

NASD

National Association of Securities Dealers, Inc.
1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-6000

notice to members 83-60

November 4, 1983

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: National Market System to Expand to 635 Issues November 22

An additional 49 issues will voluntarily join the NASDAQ National Market System on Tuesday, November 22, bringing the total number of NMS securities to 635. These 49 issues meet the SEC's criteria for voluntary designation, which include average monthly trading volume of 100,000 shares and a minimum bid price of \$5.

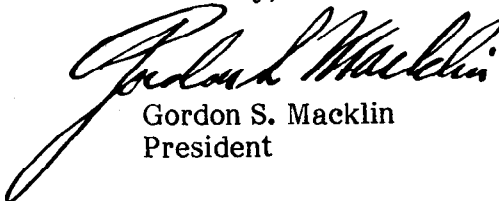
The 49 issues scheduled to join NMS on Tuesday, November 22, are:

ADVS	Advanced Systems, Incorporated	Arlington Heights, IL
AFSL	American Federal Savings and Loan Association of Colorado	Denver, CO
AFLT	American Fletcher Corporation	Indianapolis, IN
BWKR	Bassett-Walker, Inc.	Martinsville, VA
BIGB	Big B, Inc.	Birmingham, AL
KARE	Care Enterprises	Orange, CA
CFDY	Citizens Fidelity Corporation	Louisville, KY
CSHR	Commerical Shearing, Inc.	Youngstown, OH
CSII	Communications Systems, Inc.	Hector, MN
CSCN	CompuScan, Inc.	Fairfield, NJ
CLRI	Computer Language Research Inc.	Carrollton, TX
CTSK	Computer Task Group, Incorporated	Buffalo, NY
DTMD	Dento-Med Industries, Inc.	N. Miami Beach, FL
DLOG	Distributed Logic Corporation	Garden Grove, CA
EAGL	Eagle Clothes, Inc.	New York, NY
ECTH	Electro-Catheter Corporation	Rahway, NJ
ELEC	Electospace Systems, Inc.	Richardson, TX
FATN	First American Corporation	Nashville, TN
FCFN	First City Financial Corporation	Albuquerque, NM
FCLF	First Columbia Financial Corporation	Englewood, CO
FRRG	First Railroad & Banking Company of Georgia	Augusta, GA
FLXS	Flexsteel Industries, Inc.	Dubuque, IA

HCCI	HCC Industries	Encino, CA
ICEYF	International Capital Equipment Limited	Chicago, IL
ICLB	International Clinical Laboratories, Inc.	Nashville, TN
LCOR	Langley Corporation	San Diego, CA
LWIS	Lewis (Palmer G.) Co., Inc.	Auburn, WA
LMED	LyphoMed, Inc.	Melrose, IL
MTEC	Machine Technology, Inc.	Whippany, NJ
MSCC	Microsemi Corporation	Santa Ana, CA
MLHR	Miller (Herman), Inc.	Zeeland, MI
NELR	Nelson Research & Development Company	Irvine, CA
NMTX	Novamatrix Medical Systems Inc.	Wallingford, CT
OTTR	Otter Tail Power Company	Fergus Falls, MN
PAMX	Pancho's Mexican Buffett, Inc.	Fort Worth, TX
PTRAS	Property Trust of America	El Paso, TX
QSII	Quality Systems, Inc.	Tustin, CA
RAUT	Republic Automotive Parts, Inc.	E. Detroit, MI
REPH	Republic Health Corporation	Dallas, TX
RIBI	Ribi ImmunoChem Research, Inc.	Hamilton, MT
SLCR	Salem Carpet Mills, Inc.	Winston-Salem, NC
STEL	Satelco, Incorporated	San Antonio, TX
SMPS	Simpson Industries, Inc.	Birmingham, MI
USSSS	U.S. Shelter	Greenville, SC
UPAT	University Patents, Inc.	Norwalk, CT
URGE	Urgent Care Centers of America, Inc.	Encinitas, CA
VRES	VICORP Restaurants, Inc.	Denver, CO
VSAL	Visual Technology Incorporated	Tewksbury, MA
WDFC	WD-40 Company	San Diego, CA

Any questions regarding this notice should be directed to Donald Bosic, Assistant Director, NASDAQ Operations, at (202) 728-8043. Questions pertaining to trade reporting rules should be directed to Leon Bastien at (202) 728-8202.

Sincerely,



Gordon S. Macklin
President



National Association of Securities Dealers, Inc.
 1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-61

November 4, 1983

TO: All NASD Members and Municipal Securities Bank Dealers

ATTN: All Operations Personnel

RE: Holiday Schedule for Remainder of 1983

Securities markets and the NASDAQ System will be closed on Thursday, November 24, Thanksgiving Day; Monday, December 26, Christmas Day Observance; and Monday, January 2, 1984, New Year's Day Observance. "Regular Way" transactions made on the preceding business days will be subject to the settlement date schedule listed below.

Trade Date-Settlement Date Schedule
For "Regular-Way" Transactions

<u>Trade Date</u>		<u>Settlement Date</u>		<u>Regulation T Date*</u>	
November	17	November	25	November	29
	18		28		30
	21		29	December	1
	22		30		2
	23	December	1		5
December	19		27		29
	20		28		30
	21		29	January	3 1984
	22		30		4
	23	January	3 1984		5
	27		4		6
	28		5		9
	29		6		10
	30		9		11

* Pursuant to Section 4(c)(2) of Regulation T of the Federal Reserve Board, a broker-dealer must promptly cancel or otherwise liquidate a customer purchase transaction in a cash account if full payment is not received within seven (7) business days of the date of purchase or, pursuant to Section 4(c)(6), make application to extend the time period specified. The date by which members must take such action is shown in the column entitled "Regulation T Date."

The above settlement dates should be used by brokers, dealers, and municipal securities dealers for purposes of clearing and settling transactions pursuant to the Association's Uniform Practice Code and Municipal Securities Rulemaking Board Rule G-12 on Uniform Practice.

Questions regarding the application of these settlement dates to a particular situation may be directed to the Uniform Practice Department of the NASD at (212) 839-6255.

* * *

NASD

National Association of Securities Dealers, Inc.
1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-62

November 18, 1983

TO: Selected NASD Members

RE: American Telephone and Telegraph
Company (AT & T) Divestiture

Under the AT & T divestiture program, for every ten shares of existing ("old") AT & T owned, shareholders of record December 30, 1983 will receive one share in each of seven newly-formed regional holding companies, while continuing to own ten shares of divested ("new") AT & T as well.

Beginning Monday, November 21, 1983, "when-issued" trading will commence in the seven regional holding companies and new AT & T, and is expected to continue until mid-February, 1984. Old AT & T will trade with due bills from January 3, 1984 to mid-February, 1984 representing the spin-off ownership in the holding companies.

This pending AT & T divestiture and the anticipated heavy when-issued trading volume expected to occur during the relatively long when-issued trading period is a matter of concern especially in the areas of credit requirement and net capital. The Association in cooperation with the Securities and Exchange Commission (SEC) and New York Stock Exchange (NYSE) has been active in developing an approach to address these concerns.

Accordingly, subject to SEC approval, the NASD in conjunction with the NYSE is requiring accounts otherwise exempt from margin requirements for when-issued transactions to make and maintain specified margin deposits. In connection therewith, the Board of Governors has enacted a temporary amendment to Appendix A of Section 30 of the Rules of Fair Practice making the exception to the margin requirements of Appendix A inapplicable with respect to when-issued transactions in special cash accounts for accounts of broker-dealers, banks, trust companies, investment companies, investment trusts, insurance companies, charitable or non-profit educational institutions and similar fiduciary type accounts hereafter referred to as "exempt" accounts. This temporary amendment is solely for the purpose of when-issued trading in the securities of AT & T and its regional holding companies and will be in effect only until such when-issued trading has terminated.

Furthermore, the amendment will require that fiduciary accounts such as those described above deposit initial margin of 10% for each when-issued transaction and thereafter maintain a minimum maintenance of 7%. A more detailed discussion of these special margin requirements appears in Section II below.

With this as background, members should be aware of the following areas that may be affected by the AT & T divestiture stock distribution:

I. Options Available to Certain AT & T Stockholders of Record

AT & T stockholders of record December 30, 1983 who own from 10 to 499 shares are being given the following three options:

1. Receive whole shares in any or all of the regional companies, with cash payment for fractional shares;
2. Deposit shares in each regional company's dividend reinvestment plan;
3. Sell their holdings in one or more of the regional companies and buy stock in other regional companies.

In mid-January, 1984, AT & T plans to mail to these stockholders their option cards, but shareholders will have until April, 1984 to elect what distribution they desire. Because of the substantial time interval, the Association strongly recommends that members require their customers to immediately complete and return their option card to AT & T to insure that the new shares are promptly distributed to them. Before accepting a when-issued sell transaction in any regional company, members should determine which option their customer will elect because up to April, 1984, AT & T will not deliver any shares prior to their having received an executed option card signed by the stockholder. After April, 1984, only whole shares in the regional companies will be distributed, with cash payment made for any fractional shares. Thereafter, members have the responsibility for obtaining the necessary securities against sales to complete delivery on settlement date at the time the when-issued transactions go regular way.

II. Application of Regulation T to When-Issued Transactions

A. Cash Account

1. Regulation T, Section .8(b) requires full cash payment for customer purchases within 7 business days of the date any when-issued security is made available by the issuer for delivery to purchasers. Since the when-issued securities will not be available until the middle of February, 1984, payment under Regulation T for cash account purchases will not be required until late February, 1984. (See Ninety-Day Freeze Section below.)

Notwithstanding this, NASD Rule of Fair Practice 30, Appendix A, Section 6 (paragraph 2180A) requires that transactions in when-issued securities executed in cash accounts are subject to the same margin maintenance requirements and marks-to-market as they would have were they executed in a margin account. (See Section II B. for details.)

Although fiduciary-type accounts as identified in Section 6 are not subject to this margin requirement, the Board's action to adopt a temporary rule amendment as noted above renders this exception inapplicable and these types of accounts will now be required to deposit 10% of the contract price for each when-issued security transaction within seven business days from the date of the transaction and to maintain thereafter a minimum maintenance requirement of 7%.

Members must take prompt and appropriate action when accounts fail to provide initial deposits or meet subsequent maintenance requirements. Charges to capital for deficits in accounts are discussed in Section V below.

2. 90-Day Freeze in Cash Accounts

Section .8(c) of Regulation T requires that a customer's cash account be frozen for a period of 90 calendar days if a non-exempt security in the account is sold or delivered to another broker-dealer without having been previously paid for in full by the customer. Subsequent purchases can be effected only if cash is deposited in the account prior to execution or if proper authorization is obtained from the NASD or a national securities exchange.

Section .8(c) of Regulation T is applicable to transactions in all AT & T when-issued securities. Therefore, if a customer sells an existing when-issued position, full cash payment for the purchase must be made during the period of time between the purchase and sale. If not, the account is subject to a 90-day freeze period which would begin on the date of the sale of an AT & T when-issued security, regardless of the date it was previously purchased.

B. Margin Accounts

NASD Rule of Fair Practice, Article III, Section 30 and Regulation T apply to when-issued transactions which take place in margin accounts. Specifically, Section .5(a) of Regulation T requires that a when-issued transaction in a margin account be treated for margin purposes as if the security were an issued margin security. Therefore, all margin requirements apply, i.e. 50 percent initial margin requirement on net long or net short when-issued commitments, plus any unrealized loss or less any unrealized profit on the commitment. Should an account with a net short when-issued commitment have a net long position in the related issued security, no margin is required.

Section 5 of Appendix A of the NASD's Rule of Fair Practice Article III, Section 30 requires that the minimum amount of margin maintained in any transaction or net position in each when-issued security be the same as if that security were issued. As such, when-issued positions are fully subject to the Association's minimum margin maintenance requirements as described in Appendix A, Section 4. Briefly, minimum margin maintenance is the greater of \$2,000 or:

- 25% of the market value of all net long positions;
- \$5 per share or 30% of market value (whichever is greater) of each stock short in the account with a market value of \$5 per share or above;
- For purchases under \$2,000, a deposit equal to the total cost must be made.

Section 5 of Appendix A also requires that each position in a when-issued security be marked to the market separately to determine margin maintenance requirements, and any unrealized profit applied only to the amount of margin required on the position in the particular security. A short position in a when-issued security in an

account that is also long the securities upon which the when-issued security is to be issued should be marked to the market and the balance in the account adjusted for any unrealized loss.

The current market value of all fully-paid securities (including the underlying security) held in a cash account may be used as an offset to the mark-to-the-market capital charge after deducting from the total value NASD maintenance requirements for such securities, provided such securities are held in negotiable form.

III. Transaction Reporting

As NASD Notice to Members 83-59 advises, all seven regional holding companies, while to be listed on the New York Stock Exchange, are fully subject to SEC Rule 19c-3.

All requirements for reporting transactions to the Consolidated Tape as specified by the provisions of Article XVIII, Schedule G of the Association's By-Laws apply to member transactions in any of the AT & T when-issued securities which are executed in the over-the-counter market. Inasmuch as these securities are subject to Rule 19c-3, any market maker in CQS is a "Designated Reporting Member" for purposes of Schedule G. Members are referred to Schedule G (paragraph 1681) for details.

With regard to when-issued trading in AT & T divested securities only, orders received prior to the opening of the reporting member's market in each such security which are simultaneously executed at the opening at the same price may be aggregated (i.e. bunched) for transaction reporting purposes into a single transaction report. However, members should not use the modifier (.B) to identify a bunched trade report in AT & T when-issued securities. Bunching is only permitted for pre-opening orders.

Members reporting bunched trades are required to identify in their records all of the individual orders that were aggregated for each bunched trade reported.

IV. Clearing of AT & T When-Issued Transactions

Those NASD firms that are members of the National Securities Clearing Corporation (NSCC) have already received notifications from NSCC describing its plans for processing when-issued trades in divested AT & T and the seven regional holding companies. Briefly, NSCC will establish a special when-issued account that will produce when-issued contracts on machine-readable output, as well as on conventional hard-copy reports.

Members are reminded that NSCC will be computing daily cash marks-to-the-market which could potentially result in substantial daily cash demands. Members are encouraged to become familiar with NSCC's comparison and clearance systems for AT & T so that they can effectively meet their commitments during the when-issued trading period and on settlement date in February, 1984.

V. Special Net Capital Provisions

During the period of when-issued trading, the SEC is granting special temporary net capital treatment to (i) the securities haircut requirements applicable to

proprietary positions under subparagraphs (c)(2)(vi) and (c)(2)(viii) of Rule 15c3-1 all securities involved in the AT & T divestiture which are cleared through the facilities of a registered clearing agency on a continuous net settlement (CNS) system; and (ii) deficits in special cash accounts of "exempt" accounts.

A.	<u>Positions</u>	<u>Haircut</u>
1.	<u>Long AT & T (old shares)</u>	
	a. Long position only	15% of long market value
	b. Long position and short equal when-issued positions of divested issues (flat after February, 1984 regular way settlement date)	5% of when-issued market value
	c. Long position and short some when-issued positions of divested issues.	5% of when-issued market value plus 15% of unhedged net long market value
2.	<u>Short AT & T (old) shares</u>	
	a. Short position only	15% of short market value
	b. Short position and long position equal when-issued position in divested issues (flat after February, 1984 regular way settlement date)	5% of short market value
	c. Short position and long some when-issued positions of divested issues	5% of long when-issued market value plus 15% of unhedged net short market value, plus mark-to-market loss if any. (Gains can be used to reduce haircuts.)
3.	<u>When-Issued Positions</u>	
	a. Net long or short positions in any issue (each issue must be considered separately)	15% of market value plus mark-to-market loss if any. (Gains can be used to reduce haircut.)
	b. Matching long and short positions in any issue	Deduct net loss if any for all matched positions taken together. Ignore net gain.

4. Undue Concentration

- a. Market value of net long or short positions in any issue exceeding 10% of tentative net capital. (Shares of divestiture issues to be received will be included.) 7 1/2%

5. Options

- a. In the money options for pre-divestiture shares offset by when-issued positions will be given the same consideration as long or short positions in 1 and 2 above adjusted for strike price and mark-to-market consideration, (i.e. matched) - 5%; net short unmatched 15% of market value of underlying shares.
- b. Out of the money options will be treated as in subparagraph (c)(2)(x) or Appendix A of Rule 15c3-1 as appropriate, subject to a 15% haircut where deductions are based on underlying securities values.

B. Customer Accounts

The net capital charge for deficits in customer accounts after application of margin calls outstanding five business days or less is 100% of the deficit amount as required by subparagraph (c)(2)(iv)(B) of Rule 15c3-1. However, in the case of those "exempt" accounts subject to the above-noted 10% and 7% requirements, the net capital charge after application of calls for margin outstanding less than five business days shall be based on the amount of the deficit in relation to the member's excess net capital as follows:

<u>Condition</u>	<u>Charge to Net Capital</u>
1. For "exempt" accounts where trades are affirmed through the Depository Trust Corporation's Institutional Delivery System (DTC-IDS):	
a. Deficit up to 10% of excess net capital	10% of deficit
b. Deficit over 10% but not over 20% of excess net capital	25% of deficit
c. Deficit over 20% of excess net capital	100% of deficit

2. For "exempt" accounts whose trades are not affirmed through DTC-IDS:
 - a. Deficit up to 10% of excess net capital 25% of deficit
 - b. Deficit over 10% of excess net capital 100% of deficit

3. Total deficits in all "exempt" accounts combined, less amount of deficits charged per 1 and 2 above:
 - a. Up to 100% of excess net capital No charge
 - b. Over 100% of excess net capital 100% of deficit which exceeds 100% of excess net capital

4. Short due bill securities

If payment of proceeds is made to any customer against receipt of AT & T shares with due bills, the due bill positions will be treated as unsecured shorts. 100% of the market value of the due bill securities

- C. Other
 - "Exempt" accounts can meet margin requirements by depositing with the broker-dealer cash or readily marketable securities. If there are legal impediments to the depositing of cash or securities, then Letters of Credit or Guarantee can be accepted by the member. However, these letters will be given no value for purposes of Rule 15c3-1 when computing deficits in B above.
 - Excess net capital may be based on the most recently required SEC Rule 15c3-1 capital computation.
 - For valid reasons, members may request extensions of time for initial or maintenance deposits using existing NASD Regulation T processing procedures and forms.
 - For when-issued positions, the amount of deficit may be calculated by netting gains or losses in matched when-issued long and short positions in one when-issued AT & T security with the others taken together.

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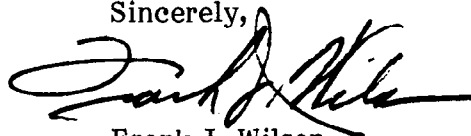
The Association cautions members who plan to actively engage in when-issued trading of the AT & T divested issues to be aware at all times of their cash and capital needs and to establish in-house procedures to assure that trading activity for both proprietary and customer accounts is being maintained within levels permitted by the firm's cash flow resources and excess net capital. The Association will be monitoring designated members' activities in this area and will be watching closely for any impact on a firm's financial and operational condition that might result from market movements in all AT & T issues. The Association's normal surveillance programs may be expanded to require the filing of special reports relative to AT & T trading activity if conditions warrant.

Members are encouraged to discuss with their local NASD District Office their plans for AT & T trading and to keep the District Office apprised of any significant changes.

* * * * *

Any questions about this notice should be directed to Darrell Proctor, Associate Director - Financial Responsibility, at (202) 728-8236 or Thomas Cassella, Director - Financial Responsibility, at (202) 728-8237. Questions about trade reporting should be addressed to Stephen Hickman in Market Surveillance at (202) 728-8201.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank J. Wilson", written in a cursive style.

Frank J. Wilson
Executive Vice President
Legal and Compliance

NASD

National Association of Securities Dealers, Inc.
1735 K St., N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-63

November 22, 1983


TO: All NASD Members and Interested Persons

RE: 1984 Schedule of Holidays

Listed below is the NASD's 1984 schedule of holidays.

January 2 (Monday)	New Year's Day Observed
February 20 (Monday)	Washington's Birthday Observed
April 20 (Friday)	Good Friday
May 28 (Monday)	Memorial Day Observed
July 4 (Wednesday)	Independence Day
September 3 (Monday)	Labor Day
November 6 (Tuesday)	National Election
November 22 (Thursday)	Thanksgiving Day
December 25 (Tuesday)	Christmas Day

Sincerely,


Gordon S. Macklin
President

NASD

National Association of Securities Dealers, Inc.
1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-64

November 22, 1983

TO: All NASD Members and Interested Persons

RE: Implementation of the Revised Direct Participation Programs Principal Examination (Series 39)

ATTENTION: Training Directors and Registration Personnel

Effective February 1, 1984, the NASD will implement changes to the Direct Participation Programs Principal Examination (Series 39). These revisions were made by the Association under the overall direction of the Qualifications Committee of the Board. At the inception of each examination program, a review committee of industry experts is formed by the Qualifications Committee to work with the NASD staff in identifying the areas to be covered on the test and to approve each question to be used in the examination program. This process continues after an examination program is implemented with periodic meetings of the review committee to review new questions, to review questions with problem statistics and to effect revisions occasioned by changes in the tax laws and securities statutes and regulations. This revision to the Series 39 examination reflects such changes as they relate to direct participation programs and will be incorporated into all Series 39 examinations administered on February 1, 1984.

The revised study outline for Series 39 can be ordered from the Association's Executive Office in Washington, D. C., or any of its 14 District Offices. The cost per copy is \$2.00, prepaid.

The material in the new study outline is divided among five major subject matter areas. These five areas are listed below with the number of questions from each area to be selected for inclusion in an examination. The total number of questions selected for an examination will be 100 (up from 50 questions on the current examination) and candidates will be required to score 70 percent or better in order to pass. The Series 39 examination will continue to be administered on the PLATO System of the Control Data Corporation. Testing time for the examination will be two hours.

Section Title	Number of Items In Each Examination
1.0 Structure of Direct Participation Programs	18
2.0 Supervision of Underwriting Activities	30
3.0 Sales Supervision; General Supervision of Employees; Regulatory Framework of NASD	20
4.0 Compliance with Financial Responsibility Rules	20
5.0 NASAA Guidelines	12
	<hr/>
Total	100

New material added to the examination includes the following:

- Section One IRS partnership qualification requirements and tax consequences of direct participation programs.
- Section Two Updated to include Regulation D under the Securities Act of 1933 and Appendix F under Section 34 of the NASD Rules of Fair Practice.
- Section Three Remains unchanged.
- Section Four Coverage of the financial responsibility rules has been expanded to cover in greater detail the rules that apply to firms specializing in the sale of direct participation programs.
- Section Five NASAA Guidelines for real estate and oil and gas programs have been added to assure comparability between the Association's program and state regulation of these products.

Questions regarding this notice should be directed to Carole Hartzog in the Qualifications Department at (202) 728-8141.

Sincerely,



Frank J. McAuliffe
Vice President
Qualifications and Examinations

NASD

National Association of Securities Dealers, Inc.
1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-65

November 22, 1983

I M P O R T A N T

Officers * Partners * Proprietors

TO: All NASD Members and Other Interested Persons

RE: Due Diligence and Certification Requirements With Respect To
Taxpayer Identification Numbers and Backup Withholding

Earlier this year, the provisions under the Tax Equity and Fiscal Responsibility Act of 1982 ("TEFRA") with respect to withholding on dividends and interest was repealed by Congress.

Shortly after the repeal of withholding, the Interest and Dividend Tax Compliance Act of 1983 ("The Act") was enacted as a compromise measure.

Certain provisions of the Act, particularly those relating to certification requirements for taxpayer identification numbers ("TIN") and backup withholding will impact members who are payors of reportable dividends, interest or gross proceeds.

What follows is a summary of the key provisions of the temporary regulations issued under the Act. The full text of the temporary regulations, in a question and answer format, are reprinted in this notice.

DUE DILIGENCE AND CERTIFICATION REQUIREMENTS

Commencing January 1, 1984, Association members who act as payors of reportable interest and dividends or who are otherwise subject to the information reporting requirements under TEFRA, e.g., gross proceeds reporting, are subject to the due diligence and certification requirements with respect to taxpayer identification numbers and backup withholding.

The IRS is authorized to impose a penalty of \$50 per failure on payors who fail to furnish a taxpayer identification number or provide the service with an obviously incorrect TIN. Additionally, the Interest and Dividend Tax Compliance Act of 1983 requires a payor to commence backup withholding at a rate of 20% on any reportable payment, i.e., dividends, interest, and gross proceeds, for any non-exempt account where either of the above conditions exists.

A payor would not be subject to penalty if the customer involved (payee) has certified, under penalty of perjury, that the taxpayer identification number furnished to the payor is the payee's correct number. Additionally, a payor would not be subject to a penalty if due diligence was exercised in soliciting the customer's correct taxpayer identification number.

Due Diligence for Accounts in Existence Prior to January 1, 1984

While not mandatory, the regulations provide several alternatives to broker-dealers who wish to avoid the imposition of penalties by performing due diligence.

Alternative No.1 (Section A-5)

- By December 31, 1983, a payor must send a separate mailing by first-class mail to any customer who has not previously certified under penalties of perjury that his taxpayer identification number is the correct number. This mailing must: (1) contain a notice which explains what a TIN is; (2) advise the payee of his obligation to provide a correct TIN to the member; (3) state that if the customer has not provided the member with the correct TIN that the customer may be subject to a \$50 penalty and that any payments made to the customer may be subject to backup withholding commencing on January 1, 1984; and, (4) advise the customer on how to provide the member with a correct TIN. A sample notice is provided in Section A-7 of the regulations.

If this alternative is chosen, the member must also provide a prepaid, postage reply envelope and a certification form on which the customer may make the appropriate certification. In this regard, the IRS has developed Form W-9 which members may rely upon to obtain a customer's TIN with the appropriate certification. (A copy of Form W-9 is enclosed in this notice). The regulations permit the use of substitute forms (Section A-10) which must provide for name, address, and TIN and appropriate space for the required certification.

Alternative No. 2

- Section A-6 of the temporary regulations permit Association members to defer the separate mailing required under Alternative No. 1 provided that the following steps are undertaken. First, the separate mailing referred to under Alternative No. 1 would still be required by December 31,

1983. However, the mailing would be limited to only those accounts which have not furnished a TIN or who have furnished an obviously incorrect number. Second, the member would be permitted to send a mailing (which would not be required to be separate from other mail) to all other accounts which have not previously certified as to the accuracy of their TIN. This form would request the account to verify the accuracy of the TIN and provide for the appropriate certification under penalty of perjury that the TIN is correct. This mailing must also be made no later than December 31, 1983. If Alternative No. 2 is chosen, the member must send a follow-up separate mailing, no later than March 31, 1984, to all accounts which have not by that date certified the accuracy of their TIN's.

For accounts opened in December 1983 subsequent to the mailings described above, members will have until January 31, 1984, to send the required mailings.

Due diligence will be considered exercised even if an account fails to return the appropriate certification to the member. In this case, the member must continue to solicit the account in each year subsequent to 1983 until the account provides the appropriate certification. Annual solicitations need not be made in separate mailings (Section A-25).

Members are therefore advised that in the future, a Form W-9 or equivalent should be completed for all new accounts on a routine basis in order to avoid the costs of additional mailings or the implementation of backup withholding.

Special Rules for Accounts Opened After December 31, 1983

In order to avoid backup withholding with respect to accounts that are opened on or after January 1, 1984, a member, in addition to obtaining certification as to the accuracy of the TIN, must also obtain certification that the account is not already subject to backup withholding due to notification from the IRS of under-reporting. To obtain this certification, a member may use Form W-9 or a substitute form as described in Section A-36 of the temporary regulations.

The regulations provide that if either certifications are not provided, the member must initiate backup withholding on any dividend or interest payments only.

BACKUP WITHHOLDING

As previously noted, commencing January 1, 1984, a member must commence backup withholding on all reportable payments (including gross proceeds) if:

- an account fails to provide a TIN; or,
- if an account has an obviously incorrect TIN (e.g., the number provided does not contain the proper number of digits).

These are the only two conditions which would require backup withholding on all reportable payments including gross proceeds. Failure to obtain the required certification from pre-1984 accounts will not in and of itself result in backup withholding so long as the number is provided and is not obviously incorrect.

Backup withholding will be required, however, only on reportable dividend and interest payments for "post-1983" accounts if the account has not certified as to the accuracy of its TIN or has not certified that it is not subject to backup withholding due to underreporting. Naturally, if a "post-1983" account has a missing or obviously incorrect TIN, backup withholding would be required on all reportable payments.

Accounts Exempt from Backup Withholding

Those accounts previously exempt from the withholding under the now repealed withholding regulations continue to be classified under the temporary regulations as "exempt recipients" for purposes of backup withholding. These accounts include:

- a corporation;
- a financial institution;
- an organization exempt from tax under Section 501(a), or an individual retirement plan;
- the United States or any agency or instrumentality thereof;
- a state, the District of Columbia, a possession of the United States, or any subdivision or instrumentality thereof;
- a foreign government, a political subdivision of a foreign government, or any agency or instrumentality thereof;
- an international organization or any agency or instrumentality thereof;
- a registered dealer in securities or commodities registered in the U.S. or a possession of the U.S.;
- a real estate investment trust;
- a common trust fund operated by a bank;
- an exempt charitable remainder trust, or a non-exempt trust;
- an entity registered at all times under the Investment Company Act of 1940; or,
- a foreign central bank of issue.

Since these types of accounts are not subject to backup withholding, they are also exempt from the mailings described in the due diligence provisions noted above.

Payments of dividends not generally subject to backup withholding include the following:

- Payments to nonresident aliens subject to withholding under Section 1441;
- Payments to partnerships not engaged in a trade or business in the U.S. and which have at least one nonresident partner;
- Payments of patronage dividends where the amount received is not paid in money;
- Payments made by certain foreign organizations.

Payments of interest not generally subject to backup withholding include the following:

- Payments of interest on obligations issued by individuals;
- Payments of tax-exempt interest;
- Payments to nonresident aliens;
- Payments on tax-free covenant bonds;
- Payments made by certain foreign organizations;

Special Rules for Broker-Dealers

Special rules also apply to members who hold securities in safekeeping which are registered in the customer's name (Section A-41), i.e., the member is not the payor on the instrument. These rules apply to "post-1983" accounts and provide that the member must:

- obtain the required certifications on the account;
- furnish the TIN to the actual payor; and,
- notify the payor to impose backup withholding if either of the required certifications are not provided.

For purposes of this section, a "post-1983" account is defined as one which was either established on or after January 1, 1984, or was established during 1983 but was inactive. For any account which is not a "post-1983" account and the broker is not the payor of the instrument, the member's only obligation is to provide the account's TIN to the payor unless the member has already been put on notice by the IRS that the account is subject to backup withholding.

The full text of the temporary regulations is attached to this notice. It is anticipated that final regulations will be issued shortly. Members will be advised of publication of the final regulations as soon as possible and will also be informed of any material differences from the temporary regulations.

Efforts are currently underway by the Securities Industry Association and others to seek a delay in the implementation of the backup withholding provisions. Chances of obtaining such a delay, however, are uncertain. Members should, therefore, already be in the process of gearing up their operations to accommodate these regulations.

Members who employ outside service bureaus for recordkeeping purposes are urged to contact these agencies to ensure that systems will be developed to comply with these requirements.

The Association, as a service to its members, has established a liaison with the Internal Revenue Service in an attempt to facilitate the receipt of answers to questions which might arise in attempting to comply with these regulations. In this regard, the Association will attempt to assist members in obtaining clarification of the various provisions of the regulations from the IRS.

Members who are seeking formal rulings or requesting interpretations of the tax laws are advised that the IRS is prohibited from issuing rulings to business, or trade associations concerning the application of tax laws to members of a group and therefore, should proceed to contact the IRS directly for such rulings.

Please direct any questions concerning the temporary regulations or any questions concerning this notice to James M. Cangiano, Associate Director, Department of Policy Research (202) 728-8273.

Sincerely,


Gordon S. Macklin
President

Attachments

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 35a

[T.D. 7916]

Due diligence and certification requirements with respect to taxpayer identification numbers and backup withholding**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the due diligence and certification requirements with respect to taxpayer identification numbers and backup withholding. Changes to the applicable tax law were made by the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369). These regulations affect payors and payees of reportable interest, dividends, and patronage dividends and brokers and provide them with the guidance necessary to comply with the law.

DATE: The temporary regulations are effective for payments made after December 31, 1983.

FOR FURTHER INFORMATION CONTACT: Diane Kroupa of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (202-566-3829).

SUPPLEMENTARY INFORMATION:**Background**

This document contains temporary regulations relating to the due diligence and certification requirements of payors and payees of reportable interest, dividends and patronage dividends and brokers. Section 3406 was added to the Internal Revenue Code of 1954 by section 104 of the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 371), and section 6676 of the Code was amended by section 105 of the Act (Pub. L. 98-67, 97 Stat. 380). As these provisions are generally effective for payments made after December 31, 1983, there is a need for immediate guidance so that payors and payees can make preparations to comply with these provisions. A new Part 35a, Temporary Employment Tax Regulations under the Interest and Dividend Tax Compliance Act of 1983, is added by this document to Title 26 of the Code of Federal Regulations.

It is expected that further temporary regulations with a cross-reference to a notice of proposed rulemaking will be published in the near future containing additional rules relating to backup withholding. The temporary regulations contained in this document will remain in effect until superseded by final regulations on this subject.

These temporary regulations, presented in question and answer format, are intended to provide guidelines upon which payors and payees of reportable interest, dividend, and patronage dividend payments may rely in order to resolve questions specifically set forth herein. However, no inference should be drawn regarding issues not raised herein or reasons certain questions, and not others, are included in these regulations.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 533(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

The principal author of these regulations is Diane Kroupa of the Legislation and Regulations Division of the Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and the Treasury Department participated in developing the regulations on matters of both substance and style.

List of Subjects in 26 CFR Part 35a

Employment taxes, Income taxes, Backup withholding, Interest and Dividend Tax Compliance Act of 1983.

Adoption of amendments to the regulations

Accordingly, a new Part 35a consisting of § 35a.9999-1 is added to Title 26 of the Code of Federal Regulations. The new provision reads as follows:

PART 35a—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

§ 35a.9999-1 Questions and answers concerning the due diligence requirement and the certification requirements in connection with backup withholding and other related issues.

The following questions and answers principally concern the due diligence exception to the penalty on payors of reportable interest or dividend payments for failure to provide the payee's correct taxpayer identification number on certain information returns and the certification requirements in connection with backup withholding under the Interest and Dividend Tax Compliance Act of 1983 (Pub. L. 98-67, 97 Stat. 369):

In general

Q-1. What payors are subject to the new due diligence requirement with respect to their obligation to provide payees' correct taxpayer identification numbers on information returns?

A-1. Payors of reportable interest or dividend payments are subject to the new due diligence requirement.

Q-2. What is a reportable interest or dividend payment?

A-2. A reportable interest or dividend payment is a payment of interest, dividends, or patronage dividends that is of a kind, and to a payee, that is subject to information reporting.

Imposition of penalty for failure to provide a correct taxpayer identification number

Q-3. Is a payor subject to a penalty for failure to provide a correct taxpayer identification number on an information return with respect to a reportable interest or dividend payment if the payee has certified, under penalties of perjury, that the taxpayer identification number furnished to the payor is the payee's correct number, the payor provided that number on an information return, and the number is later determined not to be the payee's correct number?

A-3. No. A payor is not subject to a penalty for failure to provide the payee's correct taxpayer identification number on an information return, if the payee has certified, under penalties of perjury, that the taxpayer identification number provided to the payor was his correct number, and the payor included such number on the information return.

Q-4. Is a payor subject to a penalty for failure to provide a correct taxpayer identification number on an information

return if the payee does not certify, under penalties of perjury, that the taxpayer identification number provided to the payor is correct, and the number is later determined not to be the payee's correct number?

A-4. A payor is subject to a penalty if the taxpayer identification number of a payee provided on an information return is determined not to be the payee's correct number, unless the payor exercised due diligence in soliciting the payee's correct taxpayer identification number and in furnishing such number on the information return.

Due diligence defined for pre-1984 accounts and instruments

Q-5. In order for a payor of a reportable interest or dividend payment to be considered to have exercised due diligence in furnishing the correct taxpayer identification number of a payee with respect to a pre-1984 account or instrument, what actions must the payor take?

A-5. First, by the applicable date provided in A-6, the payor must send a separate mailing by first-class mail to any payee who has not previously certified, under penalties of perjury, that the taxpayer identification number furnished to the payor is the payee's correct number. This mailing must contain a notice that: (1) Informs the payee what a taxpayer identification number is, (2) advises the payee that he must provide a correct taxpayer identification number to the payor, (3) states that if the payee has not furnished a correct taxpayer identification number to the payor the payee may be subject to a \$50 penalty and that payments to the payee may be subject to backup withholding starting on January 1, 1984, and (4) advises the payee how to provide a correct taxpayer identification number to the payor. The form of the notice is described in A-7. The payor must also include in the mailing a postage-prepaid reply envelope and a certification form on which the payee may certify, under penalties of perjury, that he is furnishing his correct taxpayer identification number to the payor. The specific requirements for the form of this certification are set forth in A-9 and A-10.

Second, in the case of a pre-1984 account or instrument for which the payee has provided no taxpayer identification number or for which the taxpayer identification number provided is obviously incorrect (*i.e.*, contains an incorrect number of digits), the payor must have commenced backup withholding on payments made after December 31, 1983.

Third, the payor must use the same care in processing taxpayer identification numbers provided by payees that a reasonably prudent payor would use in the course of the payor's business in handling account information, such as account numbers and account balances.

Fourth, the payor must send a mailing in each year subsequent to 1983 to payees who have not by that time provided a taxpayer identification number under penalties of perjury. This mailing need not be sent separately from other mail to the payee. This mailing also need not contain a postage-prepaid reply envelope. The payor is required to process responses to this mailing in the same manner described in the preceding paragraph.

Q-6. In order to be considered to have exercised due diligence in soliciting the payee's taxpayer identification number, by what date must the payor send the separate mailing described in A-5 to a payee who has not previously provided his correct taxpayer identification number to the payor under penalties of perjury?

A-6. The separate mailing must be made on or before December 31, 1983, unless the payor complies with the alternative procedure set forth in the following two paragraphs.

A payor may defer the separate mailing referred to above, *Provided*, That the payor: (1) Sends a separate mailing by December 31, 1983, to all payees who have not furnished a taxpayer identification number to the payor or who have furnished an obviously incorrect number; (2) sends a mailing, which need not be separate from other mail, on or before December 31, 1983, to all other payees who have not previously provided their taxpayer identification numbers to the payor under penalties of perjury; and (3) sends, on or before March 31, 1984, a separate mailing to all payees who have not by that date certified under penalties of perjury that their taxpayer identification numbers provided to the payor are correct.

The separate and nonseparate mailing required in 1983 and the separate mailing required on or before March 31, 1984, must include the notice, certification form, and postage-prepaid reply envelope as required in A-5. Any separate mailing made in 1984 pursuant to the prior paragraph does not replace a 1984 nonseparate mailing that is otherwise required by the fourth paragraph of A-5.

Q-7. In what form should the payor notify the payee of the information set forth in A-5 and solicit the payee's

correct taxpayer identification number, in order to satisfy the due diligence requirement with respect to a pre-1984 account or instrument?

A-7. The notice will satisfy the requirement of A-5 if it is conspicuous and contains language substantially similar to the following:

Important New Tax Information

Under the Federal income tax law, you are subject to certain penalties as well as withholding of tax at a 20 percent rate if you have not provided us with your correct social security number or other taxpayer identification number. Please read this notice carefully.

You (as a payee) are required by law to provide us (as payor) with your correct taxpayer identification number. If you are an individual, your taxpayer identification number is your social security number. If you have not provided us with your correct taxpayer identification number, you may be subject to a \$50 penalty imposed by the Internal Revenue Service. In addition, interest, dividends, and other payments that we make to you may be subject to backup withholding starting on January 1, 1984.

Backup withholding is different from the 10 percent withholding on interest and dividends that was repealed in 1983. If backup withholding applies, a payor is required to withhold 20 percent of interest, dividends, and other payments made to you. Backup withholding is not an additional tax. Rather, the tax liability of persons subject to backup withholding will be reduced by the amount of tax withheld. If withholding results in an overpayment of taxes, a refund may be obtained.

Enclosed is a postage-prepaid reply envelope in which you may return the enclosed form to furnish us your correct name and taxpayer identification number. Please sign the form and return to us.

Q-8. In order to be considered to have exercised due diligence, is a payor required to request the payee to return the form certifying that the taxpayer identification number provided to the payor is correct?

A-8. The payor may request the payee to sign and return the form irrespective of whether the taxpayer identification number shown for the payee is the payee's correct taxpayer identification number. Alternatively, the payor may request that the payee return the form only in the event that the taxpayer identification number shown for the payee is incorrect, or if no taxpayer identification number is shown. If the payor uses the alternative instruction described in the preceding sentence, the payor may make suitable changes to the last paragraph of the notice prescribed in A-7.

If, however, the payee does not return the form certifying his taxpayer identification number under penalties of

perjury, the payor is required in each subsequent year to request the payee to provide his correct taxpayer identification number under penalties of perjury (until the payee so certifies his taxpayer identification number).

Q-9. What form may the payee use to certify that the taxpayer identification number provided to the payor is correct?

A-9. The Internal Revenue Service is currently preparing Form W-9 on which a payee may certify his taxpayer identification number under penalties of perjury. Form W-9 will be available in mid October upon request to any Internal Revenue Service district director.

Q-10. May a payor use a substitute form instead of Form W-9 for a payee to certify, under penalties of perjury, that the taxpayer identification number provided to the payor is correct?

A-10. Yes. A substitute form must include space for the payee to provide his name, address, and taxpayer identification number. The form also must include space for the payee to certify under penalties of perjury that he is furnishing his correct taxpayer identification number to the payor. The wording of the certification must be substantially similar to the following: "Under penalties of perjury, I certify that the number shown on this form is my correct taxpayer identification number." If a payor uses a substitute form, the payor must provide either the Internal Revenue Service's instructions for Form W-9 or the substance of those instructions on or with the substitute form.

Q-11. In order to satisfy the due diligence requirement for pre-1984 accounts and instruments, is a payor required to send the mailing or mailings described in A-5 and A-6 to a payee who has previously furnished a taxpayer identification number to the payor, but who has not certified under penalties of perjury that the number provided to the payor is his correct taxpayer identification number?

A-11. Yes. A payor must send the mailing or mailings as required in A-5 and A-6 to any payee of a reportable interest or dividend payment who has not previously certified under penalties of perjury that the taxpayer identification number provided to the payor is the payee's correct number.

Q-12. May a payor satisfy the due diligence requirement by sending the separate mailings described in A-5 and A-6 with other mail the payor sends to the payee?

A-12. No. The separate mailing soliciting a certificate providing the payee's correct taxpayer identification number under penalties of perjury must

not include any other communication to the payee. No material may be included in the separate mailing to the payee other than the notice, certification form and instructions, and postage-prepaid reply envelope.

Q-13. What action must a payor take with respect to accounts opened, or instruments acquired, subsequent to the date on which the payor prepares its list of payees for a mailing required in 1983 but prior to January 1, 1984?

A-13. The payor is required to send the mailing otherwise required to be made by December 31, 1983, to the payees of such accounts and instruments not later than January 31, 1984, unless the payee has previously provided his taxpayer identification number to the payor under penalties of perjury.

Q-14. If a payor makes no reportable interest or dividend payments to a payee with respect to an account or instrument during 1983, so that the payor is not required to make a 1983 information return with respect to the payee, is the payor nevertheless required to send the mailing or mailings to the payee as provided in A-5 and A-6?

A-14. The payor must *either*: (1) Send the mailing or mailings in the manner and within the time periods provided in A-5 and A-6 or (2) send the separate mailing described in A-5 to the payee not later than October 1 of the year in which a payment to the payee with respect to the account or instrument first becomes reportable, or, if later, within 30 days after such reportable payment occurs. Thus, if payments to the payee aggregate less than \$10 in 1983, so that no 1983 information return is required, the payor need not make the mailing or mailings described in A-5 and A-6 within the time period provided in A-6; the payor must, however, make the separate mailing described in A-5 to the payee in the first year that payments to the payee aggregate \$10 or more.

Q-15. If the payor has obtained a certificate, signed under penalties of perjury, setting forth the payee's taxpayer identification number within the applicable time period in A-6, must the payor nevertheless make the mailing or mailings described in A-5 and A-6 to the payee in order to be considered to have exercised due diligence in obtaining the payee's correct taxpayer identification number?

A-15. No. The mailing requirement applies only to a payee from whom the payor has not previously received a taxpayer identification number certified under penalties of perjury.

Q-16. May a payor obtain the form containing the payee's taxpayer

identification number, signed under penalties of perjury, through a solicitation for such certification, in addition to the mailing or mailings required by A-5 and A-6, contained in a regular mailing to the payor's customers?

A-16. Yes. Such a certification may be obtained by a solicitation contained in a regular business mailing, by a request in person to a payee, or otherwise.

Special rules relating to the due diligence requirement for pre-1984 accounts and instruments

Q-17. Is a payor considered to have exercised due diligence in soliciting the correct taxpayer identification number with respect to pre-1984 accounts and instruments if the payor sends the required mailings to the last known address of the payee?

A-17. Yes.

Q-18. Is a payor required to send the required mailing or mailings to a payee's last known address in a case where other mailings to that address have been returned to the payor because the address was incorrect and no new address has been provided to the payor?

A-18. No. In such a situation, the payor is required to handle the required mailings in the same manner that he handles other correspondence to the payee.

Q-19. Is a payor required to send the mailing or mailings to the payee of an account or instrument with respect to which there is currently a "do not mail" or a "stop mail hold" instruction pursuant to which the payor does not send any mail to the payee?

A-19. No. A payor must, however, handle all required mailings in the same manner that the payor handles other correspondence with the payee.

Q-20. Is a payor required to send mailings to all payees listed on a joint account or jointly held instrument?

A-20. No. A payor is required to send mailings only to the first person listed on an account or instrument because the taxpayer identification number of that person is the one required to be provided on an information return.

Q-21. If a payor has a Form W-6 or W-7 exemption certificate, relating to the now-repealed 10 percent withholding on interest and dividends, signed by a payee, must the payor send the mailings to the payee?

A-21. Generally, yes. The Internal Revenue Service Forms W-6 and W-7 did not contain a certification, under penalties of perjury, that the taxpayer identification number furnished by the payee was correct. If, however, the payor utilized a substitute Form W-6 or

W-7 on which a payee certified under penalties of perjury in the manner provided on Form W-9 or in A-10 that the taxpayer identification number furnished to the payor was the payee's correct number, the payor is not required to send mailings to the payee.

Q-22. Is a payor of reportable interest or dividends required to send mailings to a corporation or other exempt recipient?

A-22. No. A payment of interest to a corporation or other exempt recipient described in § 1.6049-4(c)(1)(ii) of the Income Tax Regulations generally is not subject to information reporting. Thus, mailings to such recipients are not required. Although a payment of dividends or patronage dividends to a corporation and certain other exempt recipients generally is subject to information reporting, payors are not required to send mailings to persons described in § 31.3452(c)-1 (b) through (p) of the Income Tax Regulations in order to satisfy the due diligence requirement. A payee shall be considered an exempt recipient for the purpose of this rule if (1) the payee could be treated as an exempt recipient without the requirement of filing an exemption certificate under § 31.3452(c)-1 (b) through (p) of the Income Tax Regulations or (2) the payee has provided the payor with a certificate, signed under penalties of perjury, stating that the payee is an exempt recipient described in one or more paragraphs of § 31.3452(c)-1 (b) through (p) of the Income Tax Regulations. Form W-9 may be used for the purpose of making this certification. Alternatively, the payor may provide the payee with a substitute form for such certification, provided that the form conforms generally to Form W-9 and the instructions related to exempt recipients.

Q-23. Is a payor required to send mailings to a payee with respect to an account established under the Uniform Gift to Minors Act?

A-23. Yes. The law requires that the social security number of the minor be provided to the payor with respect to accounts established under the Uniform Gift to Minors Act. If the minor does not have a social security number, the minor may obtain one by filing a Form SS-5 with a Social Security Administration Office. The form certifying that the minor's social security number provided is correct may be signed by the custodian of the Uniform Gift to Minors Act account.

Q-24. Is a payor required to send mailings to a payee where the account is held as a club account, bowling league account, recreation account, or other informal account?

A-24. Yes. The law requires that the taxpayer identification number of the organization be provided to the payor. If the club, league, or other informal association does not have an employer identification number, one may be obtained by filing a Form SS-4 with an Internal Revenue Service Center.

Q-25. Must the payee sign and return to the payor the form certifying the payee's correct taxpayer identification number under penalties of perjury in order for the payor to satisfy the due diligence requirement?

A-25. No. The determination of whether the payor exercised due diligence in soliciting the payee's correct taxpayer identification number does not depend upon whether the payee signs and returns the form certifying his correct taxpayer identification number. If, however, the payee does not provide his taxpayer identification number to the payor under penalties of perjury, the payor is required to continue to solicit a certified taxpayer identification number from the payee in each year subsequent to 1983 until the payee has provided a certified taxpayer identification number. Such subsequent annual solicitations need not be made, however, in a separate mailing.

Requirement of backup withholding

Q-26. If a payee does not provide a taxpayer identification number to the payor what action is a payor required to take?

A-26. Starting January 1, 1984, the payor is required to commence backup withholding with respect to reportable payments to payees who have not provided a taxpayer identification number to the payor. If an individual payee does not have a social security number, he may obtain one by filing Form SS-5 with a Social Security Administration Office. Other payees may obtain an employer identification number by filing Form SS-4 with an Internal Revenue Service Center.

Q-27. Is a payor of reportable interest or dividends required to impose backup withholding with respect to payments made after December 31, 1983, to a payee of an account that existed, or an instrument that was held by the payee, on December 31, 1983, if the payee has not provided the payor with a written certification under penalties of perjury that the taxpayer identification number furnished is correct?

A-27. No. A payor of reportable interest or dividends that are paid with respect to an account or instrument existing on December 31, 1983, is not required to impose backup withholding starting on January 1, 1984, simply because the payee has failed to certify

his taxpayer identification number under penalties of perjury.

Q-28. Is a payor required to impose backup withholding with respect to a reportable interest or dividend payment made on or after January 1, 1984, if the taxpayer identification number furnished by the payee does not contain the proper number of digits?

A-28. Yes. A payor shall treat the payee as having failed to furnish a taxpayer identification number if the number provided does not contain the proper number of digits. The proper number of digits is nine for both the social security number and the employer identification number.

Q-29. Is a payor of reportable interest or dividend payments required to impose backup withholding on a payment made to an exempt recipient?

A-29. No. A payor is not required to withhold on a payment made to a person described in § 31.3452(c)-1 (b) through (p) of the Income Tax Regulations. A payee shall be considered an exempt recipient for purposes of this rule if (1) he may be treated as an exempt recipient without the requirement of filing an exemption certificate under the cited regulation or (2) the payee has provided the payor with a certificate, signed under penalties of perjury, stating that a payee is an exempt recipient described in one or more paragraphs of the cited regulation. Form W-9 may be used for the purpose of making this certification. Alternatively, the payor may provide the payee with a substitute form for such certification, provided that the substitute form conforms generally to Form W-9 and the instructions related to exempt recipients. A payor may in any case require an exempt recipient not otherwise required to file a certificate as to his status as an exempt recipient to file such a certificate, and may treat an exempt recipient who fails to file such a certificate as a person who is not exempt. A payor may require a separate certificate for each account or instrument maintained by an exempt recipient. A payor may require that any certification that a payee is an exempt recipient be made only on the substitute form provided by the payor; in that case, the payor must comply with the pertinent portions of § 31.3452(f)-1(b)(2) of the Income Tax Regulations relating to the procedures that a payor must follow upon receipt of an unacceptable form.

Q-30. Is a payor required to impose backup withholding on a pension or annuity distribution made on or after January 1, 1984, if the payee has not

provided his taxpayer identification number to the payor?

A-30. If pension withholding under section 3405 applies to a pension or annuity distribution and the payee does not make an election not to have pension withholding apply under that section, backup withholding does not apply. If, however, the payee makes such election under section 3405 or pension withholding does not otherwise apply, and the payee does not provide his taxpayer identification number to the payor (or the taxpayer identification number provided is obviously incorrect), the payor is required to withhold 20 percent of any payment to the payee to which section 6041 applies, unless the conditions of the following paragraph are satisfied.

If the annual distributions to a payee total \$5,400 or less (in which case withholding under section 3405 generally is not required), and if the payor has no social security number for the payee (or the social security number provided is obviously incorrect), the payor shall not impose backup withholding until the first payment made after June 30, 1984. By that date, the payee will have been able to obtain a social security number and provide it to the payor, in which case no amounts will be withheld.

Q-31. In determining whether a payee has failed to provide a taxpayer identification number with respect to an account that was in existence or an instrument held on December 31, 1983, so that backup withholding is imposed starting January 1, 1984, within what period of time just a taxpayer identification number provided by a payee be treated as having been received?

A-31. A payor must process a taxpayer identification number within 30 days after the payor receives the taxpayer identification number from the payee. Thus, for example, if a payor has no taxpayer identification number for a payee, and the payee provides his taxpayer identification number to the payor on December 15, 1983, the payor must process the number not later than January 14, 1984. As a result, the payor would be authorized to commence backup withholding with respect to payments made to the payee commencing January 1, 1984, but backup withholding must cease by January 14, 1984. The payor also is authorized to treat the taxpayer identification number as having been received at any time after it is provided, so that backup withholding need not be commenced in the circumstance outlined above.

Certification requirements for accounts opened and instruments acquired after 1983

Q-32. What actions must a payor take with respect to accounts that are opened or instruments acquired on or after January 1, 1984, in order to avoid imposing backup withholding on reportable interest or dividend payments?

A-32. In order to avoid imposing backup withholding with respect to accounts that are opened or instruments acquired on or after January 1, 1984, a payor of reportable interest or dividend payments must obtain a certification from the payee, signed under penalties of perjury, (1) that the taxpayer identification number provided to the payor is the payee's correct number and (2) that the payee is not subject to backup withholding due to notified payee underreporting. The form for these certifications is prescribed in A-35 and A-36.

Q-33. What payees can make the certification that they are not subject to backup withholding due to notified payee underreporting?

A-33. Any payee who has not been notified that he is subject to backup withholding as a result of notified payee underreporting can make the certification under the law. In addition, a payee who was subject to backup withholding due to notified payee underreporting may certify that he is not subject to backup withholding due to notified payee underreporting if the Service has provided the payee with written certification that backup withholding due to notified payee underreporting has terminated.

Q-34. Under what circumstances will an account be considered to have been in existence, or an instrument be considered to have been held, before January 1, 1984 (a "pre-1984 account")?

A-34. An account that is in existence before January 1, 1984, will be considered a pre-1984 account, irrespective of whether additional deposits are made to the account on or after January 1, 1984. In addition, if shares of a corporation are held before January 1, 1984 (or considered held before such date by operation of this rule), and additional shares are received by the holder, irrespective of whether such shares are received by reason of a stock dividend, as a result of an infusion of new cash, or otherwise, the new shares received will be considered a pre-1984 account, in the discretion of the payor. Where an account is opened, or an instrument is acquired automatically on the maturity or termination of an account that was in existence or

instrument held before January 1, 1984 (or considered to have been in existence or held before such date by operation of this rule), without the participation of the payee, the new account or instrument will be considered a pre-1984 account, in the discretion of the payor. For purposes of the preceding sentence, a payee shall not be considered to have participated in the acquisition of the new account or instrument solely by reason of the failure to exercise a right to withdraw funds on maturity or termination of the old account or instrument. Where a discount instrument with a maturity not exceeding one year (a "short-term instrument") is acquired upon the maturity of a short-term instrument, the participation of the payee in the acquisition of the newly-acquired instrument shall not be taken into account, and the new instrument shall be considered to have been acquired automatically, with respect to instruments acquired prior to January 1, 1985. In the case of insurance policies in effect on December 31, 1983, the election of a dividend accumulation option pursuant to which interest is paid, or the creation of an "account" in which proceeds of a policy are held for the policy beneficiary, may, in the payor's discretion, be treated as a pre-1984 account.

Q-35. What form may a payee of reportable interest or dividends use to certify under penalties of perjury, that the taxpayer identification number provided to the payor is correct and that he is not subject to backup withholding due to notified payee underreporting?

A-35. A payee may use Internal Revenue Service Form W-9 for both required certifications.

Q-36. May a payor of reportable interest or dividends or a broker provide a substitute form for a payee to certify under penalties of perjury that his taxpayer identification number is correct and that he is not subject to backup withholding due to notified payee underreporting?

A-36. Yes. A payor or broker may use a substitute form provided the language of the certification is substantially similar to the following: "Under penalties of perjury, I certify (1) that the number shown on this form is my correct taxpayer identification number and (2) that I am not subject to backup withholding either because I have not been notified that I am subject to backup withholding as a result of a failure to report all interest or dividends, or the Internal Revenue Service has notified me that I am no longer subject to backup withholding." A payor or

broker may use separate substitute forms to have the payee certify under penalties of perjury that (i) his taxpayer identification number is correct, provided the language is substantially similar to the certification in A-10 and (ii) he is not subject to backup withholding due to notified payee underreporting provided the language is substantially similar to clause (2) of the preceding sentence. A payor or broker also may incorporate both required certifications into other business forms, customarily used, such as account signature cards, provided the required certifications are clearly set forth.

If a payor or broker uses a single substitute form for both certifications, which does not follow the Form W-9 format, the form must contain an instruction to the payee that he must strike out the language certifying that the payee is not subject to backup withholding due to notified payee underreporting if he has been notified that he is subject to backup withholding due to notified payee underreporting, and the payee has not received a notice from the Internal Revenue Service advising him that backup withholding has terminated. If the payor or broker requires that the payee make the certification on a substitute form provided by the payor, the payor or broker may refuse to accept certifications (including certifications provided on Form W-9) that are not made on the form or forms provided by the payor or broker. If the payor or broker refuses to accept the form provided by the payee, the payor or broker then must comply with the pertinent portions of § 31.3452(f)-1(b)(2) of the Income Tax Regulations related to the procedures that a payor must follow upon receipt of an unacceptable form.

Q-37. With respect to reportable interest or dividends that are paid on an account opened or an instrument acquired on or after January 1, 1984, if a payee fails to certify, under penalties of perjury, (1) that the number furnished is his correct taxpayer identification number, and (2) that he is not subject to backup withholding due to notified payee underreporting, what action is a payor required to take?

A-37. A payor is required to withhold 20 percent of any reportable interest or dividend payment on such an account or instrument if either of the certifications specified is not provided.

Q-38. Is a payor ever required to withhold more than 20 percent of a payment?

A-38. No. Irrespective of how many conditions exist which cause backup withholding to apply, a payor is required to withhold only 20 percent of a

payment until all of the conditions no longer apply.

Q-39. Is a payor required to send a notice to the payee when the payor commences backup withholding?

A-39. In general, no. However, a payor of a readily tradable instrument that is not acquired directly from the payor must notify the payee that backup withholding has commenced, or will commence. The notice must be sent to the payee not later than 15 days after the payor makes the first payment to the payee that is subject to backup withholding. The notice must explain the steps the payee must take to stop backup withholding. The text of this notice will be provided in a regulation to be issued in the near future.

Q-40. Do special rules apply to payments made with respect to readily tradable instruments?

A-40. Yes. Special backup withholding rules apply with regard to readily tradable instruments when (1) the payee did not acquire the instrument directly from the issuer of the instrument and (2) a broker does not hold the instrument as nominee for the payee (*i.e.*, in street name). Under the special rules, a payor is required to impose backup withholding only if (1) the payor does not receive the payee's taxpayer identification number, or (2) the payor is notified by a broker that the payee failed to make the required certifications (described in A-32) to the broker and the payee did not make the certifications to the payor. When the payee acquires the instrument directly from the issuer of the instrument or when a broker holds the instrument as nominee for the payee, the rules applicable to payors apply.

Q-41. What rules apply to brokers?

A-41. When a broker is a payor (*i.e.*, the broker holds the instrument in street name), the regular rules for payors apply. If a broker is not the payor with respect to an instrument, different rules apply to the broker depending on whether the payee's account with the broker is treated as a "post-1983 account."

A "post-1983 account" is any account other than an account established prior to January 1, 1984, through which, during 1983, the broker either bought or sold an instrument for the payee or acted as nominee for the payee. (Both the determinations of (1) whether an account or instrument is treated as a post-1983 account of the payor for purposes of the payor's due diligence requirements (see A-34) and (2) when backup withholding applies to an instrument are made without regard to whether the instrument is acquired through a post-1983 account of a broker.)

When a readily tradable instrument is acquired through a "post-1983 account" and the broker is not the payor of the instrument, the broker must (1) obtain the certifications (described in A-32) from the payee but only once with respect to each account, (2) furnish the payee's taxpayer identification number to the payor, and (3) notify the payor to impose backup withholding if the payee failed to make either of the required certifications to the broker. The broker is required to give the information required by clauses (2) and (3) of the prior sentence to the payor in connection with the transfer instructions for the acquisition. The notice under clause (3) shall state that: "The [named payee] is subject to backup withholding under sections 3406(a)(1)(A), 3406(a)(1)(B), 3406(a)(1)(C), or 3406(a)(1)(D) of the Internal Revenue Code [circle whichever section applies]." A magnetic media, machine readable, or other similar notice substantially to the same effect also may be employed. After the transfer instructions are transmitted, the broker is not required to seek a missing taxpayer identification number or missing certification or to give any further notices with regard to the acquisition of the instrument.

When a readily tradable instrument is acquired through an account that is not a "post-1983 account" and the broker is not the payor of the instrument, the broker's sole responsibility is to furnish the payee's taxpayer identification number to the payor (unless the broker has been notified that the payee is subject to backup withholding under section 3406(a)(1)(B) or (a)(1)(C) of the Internal Revenue Code).

Window transactions

Q-42. Is a payor required to exercise due diligence in soliciting the taxpayer identification number of a payee with respect to the following payments ("window transactions"): Redemptions of United States savings bonds, and payments upon interest coupons, Treasury bills, commercial paper, and banker's acceptances?

A-42. No. The due diligence requirements do not apply to such payments. Thus, the certification requirements set forth in A-32 do not apply to such transactions. A payor is required to withhold 20 percent with respect to such payments only if the payee does not provide his taxpayer identification number to the payor. Payors remain obligated, however, to make an information return with respect to window transactions.

Q-43. Will a payor be allowed to furnish an information return to the payee with respect to a window transaction at the time the obligation or instrument is presented?

A-43. Yes. A payor may furnish an information return to the payee at the time of the transaction or any time prior to January 31 of the year following the calendar year in which the transaction occurs. In general, however, the payor must provide information returns with respect to window transactions to the Internal Revenue Service on magnetic tape, in accordance with section 6011(e)(2) of the Internal Revenue Code, effective for transactions after December 31, 1983.

Separate Form 1099

Q-44. Is a payor of interest, dividends, or patronage dividends paid in 1983 required to send a separate official Form 1099 to a payee?

A-44. No. A payor of interest, dividends, or patronage dividends paid in 1983 is not required to send a separate official Form 1099 to a payee. A payor may satisfy his obligation to furnish the required statement to the recipient by sending the statement with other business correspondence to the payee, such as a monthly statement.

Q-45. Is a payor of interest, dividends, or patronage dividends paid after January 1, 1984, required to send a separate official Form 1099 to a payee?

A-45. Yes. For payments made in 1984 and subsequent years, a payor is required to provide an official Form 1099 to a payee either in a separate mailing or in person. Payors also may use a substitute Form 1099 which contains provisions substantially similar to those of the prescribed form if the payor complies with all revenue procedures relating to substitute Form 1099 in effect at the time.

Q-46. Is a payee required to attach Form 1099 to his tax return?

A-46. No.

Miscellaneous

Q-47. In what manner is a payor required to remit to the Internal Revenue Service amounts withheld from any reportable payment?

A-47. A payor must deposit amounts withheld under the backup withholding provisions with a Federal Reserve Bank or an authorized financial institution in accordance with the deposit rules of § 31.6302(c)-1(a)(1)(i) of the Income Tax Regulations that apply to an employer with respect to employment taxes. The payor of a reportable payment may elect, however, in accordance with the instructions provided with Form 941, to deposit such amounts separately from

social security taxes and income tax withheld from wages. Thus, a payor may treat amounts withheld under section 3406 separately from amounts withheld from wages for purposes of determining when to remit the withheld amounts from any reportable payment. If, however, the payor elects to aggregate the amount withheld from wages with the amounts withheld under section 3406, the payor may do so. Regardless of the manner in which the payor elects to treat the withheld amounts for purposes of determining the time within which such amounts are required to be deposited, a payor must report the amounts withheld under section 3406 on the same Form 941 that the payor uses to report the employment taxes deposited.

Q-48. May a payor refuse to open an account for, or issue an instrument to a person on or after January 1, 1984, if the person fails to furnish his taxpayer identification number to the payor under penalties of perjury?

A-48. Yes. If the payor refuses to open an account or issue an instrument because the person fails to provide his taxpayer identification number under penalties of perjury, the payor will not be in violation of the Internal Revenue Code. If, however, the payor allows a person who has not provided his taxpayer identification number under penalties of perjury to open an account or acquire an instrument, the payor is required to impose backup withholding with respect to any interest or dividend payments thereafter made with respect to such account or instrument (unless the payee thereafter provides his taxpayer identification number certified under penalties of perjury). The payor is not permitted, however, to refuse to open an account or to issue an instrument if the payee fails to certify under penalties of perjury, that the payee is not subject to backup withholding due to notified payee underreporting.

Q-49. May a payor treat a certificate respecting a taxpayer identification number as valid if it is signed by a person other than the payee?

A-49. In certain instances, yes. A certificate may be signed by any person who, under the pertinent portions of sections 6061, 6062, 6063, and 6065 of the Internal Revenue Code and the regulations thereunder, is authorized to sign a declaration under penalties of perjury on behalf of the payee.

Q-50. What procedures must a payor follow in order to demonstrate that it has exercised due diligence in furnishing the correct taxpayer identification number of a payee, as required in A-5?

A-50. A payor is not required to retain a copy of the communication sent to each individual payee or to prove that the communication was sent to a particular payee. Instead, payors must establish the existence of procedures that are reasonably calculated to insure that each person required to receive a mailing as prescribed in A-5, in fact received such mailing, and that the payor exercised reasonable care in processing responses to such mailings.

Special rules for accounts, instruments and transactions of foreign persons

Q-51. Is a payor required to send the mailing or mailings described in A-5 and A-6 to foreign persons?

A-51. Generally no. A payor is required to send the mailing or mailings described in A-5 and A-6 to any payee to whom the payor makes a payment that is subject to information reporting. Generally, a payment of interest to a foreign person is not subject to information reporting. See § 1.6049-5 (b) (2) and (3) of the Income tax Regulations for the procedures to determine whether a payee of interest is a foreign person. See § 1.6042-3(b) (1), 2, and (3) and § 1.6044-3(c) of the Income Tax Regulations concerning exceptions from the information reporting requirements for payments of dividends and patronage dividends by and to certain foreign persons.

Q-52. Is a payor required to send the mailing or mailings described in A-5 and A-6 to foreign persons with respect to pre-1984 accounts and instruments if payments on those accounts and instruments would not have been reportable payments but for the fact that the foreign person failed to provide the penalty of perjury statement described in § 1.6049-5(b)(2)(iv) of the Income Tax Regulations?

A-52. A payor need not send the mailing or mailings described in A-5 and A-6 to a payee who has not previously provided the penalty of perjury statement described in § 1.6049-5(b)(2)(iv) of the Income Tax Regulations if (1) the payor sends a separate mailing to the payee on or before December 31, 1983, requesting the required penalty of perjury statement and (2) the payor has evidence in its records that the payee is a foreign person (provided that the payor has no actual knowledge that such evidence is false). If the payor has sent a nonseparate mailing on or before December 31, 1983, requesting the required penalty of perjury statement, the payor may send the separate mailing referred to in clause (1) on or before March 31, 1984. The separate mailing,

whether sent in 1983 or 1984, must be by first-class mail, or by airmail if sent to a foreign address, and must contain a notice describing the penalty of perjury statement set forth in § 1.6049-5(b)(2)(iv) and advising the payee that backup withholding may commence if the statement is not provided. The payor also must provide a reply envelope and a form on which the payee may make the statement described in § 1.6049-5(b)(2)(iv) under penalties of perjury. Neither the separate nor nonseparate mailing is required if the payor has received the required penalty of perjury statement from the payee.

The rules of A-18 and A-19 relating to a "do not mail" or "stop mail hold" instruction and to payees for whom the payor has no address, shall apply. The other evidence referred to in clause (2) above on which the payor may rely for treating a payee as a foreign person includes a written statement from the payee that he is neither a resident nor a citizen of the United States or an affidavit from an employee of the payor stating that he knows that, or the payee has represented orally that, he is a foreign person. The mere fact that the payee has provided an address outside the United States is insufficient evidence to establish that the payee is a foreign person for this purpose.

Q-53. Is a payor required to commence backup withholding on January 1, 1984, on payments with respect to accounts and instruments described in A-52 if the foreign person failed to provide the penalty of perjury statement described in § 1.6049-5(b)(2)(iv) of the Income Tax Regulations?

A-53. The payor need not commence backup withholding with respect to such payments made before July 1, 1984, provided that the payor (1) made the separate mailing described in A-52 before December 31, 1983, or has made the nonseparate mailing described in A-52 before December 31, 1983, and sends a separate mailing to those payees who have not provided the required statement by March 31, 1984, and (2) has

in its records the evidence described in A-52 that the payee is a foreign person.

Q-54. Do the backup withholding provisions apply to payments of interest within the United States by a payor that is an international organization or by a person acting in its capacity as a paying agent for such organization?

A-54. No, provided the international organization is in organization of which the United States is a member and which enjoys immunity or exemption from any liability or obligation to pay, withhold, or collect tax pursuant to an international agreement having full force and effect in the United States.

Q-55. Is a broker required to impose backup withholding with respect to transactions effected for pre-1984 accounts if the customer is an exempt foreign person who fails to provide the broker with the penalty of perjury statement described in § 1.6045-1(g)(1) of the Income Tax Regulations?

A-55. With respect to such transactions effected before July 1, 1984, a broker is not required to impose backup withholding if (1) the broker sends a separate mailing to the customer on or before December 31, 1983, requesting the penalty of perjury statement described in § 1.6045-1(g)(1) of the Income Tax Regulations and (2) the broker has evidence in his records that the customer is a foreign person (provided that the broker has no actual knowledge that such evidence is false). If the payor sent a nonseparate mailing on or before December 31, 1983, requesting the required penalty of perjury statement, the payor may send the separate mailing on or before March 31, 1984. The separate mailing, whether made in 1983 or 1984, must be by first-class mail, or by airmail if sent to a foreign address, and must contain a notice describing the required penalty of perjury statement and advising the customer that backup withholding may commence if the statement is not provided. The broker must also include in the mailing a reply envelope and provide a form on which the customer may make the required penalty of perjury statement. Neither the separate

nor nonseparate mailing is required if the payor has received the penalty of perjury statement from the customer.

The rules of A-18 and A-19 relating to "do not mail" or a "stop mail hold" instructions, and to payees for whom the payor has no address shall apply. The other evidence referred to in clause (1) above on which the broker may rely for treating a customer as a foreign person may include a written statement from the customer that he is neither a resident nor a citizen of the United States or an affidavit from an employee of the broker stating that he knows that, or the customer has orally represented that, he is a foreign person. The mere fact that the customer has provided an address outside the United States is insufficient evidence to establish that the customer is a foreign person for this purpose.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in section 3406 (a), (b), (c), (e), (g), (h), and (i), section 6042(a), section 6044(a), section 6045, section 6049 (a), (b), and (d), section 6103(q), section 6109, section 6302(c), section 6676, and section 7805 of the Internal Revenue Code of 1954 (97 Stat. 371, 372, 373, 376, 377, 378, 379; 26 U.S.C. 3406 (a), (b), (c), (e), (g), (h), and (i), 96 Stat. 587; 26 U.S.C. 6042(a), 96 Stat. 587; 26 U.S.C. 6044(a), 96 Stat. 600, 26 U.S.C. 6045, 96 Stat. 592, in sections 104 and 105 of the Interest and Dividend Tax Compliance Act of 1983 (97 Stat. 369, 371, and 380).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: September 30, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

[FR Doc. 83-27157 Filed 9-30-83; 3:52 pm]

BILLING CODE 4830-01-M

Payer's Request for Taxpayer Identification Number

Please print or type	Name as shown on account (if joint account, also give joint owner's name)
	Address
	City, State, and ZIP code

List account number(s) here (See Instructions) ▶ _____

<p>PART I.—Taxpayer Identification Number</p> <p>Enter the taxpayer identification number in the appropriate box. For most individual taxpayers, this is the social security number.</p> <p>Note: If the account is in more than one name, see the chart on page 2 for guidelines on which number to give the payer.</p> <div style="display: flex; justify-content: center; align-items: center; gap: 20px;"> <div style="border: 1px solid black; padding: 5px; width: 150px; text-align: center;">Social security number</div> <div style="text-align: center;">OR</div> <div style="border: 1px solid black; padding: 5px; width: 150px; text-align: center;">Employer identification number</div> </div>	<p>PART II.—Backup Withholding On Accounts Opened After 12/31/83</p> <p>Check the box if you are NOT subject to backup withholding under the provisions of section 3406(a)(1)(C) of the Internal Revenue Code. <input type="checkbox"/></p> <p>(See Highlight below.)</p>
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Certification.—Under the penalties of perjury, I certify that the information provided on this form is true, correct, and complete.

Signature ▶ _____ **Date** ▶ _____

Instructions (Section references are to the Internal Revenue Code.)
Highlight for Interest or Dividend Accounts Opened After 12/31/83—Backup Withholding

You may be notified that you are subject to backup withholding under section 3406(a)(1)(C) because you have underreported interest or dividends or you were required to but failed to file a return which would have included a reportable interest or dividend payment. If you have NOT been so notified, check the box in PART II. **Note:** Backup withholding may apply to existing accounts as well as accounts opened after December 31, 1983.

Caution: There are other situations where you may be subject to backup withholding. Please read the instructions below carefully.

Purpose of Form

Use this form to report the taxpayer identification number (TIN) of the record owner of the account to the payer (or broker).
 Beginning January 1, 1984, payers must generally withhold 20% of taxable interest, dividend, and certain other payments if you fail to furnish payers with the correct taxpayer identification number (this is referred to as backup withholding). For most individual taxpayers, the taxpayer identification number is the social security number.

To prevent backup withholding on these payments, be sure to notify payers of the correct taxpayer identification number and, for accounts you open after December 31, 1983, properly certify that you are not subject to backup withholding under section 3406(a)(1)(C).

You may use this form to certify that the taxpayer identification number you are giving the payer is correct and, for accounts opened after December 31, 1983, that you are not subject to backup withholding.

If the payer provides a different form than Form W-9 to request the taxpayer identification number, please use it.

Backup Withholding

You are subject to backup withholding if:

- (1) You fail to furnish your taxpayer identification number to the payer, OR
- (2) The Internal Revenue Service notifies the payer that you furnished an incorrect taxpayer identification number, OR
- (3) You are notified that you are subject to backup withholding (under section 3406(a)(1)(C)), OR
- (4) For an interest or dividend account opened after December 31, 1983, you fail to certify to the payer that you are **not** subject to backup withholding under (3) above, or fail to certify your taxpayer identification number.

For payments other than interest or dividends, you are subject to backup withholding only if (1) or (2) above applies.

(See the section on the back titled "Payees Exempt from Backup Withholding.")

Payments of Interest, Dividends, and Patronage Dividends

Accounts Opened Before January 1, 1984

To certify that the taxpayer identification number is correct for accounts opened before January 1, 1984, fill out your name and address, enter your account number(s) (if applicable), complete Part I, sign and date the form and return it to the payer.

Accounts Opened After December 31, 1983

To certify that the taxpayer identification number is correct and that you are not subject to backup withholding under section 3406(a)(1)(C) for accounts opened after December 31, 1983, fill out your name and address, enter your account number(s) (if applicable), complete Parts I and II, sign and date the form and return it to the payer.

If you are subject to backup withholding and are merely providing your correct taxpayer identification number to the payer, fill out your name, address, enter your account number(s) (if applicable), and complete Part I.

Other Payments

If you are merely providing your correct taxpayer identification number to the payer for payments other than interest, dividends, and patronage dividends, you need not sign this form. Fill out your name and address, enter your account number(s) (if applicable), complete Part I and return the form to the payer.

Account Numbers

If you have more than one account with the same payer (for example, a savings account and a certificate of deposit at the same bank), the payer may request a separate Form W-9 for each account depending on how the payer's records are kept.

What Number to Give the Payer

Give the payer the social security number or employer identification number of the record owner of the account. If the account belongs to you as an individual, give your social security number. If the account is in more than one name or is not in the name of the actual owner, see the chart on page 2 for guidelines on which number to report.

Obtaining a Number

If you don't have a taxpayer identification number or you don't know your number, obtain **Form SS-5**, Application for a Social Security Number Card, or **Form SS-4**, Application for Employer Identification Number, at the local office of the Social Security Administration or the Internal Revenue Service and apply for a number. Write "applied for" in Part I in place of your number. When you get a number, submit a new Form W-9 to the payer.

Penalties

(1) Penalty for Failure to Furnish Taxpayer Identification Number.—If you fail to furnish your taxpayer identification number to a payer, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

(2) Failure to Report Certain Dividend and Interest Payments.—If you fail to include any portion of an includible payment for interest, dividends, or patronage dividends in gross income, such failure will be treated as being due to negligence and will be subject to a penalty of 5% on any portion of an underpayment attributable to that failure unless there is clear and convincing evidence to the contrary.

(3) Civil Penalty for False Information With Respect to Withholding.—If you make a false statement with no reasonable basis which results in no imposition of backup withholding, you are subject to a penalty of \$500.

(4) Criminal Penalty for Falsifying Information.—Falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Payees Exempt from Backup Withholding

Payees specifically exempted from backup withholding on **ALL** payments include the following:

- A corporation.
- A financial institution.
- An organization exempt from tax under section 501(a), or an individual retirement plan.
- The United States or any agency or instrumentality thereof.
- A State, the District of Columbia, a possession of the United States, or any subdivision or instrumentality thereof.
- A foreign government, a political subdivision of a foreign government, or any agency or instrumentality thereof.
- An international organization or any agency or instrumentality thereof.
- A registered dealer in securities or commodities registered in the U.S. or a possession of the U.S.
- A real estate investment trust.
- A common trust fund operated by a bank under section 584(a).
- An exempt charitable remainder trust, or a non-exempt trust described in section 4947(a)(1).
- An entity registered at all times under the Investment Company Act of 1940.
- A foreign central bank of issue.

Payments of **dividends** and **patronage dividends** not generally subject to backup withholding include the following:

- Payments to nonresident aliens subject to withholding under section 1441.
- Payments to partnerships not engaged in a trade or business in the U.S. and which have at least one nonresident partner.
- Payments of patronage dividends where the amount received is not paid in money.
- Payments made by certain foreign organizations.

Payments of **interest** not generally subject to backup withholding include the following:

- Payments of interest on obligations issued by individuals. **Note:** You may be subject to backup withholding if this interest is \$600 or more and is paid in the course of the payer's trade or business and you have not provided your correct taxpayer identification number to the payer.
- Payments of tax-exempt interest (including exempt-interest dividends under section 852).
- Payments described in section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under section 1451.
- Payments made by certain foreign organizations.

Exempt payees described above should file Form W-9 to **avoid** possible **erroneous** backup withholding. Because certain payments exempt from backup withholding are nevertheless subject to information reporting, if you file this form with the payer, furnish your taxpayer identification number, write "exempt" on the face of the form, and return it to the payer. If the payments are interest, dividends, or patronage dividends, also sign and date the form.

Certain payments other than interest, dividends, and patronage dividends that are not subject to information reporting are also not subject to backup withholding. For details, see the regulations under sections 6041, 6041A(a), 6045, and 6050A.

Privacy Act Notice.— Section 6109 requires most recipients of dividend, interest, or other payments to give taxpayer identification numbers to payers who must report the payments to IRS. IRS uses the numbers for identification purposes. Payers must be given the numbers whether or not recipients are required to file tax returns. Beginning January 1, 1984, payers must generally withhold 20% of taxable interest, dividend, and certain other payments to a payee who does not furnish a taxpayer identification number to a payer. Certain penalties may also apply.

Guidelines for Determining the Proper Identification Number to Give the Payer.— Social security numbers have nine digits separated by two hyphens: i.e., 000-00-0000. Employer identification numbers have nine digits separated by only one hyphen: i.e., 00-0000000. The table below will help you determine the number to give the payer.

For this type of account:	Give the SOCIAL SECURITY number of—
1. An individual's account	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, any one of the individuals ¹
3. Husband and wife (joint account)	The actual owner of the account or, if joint funds, either person ¹
4. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
5. Adult and minor (joint account)	The adult or, if the minor is the only contributor, the minor ¹
6. Account in the name of guardian or committee for a designated ward, minor, or incompetent person	The ward, minor, or incompetent person ³
7. a. The usual revocable savings trust account (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under State law	The actual owner ¹
8. Sole proprietorship account	The owner ⁴
For this type of account:	Give the EMPLOYER IDENTIFICATION number of—
9. A valid trust, estate, or pension trust	Legal entity (Do not furnish the identifying number of the personal representative or trustee unless the legal entity itself is not designated in the account title.) ⁵
10. Corporate account	The corporation
11. Religious, charitable, or educational organization account	The organization
12. Partnership account held in the name of the business	The partnership
13. Association, club, or other tax-exempt organization	The organization
14. A broker or registered nominee	The broker or nominee
15. Account with the Department of Agriculture in the name of a public entity (such as a State or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish.

² Circle the minor's name and furnish the minor's social security number.

³ Circle the ward's, minor's, or incompetent person's name and furnish such person's social security number.

⁴ Show the name of the owner.

⁵ List first and circle the name of the legal trust, estate, or pension trust.

Note: If no name is circled when there is more than one name, the number will be considered to be that of the first name listed.

NASD

National Association of Securities Dealers, Inc.
1735 K St. N.W. • Washington, D.C. 20006 • (202) 728-8000

notice to members 83-66

November 30, 1983

TO: All NASD Members and Level 2 and Level 3 Subscribers

RE: 51 Securities To Voluntarily Join NMS on Tuesday, December 20

An additional 51 securities voluntarily will join the NASDAQ National Market System on Tuesday, December 20. This will bring the total number of issues trading on NMS to 684. These 51 issues meet the voluntary designation criteria set by the SEC, which include an average monthly trading volume of 100,000 shares and a minimum bid price of \$5.

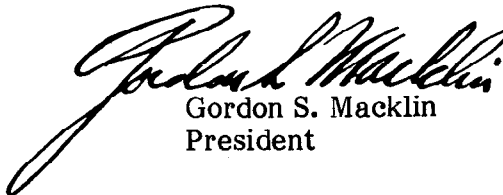
The 51 securities scheduled for inclusion on December 20 are:

ACLE	Acceleration Corporation	Dublin, OH
ADVC	Advance Circuits, Inc.	Hopkins, MN
AMGN	Amgen	Thousand Oaks, CA
ANLY	Analysts International Corporation	Minneapolis, MN
AHST	Associated Hosts, Inc.	Beverly Hills, CA
ATRN	Austron, Inc.	Austin, TX
AITX	Automatix Incorporated	Billerica, MA
AVGA	Avant-Garde Computing Inc.	Cherry Hill, NJ
BKNE	Bank of New England Corporation	Boston, MA
BSET	Bassett Furniture Industries, Incorporated	Bassett, VA
CLHO	Clayton Homes Inc.	Knoxville, TN
CPTD	Computer Data Systems, Inc.	Bethesda, MD
CRII	Computer Resources, Inc.	Cleveland, OH
CYCR	CyCare Systems, Inc.	Dubuque, IA
DMAL	Dayton Malleable Inc.	Kettering, OH
DRYR	Dreyer's Grand Ice Cream, Inc.	Oakland, CA
DUCK	Duckwall-Alco Stores, Inc.	Abilene, KS
GOAA	Great Outdoor American Adventure, Inc. (The)	Woodinville, WA
HUGH	Hughes Supply, Inc.	Orlando, FL
HYDE	Hyde Athletic Industries, Inc.	Cambridge, MA
ILFC	International Lease Finance Corporation	Beverly Hills, CA

JNAL	Jackson National Life Insurance Company	Lansing, MI
KTOS	Kratos, Inc.	La Jolla, CA
LTXX	LTX Corporation	Westwood, MA
LTEC	Lincoln Telecommunications Company	Lincoln, NE
MTRX	Matrix Science Corporation	Torrance, CA
MXWL	Maxwell Laboratories, Inc.	San Diego, CA
MDEX	Medex, Inc.	Hilliard, OH
MEDT	Medical 21 Corp.	Dallas, TX
MNFT	Monfort of Colorado, Inc.	Greeley, CO
NCAC	NCA Corporation	Sunnyvale, CA
OCAS	Ohio Casualty Corporation	Hamilton, OH
OLDR	Old Republic International Corporation	Chicago, IL
REAL	Reliability Incorporated	Houston, TX
RYBF	Royal Business Group, Inc.	Nashua, NH
SEIC	SEI Corporation	Wayne, PA
SFCD	Safecard Services, Incorporated	Fort Lauderdale, FL
SVAN	Savannah Foods & Industries, Inc.	Savannah, GA
SHNS	Shoney's South, Inc.	Memphis, TN
SVGI	Silicon Valley Group, Inc.	Santa Clara, CA
SDUN	Standun Inc.	Rancho Dominguez, CA
STGR	Steiger Tractor, Inc.	Fargo, ND
SYSG	Systematics General Corporation	Sterling, VA
SAIN	Systems Associates, Inc.	Charlotte, NC
TLXN	Telxon Corporation	Akron, OH
TDSC	Tesdata Systems Corporation	McLean, VA
TFFC	Texas Federal Financial Corporation	Dallas, TX
TTEC	Thoratec Laboratories Corporation	Berkeley, CA
WFSL	Washington Federal Savings & Loan Association of Seattle	Seattle, WA
ZENI	Zenith Laboratories, Inc.	Northvale, NJ
ZOND	Zondervan Corporation (The)	Grand Rapids, MI

Any questions regarding this notice should be directed to Donald Bosic, Assistant Director, NASDAQ Operations, at (202) 728-8043. Questions pertaining to trade reporting rules should be directed to Steve Hickman at (202) 728-8202.

Sincerely,


Gordon S. Macklin
President