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out of each subsequent payment made before January 1, 1984.

g–22. Q. Will the notice requirements of section 3405 apply before July 1, 1983, with respect to recipients of periodic payments that total less than $5400 per year?

A. No.

g–23. Q. Will the notice and withholding requirements of section 3405 apply before July 1, 1983, with respect to payments to nonresident alien individuals?

A. No.

g–24. Q. Does a payor or plan administrator who requested a delay prior to the publication of these procedures in the FEDERAL REGISTER *need to resubmit the request in light of these procedures?*

A. Yes. In order to be entitled to a delay, payors and plan adminstrators must follow the procedures required by these temporary regulations.

g–25. Q. Will the notice and withholding requirements of section 3405 apply before January 1, 1984, with respect to the exchange or complete or partial surrender of a commercial annuity under which the recipient had not irrevocably chosen, prior to January 1, 1984, to receive payments in the form of an annuity?

A. In the case of the exchange or complete or partial surrender of a commercial annuity under which the recipient had not irrevocably chosen, prior to January 1, 1984, to receive payments in the form of an annuity, the application of the notice and withholding provisions of this section may be delayed, so long as undue hardship exists, up to January 1, 1984. Prior approval from the Internal Revenue Service is not required for such delay, and should not be requested. For purposes of this delay, undue hardship will be presumed to exist, in the absence of bad faith, so long as the payor can establish that at least one of the conditions in question g–6 is present. The payor should prepare and retain a statement of undue hardship as described in question g–9 and should maintain any documents necessary to support the representations made in that statement.

[T.D. 7839, 47 FR 45868, Oct. 14, 1982; 47 FR 47241, Oct. 25, 1982; as amended by T.D. 7858, 47 FR 54066, Dec. 1, 1982; 47 FR 57021, Dec. 22, 1982; T.D. 7904, 48 FR 35091, Aug. 3, 1983; 48 FR 36449, Aug. 11, 1983. Redesignated by T.D. 8873, 65 FR 6007, Feb. 8, 2000]

EFFECTIVE DATE NOTE: By T.D. 8873, 65 FR 6007, Feb. 8, 2000, §35.3405–1T was redesignated from §35.3405–1, effective Jan. 1, 2001.

PART 35a—TEMPORARY EMPLOYMENT TAX REGULATIONS UNDER THE INTEREST AND DIVIDEND TAX COMPLIANCE ACT OF 1983

Sec.

35a.3406–2 Imposition of backup withholding for notified payee underreporting of reportable interest or dividend payments.
35a.9999–0 Effective date.
35a.9999–1 Questions and answers concerning the due diligence requirement and the certification requirements in connection with backup withholding and other related issues.
35a.9999–2 Questions and answers concerning due diligence and issues in connection with backup withholding.
35a.9999–3 Questions and answers concerning backup withholding.
35a.9999–3A Question and answer relating to exemption from backup withholding for certain principal payments made outside the United States by brokers on certain obligations.
35a.9999–4T Questions and answers relating to the application of information reporting and backup withholding to payments by foreign offices of United States and foreign brokers and by United States offices of banks and brokers, and other related matters (temporary).
35a.9999–5 Questions and answers relating to repeal of 30 percent withholding by section 127 of the Tax Reform Act of 1984 and to the application of information reporting and backup withholding in light of such repeal.

AUTHORITY: 26 U.S.C. 7805; §35a.3406–2 also issued under 26 U.S.C. 3406(c)(3)(D) and 3406(i).

§35a.3406–2 Imposition of backup withholding for notified payee underreporting of reportable interest or dividend payments.

(a) *Requirement that a payor backup withhold due to a notified payee underreporting*—(1) *In general.* Except as otherwise provided in paragraph (a)(5) of this section, backup withholding under section 3406(a)(1)(C) applies to any reportable interest or dividend payment (as defined in section 3406(b)(2) and paragraph (a)(4) of this section) made to a payee, if the Internal Revenue Service or a broker (as defined in section 3406(h)(5) and paragraph (a)(7) of this section and pursuant to section 3406(d)(2)(B)(ii)(III)) notifies a payor (as defined in section 3406(h)(4) and in paragraph (a)(6) of this section) that