

SECURITIES AND EXCHANGE
COMMISSION

17 CFR Part 279

[Release No. IA-1633A, File No. S7-31-96]

RIN 3235-AH07

Rules Implementing Amendments to
the Investment Advisers Act of 1940AGENCY: Securities and Exchange
Commission.

ACTION: Final rules; correction.

SUMMARY: The Commission is correcting Instruction 7(d) of Schedule I to Form ADV adopted under the Investment Advisers Act of 1940 ("Advisers Act"), which was published Thursday, May 22, 1997, (62 FR 28112).

EFFECTIVE DATE: July 8, 1997.

FOR FURTHER INFORMATION CONTACT:

Catherine M. Saadeh, Staff Attorney, or Jennifer S. Choi, Special Counsel, at (202) 942-0691, Task Force on Investment Adviser Regulation, Division of Investment Management, Stop 10-2, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is correcting Instruction 7(d) of Schedule I to Form ADV adopted under the Advisers Act.¹ As published, the Instruction 7(d) of Schedule I to Form ADV required investment advisers to determine the total amount of assets under management based on the current market value of assets as of a date no more than 90 business days prior to the date of filing Schedule I. The instruction, however, should state that the total assets under management be determined based on the current market value of assets as of a date no more than 90 days prior to the date of filing Schedule I.

Accordingly, the publication on May 22, 1997 of the final regulations (IA-1633), which were the subject of FR Doc. 97-13284, is corrected as follows:

§ 279.1 [Corrected]

On page 28151, paragraph (d), line 2, "within 90 business days" is corrected to read "within 90 days".

Dated: June 13, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97-15937 Filed 6-17-97; 8:45 am]

BILLING CODE 8010-01-M

¹ Investment Adviser Releases No. 1633 (May 15, 1997).

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 35a

[TD 8721]

RIN 1545-AU54

Taxpayer Identification Number (TIN)
Matching ProgramAGENCY: Internal Revenue Service (IRS),
Treasury.ACTION: Final and temporary
regulations.

SUMMARY: This document contains final regulations on the establishment of Taxpayer Identification Number (TIN) matching programs and removes the temporary regulations on the establishment of a TIN matching program. These regulations reflect changes to the law made by the Interest and Dividend Tax Compliance Act of 1983. They affect payors, brokers, and payees of certain reportable payments and provide guidance necessary to comply with the law.

DATES: These regulations are effective June 18, 1997.

FOR FURTHER INFORMATION CONTACT: Renay France, (202) 622-6232 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On March 22, 1994, the Internal Revenue Service (IRS) published proposed (IA-8-92) and temporary regulations (TD 8523) in the **Federal Register** (59 FR 13470 and 13455, respectively) for the establishment of a TIN matching program (the matching program) by the Commissioner. The proposed regulations would allow payors to check the accuracy of a name/TIN combination before filing the related information return. The proposed regulations solicited written comments and set a date for a public hearing on the regulations. No one requested to speak at the hearing; therefore, none was held.

The proposed regulations provide that a payor's decision whether to participate in the matching program and any matching details received through the matching program are not taken into account in determining whether a payor has reasonable cause under section 6724(a) that will avoid a penalty under section 6721(a) for the failure to file a correct information return or under section 6722 for the failure to furnish a correct payee statement. Several commentators suggested that if a payor submits a name/TIN combination under

the matching program and is not informed by the IRS that the TIN is incorrect, the payor will have established reasonable cause under section 6724(a) should the IRS later determine that the same TIN filed on a subsequent information return is incorrect. In response to the comment, the final regulations provide that neither a payor's nonparticipation in a matching program nor the results obtained from participating in a matching program will adversely affect the payor's reasonable cause defense and that the extent to which a payor may establish reasonable cause by participating in a TIN matching program will be set forth in the guidance establishing the program.

Additional comments suggested modification of IRS information returns (Forms 1099). A modified form would allow a payor to indicate that it contacted the IRS for matching of the name/TIN combination on the information return and was not informed that the name/TIN combination was incorrect. The IRS will consider the feasibility of adopting this suggestion when a TIN matching program is established.

The Prototype

On May 9, 1994, the IRS instituted a two-year prototype of an online TIN matching program to test its operational feasibility on a nationwide basis. The prototype permitted a maximum of 200 payors of reportable payments, as defined in section 3406(b)(1), to volunteer to participate in the prototype and have their payees' name/TIN combinations matched with records of the IRS prior to filing the related information return. The prototype operated for only eleven months; a fire destroyed the computer system dedicated to this project. During the operation of the prototype approximately 120 payors made 55,795 name/TIN inquiries.

Due to fiscal constraints, the IRS has no current plans to implement a TIN matching program that will be available to all payors of reportable payments and has no current plans to replace the destroyed computer system needed to implement an online TIN matching program.

Explanation of Provisions

The final regulations permit the IRS to establish varied matching programs by published guidance as circumstances warrant. In general, under a matching program, a participating payor of a reportable payment (as defined in section 3406(b)(1) of the Internal Revenue Code) may, prior to filing an information return, contact the IRS