

years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under section 3467 of the Revised Statutes, as amended (31 U.S.C. 192) in respect of the payment of any tax from the estate of the taxpayer. Satisfactory evidence of the authority of the fiduciary to act for any other person in a fiduciary capacity must be filed with and made a part of the notice. If the fiduciary capacity exists by order of court, a certified copy of the order may be regarded as satisfactory evidence. When the fiduciary capacity has terminated, the fiduciary, in order to be relieved of any further duty or liability as such, must file with the Internal Revenue Service office with whom the notice of fiduciary relationship was filed written notice that the fiduciary capacity has terminated as to him, accompanied by satisfactory evidence of the termination of the fiduciary capacity. The notice of termination should state the name and address of the person, if any, who has been substituted as fiduciary. Any written notice disclosing a fiduciary relationship which has been filed with the Commissioner under the Internal Revenue Code of 1939 or any prior revenue law shall be considered as sufficient notice within the meaning of section 6903. Any satisfactory evidence of the authority of the fiduciary to act for another person already filed with the Commissioner or district director need not be resubmitted.

(2) *Notices filed on or after April 24, 2002.* This paragraph (b)(2) applies to notices filed on or after April 24, 2002. The notice shall be signed by the fiduciary, and shall be filed with the Internal Revenue Service Center where the return of the person for whom the fiduciary is acting is required to be filed. The notice must state the name and address of the person for whom the fiduciary is acting, and the nature of the liability of such person; that is, whether it is a liability for tax, and if so, the type of tax, the year or years involved, or a liability at law or in equity of a transferee of property of a taxpayer, or a liability of a fiduciary under 31 U.S.C. 3713(b), in respect of the payment of any tax from the estate of the taxpayer. The fiduciary must retain satisfactory evidence of his or her authority to act for any other person in a fiduciary capacity as long as the evidence may become material in the administration of any internal revenue law.

\* \* \* \* \*

### **§ 301.6903-1T [Removed]**

**Par. 14.** Section 301.6903-1T is removed.

### **PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT**

**Par. 15.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

**Par. 16.** In § 602.101, paragraph (b), the table is amended as follows:

1. The following entries are removed:

#### **§ 602.101 OMB Control numbers.**

\* \* \* \* \*

(b) \* \* \*

| CFR part or section where identified and described | Current OMB control No.                                       |
|----------------------------------------------------|---------------------------------------------------------------|
| * * * * *                                          | * * * * *                                                     |
| 1.48-12T .....                                     | 1545-0155<br>1545-1783                                        |
| * * * * *                                          | * * * * *                                                     |
| 1.152-3T .....                                     | 1545-0071<br>1545-1783                                        |
| * * * * *                                          | * * * * *                                                     |
| 1.611-3T .....                                     | 1545-0007<br>1545-0099<br>1545-1784                           |
| * * * * *                                          | * * * * *                                                     |
| 1.852-9T .....                                     | 1545-0074<br>1545-0123<br>1545-0144<br>1545-0145<br>1545-1783 |
| * * * * *                                          | * * * * *                                                     |
| 301.6903-1T .....                                  | 1545-0013<br>1545-1783                                        |
| * * * * *                                          | * * * * *                                                     |

2. The following entries are revised:

#### **§ 602.101 OMB Control numbers.**

\* \* \* \* \*

(b) \* \* \*

| CFR part or section where identified and described | Current OMB control No.             |
|----------------------------------------------------|-------------------------------------|
| * * * * *                                          | * * * * *                           |
| 1.48-12 .....                                      | 1545-0155<br>1545-1783              |
| * * * * *                                          | * * * * *                           |
| 1.152-3 .....                                      | 1545-0071<br>1545-1783              |
| * * * * *                                          | * * * * *                           |
| 1.611-3 .....                                      | 1545-0007<br>1545-0099<br>1545-1784 |

| CFR part or section where identified and described | Current OMB control No.                                       |
|----------------------------------------------------|---------------------------------------------------------------|
| * * * * *                                          | * * * * *                                                     |
| 1.852-9 .....                                      | 1545-0074<br>1545-0123<br>1545-0144<br>1545-0145<br>1545-1783 |
| * * * * *                                          | * * * * *                                                     |
| 301.6903-1 .....                                   | 1545-0013<br>1545-1783                                        |
| * * * * *                                          | * * * * *                                                     |

**David A. Mader,**

*Assistant Deputy Commissioner of Internal Revenue.*

Approved: January 14, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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## **DEPARTMENT OF THE TREASURY**

### **Internal Revenue Service**

#### **26 CFR Part 31**

**[TD 9041]**

**RIN 1545-BB88**

#### **Taxpayer Identification Number (TIN) Matching Program**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final and temporary regulations.

**SUMMARY:** This document contains final and temporary regulations under section 3406 relating to the IRS Taxpayer Identification Number (TIN) Matching Program. These final and temporary regulations affect payors, and their authorized agents, and provide guidance necessary to comply with the law. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the Proposed Rules section published elsewhere in this issue of the **Federal Register**.

**DATES:** *Effective Date.* These regulations are effective January 31, 2003.

*Applicability Date.* For dates of applicability, see §§ 31.3406(j)-1(f) and 31.3406(j)-1T(f).

**FOR FURTHER INFORMATION CONTACT:** Donna Welch at (202) 622-4910.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

This document contains amendments to the Employment Tax Regulations (26

CFR part 31) relating to the IRS TIN Matching Program.

Section 3406(a)(1) requires a *payor* to withhold on any reportable payment (as defined in section 3406(b)(1)) in certain situations, including if (1) the payee fails to furnish his TIN to the *payor* as required or (2) the Secretary notifies the *payor* that the TIN furnished by the payee is incorrect. Section 3406(i) provides that the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 3406.

Regulations under section 3406(i) provide that the Commissioner has the authority to establish TIN matching programs through revenue procedures or other appropriate guidance. Under the regulations, a *payor* participating in a TIN matching program may, before filing information returns with respect to reportable payments, contact the IRS with respect to the TIN furnished by the payee. The regulations provide that the IRS will inform the *payor* whether or not the name/TIN combination furnished by the payee matches a name/TIN combination maintained for the TIN matching program.

Pursuant to the authority in the regulations, the IRS issued Rev. Proc. 97-31 (1997-1 C.B. 703) and implemented a TIN matching program for Federal agency payors. The IRS is now issuing a second revenue procedure pursuant to that authority (as amended by these temporary regulations). This revenue procedure will expand the scope of the IRS TIN Matching Program to allow all payors (and not merely Federal agency payors), as well as payors' authorized agents, to participate in TIN matching. In addition, the IRS and the Treasury Department expect to issue additional published guidance that will allow payment card organizations to act on behalf of cardholder/payors for purposes of soliciting, collecting, and validating merchant/payees' names and TINs through TIN matching if certain requirements are met.

#### Explanation of Provisions

These regulations specifically authorize a payor's authorized agent to participate in TIN matching by providing that, for purposes of the TIN matching program, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on behalf of the *payor*.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a

regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**. Pursuant to section 7805(f), the temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

#### Drafting Information

The principal author of the regulations is Donna Welch, Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division. However, other personnel from the IRS and the Treasury Department participated in the development of the regulations.

#### List of Subjects in 26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

#### Amendments to the Regulations

Accordingly, 26 CFR part 31 is amended as follows:

#### PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

1. The authority citation for part 31 is amended by adding an entry in numerical order to read in part as follows:

**Authority:** 26 U.S.C. 7805 \* \* \*  
Section 31.3406(j)-1T also issued under 26 U.S.C. 3406(i). \* \* \*

2. Section 31.3406(j)-1 is amended by revising paragraphs (a) and (f) to read as follows:

##### **§ 31.3406(j)-1 Taxpayer Identification Number (TIN) matching program.**

(a) [Reserved]. For further guidance, see § 31.3406(j)-1T(a).

\* \* \* \* \*

(f) [Reserved]. For further guidance, see § 31.3406(j)-1T(f).

3. Section 31.3406(j)-1T is added to read as follows:

##### **§ 31.3406(j)-1T Taxpayer Identification Number (TIN) matching program (temporary).**

(a) *The matching program.* Under section 3406(i), the Commissioner has

the authority to establish Taxpayer Identification Number (TIN) matching programs. The Commissioner may prescribe in a revenue procedure (see § 601.601(d)(2) of this chapter) or other appropriate guidance the scope and the terms and conditions of participating in any TIN matching program. In general, under a matching program, prior to filing information returns with respect to reportable payments as defined in section 3406(b)(1), a *payor* of those reportable payments who is entitled to participate in the matching program may contact the Internal Revenue Service (IRS) with respect to the TIN furnished by a payee who has received or is likely to receive a reportable payment. The IRS will inform the *payor* whether or not a name/TIN combination furnished by the payee matches a name/TIN combination maintained in the data base utilized for the particular matching program. For purposes of this section, the term *payor* includes an agent designated by the *payor* to participate in TIN matching on the *payor's* behalf.

(b) through (e) [Reserved]. For further guidance, see § 31.3406(j)-1(b) through (e).

(f) *Effective date.* The provisions of this section are applicable on or after June, 18, 1997, except the last sentence in paragraph (a) of this section which is applicable on January 31, 2003. The applicability of this section expires on January 30, 2006.

**David A. Mader,**

*Acting Deputy Commissioner of Internal Revenue.*

Approved: January 17, 2003.

**Pamela F. Olson,**

*Assistant Secretary of the Treasury.*

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#### DEPARTMENT OF JUSTICE

#### 28 CFR Parts 0, 9, 11, 16, 71, 77

[AG Order No. 2650-2003]

#### Organization of the Bureau of Alcohol, Tobacco, Firearms, and Explosives

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** The Homeland Security Act of 2002 transferred certain law enforcement and regulatory functions of the Bureau of Alcohol, Tobacco and Firearms from the Department of the Treasury to the Department of Justice and changed its name to the Bureau of Alcohol, Tobacco, Firearms, and Explosives. This rule delegates specific authorities to that Bureau and