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IRS Final Regulations Make “TIN Masking” Permanent For Payee Statements

The Internal Revenue Service (“IRS”) recently issued final regulations that permit (but do not require) the use of truncated taxpayer identification numbers (“TTINs”) on certain payee statements, including Forms 1099-R and 5498. 79 Fed. Reg. 41127 (July 15, 2014). The regulations provide a permanent solution to this privacy concern, which was initially addressed through a pilot program, first announced in Notice 2009-93 and extended in Notice 2011-38. The final regulations largely track proposed rules issued in January 2013, but with a few important changes, such as extending the guidance to EINs and other payee forms. The key provisions are summarized below:

Forms Covered. The TTIN may be used for any payee statement/document (paper and electronic statements), unless IRS guidance prohibits its use (presumably W-2s are still off the table). The covered forms include 1098, 1099, and 5498 series. It does not apply to any returns filed with the IRS, nor does it generally apply to the TIN of the payor that prepares the form (e.g., not applicable to Form W-9).

TINs Covered. This covers social security numbers (“SSN”), IRS individual taxpayer identification numbers (“ITIN”), IRS adoption taxpayer identification numbers (“ATIN”), and employer identification numbers (“EIN”).

TIN Masking Process. Replace the first five digits with Xs or asterisks, but otherwise using the same format. For example, XXX-XX-1234 for a SSN, and XX-XXX1234 for an EIN.

Penalty Relief. The final rules clarify that use of the TTIN will not result in reporting penalties for failure to include the correct TIN on the payee statement/document. For example, the \$100 reporting penalty under Code section 6722 is not triggered much by using a TTIN.

Effective Date. July 15, 2014. Therefore, the final rules generally apply to payee statements due after December 31, 2014.