

## Background

The temporary regulations that are the subject of these corrections are under section 448 of the Internal Revenue Code.

## Need for Correction

As published, this temporary regulation (TD 9090) contain errors that may prove to be misleading and are in need of clarification.

## Correction of Publication

Accordingly, the publication of temporary regulations (TD 9090), which were the subject of FR Doc. 03-22458, is corrected as follows:

1. On page 52504, column 1, § 1.448-2T(f)(c) *T3Example 4*, the sixth entry in the table is corrected to read as follows:

Taxable year	Total accounts receivable	Bad debts adjusted for recoveries
* * *	* * *	* * *
2002 .....	90,000	16,800
* * *	* * *	* * *

2. On page 52504, column 1, § 1.448-2T(f)(c), *Example 4* (ii), third line, the language "Assume that \$49,300 of the total \$80,000 of" is corrected to read "Assume that \$49,300 of the total \$90,000 of".

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[FR Doc. 03-29727 Filed 11-26-03; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### 31 CFR Part 103

#### Notice of Expiration of Conditional Exception to Bank Secrecy Act Regulations Relating to Orders for Transmittals of Funds by Financial Institutions

**AGENCY:** Financial Crimes Enforcement Network (FinCEN), Treasury.

**ACTION:** Notice of expiration of conditional exception following extension.

**SUMMARY:** FinCEN is giving notice that on July 1, 2004, a conditional exception to a Bank Secrecy Act (BSA) requirement will permanently expire. Upon expiration of that exception, financial institutions will no longer be able to comply with the terms of that BSA requirement by using coded information or pseudonyms for the name of a customer in a funds

transmittal order. This document further explains that FinCEN is revoking prior guidance regarding the meaning of the term "address", eliminating the need to utilize the conditional exception for transmittal orders lacking a transmitter's street address.

**DATES:** Effective December 2, 2003.

**FOR FURTHER INFORMATION CONTACT:** Don Carbaugh, Office of Regulatory Programs, FinCEN, (202) 354-6400; and Al Zarate, Office of Chief Counsel, FinCEN, at (703) 905-3590 (not toll-free numbers).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In 1998, FinCEN granted a conditional exception (the Customer Information File (CIF) Exception) to the strict operation of 31 CFR 103.33(g) (the Travel Rule). See FinCEN Issuance 98-1, 63 FR 3640 (January 26, 1998). The Travel Rule requires a financial institution to include certain information in transmittal orders relating to transmittals of funds of \$3,000 or more. The CIF Exception addressed computer programming problems in the banking and securities industries by relaxing the Travel Rule's requirement that a customer's true name and address be included in a funds transmittal order, so long as alternate steps, described in FinCEN Issuance 98-1 and designed to prevent avoidance of the Travel Rule, were satisfied. By its terms, the CIF Exception to the Travel Rule was to expire on May 31, 1999; however, in light of programming burdens associated with year 2000 compliance issues, FinCEN extended the CIF Exception so that it would expire on May 31, 2001. See FinCEN Issuance 99-1, 64 FR 41041 (July 29, 1999). On May 30, 2001, after first soliciting input from the law enforcement community for its views on any law enforcement burdens caused by the CIF Exception, FinCEN again extended the CIF Exception so that it would expire on May 31, 2003. See FinCEN Issuance 2001-1, 66 FR 32746 (June 18, 2001). On March 7, 2003, FinCEN published a Notice of intent to permit the CIF exception to expire on May 31, 2003. See 68 FR 10965 (Notice of Intent). The Notice of Intent solicited comment on a number of issues relating to the operation of the CIF Exception. On May 19, 2003, FinCEN published a notice that again extended the CIF Exception so that it would expire on December 1, 2003. See FinCEN Issuance 2003-1, 68 FR 26996. The purpose of this most recent extension was to allow time for FinCEN to conduct a study on the operation of the CIF Exception, and

to determine whether to remove, modify, or make permanent the Exception.

##### II. Terms of CIF Exception

FinCEN promulgated the Travel Rule in 1995. The Travel Rule requires financial institutions to include certain information in transmittal orders relating to transmittals of funds of \$3,000 or more, which must "travel" with the order throughout the funds transmittal sequence. Among these requirements is that each transmitter's financial institution and intermediary financial institution include in a transmittal order the transmitter's name and address. See 31 CFR 103.33(g)(1)(i)-(ii) and (g)(2)(i)-(ii). Subsequently, financial institutions represented to FinCEN that their ability to comply with the Travel Rule at all depended on their ability to use their automated customer information files, known as CIFs. Although an originating institution always maintains the originating customer's true name and address, the CIFs were sometimes programmed with coded or nominee names and addresses (or post office boxes). The reprogramming tasks involved in changing the CIFs were represented to be a significant barrier to compliance with the Travel Rule. In light of these burdens, and in the interest of obtaining prompt compliance, FinCEN promulgated the conditional exception.

The conditional exception provides that a financial institution may satisfy the requirements of 31 CFR 103.33(g) that a customer's true name and address be included in a transmittal order, only upon satisfaction of the following conditions:

(1) The CIFs are not specifically altered for the particular transmittal of funds in question;

(2) The CIFs are generally programmed and used by the institution for customer communications, not simply for transmittal of funds transactions, and are programmed to generate other than true name and street address information;

(3) The institution itself knows and can associate the CIF information used in the funds transmittal order with the true name and street address of the transmitter of the order;

(4) The transmittal order includes a question mark symbol immediately following any designation of the transmitter other than by a true name on the order;

(5) Any currency transaction report or suspicious activity report by the institution with respect to the funds transmittal contains the true name and