

Logos and Identifying Slogans on Substitute Forms 1099

Notice 96-62

This notice informs payors who are required to report certain payments on Form 1099 that the Service intends to issue regulations permitting these payors to use certain logos and identifying slogans on substitute Forms 1099 required to be furnished to payees after

December 31, 1995, and invites public comment on this matter.

The Internal Revenue Code generally requires that payors of interest (§ 6049), dividends (§ 6042), patronage dividends (§ 6044), and royalties (§ 6050N), make an information return, in the form prescribed by the Secretary, setting forth the amount of such payments and the name and address of the payee. The payor must also furnish the payee with a copy of the information return (the payee statement) in person or in a statement mailing. Payors may furnish either the official Form 1099 or an acceptable substitute payee statement.

The legislative history to the statement mailing requirement provides that only certain limited enclosures in the statement mailing can be made with the payee statement, specifically: (1) a check; (2) a letter explaining why no check is enclosed; and (3) a statement of the payee's specific account with the payor. The legislative history further provides that a mailing is not a statement mailing if it encloses any other material such as advertising, promotional material, or a quarterly or annual report. The legislative history explains that this additional material is not permitted because these enclosures may make it less likely that payees will recognize the importance of the payee statement and may not utilize the payee statement in completing their tax returns. *See* S. Rep. No. 99-318, 99th Cong., 2d Sess. at 191; and H.R. Conf. Rep. No. 99-841, 99th Cong., 2d Sess. at II-791.

The Service recently issued final regulations that apply to payee statements due after December 31, 1995. §§ 1.6042-4; 1.6044-5; 1.6049-6(e); and 1.6050N-1 of the Income Tax Regulations. These regulations provide that the mailing of payee statements must qualify as a statement mailing. To qualify, the mailing is permitted to contain only certain specified nontax enclosures, limited to: (1) a check; (2) a letter explaining why no check is enclosed; (3) a statement of the payee's account; and (4) a letter explaining the tax consequences of the information in the payee statement. *See, e.g.*, § 1.6042-4(d)(2)(i). The regulations prohibit other nontax enclosures and promotional or advertising materials and provide that even a *de minimis* amount of such material violates the statement mailing requirement. Although the regulations specifically permit logos on the envelope and on the permitted nontax enclosures identified

above, they do not permit logos on the substitute Form 1099 itself. *See, e.g.*, § 1.6042-4(d)(2)(i).

The Service intends to amend the regulations to allow the use of certain logos and identifying slogans on substitute Forms 1099 required to be furnished to payees. The amended regulations generally will permit logos (including the name of the payor in any typeface, font, or stylized fashion and/or a symbolic icon) and identifying slogans, provided the logo or identifying slogan is used by the payor in the ordinary course of its trade or business. However, consistent with Congressional intent, the amended regulations will provide that use of a logo or identifying slogan must not make it less likely that a reasonable payee will recognize the importance of the payee statement for tax reporting purposes. Pending issuance of the amended regulations, the Service will not impose penalties in connection with a payor's use on a payee statement of a logo or an identifying slogan that satisfies these requirements.

Public comment invited. The Service invites public comment on this matter. Written comments may be submitted by mail to:

Internal Revenue Service
P.O. Box 7604
Ben Franklin Station
Attn: CC:CORP:T:R (IA-Branch 1),
Room 5228
Washington, D.C. 20044;

or, alternatively, via the internet at:
http://www.irs.ustreas.gov/prod/tax_regs/comments.html.

DRAFTING INFORMATION

The principal author of this notice is Donna Welch of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Welch on (202) 622-4910 (not a toll-free call).