

IRS Notice 2014-59 Clarifies Transitional Relief for Entity Accounts Opened before January 1, 2015

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Global Financial Services Industry



IRS Releases Notice 2014-59

On October 10, 2014, the IRS released **Notice 2014-59**, which modified the applicability dates of certain provisions under chapters 3 and 61 of the Internal Revenue Code. The modification was necessitated by inconsistencies present between the temporary coordination regulations under those chapters and IRS Notice 2014-33, which afforded transitional relief for entity accounts opened on or after July 1, 2014 and before January 1, 2015.

This Notice clarifies two points on the transitional relief afforded by IRS Notice 2014-33, and also grants additional relief for certain offshore payments.

Modified Applicability Date to the Standards of Knowledge for Certain Entity Accounts

The IRS clarified that withholding agents are extended the same exception to certain standards of knowledge for entity accounts opened on or after July 1, 2014 and before January 1, 2015, as was extended to accounts opened before July 1, 2014. Specifically, a withholding agent is not required to take into account certain additional U.S. indicia for entity accounts opened before January 1, 2015 if the foreign status of the direct account holder was documented by the withholding agent for purposes of chapters 3 or 61 before January 1, 2015, and unless the withholding agent is notified of a change in circumstances with respect to the obligation. The additional U.S. indicia that are waived for entity accounts opened during this period are as follows: (1) the withholding agent's classification of the account holder as a U.S. person in its account information; and (2) a current U.S. telephone

number for the account holder if the withholding agent has no telephone number for the account holder outside the United States.

Additionally, the IRS clarified that a withholding agent will not be required to treat the additional U.S. indicia as a change in circumstances for entity accounts before January 1, 2015. Note also that the exception to the standards of knowledge provided in the Notice for the entity accounts apply also for determining a payee's or account holder's foreign status for chapter 4 purposes.

Allowance to Apply Prior Rules Regarding Documentary Evidence for Certain Offshore Payments

The IRS granted payors the right to continue accepting the previous standards for documentary evidence for offshore obligations for both individual and entity accounts opened on or after July 1, 2014 and before January 1, 2015. Specifically, payors are permitted to continue to use the generalized standards for documentary evidence provided in the previous Treas. Reg. § 1.6049-5(c)(1), as well as the standards for when a withholding agent may rely on documentary evidence to provide a reduced rate of withholding under an income tax treaty in the previous Treas. Reg. § 1.6049-5(c)(4).

If a payor decides to apply the previous documentary evidence standards for accounts opened on or after July 1, 2014 and before January 1, 2015, the payor will also be required to apply the previous standards under Treas. Reg. § 1.1441-6(c)(2) (to the extent applicable) and Treas. Reg. § 1.6049-5(e) (which determines when a payment is considered paid outside the United States) for consistency purposes.

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