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September 28, 2010

Internal Revenue Service
Attn: CC:PA:LPD:PR
(Notice 2010-51)
Room 5203
P.O. Box 7604
Ben Franklin Station
Washington, DC 20044

Dear Mr. Brau:

On behalf of the National Association of State Comptrollers, we appreciate the opportunity to respond to the Internal Revenue Service's notice regarding Expanded Information Reporting.

We believe that expanded 6041 reporting captures the desired transactional information and eliminates the need to report the same transactions in accordance with Section 3402(t). Congress established this requirement in an effort to increase tax compliance and we believe the expanded information reporting requirements of 6041 will address the tax gap issue without the overly burdensome, costly and challenging requirements of Section 3402(t). Duplicate reporting that will occur under 3402(t), 6040W and 6041 is simply inefficient and unnecessary. We strongly suggest that the IRS support repeal of Section 3402(t) as a costly, duplicative and burdensome requirement to address tax compliance.

As requested, we offer the following feedback and comment in response to the IRS's notice:

The main issue our members brought to our attention is the increased workload and cost. One of our responding states expects the number of 1099-MISC vendors to increase from around 9,000 per year to about 100,000. Another state expects their numbers to increase from about 13,000 to over 100,000. States expect increased costs and staffing requirements to print the forms, mail the forms, make programming changes, and respond to questions and resolve problems.

We support the proposed regulation that purchases on debit or credit cards be exempted from the information reporting requirements. States do not receive reliable information from the card issuers for 1099 purposes making it difficult to report on those purchases. Also, payment card organizations should be allowed to validate a payee's Taxpayer Identification Number (TIN) through the IRS TIN Matching Program. The payment card organization, through a signed agreement, should be able to act on behalf of the government for purposes of soliciting, collecting and validating the names/TINs of the merchants/payees.

Additional issues on which comments were requested:

1. The appropriate scope of the terms "gross proceeds" and "amounts in consideration for property" in section 6041(a), as amended, and how to interpret


these terms in a manner that minimizes the reporting burden and avoids duplicative reporting.

- a. We would like a clear definition for both included and excluded items. We recognize that it may be difficult to provide a comprehensive list; therefore, we recommend that the definition either explicitly identify reportable items with all others being exempt or explicitly identify exempt items with all others being reportable. We frequently run into unique circumstances that are not included in the definitions as reportable or exempt and are left to interpret the reporting requirements based upon our judgment.
 - b. The term “gross proceeds” is used in the regulations. This is not a particular term that is often used in the government environment. Terms used should be clearly defined for everyone involved in the 1099 reporting process.
 - c. We need a clear definition of items that should be on a 1099 vs. 1099-S as it relates to “amounts in consideration for property.”
2. Whether or how the expanded reporting requirements should apply to payments between affiliated corporations, such as payments related to intercompany transactions within the same consolidated group.
- a. We have no comments regarding this provision.
3. The appropriate time and manner of reporting to the Service, and what, if any, changes to existing practices for Form 1099 information reporting to the Service are needed to minimize burden in compliance with the new reporting requirements.
- a. The time and manner for reporting should be consistent for all 1099 reporting.
4. What, if any, changes to Form W-9, Request for Taxpayer identification Number and Certification, and the existing rules for soliciting taxpayer identification numbers (TINs) are needed to minimize the burden for payors to obtain TINs from payees, what are the privacy concerns with respect to TINs, and what are other concerns regarding identifying payees.
- a. The W-9 requirements, form, and instructions should be clarified in regard to when an entity should provide a Social Security Number (SSN), TIN, or Employer Identification Number (EIN) and which identifying number should be used by the payor.
 - b. The W-9 form and instructions should provide more explicit information regarding exempt payees. Currently we are reliant on a payee simply indicating they are exempt, but there is no indication as to the basis (e.g., are they a 501(c)(3) organization, governmental, exempt trust, etc?) and purpose.
 - c. Current instructions indicate the entity is to identify if they are exempt from backup withholding. Should the entity be asked to indicate if they are exempt from 1099 reporting?
 - d. A comprehensive list of entity types should be included. Currently, the form is limited to individual/sole proprietor, corporation, partnership, LLC and other. We recommend adding trusts, estates and governmental entities.
 - e. Previously, many payments were reported on the 1099-MISC as “nonemployee compensation” or “other income” or the payment was very specific for “rent.” Now, that “goods” as well as services will be reported, a new reporting category or two should be added to the 1099-MISC. It does not seem appropriate to report an institution’s purchases of light bulbs, cleaning supplies, and food as “other income.” We believe a category for “Commodity Purchases” or “Purchase of Goods” would be more appropriate. A category for combined payments for goods and services may also be necessary.

5. How should the backup withholding requirements for missing TINs under the expanded new reporting requirements be administered in order to minimize burden on payors.
 - a. Backup withholding requirements should be consistent for all reporting requirements.
 - b. The timeframe allowed to address the CP2100 is not sufficient due to the volume and vendor population. The timeframe should be extended across the board or based upon the volume of notices required. We believe that 60 to 90 days, as opposed to the current 30 day requirement, is needed to ensure the notices are handled in accordance with the requirements.
 - c. While the concept seems simple that a person or entity would know their TIN and what name it is under, this is not always the case. States spend a great deal of time working with entities trying to resolve these types of issues. To simplify and minimize burdens on payors when dealing with mismatches, etc., we request that the IRS send out yearly notifications to entities that include the TIN, how the name appears in the system, and the classification of the entity (i.e., Sole Proprietor, Partnership, Corporation, etc.). The notification should further state that this is the name and TIN that should be used in business transactions. We believe this would decrease the number of B Notices received by the states and assist with the resolutions.

We appreciate the opportunity to provide our comments. Should you have any questions or need additional information regarding our response, please contact Kim O'Ryan of NASC at (859) 276-1147.

Sincerely,



D. Clark Partridge
NASC President