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IRS Notices Issued After Filing Information Returns

(CP2100 or Notice 972CG):

What to do and how to respond



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Objectives

At the end of this presentation, you will know:

- What types of notices the IRS sends regarding information return filings
- What actions are required when a notice is received
- What resources are available for CP 2100/2100A
- What's reasonable cause criteria
- What's new for tax year 2015 information return notices



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Information Returns

- Information returns are critical to the IRS mission. They are used to:
 - Verify tax return entries
 - Identify non-filing conditions
 - Detect fraud
- Receiving accurate and timely information is imperative

Statutes to Enforce Timely and Accurate Filing

Notice	Statute	Example
CP 2100 (Backup Withholding)	IRC 3406 – provides that backup withholding applies when a reportable payment is made on an account if either:	<ul style="list-style-type: none">• The payor has not received the payee's TIN at the time of payment; or• The TIN furnished by the payee to the payor has been determined to be incorrect and the payee has not furnished the correct TIN in a timely manner



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Statutes to Enforce Timely and Accurate Filing

Notice	Statute	Example
972CG (Notice of Proposed Penalty)	IRC 6721 – authorizes the IRS to assess a penalty when:	<ul style="list-style-type: none">• Information returns are filed after their due date.<ul style="list-style-type: none">• Paper - last day of February.• Electronic - March 15.• There are two exceptions:<ul style="list-style-type: none">• Form W-2• Form 1099-MISC• Information returns were filed on paper exceeding the threshold of 250 returns.• Information returns were filed with an incorrect or missing TIN.



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CP2100/CP2100A Background

- Notice CP 2100/CP2100A
 - Notifies payor of incorrect payee TIN
 - CP 2100A: less than 50
 - CP 2100 with paper listing: 50 to 249
 - CP2100 with DVD/CD format: 250 or more
- Two annual mail outs
 - September
 - April



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Payor responsibilities after receiving a CP 2100/CP 2100A

- Compare error indicated information with business records
 - Missing TINs
 - Start backup withholding immediately
 - Continue until TIN is received

NOTE: Backup withholding applies when no TIN is provided.

After receiving a CP 2100/CP2100A (cont'd)

- Incorrect TINs
 - Compare accounts with business records
 - Records match: send appropriate “B” notice to payee
 - Account doesn’t match: correct or update records as appropriate



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Issuing a “B” Notice

“B” notice asks the payee to verify their name and TIN

- Send initial “B” notice and Form W-9 to payee:
 - After first notification
 - Within 15 business days of receiving CP 2100/CP2100A
 - Include on the envelope or notice:
 - Important Tax Information Enclosed
 - Important Tax Return Document Enclosed

Issuing a “B” Notice (cont’d)

- Second “B” notice
 - Mailing requirements same as first notice
 - Instructs payee to contact IRS or SSA
 - Receive validation from IRS or SSA
 - EIN payee must contact IRS for validation
 - IRS Letter 147C
- Conditions not met: backup withholding required





CP 2100/CP2100A Recommendations

- Validate TIN using IRS records before filing information returns
 - Use On-Line TIN Matching Program
 - Requires payor filed information returns in 1 of the 2 prior years
 - Two options offered
 - Interactive (on-line) validation
 - Bulk processing



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CP 2100/CP2100A Do's and Don'ts

Do:

- Submit corrected information returns, follow the process used for filing original information returns.

Don't:

- Respond to the notice or send information back to the address shown on the notice



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Resources for CP 2100/CP 2100A

- Publication 1281 “Backup Withholding for Missing and Incorrect Name/TINs”
 - Customer service (information reporting only)
 - 866-455-7438
 - Problems or authentication key for a DVD/CD
 - Reprint of CP 2100/CP2100A

Resources for CP 2100/CP2100A (cont'd)

- Publication 2108A “On-Line TIN Matching Program”
 - e-help Desk
 - 866-255-0654
 - IRS.gov
 - Tax Pros > Access e-services
- Form 8508 – waiver to file electronically



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Notice 972CG

“Notice of Proposed Civil Penalty”

- Proposes civil penalty for information returns that are:
 - Filed late
 - Filed using incorrect media
 - Filed with missing or incorrect TINs
- IRS begins their mailout in July



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Contents of Notice 972-CG

- An explanation of the proposed penalty,
- An explanation of how to respond to the notice,
- A record of each submission considered in the total penalty,



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Contents of Notice 972-CG (cont'd)

- A list of the information returns filed with missing or incorrect name/TIN combinations,
- A summary of the proposed penalty,
- A response page, and
- A payment/correspondence slip



Missing or Incorrect TIN Listings

Compare the listing of incorrect TINs with existing records to determine if the name/TIN combinations agree or disagree with those records.

If the name/TIN combination on the listing agrees with the records, make the required solicitation.

If the name/TIN combination on the listing disagrees with the records, a solicitation is not required



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Respond to the notice within 45 days

- Return the response page indicating agreement or disagreement to the proposed penalty
- Provide a signed, detailed explanation when disagreeing with the penalty
- The proposed penalty will be assessed when no response received



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Proposed Penalty

- IRC Section 6721 provides criteria to dispute a proposed penalty
 - Reasonable cause and not willful neglect
- Significant factors
 - First time requirement (not First Time Abatement)
 - Compliance history
- Justification factors
 - Events beyond the filer's control AND
 - Filer acted in a responsible manner



Justification for a Penalty Waiver Request

- Relevant business records unavailable
- Economic hardship relating to filing on magnetic media (Form 8508)
- Actions of the IRS
- Actions of an agent (imputed reasonable cause)
- Actions of the payee or any other person



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Responsible Manner Guidelines

- Filer acts in responsible manner by:
 - making the initial
 - if required, conducting annual solicitations
- Initial solicitation:
 - When account opened or other transaction conducted
 - Unless payor already has the payee's TIN and uses it for all payee's accounts
 - For accounts opened in person with documented oral or written request



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Responsible Manner- General Rules

- First annual solicitation
- Second annual solicitation



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Special Rules

- Payers **not** required to make annual solicitations by mail on accounts with:
 - “Stop-mail” or “hold-mail”
 - Undeliverable address
- **No more than two** annual solicitations required with two exceptions:
 - Form 1098 requires annual solicitations until correct TIN is obtained
 - Forms 1098-E and 1098-T

Solicitations Made by Mail

By mail, the letter must include:

- If payee fails to provide a TIN, they are subject to a **\$50** penalty
- A Form **W-9** or acceptable substitute for the payee to certify their TIN under jurat
- A return **envelope**



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Solicitations Made by Phone

By telephone the filer must:

- Call each person with missing TIN
 - Household – adult
 - Business – officer
- Request TIN
- Explain subject to a \$50 penalty if TIN not provided
- Maintain contemporaneous records
- If requested, provide records to IRS



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What to expect after responding to Notice 972-CG

- Letter 1948C
 - Requests additional information, or
 - Chronicles that the penalty was waived
- CP 15/215
 - Shows the amount of the penalty assessed and demands payment



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Notice 972-CG Resource

- Publication 1586 “Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/Tins”
 - Provides details on solicitations and how to respond to Notice 972-CG

New for Tax Year 2015 Information Return Notices

- Increase in proposed penalty from \$100 to \$260
 - Base penalty is \$250 with a \$10 inflationary factor added in



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Resources

IRC § 3406(a)(1) requires backup withholding in the case of a reportable payment and reported on the forms noted:

IRC § 6049(a)	Form 1099-INT	Payments of interest
IRC § 6042(a)	Form 1099-DIV	Payments of dividends
IRC § 6044	Form 1099-PATR	Payments of patronage dividends but only to the extent such payment is in money
IRC § 6041	Form 1099-MISC	Certain information at source payments
IRC § 6041(A)(a)	Form 1099-MISC	Payments of remuneration for services and direct sales
IRC § 6045	Form 1099-B	Returns of brokers
IRC § 6050A	Form 1099-MISC	Certain fishing boat operations
IRC § 6050N	Form 1099-MISC	Payments of royalties
IRC § 6050W	Form 1099-K	Payments made in settlement of payment card transactions



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Hot Topics on IRS.gov	Search Word(s)
IRS Future State	future state
IRS Audits	audits
Tax Scams – How to Report Them	tax scams
Identity Theft	ID theft
Voluntary Certification Program for Professional Employer Organizations (CPEOs)	CPEO
Sharing Economy	Sharing Economy
Offer in Compromise	Offer in compromise
E-Services – Online Tax Tools	eservices
Private Debt Collection	private debt collection