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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 31 and 301

[TD 9699]

RIN 1545-BG53

Removal of the Qualified Payment Card Agent Program

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that will remove regulations relating to information reporting and backup withholding for the Qualified Payment Card Agent (QPCA) Program. This document also amends regulations to remove references to the QPCA Program. Enactment of the payment card and third party network reporting requirements in the Housing Assistance Tax Act of 2008 made the QPCA Program obsolete. Because no payors have applied to be designated as a QPCA (and no payors have been designated as a QPCA), no taxpayers will be affected by these final regulations.

DATES: These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Michael Hara, (202) 317-5413 (not toll-free calls).

SUPPLEMENTARY INFORMATION:

Background

This document amends the Employment Tax Regulations (26 CFR Part 31) and the Procedure and Administration Regulations (26 CFR Part 301) to remove deadwood provisions relating to the now obsolete QPCA Program. On March 24, 2014, a notice of proposed rulemaking (REG-163195-05) was published in the **Federal Register** (79 FR 15926) proposing to remove §§31.3406(g)-1(f), 301.6724-1(e)(1)(vi)(H), and 301.6724-1(f)(5)(vii) and amend §301.6724-1(c)(6) to remove references to QPCAs. The notice of proposed rulemaking also withdrew proposed regulations published in the **Federal Register** on July 13, 2007 relating to the QPCA Program (72 FR 38534). No comments were received in response to the proposed regulations.

Section 6041(a) requires persons engaged in a trade or business and making payments in the course of such trade or business to another person of rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable gains, profits, and income of \$600 or more in any one taxable year to file information returns with the IRS and to furnish information statements to payees. Among other items, the payor must include the payee's name and taxpayer identification number (TIN) on the information return and the information statement. Section 3406(a)(1) requires a payor to withhold on any reportable payment (as defined in section 3406(b)(1)) if: (1) the payee fails to furnish the payee's TIN to the payor as required; or (2) the Secretary notifies the payor that the TIN furnished by the payee is incorrect.

The QPCA Program was developed by the IRS to enhance the accuracy of section 6041 information reporting in transactions where a payment card, such as a credit card, is accepted as payment. To implement the QPCA Program, on July 13, 2004, the Treasury Department and the IRS published final regulations in the **Federal Register** (TD 9136) (69 FR 41938) under sections 6041, 3406, and 6724. The Treasury Department and the IRS also published several pieces of guidance in the Internal Revenue Bulletin to implement the program. See Notice 2003-13 (2003-1 CB 513 (February 24, 2003)); Revenue Procedure 2004-42 (2004-2 CB 121 (August 2, 2004)); Revenue Procedure 2004-43 (2004-2 CB 124 (August 2, 2004)) (see §601.601(d)(2)(ii)(b) of the chapter). In addition, proposed regulations were published on July 13, 2007 (REG-163195-05 published in the **Federal Register** (72 FR 38534) and a proposed revenue procedure (Notice 2007-59 (2007-30 IRB 135)) was published on July 23, 2007. The 2007 proposed regulations were withdrawn by the notice of proposed rulemaking (REG-163195-05) published in the **Federal Register** (79 FR 15926) on March 25, 2014.

Under the QPCA Program, a payment card organization may apply to the IRS to be designated as a QPCA. For this purpose, a payment card organization was defined as an entity that set the standards and provided the mechanism, either directly or indirectly through members and affiliates, for effectuating payment between a purchaser and a merchant in a payment card transaction. See section 5.06 of Notice 2007-59. Once designated, the QPCA was permitted to act on behalf of a payor/cardholder to solicit, collect, and validate the name and TIN of a payee/merchant, and to provide that

information to the payor/cardholder to enable the payor/cardholder to meet its section 6041 reporting obligation, if any.

Section 6050W, enacted by the Housing Assistance Tax Act of 2008, Public Law 110-289, obsoleted the QPCA Program. Section 6050W requires payment settlement entities, including payment card organizations, to report payments made in settlement of payment card and third party network transactions. Regulations published under section 6050W and section 6041 provide, among other things, that payments required to be reported under section 6050W are not also required to be reported under section 6041. See §1.6041-1(a)(1)(iv). Because payment card organizations now have a reporting obligation with respect to payment card transactions, there is no longer a need for payment card organizations to solicit, collect, and verify payee/merchant names/TINs for the payor/cardholder. Thus, enactment of section 6050W made the QPCA Program obsolete.

Explanation of Provisions

These final regulations adopt the proposed regulations without change. Accordingly, the regulations under §§31.3406(g)-1(f), 301.6724-1(e)(1)(vi)(H), and 301.6724-1(f)(5)(vii) are removed, and the regulations under §301.6724-1(c)(6) are amended. In addition, Revenue Procedure 2004-42, Revenue Procedure 2004-43, Notice 2003-13, Notice 2003-37, and Notice 2007-59 are obsoleted. See §601.601(d)(2)(ii)(b) of the chapter.

Effective Date

Sections 31.3406(g)-1(f), 301.6724-1(e)(1)(vi)(H), and 301.6724-1(f)(5)(vii) would be removed on the date these regulations are published as final regulations in the

Federal Register. Amendments to §301.6724-1(c)(6) would be effective on the date these regulations are published as final in the **Federal Register**.

Special Analyses

It has been determined that this Treasury Decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business and no comments were received.

Effect on Other Documents

The following publications are obsolete as of **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**:

Notice 2003-13 (2003-1 CB 513); Notice 2003-37 (2003-1 CB 1121); Rev. Proc. 2004-42 (2004-2 CB 121); Rev. Proc. 2004-43 (2004-2 CB 124); and Notice 2007-59 (2007-30 IRB 135) (see §601.601(d)(2)(ii)(b) of the chapter).

Drafting Information

The principal author of these final regulations is Michael Hara of the Office of Associate Chief Counsel (Procedure and Administration).

List of Subjects

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Income taxes, Gift taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

Accordingly, 26 CFR parts 31 and 301 are amended as follows:

PART 31--EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Paragraph 1. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§31.3406(g)-1 [Amended]

Par. 2. Section 31.3406(g)-1 is amended by removing paragraph (f).

PART 301--PROCEDURE AND ADMINISTRATION

Par. 3. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§301.6724-1 [Amended]

Par. 4. Section 301.6724-1 is amended by:

a. Removing the language “or a qualified Payment Card Agent (QPCA) as defined in §31.3406(g)-1(f)(2)(v) of this chapter,” from the introductory text of paragraph (c)(6).

b. Removing paragraphs (e)(1)(vi)(H) and (f)(5)(vii).

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: October 9, 2014.

Mark J. Mazur,

Assistant Secretary of Treasury (Tax Policy).

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