



Reasonable Cause **Regulations** & **Requirements** for

Missing and Incorrect Name/TINs

Including instructions for
reading CD/DVDs and
Magnetic Media



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I. INTRODUCTION

Purpose:

This publication:

- provides the information needed to avoid penalties for information return documents that are filed with missing or incorrect taxpayer identification numbers (TINs),
- describes the actions that must be taken or should have been taken to solicit (request) a TIN, and
- explains the requirements for establishing reasonable cause.

Applicable regulations:

Treasury Regulations affecting all persons who may be subject to penalties for failure to comply with the information reporting requirements under the Internal Revenue Code (IRC) are:

- 301.6721-1, Failure to file correct information returns
- 301.6722-1, Failure to furnish correct payee statements
- 301.6723-1, Failure to comply with other information reporting requirements
- 301.6724-1, Reasonable Cause

What's New (includes new information reporting documents)

- Form 1042S - Foreign Person's U.S. Source Income Subject to Withholding
- Form 3921 - Exercise of an Incentive Stock Option Under Section 422(b)
- Form 3922 - Transfer of Stock Acquired Through an Employee Stock Purchase Plan Under Section 423(c)
- Form 1099 K - Merchant Card and Third-Party Payments
- Increase in penalty dollar amounts for information returns required to be filed on or after January 1, 2011.

II. THE PENALTY FOR MISSING TINs AND INCORRECT NAME/TIN COMBINATIONS

Internal Revenue Code (IRC) section 6721 imposes a \$50 penalty for information returns (for information returns due on or after January 1, 2011 the penalty increases to \$100) for each of the following infractions related to information returns:

- Filed with a missing/incorrect taxpayer identification number (TIN),
- Filed untimely,
- Filed on incorrect media,
- Filed in an incorrect format, or
- Any combination of the above

The penalty may be reduced to:

- \$15 (\$30 for information returns due on or after January 1, 2011) per return if the error or omission is corrected within 30 days of the required filing date, or
- \$30 (\$60 for information returns due on or after January 1, 2011,) if corrected after the 30-day period, but by August 1 of the year the return is required to be filed.

The maximum penalty that may be imposed for one person for all such failure in a calendar year is limited to \$250,000 (\$1,500,000 for information returns due on or after January 1, 2011). The penalty is not imposed for a de minimis number of failures, if the returns are corrected on or before August 1 of the filing year. De minimis criteria apply to the greater of:

-10, or

One-half of one percent of the total number of all information returns required to be filed during the year.

The penalty may be waived by showing the failure(s) was due to reasonable cause and not to willful neglect.

III. REASONABLE CAUSE

To support the showing that the failure was due to reasonable cause and not willful neglect, the filer must establish that s/he acted in a responsible manner both before and after the failure occurred, and that:

- there were significant mitigating factors (for example, an established history of filing information returns with correct TINs), or
- the failure was due to events beyond the filer's control (for example, a payee did not provide a correct name/TIN in response to a request for the corrected information).

Acting in a responsible manner includes making an initial solicitation (request) for the payee's name and TIN and, if required, an annual solicitation. Upon receipt of this information, it must be used on any future information returns filed.

IV. NOTICE 972CG, NOTICE OF PROPOSED CIVIL PENALTY

Penalty Proposal Notice

Notice 972CG, with a listing of the information returns filed with missing or incorrect name/TIN combinations, will be sent to filers of information documents noncompliant with IRC section 6721. Notice 972CG proposes a penalty of \$50 (\$100 for information returns due on or after January 1, 2011) for each return not filed correctly. The listing should be compared with the filer's records to determine:

- if appropriate action was taken (see Part VI) to meet the requirements for establishing reasonable cause, and
- if an annual solicitation should be made in the current year to avoid penalties in future years.

Notice 972CG may include proposed penalties for late filing and/or failure to file information returns via electronic transmission. If a notice includes these penalties, a written explanation must substantiate reasonable cause in order to have the proposed penalties waived.

The Contents of Notice 972CG include:

- An explanation of the proposed penalty,
- An explanation of how to respond to the notice,
- A record of each submission considered in the penalty, including the form type, date received (if not timely filed), whether the returns were original or amended, the transmitter's control code (for electronic filers), and the type of penalty that applies (or penalties that apply).

- A summary of the proposed penalty, which takes into consideration all penalties proposed, and the maximum penalty amount that can be assessed under IRC section 6721, and
- A response page.

Reminder: The response page and the payment slip are the only pages of the notice that should be returned to the Internal Revenue Service with proof of solicitation or with a written explanation substantiating reasonable cause.

Please send in the portion of the payment slip that is appropriate to your response i.e., fully agree, partially agree, or totally disagree with the proposed penalty. Please sign in the space provided and submit payment if fully or partially agreeing to the proposed penalties.

How to Answer Notice 972CG

- The notice has to be answered within 45 days (60 days for foreign payers) from the notice date.
- If more time is needed, submit a written request to the Philadelphia Campus Site address listed on the notice before the end of the 45 day (60 days for foreign payers) period.
- Explanations should be as detailed as possible to limit the number of contacts required to establish reasonable cause, and should provide an explanation of the steps taken to comply with the Internal Revenue Code and regulatory provisions.
- Do not submit copies of the solicitations unless requested by an IRS employee.
- If reasonable cause is established, IRS Letter 1948C will be issued stating that the explanation given was accepted.
- If the reply does not establish, or only partially establishes reasonable cause, a penalty will be assessed. A balance due notice will be sent (CP15/215) with a separate letter explaining any appeal rights.
- Agreement to the proposed penalty should be submitted with a payment and the response page (or signed consent statement on the response page) and the payment slip to show agreement. A balance due notice (CP15/215) will be sent after receipt of the consent statement.
- No response to the Notice 972CG within 45 days (60 days for foreign payers) will result in assessment of the full amount of the proposed penalty and a balance due notice (CP15/215) being issued.

Note: Interest accrues on the balance due from the date of the CP15/215 Notice (unless the penalty is paid within a specified number of days) and continues to accrue until the penalty is fully paid. Interest charged on any penalty amount that is later decreased will be reduced accordingly.

V. SOLICITATIONS

A solicitation is a request by a payer for a payee to furnish a correct TIN. A solicitation may be required if a payer receives a backup withholding notice based on an incorrect payee TIN (CP 2100 or CP 2100A). If such a notice is received, the solicitation must be made pursuant to the backup withholding rules. See Publication 1281, Backup Withholding on Missing and Incorrect Name/TINs (including Instructions for Reading Tape). In addition, payers are required to make solicitations in order to avoid information reporting penalties. Such solicitations may be made in one of the following ways:

Annual Solicitations by Mail

Annual solicitations by mail must include three items to the payee:

1. A letter stating that the payee must provide an accurate TIN and that failure to do so may result in a \$50 penalty (\$100 for returns due on or after January 1, 2011) per incorrect document,
2. Form W-9, Request for Taxpayer Identification Number and Certification, as applicable (or a substitute document that is significantly similar to Form W-9), see (Publication 1281, Backup Withholding on Missing and Incorrect Name/TINS for detailed instructions for Form W-9), and
3. A return envelope, which may be (but is not required to be) postage prepaid.

If the annual solicitation is for a missing or incorrect name/TIN required to be reported on Form 1099-R, then Form W-4P, Withholding Certificate for Pension or Annuity Payment, may be included. If the annual solicitation is for a missing or incorrect SSN required to be reported on Form W-2, then Form W-4, Employee's Withholding Allowance Certificate, may be used.

Annual Solicitations by Telephone

An annual solicitation may be made by phone if the solicitation procedure is designed and carried out in a manner that is conducive to **obtaining** the payee's TIN. A telephone solicitation may be conducted by:

1. Calling each payee with a missing or incorrect name/TIN combination and speaking to an adult member of the household, or to an officer of the business or organization,
2. Requesting the payee's TIN,
3. Informing the payee of the \$50 (\$100 for information returns due on or after January 1, 2011) penalty if the TIN is not provided,
4. Keeping records showing that the solicitation was properly made, and
5. Providing the records to the IRS, if requested.

Note: Annual solicitations are not required if payments were not made to the payee's account in the years in which the penalty notice is received or if no information returns are required for the account for that year.

Electronic Solicitations

Requesters may establish an electronic system for payees to receive and respond to solicitations. This also includes responding and receiving solicitations by fax. A requester is anyone required to file an information return. A payee is anyone required to provide a taxpayer identification number (TIN) to the requester. Generally, the electronic system must:

1. Ensure the information received is the information sent, and document all occasions of user access that result in the submission,
2. Make it reasonably certain the person accessing the system and submitting the form is the person identified on the Form W-4 or W-9,
3. Provide the same information as the paper Form W-4 or W-9,

4. Require as the final entry in the submission, an electronic signature by the payee whose name is on the Form W-4 or W-9 that authenticates and verifies the submission, and
5. Be able to supply a hard copy of the electronic Form W-4 or W-9 **if** the Internal Revenue Service requests it.

Note: For Forms W-9 that are required to be signed, the electronic system must provide for an electronic signature and a perjury statement. Additional requirements may apply.

VI. ACTIONS FOR MISSING TINs AND INCORRECT NAME/TIN COMBINATIONS

Missing TINs

TINs can be a Social Security Number (SSN), an Employer Identification Number (EIN), or an Individual Taxpayer Identification Number (ITIN). SSNs are assigned by the Social Security Administration; EINs and ITINs are assigned by the IRS. If a TIN is not provided or is obviously incorrect, it is considered missing. TINs lacking nine numerical digits or containing alpha characters are considered incorrect. For payee accounts with missing TINs:

1. Complete an initial solicitation at the time the account is opened. The term “account” includes accounts, relationships, and other transactions. If a TIN is not received as a result of the initial solicitation, immediately begin backup withholding on reportable payments (as defined in section 3406(b) of the Internal Revenue Code),
2. Complete a first annual solicitation if a TIN is not received as a result of the initial solicitation. The first annual solicitation must be completed by December 31 of the year in which the account is opened (for accounts opened before December) or by January 31 of the following year (for accounts opened the preceding December), and
3. Complete a second annual solicitation, if a TIN is not received as a result of the first annual solicitation. Solicitations must be completed after the end of the first annual solicitation period, and by December 31 of the year immediately following the calendar year in which the account was opened.

The following requirements apply to payee accounts with missing TINs for payments of designated distributions reported on Forms 1099-R.

1. Complete an initial solicitation, as previously described,
2. Complete a first annual solicitation if a TIN is not received as a result of the initial solicitation. The first annual solicitation must be completed by December 31 of the year in which the account is opened (for accounts opened before December) or by January 31 of the following year (for accounts opened the preceding December),
3. Complete a second annual solicitation if a TIN is not received as a result of the first annual solicitation. See above for the time frame for the second annual solicitation, and
4. Withhold from the taxable portion of any payment that is a designated distribution and is subject to withholding if a response is not received as a result of the initial solicitation. The rate of withholding depends upon the type of payment made. If the payment is an eligible rollover distribution and is not

paid directly to an eligible retirement plan, the appropriate withholding rate is 20%. If the payment is non-periodic (and is not an eligible rollover distribution), withhold at a rate of 10%. If the payment is periodic (and is not an eligible rollover distribution), the rate of withholding is based on the wage withholding tables, using the rate for a single individual claiming zero withholding allowances.

Reminder: If a TIN is received from the payee, include it on any future information returns filed for that payee. A correction for a return with a missing TIN is not required to be filed unless correcting a money amount. However, an employer should file a Form W-2c, Corrected Wage and Tax Statement, even if the employer is only filing Form W-2c to report an employee's SSN.

Incorrect TINs

A name/TIN combination is incorrect when it does not match or cannot be found on IRS files that contain EINs, SSNs, and ITINs. For payee accounts with incorrect TINs, please:

1. Complete an initial solicitation when the payee opens the account. The term "account" includes accounts, relationships, and other transactions
2. Complete a first annual solicitation by December 31 of the calendar year in which a penalty notice for an incorrect name/ TIN combination is received, or by January 31 of the following year if notified the preceding December. If a first "B" notice (backup withholding notice) is sent for an account in the same calendar year a Notice 972CG is received, or if a "B" notice with respect to this account has been sent for an information return filed for the same year as the penalty notice relates to; the annual solicitation requirement will have been satisfied. (See Publication 1281, Backup Withholding on Missing and Incorrect Name/ TINs), and
3. Complete a second annual solicitation by December 31 of the calendar year if you receive a penalty notice for an incorrect name/TIN combination in any subsequent calendar year following the year of the first notification. If a second "B" notice has been mailed for an account in that subsequent calendar year, or if a "B" notice with respect to this account for an information return filed for the same year as the penalty notice relates to, the requirement for the second solicitation will have been satisfied. (See Publication 1281, Backup Withholding on Missing and Incorrect Name/TINs.)

The following requirements apply to payee accounts with incorrect TINs for payments of designated distributions reported on Forms 1099-R. please:

1. Complete an initial solicitation, as previously described,
2. Complete a first annual solicitation within 30 business days from the date on which the Notice 972CG is received
3. Continue to treat as valid any withholding election the payee previously made on the originally completed Form W-4P (or a substitute form) if the payee responds to the first annual solicitation within 45 days confirming that the name/TIN combination is correct,
4. Disregard any existing withholding election based on the prior name/TIN combination if the payee responds to the first annual solicitation within 45 days and furnishes a different name/ TIN combination. In order to notify the payor regarding the amount, if any, of income tax to be withheld from future designated distributions, the payee must submit a new withholding election by completing Form W-4P (or a substitute form). This new withholding election will be effective on the

date provided in the sample notice in Treasury Regulation Section 35.3405-1T, Q&A D-21, i.e., no later than the January 1, May 1, July 1 or October 1 after it is received, provided that it is received at least 30 days before that date. Please withhold from any periodic payments made before receiving the new withholding election using the wage withholding rate for a married individual claiming three withholding allowances,

5. Withhold from any subsequent payments that are designated distributions subject to withholding if the payee does not respond to the first annual solicitation within 45 days. Alternatively, upon receipt of a Notice 972CG notifying the payor of incorrect name/TIN combinations, disregard any prior withholding election made by the payees whose name/TIN combinations are identified as incorrect in the Notice 972CG. In that event, the payor should consider these payees as having no withholding election in effect until receipt of new withholding elections on Form W-4P (or substitute form), and
6. Complete a second annual solicitation within the same time frame as required for the first annual solicitation when notified of an incorrect name/TIN combination in any calendar year following the first notification.

Reminder: If a corrected TIN is received from the payee, include it on any future information return filed for that payee. A correction for a return with an incorrect TIN is not required unless also correcting a money amount. However, an employer should file a Form W-2c, Corrected Wage and Tax Statement, even if the employer is only filing Form W-2c to correct an employee's SSN.

The following is a list of commonly used forms for when the IRS requires an annual solicitation:

- Form W-4, Employee's Withholding Allowance Certificate
- Form W-4P, Withholding Certificate for Pension or Annuity Payments
- Form W-9, Request for Taxpayer Identification Number and Certification
- Form W-8BEN, Certificate of Foreign Status of Beneficial Owner's for United States Tax Withholding, or a substitute, to solicit the TIN for a nonresident alien, foreign entity, or exempt foreign person not subject to certain U.S. information return reporting or backup withholding
- Form W-8ECI, Certificate of Foreign Person's Claim that Income is Effectively Connected With the Conduct of a Trade or Business in the United States
- Form W-8EXP, Certificate of Foreign Government or other Foreign Organization's Certificate for United States Tax Withholding
- Form W-8IMY, Certificate of Foreign Intermediary, Foreign Flow-Through Entity, or Certain United States Branches for United States Tax Withholding

Exceptions to the Requirement for Two Annual Solicitations:

In most cases, following the preceding rules will be considered acting in a responsible manner for reasonable cause. However, there are exceptions to the requirement for two annual solicitations:

1. For Form 1098, Mortgage Interest Statement, a solicitation should be made annually until receipt of the TIN of the payee of record.
2. For Form 1099-S, Proceeds from Real Estate Transactions, an initial solicitation must be completed by the due date of the related real estate closing. No additional solicitation is required.

3. If an account is closed in the same year in which a penalty notice is received for that account, do the required solicitation if reportable payments were paid to the account in that year, or if otherwise required to file on that account for that year.
4. If a backup withholding notice is received for an incorrect payee name and/or TIN, follow the solicitation requirements under the backup withholding rules (per IRC section 3406). DO NOT follow the general solicitation requirements explained in this publication; see IRS Publication 1281. If both backup withholding notices and penalty notices are received with respect to the same account, generally no more than two annual solicitations need to be made; see Incorrect TINs above.

Comparison of Payee Listings to Records

1. Compare the listing(s) of incorrect TINs with existing records to determine if the name/ TIN combinations agree or disagree with those records.
2. If an account number is provided on the listing, identify the account(s) with the corresponding number or designation that has the same name/TIN combination. If an account number is not provided, try to identify all accounts that relate to the same incorrect name/ TIN combination.
3. If the name/TIN combination on the listing agrees with the records, do the required solicitation.
4. If the name/TIN combination on the listing disagrees with the records, a solicitation is not required. Determine if:
 - a. An error in the name/TIN combination was made when filing the information return. If so, include the correct name/TIN combination on any future information returns filed. File a Form W-2c, Corrected Wage and Tax Statement, even if the employer is only filing Form W-2c to correct an employee's SSN.
 - b. The name/TIN combination was updated in the records after the information return was filed. If it was, include it on any future returns and file a Form W-2c, Corrected Wage and Tax Statement, even if only filing Form W-2c to correct an employee's SSN.
 - c. The information was incorrectly read during processing. If so, notate on the records and take no further action.

VII. FORM W-2 SSN SOLICITATIONS

This section specifically applies the above rules to employers. An employer must make an initial solicitation for the employee's SSN at the time the employee begins work. The initial solicitation of the employee's SSN may be made in person, by oral request, or by written request. The SSN may also be requested through other communications, by mail, telephone, or other electronic means, i.e. the E-Verify program that allows employers to validate SSNs up-front. The employer may rely in good faith on the number provided by the employee and use it in filling out the employee's Form W-2, Wage and Tax Statement. Also, every employee hired after Nov. 6, 1986, is required to complete Form I-9 to establish that they are legally eligible to work in the U.S., and that the SSN is required to be reported on that form.

An employer has an obligation to ask for Form W-4, Employee's Withholding Allowance Certificate, from a new employee. Under section 3402(f)(2)(A) of the Internal Revenue Code, an employee must provide a signed Form W-4 (or a substitute form) on commencement of employment, stating the number of withholding exemptions claimed by the employee.

Since the employee is required to furnish Form W-4 to the employer on commencement of employment, Form W-4 may be used for the initial solicitation of the employee's SSN. An employer who retains the Form W-4 in his/her records will be able to document that an initial solicitation of a TIN was made, verifying that s/he acted in a responsible manner.

Employers have the responsibility to file correct information on their employee's Forms W-2. Failure to do so may result in a penalty of \$50 (\$100 for information returns due on or after January 1, 2011) per incorrect Form W-2. However, the penalty will not apply to any failure that an employer can show was due to reasonable cause and not to willful neglect. Generally, employers want to demonstrate that the failure to provide correct information was due to an event beyond their control or that there were significant mitigating factors. They also want to demonstrate that they acted in a responsible manner and took steps to avoid the failure.

If an employer receives a penalty notice based on a failure to include the employee's social security number (SSN) on the Form W-2, and seeks a waiver of the penalty based on the failure of the employee to provide the SSN, special requirements apply for establishing that the employer acted in a responsible manner. The employer must show that s/he made an initial solicitation (in person, or by mail, or by telephone, or electronically) for the employee's SSN at the time the employee began work. The employer must have also made an annual solicitation for the employee's SSN during the same calendar year (or by January 31 of the following year for employee's who began work during the preceding December). If the employer still does not receive an SSN, the employer must make a second annual solicitation by December 31 of the year following the calendar year in which the employee began work. The annual solicitations may be made by mail, by telephone, electronically, or in person.

In the case that an employer receives a penalty notice based on failure to include a correct SSN (incorrect SSN) on the Form W-2, and seeks a waiver of the penalty based on the employee providing the incorrect SSN. The employer must show that they made the initial solicitation for the employee's correct SSN at the time the employee began work, and that the number used was provided by the employee. Compare the accounts on the listing with the business records, if the SSNs agree, send the appropriate initial solicitation "B" Notice to the payee. You must make up to two solicitations in response to a CP2100 Notice, Backup Withholding Notice (Reference Publication 1281). If the SSN does not agree, this could be the result of a recent update to SSA records, an error in the information the employer submitted, or an IRS processing error. If one of these errors occurred, the employer should correct or update the records and no further action is necessary and you do not need to respond to the employee or the IRS.

If another IRS notice is received in a subsequent year, a second annual solicitation is required. The annual solicitations must be made by December 31 of the year in which the penalty notices are received (or by January 31 of the following year if the notice is received during the preceding December). Solicitations may be made by mail, telephone, electronically, or in person. A solicitation is not required if no reportable payments will be made to the employee in that year. The SSN provided by the employee in response to a solicitation must be used by the employer on subsequent Forms W-2.

If the employer receives additional IRS notices based on the missing or incorrect SSN of the employee after having made two annual solicitations, the employer is not required to make further solicitations. The employer's initial and two annual solicitations demonstrate that s/he has acted in a responsible manner before and after the failure, and will establish reasonable cause under the regulations.

Note: For purposes of establishing reasonable cause in connection with the penalty provisions, it is the solicitation of the employee's correct SSN that is important. If the IRS notifies the employer that the SSN is incorrect, then the Form W-4 may be used for any required annual solicitations of the employee's SSN.

Employers may use Social Security Administration's (SSA) SSN verification systems, known as the Social Security Number Verification Service (SSNVS) and the Employee Verification System (EVS), to verify its employee's names and SSNs, but there is no federal tax requirement (regulation) to do so. These are useful, optional ways for employers to identify potential discrepancies and correct SSNs before receiving penalty notices. For more information, go to www.socialsecurity.gov/employer.

Generally, SSA and IRS records are consistent. However, it is important to note that the database used by SSA to match names and SSNs may not be identical to the IRS database. IRS penalty notices relating to mismatched TINs are based and issued exclusively on IRS system information. Mismatches reported under SSA verification systems are not considered IRS notices and do not trigger any further solicitation requirements under IRS rules for reasonable cause waivers. A mismatch determined by SSA will not necessarily result in an IRS penalty notice and annual solicitation requirements. However, if an employer receives a mismatch response from SSA, the employer may wish to re-solicit the employee's SSN and try to obtain correct information prior to filing the Form W-2.

Questions and Answers

Q What are an employer's responsibilities for verifying an employee's SSN?

A An employer has a requirement to solicit an employee's SSN at the time the employee begins work. Since the employee is required to furnish Form W-4 to the employer on commencement of employment, Form W-4 may be used for the initial solicitation of the employee's SSN. The employer may have to make up to two (2) annual solicitations for the SSN if s/he receives a penalty notice from the IRS. The Social Security Administration's (SSA) Social Security Number Verification Service, (SSNVS) and Employee Verification System (EVS) are useful tools for employers, and may alert them to potential penalty situations.

Q What is most important for establishing reasonable cause in connection with Form W-2 penalty provisions?

A The solicitation of the employee's correct SSN on the Form W-4 and the use of that number on the Form W-2 are the most important.

Q What should an employer do if they receive information from SSA's SSNVS or EVS system that an employee has an SSN mismatch?

A Responses received through the SSNVS or EVS system are not considered IRS notices and therefore do not directly enter into the determination of reasonable cause for waiving penalties. The employer is not required to solicit a new SSN from the employee, but may wish to do so.

Q As an employer, what do I do if I receive an IRS notice about an incorrect SSN for an employee?

A The employer is required under the regulations to make an annual solicitation for the correct SSN by mail, telephone, electronically, or in person.

Q When is an employer required to do a second annual solicitation?

A A second annual solicitation is required if the employer receives another IRS notice of incorrect SSN for the employee in a subsequent year.

Q Is there anything that employers should not do based on the receipt of an IRS notice?

A Employers should not use the receipt of an IRS notice as grounds for employee termination.

Q What can employers do to take a proactive approach to minimize receipt of bad TINs (name/TIN mismatches)?

A Employers should establish programs and processes for securing Forms W-4 and using the information in preparing Forms W-2. Also, they should have a process in place for re-solicitation of the required information upon receipt of a penalty notice. Employers should also remind their workers to report any name changes due to marriage, divorce, etc., to both the SSA and to the employer.

Q What records are employers required to maintain to document they made the initial and/or annual solicitations?

A After making a solicitation, the employer should retain the response from the employee or note the response from the employee in the employer's records. The employer should note that a solicitation was made even if no response was received from the employee. Since Form W-4 may be used for the solicitation of the employee's SSN, an employer who retains Form W 4 in his/her records will be able to prove that a solicitation of a TIN was made, documenting that s/he acted in a responsible manner.

Q If an employer receives a corrected SSN from an employee, should the employer file Form W-2c, Corrected Wage and Tax Statement?

A If an employer receives a corrected SSN from an employee, the employer should file a Form W-2c with a separate form for each year needing correction. Employers file Forms W-2 with SSA. SSA matches the name and SSN on each Form W-2 against its database of all SSNs issued. When a match is found, the earnings information from the Form W-2 is recorded in the employee's lifelong earnings history. The earnings history is the basis for determining an employee's future eligibility and benefit amount for SSA's retirement, disability, and survivors programs.

VIII. Small Business Jobs Act (SBJA) of 2010, Section 2102

Increase in Information Return Penalties

The SBJA of 2010, section 2102, increases the amounts of IRC section 6721(a) penalties from \$50 to \$100 for failure to timely file accurate information returns using the correct media and in the proper format. The calendar year maximum for these penalties for large businesses increases from \$250,000 to \$1.5 million.

The SBJA of 2010 also increases the IRC section 6722(a) penalties from \$50 to \$100 for failure to timely furnish accurate payee statements. IRC section 6722(b) adds a penalty reduction tiered rate for corrections on or before August 1 of the filing year. IRC section 6722(d) adds lower limitations for businesses with gross receipts under \$5 million. The calendar year maximum for these penalties for large businesses increases from \$100,000 to \$1.5 million.

These changes (above) apply to information returns due on or after January 1, 2011 and payee statements required to be furnished on or after January 1, 2011.

IRC section 6721 penalty increases are reflected in the following tables:

Large Businesses with gross receipts of more than \$5 million		
Time of filing	Returns due before 01-01-2011	Returns due on or after 01-01-2011
Not more than 30 days late	\$15 per return / \$75,000 maximum	\$30 per return / \$250,000 maximum
31 days late - August 1	\$30 per return / \$150,000 maximum	\$60 per return / \$500,000 maximum
After August 1	\$50 per return / \$250,000 maximum	\$100 per return / \$1,500,000 maximum
Intentional disregard	\$100 per return / no limitation	\$250 per return / no limitation

Small businesses with gross receipts \$5 million or less		
Time of filing	Returns due before 01-01-2011	Returns due on or after 01-01-2011
Not more than 30 days late	\$15 per return / \$25,000 maximum	\$30 per return / \$75,000 maximum
31 days late - August 1	\$30 per return / \$50,000 maximum	\$60 per return / \$200,000 maximum
After August 1	\$50 per return / \$100,000 maximum	\$100 per return / \$500,000 maximum
Intentional disregard	\$100 per return / no limitation	\$250 per return / no limitation

IRC section 6722 penalty changes are reflected in the following tables:

Large Businesses with gross receipts of more than \$5 million		
Time of filing	Payee statements required to be furnished before 01-01-2011 (no tiered rate/no large business - small business differentiation)	Payee statements required to be furnished on or after 01-01-2011
Not more than 30 days late	\$50 per return / \$100,000 maximum	\$30 per return / \$250,000 maximum
31 days late - August 1	\$50 per return / \$100,000 maximum	\$60 per return / \$500,000 maximum
After August 1	\$50 per return / \$100,000 maximum	\$100 per return / \$1,500,000 maximum
Intentional disregard	\$100 per return / no limitation	\$250 per return / no limitation

Small businesses with gross receipts \$5 million and under		
Time of filing	Payee statements required to be furnished before 01-01-2011 (no tiered rate/no large business - small business differentiation)	Payee statements required to be furnished on or after 01-01-2011
Not more than 30 days late	\$50 per return / \$100,000 maximum	\$30 per return / \$75,000 maximum
31 days late - August 1	\$50 per return / \$100,000 maximum	\$60 per return / \$200,000 maximum
After August 1	\$50 per return / \$100,000 maximum	\$100 per return / \$500,000 maximum
Intentional disregard	\$100 per return / no limitation	\$250 per return / no limitation

IX. THE IRS MATCHING PROCESS AND NAME CONTROLS

This section provides an overview of the IRS TIN matching process and the development of name controls on returns submitted electronically.

All information returns filed must include a correct name/TIN combination to allow for the matching of the information reported against the income included on the payee's income tax return. A verification check is performed to determine whether a name/TIN combination is correct by matching it against a file containing all SSNs issued by SSA and against a file containing all EINs issued by IRS.

The name control (if provided) on an electronically filed information return is compared to the name control on file. If a name control is not provided or is provided incorrectly, one is developed from the name(s) provided on the first two name lines (up to 40 characters for each name line including spaces) of the information return. If a match can be made, it is considered correct. If a match is not found, the name/TIN combination is considered incorrect.

Name Controls

A name control usually consists of up to four characters. To help ensure that the name/ TIN combination for an account matches the name/ TIN combination on SSA or IRS files, use the following information when opening an account for a payee:

Individuals

A name control for an individual is developed from the last name on the information return. For example: Ralph Teak— Dorothy Willow —Joe McCedar. If an individual has a hyphenated last name, the name control is developed from the first of the two last names. For example: Brandy Cedar-Hawthorn— Victoria Windsor-Maple. For joint names, regardless of whether the payees use the same or different last names, the name control is developed from the primary payee's last name. For example: Joseph Ash & Linda Birch— Edward & Joan Maple

Reminder

If a payee's last name has been changed, for instance, due to marriage, please tell the payee to contact SSA. SSA will issue a new social security card reflecting the payee's new name and will automatically send IRS the new name. To change the name shown on a social security card, the payee should complete SSA Form SS-5, Application for a Social Security Number Card. Form SS-5 is available at www.irs.gov.

socialsecurity.gov (or ssa.gov) or by calling SSA at 1-800-772-1213 (TTY 1-800-325-0778) or by visiting a local SSA office.

Note: Form SS-5 is filed with SSA. Sole Proprietors

Generally the name control for a sole proprietor, who may have both a SSN and an EIN, is developed from the individual's last name (not the business name) on the information return. For example: Mark & Jane Hemlock and Karen Birch, The Sunshine Cafe

Sole proprietors using a DBA ("doing business as") name, may use either their individual SSN or EIN for the TIN of the sole proprietorship. However, the IRS prefers that sole proprietors use their SSN. A sole proprietor must always use his/her individual name as the legal name of the business for IRS purposes.

Estates

The name control for a decedent's estate is developed from the decedent's name on the first name line on the information return. The decedent's name may be followed or preceded by the word "Estate". (The TIN should be the one that was assigned to the estate.) For example: Frank White Estate— Estate of Frank White Cynthia Greene, Gail Black, Exec.

Trusts and Fiduciaries

The name control for a trust or fiduciary account is developed from the name of the person in whose name the trust or fiduciary account was established. For example: Jonathan Periwinkle, Memory Church Irrevocable Trust.

Partnerships

The name control for a partnership is developed from the trade or business name of the partnership. If there is no trade or business name, a name control is developed from the last name of the first partner on the original Form SS-4 (which was used to apply for the EIN). For example: (The) Oak Tree, A.S. Greene, K.L. Black, & O.H. Brown Bob Orange & Carol Black, et al Ptrs. d.b.a. The Merry Go Round.

E.F. Brown, M.S. White & T.J. Green, Ptrs., The Brown & White Company

Other Organizations

The name controls for other organizations are developed from the entity's name on the original Form SS-4 (which was used to apply for the EIN). For example: St. Bernard's Methodist Church Building Fund for St. Bernard's Church Main Street.

Note: Extraneous words, titles, punctuation, and special characters (such as Mr., Mrs., Dr., apostrophes, etc.), may be dropped during the development of name controls. For example, the period was dropped after "St" in St. Bernard's Methodist Church, making the name control STBE.

X. WHERE TO CALL FOR HELP

Questions about Notice 972CG or the TIN listing may be directed to:

The Enterprise Computing Centralized Call Site @ 1-866-455-7438 or 304-263-8700. – Martinsburg, Information Reporting Program (IRP) Center from the hours of 8:30 am to 4:30 pm (Eastern Time), Monday through Friday

To determine an incorrect Name/TIN combination, call the IRS at 1-800-829-3676 to order Publication 1635, Understanding Your EIN; Form W-9, Request for Taxpayer Identification Number and Certification; or Publication 15 (Circular E), Employer’s Tax Guide.

The above referenced forms, publications, and additional information are available on the IRS website at www.irs.gov.

XI. FORM 10301, CD/DVD CODE AUTHORIZATION FOR CP 2100/972CG NOTICES

Form 10301 is used by transmitters of Information Reporting Documents to self-assign a Personal Identification Number (PIN) that will be used in conjunction with an encryption key (obtained by calling 1-866-455-7438 extension 3, extension 3) to access the information contained on the CD/DVDs.

The form should be mailed to:

Internal Revenue Service
Enterprise Computing Center Martinsburg
Information Reporting Program
230 Murall Drive
Mail Stop 4360
Kearneysville, WV 25430

It may also be submitted via fax to: 1-877-477-0572 or 304-579-4105.

Note: It will take the IRS two days to process your forms upon receipt.

(See Instructions on back)

Form
10301
(Rev. July 2006)

Department of the Treasury – Internal Revenue Service
CD/DVD Encryption Code Authorization
For CP2100/ 972CG Notices
Please type or print in **BLACK** ink and return within **7 DAYS**.

1. Payer Information

Name _____

TIN (Taxpayer Identification Number) _____

2. Primary Company Contact

Name _____

Email address _____

Telephone number () _____

3. Secondary Company Contact

Name _____

Email address _____

Telephone number () _____

4. PIN (Personal Identification Number) PIN must be 10 alpha/numeric characters in any combination. See Instructions for more details.

Affidavit

Under penalties of perjury, I declare that I have examined this form, including accompanying documents, and, to the best of my knowledge and belief, it is correct and complete.

5 Person responsible for the receipt of encryption code	Name (type or print)	Title
	Signature	Date

General Instructions

Purpose of Form. Use Form 10301 to establish a contact person authorized to receive an encryption code necessary to read a CD containing Notice CP2100 and/or Notice 972CG information. Only those payers who have received over 250 items on previous notices should use this form. If any information on the form should change, resubmit the form with the changes to IRS/Enterprise Computing Center - Martinsburg so we can update our database.

Specific Instructions

Block 1

Enter the Payer name and TIN of the organization receiving the CP2100 and/or 972CG Notice.

Block 2

Enter the name, email address (if available) and telephone number (with area code) of the primary person to contact about receipt of Notice CP2100 and/or Notice 972CG. This person should know the Company's PIN (Personal Identification Number) and be authorized to accept the encryption code for reading the CD.

Block 3

Enter the name, email address (if available) and telephone number (including area code) of the secondary person to contact about receipt of Notice CP2100 and/or Notice 972CG.

This person should know the Company's PIN (Personal Identification Number) and be authorized to accept the encryption code for reading the CD.

Block 4

Enter a 10 digit PIN which will be used as authorization to receive the encryption code for reading the CD. The code should be 10 alpha/numeric characters excluding special characters such as &, @, *, etc. Both the primary and the secondary contact should know this code. **Please save and secure this number. You will not be given your encryption code without this PIN.**

Block 5

The form must be signed and dated by an official of the company or organization responsible for the receipt of encryption code.

Mailing Address:

Send your Form to the address below:

Internal Revenue Service
Enterprise Computing Center - Martinsburg
Information Reporting Program
230 Murall Drive
Mail Stop 4360
Kearneysville, WV 25430

If you prefer, the Form can be faxed to 1-877-477-0572 or 304-579-4105, but **do not** do both (faxing and mailing).

You may contact the IRS Information Returns Branch toll-free at 1-866-455-7438 or 304-263-8700 between 8:30 a.m. and 4:30 p.m. Monday through Friday Eastern Standard Time.

Note: It will take the IRS two days to process your form upon receipt.

XII. INSTRUCTIONS FOR READING CD/DVDS

Information about the CD/DVD

As of 2007, payers who filed in excess of 250 and up to 100,000 Incorrect TIN payee “B” records will have data delivered on a CD. Filers with over 100,000 Incorrect TIN payee “B” records will have data delivered on a DVD. The correct reader type is required to access the media (CD or DVD) type (which is based on the number of Incorrect TIN documents filed.)

The files described below are on each CD/DVD:

- I40642_UAnnnn ** is the Payer A-Record file. 114 Characters.
- I40642_UBnnnn ** is all the Incorrect Payee B-Records. 222 Characters each.
- I40642_UCnnnn ** is the Payer C-Record file. 37 Characters.
- A Copy of Publication 1586, Reasonable Cause Regulations and Requirements for Missing and Incorrect Name/TINs (including instructions for reading magnetic tape)
- Instructions for opening a CD/DVD
- Form 10301 CD/DVD Encryption Code Authorization for CP 2100/972CG Notices

** nnnn is the CD/DVD transmittal number.

The files are .txt files. Reading them with Notepad, word processing software, etc. will reflect the Pipe Codes “|” as separate characters between each field. Opening them in Excel software will allow reading them as a delimited file setting the delimiters as pipes “|”. The files will be laid out without the Pipe Codes “|”, exactly as laid out in prior year cartridges.

Note: If using certain software, be careful to set or convert fields to text so that leading zeros are not truncated or blanked out.

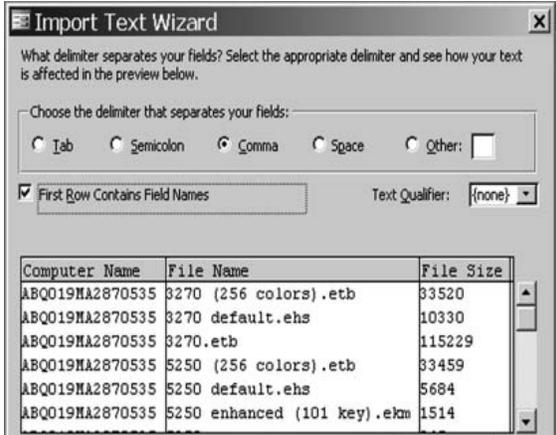
The enclosed CD/DVD is encrypted for security purposes and an encryption key is needed to unlock it. The table below provides instructions on how to receive a key and how to extract the files.

Step	Action
	Gather the company name, the TIN, a primary or secondary contact, and your self-assigned PIN number. A Form 10301, CD/DVD Encryption Code Authorization for CP2100/972CG Notices, should have been previously completed and submitted to the IRS. This form notifies the IRS of the self-selected PIN that will be used.
1	Insert the CD/DVD in the appropriate drive on your computer.
2	<p>Call the IRS at 1-866-455-7438 or 304-263-8700 Extension 3 to receive a random-generated encryption key.</p> <p>a) If the “Auto-Run” feature is turned on, the system will bring up a pop-up window with the message: “Please contact the IRS at 1-866 455-7438 or 304-263-8700 Extension 3 to receive an encryption key.”</p> <p>b) If “Auto-Run” is not turned on, the pop-up window will not appear, but the IRS must still be contacted at 1-866-455-7438 or 304-263-8700 extension 3 to receive an encryption key.</p>
3	Input the random-generated encryption key by double-clicking on the .exe file on the CD/DVD. (The CD/DVD contains only one file on the initial start up.)
4	Put in the random generated encryption key and click “OK”. The next screen will provide instructions for browsing the folder tree and selecting where to extract the files.
5	Click on “OK” to begin the process of extracting and importing the files.

The information can be imported into an existing database or into other types of databases. The information can also be accessed via an Excel spreadsheet or a similar type of software. However, we have included instructions for importing the information into a Microsoft Office Access database because Access is capable of supporting a large file while some of the other software programs have column or row limitations.

Note: The Internal Revenue Service does not endorse or recommend the use of any particular software.

Importing the CD/DVD to Access Information

Step	Action																					
1	Open a new Microsoft Office Access database from your start menu or open an existing Microsoft Access database.																					
2	Select "Create a new file"																					
3	In "New File", select "Blank database". Choose where to save DVD information (i.e. "Documents"/ "Desktop" folder). Note: It is important to remember where this information is saved as this will be the folder used to import the files later in the application.																					
4	Select "Create". A dialog box with "(File name) Database" appears.																					
5	Go to "File" on the "Toolbar" and select "Get External Data" and "Import".																					
6	In "Import", browse drop down screen to location of text file. Select file. Under "Files of Type", browse drop down screen and select "Text File".																					
7	Select the text file to import.																					
8	Click "Import", which opens "Import Text Wizard".																					
9	In "Import Text Wizard", select "Delimited", then select "Next".																					
10	Select "Other" and insert a "Pipe" ("Shift and Backslash" keys- usually above "Enter" on the keyboard) in the box next to "Other". Text qualifier should be "{none}". Select "Next".																					
11	Select "In a New Table". Select "Next".																					
12	<p>Selecting one column at a time, highlight the field in the "Import Text Wizard" table (shown below as Field1, Field2, through Field15 (the "Field Name" box will change to match the name of the Field column that is being highlighted) and ensure "Text" is selected as the "Data Type" for each Field. If not, change the "Data Type" field (using the drop down screen) to "Text". This must be done in all 15 columns. Ensure that all 15 fields' "Data Type" is "Text". Accept all other defaults. (Note: At this time, you can name/ customize each field with the type of data that will be populated in it). Select "Next".</p>  <table border="1" style="margin: 10px auto; border-collapse: collapse; font-size: small;"> <thead> <tr> <th>Computer Name</th> <th>File Name</th> <th>File Size</th> </tr> </thead> <tbody> <tr> <td>ABQ019NA2870535</td> <td>3270 (256 colors).etb</td> <td>33520</td> </tr> <tr> <td>ABQ019NA2870535</td> <td>3270 default.ehs</td> <td>10330</td> </tr> <tr> <td>ABQ019NA2870535</td> <td>3270.etb</td> <td>115229</td> </tr> <tr> <td>ABQ019NA2870535</td> <td>5250 (256 colors).etb</td> <td>33459</td> </tr> <tr> <td>ABQ019NA2870535</td> <td>5250 default.ehs</td> <td>5684</td> </tr> <tr> <td>ABQ019NA2870535</td> <td>5250 enhanced (101 key).etm</td> <td>1514</td> </tr> </tbody> </table> <p>Select "No Primary Key" (imports the data exactly). If "Add primary key" is selected, it will add a field in the first column and will number the rows. Select "Next".</p> <p>"Import to Table" should have the name of the file. Select "Finish".</p> <p>An "Import Text Wizard" box appears that says "Finished importing file....." Click on "Ok". Double click on Table Name. Table should appear.</p> <p>Note: To "Auto Format" each field, double click on the line in between the boxes.</p>	Computer Name	File Name	File Size	ABQ019NA2870535	3270 (256 colors).etb	33520	ABQ019NA2870535	3270 default.ehs	10330	ABQ019NA2870535	3270.etb	115229	ABQ019NA2870535	5250 (256 colors).etb	33459	ABQ019NA2870535	5250 default.ehs	5684	ABQ019NA2870535	5250 enhanced (101 key).etm	1514
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ABQ019NA2870535	5250 default.ehs	5684																				
ABQ019NA2870535	5250 enhanced (101 key).etm	1514																				

RECORD LAYOUTS — CD/DVD

PAYOR “A” RECORD—CD/DVD

POSITION	FIELD TITLE	LENGTH	DESCRIPTION AND REMARKS
1	RECORD TYPE	1	AN “A” WILL BE ENTERED
2	Pipe Code	1	“ ”
3-17	ACCESS KEY	15	NUMBER USED BY THE IRS TO GROUP A PAYER’S INFORMATION RETURN TRANSMITTAL
18	Pipe Code	1	“ ”
19-20	SERVICE CAMPUS	2	TWO DIGIT SERVICE CAMPUS CODE BROOKHAVEN=19 CINCINNATI = 17 MEMPHIS = 49 OGDEN = 29 PHILADELPHIA = 28
21	Pipe Code	1	“ ”
22-30	PAYER’S TIN	9	THE NINE-DIGIT NUMBER ASSIGNED BY THE IRS
31	Pipe Code	1	“ ”
32-71	PAYER’S NAME	40	SELF-EXPLANATORY
72	Pipe Code	1	“ ”
73-80	NUMBER OF DOCUMENTS	8	THE NUMBER OF INFORMATION RETURNS WITH MISSING AND INCORRECT TINS ASSOCIATED WITH THIS PAYER. IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED
81	Pipe Code	1	“ ”
82-89	BWH TIN STATUS 1 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “1” (SEE PAYER “B” RECORD). IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED
90	Pipe Code	1	“ ”
91-98	BWH TIN STATUS 2 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “2” (SEE PAYER “B” RECORD) IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED.
99	Pipe Code	1	“ ”
100-107	BWH TIN STATUS 3 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “3” (SEE PAYER “B” RECORD) IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED.
108	Pipe Code	1	“ ”
109	FILLER	1	BLANK FILLED
110	Pipe Code	1	“ ”
111-114	TAX YEAR	4	TAX YEAR DOCUMENTS WERE SUBMITTED

PAYEE "B" RECORD—CD/DVD

POSITION	FIELD TITLE	LENGTH	DESCRIPTION AND REMARKS
1	RECORD TYPE	1	A "B" WILL BE ENTERED
2	Pipe Code	1	" "
3-11	TIN	9	THE PAYEE'S TIN
12	Pipe Code	1	" "
13	BWH TIN STATUS	1	"1" MISSING TIN "2" NOT CURRENTLY ISSUED "3" INCORRECT NAME/TIN
14	Pipe Code	1	" "
15-19	TCC	5	TRANSMITTER CONTROL CODE
20	Pipe Code	1	" "
21-22	DOC TYPE	2	"02" = Form 1042-S "27" = Form 5498SA "28" = Form 5498 "31" = Form 1099-Q "32" = Form W2-G "71" = Form 1099-H "72" = Form 5498-ESA "75" = Form 1099-S "79" = Form 1099-B "80" = Form 1099-A "81" = Form 1098 "83" = Form 1098-T "84" = Form 1098-E "85" = Form 1099-C "86" = Form 1099-G "91" = Form 1099-DIV "92" = Form 1099-INT "93" = Form 1099-LTC "94" = Form 1099-SA "95" = Form 1099-MISC "96" = Form 1099-OID "97" = Form 1099- PATR "98" = Form 1099-R
23	Pipe Code	1	" "
24-43	ACCT NUMB	20	PAYEE'S ACCOUNT NUMBER FROM PAYER
44	Pipe Code	1	" "
45-84	NAME LINE	40	PAYEE'S NAME LINE 1
85	Pipe Code	1	" "
86-125	NAME LINE	40	PAYEE'S NAME LINE 2
126	Pipe Code	1	" "
127-166	STR. ADDRESS	40	PAYEE'S STREET ADDRESS
167	Pipe Code	1	" "
168-197	CITY	30	PAYEE'S CITY
198	Pipe Code	1	" "
199-200	STATE CODE	2	PAYEE'S STATE CODE
201	Pipe Code	1	" "
202-206	ZIP CODE	5	PAYEE'S STATE CODE
207	Pipe Code	1	" "
208	TIN INDICATOR	1	"1" = Payer indicated EIN "2" = Payer indicated SSN "0" = no TIN indicated
209	Pipe Code	1	" "
210-213	FILLER	4	BLANK FILLED
214	Pipe Code	1	" "
215-222	SEQUENCE	8	NUMBER OF THE RECORD AS IT APPEARED IN THE FILE

PAYER “C” RECORD—CD/DVD

POSITION	FIELD TITLE	LENGTH	DESCRIPTION AND REMARKS
1	RECORD TYPE	1	A “C” WILL BE ENTERED
2	Pipe Code	1	“ ”
3-10	NUMBER OF DOCUMENTS	8	THE NUMBER OF INFORMATION RETURNS WITH MISSING AND INCORRECT TINS ASSOCIATED WITH THIS PAYER. IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED
11	Pipe Code	1	“ ”
12-19	BWH TIN STATUS 1 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “1” (SEE PAYER “B” RECORD). IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED
20	Pipe Code	1	“ ”
21-28	BWH TIN STATUS 2 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “2” (SEE PAYER “B” RECORD) IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED.
29	Pipe Code	1	“ ”
30-37	BWH TIN STATUS 3 CNT	8	THE NUMBER OF DOCUMENTS SENT TO THE PAYER WITH A BWH-TIN-STATUS-IND EQUAL TO “3” (SEE PAYER “B” RECORD) IT WILL BE RIGHT JUSTIFIED AND ZERO FILLED.

NOTES:

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