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cash payments are made to the sum of the amounts of qualified stated interest and original issue discount includible in the gross income of the holder for the calendar year in which the cash payments are made. The amount required to be withheld at the time of any cash payment, however, must not exceed the amount of the cash payment. If more than one cash payment is made during a calendar year, the tax that is required to be withheld with respect to original issue discount must be allocated among all the expected cash payments in the ratio that each cash payment bears to the total of the expected cash payments.

(3) *Transferred registered long-term obligations with payments prior to maturity.* In the case of a long-term obligation that is transferred after its issuance from the original holder, the amount subject to withholding under section 3406 with respect to a subsequent holder is the amount of original issue discount includible in the gross income of all holders during the calendar year (without regard to any amount paid by a subsequent holder at the time of transfer). If the person redeeming the obligation at maturity is the issuer of the obligation, the issuer must determine the amount subject to withholding through its records by treating the holder as if he were the original holder. If a person redeeming the obligation at maturity is a person other than the issuer of the obligation, and the obligation is listed in Internal Revenue Service Publication 1212, List of Original Issue Discount Obligations, the person must determine the amount subject to withholding by using the issue price indicated in Publication 1212.

(e) *Bearer long-term obligations.* In the case of a bearer long-term obligation with cash payments prior to maturity—

(1) *Payments prior to maturity.* Withholding under section 3406 applies prior to maturity only to the payment of qualified stated interest (and not to any amount of original issue discount) includible in the gross income of the holder for the calendar year.

(2) *Payments at maturity.* At maturity of the obligation, withholding applies to the sum of any qualified stated interest payment made at maturity and the total amount of original issue discount includible in the gross income of the holder during the calendar year of maturity. The amount required to be withheld at the time of the cash payment, however, must not exceed the amount of the cash payment.

[T.D. 8637, 60 FR 66115, Dec. 21, 1995; 61 FR 12135, Mar. 25, 1996]

§ 31.3406(b)(2)–3 Window transactions.

(a) *Requirement to backup withhold.* Withholding under section 3406 applies to a window transaction (as defined in paragraph (b) of this section) only if the payee does not furnish a taxpayer identification number to the payor in the manner required in paragraph (c) of this section or furnishes an obviously incorrect number as described in § 31.3406(h)–1(b)(2). Withholding does not apply to a window transaction even though the Internal Revenue Service notifies the payor of the payee's incorrect taxpayer identification number under section 3406(a)(1)(B) or of notified payee underreporting under section 3406(a)(1)(C). The payee in a window transaction is not required to certify under penalties of perjury that the payee is not subject to withholding due to notified payee underreporting (as described in § 31.3406(d)–2(b)(2)).

(b) *Window transaction defined. Window transaction* means a payment of interest with respect to any of the following obligations:

(1) An interest coupon in bearer form that is subject to taxation (i.e., other than exempt interest described in § 1.6049–5(b)(1)(ii) of this chapter);

(2) A United States savings bond; or

(3) A discount obligation having a maturity at issue of one year or less, including commercial paper and bankers' acceptances that are in definitive form (i.e., evidenced by a paper document other than a confirmation receipt) but not including short-term government obligations (as defined in section 1271(a)(3)(B)).

(c) *Manner of furnishing taxpayer identification number in the case of a window transaction.* A payee must furnish the payee's taxpayer identification number to the payor with respect to a window transaction either orally or in writing

at the time that the window transaction occurs. See §31.3406(g)–3(c)(1)(i), which provides that a payee may not claim the payee is awaiting receipt of a taxpayer identification number with respect to a window transaction. The payee is not required to certify, under penalties of perjury, that the taxpayer identification number provided is correct.

[T.D. 8637, 60 FR 66116, Dec. 21, 1995]

§31.3406(b)(2)–4 Reportable dividend payment.

(a) *Dividends subject to backup withholding.* A payment of a kind, and to a payee, that is required to be reported under section 6042 (relating to returns regarding payments of dividends and corporate earnings and profits) is a reportable payment for purposes of section 3406. See paragraph (b) of this section for certain dividends not subject to withholding under section 3406. See §31.6051–4 for the requirement to furnish a statement to the payee if tax is withheld under section 3406.

(b) *Dividends not subject to backup withholding.* Except as provided in §31.3406(b)(3)–2 (relating to transactions reportable under section 6045), withholding under section 3406 does not apply to—

(1) Any amount treated as a taxable dividend by reason of section 302 (relating to redemptions of stock), section 304 (relating to redemptions through the use of related corporations), section 306 (relating to disposition of certain stock), section 356 (relating to receipt of additional consideration in connection with certain reorganizations), or section 1081(e)(2) (relating to certain distributions pursuant to an order of the Securities and Exchange Commission);

(2) Any exempt-interest dividend, as defined in section 852(b)(5)(A), paid by a regulated investment company; or

(3) Any amount paid or treated as paid during a year by a regulated investment company, provided that the payor reasonably estimates, as provided in paragraph (c)(2) of this section, that 95 percent or more of all dividends paid or treated as paid during the year are exempt-interest dividends.

(c) *Amount subject to backup withholding*—(1) *In general.* The amount of a dividend subject to withholding under section 3406 is the amount subject to reporting under section 6042, including any dividend that is reinvested pursuant to a plan under which a shareholder may elect to receive stock as a dividend instead of property. Except as otherwise provided in this paragraph (c), withholding applies to the entire amount of the distribution.

(2) *Reasonable estimate of amount of dividend subject to backup withholding.* Pursuant to section 6042(b)(3) and §1.6042–3(c) of this chapter, if the payor is unable to determine the portion of a distribution that is a dividend, the entire amount of the distribution must be treated as a dividend for information reporting under section 6042. Hence, withholding applies to the entire amount of the distribution. If a payor is able reasonably to estimate under section 6042 and §1.6042–3(c) of this chapter the portion of a distribution that is not a dividend, however, the payor must not withhold on that portion (which is not considered a dividend). A payor making a payment, all or a portion of which may not be a dividend, may use previous experience to estimate the portion of a distribution that is not a dividend. The payor's estimate is considered reasonable if—

(i) The estimate does not exceed the proportion of the distributions made by the payor during the most recent calendar year for which a Form 1099 was required to be filed that was not reported by the payor as a dividend; and

(ii) The payor has no reasonable basis to expect that the proportion of the distribution that is not a dividend will be substantially different for the current year.

(3) *Reinvested dividends.* In the case of a dividend paid pursuant to a dividend reinvestment plan, withholding under section 3406 applies, pursuant to §31.3406(a)–4(a), at the time and to the amount made available to the shareholder or credited to the shareholder's account. At the discretion of the payor, withholding under section 3406 need not be applied to any excess of the fair market value of the shares of stock received by the shareholder or credited to the shareholder's account over the purchase price of the shares (including shares acquired by the shareholder at a