

# ZIONS BANCORPORATION

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March 24, 2011

LEGAL PROCESSING DIVISION  
PUBLICATION & REGULATIONS  
BRANCH

CC:PA:LPD:PR (REG-146097-09)  
Room 5203  
Internal Revenue Service  
PO Box 7604  
Ben Franklin Station  
Washington, DC 20044

RE: Request for Comments for Notice 2011-8 Proposed Rulemaking of Public Hearing; and Withdrawal of Previously Proposed Rulemaking Guidance on Reporting Interest Paid to Nonresident Aliens.

Dear IRS:

We respectfully submit our comments related to the proposed rulemaking in Notice 2011-8 which proposes to require the reporting of bank deposit interest paid to foreign nonresident aliens on forms 1042-S annually.

### **Estimates of Implementation Costs and Timing**

The IRS requested comments regarding the estimated burdens outlined in the Notice and also requested estimated operational cost increases. Specifically, the Notice provided an estimate of 500 hours for total reporting and 15 minutes per respondent with an estimate of 2,000 respondents ---effectively equating to approximately 12.5 weeks to implement this change with no estimated resulting costs provided. Following are our comments.

#### *Reduction in NRA Deposits*

Due to safety and security issues we will discuss later, the implementation of this requirement will result in a reduction in our ability to attract nonresident alien deposit accounts. Additionally, we are convinced that this proposed change will drive existing nonresident alien customers to withdraw deposits from our banks. This loss of deposit income to our institutions will result in a decrease of funds available for lending and investment purposes ---a significant concern of the U.S. government considering the current financial state of our economy.

#### *Obtaining Required Data to Comply with Information Reporting Requirements*

We have approximately 9,000 deposit accounts classified as foreign and because we are not reporting the majority of them on an information return, we do not require a U.S. TIN to be provided. To comply with this proposed change, we would need to solicit all of our existing foreign accounts and require the customer to supply a TIN so that we can comply with information reporting requirements.

Many nonresident alien customers do not possess a U.S. TIN and so they would need to apply for an Individual Taxpayer Identification Number (ITIN) via the IRS and that process can take up to 4-6 weeks to complete. Additionally, customers are generally allotted 30 days to respond to TIN solicitations (such as B-notices) and W-8 forms require an original signature which significantly slows down the overall process. Factoring in the time it would take to prepare and mail out this volume along with the items previously mentioned, this process alone could take approximately 90-120 days to complete. Also, additional operational costs estimated at \$8,000 will be incurred associated with preparing a special mailing of this size and performing all of the updates as responses are received back from customers.

Additionally, the operational costs to administer backup withholding including daily reconciliations, twice weekly remittances and annual reporting will all increase because a significant number of accounts will now be subject to the withholding requirement. We would likely need to add 1 tax reporting operations staff position to manage this process and an estimated 8 branch operations staff to support questions and disputes that will arise.

#### *Technical Programming*

We currently issue our 1042-S forms on paper because of the small number of Canadian residents who make up our customer base. The proposed change would exponentially increase our 1042-S reporting volume from less than 100 forms to approximately 9,000 forms and would require us to produce and file the 1042-S forms electronically. To achieve this would require the 1042-S form to be created in our year end program as well as the creation of a data extract from our core systems to properly report the data. Additionally, the maintenance of all country codes (versus just Canada today) would need to be added to the year end process since they change frequently, to ensure we are picking up all reportable accounts. Related reporting which currently exists to identify only Canadian nonresident aliens would need to be modified to include all foreign recipients of bank deposit interest. These changes alone will add approximately 4-6 weeks to our year end technical programming time and another 1-2 weeks to test and produce the forms accurately.

Another potential issue worth mentioning is that if the U.S. is going to share interest income information with the governments of each foreign country, it is assumed that some identifying number similar to the U.S. version of the TIN will be required so that the foreign government can properly associate the income with the correct taxpayer. Our current systems are configured to accept, operate, and report account data under the use of a single TIN. The establishment of a new field to track and report a foreign TIN simultaneously with a U.S. TIN would have to occur at least in our core account system and the year end file and a process to maintain these fields would need to be developed and managed go-forward. This effort could take an additional 8-10 weeks to develop, test and implement and we would incur initial and long-term costs to maintain this data.

#### *Strain on Technical Resources*

This proposed change comes at a time when our technology resources are already constrained trying to implement Corporation reporting requirements effective with 2012 reporting, cost basis changes, the new 1099-K reporting for merchant services transactions and the W-9 re-certification for all existing brokerage accounts to differentiate S Corporations who are now reportable. Additionally, resources are constrained across all of our businesses trying to implement all of the requirements of the Dodd-Frank Act.

These burdens do not take into account non-regulatory technology business priorities which include the replacement of our tax reporting system and our internal core systems; integral to our overall compliance with federal and state regulations as well as our sustainability as a company.

#### *Postage and Form Cost Increases*

As mentioned previously, our 1042-S form volume would exponentially increase as a result of this proposed change. The estimated annual cost increases in form printing and postage costs by our third party vendor is approximately \$3,000.00.

#### *Customer Service Support*

Since we would be issuing a substantial number of forms that we have not issued in the past, we would need to ensure our Customer Service teams are adequately staffed and

trained to support queries and disputes related to year end reporting. Additions to the staff would need to include multi-lingual representatives as the majority of our foreign customers do not speak English. We estimate we would need to add at least 10 customer service agents during tax season and 1 full time back office staff to manage disputes and corrections we estimate that this process could take up to 120 days to hire and train the staff accordingly.

*Implementation Timing Presents Risks*

The Notice provides that the effective date for the proposed change would be December 31<sup>st</sup> of the year in which the proposed change is approved. We do not act upon "proposed" notices and would not begin making any of the changes discussed in this document until the IRS necessitates the requirement.

If this proposed change is passed in the latter part of a calendar year, there would not be enough time for us to implement the changes. Additionally, a change of this magnitude required to be implemented so late in the year introduces significant risk to our ability to comply with current information reporting requirements as our resources are already constrained programming and testing during this time to meet existing year end deadlines.

**Minimizing the Burden**

The IRS requested comments regarding how the burdens of this proposed change could be minimized and how the process for collecting the information could be enhanced. Following are our comments.

*FATCA Implementation*

The IRS is likely going to need to revise the W-8 forms and accompanying instructions in order to properly implement upcoming FATCA requirements. Changes to the Form W-8 and/or Form W-9 require major systemic and process changes to support account opening and tax withholding and reporting processes. It would be more prudent to implement nonresident alien reporting changes at the same time so that we do not have to incur the expense or time of having to make these changes twice.

*Delayed Penalty Assessment*

If the IRS intends to maintain the December 31<sup>st</sup> due date for implementation, then penalties should be waived for the first tax year preceding the change so that we have time to perform all of the tasks outlined previously.

*Phased Implementation*

The IRS should consider a phased implementation approach. If a change is announced in 2011, the IRS should require implementation for new accounts by January 1, 2013 and later for existing foreign accounts. This would provide ample time to perform all of the tasks discussed previously while not interrupting current efforts to implement regulatory changes to our business operations.

*e-Statement Processing*

The IRS should provide for the delivery of electronic 1042-S statements to recipients to minimize the myriad of issues that accompany the paper mail process. These issues include delays in receipt of the year end statement due to the proximity of the customer in comparison to the location of the bank, non-receipt of the form due to mail processing failures, etc. In addition, requests for duplicate statements are already an expense and with the increase in forms, we will see an increase in these requests. An electronic solution would allow us to direct the customer to our website to reprint their own year end statement should they need a duplicate. This would also offset the increase in postage costs we will experience discussed previously.

**Collection of Nonresident Alien Bank Deposit Interest Information Necessary to Perform the Functions of the IRS**

The IRS requested comments regarding whether the proposed collection of information is necessary for the proper performance of the functions of the IRS. Specifically, the IRS outlined its' objective was to foster global cooperative information exchange for tax purposes, to strengthen the U.S. exchange of information program, and to improve voluntary compliance by U.S. taxpayers by making it more difficult to avoid the U.S. information reporting system (such as through false claims of foreign status). Following are our comments.

The majority of our nonresident alien customers provide the Form W-8BEN and include a U.S. mailing address on Line 5 of the form citing safety and security reasons to explain their preference to receive their financial related mail at a U.S. mailing address. If we are required to now report the interest these accounts earn to the IRS and the IRS forwards the interest income information to the customers' home country, we fail to see how this helps the IRS collect U.S. tax on deposit interest income.

While this example supports the objective of fostering global cooperative information exchanges for tax purposes, we submit that this reporting requirement will result in a reduction of nonresident alien deposits to our institutions and could also result in safety problems for our nonresident alien customers.

While we understand that the U.S. is driving towards transparency in tax reporting and that it is a difficult issue to discuss politically, the reality is that nonresident alien individuals are adverse to providing financial information to their home country often times, for safety and security reasons and not for tax evasion purposes.


While we have tried to be as thorough as possible when considering the proposed change and the impacts to our customers, costs, and timelines, it is likely that we have not addressed all of the impacts that this change will present to our business.

Based on current IRS regulations that require us to collect of a properly completed W-8 form and our internal efforts to collect supporting documentation (such as valid passports, government issued ID cards, articles of incorporation for businesses, etc.) to ensure the person or company status is truly foreign, we disagree that the IRS will improve tax compliance through this effort.

We respectfully request that the IRS perform the same due diligence that we have performed in analyzing the impacts of this change to the banking industry, the economy, and to the safety and security of nonresident alien individuals.

We appreciate the opportunity to comment on this proposed change.

Sincerely,



Norman Merritt  
Executive Vice President  
Director of Corporate Compliance  
Zions Bancorporation & Subsidiaries