

MEMO# 23263

February 19, 2009

ICI Draft Letter Regarding Logos on Substitute Forms 1099; Comments Requested

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TO: TAX COMMITTEE No. 6-09

TRANSFER AGENT ADVISORY COMMITTEE No. 16-09 RE: ICI DRAFT LETTER REGARDING LOGOS ON SUBSTITUTE FORMS 1099; COMMENTS REQUESTED

Attached for your review is a draft joint letter from the Institute and the Securities Industry and Financial Markets Association ("SIFMA") to the Internal Revenue Service ("IRS") asking the IRS to reconsider its proposal in Revenue Procedure 2008-36 [\[1\]](#) disallowing the use of corporate logos on substitute and composite Forms 1099. Please provide any comments to me (202-371-5432 or kgibian@ici.org) no later than 5:00 p.m. on Thursday, February 26, 2009.

Revenue Procedure 2008-36

Rev. Proc. 2008-36 provides various requirements for reproducing paper substitutes and for furnishing substitute recipient statements for IRS forms 1096, 1098, 1099, 5498, W-2G, and 1042-S. Section 1.3.2 of the revenue procedure addresses the use of logos, slogans, and advertisements on substitute payee statements. The IRS believes that some forms that include logos, slogans, and advertisements may be confusing to taxpayers, and payees may not recognize the importance of the payee statement for tax reporting purposes. Therefore, except for the IRS e-file logo, the IRS will not allow slogans, advertising, and other logos on these forms, or any payee statements reporting amounts paid, during the 2010 calendar year and thereafter.

Joint ICI and SIFMA Letter

The draft letter from the Institute and SIFMA asks the IRS to issue revised guidance clarifying that “identifying logos” are not advertising or promotional material for purposes of statement mailing requirements, and that payors may continue to use such identifying logos on substitute and composite Forms 1099. The letter notes that Rev. Proc. 2008-36 would eliminate the use of such identifying marks and slogans, which payors have reliably used for many years to alert taxpayers regarding both the importance and source of tax reporting information.

The joint letter references a 1996 Institute letter (attached) which asked the IRS to issue an announcement that payors would not be penalized for placing logos on substitute payee statements, and an interpretation of the statement mailing requirement that expressly permitted the use of identifying logos on these statements. In response to the 1996 letter, the IRS issued Notice 96-62 (attached), which informed payors that the IRS intended to issue regulations permitting them to use certain logos and identifying slogans on substitute Forms 1099. Pending issuance of such regulations, the IRS stated that it would not impose penalties in connection with a payor’s use of a logo or an identifying slogan on a payee statement if it satisfied certain requirements set forth in Notice 96-62.

The joint letter notes that, although the amended regulations discussed in Notice 96-62 were never issued, brokers and mutual funds have relied upon the guidance in the notice and continue to place their logos on substitute and composite statements. Neither the Institute nor SIFMA are aware of any evidence that the use of logos on these statements has resulted in shareholder confusion. Rather, investors rely upon these logos to distinguish between the often numerous statements received. Such logos also assist shareholders in identifying statements issued by a clearing organization, rather than the shareholder’s brokerage firm, and permit shareholders to easily reconcile their quarterly customer account statements and trade confirmations with their Forms 1099. Eliminating the use of these logos now would create the taxpayer confusion that the guidance in Rev. Proc. 2008-36 intends to prevent.

The Institute and SIFMA suggest that, rather than ban the use of logos altogether, the IRS guidance include additional information regarding rules intended to enhance a taxpayer’s ability to recognize their substitute and composite Forms 1099. Such guidance should include: (1) examples of substitute and composite Forms 1099 that contain logos that are acceptable, and (2) examples of substitute and composite Forms 1099 that contain inappropriate advertising and slogans. Addressing the problem in this manner would allow the continued use of logos, which help taxpayers recognize their substitute and composite Forms 1099, while also providing a clear explanation about the ban on advertising and slogans.

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[Attachment](#)

endnotes

[\[1\]](#) The Revenue Procedure can be found on the IRS’s website at:

http://www.irs.gov/irb/2008-33_IRB/ar08.html.

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