

Office of Statewide Reporting and Accounting Policy
State of Louisiana
Division of Administration

JOHN BEL EDWARDS
GOVERNOR



JAY DARDENNE
COMMISSIONER OF ADMINISTRATION

February 23, 2022

MEMORANDUM OSRAP 22-10

TO: Fiscal Officers
State Agencies

FROM: Lindsay Schexnayder, CPA
State Accounting Systems Director

SUBJECT: Survey: New IRS Form 1098-F Reporting Requirements for State Agencies

The Tax Cuts and Jobs Act (TCJA) added Section 6050X and amended Section 162(f) of the Internal Revenue Code. Under Section 162(f), taxpayers cannot deduct amounts paid or incurred to a governmental entity in response to a violation of law or potential violation of law. An exception exists for amounts identified in the court order or settlement agreement as (i) restitution (including remediation of property) for damage or harm that may have been caused by the violation of or potential violation of law or (ii) paid to come into compliance with any law that was violated or otherwise involved in the investigation or inquiry.

Section 6050X requires governmental entities to report amounts to be received from taxpayers in response to a court order or settlement agreement resulting from a violation of law or potential violation of law over which the entity has authority. Section 6050X requires governments to report the amount of the nondeductible payment, any amount that constitutes restitution or remediation of property, and any amount paid for coming into compliance with any law that was violated or part of the investigation.

The Section 6050X reporting is required at the point the suit or agreement is reached, regardless of when payment is made, making it impossible to trigger the reporting from a financial transaction in the accounting system. Each state agency's legal counsel should be made aware of the new reporting requirements because they will be involved in the determination of when a suit or settlement agreement is finalized and whether it is subject to reporting.

While the changes to the law passed in 2017, the IRS rules and regulations related to Section 6050X reporting were effective on January 14, 2021 for suits and agreements that become binding **on or after January 1, 2022**. The IRS rules and regulations require governmental entities to comply with Section 6050X by filing an information return, the IRS Form 1098-F, if the aggregate amount the payer is required to pay pursuant to all court orders and settlement agreements **equals**

or exceeds \$50,000. The taxpayer identification number (TIN) of the payer must be requested if not already known. The 1098-F must be filed with the IRS on or before February 28th (March 31st if electronically) of the year following the calendar year in which the orders and/or agreements become binding under applicable law, determined without regard to whether all appeals have been exhausted or the time for filing an appeal has expired. A copy of the 1098-F must be provided to the payer by January 31st of the calendar year filed.

To assist OSRAP in determining the impact of 1098-F reporting on state agencies, we ask that you consult with your legal counsel and complete the survey at the following link by **March 4, 2022**: <https://www.surveymonkey.com/r/BDTCRKS>

The objective of the survey is to gather information related to the new requirement and identify all agencies likely to meet the threshold for 1098-F reporting. The results of the survey will be used in our consideration of next steps to ensure the state's compliance with Section 6050X.

[IRS 1098-F Form Instructions](#)

LS: at