

MEMO# 7651

February 23, 1996

IRS CLARIFIES CERTIFICATION REQUIREMENTS FOR SUBSTITUTE FORM W-9

1 See Institute Memorandum to Operations Members No. 14-94, Tax Members No. 17-94 and Transfer Agent Advisory Committee No. 17-94, dated April 28, 1994. February 23, 1996
TO: TAX MEMBERS No. 7-96 OPERATIONS MEMBERS No. 7-96 TRANSFER AGENT ADVISORY
COMMITTEE No. 7-96 RE: IRS CLARIFIES CERTIFICATION REQUIREMENTS FOR SUBSTITUTE
FORM W-9 _____ As

we previously informed you,¹ in 1994 the Internal Revenue Service ("IRS") revised the instructions for IRS Form W-9, Request for Taxpayer Identification Number and Certification which permit payors to take the certifications required by Form W-9 on "substitute" forms, such as those included in account application documents to prohibit payors from taking these certifications on substitute Forms W-9 that "require the payee, by signing, to agree to provisions unrelated to [taxpayer identification number ("TIN")] certification." The Institute urged the IRS to clarify its position on substitute Forms W-9 to remove any implication that a customer might need to sign an account application twice, once to agree to the standard terms for opening an account and a second time to certify his or her TIN. We are pleased to inform you that the attached IRS revenue procedure (Rev. Proc. 96-26) specifically permits a single signature for Form W-9 certifications and account-related provisions, so long as the following requirements are met. First, the language of the required Form W-9 certifications must be "highlighted, boxed, printed in bold-face type, or presented in some other manner that distinguishes and causes the language to stand out from all other information contained on the substitute Form W-9." Second, the substitute form must include the following statement immediately above the signature line for the Form W-9 certifications and with the same emphasis (e.g., type face) as the required certifications: "The Internal Revenue Service does not require your consent to any provision of this document other than the certifications required to avoid backup withholding." These two requirements will apply to substitute Forms W-9 completed by payees after December 31, 1996. The revenue procedure also provides that payors may be subject to civil or criminal penalties for making an "impermissible use" of Form W-9 certifications if they (1) require a payee to agree to provisions included on a substitute Form W-9 other than the required certifications in order to avoid backup withholding or (2) threaten backup withholding to secure a payee's acceptance of provisions included on a substitute Form W-9 that are unrelated to the required certifications. These penalties apply to violations occurring after March 31, 1995. We will keep you informed of developments. Keith D. Lawson Associate Counsel - Tax

Attachment Note: Not all recipients of this memo will receive an attachment. If you wish to obtain a copy of the attachment referred to in this memo, please call the Institute's Information Resource Center at (202)326-8304, and ask for this memo's attachment

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