

remunerations, emoluments, or other fixed or determinable gains, profits, and income of \$600 or more in any one taxable year to file information returns with the IRS and to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement.

Section 1.6041-3 of the Income Tax Regulations provides that information returns are not required for certain payments. Section 1.6041-3(q)(1) provides that an information return is not required for payments made to a corporation. Section 1.6041-3(c) provides that an information return is not required for payments of bills for merchandise, telegrams, telephone, freight, storage, and similar charges.

Section 6109(a)(1) provides that a person required to make a return must include that person's identifying number in the return. Section 6109(a)(2) provides that a person (the payee) with respect to whom a return is required to be made by another person (the payor) or whose identifying number is required to be shown on a return of another person must furnish to the other person the identifying number prescribed for securing the proper identification of the payee. Section 6109(a)(3) provides that a person (the payor) required to make a return with respect to another person (the payee) must ask the other person for the identifying number prescribed for securing the proper identification of the payee and include that number in the return.

In general, section 6721(a)(1) imposes a \$50 penalty for each failure to file an information return on or before the required filing date, for any failure to include all of the information required to be shown on the return, or for the inclusion of incorrect information.

Section 6724(a) provides that no penalty will be imposed under section 6721 if it is shown that the failure is due to reasonable cause and not to willful neglect.

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 the regulations necessary or appropriate to carry out the purposes of section 3406.

### 3. TIN Matching

Regulations issued under section 3406(i) (§ 31.3406(j)-1 of the Employment Tax Regulations) 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 contact the IRS with respect to the TIN furnished by a payee before filing information returns for reportable payments. The regulations further 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 § 31.3406(j)-1, the IRS issued Rev. Proc. 97-31 (1997-1 C.B. 703) and implemented TIN matching for reportable payments by Federal agency payors. The IRS is issuing a second TIN matching revenue procedure to expand the scope of the TIN Matching Program by allowing all payors (and not merely Federal agency payors) to participate in TIN matching for reportable payments. Under the authority of the temporary regulations discussed above, payors' authorized agents will also be permitted to participate in TIN matching.

### 4. Payment Card Transactions

A *payment card transaction* is a transaction in which a cardholder/payor uses a payment card to purchase goods or services and a merchant agrees to accept a payment card as a means of obtaining payment. A *payment card* is a card (or an account) issued by a payment card organization, or one of its members or affiliates, to a cardholder/payor which, upon presentation to a merchant/payee, represents an agreement of the cardholder to pay the merchant through the payment card organization. A *payment card organization* is an entity that sets the standards and provides the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. A payment card organization generally provides this mechanism by issuing payment cards, enrolling merchants as authorized acceptors of payment cards for payment for goods or services, and ensuring the system conducts the transactions in accordance with prescribed standards of payment card transactions.

The parties involved in payment card transactions may include the cardholder/payor, the merchant/payee,

a bank that issues a payment card (issuing bank), a merchant/payee's bank (merchant bank, acquiring bank, or acquirer), and the payment card organization.

Cash does not pass directly from the cardholder/payor to the merchant/payee for purchases made with a payment card. Rather, in some situations, payment is made by a credit from the issuing bank, through the payment card organization, to the merchant's bank account. In turn, the cardholder pays the issuing bank upon receipt of the payment card monthly billing statement. In other situations, payment is made directly from the payment card organization to the merchant. In turn, the cardholder pays the payment card organization upon receipt of the payment card monthly billing statement.

### 5. Information Reporting and Backup Withholding Difficulties for Payment Card Transactions

Information reporting compliance is difficult in payment card transactions because an invoice may not be issued, and the employee of the cardholder/payor may not request and obtain the name/TIN combination of the merchant/payee at the time of the transaction. In addition, backup withholding may be difficult because a merchant receives payment from the payment card organization within a few days after the transaction, but the cardholder does not pay the payment card organization until after it receives a payment card monthly billing statement from the payment card organization.

Because of these difficulties, representatives of the payment card industry and the Information Reporting Program Advisory Committee (IRPAC) have proposed that the IRS allow a payment card organization to act on behalf of a cardholder/payor for purposes of soliciting, collecting, and validating the names/TINs of the merchant/payees through TIN matching. In addition, they suggest that the payment card organization be allowed to inform the cardholder about a merchant's corporate status.

The IRS is issuing a proposed revenue procedure that would allow a payment card organization to obtain an IRS determination that it is a *Qualified Payment Card Agent* (QPCA). The proposed procedure would permit a QPCA to act on behalf of a payor for purposes of soliciting, collecting, and validating merchants' names/TINs, and providing merchants' corporate status. To obtain a QPCA determination, the payment card organization would be required, among other things, to