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furnish the payee's taxpayer identification number to the broker and certify under penalties of perjury that the taxpayer identification number furnished is correct, except as provided in §31.3406(d)–3(b).

(ii) *Definition of a post-1983 brokerage account.* A brokerage account established after December 31, 1983 (or before January 1, 1984, through which during 1983 the broker neither bought nor sold securities nor held securities on behalf of the payee as a nominee (i.e., in street name)), is a post-1983 brokerage account.

(d) *Rents, commissions, nonemployee compensation, and certain fishing boat operators, etc.—Manner required for furnishing a taxpayer identification number.* For accounts, contracts, or relationships subject to information reporting under section 6041 (relating to information reporting at source on rents, royalties, salaries, etc.), section 6041A(a) (relating to information reporting of payments for nonemployee services), section 6050A (relating to information reporting by certain fishing boat operators), or section 6050N (relating to information reporting of payments of royalties), the payee must furnish the payee's taxpayer identification number to the payor either orally or in writing. Except as provided in §31.3406(d)–5, the payee is not required to certify under penalties of perjury that the taxpayer identification number is correct regardless of when the account, contract, or relationship is established.

[T.D. 8637, 60 FR 66123, Dec. 21, 1995]

§31.3406(d)–2 Payee certification failure.

(a) *Requirement to backup withhold.* Withholding under section 3406(a)(1)(D) applies to a reportable interest or dividend payment (as defined in section 3406(b)(2)) if, and only if, the payee fails to certify to the payor, under penalties of perjury, that the payee is not subject to withholding due to notified payee underreporting under section 3406(a)(1)(C). The period for which withholding applies is described in §31.3406(e)–1(e). See §31.3406(d)–3(a) for special rules when an account is established directly with, or an instrument is acquired directly from, the payor by electronic transmission or by mail. See §31.3406(c)–1(c)(3)(iv) for rules with respect to a payor's reliance on a payee certification for a new account following notified payee underreporting. See §31.3406(d)–4 for special rules relating to the acquisition of a readily tradable instrument through a broker. The certificate on which the certification should be made is described in §31.3406(h)–3.

(b) *Exceptions.* Withholding under section 3406(a)(1)(D) and paragraph (a) of this section does not apply to reportable interest or dividend payments (as defined in section 3406(b)(2)) made—

(1) With respect to a pre-1984 account (as defined in §31.3406(d)–1(b)(1));

(2) In a window transaction (as defined in §31.3406(b)(2)–3(b));

(3) With respect to a readily tradable instrument described in §31.3406(d)–1(b)(2)(iv) or §31.3406(d)–4(a)(3); or

(4) During the period and with respect to an account or readily tradable instrument described in §31.3406(d)–3.

[T.D. 8637, 60 FR 66125, Dec. 21, 1995]

§31.3406(d)–3 Special 30-day rules for certain reportable payments.

(a) *Accounts or readily tradable instruments acquired directly from the payor (including a broker who holds an instrument in street name) by electronic transmission or by mail.* In the case of an account established directly with, or a readily tradable instrument acquired directly from, the payor by means of electronic transmission (i.e., telephone or wire instruction) or by mail, the payor may permit the payee to furnish the certifications required in §31.3406(d)–1(b)(3) (relating to certification that the payee's taxpayer identification number is correct) and §31.3406(d)–2 (relating to certification of notified payee underreporting) within 30 days after the establishment or acquisition without subjecting the account to withholding during the 30 days. The preceding sentence applies only if the payee furnishes a taxpayer identification number to the payor at the time of the establishment or acquisition, and the payee does not withdraw more than 69 percent of a reportable interest or dividend payment before the certifications are received within the 30 days. If the payee does not provide the required certifications