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discount in connection with the dividend distribution) or to any fee that is paid by the payor in the nature of a broker's fee for purchase of the stock or service charge for maintenance of the shareholder's account. The payor must, however, treat any excess amounts and fees on a consistent basis for each calendar year.

[T.D. 8637, 60 FR 66117, Dec. 21, 1995]

§ 31.3406(b)(2)–5 Reportable patronage dividend payment.

(a) *Patronage dividends subject to backup withholding.* A payment of a kind, and to a payee, that is required to be reported under section 6044 (relating to returns regarding patronage dividends) is a reportable payment for purposes of section 3406. See § 31.6051–4 for the requirement to furnish a statement to the payee if tax is withheld under section 3406.

(b) *Amount subject to backup withholding*—(1) *Failure to provide taxpayer identification number or notification of incorrect taxpayer identification number.* For purposes of sections 3406(a)(1) (A) and (B), the amount of a payment described in paragraph (a) of this section that is subject to withholding under section 3406 is the amount subject to reporting under section 6044, but only to the extent the payment is made in money. For purposes of this paragraph (b), *money* includes cash or a qualified check (as defined in section 1388(c)(4)).

(2) *Notified payee underreporting or payee certification failure.* For purposes of sections 3406(a)(1) (C) and (D), the amount of a payment described in paragraph (a) of this section that is subject to withholding under section 3406 is the amount subject to withholding under paragraph (b)(1) of this section, but only if 50 percent or more of that reportable amount is paid in money. Thus, a payor is required to withhold according to this paragraph (b)(2) on a payment if—

(i) There has been a notified payee underreporting described in section 3406(a)(1)(C) and § 31.3406(c)–1 or there has been a payee certification failure described in section 3406(a)(1)(D) and § 31.3406(d)–2;

(ii) The payor makes a reportable payment subject to reporting under section 6044 to the payee; and

(iii) Fifty percent or more of the payment is in cash or by qualified check.

[T.D. 8637, 60 FR 66117, Dec. 21, 1995]

§ 31.3406(b)(3)–1 Reportable payments of rents, commissions, nonemployee compensation, etc.

(a) *Section 6041 and 6041A(a) payments subject to backup withholding.* A payment of a kind, and to a payee, that is required to be reported under section 6041 (relating to information reporting of rents, commissions, nonemployee compensation, etc.) or a payment that is required to be reported under section 6041A(a) (relating to information reporting of payments to nonemployees for services) is a reportable payment for purposes of section 3406. See paragraph (b) of this section for an exception concerning payments aggregating less than $600. See § 31.6051–4 for the requirement to furnish a statement to the payee if tax is withheld under section 3406.

(b) *Amount subject to backup withholding*—(1) *In general.* The amount of a payment described in paragraph (a) of this section subject to withholding under section 3406 is the amount subject to reporting under section 6041 or section 6041A(a).

(2) *Net commissions.* Withholding under section 3406 does not apply to net commissions paid to unincorporated special agents with respect to insurance policies that are subject to reporting under section 6041, provided that no cash is actually paid by the payor to the special agent.

(3) *Payments aggregating $600 or more for the calendar year*—(i) *In general.* A payment is a reportable payment under paragraph (a) of this section only if the aggregate amount of the current payment and all previous payments to the payee during the calendar year aggregate $600 or more. The amount subject to withholding is the entire amount of the payment that causes the total amount paid to the payee to equal $600 or more and the amount of any subsequent payments made to the payee during the calendar year. This paragraph (b)(3)(i) does not apply to gambling winnings (as provided in § 31.3406(g)–2(e)(1)).

(ii) *Exceptions*—(A) *The $600 aggregation rule.* The $600 aggregation rule of