



March 25, 2010

Internal Revenue Service
CC:PA:LPD:PR
(Notice 2009-93)
Room 5203
P.O. Box 7604
Ben Franklin Station, N.W.
Washington, D.C. 20044

Re: Comments on Notice 2009-93

Ladies and Gentlemen:

The Clearing House Association L.L.C. (“The Clearing House”), an association of major commercial banks,¹ appreciates the opportunity to provide comments on Notice 2009-93 (the “Notice”). The Notice furthers a goal that is important to the members of The Clearing House: safeguarding the sensitive personal information of customers and depositors. To that end, The Clearing House submitted a letter to the Internal Revenue Service outlining a taxpayer identification number (“TIN”) masking proposal in late 2006.² Moreover, under the authority of the Notice, some members of The Clearing House truncated TINs assigned to individuals on certain of their 2009 payee statements.

Clearing House Recommendations and Comments

The Notice solicits comments on five subjects: (1) whether truncation of an individual’s TIN on paper payee statements should be required, rather than permitted; (2) whether truncation should be permitted or required for TINs appearing on paper payee statements not within the scope of the Notice; (3) whether truncation should be permitted or required for payee statements furnished electronically; (4) whether a filer should be required to include the complete TIN on the payee statement if requested by the payee; and (5) whether truncation creates difficulties for filers and/or payees. In addition, the Notice requests comments

¹ The members of The Clearing House Association are: Bank of America, National Association; The Bank of New York Mellon; Capital One, National Association; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JPMorgan Chase Bank, National Association; The Royal Bank of Scotland N.V.; UBS AG; U.S. Bank National Association; and Wells Fargo Bank, National Association.

² See Letter from The Clearing House to Nancy Rose, Office of the Assistant Chief Counsel (Administrative Provisions & Judicial Practice), Internal Revenue Service (Dec. 29, 2006).

from interested parties on other matters relating to truncation. In response to these requests, The Clearing House wishes to submit the following comments and recommendations:

1. TIN Truncation Should Be Permitted, but Not Required

The Clearing House encourages the Internal Revenue Service to authorize TIN truncation on payee statements, but to refrain from requiring truncation. Permitting banks to truncate payee statements gives them the ability to better serve and protect the interests of their customers. The members are concerned, however, that requiring truncation on all payee statements could become onerous for banks. Banks issue payee statements using a variety of computer systems. While a bank may wish to convert the systems that generate a large amount of payee statements to allow truncation, it could be difficult, costly and time consuming to convert all of its information reporting systems, particularly those that generate only a limited number of payee statements. Updating such systems could require substantial capital investments with only limited added benefit.³ Therefore, the members request that truncation of TINs be permitted but not be required.

2. The Internal Revenue Service Should Allow the Truncation of Other Types of TINs, Such as Employer Identification Numbers (“EINs”)

The Clearing House recommends that the Internal Revenue Service permit the truncation of any TIN, rather than confining filers’ ability to truncate to individual payee statements. While we recognize that privacy and data security may be less of a concern with respect to entity TINs, restricting the scope of the Notice to TINs assigned to individuals creates logistical challenges for payers and could discourage them from truncating TINs at all.

For example, certain recordkeeping systems cannot readily distinguish between TINs assigned to individuals and other TINs, such as EINs. While a bank may be able to make a good faith estimation as to whether an account is associated with a TIN covered by the Notice (by, for example, examining the name on the account), this process could be labor-intensive and may still not yield entirely accurate results.⁴

Alternatively, the Internal Revenue Service should consider providing a permanent penalty waiver in cases where a TIN not covered by the truncation rule is inadvertently truncated. While a bank may keep records in a manner that generally allows them to distinguish between an individual’s TIN and one belonging to an entity (e.g., by entering

³ For example, some banks produce corrected payee statements using a system that differs from the system used to generate original payee statements. In addition, smaller business units that file carbon-backed triplicate paper forms may have difficulty printing such forms with complete TINs for IRS filing purposes, but with truncated TINs for payee statements.

⁴ For example, a sole proprietor who opened a business account under his or her own name, but with the EIN of his or her sole proprietorship, may not be properly identified.

individual TINs into its recordkeeping systems as XXX-XX-XXXX and entering entity TINs as XX-XXXXXXX) it may not be confident that this is a failsafe method of distinguishing TINs, particularly given that the ability to distinguish TINs has been of limited relevance in the past. Concerns about penalties for an inadvertent truncation may discourage some banks from adopting truncation. A penalty waiver would address those concerns.

3. Payers Should Be Permitted to Truncate TINs on Other Forms

Because the members believe that the concerns about identity theft also exist with respect to other information reporting, The Clearing House strongly encourages the Internal Revenue Service to authorize truncation on all forms other than Form W-2 and those forms that require TIN confirmation (such as backup withholding notices).⁵

4. Truncation Should Be Permitted – but Not Required – on Payee Statements Furnished Electronically

The Clearing House recommends that the Internal Revenue Service permit, but not require, TIN truncation on payee statements that are furnished electronically. The fact that a payee statement is provided electronically does not, *per se*, make truncation any more logistically difficult than it would be for a paper payee statement. Moreover, identity theft and privacy concerns exist with electronic information, as they do with paper documents. As with TIN truncation on paper payee statements, however, a mandate to truncate TINs on statements that are delivered electronically could give rise to substantial costs.

5. Including a Filer's Complete TIN on a Payee Statement, If Requested By the Payee, Should Be a Business Decision Delegated to the Filer

The Clearing House recommends that the Internal Revenue Service not impose a requirement that filers include the complete TIN on information statements if requested by a payee. Although customer preferences *vis-à-vis* TIN masking may vary, a requirement that payers provide payee statements showing the payee's full TIN upon request would not yield any privacy or information security benefits. Moreover, such a requirement would not improve the accuracy of information reporting: to the extent a payee wishes to dispute or verify the ownership of a particular item of reported income, this can be accomplished through other channels. On the other hand, a requirement that payers provide payee statements showing a payee's complete TIN upon request would add complexity and could interfere with the automated nature of the process through which payee statements are produced. Although, in the interest of accommodating customer preferences, some banks may wish to issue information statements displaying the full TIN of each payee if so requested, The Clearing House believes that this is ultimately a business judgment that is best delegated to individual filers.

⁵ Although partially redacting the TIN on a Form W-2 may not present unique difficulties, the Form W-2 is statutorily required to show the recipient's social security number. *See* Internal Revenue Code Section 6051(a)(2).

6. Optional Truncation Should Not Create Difficulties for Filers

So long as truncation is optional, The Clearing House does not foresee that TIN masking creates any difficulties for payers. As noted above, however, mandatory TIN truncation could create substantial difficulties for payers and give rise to significant costs that may outweigh the privacy and information security benefits.

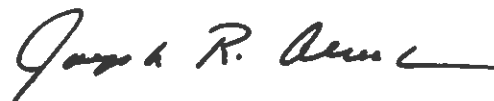
7. The IRS Should Consider Extending the Pilot Program Established by the Notice for an Additional Year

Finally, the Notice was released late in 2009, at a time when many payees had already begun planning for the tax year 2009 filing season. As a result, a substantial number of banks have not yet been able to take part in the pilot program. To the extent that the Internal Revenue Service desires a full two-year pilot of TIN masking, The Clearing House recommends that the Internal Revenue Service consider extending the pilot program established by the Notice to forms covering tax year 2011.

Conclusion

The Clearing House appreciates your consideration of the comments above. As previously noted, TIN masking furthers an interest that has long been important to the members of The Clearing House. If you have any questions or if the members of The Clearing House can assist you in considering these important issues, please contact me at (212) 612-9234.

Very truly yours,



Joseph R. Alexander
Senior Vice President and Senior Counsel

JRA:atd
Attachment