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436 14th Street, Suite 1120 | Oakland, CA 94612 | www.theSELC.org

Lowering Barriers to Community-Based Mutual Credit: Amending Barter Exchange Transactional Reporting Requirements¹

Background and Justification

As communities grow their economic resilience through the creation of barter networks and electronic local currencies, the Sustainable Economies Law Center (SELC) believes it is important to revisit the barter exchange tax reporting requirements established by the IRS over three decades ago. Current reporting requirements create undue burdens on barter exchanges and on their members.

The IRS defines “barter exchanges” as:

“any person with members or clients that contract either with each other or with such person to trade or barter property or services either directly or through such person. The term does not include arrangements that provide solely for the informal exchange of similar services on a noncommercial basis.”²

Currently, the IRS requires barter exchanges to file information returns each calendar year, if there are 100 or more domestic exchanges of more than \$1.00 each during the calendar year.³ Currently, the barter exchange must file a 1099-B for **each transaction** involving a non-corporate member or client.⁴ This is known as *transactional reporting*. For corporate members and clients, the regulation provides an exception from transactional reporting, allowing the barter exchange to report with a **single** 1099 with the aggregate transaction amount received by the corporate member or client during the reporting period.⁵ Additionally, the barter exchange must file Form 1096, “Annual Summary and Transmittal of U.S. Information Returns,” each calendar year for all of its members and clients.⁶

The Final Rule originally published by the IRS in 1983 required transactional reporting for all members or clients of a barter exchange.⁷ The IRS justified the transactional reporting

¹ Written by SELC Staff Attorney Neil Thapar, with input from SELC Executive Director Janelle Orsi.

² 26 C.F.R. § 1.6045-1(a)(4). (Note that, in many cases, the activities of organizations administering virtual currencies place the organization within the definition of a barter exchange.)

³ 26 C.F.R. § 1.6045-1(e)(2).

⁴ 26 C.F.R. § 1.6045-1(f)(2)(i).

⁵ 26 C.F.R. § 1.6045-1(f)(2)(ii).

⁶ 26 C.F.R. § 1.6045-1(f)(1).

⁷ See 48 Fed. Reg. 10302 (March 11, 1983).

requirement at the time as “necessary so that the amount received in a sale of property can be matched with the basis of the property to determine gross income.”⁸ At some later date, the Treasury Regulation was amended to except transactional reporting for corporate members and clients. SELC has not yet been able to discover the IRS’s rationale for easing the reporting requirements for corporate members but not for non-corporate members. Notwithstanding, we do not see a reasonable justification for treating corporate and non-corporate members differently under these reporting regulations.

Furthermore, the per-transaction reporting requirements put a significant burden on organizations operating barter exchanges. Currently, the IRS estimates that each 1099-B form takes 20 minutes to complete.⁹ In addition, each member of a barter exchange must take time to enter details from each 1099-B form he or she receives, which creates unnecessary hassle.

SELC proposes that the IRS¹⁰ amend its reporting regulations to allow for aggregate reporting, instead of *transactional reporting*, for **all** members and clients of a barter exchange. This will reduce the significant burden and expense on barter exchanges to fill out thousands of 1099-B forms each year for its members. SELC also proposes that the IRS switch from Form 1099-B to Form 1099-MISC for barter exchange reporting under these regulations to streamline the reporting process, to eliminate the requirement to describe every good or service, and to make use of a form that more people are familiar with.

Proposed Amendment

Below is a suggested amendment to Treasury Regulation 1.6045-1(f) (codified as 26 C.F.R. § 1.6045-1(f)). Added language is in **blue ink**. Deleted language is **struck through**.

(f) Information required—

(1) In general. A person that is a barter exchange during a calendar year shall report on Form 1096 showing the information required thereon for such year.

(2) Transactional Reporting— ~~(i) In general.~~ As to **any** ~~each~~ exchanges **involving a member or client** for which a barter exchange is required to make a return of information under this section, the barter exchange must **report** ~~show~~ on Form 1099-**MISC-B, “Miscellaneous Income Proceeds From Broker and Barter Exchange Transactions,”** or any successor form, the name, address, and taxpayer identification number of **the** ~~each~~ member or client ~~providing property or services in the exchange,~~ **the aggregate amount received by the member or client during the reporting period in**

⁸ *Id.*

See IRS General Instructions for Certain Information Returns, p. 19.

¹⁰ 26 U.S.C. §7805 gives the IRS authority to “prescribe all needful rules and regulations for the enforcement of this title.”

exchange for property or services provided by such member or client, and such other information as may be required by Form 1099-MISC, in the form, manner, and number of copies required by Form 1099-MISC.~~the property or services provided, the amount received by the member or client for the property or services, the date on which the exchange occurred, and other information required by the form in the manner and number of copies required by the form.~~

~~**(ii) Exception for corporate member or client.** As to each corporate member or client providing property or services in an exchange for which a return of information is required under this section, the barter exchange may report the name, address, and taxpayer identification number of the corporate member or client, the aggregate amount received by the corporate member or client during the reporting period for property or services provided by such corporate member or client in exchange for which a return of information is required, and such other information as may be required by Form 1099, in the form, manner, and number of copies required by Form 1099.~~

~~**(ii) Definition.** For purposes of paragraph (f)(2)(i) of this section, the term “corporate member or client” means a member or client of a barter exchange which is a corporation as defined in section 7701(a)(3) (including an insurance company). The term corporation includes a pool, syndicate, partnership, or unincorporated association composed exclusively of corporations. A barter exchange may treat a member or client as a corporation (and therefore as a corporate member or client) if such member or client provides an exemption certificate as described in §31.3406(h)-3(a) of this chapter or provided that—~~

~~**(A)** The name of the member or client contains the term “insurance company,” “indemnity company,” “reinsurance company,” or “assurance company”;~~

~~**(B)** The name of the member or client contains one of the following unambiguous expressions of corporate status: Incorporated, Inc., Corporation, Corp., or P.C., but not Company or Co.; or~~

~~**(C)** The member or client is known to the barter exchange to be a corporation through a corporate resolution or similar document on file with the barter exchange clearly indicating corporate status.~~

(3) Exchange date. For purposes of this section an exchange is considered to occur with respect to a member or client of a barter exchange on the date cash, property, a credit, or scrip is actually or constructively received by the member or client as a result of the exchange. (See § 1.451-2 for rules pertaining to constructive receipt.)

(4) Amount received. The amount received by a member or client in an exchange includes cash received, the fair market value of any property or services received, and the fair market value of any credits to the account of the member or client on the books of the barter exchange or scrip issued to the member or client by the barter exchange, but does not include any amount received by the member or client in a subsequent exchange of credits or scrip. For purposes of this section, the fair market value of a credit or scrip is the value assigned to such credit or scrip by the issuing barter exchange for the purpose of exchanges unless the Commissioner requires the use of a different value that the Commissioner determines more accurately reflects fair market value.

(5) Meaning of terms. For purposes of this paragraph (f)—

- (i)** A credit is an amount on the books of the barter exchange that is transferable from one member or client of the barter exchange to another such member or client, or to the barter exchange in payment for property or services;
- (ii)** Scrip is a token issued by the barter exchange that is transferable from one member or client, of the barter exchange to another such member or client, or to the barter exchange, in payment for property or services; and
- (iii)** Property does not include a credit or scrip.

(6) Reporting period. A barter exchange shall use the calendar year as the reporting period.