



Bulletin: OCFO 17-01

Date: May 11, 2017

To: All Agencies

Subject: Internal Revenue Service (IRS) Backup Withholdings

PURPOSE

This bulletin establishes a policy for compliance with the Internal Revenue Service (IRS) Publication 1281, Backup Withholding for Missing and Incorrect Name/TINs. Agency compliance with this policy will ensure Form 1099 as issued by Financial Management Services (FMS) on behalf of all USDA Agencies is accurate and complete in terms of the recipients' names and Tax Identification Numbers (TINs). In addition, compliance with this policy will avoid the possibility of an IRS CP2100 Notice to inform a taxpayer that he or she may be responsible for backup withholding and penalties as levied by IRS.

DEFINITIONS

Form 1099 - One of several IRS tax forms used in the United States to prepare and report various types of income other than wages, salaries, and tips (for which [Form W-2](#) is used instead). The Form 1099 files are submitted annually by FMS to IRS on or before January 31st and August 1st.

Backup Withholding – When a payee (USDA) withholds 28% of a payee's payment and sends that money to the IRS. Payments subject to withholdings include, for example, interest, dividends, rents, royalties, commissions, non-employee compensation for services, and other payments. Payments that are excluded, for example, are real estate transactions, distribution from retirement accounts, and unemployment compensation.

CP2100 Notice – A notice from IRS that tells a payer (USDA) that he or she is responsible for backup withholdings. The notice contains a list of missing, incorrect, and/or not currently issued payee TINs and/or Name match as a result of the Form 1099 files submitted to IRS.

Taxpayer Identification Number (TIN) – A Social Security Number (SSN) issued by the Social Security Administration (SSA) or an Employee Identification Number (EIN) issued by IRS. A TIN is numeric and can have only nine digits. It cannot have more or less than nine digits nor can it have letters.

Exempt Payees – Payees who are exempt from backup withholdings are organizations, government agencies, corporations (for certain payments), and other entities as listed in the "Instructions for the Requester of Form W-9".

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TIN/Name Mismatch – A TIN and name combination is incorrect when it does not match or cannot be found on IRS or SSA files. For example, a TIN/Name mismatch occurs when an individual name is submitted with a TIN not associated with the individual name provided. A TIN is not interchangeable with different names. A business EIN must be used for a partnership, corporation, or non-disregarded Limited Liability Company (LLC). An SSN must be used with an individual name. A Sole Proprietor must always provide his/her individual name. A Sole Proprietor may provide his/her Doing Business As (DBA) name in addition to the required individual name together with the matching SSN.

BACKGROUND

Government entities are responsible for ensuring all vendors have a valid TIN/Name match. In addition, Government entities are subject to rules that require income tax withholding of 28% from certain payments if the payee is not exempt from backup withholding and fails to furnish a correct TIN. The IRS may also notify a payer to begin backup withholding because of payee underreporting.

Payments Subject to Backup Withholding include, as examples, rents, non-employee compensation for services, royalties, reportable gross proceeds paid to attorneys, and other fixed or determinable gains, profits, or income payments that are reportable on Form 1099-MISC, Miscellaneous Income. Backup withholding does not apply to wages or pension payments.

Failure to follow the backup withholding rules can result in penalties to USDA Agencies for filing incorrect information with the IRS. USDA Agencies may also become liable for any uncollected amounts.

Over the years, the number of Form 1099s issued without a valid TIN/Name match has significantly declined. For calendar year 2015, there were approximately 1,000 Form 1099s out of approximately 130,000 forms issued with an invalid TIN/Name match. Although the volume of TIN/Name mismatches is less than 1%, USDA still has a responsibility to ensure compliance with IRS reporting requirements.

POLICY

All active vendors in use or to be used must have a valid TIN/Name match in USDA's Financial Management Modernization Initiative (FMMI) system as confirmed with IRS and SSA. If a match is invalid, the vendor's FMMI record will be blocked to prevent future obligations as well as prevent any payments. If a valid TIN/Name match is not received from the vendor, a credit memo will be issued in FMMI to offset the payment for the 28% backup withholding and the difference will be released to the vendor (payee). If a valid TIN/Name match is received, the vendor's (payee) FMMI record will be updated and blocks removed.

PROCEDURES

The following procedures, along with the accompanying compensating controls, will ensure compliance with IRS Publication 1281, as well as reduce the likelihood of issuing erroneous Form 1099s because of the TIN/Name mismatch. If a vendor's FMFI record is blocked because of a TIN/Name mismatch, FMS and Agencies will adhere to the following steps:

1. Notify all applicable Agencies that the record is blocked, which will prevent new obligations from being established, as well as, prevent payments from being issued.
2. Review the vendor master file along with information from the System for Award Management (SAM) to determine if a valid TIN/Name match exists in FMFI. In several cases, the old Central Contractor Registry (CCR) record is being used on a contract/purchase order but the vendor has another record in FMFI from SAM.
 - a. If another vendor record exists in FMFI, a TIN/Name match will be conducted using the applicable IRS or SSA database. If successful, the old record will remain blocked and an "Alt Payee" representing the SAM vendor record will be assigned.
 - b. If another vendor record does not exist and the name is causing the mismatch, the vendor record will be updated. If the TIN is incorrect, FMS will go to step 3.
3. A letter will be issued to the vendor along with a W-9 form requesting the vendor to respond within 10 business days. In addition, the Agencies will be notified when the FMFI vendor record has been updated and payment released.

If the vendor does not respond as stated above, FMS will contact the Agency for assistance, as well as submit a second request to the vendor. If the vendor does not respond after the second 10 day request, the payment will be offset. FMS will then notify the Agency and will:

- Enter a Credit Memo in FMFI for the 28% withholding for all applicable payments, i.e., if the vendor has two payments, a credit Memo will be recorded for each payment. For example, if the payment is \$180,000, a Credit Memo will be entered in FMFI for \$50,400.
- Modify the applicable payment date because prompt payment is not applicable.

Afterwards, the block will be temporarily removed. When the payment is disbursed and confirmed, the FMFI vendor record will be blocked again. This process will continue until a valid TIN/Name match is confirmed.

When a valid TIN/Name match is confirmed, FMS will notify the Agency and pay the 28% previously withheld to the vendor. In addition, the blocks will be removed from the vendor's record in FMFI.

RESPONSIBILITIES

The Agencies and FMS will adhere to the procedures as stated above.

INQUIRIES

Any questions concerning this bulletin should be directed to the Financial Management Services Center at fmsc.help@usda.gov or by telephone at (877) 243-3072.

EFFECTIVE DATE

This bulletin is effective immediately.

/s/

Christopher J. Staton
Director
Financial Management Services