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Francisca Mordi
Tax Counsel
Manager for ABA
Center for Community
Bank Tax
Phone: 202-663-5317
Fax: 202-828-4548
fmordi@aba.com

February 12, 2007

Richard J. Morgante
Commissioner Wage & Investment Division
SE:W Room 3521
1111 Constitution Avenue, NW
Washington, D.C. 20224

Re: *Request for Guidance Regarding Masking of Social Security Numbers and Taxpayer Identification Numbers on Documents Mailed to Taxpayers*

Dear Mr. Morgante:

The American Bankers Association (ABA) is writing to request guidance from the Internal Revenue Service (IRS) regarding the issue of masking taxpayer personal information such as social security numbers (SSNs) and taxpayer identification numbers (TINs) on IRS forms and returns that a payor or other entity is required to mail or provide to a taxpayer. The ABA brings together all categories of banking institutions to best represent the interests of a rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies as well as savings associations, trust companies and savings banks – makes ABA the largest banking association in the country.

As the IRS is aware, incidents of identity theft have generated a significant amount of concern both in the private and public segments of the country. The current administration, in recognition of the need to curb identity theft, has created a Federal Identity Theft Task Force specifically directed to recommend ways to further improve the effectiveness and efficiency of the federal government's identity theft deterrence activities. On September 19, 2006, the Task Force published Interim Recommendations, which included taking steps to eliminate unnecessary use and display of SSNs.¹ In light of this concern and ongoing efforts by government and the private sector to minimize the unnecessary exposure or display of important taxpayer personal information, we request that the IRS revise its existing rules that penalize a payor for masking or truncating an individual's SSN or TIN. New rules should be issued allowing masking or truncating and providing guidance on how it should be done.

The concern over identity theft has led to significant legislative activity, on both the federal and state level, to minimize the display or availability of personal information such as SSNs. In addition, various institutions have adopted or

¹ See Federal Identity Task Force Interim Recommendations, September 19, 2006, available at www.ftc.gov/opa/2006/09/intheft.htm

proposed programs and processes to ensure that personal information is not unnecessarily exposed to potential thieves. In a DVD created and launched by the Treasury Department on January 26, 2006 to inform consumers how they can protect themselves from identity theft, Treasury noted that “[i]dentity thieves threaten one of consumers’ most valuable assets – their credit history...”² The DVD features experts from the government and private sector talking about the scope of the identity theft problem and how consumers can protect themselves from such thieves. Based on these efforts, it seems logical that the IRS would support requests to mask or truncate SSNs and TINs.

Under Treasury regulations, payors are required to file certain information returns with the IRS for payments made to or received from payees. Also, partnerships and trusts are generally required to file certain IRS forms with the IRS. These information returns and forms must contain the payee’s, partner’s or trust beneficiary’s TIN or SSN. The regulations require that copies of these returns and forms (containing the taxpayer’s TIN or SSN) be mailed to the taxpayers. Noncompliance with this rule would generally result in fines and penalties or other consequences such as backup withholding.³ In addition to posing a significant privacy risk, the IRS’s rules requiring the disclosure of an individual’s SSN or a corporation’s, partnership’s, or other legal entity’s TIN works against efforts that are being made to reduce and combat identity theft.

Despite several requests to the IRS for revision of these rules, the IRS has made it clear that any masking or truncating of taxpayer personal information (SSN or TINs) on copies of IRS returns or forms mailed to taxpayers would result in penalties or fines. While we recognize that the inclusion of a taxpayer’s SSN or TIN on the returns and forms filed with the IRS is necessary in order for the IRS to match properly payments or allocations reported on the taxpayer’s income tax returns and payments or allocations reported by payors, partnerships and trusts, the current regulations create an unnecessary privacy risk for taxpayers. By not permitting masking or truncating on the copies mailed to taxpayers, the regulations create an ideal opportunity for identity thieves to intercept such mailings physically and thereby acquire taxpayers’ personal information, which can be used to impersonate the taxpayers and, for example, obtain credit in their name. As a result, some companies have adopted a system whereby such important information (i.e., SSNs, bank account numbers and credit card numbers) is abbreviated or masked in order to minimize opportunities for misuse or fraud. The fact that copies mailed to taxpayers are required to contain the label “Important Tax Return Document Enclosed,” makes the situation even worse. This label makes it clear to any and all that the envelope contains confidential taxpayer personal information. Essentially, the government itself is making it easy for identity thieves to obtain what they need.

The ABA requests that the IRS revise existing rules and allow payors, partnerships and trusts to mask or truncate taxpayer’s personal information on returns or forms mailed to the taxpayer. There is no indication that including or displaying the full SSN or TIN on these documents advances any significant governmental interest. In balancing the significant risk associated with displaying such information on the copies with the benefit (if any) to the government of having the mailed copies display the same exact information as the documents filed with the IRS, it is obvious that the regulations should not require such full display. Therefore, we recommend that payors, trusts and partnerships continue to include full SSN and TIN on returns and forms filed with the IRS, but be allowed to mask or truncate the numbers in a manner that would protect taxpayers in the copies of such documents that are provided to the recipient taxpayer.

² See Treasury Release js-3087, January 26, 2006.

³ See I.R.C. § 3406 (backup withholding imposed in certain circumstances where taxpayer’s TIN is not provided); I.R.C. § 6721; and Treas. Reg. § 301.6723-1(a)(4)(ii) (imposing a penalty on a taxpayer for failure to include a TIN on any return, statement or other document and for failure to furnish a TIN to another person).

Thank you for considering our comments. Please feel free to contact me if you have any questions or would like to discuss this important regulatory project further.

Sincerely,

A handwritten signature in black ink that reads "Franc Mordi". The signature is written in a cursive style with a large, stylized "F" and "M".

Francisca N. Mordi

cc: Caryl S. Grant
IRPAC Program Manager
National Public Liaison
Internal Revenue Service
1111 Constitution Ave., NW
Washington, DC 20224