

Internal Revenue Code Section 3406(h)(10)

Backup withholding

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(h) Other definitions and special rules.

For purposes of this section -

(1) Obviously incorrect number.

A person shall be treated as failing to furnish his TIN if the TIN furnished does not contain the proper number of digits.

(2) Payee furnishes 2 incorrect TINs.

If the payee furnishes the payor 2 incorrect TINs in any 3-year period, the payor shall, after receiving notice of the second incorrect TIN, treat the payee as not having furnished another TIN under subsection (e)(2)(B) until the day on which the payor receives notification from the Secretary that a correct TIN has been furnished.

(3) Joint payees.

Except to the extent otherwise provided in regulations, any payment to joint payees shall be treated as if all the payment were made to the first person listed in the payment.

(4) Payor defined.

The term "payor" means, with respect to any reportable payment, a person required to file a return described in paragraph (2) or (3) of subsection (b) with respect to such payment.

(5) Broker.

(A) In general. The term "broker" has the meaning given to such term by section 6045(c)(1).

(B) Only 1 broker per acquisition. If, but for this subparagraph, there would be more than 1 broker with respect to any acquisition, only the broker having the closest contact with the payee shall be treated as the broker.

(C) Payor not treated as broker. In the case of any instrument, such term shall not include any person who is the payor with respect to such instrument.

(D) Real estate broker not treated as a broker. Except as provided by regulations, such term shall not include any real estate broker (as defined in section 6045(e)(2)).

(6) Readily tradable instrument.

The term "readily tradable instrument" means-

(A) any instrument which is part of an issue any portion of which is traded on an established securities market (within the meaning of section 453(f)(5)), and

(B) except as otherwise provided in regulations prescribed by the Secretary, any instrument which is regularly quoted by brokers or dealers making a market.

(7) Original issue discount.

To the extent provided in regulations, rules similar to the rules of paragraph (6) of section 6049(d) shall apply.

(8) Requirement of notice to payee.

Whenever the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect, the Secretary shall at the same time furnish a copy of such notice to the payor, and the payor shall promptly furnish such copy to the payee.

(9) Requirement of notice to Secretary.

If the Secretary notifies a payor under paragraph (1)(B) of subsection (a) that the TIN furnished by any payee is incorrect and such payee subsequently furnishes another TIN to the payor, the payor shall promptly notify the Secretary of the other TIN so furnished.



(10) Coordination with other sections.

For purposes of section 31 , this chapter (other than section 3402(n)), and so much of subtitle F (other than section 7205) as relates to this chapter, payments which are subject to withholding under this section shall be treated as if they were wages paid by an employer to an employee (and amounts deducted and withheld under this section shall be treated as if deducted and withheld under section 3402).

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