

§ 1.6049-3

26 CFR Ch. I (4-1-02 Edition)

(b) *Exceptions.* The term “interest” when used in section 6049 does not include:

(1) Interest on obligations described in section 103(a) (1) or (3), relating to certain governmental obligations.

(2) Any payment by:

(i) A foreign corporation,

(ii) A nonresident alien individual, or

(iii) A partnership composed in whole or in part of nonresident aliens,

if such corporation, individual, or partnership is not engaged in trade or business within the United States and does not have an office or place of business or a fiscal or paying agent in the United States.

(3) Any interest which is subject to withholding under section 1441 or 1442 (relating to withholding of tax on nonresident aliens and foreign corporations, respectively) by the person making the payment, or which would be so subject to withholding but for the provisions of a treaty, or for the fact that under section 861(a)(1) it is not from sources within the United States, or for the fact that withholding is not required by reason of paragraph (a) or (f) of § 1.1441-4.

(4) In the case of a nominee, any interest which he receives and with respect to which he is required to withhold under section 1441 or 1442, or would be so required to withhold but for the provisions of a treaty, or for the fact that under section 861(a)(1) it is not from sources within the United States, or for the fact that withholding is not required by reason of paragraph (a) or (f) of § 1.1441-4.

(5) Any amount on which the person making the payment is required to deduct and withhold a tax under section 1451 (relating to tax-free covenant bonds), or would be so required but for section 1451(d) (relating to benefit of personal exemptions).

(6) Any amount which is subject to reporting as original issue discount.

(c) *Original issue discount—(1) In general.* The term “original issue discount” when used in this section and §§ 1.6049-1 and 1.6049-3 means original issue discount subject to the ratable inclusion rules of paragraph (a) of § 1.1232-3A, determined without regard to any reduction by reason of a purchase allowance under paragraph

(a)(2)(ii) of § 1.1232-3A or a purchase at a premium as defined in paragraph (d)(2) of § 1.1232-3.

(2) *Coordination with interest reporting.* In the case of an obligation issued after May 27, 1969 (other than an obligation issued pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter) and on or before December 31, 1982, original issue discount which is not subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is interest within the meaning of paragraph (a) of this section. Original issue discount which is subject to the reporting requirements of paragraph (a)(1)(ii) of § 1.6049-1 is not interest within the meaning of paragraph (a) of this section.

(3) *Exceptions.* Reporting of original issue discount is not required in respect of an obligation which paragraph (b)(2) of this section except from interest reporting.

(d) *Definition of “in registered form.”* For purposes of § 1.6049-1 and this section, an evidence of indebtedness is in registered form if it is registered as to both principal and interest (or, for purposes of reporting with respect to original issue discount, if it is registered as to principal) and if its transfer must be effected by the surrender of the old instrument and either the reissuance by the corporation of the old instrument to the new holder or the issuance by the corporation of a new instrument to the new holder.

(Secs. 6049 (a), (b), and (d) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 592, 594; 26 U.S.C. 6049 (a), (b), and (d); 68A Stat. 917, 26 U.S.C. 7805), and in sec. 309 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 591)

[T.D. 6628, 27 FR 12801, Dec. 28, 1962, as amended by T.D. 6908, 31 FR 16774, Dec. 31, 1966; T.D. 6966, 33 FR 11262, Aug. 8, 1968; T.D. 7154, 36 FR 25011, Dec. 28, 1971; T.D. 7584, 44 FR 1104, Jan. 4, 1979; T.D. 7881, 48 FR 12968, Mar. 28, 1983]

§ 1.6049-3 Statements to recipients of interest payments and holders of obligations to which there is attributed original issue discount in calendar years before 1983.

(a) *Requirement.* Every person filing (1) a Form 1099 or 1087 under section 6049(a)(1) and § 1.6049-1 with respect to

payments of interest or (2) a Form 1099-OID or 1087-OID with respect to original issue discount includible in gross income, shall furnish to the person whose identifying number is (or should be) shown on the form a written statement showing the information required by paragraph (b) of this section. With respect to interest, no statement is required to be furnished under section 6049(c) and this section to any person if the aggregate of the payments to (or received on behalf of) such person shown on the form would be less than \$10. With respect to original issue discount, no statement is required to be furnished under section 6049(c) and this section to any person if the aggregate amount of original issue discount on the statement to such person with respect to the obligation would be less than \$10. References in this section to Form 1099 shall be construed to include Form 1099-BCD, except that in applying paragraph (b)(2) of this section no information relating to the person to whom the certificate of deposit was originally issued shall be disclosed to another person to whom the payment of interest is made.

(b) *Form of statement*—(1) *In general.* The written statement required to be furnished to a person under paragraph (a) of this section shall show:

(i) With respect to payments of interest (as defined in § 1.6049-2) aggregating \$10 or more to any person during a calendar year before 1983:

(a) The aggregate amount of payments shown on the Form 1099 or 1087 as having been made to (or received on behalf of) such person and a legend stating that such amount is being reported to the Internal Revenue Service, and

(b) The name and address of the person filing the form, and

(ii) With respect to original issue discount (as defined in § 1.6049-2) which would aggregate \$10 or more on the statement to the holder during a calendar year after 1970 and prior to calendar year 1983:

(a) The aggregate amount or original issue discount includible by (or on behalf of) such person with respect to the obligation, as shown on Form 1099-OID or Form 1087-OID for such calendar year (determined by applying the rules

of paragraph (a)(1)(ii) of § 1.6049-1 for purposes of completing either form),

(b) All other items shown on such Form 1099-OID or Form 1087-OID for such calendar year (so determined), and

(c) A legend stating that such amount and such items are being reported to the Internal Revenue Service.

(2) *Special rule.* The requirements of this section for the furnishing of a statement to any person, including the legend requirement of this paragraph, may be met by the furnishing to such person of a copy of the Form 1099, 1099-OID, 1087, or 1087-OID filed pursuant to § 1.6049-1, or a reasonable facsimile thereof, in respect of such person. However, in the case of Form 1087-OID or 1099-OID, a copy of the instructions must also be sent to such person. A statement shall be considered to be furnished to a person within the meaning of this section if it is mailed to such person at his last known address.

(c) *Time for furnishing statements*—(1) *In general*—(i) *Payment of interest.* Each statement required by this section to be furnished to any person for a calendar year for the payment of interest shall be furnished to such person after November 30 of the year and on or before January 31 of the following year, but no statement may be furnished before the final interest payment for the calendar year has been paid. However, the statement may be furnished at any time after April 30 if it is furnished with the final interest payment for the calendar year.

(ii) *Original issue discount.* (a) Except as otherwise provided in this subdivision (ii), each statement required by this section to be furnished to any person for a calendar year for original issue discount shall be furnished to such person after December 31 of the year and on or before January 31 of the following year.

(b) The time for furnishing each statement required by this section to be furnished to any person for the calendar year 1971 for original issue discount in respect of obligations to which paragraph (e) of § 1.1232-3A applies (relating to deposits in banks and other similar financial institutions) is extended to March 15, 1972.

(c) The time for furnishing each statement required by this section to be furnished by a nominee to any person for the calendar year 1971 for original issue discount is extended to February 28, 1972.

(2) *Extensions of time.* For good cause shown upon written application of the person required to furnish statements under this section, the district director may grant an extension of time not exceeding 30 days in which to furnish such statements. The application shall be addressed to the district director with whom the income tax returns of the applicant are filed and shall contain a full recital of the reasons for requesting the extension to aid the district director in determining the period of the extension, if any, which will be granted. Such a request in the form of a letter to the district director signed by the applicant will suffice as an application. The application shall be filed on or before the date prescribed in subparagraph (1) of this paragraph for furnishing the statements required by this section.

(3) *Last day for furnishing statement.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see §301.7503-1 of this chapter (Regulations on Procedure and Administration).

(d) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section see §301.6678-1 of this chapter (Regulations on Procedure and Administration).

(Secs. 6049 (a), (b), and (d) and 7805 of the Internal Revenue Code of 1954 (96 Stat. 592, 594; 26 U.S.C. 6049 (a), (b), and (d); 68A Stat. 917, 26 U.S.C. 7805), and in sec. 309 of the Tax Equity and Fiscal Responsibility Act of 1982 (96 Stat. 591)

[T.D. 6628, 27 FR 12801, Dec. 28, 1962, as amended by T.D. 7154, 36 FR 25011, Dec. 28, 1971; 37 FR 527, Jan. 13, 1972; T.D. 7584, 44 FR 1104, Jan. 4, 1979; T.D. 7624, 44 FR 31012, May 30, 1979; T.D. 7881, 48 FR 12968, Mar. 28, 1983]

§ 1.6049-4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

(a) *Requirement of reporting—(1) In general.* Except as provided in para-

graph (c) of this section, an information return shall be made by a payor, as defined in paragraph (a)(2) of this section, of amounts of interest and original issue discount paid after December 31, 1982. Such return shall contain the information described in paragraph (b) of this section.

(2) *Payor.* A payor is a person described in paragraph (a)(2) (i) or (ii) of this section.

(i) Every person who makes a payment of the type and of the amount subject to reporting under this section (or under an applicable section under this chapter) to any other person during a calendar year; however, persons not treated as payors for purposes of §31.3406(a)-2 of this chapter shall not be treated as payors for purposes of this paragraph (a)(2).

(ii) Every person who collects on behalf of another person payments of the type and of the amount subject to reporting under this section (or under an applicable section under this chapter), including middlemen treated as payors under §31.3406(a)-2 of this chapter, or who otherwise acts as a middleman (as defined in paragraph (f)(4) of this section) with respect to such payment.

(b) *Information to be reported—(1) Interest payments.* Except as provided in paragraphs (b) (3) and (5) of this section, in the case of interest other than original issue discount treated as interest under §1.6049-5(f), an information return on Form 1099 shall be made for the calendar year showing the aggregate amount of the payments, the name, address, and taxpayer identification number of the person to whom paid, the amount of tax deducted and withheld under section 3406 from the payments, if any, and such other information as required by the forms. An information return is generally not required if the amount of interest paid to a person aggregates less than \$10 or if the payment is made to a person who is an exempt recipient described in paragraph (c)(1)(ii) of this section, unless the payor backup withholds under section 3406 on such payment (because, for example, the payee (i.e., exempt recipient) has failed to furnish a Form W-9 on request), in which case the payor must make a return under this section, unless the payor refunds the amount