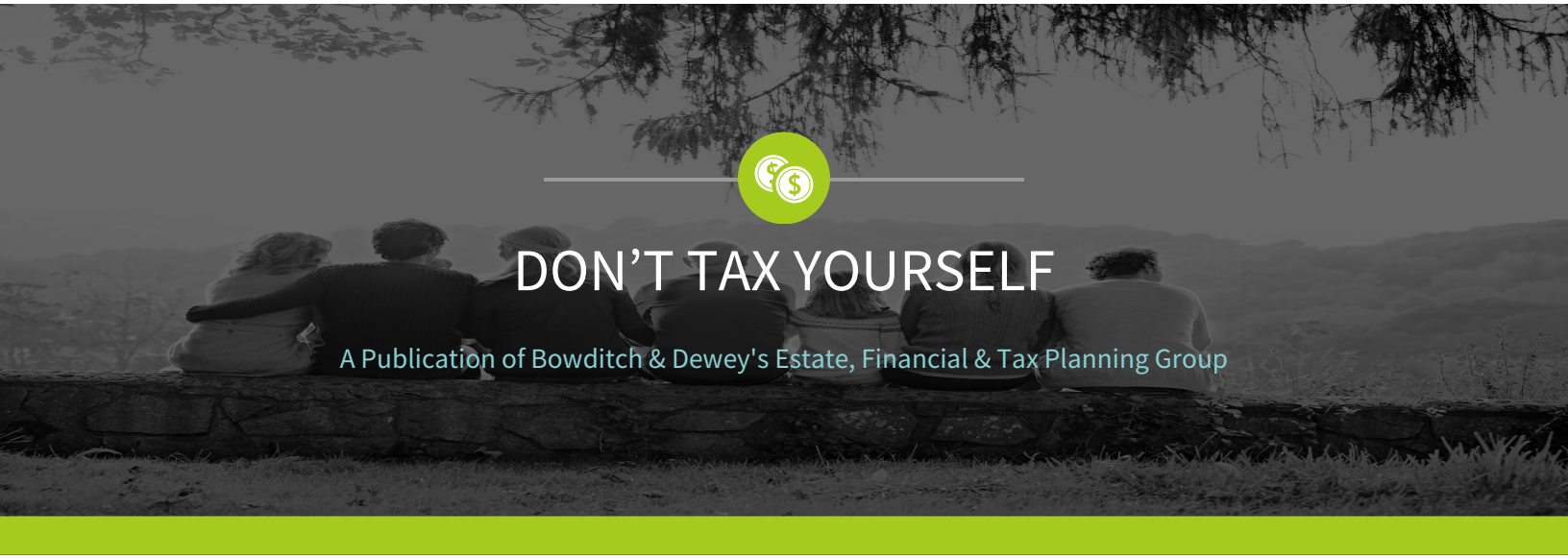

DON'T TAX YOURSELF

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Increased Reporting to the IRS Required for PayPal, Venmo, Third-Party Payment Networks

BY BOWDITCH & DEWEY • DECEMBER 16, 2021

Small businesses take note: Starting January 1, third-party payment networks, such as PayPal and Venmo, must report to the IRS any transactions for goods or services in excess of $600. Under current law, such "third party settlement organizations" must submit returns to the IRS for a "participating payee" in the network only if transaction amounts to the participating payee exceed $20,000 and the number of transactions with such payee exceed 200. Credit card companies and banks, however, must report any payment transactions for goods or services, regardless of value. The IRS reports include the name, address, and taxpayer identification number (TIN) of each participating payee and the gross amount of the reportable payment. The American Rescue Plan, passed at the beginning of 2021, reduces this de minimis exception for third-party settlement organizations. The IRS reporting form and instructions can be found on its website.

The House's Build Back Better Proposal, currently before the Senate, would also require such third-party payment networks to apply back-up tax withholding to payments in excess of $600. Under the Code, back-up withholding is required by a payor in transactions for goods or services if the payment recipient fails to furnish his TIN, the IRS notifies the payor that the TIN furnished is incorrect, or the IRS notifies the payor of an underreporting by the payment recipient. When back-up withholding is required, the payor must deduct and withhold from payments a tax equal to the fourth lowest rate of tax applicable under the Code multiplied by the expected payment. Back-up withholding currently applies to payments by third party settlement organizations to participating payees only if the transaction value exceeds $20,000 and the number of transactions exceed 200. More information on back-up withholding can also be found on the IRS's website.

The increased reporting and proposed back-up withholding requirements should increase the administrative costs of third-party settlement networks. Indeed, the Build Back Better Proposal provides a transitional rule for 2022 for the proposed back-up withholding rules. It adds a requirement that the aggregate number of annual transactions between the third-party settlement organization and the payment recipient must exceed 200 before back-up withholding applies to any 2022 payments. Stay tuned to how the third-party payment networks pass on the increased

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administrative costs of the heightened IRS reporting requirements.

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