

**REASONABLE CAUSE REGULATIONS
AND REQUIREMENTS FOR
MISSING AND INCORRECT NAME/TINs**
(including instructions for reading magnetic tape)

Department of the Treasury
Internal Revenue Service
Publication 1586 (Rev. 8/97)
Catalogue Number 13597U

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PART I. INTRODUCTION

This publication provides the information you need to avoid penalties for the information returns you filed with missing or incorrect taxpayer identification numbers (TINs), tells about the actions you must take to solicit (ask for) a TIN, and explains what you have to do to establish reasonable cause.

What's New?

- Form W-9 (Rev. 12 /96) and the Instructions for the Requester of Form W-9 (Rev. 12/96).
- Form 1099-R is included in the Information Returns Program for Tax Year 1996.

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

For each information return you filed with a missing taxpayer identification number (TIN) or with an incorrect name/TIN combination, you may be subject to a \$50 penalty. This penalty applies to Forms 1099 -A, -B, -C, -DIV, -INT, -MISC, -OID, -PATR, -R, and -S and Forms 1098 and W-2G (filed IRC section 6041), as well as other information returns. The penalty may be reduced to \$15 per return if you correct it within 30 days of the required filing date, or to \$30 if you correct it after the 30-day period but by August 1 of the year the return was required to be filed. The penalty is not imposed for a de minimis number of returns that you correct by August 1 of the filing year. The penalty may be waived if you can show reasonable cause.

PART III. REASONABLE CAUSE

The penalty for filing information returns with missing TINs or incorrect name/TIN combinations may be waived if you show that the failure was due to reasonable cause and not to willful neglect. To get a waiver, you must be able to demonstrate that you acted in a responsible manner both before and after the failure occurred and establish that:

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

Acting in a responsible manner means you must make an initial solicitation (request) for the payee's name and TIN (and if required, an annual solicitation). When you receive this information, you must use it on any future information returns you file.

PART IV. NOTICE 972CG, NOTICE OF PROPOSED CIVIL PENALTY

Penalty Proposal Notice

You will receive Notice 972CG and a listing of the information returns you filed with missing or incorrect name/TIN combinations. Notice 972CG proposes a penalty of \$50 for each return you did not file correctly. You should compare the listing with your records to determine (1) if you took appropriate action (see Part VI) to meet the requirements for establishing reasonable cause and (2) if you must make an annual solicitation in the current year to avoid penalties in future years.

Notice 972CG also may include proposed penalties for late-filing and failure-to-file information returns on magnetic media. If your notice includes these penalties, you must also submit an explanation to substantiate reasonable cause in order to have them waived.

The Contents of Notice 972CG

1. An explanation of the proposed penalty.
2. An explanation of how you should answer the notice.
3. A record of each submission considered in the penalty, including the form type, date received (if late filed), whether the returns were original or amended, the transmitter's control code (for magnetic/electronic filers), and the type of penalty(s) that applies.
4. A summary of the proposed penalty which takes into consideration all penalties proposed and the maximum penalty amount which can be assessed under IRC section 6721.
5. A response page. Reminder: This is the only page you should return to the Internal Revenue service center with your written explanation substantiating reasonable cause. You must check the appropriate box to indicate whether you fully agree, partially agree, or totally disagree with the proposed penalty. If you fully agree, you must sign in the space provided.

How to Answer Notice 972CG

You have 45 days to answer Notice 972CG. If you need more time, you must submit your request in writing (to the service center listed on the notice) before the end of the 45-day period. In order for us to consider waiving the penalty, you must answer the notice. If your reply shows that you established reasonable cause, we will send IRS Letter 1948C to you in about 30 days saying that we accept your explanation. If your reply does not establish or only partially establishes reasonable cause, we will assess the penalty and send a balance due notice (CP15/215) and separate letter to you explaining your appeal rights.

If you agree with the proposed penalty, you may submit a payment with the response page or sign the consent statement (on the response page) to show that you agree; then, we will send a balance due notice (CP15/215). If you do not answer Notice 972CG within 45 days, we will assess the full amount of the proposed penalty and send a balance due notice (CP15/215). However, you still have the opportunity to establish reasonable cause by submitting a written explanation.

Interest accrues on the balance due from the date of the CP15/215 Notice and continues until the penalty is fully paid. We will remove interest from any penalty amount that is abated.

PART V. SOLICITATIONS

A solicitation is a request by a payer for a payee to furnish a correct TIN. For Forms 1099-B, -INT, -DIV, -OID, -PATR, and -MISC for which you were notified under the backup withholding section of the Internal Revenue Code, you must do the solicitation in the time and manner prescribed by that section (see Publication 1679, A Guide to Backup Withholding, or Publication 1281, Backup Withholding for Missing and Incorrect Name/TINs). For Forms 1099-C, -R, and -S and Forms 1098 and W-2G, you may do your solicitation as follows.

Solicitations by Mail

If you decide to do the annual solicitation by mail, you must send three items to the payee: 1) a letter stating that he or she must provide his or her TIN and that failure to do so may result in a \$50 penalty, 2) Form W-9 (or a substitute as long as it is substantially similar to Form W-9), and 3) a return envelope which may be, but is not required to be, postage prepaid.

Solicitations by Telephone

You may do the annual solicitation by telephone if your solicitation procedure is designed and carried out in a way that is conducive to getting the payee's TIN. You may conduct a telephone solicitation if you 1) call each payee with a missing or incorrect name/TIN combination and speak to an adult member of the household, or to an officer of the business or the organization, 2) request the payee's TIN, 3) inform the payee that he or she is subject to a \$50 penalty if the TIN is not provided, 4) keep records showing that the solicitation was properly made and 5) provide your records to the IRS if you are asked.

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

The following information explains when IRS requires an annual solicitation.

Note: You must usually use a Form W-8, Certificate of Foreign Status, 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. However, a Form W-9 is optional in certain cases; see "Notice of Change in Status" in the Instructions for Form W-8 for more information on this topic.

Note: Form W-8 is being revised. At the time this publication went to print, the new Form W-8 was not available.

Missing TINs

A missing TIN is one which is not provided or is obviously incorrect. A TIN must have nine numbers. We consider a TIN missing if it does not have nine numbers, or if it includes an alpha character (a symbol other than an Arabic numeral). For payee accounts with missing or incorrect TINs, you must:

- Complete an initial solicitation at the time the account is opened. The term "account" includes accounts, relationships, and other transactions.

- If you do not receive a TIN as a result of your initial solicitation, begin backup withholding on reportable payments, and complete a first annual solicitation 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).

- If you do not receive a TIN as a result of your first annual solicitation, you must complete a second annual solicitation by December 31 of the year immediately following the calendar year in which the account was opened.

Reminder: If you receive a TIN from the payee, you must include it on any future information return you file for him or her. You are not required to file a correction for a return with a missing TIN unless you are also correcting a money amount.

Incorrect TINs

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

- Complete an initial solicitation when the payee opens the account. The term "account" includes accounts, relationships, and other transactions.
- Complete a first annual solicitation by December 31 of the calendar year in which IRS notifies you of an incorrect name/TIN combination or by January 31 of the following year if you were notified in the preceding December. If you mail a first "B" notice (backup withholding notice) for an account in the calendar year you receive Notice 972CG, you will satisfy the requirement for the first annual solicitation.
- Complete a second annual solicitation within the same time frame as required for the first annual solicitation if you are notified of an incorrect name/TIN combination in any calendar year following the first notification. If you mail a second "B" notice for an account in the calendar year you receive Notice 972CG, you will satisfy the requirement for the second solicitation.

Reminder: If you receive a TIN from the payee, you must include it on any future information return you file for him or her. You are not required to file a correction for a return with an incorrect TIN unless you are also correcting a money amount.

Exceptions to the Requirement for Two Annual Solicitations

In most cases, the IRS will consider that you acted in a responsible manner for reasonable cause if you followed the preceding rules. However, there are exceptions to the requirement for two annual solicitations:

1. For Form 1098, Mortgage Interest Statement, you should do a solicitation annually until you get the TIN of the payee of record.
2. For Form 1099-S, Proceeds from Real Estate Transactions, you must do an initial solicitation 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 you receive a penalty notice for that account, do the required solicitation if you paid reportable payments to the account in that year, or if you are otherwise required to file an information return for that account for that year.
4. To avoid having to do more than two annual solicitations, if an account falls under the solicitation requirements that apply to backup withholding payments (IRC section 3406(a)(1)(B)), follow those requirements. Backup withholding applies to reportable payments made on Forms 1099-B, -INT, -DIV, -MISC, -OID, and -PATR. **DO NOT** follow the general solicitation requirements explained in this publication; see IRS Publication 1679 or 1281.

Comparison of Payee Listings to Your Records

You must compare the listing(s) of incorrect TINs with your records to determine if the name/TIN combinations agree or disagree with those records.

1. Generally, if an account number is provided on the listing, you only need to identify an account(s) with that 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.
2. If the name/TIN combination on the listing agrees with your records, do the required solicitation if you haven't already done it.
3. If the name/TIN combination on the listing disagrees with your records, you are not required to do a solicitation. However, you must determine if:

(A) You made an error in the name/TIN combination when filing the information return. If you did, you must include the correct name/TIN combination on any future information returns you file.

(B) The name/TIN combination was updated in your records after you filed the information return. If it was, include it on any future future returns you file.

(C) We incorrectly read the information during processing. If we did, you should notate your records and not take any further action.

PART VII. THE IRS MATCHING PROCESS

This section provides an overview of the IRS matching process and the development of name controls.

The information returns you file must include a correct name/TIN combination to allow us to match the information reported against the income included on the payee's income tax return. We check whether a name/TIN combination is correct by matching it against a file containing all social security numbers (SSNs) issued by SSA and against a file containing all employer identification numbers (EINs) issued by IRS. Then we compare the name control on the payee document (if provided) to the name control on file. If a name control is not provided or is provided incorrectly, we develop it 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 we can match a developed name control to the name control in our records, we consider it to be correct. If no match is found using this process, we consider your name/TIN combination to be incorrect.

The chart on the back of Form W-9 has information for payees about "What Name and Number to Give the Requester" of Form W-9

Name Controls

A name control 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 you open an account for a payee.

Individuals

We develop a name control for an individual from the last name on the information return. For example:

Ralph Teak Dorothy Willow Joe McCedar

If an individual has a hyphenated last name, we develop the name control 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, we develop the name control from the primary payee's last name. For example:

Joseph Ash & Linda Birch Edward & Joan Maple

Reminder: If a payee has changed his or her last name, for instance, due to marriage, he or she SHOULD inform the Social Security Administration (SSA) of the name change.

Hint: On name line one of the Form 1099, a payor should enter the payee's first name and new last name (if the change has been made with SSA), or the payee's first name, former last name, and new last name (if the change has not been made with SSA).

Sole Proprietors

We generally develop the name control for a sole proprietor, who may have both an SSN and an EIN, from the individual's last name (not the business name) on the information return. For example:

Mark & Jane Hemlock Karen Birch
The Sunshine Cafe Ace Computer Co.

Hint: Sole proprietors should enter their business, trade, or "doing business as" name on the second name line of the information return.

Estates

We develop the name control for a decedent's estate 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
Cynthia Greene, Exec.

Estate of Frank White
Gail Black, Exec.

Trusts and Fiduciaries

We generally develop the name control for a trust or fiduciary account from the name of the person in whose name the trust or fiduciary account was established. For example:

Jonathan Periwinkle
Endowment Trust
FBO Patrick Redwood
Chestnut Bank, Trustee

Memory Church
Irrevocable Trust
John Waxbean, Trustee

Partnerships

We generally develop the name control for a partnership from the trade or business name of the partnership; if there isn't any, we develop the name control 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, Ptrs.

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

We develop the name control for other organizations from the entity's name on the original Form SS-4 (which was used to apply for the EIN). For example:

<u>St. Bernard's</u> Methodist Church	<u>ABC</u> Company
Building Fund for St. Bernard's Church	Main Street Store

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

PART VIII. WHERE TO CALL FOR HELP

If you have any questions about Notice 972CG or the listing you received, you may call:

Information Reporting Program (IRP) Centralized Call Site
Telephone. . . (304) 263-8700 (not toll-free)
Hours. . . . 8:30 am to 4:30 pm EST Monday through Friday

You may also access the Information Reporting Program (IRP) Bulletin Board at the Martinsburg Computing Center using your personal computer and modem. The Bulletin Board offers changes and updates that affect information reporting and the penalty program.

IRP Bulletin Board
Telephone. . . (304) 264-7070 (not toll-free)
Hours. . . . 24 hours daily

PART IX. INSTRUCTIONS FOR READING MAGNETIC TAPE

General

A tape file will have the following characteristics:

(A) 9 channel Standard Label/EBCDIC with:

- (a) odd parity and
- (b) a density of 1600 BPI.

(B) Type of Tape - 0.5 inch (12.7mm) wide, computer grade magnetic tape reels of up to 2,400 feet (731.52mm). If a payer's file contains data from 501 to 40,000 information return records, the file will be shipped on one magnetic tape reel of 600 feet (182.88mm). If the file exceeds 40,000 information returns records, the file will be shipped on 2,400 foot reels. Regardless of the length of the individual tapes, shipments will meet the following specifications:

- (a) Tape thickness - 1.0 or 1.5 mils
- (b) Reel diameter - 10.5 inches (26.67cm) for a 2,400 foot tape or 7 inches (17.78cm) for a 600

foot tape.

Record Length

A tape will be blocked 20, subject to the following:

- (A) a record will be 208 tape positions,
- (B) all records except the Header and Trailer Labels will be blocked,
- (C) a block will be 4,160 tape positions, and
- (D) in the event of a short block (less than 20 records), all remaining positions will be filled in with 9s.

Tape Marking Conventions

Header Label:

1. Standard headers will be used. They will be marked VOL1, HDR1, HDR2.
2. The HDR1 record will contain the Data Set Name "04064211."
3. This record will be 80 positions long.

Trailer Label:

1. Standard trailer labels will be used. They will begin with EOR1, EOR2, EOF1 or EOF2.
2. This label will be 80 positions long.

Tape Mark:

1. Tape marks are used to signify the physical end of the recording on the tape.
2. They follow the header label, and precede and follow the trailer label.

External Label:

A label marked with the Data Set Name "04064211" will be put on the tape(s).

PAYER "A" RECORD

<u>TAPE POSITION</u>	<u>FIELD TITLE</u>	<u>LENGTH</u>	<u>DESCRIPTION AND REMARKS</u>
1	RECORD TYPE	1	AN "A" WILL BE ENTERED.
2-16	ACCESS KEY	15	NUMBER USED BY THE IRS TO GROUP A PAYER'S INFORMATION RETURN TRANSMITTALS.
17-18	SERVICE CENTER	2	TWO DIGIT SERVICE CENTER CODES: ANDOVER 08 ATLANTA 07 AUSTIN 18 BROOKHAVEN 19 CINCINNATI 17 FRESNO 89 KANSAS CITY 09 MEMPHIS 49 OGDEN 29 PHILADELPHIA 28
19-27	PAYER'S EIN	9	THE NINE DIGIT NUMBER ASSIGNED BY THE IRS.
28-67	PAYER'S NAME	40	SELF-EXPLANATORY.
68-75	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.
76-83	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.
84-91	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.
92-99	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.

100	FILLER	1	BLANK FILLED
101-104	TAX YEAR	4	TAX YEAR DOCUMENTS WERE SUBMITTED
105-208	FILLER	104	BLANK FILLED

PAYER "B" RECORD

<u>TAPE POSITION</u>	<u>FIELD TITLE</u>	<u>LENGTH</u>	<u>DESCRIPTION AND REMARKS</u>
1	RECORD TYPE	1	A "B" WILL BE ENTERED.
2-10	TIN	9	THE PAYEE'S TIN.
11	BWH TIN STATUS	1	"1" MISSING TIN "2" NOT CURRENTLY ISSUED TIN "3" INCORRECT NAME/TIN
12-16	TCC	5	TRANSMITTER CONTROL CODE
17-18	DOC TYPE	2	"32" = Form W2-G "75" = Form 1099-S "79" = Form 1099-B "80" = Form 1099-A "81" = Form 1098 "85" = Form 1099C "91" = Form 1099-DIV "92" = Form 1099-INT "95" = Form 1099-MISC "96" = Form 1099-OID "97" = Form 1099-PATR "98" = Form 1099-R
19-38	ACCOUNT NUMBER	20	PAYEE'S ACCOUNT NUMBER FROM PAYER
39-78	NAME LINE 1	40	PAYEE'S NAME LINE 1
79-118	NAME LINE 2	40	PAYEE'S NAME LINE 2
119-158	STREET ADDRESS	40	PAYEE'S STREET ADDRESS
159-188	CITY	30	PAYEE'S CITY
189-190	STATE CODE	2	PAYEE'S STATE CODE
191-195	ZIP CODE	5	PAYEE'S ZIP CODE
196	TIN INDICATOR	1	"1" = payer indicated EIN "2" = payer indicated SSN "0" = no TIN indicated
197-200	FILLER	4	BLANK FILLED
201-208	SEQUENCE NUMBER	8	SEQUENCE NUMBER WITHIN PAYER

PAYER "C" RECORD

<u>TAPE POSITION</u>	<u>FIELD TITLE</u>	<u>LENGTH</u>	<u>DESCRIPTION AND REMARKS</u>
1	RECORD TYPE	1	A "C" WILL BE ENTERED.
2-33	RECORD COUNTS	32	COUNTS AS DESCRIBED IN POSITIONS 68-99 OF THE PAYER "A" RECORD.
34-208	FILLER	175	BLANK FILLED.