. Horsford .....	.....	X	.....
Mrs. Fischbach	X	.....	.....		
Mr. Moore	X	.....	.....		
Mrs. Steel	X	.....	.....		
Ms. Van Duyn	X	.....	.....		
Mr. Feenstra	X	.....	.....		
Ms. Malliotakis	X	.....	.....		
Mr. Carey	X	.....	.....		

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of the bill, H.R. 190 as reported.

The estimate prepared by the Joint Committee on Taxation (JCT) is included below.

The bill is estimated to have the following effect on Federal fiscal year budget receipts for the period 2024 through 2034.:

FISCAL YEARS											
[Billions of dollars]											
2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025–29	2025–34
-1.0	-0.8	-0.9	-0.9	-0.9	-1.0	-1.0	-1.1	-1.2	-1.2	-4.5	-10.0

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES BUDGET AUTHORITY

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that the bill involves no new or increased budget authority.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the CBO, the following statement by CBO is provided.

H.R. 190, Saving Gig Economy Taxpayers Act			
As ordered reported by the House Committee on Ways and Means on September 11, 2024			
By Fiscal Year, Billions of Dollars	2025	2025-2029	2025-2034
Direct Spending (Outlays)	0	0	0
Revenues	-1.0	-4.5	-10.0
Increase or Decrease (-) in the Deficit	1.0	4.5	10.0
Spending Subject to Appropriation (Outlays)	*	*	not estimated
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
Mandate Effects			
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	> \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

H.R. 190 would restore the thresholds for third-party settlement organizations to report certain payments to the Internal Revenue Service (IRS) to amounts in effect before the 2021 enactment of the American Rescue Plan Act (ARPA). Under the bill, reporting would be required for payees receiving \$20,000 or more for 200 or more transactions in a year.

Third-party settlement organizations, including payment applications and online marketplaces, can arrange payments between buyers and sellers in commercial transactions. Those organizations report information, including payment totals and payees’ tax identification numbers, to the IRS using Form 1099-K, “Payment Card and Third-Party Network Transactions,” when payees’ total trans-

actions for a year exceed certain thresholds. From 2012 to 2021, reporting was required for payees that received more than \$20,000 from 200 or more transactions. In 2021, ARPA reduced the threshold to \$600 with no requirement for the number of transactions. In calendar years 2022 and 2023, the IRS permitted third-party settlement organizations to delay implementation of that provision, keeping the \$20,000 and 200-transaction threshold.

The Congressional Budget Act of 1974, as amended, stipulates that revenue estimates provided by the staff of the Joint Committee on Taxation (JCT) will be the official estimates for all tax legislation considered by the Congress. As such, CBO incorporates those estimates into its cost estimates of the effects of legislation. The estimates for the revenue provisions of H.R. 190 were provided by JCT.¹

The estimated budgetary effect of H.R. 190 is shown in Table 1. The costs of the legislation fall within budget function 800 (general government).

¹Joint Committee on Taxation, *Description of H.R. 190, the "Saving Gig Economy Taxpayers Act,"* JCX-39-24 (September 9, 2024), www.jct.gov/publications/2024/jcx-39-24.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 190

	By fiscal year, billions of dollars—											
	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2025-2029	2025-2034
Estimated Revenues	- 1.0	- 0.8	- 0.9	- 0.9	- 0.9	- 1.0	- 1.0	- 1.1	- 1.2	- 1.2	- 4.5	- 10.0
DECREASES IN REVENUES												

Sources: Congressional Budget Office; staff of the Joint Committee on Taxation.
 CBO estimates that implementing H.R. 190 would increase costs for the Department of the Treasury by less than \$500,000 over the 2025-2029 period.

For this estimate, CBO and JCT assume that the bill will be treated as if its provisions were included in ARPA. H.R. 190 would apply to tax returns for calendar years beginning after December 31, 2021. JCT estimates that enacting the bill would reduce revenues by \$10 billion over the 2025–2034 period because taxpayers would report less taxable income to the IRS.

CBO estimates that implementing the bill would increase costs for the Department of the Treasury by less than \$500,000 over the 2025–2029 period. Any related spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is Ellen Steele. The estimate was reviewed by John McClelland, Director of Tax Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee made findings and recommendations that are reflected in this report.

B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advises that the bill does not authorize funding, so no statement of general performance goals and objectives is required.

C. APPLICABILITY OF HOUSE RULE XXI, CLAUSE 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that “A bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase may not be considered as passed or agreed to unless so determined by a vote of not less than three-fifths of the Members voting, a quorum being present.” The Committee has carefully reviewed the bill, and states that the bill does not provide such a Federal income tax rate increase.

D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. No. 104–4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments.

E. CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

With respect to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not

contain any congressional earmarks, limited tax benefits, or limited tariff benefits within the meaning of the rule.

F. DUPLICATION OF FEDERAL PROGRAMS

In compliance with clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee states that no provision of the bill establishes or reauthorizes: (1) a program of the Federal Government known to be duplicative of another Federal program; (2) a program included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139; or (3) a program related to a program identified in the most recent Catalog of Federal Domestic Assistance, published pursuant to the Federal Program Information Act (Pub. L. No. 95–220, as amended by Pub. L. No. 98–169).

G. TAX COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the “IRS Reform Act”) requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Treasury Department) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code and has widespread applicability to individuals or small businesses.

Pursuant to clause 3(h)(1) of rule XIII of the Rules of the House of Representatives, a summary description of the bill is provided below along with an estimate of the number and type of affected taxpayers, and a discussion regarding the relevant complexity and administrative issues.

Following the analysis of the staff of the Joint Committee on Taxation are the comments of the IRS and Treasury regarding the complexity analysis for the bill.

REINSTATEMENT OF EXCEPTION FOR DE MINIMIS PAYMENTS AS IN EFFECT PRIOR TO ENACTMENT OF AMERICAN RESCUE PLAN ACT

Summary description of provision

The provision reverts to the previous de minimis reporting exception for third party settlement organizations. A third party settlement organization is not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds \$20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.

Number of affected taxpayers

It is estimated that the provision will affect more than 10 percent of individual or small business tax returns.

Discussion

If greater reporting from unrelated third parties were available, it is possible that the IRS could more readily identify areas of underreported income of the payees. In general, the more payments

to which information reporting and/or withholding applies, the greater the improvement in compliance. However, proponents of the provision have noted that if the previous threshold is not reinstated, it could yield to confusion for online platforms and taxpayers with casual or low-level on-line activity, which could result in overreporting of income and therefore overpayment of taxes as well as ineligibility for certain tax benefits. They contend that aggregate reporting on a Form 1099-K of gross proceeds will create confusion for taxpayers who will have to report each sale or transaction independent of others to correctly calculate gain or loss. Proponents further contend that the lower threshold may require taxpayers to hire tax professionals and keep onerous records and receipts or may mislead them into thinking the existence of a Form 1099-K represents taxable income they must report.

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, September 13, 2024.

Mr. THOMAS A. BARTHOLD,
*Chief of Staff, Joint Committee on Taxation,
Washington, DC.*

DEAR MR. BARTHOLD: I am responding to your letter dated September 11, 2024, in which you requested a complexity analysis related to the Committee Report for H.R. 190, "Saving Gig Economy Taxpayers Act."

Enclosed are the combined comments of the Internal Revenue Service (IRS) and the Department of the Treasury for inclusion in the complexity analysis in the Committee Report for H.R. 190, "Saving Gig Economy Taxpayers Act."

Our analysis covers the provision that you preliminarily identified in your letter. The provision would reduce payor filing burden (for some payors, the reduction in burden could be significant); increase taxpayer record keeping obligations because the information returns would not cover all transactions and income; increase confusion for businesses due to differences between reporting requirements for 1099-K and 1099-NEC; Forms, instructions and publications would need to be updated; IT programming would need to be reviewed and potentially updated to reflect the new reporting requirements; Internal Revenue Manuals and employee training would need to be updated; Training materials for new employees would need to be reviewed and potentially updated; and IRS efforts to identify income underreporting and income tax nonfilers could be affected, as IRS would receive less payor information reports. This reduced income visibility to IRS would create an incentive for taxpayer noncompliance.

Our comments are based on the description of the provision provided in your letter. This analysis does not include the administrative cost estimates for the changes that would be required. Due to the short turnaround time, our comments are provisional and subject to change upon a more complete and in-depth analysis of the provisions.

I hope this information is helpful. If you have any questions, please feel free to contact me, or your staff may contact Peter

Davila, Acting Chief, Legislation and Reports Branch, Office of Legislative Affairs, at 202-317-4236.

Sincerely,

DANIEL I. WERFEL,
Commissioner.

Enclosure.

H.R. 190, "SAVING GIG ECONOMY TAXPAYERS ACT"

Summary description of provision

The proposal reverts to the previous de minimis reporting exception for third party settlement organizations. A third party settlement organization is not required to report unless the aggregate value of third party network transactions with respect to a participating payee for the year exceeds \$20,000 and the aggregate number of such transactions with respect to a participating payee exceeds 200.

IRS and Treasury Comments

- Reduces payor filing burden (for some payors, the reduction in burden could be significant).
- Increases taxpayer record keeping obligations because the information returns would not cover all transactions and income.
- Increases confusion for businesses due to differences between reporting requirements for 1099-K and 1099-NEC.
 - Forms, instructions and publications would need to be updated.
 - IT programming would need to be reviewed and potentially updated to reflect the new reporting requirements.
 - Internal Revenue Manuals and employee training would need to be updated.
 - Training materials for new employees would need to be reviewed and potentially updated.
- Internal communications would be shared with all employees.
- External communications would be necessary to communicate changes. Communication also would need to address inaccurate perceptions that the change to the reporting requirements changes the tax consequences of any taxable amounts not reported to IRS.
 - *IRS.gov* updates would need to be provided.
 - IRS efforts to identify income underreporting and income tax nonfilers could be affected, as IRS would receive less payor information reports. This reduced income visibility to IRS creates an incentive for taxpayer noncompliance.

If you have any questions regarding the analysis, please feel free to call me at 317-4236.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL,
AS REPORTED**

A. CHANGES IN EXISTING LAW PROPOSED BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows:

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

INTERNAL REVENUE CODE OF 1986

* * * * *

Subtitle F—Procedure and Administration

* * * * *

CHAPTER 61—INFORMATION AND RETURNS

* * * * *

Subchapter A—RETURNS AND RECORDS

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PART III—INFORMATION RETURNS

* * * * *

Subpart B—INFORMATION CONCERNING TRANSACTIONS WITH OTHER PERSONS

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SEC. 6050W. RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.

(a) **IN GENERAL.**—Each payment settlement entity shall make a return for each calendar year setting forth—

- (1) the name, address, and TIN of each participating payee to whom one or more payments in settlement of reportable payment transactions are made, and
- (2) the gross amount of the reportable payment transactions with respect to each such participating payee.

Such return shall be made at such time and in such form and manner as the Secretary may require by regulations.

(b) **PAYMENT SETTLEMENT ENTITY.**—For purposes of this section—

- (1) **IN GENERAL.**—The term “payment settlement entity” means—
 - (A) in the case of a payment card transaction, the merchant acquiring entity, and
 - (B) in the case of a third party network transaction, the third party settlement organization.
- (2) **MERCHANT ACQUIRING ENTITY.**—The term “merchant acquiring entity” means the bank or other organization which has the contractual obligation to make payment to participating payees in settlement of payment card transactions.

(3) **THIRD PARTY SETTLEMENT ORGANIZATION.**—The term “third party settlement organization” means the central organization which has the contractual obligation to make payment to participating payees of third party network transactions.

(4) **SPECIAL RULES RELATED TO INTERMEDIARIES.**—For purposes of this section—

(A) **AGGREGATED PAYEES.**—In any case where reportable payment transactions of more than one participating payee are settled through an intermediary—

(i) such intermediary shall be treated as the participating payee for purposes of determining the reporting obligations of the payment settlement entity with respect to such transactions, and

(ii) such intermediary shall be treated as the payment settlement entity with respect to the settlement of such transactions with the participating payees.

(B) **ELECTRONIC PAYMENT FACILITATORS.**—In any case where an electronic payment facilitator or other third party makes payments in settlement of reportable payment transactions on behalf of the payment settlement entity, the return under subsection (a) shall be made by such electronic payment facilitator or other third party in lieu of the payment settlement entity.

(c) **REPORTABLE PAYMENT TRANSACTION.**—For purposes of this section—

(1) **IN GENERAL.**—The term “reportable payment transaction” means any payment card transaction and any third party network transaction.

(2) **PAYMENT CARD TRANSACTION.**—The term “payment card transaction” means any transaction in which a payment card is accepted as payment.

(3) **THIRD PARTY NETWORK TRANSACTION.**—The term “third party network transaction” means any transaction described in subsection (d)(3)(A)(iii) which is settled through a third party payment network.

(d) **OTHER DEFINITIONS.**—For purposes of this section—

(1) **PARTICIPATING PAYEE.**—

(A) **IN GENERAL.**—The term “participating payee” means—

(i) in the case of a payment card transaction, any person who accepts a payment card as payment, and

(ii) in the case of a third party network transaction, any person who accepts payment from a third party settlement organization in settlement of such transaction.

(B) **EXCLUSION OF FOREIGN PERSONS.**—Except as provided by the Secretary in regulations or other guidance, such term shall not include any person with a foreign address. Notwithstanding the preceding sentence, a person with only a foreign address shall not be treated as a participating payee with respect to any payment settlement entity solely because such person receives payments from such payment settlement entity in dollars.

(C) INCLUSION OF GOVERNMENTAL UNITS.—The term “person” includes any governmental unit (and any agency or instrumentality thereof).

(2) PAYMENT CARD.—The term “payment card” means any card which is issued pursuant to an agreement or arrangement which provides for—

(A) one or more issuers of such cards,

(B) a network of persons unrelated to each other, and to the issuer, who agree to accept such cards as payment, and

(C) standards and mechanisms for settling the transactions between the merchant acquiring entities and the persons who agree to accept such cards as payment.

The acceptance as payment of any account number or other indicia associated with a payment card shall be treated for purposes of this section in the same manner as accepting such payment card as payment.

(3) THIRD PARTY PAYMENT NETWORK.—The term “third party payment network” means any agreement or arrangement—

(A) which involves the establishment of accounts with a central organization by a substantial number of persons who—

(i) are unrelated to such organization,

(ii) provide goods or services, and

(iii) have agreed to settle transactions for the provision of such goods or services pursuant to such agreement or arrangement,

(B) which provides for standards and mechanisms for settling such transactions, and

(C) which guarantees persons providing goods or services pursuant to such agreement or arrangement that such persons will be paid for providing such goods or services.

Such term shall not include any agreement or arrangement which provides for the issuance of payment cards.

[(e) DE MINIMIS EXCEPTION FOR THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall not be required to report any information under subsection (a) with respect to third party network transactions of any participating payee if the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions does not exceed \$600.]

(e) EXCEPTION FOR DE MINIMIS PAYMENTS BY THIRD PARTY SETTLEMENT ORGANIZATIONS.—A third party settlement organization shall be required to report any information under subsection (a) with respect to third party network transactions of any participating payee only if—

(1) the amount which would otherwise be reported under subsection (a)(2) with respect to such transactions exceeds \$20,000, and

(2) the aggregate number of such transactions exceeds 200.

(f) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each person with respect to whom such a return is required a written statement showing—

(1) the name, address, and phone number of the information contact of the person required to make such return, and

(2) the gross amount of the reportable payment transactions with respect to the person required to be shown on the return. The written statement required under the preceding sentence shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made. Such statement may be furnished electronically, and if so, the email address of the person required to make such return may be shown in lieu of the phone number.

(g) REGULATIONS.—The Secretary may prescribe such regulations or other guidance as may be necessary or appropriate to carry out this section, including rules to prevent the reporting of the same transaction more than once.

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VII. DISSENTING VIEWS

Committee Democrats believe that H.R. 190, the “Saving Gig Economy Taxpayers Act”, is a backwards step for ensuring taxpayer compliance with Federal tax laws, and would needlessly increase the Federal deficit by nearly \$10 billion.

The American Rescue Plan lowered the threshold at which certain online businesses that provide networks for commercial transactions would need to report amounts paid to service providers to \$600 (to match the threshold to the Form NEC, prior to the change above), and removed the transactions threshold. H.R. 190 would revert IRC 6050W to prior law, so that reporting would be required only if the service provider received more than \$20,000 and had registered 200 or more transactions.

While we understand the desire to simply “repeal” whatever Democrats may have done on a party-line basis, it is worth noting that Committee Republicans are proposing to revert the law back to its state in 2006, before virtually any of the gig economy businesses that are widely subject to this reporting requirement were even invented. That somehow Republicans would look at the state of the world in 2024 and conclude that the ideal law is one that was enacted before much of our modern economy even existed is baffling to say the least. While many on both sides of the aisle have signaled a willingness to raise the \$600 threshold,¹ Republicans’ insistence on retaining the 200-transaction threshold will eliminate reporting for many taxpayers who earn a lot of money using third party apps. For instance, an Airbnb that is rented out weekly would never receive an IRS form under this provision. If Republicans had any real interest in closing the tax gap, rather than just using gig economy taxpayers as a political pawn, they would not include this 200-transaction threshold in their proposal.

RICHARD E. NEAL

Over the last four years, Democrats on the Ways and Means Committee have been focused on creating a tax system that is simple, fair and supports American working families—not the wealthiest and biggest corporations.

We have worked to expand the Child Tax Credit, which helped lower costs for working families with children and nearly cut child poverty in half. We also expanded the Earned Income Tax Credit, delivering a tax cut of roughly \$1,500 to workers without children. We have also kept the promise we made to the American people—

¹For instance, Reps. Pappas and Kildee have introduced the Cut Red Tape for Online Sales Act, which would raise the gross payment threshold to \$5,000, but would not re-introduce the transaction threshold. Additionally, that bill would require the IRS to provide a plain-language description of the taxability of income reported on Form 1099-K to reduce confusion among online sellers.

if you make under \$400,000 a year, you will not see your taxes go up.

We have also been focused on creating a tax system that ensures everyone—including the wealthiest individuals—pay their fair share in taxes. Now, before the *American Rescue Plan*, online platforms like eBay, PayPal, and Airbnb—sometimes called third party settlement organizations—were required to send a tax reporting form, the form 1099-K, to taxpayers that received income through these platforms if:

1. A taxpayer received over \$20,000 a year *and*
2. they conducted at least 200 transactions through that platform.

Unfortunately, this was a loophole in our tax laws.

This old system would allow, for instance, a wealthy individual with a mountain vacation home in Vail to rent out their home for \$1,200 a night, for weeks on end, earning hundreds of thousands of dollars, before having to report a dime in income. Not even pay taxes on that income, just report it like every other taxpayer. Reverting to this old system is not helping gig workers or small businesses or online sellers. It's not making our tax system fairer or simpler. It is a potential loophole for wealthy investors.

Now, I have been very clear—the current \$600 threshold is too low. That's why I have introduced legislation, the *Cutting Red Tape for Online Sales Act*, with Rep. Chris Pappas, to raise the threshold to \$5,000. This would help cut unnecessary reporting burdens for small online sellers and taxpayers across the country. It doesn't make sense for an online platform to burden taxpayers with additional reporting forms if they are only making a few hundred dollars per year selling, say, their old bike on eBay.

But our bill—unlike the one in front of us today—strikes the right balance between cutting unnecessary paperwork for average taxpayers and making sure folks can report the income they earn through online platforms.

While I will be voting NO on this bill today, I hope my colleagues on the other side will find a way to work with us on this issue to deliver real, meaningful relief to small online sellers and taxpayers—without reopening major loopholes in the tax code.

DAN KILDEE

