

Announcement 98-73

Penalty Relief for TIN Errors for 1996 & 1997 Forms 1099-R

In early August, the Internal Revenue Service (IRS) will send certain filers of Form 1099-R (payers of distributions from pensions, annuities, retirement or profit-sharing plans, individual retirement accounts, insurance contracts, etc.) lists of payees whose taxpayer identification numbers (TINs) on 1996 Forms 1099-R filed with the IRS have been identified as missing or incorrect based on the IRS matching process. Most of these listings will be included with the Notice 972CG, but some will be sent separately. The law provides a penalty of \$50 per return for filing an information return with a missing or incorrect TIN. For 1996 and 1997, for the Forms 1099-R only, the IRS will not assess this TIN penalty, merely because the TIN has been identified as missing or incorrect based on the IRS matching process. In certain cases this penalty may be assessed after an examination of a payer's returns. Payers should use these listings to correct their records and perform necessary solicitations to obtain correct payee information to establish reasonable cause for any TIN penalties in future years. The IRS will still send out proposed penalty notices for the 1996 Form 1099-R, as well as for other information returns, in early August to those who filed late or failed to file on magnetic media when required to do so.

Questions & Answers on the Form 1099-R TIN Listing

Q1. Why is the IRS sending this listing?

A1. The IRS is sending this listing so that the payer can compare the data on it to the information in its records and then take steps to secure correct payee information so that future information returns may be filed accurately.

Q2. What is contained in this listing?

A2. This listing consists of the Forms 1099-R filed for Tax Year 1996 that have been identified as having missing or incorrect TINs based on the records of the IRS and the Social Security Administration (SSA).

Q3. When does the IRS consider a TIN to be missing or incorrect?

A3. A TIN is identified as missing if there is no entry in the TIN block of a Form 1099 or if the number is obviously incorrect. A number is obviously incorrect if, for example, it does not have nine characters or it includes alpha characters. A TIN is identified as incorrect if the name/TIN combination on a Form 1099 does not match the name/TIN combination found in IRS and SSA files.

Q4. What should be done with the information in the listing?

A4. The payer should compare the information in the listing with its records to identify accounts or records with the same name/TIN combination and account or other number (if provided). The IRS recommends that the payer contact these payees and ask them for the correct name/TIN combination that can be used on future information returns. Although a certified TIN is not required from these payees, the payer may use Form W-9, "Request for Taxpayer Identification Number and Certification," for this purpose. The payer should also check its records for errors (such as transposition of digits) so that the correct name/TIN combination can be used on any future information returns.

Q5. What should be done if the payer does not have a payee's TIN?

A5. The payer should comply with the TIN solicitation requirements in Regulations section 301.6724-1(e). In addition, Federal income taxes should be withheld

from any payments made to the payee that are designated distributions under Code section 3405. In the case of nonperiodic payments, a flat rate of 10% should be withheld on non-eligible rollover distributions. On eligible rollover distributions, the withholding rate of 20% should continue to be used. In the case of periodic payments, the payer should withhold using the wage withholding rates for a single taxpayer claiming zero (0) allowances .

Q6. What should be done if a payee refuses or neglects to provide a TIN?

A6. The payer should withhold under the provisions of Code section 3405. See Q&A 5.

Q7. What should be done if a payee provides the same name and TIN that was on the listing?

A7. The payer should continue to use the name and TIN provided and keep a copy on file of the documentation received from the payee.

Q8. What should be done if a TIN was actually on file but was left off the Form 1099 or reported incorrectly?

A8. The payer should make the change to its records and use the correct information on future filings.

Q9. Will the IRS impose a penalty under Code section 6721 with respect to the information returns merely because a TIN is identified as missing or incorrect on this listing?

A9. No. In August 1998 (for Tax Year 1996), the IRS is providing this listing so that payers can obtain correct name/TIN information for use on any future Forms 1099-R filed. Incorrect name/TIN combinations and missing TINs on future

Forms 1099-R filed may result in a penalty.

Q10. Is this listing a notification, under Code section 3405(e)(12)(B), that the TIN furnished by the payee is incorrect?

A10. No. The informational listing provided in August 1998 will not be treated as a notice under Code section 3405(e)(12)(B) that the TIN furnished by the payee is incorrect. In 1998 (for Tax Year 1996), the IRS is only providing this informational listing so that payers can contact these payees and obtain correct name/TIN information for use on future Forms 1099-R filed.

Q11. Where can I find additional information about the reasonable cause regulations and requirements for missing and incorrect name/TIN combinations?

A11. See Publication 1586, "Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs."

Q12. Since it is likely that Forms 1099-R for Tax Year 1997 have already been filed with the missing or incorrect information found on this listing, will penalty relief for 1997 also be granted?

A12. Yes. For Tax Year 1997, this relief will be granted for the TIN penalty for Forms 1099-R only.

Q13. Who should be called with any questions?

A13. The Information Reporting Program Centralized Call Site may be called at (304) 263-8700 (not a toll-free number) between 8:30 a.m. and 4:30 p.m. (EST). Payers may also access the Information Returns Program Bulletin Board using standard personal computing equipment at (304) 264-7070 (not a toll-free number).