



April 20, 2015

The Honorable Mark Mazur
Assistant Secretary for Tax Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220
Mark.mazur@treasury.gov

The Honorable William Wilkins
Chief Counsel
Internal Revenue Service, Office of the Chief Counsel
1111 Constitution Ave, NW, Room 3026
Washington, DC 20224
William.wilkins@irs.counsel.treas.gov

Gentlemen:

The Securities Industry and Financial Markets Association (“SIFMA”)¹ is writing to request the creation of a *de minimis* dollar threshold for Form 1099 corrections which will reduce reporting and cost burdens for both taxpayers filing corrections and the Internal Revenue Service (“IRS”) processing corrections.

We respectfully request that the IRS establish a *de minimis* threshold of \$50 per box on each form. Under this threshold, a corrected Form 1099-B, -DIV, -INT, -MISC, or -OID would not be required to be issued as a result of an amount in any given box changing by \$50 or less. Payers would aggregate all changes per box until the \$50 threshold is reached. When the threshold is reached within any one box, it would trigger reporting on the entire form. Furthermore, consistent with existing reporting obligations, information return filers will track

¹ SIFMA is the voice of the U.S. securities industry, representing the broker-dealers, banks and asset managers whose 889,000 employees provide access to the capital markets, raising over \$2.4 trillion for businesses and municipalities in the U.S., serving retail clients with over \$16 trillion in assets and managing more than \$62 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit <http://www.sifma.org>.

information for three years. It is important to note that the creation of a *de minimis* threshold should not preclude the issuance of a correction should a client request it.

To echo recommendations made previously by the Burden Reduction Subgroup of the Information Reporting Program Advisory Committee (“IRPAC”), we specifically recommend that “a failure to correct a *de minimis* amount of \$50 or less previously reported to the IRS should be defined in Reg. § 301.6721-1(c) and Reg. § 301.6722-1(b) as an ‘inconsequential error’ not subject to the penalty provisions of IRC §§ 6721 and 6722.” The creation of this safe harbor for *de minimis* amounts will offer taxpayers, filers, and the IRS relief from the burden and cost of processing such immaterial amounts.

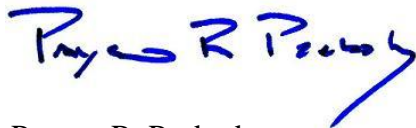
It has been suggested that the IRS lacks statutory authority to establish a *de minimis* threshold. However, there are other instances where the Treasury Department has established a *de minimis* rule by regulation in the interest of sound tax administration. For example, the Treasury Department created a *de minimis* rule in the regulations under IRC § 263(a) that allows taxpayers to expense (rather than capitalize) certain expenditures for property when the amount paid for such property does not exceed \$5,000 per invoice or per item. *See* Treas. Reg. 1.263(a)-1(f) (2013). This was a welcome accommodation to small business taxpayers, and the contours of this *de minimis* rule are not contained in IRC § 263(a) itself. Rather, as explained in the preamble to the 2013 regulations, the authority to promulgate the rule containing the \$5,000 *de minimis* exception stems from the general grant of authority to the Secretary under IRC § 7805 to prescribe “all needful rules and regulations” for the enforcement of Title 26. Guidance Regarding Deduction and Capitalization of Expenditures Related to Tangible Property, 78 Fed. Reg. 57,686, 57701 (2013), IRC § 7085(a). The Treasury Department used similar authority to create a *de minimis* rule under IRC § 1275 relating to inflation-adjusted bonds. In this case, the regulations borrow a statutory *de minimis* rule under § 1273 to define par value for purposes of eligibility of holders or issuers to use the coupon bond method for inflation adjusted bonds. Treas. Reg. § 1.1275-7(d)(2)(i). While this approach clearly is consistent with the statutory scheme, the statute does not specifically address the coupon bond method for inflation-adjusted bonds. IRC §§ 1273(a)(3) and 1275. Finally, in the regulations implementing the Foreign Account Tax Compliance Act (“FATCA”), the Treasury Department created a *de minimis* rule

that excludes from the definition of substantial U.S. owner, a specified U.S. person that has an interest in a foreign trust worth less than \$50,000 when such person received less than \$5,000 in distributions from the trust in the preceding calendar year. Treas. Reg. § 1.1473-1(b)(4). Therefore, we would posit that the Secretary has sufficient authority under IRC § 7805 to promulgate a *de minimis* exception in this case as well.

A *de minimis* threshold would eliminate the cost to taxpayers filing amended returns. Such costs will often exceed the amount of taxes due to or owed by the taxpayer. Furthermore, a *de minimis* threshold would reduce the burden to the IRS of processing amended returns for immaterial amounts.

SIFMA appreciates your consideration of its recommendation regarding this issue. Please do not hesitate to contact me at (202) 962-7300 ppeabody@sifma.org if you have any questions or if we can be of further assistance.

Sincerely,



Payson R. Peabody
Managing Director & Tax Counsel
Securities Industry and Financial Markets Association