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April 19, 2017

Taxpayer ID Numbers: Difficult Road Ahead for Banks

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By [Alison Bennett](#)

Banks are facing tough questions about how and when they have to provide identification numbers for taxpayers with U.S.-source income abroad.

New Internal Revenue Service regulations say that starting next year, they must give the agency ID numbers for all U.S. and foreign account holders—guidance that allows a few months of leeway in 2017, but provides few answers for 2018 and beyond.

Practitioners told Bloomberg BNA that the path ahead is difficult and fraught with uncertainty, as the IRS continues its push to get the ID numbers and find people with U.S. income abroad.

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For example, no one knows whether batches of U.S. accounts reported by foreign banks will be rejected by a technical system if only a few are missing the required U.S. number. For foreign numbers, the process of getting them is tough and controversial, and banks are asking for help.

“It’s two sides of the same coin,” said Payson Peabody, managing director and tax counsel for the Securities Industry and Financial Markets Association. “It’s a significant cost that we’re dealing with, and the burden is not just for U.S. banks, but for banks around the world.”

The 2010 Foreign Account Tax Compliance Act, which requires foreign banks to report U.S.-source income, is an overlay for much of the problem.

Alarm Bells

When the IRS released regulations (REG-134247-16, T.D. 9808) on Dec. 30 that called for banks and withholding agents to include ID numbers related to that reporting starting Jan. 1, 2017, it set off major alarm bells in the tax community.

In two pieces of guidance issued in the first half of April in question-and-answer format, the agency said the ID numbers don’t have to be provided until Jan. 1, 2018.

Banks in some jurisdictions that have FATCA pacts with the IRS—known as Model 1 jurisdictions—have to include domestic TINs in reporting U.S. accounts. If they don’t, they will get “error messages” when they try to use a special technical filing system and the accounts will be bounced back, the IRS said.

Rejection Procedures Unclear

While these banks should already have made a lot of progress in getting those numbers, it isn’t known how the accounts will be treated once they are submitted, practitioners said.

A big question centers on what might happen if a bank reports a batch of these accounts—known as a “filing”—with a few that don’t have the required number.

The fear is that the whole filing will be sent back, according to both Laurie Hatten-Boyd, a principal with KPMG LLP, and Denise Hintzke, global leader of the Foreign Account Tax Compliance Act initiative at Deloitte Tax LLP.

“What’s not clear is once this is in place, will the system accept the filing and go back with error notices on those accounts, or just reject the filing?” Hatten-Boyd said.

Valuable Information Seen Lost

Hintzke said it wouldn't be ideal for either the bank or the taxpayer if the system sends back a batch of accounts without specifying that only a few have the ID number problem.

"You would think the IRS would like to know that the number is missing," Hintzke said. "They wouldn't be getting valuable information about who these people are."

The second piece of guidance, requiring withholding agents to put foreign taxpayer ID numbers on documents known as beneficial owner withholding certificates, will lead to a major struggle, practitioners said.

Financial institutions aren't only faced with the tough challenge of getting these numbers, but with the difficult task of validating them.

Validation of Foreign TINs

Tara Ferris, a principal with Ernst & Young LLP who helped write guidance addressing foreign banks when she was at the IRS, said banks don't want any requirements around validation at all.

The problems are huge. TINs can have varying formats, she told Bloomberg BNA in emailed comments, and some jurisdictions don't issue them at all.

"Some financial institutions would prefer to have a list of jurisdictions that issue TINs and not have any requirements to request or obtain a reasonable explanation from someone located in a jurisdiction that is on the list," Ferris said.

She compared the U.S. situation to guidance offered by the Organization for Economic Cooperation and Development. The OECD is implementing a system where countries are sharing financial account information, known as the common reporting standard.

The OECD's website includes details on the jurisdictions that issue taxpayer ID numbers, Ferris said. It also provides guidance in a frequently asked question-and-answer format to demonstrate there isn't a requirement to validate ID numbers.

Do Your Best

As the IRS puts taxpayer ID numbers under the microscope, the most important thing for banks is to be able to show the IRS that they're doing their best on compliance, according to Susan Grbic, a partner and financial services tax specialist at Mazars USA LLP.

"Having a good process is what counts," she said, adding that banks should be able to flag their own accounts for issues with identification numbers.

Now that the IRS has put out FAQs on ID numbers, “I would recommend taking a look at your process to see if you have any gaps,” said Grbic, who co-heads the Mazars banking group. “I think at this point, it should be second nature,” she said, noting that the issue is likely to come up on audit eventually.

Candace Ewell, a principal and FATCA specialist at PricewaterhouseCoopers LLP, said the requirements affect not just foreign banks, but U.S. financial institutions as well.

“It’s big,” she said, adding that banks need to take action immediately if they aren’t yet up to speed on the ID number requirements.

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