6050 W and Farmers Markets:
Electronic Payment Reporting Requirements

October 10, 2011

Co hosted by:
Michigan Farmers Market Association
Farmers Market Coalition
<table>
<thead>
<tr>
<th>Time</th>
<th>Session</th>
<th>Speaker/Speaker’s Office</th>
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</thead>
<tbody>
<tr>
<td>1:00 – 1:05</td>
<td>Welcome</td>
<td>Amanda Segar, MIFMA</td>
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<tr>
<td>1:05 – 1:20</td>
<td>Introduction to IRS 6050W</td>
<td>Erin McGuire, Congresswoman Pingree’s Office</td>
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<td>1:20 – 1:35</td>
<td>What does IRS 6050W mean for you?</td>
<td>Stacy Miller, Farmers Market Coalition</td>
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<td>1:35 – 1:50</td>
<td>Strategies for Recordkeeping</td>
<td>Amanda Segar, MIFMA</td>
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<td>1:50 – 2:00</td>
<td>Questions and Answers</td>
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Welcome

Amanda Segar
Michigan Farmers Market Association
Michigan Farmers Markets Food Assistance Partnership

Feed
Empower
Access
Share
Teach

- Founded in 2007 by the Michigan Farmers Market Association (MIFMA) and the Michigan Food Policy Council (MFPC)
- Today we have over 50 partners including:
  - Farmers Markets
  - State Agencies
  - Non-Profit Organizations
  - Others Involved in the Local Food System
Michigan Farmers Markets Accepting SNAP

- Accepted via Electronic Benefits Transfer (EBT) technology
- Called a “Bridge Card”
- 82 farmers markets across the state accept SNAP

Each orange star marks the area where a farmers market accepts Bridge Cards. Visit www.mifma.org for a full list of markets.
### Michigan Farmers Markets Accepting Bridge Cards

<table>
<thead>
<tr>
<th>Year</th>
<th>Percent of Markets Accepting Bridge Cards</th>
<th>Number of Markets Accepting Bridge Cards</th>
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<tbody>
<tr>
<td>2006</td>
<td>2%</td>
<td>3</td>
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<tr>
<td>2007</td>
<td>6%</td>
<td>150</td>
</tr>
<tr>
<td>2008</td>
<td>12%</td>
<td>11</td>
</tr>
<tr>
<td>2009</td>
<td>12%</td>
<td>24</td>
</tr>
<tr>
<td>2010</td>
<td>22%</td>
<td>26</td>
</tr>
<tr>
<td>2011</td>
<td>29%</td>
<td>280</td>
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</table>

- **Percent of Farmers Markets Accepting Bridge Cards**
- **Number of Farmers Markets Accepting Bridge Cards**
- **Number of Farmers Markets**
SNAP Benefits Redeemed at Michigan Farmers Markets

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Farmers Markets Accepting Bridge Cards</th>
<th>Amount of SNAP Benefits Redeemed at Farmers Markets</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>11</td>
<td>$15,832.95</td>
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<tr>
<td>2008</td>
<td>24</td>
<td>$150,644.10</td>
</tr>
<tr>
<td>2009</td>
<td>30</td>
<td>$297,077.88</td>
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<tr>
<td>2010</td>
<td>49</td>
<td>$705,969</td>
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</table>

138% Increase
Introduction to the New 6050W Reporting Requirements

Erin McGuire, Legislative Assistant to Congresswoman Chellie Pingree
Congresswoman Chellie Pingree

- Member of the House Committee on Agriculture
- Farming since the 1970’s
- Working to support and promote local food systems in the 2012 Farm Bill
Meeting with the State Department of Agriculture.

Many hurdles for farmer’s markets to implement EBT card readers.

With little to no infrastructure 6050W would be very hard to comply with.

The 6050W Rule and Maine Farmers Markets
Current Internal Revenue Code (Standard Federal version), History Notes - SEC. 6050W, RETURNS RELATING TO PAYMENTS MADE IN SETTLEMENT OF PAYMENT CARD AND THIRD PARTY NETWORK TRANSACTIONS.—History notes applicable to entire section.

P.L. 110-289, §3091(a):
Amended subpart B of part III of subchapter A of chapter 61 by adding at the end a new Code Sec. 6050W. Effective generally for returns for calendar years beginning after 12-31-2010. For a special rule, see Act Sec. 3091(e)(2)(B), below.

P.L. 110-289, §3091(e)(2)(B), provides:

(B) ELIGIBILITY FOR TIN MATCHING PROGRAM.—Solely for purposes of carrying out any TIN matching program established by the Secretary under section 3406(i) of the Internal Revenue Code of 1986—
(i) the amendments made [by] this section shall be treated as taking effect on the date of the enactment of this Act [7-30-2008.—CCH], and
(ii) each person responsible for setting the standards and mechanisms referred to in section 6050W(d)(2)(C) of such Code, as added by this section, for settling transactions involving payment cards shall be treated in the same manner as a payment settlement entity.
Third Party Networks

Step 1: Swipe EBT Card
Step 2: Tokens to Consumer
Step 3: Use Tokens to pay vendor
Step 4: Trade in Tokens
Step 5: Vendors receive Cash

Consumer
Vendor (Payee)
Farmers Market (Central Payor)
“Such returns shall be made at such time and in such form and manner as the secretary may require by regulations.” – U.S. Code 6050W (a)

Broad Rule Making Authority Given to the IRS
Farmers Markets were not notified of the comment period on the new 6050W rule.

USDA and IRS did not notify farmers markets organizations that they could be subject to the new 6050W Rule.
Communication Gap
Guidance issued by the IRS

With the help of …

- Stacy and the Farmer’s Market Coalition
- 14 members of Congress
- Staff at IRS and FNS
Congress of the United States  
Washington, DC 20515

May 31, 2011

The Honorable Douglas H. Shulman
Commissioner
Internal Revenue Service
1111 Constitution Avenue, N.W.
3000 IR
Washington, DC 20224

Dear Commissioner Shulman,

As you know, expanding underserved population's access to farmers markets is a priority of the U.S. Department of Agriculture (USDA). We are writing to urge the Internal Revenue Service (IRS) to work quickly to clarify that farmers markets using a common arrangement that allows food stamp recipients to purchase locally grown fruits and vegetables do not have an information reporting obligation under section 6050W of the Internal Revenue Code. The current state of uncertainty is troublesome and unnecessary, and we appreciate the IRS’s attention to this important issue.

The new information reporting requirement in section 6050W is effective for “payment card” transactions occurring after December 31, 2010, and Treasury regulations published on August 16, 2010 clarify that a payment card includes an Electronic Benefit Transfer (“EBT”) card that a recipient of government assistance (such as food stamps through the Supplemental Nutrition Assistance Program, SNAP) uses to make purchases. Based on conversations with farmers markets and the USDA, we understand that farmers markets accepting EBT (and credit or debit) cards typically operate a token or scrip system, which has been promoted by the USDA to increase the use of food stamps at farmers markets. Under that system, a market staff person swipes a food stamp recipient’s EBT card in exchange for tokens or paper scrip that the food stamp recipient uses to purchase food from farmers. The farmers redeem the tokens or paper scrip with a market staff person for cash or a check, and the farmers market receives payment from the bank that issued the food stamp recipient’s EBT card.

Treas. Reg. § 1.6050W-1(d)(1) provides that an intermediary who “receives payments from a payment settlement entity” — a bank or other organization that makes payments in settlement of payment card transactions — “on behalf of one or more participating payees and distributes such payments to one or more participating payees” is subject to the reporting requirement. However, Treas. Reg. § 1.6050W-1(a)(5)(A) defines a “participating payee” as any person who “accepts a payment card … as payment,” and the tokens or paper scrip that the farmers accept as payment do not constitute payment cards. Therefore, the farmers are not “participating payees,” and the farmers markets should not have a reporting obligation with respect to the farmers.

The uncertainty surrounding this issue is causing problems for farmers markets because the reporting period has already begun. We respectfully request that the IRS promptly issue guidance to clarify how token or scrip systems for EBT, credit, or debit card payments should be treated.

Farmers markets typically are managed by non-profit or civic organizations that are staffed by volunteers, and requiring compliance with the new reporting requirement would result in a significant burden that farmers markets are not equipped to satisfy.

Thank you for your attention to this important issue. We look forward to hearing from you.

Sincerely,

[Signatures]

Member of Congress  
Member of Congress

Member of Congress  
Member of Congress

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What does IRS 6050W mean for You?

Stacy Miller
Farmers Market Coalition
What does IRS 6050W Electronic Payment Reporting Requirements mean for your market?

Stacy Miller
Executive Director
Farmers Market Coalition
History of this Issue

- IRS Issued Final Rule in October 2010, comment period closing January 25, 2011
- SNAP Division of FNS was made aware of final rule in early winter (after close of comment period)
- Farmers Markets were “not on the radar” of IRS and no one could get definitive answers in writing from IRS about implications to them
Tax Reporting Under 26 U.S.C. § 6050W

**Step 1** – Bank requests Taxpayer ID number from Farmers Market

**Step 2** – Bank issues Form 1099-K to Farmers Market for all annual card payments

**Step 3** – Farmers market requests Taxpayer ID number from farmers

**Step 4** – Farmers market issues Form 1099-K to the farmers for their respective card payments
Glossary of Terms

Merchant Acquiring Entity:

The bank or other organization that processes credit card transactions on behalf of a merchant and ultimately transfers the funds received from the customer’s bank (called an “issuing bank”) to the merchant’s account. Merchant acquiring banks are responsible for reporting merchants’ reportable payment card transactions.

Examples: J.P. Morgan, ACS, etc.
Glossary of Terms

Payee:

A payee (or “participating payee”) is any person that accepts a payment card as payment, or in the case of a third party network transaction, any person that accepts payment made by a third party settlement organization (“central payor”) on behalf of the purchaser or customer.

Example: Individual farmer/vendors accepting scrip purchases are “participating payees.”
Glossary of Terms

Third Party Network:
Any arrangement which involves the establishment of accounts with a central organization by a substantial number of persons (50 or more), the parties are unrelated to such organization, the parties provide goods or services, the parties have agreed to settle transactions pursuant to standards of the agreement, and the persons providing goods or services are guaranteed payment pursuant to such agreement.
Glossary of Terms

Reportable Transactions:
Debit, credit, or EBT transactions conducted at a merchant. Third-party settlement organizations must report the gross amounts of reportable transactions of any payee for whom they settle payments using their network provided that a payee’s reportable transactions exceed $20,000 and the aggregate number of those transactions exceeds 200.
Two bases for exemption from third party reporting requirements

Test #1:

Does your organization process electronic transactions to a “substantial” number of persons (50 or more) on an annual basis?

If No, stop. You are already exempt.

If Yes, proceed to Test # 2.
Two bases for exemption from third party reporting requirements

Test #2:

Does your organization reimburse any one of its payees (vendors) for scrip

A) 200 or more times in a calendar year

AND

B) In amounts which, when totaled annually, exceed $20,000?

If yes, you are responsible for filing a form 1099-K for each of such vendors.
How do I document exemption?

Every farmers market (central payor) that accepts forms of electronic payment (credit, debit, and/or EBT) on behalf of its vendors needs to track the following information:

- The number of vendors to which they make payment
- The number of payments to each vendor
- The individual and aggregate amounts of payments to each vendor

This information should be collected and maintained for each calendar year beginning January 1, 2011.
Scenario # 1

Pineapple Place Farmers Market

- 40 vendors participating in centralized EBT/debit scrip program
- Payments to vendors made weekly
- Lowest annual reimbursement is $200, highest is $16,000

This market would be exempt based on all three aspects of their situation.
Scenario # 2

Money Tree Farmers Market

- 65 vendors participating in centralized EBT/debit scrip program
- Payment to vendors monthly
- Lowest annual reimbursement is $600, highest is $24,000

Even though this market exceeds $20,000 to one vendor, it would be exempt because it disperses payments to that vendor fewer than 200 times per year.
Scenario # 3

**Big City Market** (public market open 5 days/week)

- 120 vendors participating in centralized EBT/debit/credit scrip program
- Payment to vendors every day
- Lowest annual reimbursement is $2,000, highest is $30,000

*This market would be responsible for reporting transactions to any of the vendors to which it made 200 or more payments, totaling >$20,000*
Due to IRS by February 28 (March 31, if filed electronically), of the year following the transactions. The first 1099-Ks will be due for calendar year 2011, and must be submitted to the IRS by February 28, 2012.

What is an IRS 1099-K?

- Gross amount of merchant card and third-party network payments
- Merchant card and network payments
- Jan
- Feb
- Mar
- April
- May
- June
- July
- August
- September
- October
- November
- December

Additional Recommendations

• Include in written policy the payment expectations to vendors
  ◦ **Example:** Vendors participating in XYZ Farmers Market token program will be reimbursed monthly (*or weekly*) for their accumulated scrip transactions.

• If a convenience fee is charged on debit, consult with tax advisor to appropriately classify this as related business income to offset costs of running the program.
What to do with Unredeemed Scrip

- FNS does not have a policy related to unredeemed tokens; markets can put an expiration date on tokens as long as this is disclosed to customer upfront. Scrip is equivalent to purchase as food.
- Unredeemed scrip is a liability on books, and it is up to each individual market to determine when they decide to reallocate those liabilities for operational purposes.
- FNS is currently working on a policy that clarifies, as well as on third party organizations operating SNAP programs on behalf of farmers markets.
Further Reading


- Exempt Organizations Tax Manual

- Unrelated Business Income Tax (UBIT)
Strategies for Recordkeeping

Amanda Segar
Michigan Farmers Market Association
Why Keep Records?

- Financial accountability
- Track trends & progress
- Demonstrate impact
- Inform market operations
Data that MUST be Collected

- The number of SNAP transactions
- The total dollar amount of SNAP transactions/the number of scrip or tokens distributed to customers
- The number of scrip or tokens redeemed by each vendor
Specific for IRS 6050W

- **Number of Vendors Reimbursed**: 50 or more per Year
- **Frequency of Payments**: 200 or More Payments per year
- **Total Amount Reimbursed to each Vendor**: $20,000 or More
Recommendations for Recordkeeping

- Track different currencies separately
- Keep records for individual vendors AND the market as a whole
- Aggregate data by week, month and/or year
Optional Data to Collect

- Number of first-time SNAP users
- Zip Codes
- Weather conditions on market day
- Customer attendance
- Number of vendors and product mix
- Number of volunteers and hours worked
- Displays by community organizations
Tools for Keeping Records

- Paper Log Sheets
- Tracking Software
- Customer Counts
- Dot Surveys
- Customer Surveys
- Vendor Surveys
- Photographs
- Noted Observations
- Interviews
## Customer Record Sheet

Use pencil, permanent ink, or ball-point pen ink only that will not run if sheet gets wet.

**Market date:**

**Customer attendance:**

Vendor attendance – Produce: Other food: Non-food:

Special events (if any):

Weather/observations:

<table>
<thead>
<tr>
<th>Last 4 digits</th>
<th>SNAP tokens/credit purchased (dollars)</th>
<th>NUMBER OF DUFB tokens given</th>
<th>DOLLAR VALUE OF DUFB tokens given</th>
<th>First time using DUFB?</th>
</tr>
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**TOTAL SNAP:**

**TOTAL DUFB:**

Page ___ of ___

Initials ___

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http://www.mifma.org/food-assistance-partnership/farmers-market-managers/
# Allen Street Farmers Market: Individual Vendor Records

<table>
<thead>
<tr>
<th>Date</th>
<th>Orange $1 EBT</th>
<th>Blue $5 Market Money</th>
<th>Project Fresh $2 Coupons</th>
<th>Gift Certificate</th>
<th>Total $</th>
<th>Stall Fee Deducted</th>
<th>Payment Record</th>
</tr>
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<tbody>
<tr>
<td>16-May</td>
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<td>23-May</td>
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<td>30-May</td>
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<td>6-Jun</td>
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<td>13-Jun</td>
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<td>20-Jun</td>
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<td>27-Jun</td>
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Questions and Answers
Upcoming FMC Webinars

- November 10: Markets as Business Incubators: Strategies to Grow your Vendor Base (11 am Eastern)  
  https://www2.gotomeeting.com/register/155415114
- Data Matters: Reliable Visitor Counts and Selecting The Appropriate Survey Techniques For Your Market (early December)
- Communicating Value: Price Comparisons and Affordability
- Music Copyright Liability at Farmers Markets
- Welcome to the future: Smartphone apps for EBT

Stay tuned to farmersmarketcoalition.org/informationmarketplace for more details, dates, and times
Thank you!

- Paul Hynes, Jarrett Jacinto, and Julian Kim at Latham & Watkins
- Dan Best, California Association of Certified Farmers’ Markets
- Erin McGuire in Congresswoman Pingree’s Office
- Rep. Chellie Pingree (ME)
  Rep. Peter Stark (CA)
  Rep. Joe Courtney (CT)
  Rep. John Lewis (GA)
  Rep. Marcy Kaptur (OH)
  Rep. Gregorio Kilili Camacho Sablan (Mariani Islands)
- Rep. Michael H. Michaud (ME)
- Rep. John Dingell (MI)
- Rep. Raul Grijalva (AZ)
- Rep. Peter Welch (VT)
- Rep. Madeleine Z. Bordallo (Guam)
- Rep. Robert A. Brady (PA)
- Rep. Leonard Boswell (IA)
- Rep. Betty McCollum (MN)
Farmers markets are good for everyone. Join us to make them even better.

Questions? Ideas? Feedback?