

sections 401 through 404 under such plan,

that such contributions have been made to such trust or plan. Such notification shall be delivered to such trustee or such issuer during the first calendar year in which such contributions are made or on or before February 28 of the year following such year. Only one such notification must be made with respect to any contract or any trust.

(c) *Penalties.* For civil penalty for failure to file a return required by this section, and for criminal penalty for furnishing fraudulent information under this section, see §§ 301.6652-3 and 301.7207-1 respectively.

(d) *Permission to submit information required by Form 1099 on magnetic tape.* For rules relating to permission to submit the information required by Form 1099 on magnetic tape or other media, see § 1.9101-1.

[T.D. 6677, 28 FR 10147, Sept. 17, 1963, as amended by T.D. 6883, 31 FR 6589, May 3, 1966; T.D. 7551, 43 FR 29292, July 7, 1978; T.D. 8895, 65 FR 50407, Aug. 18, 2000]

§ 1.6049-1 Returns of information as to interest paid in calendar years before 1983 and original issue discount includible in gross income for calendar years before 1983.

(a) *Requirement of reporting—(1) In general.* (i) Every person who makes payments of interest (as defined in § 1.6049-2) aggregating \$10 or more to any other person during a calendar year before 1983 shall make an information return on Forms 1096 and 1099 for such calendar year showing the aggregate amount of such payments, the name and address of the person to whom paid, the total of such payments for all persons, and such other information as is required by the forms. In the case of interest paid during calendar years beginning with 1963 and continuing until such time as the Commissioner determines that it is feasible to aggregate payments on two or more accounts, insurance contracts, or investment certificates and this subdivision is amended accordingly to provide for reporting on an aggregate basis, the requirement of this subdivision for the filing of Form 1099 will be met if a person making payments of interest to an-

other person on two or more such accounts, insurance contracts, or investment certificates, files a separate Form 1099 with respect to each such account, contract, or certificate on which \$10 or more of interest is paid to such other person during the calendar year. In the case of evidences of indebtedness described in section 6049(b)(1)(A), separate Forms 1099 may be filed as provided in the preceding sentence with respect to holdings in different issues. Thus, if a bank pays to a person interest totaling \$15 on one account and \$20 on a second account, it may file separate Forms 1099 with respect to the payments of \$15 and \$20. If the interest on the second account totaled \$5 instead of \$20, no return would be required with respect to the \$5.

(ii)(a) Every person which is a corporation that has outstanding any bond, debenture, note, or certificate or other evidence of indebtedness (referred to in this section and § 1.6049-2 as an obligation) in "registered form" (as defined in paragraph (d) of § 1.6049-2) issued after May 27, 1969 (other than an obligation issued by a corporation pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter) and on or before December 31, 1982, as to which there is during any calendar year before 1983 an amount of original issue discount (as defined in § 1.6049-2) aggregating \$10 or more includible as interest in the gross income for such calendar year of any holder (determined, if semiannual record date reporting is being used under (b)(1) of this subdivision, by treating each holder as holding the obligation on every day it was outstanding during the calendar year), shall make an information return on Forms 1096 and 1099-OID for such calendar year showing the following:

(1) The name and address of each record holder for whom such aggregate amount of original issue discount is \$10 or more and, for calendar years subsequent to 1972, the account, serial, or other identifying number of each obligation for which a return is being made.

(2) The aggregate amount of original issue discount includible by each such holder for the period during the calendar year for which the return is

made (or, if the aggregation rules of (b)(2) of this subdivision are being used, that he held the obligations). If however, the semiannual record date reporting rules are being used under (b)(1) of this subdivision, such aggregate amount shall be determined by treating each such record date holder as if he held each such obligation on every day it was outstanding during the calendar year. For purposes of this section, an obligation shall be considered to be outstanding from the date of original issue (as defined in paragraph (b)(3) of § 1.1232-3). In the case of a time deposit open account arrangement to which paragraph (e)(5) of § 1.1232-3A applies, for example, the amount to be shown under this subdivision (2) on the Forms 1096 and 1099-OID is the sum (computed under such paragraph (e)(5)) of the amounts separately computed for each deposit made pursuant to the arrangement.

(3) The issue price of the obligation (as defined in paragraph (b)(2) of § 1.1232-3).

(4) The stated redemption price of the obligation at maturity (as defined in paragraph (b)(1)(iii) of § 1.1232-3).

(5) The ratable monthly portion of original issue discount with respect to the obligation as defined in section 1232(a)(3)(A) (determined without regard to a reduction for a purchase allowance or whether the holder purchased at a premium).

(6) The name and address of the person filing the form.

(7) Such other information as is required by the form. And,

(8) The sum, for all such holders of the aggregate amounts of such original issue discount includible for such calendar year for each such holder.

(b) With respect to any obligation (other than an obligation to which paragraph (e) or (f) of § 1.1232-3A applies (relating respectively to deposits in banks and similar financial institutions and to face-amount certificates)), the issuing corporation (or an agent acting on its behalf):

(1) Shall be permitted (until this subdivision (1) is amended) to prepare a Form 1099-OID only for each person who is a holder of record of the obligation on the semiannual record date (if any) used by the corporation (or agent)

for the payment of stated interest or, if there is no such date, the semiannual record dates shall be considered to be June 30, and December 31.

(2) Shall be permitted to aggregate all original issue discount with respect to 2 or more obligations of the same issue for which the amounts specified in (a)(2), (a)(3), (a)(4), and (a)(5) of this subdivision are proportional and, therefore, may file one Form 1099-OID for all such obligations being aggregated, except that for calendar year 1971 this aggregation rule shall apply only where such specified amounts are identical. For an illustration of proportional aggregation, see example (4) in (d) of this subdivision.

(c) In any case in which any one holder of a particular obligation for the calendar year held such obligation on more than one record date, only one Form 1099-OID shall be filed for that year with respect to that holder and that obligation. This provision applies only in the case in which any corporation prepares Forms 1099-OID in accordance with the record date reporting rule of (b)(1) of this subdivision.

(d) The requirements of (a)(3), (a)(4), and (a)(5) of this subdivision shall not apply to a time deposit open account arrangement to which paragraph (e)(5) of § 1.1232-3A applies, or to a face-amount certificate to which paragraph (f) of § 1.1232-3A applies.

(e) The provisions of this subdivision (ii) may be illustrated by the following examples:

Example 1. On January 1, 1971, a corporation issued a 10-year bond in registered form which pays stated interest to the holder of record on June 30 and December 31. The bond has an issue price (as defined in paragraph (b)(2) of § 1.1232-3) of \$7,600, a stated redemption price (as defined in paragraph (b)(1) of § 1.1232-3) at maturity of \$10,000, and a ratable monthly portion of original issue discount (as defined in section 1232(a)(3)(A)) of \$20. The corporation's books indicate that A was the holder of record on June 30, 1971, and B was the holder on December 31, 1971. Under (b)(1) of this subdivision, the corporation is permitted to file separate Forms 1099-OID for both A and B showing, on each form, all items required by (a) of this subdivision, including the total original issue discount of \$240 for the entire calendar year (which includes original issue discount for all holders), the issue price of \$7,600, the stated redemption price at maturity of \$10,000, and

the ratable monthly portion of original issue discount of \$20.

Example 2. Assume the facts stated in Example (1), except that A is recorded on the books of the corporation as holding the bond on June 30 and December 31, 1971. The corporation shall complete and file only one Form 1099-OID for A.

Example 3. Assume the facts stated in Example (1), except that the books of the corporation show that A held 2 of the bonds at all times in 1971. The amounts of the items listed in (a)(2), (a)(3), (a)(4), and (a)(5) of this subdivision are identical for the 2 bonds. Under (b)(2) of this subdivision, the corporation is permitted to treat the 2 bonds as one for purposes of completing and filing a Form 1099-OID for 1971 and aggregate the amounts being reported.

Example 4. On January 1, 1972, a corporation issued to C 3 bonds in registered form of the same issue with stated redemption prices of \$1,000, \$5,000, and \$10,000. The aggregate amounts of original issue discount for each year, the issue prices, the stated redemption prices, and the monthly portions of original issue discount are the same for each \$1,000 of stated redemption price. Thus, all relevant amounts for any one bond are proportional to such amounts for any other bond. Therefore, so long as C holds the bonds the corporation shall be permitted to aggregate on one Form 1099-OID all original issue discount with respect to such obligations in accordance with (b)(2) of this subdivision.

Example 5. On June 1, 1971, a corporation issues a 10-year bond to D, for which the ratable monthly portion of original issue discount is \$10. For 1971, the corporation uses the record date reporting system permitted by (b)(1) of this subdivision. The corporation's books show that E held the bond on June 30, 1971, and that F held the bond on December 31, 1971, the dates on which the corporation pays stated interest on the bond. The corporation shall file a Form 1099-OID for both E and F showing on each form the aggregate amount of original issue discount includible for 1971 or \$70 since E and F are each treated as if each held the bond every day it was outstanding and it was outstanding 7 months in 1971. As to D, the corporation is not required to file a Form 1099-OID since D did not hold the bond on either of the 2 record dates.

(iii) Every person who during a calendar year before 1983 receives payments of interest as a nominee on behalf of another person aggregating \$10 or more shall make an information return on Forms 1096 and 1087 for such calendar year showing the aggregate amount of such interest, the name and address of the person on whose behalf received, the total of such interest re-

ceived on behalf of all persons, and such other information as is required by the forms.

(iv) Except with respect to an obligation to which paragraph (e) or (f) of §1.1232-3A applies (relating respectively to deposits in banks and similar financial institutions and to face-amount certificates), every person who is a nominee on behalf of the actual owner of an obligation as to which there is original issue discount aggregating \$10 or more includible in the gross income of such owner during a calendar year before 1983, regardless of whether he receives a Form 1099-OID with respect to such discount, shall make an information return on Forms 1096 and 1087-OID for such calendar year showing in the manner prescribed on such forms the same information for the actual owner as is required or permitted in subdivision (ii) of this subparagraph for the record holder.

(v) Notwithstanding the provisions of subdivisions (iii) and (iv) of this subparagraph, the filing of Form 1087 or Form 1087-OID is not required if:

(a) The record owner is required to file a fiduciary return on Form 1041 disclosing the name, address, and identifying number of the actual owner;

(b) The record owner is a nominee of a banking institution or trust company exercising trust powers, and such banking institution or trust company is required to file a fiduciary return on Form 1041 disclosing the name, address, and identifying number of the actual owner; or

(c) The record owner is a banking institution or trust company exercising trust powers, or a nominee thereof, and the actual owner is an organization exempt from taxation under section 501(a) for which such banking institution or trust company files an annual return,

but only if the name, address, and identifying number of the record owner are included on or with the Form 1041 fiduciary return filed for the estate or trust or the annual return filed for the tax exempt organization.

(vi) Every person carrying on the banking business who makes payments of interest to another person (whether or not aggregating \$10 or more) during

a calendar year with respect to a certificate of deposit issued in bearer form (other than such a certificate issued in an amount of \$100,000 or more) shall make an information return on Forms 1096 and 1099-BCD for such calendar year. The preceding sentence applies whether such payments are made during the term of the certificate or at its redemption. The information return required by this subdivision for the calendar year shall show the following:

(a) The name, address, and taxpayer identification number of the person to whom the interest is paid;

(b) The aggregate amount of interest paid to such person during the calendar year with respect to the certificate of deposit;

(c) The name, address, and taxpayer identification number of the person to whom the certificate was originally issued;

(d) The portion of the interest with respect to the certificate reported under (b) that is attributable to the current calendar year; and

(e) Such other information as is required by the form.

The application of this subdivision (vi) may be illustrated by the following examples:

Example 1. On June 1, 1978, X Bank issues a \$1,000 bearer certificate of deposit to A. The certificate of deposit is not redeemable until May 31, 1979, and no interest is to be paid on the instrument until its redemption. On September 1, 1978, A transfers the bearer certificate to B and on May 31, 1979, B presents the certificate to X for payment and receives the \$1,000 principal amount plus all the accrued interest. Under paragraph (a)(1)(vi) of this section, X is not required to make an information return for 1978 with respect to the bearer certificate of deposit because no interest is actually paid to a holder of the certificate during 1978. X is required to file an information return for 1979 with respect to the certificate, identifying B as the payee of the entire amount of the interest and A as the original purchaser of the certificate. (For rules relating to statements to be made to recipients of interest payments, see § 1.6049-3.)

Example 2. On July 1, 1978, Y Bank issues a \$5,000 bearer certificate of deposit to C. The certificate of deposit is not redeemable until June 30, 1981, and no interest is to be paid on the instrument until its redemption. C holds the certificate for the entire term and on June 30, 1981, presents it to Y for payment and receives the \$5,000 principal amount plus

the accrued interest. Under paragraph (a)(1)(vi) of this section, Y is not required to file an information return for calendar years 1978, 1979, or 1980 with respect to this bearer certificate of deposit because no interest is actually paid to C during those calendar years. Y is required to file an information return for 1981 with respect to the certificate identifying C as the payee of the entire amount of the interest and as the original purchaser. (Although Y is not required to file an information return for interest paid on the certificate until its redemption in 1981, C must report as income on his tax returns for 1978, 1979, 1980, and 1981 the ratable portion of such interest includible in income under section 1232.)

(2) *Definitions.* (i) The term “person” when used in this section does not include the United States, a State, the District of Columbia, a foreign government, a political subdivision of a State or of a foreign government, or an international organization. Therefore, interest paid by or to one of these entities need not be reported. Similarly, original issue discount in respect of an obligation issued by or to one of these entities need not be reported.

(ii) For purposes of this section, a person who receives interest shall be considered to have received it as a nominee if he is not the actual owner of such interest and if he was required under § 1.6109-1 to furnish his identifying number to the payer of the interest (or would have been so required if the total of such interest for the year had been \$10 or more), and such number was (or would have been) required to be included on an information return filed by the payer with respect to the interest. However, a person shall not be considered to be a nominee as to any portion of an interest payment which is actually owned by another person whose name is also shown on the information return filed by the payer or nominee with respect to such interest payment. Thus, in the case of a savings account jointly owned by a husband and wife, the husband will not be considered as receiving any portion of the interest on that account as a nominee for his wife if his wife’s name is included on the information return filed by the payer with respect to the interest.

(iii) For purposes of this section, in the case of a person who receives a Form 1099-OID, the determination of

who is considered a nominee shall be made in a manner consistent with the principles of subdivision (ii) of this subparagraph.

(iv) For purposes of this section and § 1.6049-3, the term "Form 1099-OID" means the appropriate Form 1099 for original issue discount prescribed for the calendar year.

(3) *Determination of person to whom interest is paid or for whom it is received.* For purposes of applying the provisions of this section, the person whose identifying number is required to be included by the payer of interest on an information return with respect to such interest shall be considered the person to whom the interest is paid. In the case of interest received by a nominee on behalf of another person, the person whose identifying number is required to be included on an information return made by the nominee with respect to such interest shall be considered the person on whose behalf such interest is received by the nominee. Thus, in the case of interest made payable to a person other than the record owner of the obligation with respect to which the interest is paid, the record owner of the obligation shall be considered the person to whom the interest is paid for purposes of applying the reporting requirements of this section, since his identifying number is required to be included on the information return filed under such section by the payer of the interest. Similarly, if a stockbroker receives interest on a bond held in street name for the joint account of a husband and wife, the interest is considered as received on behalf of the husband since his identifying number should be shown on the information return filed by the nominee under this section. Thus, if the wife has a separate account with the same stockbroker, any interest received by the stockbroker for her separate account should not be aggregated with the interest received for the joint account for purposes of information reporting. For regulations relating to the use of identifying numbers, see § 1.6109-1.

(4) *Determination of person by whom original issue discount is includible or for whom a Form 1099-OID showing original issue discount is received.* For purposes

of applying the provisions of this section, the determination of the person by whom original issue discount is includible or for whom a Form 1099-OID is received shall be made in a manner consistent with the principles of subparagraph (3) of this paragraph.

(5) *Inclusion of other payments.* The Form 1099 filed by any person with respect to payments of interest to another person during a calendar year prior to 1972 may, at the election of the maker, include payments other than interest made by him to such other person during such year which are required to be reported on Form 1099. Similarly, the Form 1087 filed by a nominee with respect to payments of interest received by him on behalf of any other person during a calendar year prior to 1972 may include payments of dividends received by him on behalf of such person during such year which are required to be reported on Form 1087. However, except as provided in subparagraph (1)(ii)(b) of this paragraph, a separate Form 1087-OID or 1099-OID shall be filed for each obligation in respect of which original issue discount is required to be reported for any calendar year before 1983. In addition, any person required to report payments on both Forms 1087, 1087-OID, 1099, and 1099-OID, for any calendar year may use one Form 1096 to summarize and transmit such forms.

(b) *When payment deemed made.* For purposes of section 6049, interest is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition.

(c) *Time and place for filing—(1) Payment of interest.* The returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

For extensions of time for filing returns under this section, see § 1.6081-1.

(2) *Original issue discount.* (i) The returns required under this section for any calendar year for original issue discount shall be filed after December 31 of such year and on or before February 28 of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(ii) The time for filing returns for the calendar year 1971 required under this section 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 April 15, 1972.

(d) *Penalty.* For penalty for failure to file the statements required by this section, see § 301.6652-1 of this chapter (Regulations on Procedure and Administration).

(e) *Permission to submit information required by Form 1087 or 1099 on magnetic tape.* For rules relating to permission to submit the information required by Form 1087 or 1099 on magnetic tape or other media, see § 1.9101-1.

(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 12800, Dec. 28, 1962, as amended by T.D. 6879, 31 FR 3494, Mar. 8, 1966; T.D. 6883, 31 FR 6589, May 8, 1966; T.D. 7000, 34 FR 996, Jan. 23, 1969, T.D. 7154, 36 FR 25009, Dec. 28, 1971; 37 FR 527, Jan. 13, 1972; T.D. 7311, 39 FR 11881, Apr. 1, 1974; T.D. 7584, 44 FR 1103, Jan. 4, 1979; T.D. 7881, 48 FR 12968, Mar. 28, 1983]

§ 1.6049-2 Interest and original issue discount subject to reporting in calendar years before 1983.

(a) *Interest in general.* Except as provided in paragraph (b) of this section, the term “interest” when used in this section and §§ 1.6049-1 and 1.6049-3 means:

(1) Interest on evidences of indebtedness issued by a corporation in “registered form” (as defined in paragraph (d) of this section). The phrase “evi-

dences of indebtedness” includes bond, debentures, notes, certificates and other similar instruments regardless of how denominated.

(2) Interest on deposits (except deposits evidenced by negotiable time certificates of deposit issued in an amount of \$100,000 or more) paid (or credited) by persons carrying on the banking business. In the case of a certificate of deposit issued in bearer form, the term “interest”, as used in the preceding sentence and in paragraph (a)(1)(vi) of § 1.6049-1, has the same meaning as in § 1.61-7 (regardless of whether taxable to the payee in the year the information return is made).

(3) Amounts, whether or not designated as interest, paid (or credited) by mutual savings banks, savings and loan associations, building and loan associations, cooperative banks, homestead associations, credit unions, or similar organizations in respect of deposits, face amount certificates, investment certificates, or withdrawable or repurchasable shares. Thus, even though amounts paid or credited by such organizations with respect to deposits are designated as “dividends”, such amounts are included in the definition of interest for purposes of section 6049.

(4) Interest on amounts held by insurance companies under agreements to pay interest thereon. This includes interest paid by insurance companies with respect to policy “dividend” accumulations (see sections 61 and 451 and the regulations thereunder for rules as to when such interest is considered paid), and interest paid with respect to the proceeds of insurance policies left with the insurer. The so-called “interest element” in the case of annuity or installment payments under life insurance or endowment contracts does not constitute interest for purposes of this section.

(5) Interest on deposits with stockbrokers, bondbrokers, and other persons engaged in the business of dealing in securities.

(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.