



Commonwealth of Massachusetts

OFFICE OF THE COMPTROLLER

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MEMORANDUM

To: Chief Fiscal Officers and General Counsels
From: Jessica A. Cogswell, Statewide Payments and Tax Reporting Officer
Date: December 6, 2022
Re: Issuing and Filing IRS Form 1098-F (Fines, Penalties and Other Amounts)

Comptroller Memo FY#23-10

EXECUTIVE SUMMARY

The IRS issued guidance requiring governments and governmental entities to report, through Form 1098-F, fines, penalties, court orders or agreements with respect to any violation of law or investigation into the potential violation of law. The Office of the Comptroller (CTR), on behalf of the Commonwealth, will issue the Form 1098-F reporting this information to the Internal Revenue Service (IRS).

Please ensure that the information in this memo is conveyed to relevant staff.

Governments and governmental entities must file Form 1098-F (Fines, Penalties, and Other Amounts). Form 1098-F reports the amount required to be paid to a government or governmental entity pursuant to a suit, court order, or agreement with respect to any violation of a law or investigation or inquiry into the potential violation of a law, if the aggregate amount involved in all suits, orders, or agreements resulting from a specific instance equals or exceeds an amount determined by the United States Secretary of the Treasury (currently \$50,000). The amount required to be paid includes costs to provide services or to provide property. Reporting is required for all suits, orders, or agreements that became binding on or after January 1, 2022. A copy of Form 1098-F can be found here: <https://www.irs.gov/pub/irs-pdf/f1098f.pdf>

Actions may meet the IRS reporting criteria in multiple ways. See page 2 of the 1098-F instructions for an explanation of those criteria: <https://www.irs.gov/pub/irs-pdf/i1098f.pdf>

In May 2022 CTR sent a communication to all departments asking for information to determine whether their collected fines, penalties, or payments resulting from lawsuits, orders, or agreements met the Form 1098-F reporting criteria. CTR staff will reach out to the departments who identified a reportable obligation in response to the May 2022 communication for information about the fines, penalties and other circumstances that meet Form 1098-F reporting requirements.

If your department did not respond to this communication, but you believe that your department may have a Form 1098-F reporting obligation, please reach out to CTR's Statewide Payments and Tax Reporting Officer, Jess Cogswell, Jessica.cogswell@mass.gov. The deadline to provide the information to CTR is Wednesday, January 4, 2023.

Departments will be asked to supply, in a provided Excel format through secure site (SharePoint or MOVEitP2P), the following information:

- payer name
- payer tax ID
- date of order/agreement
- case name (if applicable)
- total dollar amount
- corresponding boxes:
 - amount to be paid for violation/potential violation
 - restitution/remediation amount
 - compliance amount

IRS guidance stipulates that payers must receive an informational copy of the form furnished to the IRS. Forms will be mailed to payers on or around January 31, 2023.

A demo session on how to report this information to CTR is scheduled for Wednesday, December 14, 2022 at 10:30am <https://learningmanager.adobe.com/app/learner?accountId=32143#/course/5958472>

Demo participants are welcome to submit questions prior to the session by sending an email to jessica.cogswell@mass.gov.

cc: MMARS Liaisons, Payroll Directors, and Internal Distribution