

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are proposed to be amended as follows:

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

1. The authority citation for part 31 continues to read in part as follows:

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

2. Section 31.3406(g)–1 is amended by adding paragraph (f) to read as follows:

§ 31.3406(g)–1 Exceptions for payments to certain payees and certain other payments.

* * * * *

(f) *Special rule for certain payment card transactions*—(1) *In general.* No withholding under section 3406 is required for a reportable payment made through a payment card organization if the payment is made on or after January 1, 2004, the organization is a Qualified Payment Card Agent (QPCA), and—

(i) The payee is a qualified payee (as defined in paragraph (f)(2)(v) of this section) with respect to the payment; or

(ii) The payment is made during the 60-day period following the date on which the payor made the first payment with respect to which the QPCA is required under paragraph (f)(3) of this section to provide notification that the payee is a not a qualified payee.

(2) *Definitions*—(i) *Payment card defined.* For purposes of this section, 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.

(ii) *Payment card organization defined.* For purposes of this section, 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 such a payment 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 for payment card transactions.

(iii) *Payment card transaction defined.* For purposes of this section, 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.

(iv) *Qualified Payment Card Agent (QPCA) defined.* For purposes of this section, a *Qualified Payment Card Agent (QPCA)* is a payment card organization that has a current QPCA determination from the Internal Revenue Service (IRS) under applicable procedures (see § 601.601(d)(2) of this chapter).

(v) *Qualified payee defined.* For purposes of this section, a payee is a *qualified payee* with respect to a reportable payment if—

(A) At the time of the payment, the QPCA has obtained the payee's TIN and the payee's TIN has been validated through the IRS TIN Matching Program; or

(B) The payment is made during the 6-month period following the date on which the QPCA first obtained the payee's TIN.

(3) *Notification of payee status.* In the case of a reportable payment to a payee other than a qualified payee (as defined in paragraph (f)(2)(v) of this section) with respect to the payment, the QPCA must notify the payor on the billing information for the payment that the payee is not a qualified payee. The notification must appear on the face of the bill in print size no smaller than the print size used for the charge amount relating to the purchase from the payee. Notification may consist of an asterisk, footnote, or other mark next to the payee's name or the charge, with the text of the notification at the bottom of the page or at the end of the list of charges. Notification by the QPCA that a payee is not a qualified payee does not constitute notice by the IRS that the payee's TIN is incorrect for purposes of section 3406(a)(1)(B) and § 31.3406(d)–5.

3. In § 31.3406(j)–1, paragraphs (a) and (f) are revised to read as follows:

§ 31.3406(j)–1 Taxpayer Identification Number (TIN) matching program.

(a) [Section 31.3406(j)–1(a) is the same as § 31.3406(j)–1T(a) published elsewhere in this issue of the **Federal Register**.]

* * * * *

(f) [Section 31.3406(j)–1(f) is the same as § 31.3406(j)–1T(f) published elsewhere in this issue of the **Federal Register**.]

PART 301—PROCEDURE AND ADMINISTRATION

4. The authority citation for part 301 continues to read in part as follows:

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

5. Section 301.6724–1 is amended by:

1. Revising the introductory language of paragraph (c)(6).

2. Adding paragraphs (e)(1)(vi)(H) and (f)(5)(vii).

The revision and additions read as follows:

§ 301.6724–1 Reasonable cause.

* * * * *

(c) * * *

(6) *Actions of the payee or any other person.* In order to establish reasonable cause under paragraph (c)(1) of this section due to the actions of the payee or any other person, such as a broker as defined in section 6045(c) or a Qualified Payment Card Agent (QPCA) as defined in § 31.3406(g)–1(f)(2)(iv) of this chapter, providing information with respect to the return or payee statement, the filer must show either—

* * * * *

(e) * * *

(1) * * *

(vi) * * *

(H) In the case of information returns required to be filed, and information statements required to be furnished, after December 31, 2004, the filer—

(1) Satisfies the solicitation requirements of paragraphs (e)(1)(i) and (ii) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN; and

(2) Satisfies the solicitation requirement of paragraph (e)(1)(iii) of this section with respect to such a payment if, on or before December 31 of the year immediately succeeding the calendar year in which the payment is made, the filer undertakes a solicitation of the payee's TIN or receives from the QPCA a TIN that the filer believes in good faith to be the payee's correct TIN.

* * * * *

(f) * * *

(5) * * *

(vii) In the case of information returns required to be filed, and information statements required to be furnished, after December 31, 2004, the filer—

(A) Satisfies the solicitation requirement of paragraph (f)(1)(i) of this section with respect to a payment made through a QPCA if the filer relies in good faith on the QPCA to solicit, record, validate, and furnish the payee's TIN; and

(B) Satisfies the solicitation requirement of paragraph (f)(1)(ii) or (iii)