

2009 Information Reporting Program Advisory Committee Public Report Ad Hoc Subgroup

- English
 - Enrolled Agents
 - Annual Filing Season Program Participants
 - Enrolled Retirement Plan Agents
 - Certified Professional Employer Organization (CPEO)
 - Enrolled Actuaries
 - E-File Providers
 - Modernized e-File
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Issues Covered in this Section

- A. Proposed Regulations under IRC §3402(t) – Withholding on Certain Payments Made by Government Entities
- B. Simplifying Employer Tax Compliance for Non-Resident Aliens
- C. Form 5498, IRA Contribution Information: Reporting for Successor Beneficiaries
- D. Barter Exchange Education, Back-up Withholding and “B” Notice Requirements
- E. Federally Declared Disaster Casualty Losses
- F. Electronic Furnishing of Form 1098-T, Tuition Statement

D. Barter Exchange Education, Back-up Withholding and “B” Notice Requirements

Recommendations

IRPAC recommends follow-up for the results of two studies:

1. For the abatements granted to barter exchanges for non-matching Taxpayer Identification Numbers (TIN) civil penalties, and
2. For instances where non-matching TIN penalties have been assessed without appropriate notice being sent.

IRPAC recommends continued openness to accept “as needed” revisions to Barter Topic 420 and IRS.gov website sections relating to barter exchange. IRPAC also recommends the IRS continue to encourage the modern trade and barter industry to place the IRS.gov barter exchange link and other pertinent IRS information on their individual websites via assistance from the International Reciprocal Trade Association.

Discussion

Barter Exchanges are defined as third-party record keepers under the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and as such are subject to Form 1099-B reporting and subsequent “B” Notice solicitations for non-matching TINS. The “B” Notice, which states the payer will back-up withhold, makes an assertion that is impossible for barter exchanges to comply with since they do not control any cash accounts for their client members. In its 2007 Public Report IRPAC made three recommendations regarding this issue:

1. That the IRS educate the barter industry through outreach programs to effectively reduce 972CG penalties.
2. The “B” Notice be amended to provide language more pertinent to the barter industry’s inability to comply with back-up withholding.
3. Exempt barter exchanges from back-up withholding requirements.

In 2008, the IRS concluded that recommendations #2 and #3 above would require legislative changes, which are outside the scope of the operating division’s authority. As a result, the Ad Hoc Subgroup of IRPAC worked in conjunction with the SB/SE E-Business and Emerging Issues group on the following creative new approaches to addressing the barter back-up withholding issue:

1. A study to determine the percentage of abatements granted to barter exchanges for proposed 972CG non-matching TIN civil penalties.
2. A study examining reported instances of where non-matching TIN penalties have been assessed without 972CG Notices of Proposed Civil Penalty letters being sent.
3. Revision of the Topic 420 – Bartering Income and Bartering Tax Center IRS.gov sections to make them more pertinent:
 1. Request the modern trade and barter industry post important IRS.gov barter exchange links to their individual websites to provide better education and increased compliance.
 2. Place a link on IRS.gov directing users to the March 2009 CNN news report on the modern trade and barter industry.

Ron Whitney, Ad Hoc member and Executive Director of the International Reciprocal Trade Association, submitted revisions to the barter sections of the IRS.gov website in 2009 that were approved and implemented by the Service. Further, Mr. Whitney sent a mass email in the Spring of 2009 to all known barter exchange companies advising them to post the newly revised IRS.gov barter section links on their individual websites to improve education and compliance. Similar email communications will take place in the future as additional website revisions are completed. Lastly, the CNN news segment link on the IRS.gov website is expected to be operational by October 2009.