

## Part III – Administrative, Procedural, and Miscellaneous

### New Backup Withholding Procedures: Social Security Number Validation following Receipt of Second B Notice

Announcement 2010-41

#### PURPOSE

The Internal Revenue Service ("IRS") is announcing a change in procedures for individual payees to follow to obtain validation of social security numbers ("SSNs") from the Social Security Administration ("SSA") to prevent or stop backup withholding under section 3406 of the Internal Revenue Code following receipt of a second "B notice" from a payor.

#### BACKGROUND

Pursuant to section 3406 and the regulations thereunder, a payor (such as a bank) must send certain notices under section 3406(a)(1)(B) ("B notices") to a payee after being notified by the IRS or a broker that the payee has provided an incorrect name and taxpayer identification number ("TIN") combination with respect to an account. Following the first notification from the IRS or broker, the payor must send a first B notice to a payee directing the payee to certify the TIN on Form W-9 in order to stop or prevent backup withholding on reportable payments by the payor. If the payor receives a second notice of incorrect TIN from the IRS or broker within three years, the payor must send a second B notice to the payee requiring the payee to provide TIN validation. After the second B

notice, the payor cannot accept a TIN certification on Form W-9 but must receive validation of the payee's TIN from the SSA or the IRS. Absent receipt of proper validation, the payor must backup withhold from future reportable payments it makes to the payee.

The rules concerning the form, content and manner of delivery of B notices are set forth in Rev. Proc. 93-37, 1993-2 C.B. 477. That revenue procedure sets forth specific instructions regarding TIN validation, which must be included in the second B notice sent to payees. Pursuant to the instructions in Rev. Proc. 93-37, a payee who needs to validate an SSN must contact the local SSA office to inquire about SSN validation, provide a copy of the B notice to SSA, and request and authorize SSA to send Form SSA-7028, Notice to Third Party of Social Security Number Assignment, to the payor to validate the payee's SSN.

Effective January 1, 2010, SSA discontinued the availability of Form SSA-7028 for purposes of verifying SSNs to avoid backup withholding. This announcement updates the instructions for TIN validation given that Form SSA-7028 is no longer available.

#### INTERIM PROCEDURES

To obtain validation of the payee's SSN from the SSA for purposes of responding to a second B notice, each individual payee should now contact the local SSA office and request a Social Security Number Printout. The Social Security Number Printout will validate the SSN of the individual and will serve as acceptable validation of the individual's TIN for purposes of the requirements of

section 3406. An individual may request one free copy of the Social Security Number Printout, which will verify the SSN assigned to that individual. The individual should provide a copy of the Social Security Number Printout to the payor who sent the second B notice. A payor who receives a copy of the Social Security Number Printout validating the SSN of a payee will not be required to commence backup withholding, and may stop backup withholding, on reportable payments made to that payee.

A payor sending a second B notice to an individual payee should inform the payee of this change in procedure. The following language is acceptable:

Note that the Instructions for Incorrect Social Security Numbers have changed and the SSA no longer uses Form SSA-7028. You must request a Social Security Number Printout from SSA rather than Form SSA-7028. You must send a copy of the Social Security Number Printout directly to us, along with a copy of this notice.

These interim procedures may be used until additional forthcoming guidance, including a revision of Rev. Proc. 93-37, is published.

#### DRAFTING INFORMATION

The principal author of this Announcement is Nancy Rose of the Office of the Associate Chief Counsel (Procedure and Administration). For further information regarding this announcement, contact Ms. Rose at (202) 622-4940 (not a toll-free call).