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Backup Withholding

All business payers are required to collect the legal name and taxpayer identification number, or TIN, from vendors and payees they pay. Under federal tax law payers are responsible for knowing who they are paying.

Payments should never be made to a payee unless a W9 has been received from the payee. A W9 which provides the identity of the payee along with their TIN (FEIN or SSN), and address is issued by the payor to the payee, and payments to payees should not be made until a completed W9 is received from the prospective payee.

In most instances **backup withholding** is required when a payee does not provide the payer their TIN timely, or accurately.

This type of withholding can apply to most payments reported on certain Forms 1099 and W-2G.

What taxpayers need to know about backup withholding

Backup withholding is required on most non-payroll payments when certain conditions apply.

The payer making such payments to the payee does not generally withhold taxes, and the payees report and pay taxes on this income when they file their federal tax returns. There are however situations when the payer is required to withhold a certain percentage of tax to make sure the IRS receives the tax due on this income.

Backup withholding is set at a specific percentage

The current rate is 24 percent.

Payments subject to backup withholding include:

- Interest payments

- Dividends
- Payment card and third-party network transactions
- Patronage dividends, but only if at least half the payment is in money
- Rents, profits, or other gains
- Commissions, fees, or other payments for work done as an independent contractor
- Payments by brokers
- Barter exchanges
- Payments by fishing boat operators, but only the part that is paid in actual money and that represents a share of the proceeds of the catch
- Royalty payments
- Gambling winnings, if not subject to gambling withholding
- Taxable grants
- Agriculture payments

When a payor must deduct backup withholding:

- If a payee has not provided the payer a Taxpayer Identification Number.
 - A TIN specifically identifies the payee.
 - TINs include Social Security numbers, Employer Identification Numbers, Individual Taxpayer Identification Numbers and Adoption Taxpayer Identification Numbers.
- If the IRS has notified the payer that the payee provided an incorrect TIN; that is the TIN does not match the name in IRS records. Payees should make sure that the payer has their correct name and TIN to avoid backup withholding.

Backup withholding is mandatory when the payee does not provide a W9, or the W9 is inaccurate.

Penalties can be assessed against the payor if backup withholding is not made in those instances that are described above.

1099's are also required to be issued for payments to payees in most of the described situations above. Failure to issue 1099's can also be subject to penalties.

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