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103(a), relating to certain governmental obligations), and is not considered to be a payment of interest for purposes of section 6049.

(c) *Middlemen*—(1) *In general.* Any middleman (as defined in §31.3406(a)–2(b)) must withhold under section 3406 at the time the reportable payment is received by or credited to the middleman. If the middleman makes or credits the reportable payment to the payee prior to the middleman's receipt of the corresponding payment, the middleman may withhold at the time the reportable payment is made or credited to the payee.

(2) *Special rule for common trust funds.* A common trust fund (as defined in section 584) must withhold either—

(i) At the time the reportable payment is received by or credited to the common trust fund as provided in paragraph (c)(1) of this section;

(ii) On the date on which the assets of the common trust fund are valued; or

(iii) At the time the common trust fund pays or credits the reportable payment to a participant of the common trust fund.

(3) *Special rule for certain grantor trusts.* For grantor trusts described in §31.3406(a)–2(b)(4), reportable payments made to the trust are treated as paid by the trust to each grantor, in an amount equal to the distribution made by the trust to each grantor, on the date that the reportable payment is paid to the trust (except for gross proceeds reportable under section 6045). Paragraph (b)(2) of this section applies to a grantor trust making a payment of gross proceeds under section 6045 subject to withholding under section 3406. For purposes of this paragraph (c)(3) a husband and wife filing a joint return are considered to be one grantor.

[T.D. 8637, 60 FR 66115, Dec. 21, 1995]

§31.3406(b)(2)–1 Reportable interest payment.

(a) *Interest subject to backup withholding*—(1) *In general.* A payment of a kind, and to a payee, that is required to be reported under section 6049 (relating to returns regarding interest and original issue discount) is a reportable payment for purposes of section 3406, subject to the special rules of §31.3406(b)(2)–2 (relating to original issue discount) and §31.3406(b)(2)–3 (relating to window transactions). See §31.6051–4 for the requirement to furnish a statement to the payee if tax is withheld under section 3406.

(2) *Special rule for tax-exempt interest.* When an issuer is required to make an information return under §1.6049–4(d)(8) of this chapter because a payee provided a signed written statement on the envelope or shell incorrectly claiming that the interest was exempt from taxation under section 103(a) (as described in §1.6049–5(b)(1)(ii) of this chapter), the issuer is not required to impose withholding under section 3406.

(b) *Amount subject to backup withholding*—(1) *In general.* The amount of interest subject to withholding under section 3406 is the amount subject to reporting under section 6049.

(2) *Special rule to adjust for premature withdrawal penalty.* Solely for purposes of computing the amount subject to withholding under section 3406, the payor may elect not to withhold from the portion of any interest payment that is not received by the payee because a penalty is in fact imposed for premature withdrawal of funds deposited in a time savings account, certificate of deposit, or similar class of deposit.

[T.D. 8637, 60 FR 66115, Dec. 21, 1995]

§31.3406(b)(2)–2 Original issue discount.

(a) *Original issue discount subject to backup withholding.* The amount of original issue discount, treated as interest, subject to withholding under section 3406 is the amount subject to reporting under section 6049, but is limited to the amount of cash paid. In addition, if an original issue discount obligation, subject to reporting under section 6045, is sold prior to maturity and with respect to the seller a condition exists for imposing withholding under section 3406 on the gross proceeds, then withholding under §31.3406(b)(3)–2 applies to the gross proceeds of the sale reportable under section 6045, and not to the amount of any original issue discount includible in the gross income of the seller for the