CIRCULAR

STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY

NO: 24-13-OMB	ORIGINATING AGENCY: OFFICE OF MANAGEMENT AND BUDGET	PAGE 1 OF 2
EFFECTIVE DATE: IMMEDIATE	EXPIRATION DATE: INDEFINITE	SUPERSEDES: N/A
SUBJECT: FORM 1098-F ISSUANCE – SETTLEMENT REPORTING		
ATTENTION: ALL DEPARTMENTS AND AGENCIES		
FOR INFORMATION CONTACT: LESLIE.NOTOR@TREAS.NJ.GOV		

I. BACKGROUND

The federal Tax Cuts and Jobs Act of 2017 ("TCJA") changed how amounts paid or incurred to governmental entities as part of a penalty or settlement are treated for federal tax purposes. 26 U.S.C. § 162(f). The TCJA and IRS Rules clarified ambiguity about whether these costs are deductible, by providing a statutory exception that permits a tax deduction for amounts paid or incurred that constitute restitution (including remediation of property) or, to come into compliance with any law, while providing guidance about what constitutes the allowable tax deduction. See IRS Rules 26 CFR §§ 1.162-21 and 1.6050X-1 (2021) for guidance. See, also, IRS guidance published at https://www.irs.gov/forms-pubs/about-form-1098-F.

At the same time, federal law was amended to require that governmental entities report amounts paid or required to be paid by private parties, to the IRS and to the payer, if those payments were, in general, made as a result of a violation of the law. 26 U.S.C. § 6050X. Reporting requirements are triggered by payment or settlement amounts in connection with a suit or agreement if those amounts equal or exceed the threshold amount, currently $50,000. 26 CFR § 1.6050X-1(f)(6) (2021). The reporting requirement is also triggered when the aggregate total of all payments or liability pursuant to all settlements, orders or agreements relating to the same violation equals or exceeds $50,000; or, when the aggregate amount paid or incurred by multiple payers relating to the same violation of the law equals or exceeds $50,000. 26 CFR § 1.6050X-1(d) (2021). See Form 1098-F Instructions at "Box 1" for further details.

II. RESPONSIBILITIES

A. State Agencies

1. Departments should regularly gather information needed to satisfy reporting requirements under the TCJA and IRS Rules, by implementing a method to record and track required information that must be specified in the Order or Agreement itself, for later filing on Form 1098-F. See 26 CFR § 1.6050X-1(b)(1) (2021); see, also, IRS Form 1098-F and related instructions published at https://www.irs.gov/pub/irs-pdf/f1098f.pdf.

2. Departments are responsible for preparing their individual 1098-Fs and mailing "Copy B" of the form to each "PAYER"[1] by the last day of the calendar year. See 26 CFR § 1.6050X-1(c) (2021). When completing the 1098-F, the FILER'S name, street address, city or town, state or province, country, and ZIP must be entered as follows:

   State of NJ – OMB
   P.O. Box 221
   Trenton, NJ 08625-0221

   The FILER'S TIN must be 21-6000928.

3. Annual Certification to the Office of Management and Budget (OMB)

   Each Department that has completed at least one 1098-F is required to send a certification to OMB by December 31st for that calendar year (e.g., 1098-Fs completed during calendar year 2023 must be certified to OMB by December 31, 2023). The submission to OMB should include "Copy A" of all 1098-Fs filed for that calendar year as well as an attestation on Departmental letterhead signed by the CFO or Fiscal Officer, which states:

   > The Department of [Insert Name] certifies that [Insert Number] 1098-Fs were filed with the IRS for the period 1/1/XX to 12/31/XX. Electronic copies of these 1098-Fs are being submitted to OMB as part of this certification. The total dollar amount reported for all 1098-Fs for the period 1/1/XX – 12/31/XX was [Insert Dollar Amount].

   The CFO should submit the certification along with the required 1098-Fs to:

   Leslie A. Notor, Assistant Director
   Office of Management and Budget
   P.O. Box 221
   Trenton, NJ 08625-0221
   Leslie.Notor@treas.nj.gov

B. Office of Management and Budget

   On an annual basis, OMB will consolidate all Agency 1098-Fs and forward the forms to the IRS along with the required Form 1096, "Annual Summary and Transmittal of U.S. Information Returns" by the required due date.

Tariq Shabazz
Acting Director

[1] A "Payer" is a person or entity that, pursuant to an order issued by a court or a settlement agreement, has paid or incurred, or is liable to pay or incur, an amount to, or at the direction of, a government or governmental entity. 26 CFR § 1.6050X-1(f)(5) (2021).