

shall be considered to be a middleman as to any portion of an interest payment made to such person which portion is actually owned by another person, whether or not the other person's name is also shown on the information return filed with respect to such interest payment, except that a husband or wife will not be considered as acting in the capacity of a middleman with respect to his or her spouse. A person who, from within the United States, forwards an interest coupon or discount obligation on behalf of a payee for presentation, collection or payment outside the United States is also a middleman for purposes of this section (but the transfer, although subject to information reporting under this section, does not make the payment subject to backup withholding under section 3406).

(ii) [Reserved] For further guidance, see § 1.6049-4T(f)(4)(ii).

(5) through (16) [Reserved] For further guidance, see § 1.6049-4T(f)(5) through (16)(iv).

(g) *Time and place for filling a return for the payment of interest*—(1) *Annual return*. Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. Such returns shall be filed with the appropriate Internal Revenue Service Center, the address of which is listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(2) *Transactional return*. In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 (March 31 if filed electronically) of the year following the calendar year in which the interest was paid. The return shall be filed with the appropriate Internal Revenue Service Center, the address of which is listed in the instructions for Form 1096. For extensions of time for filing returns under this section, see § 1.6081-1.

(3) *Cross-reference to penalty*. For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6049(a) and § 1.6049-4(a)(1), see § 301.6721-1 of this chapter (Procedure and Administration Regulations). See § 301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(h) [Reserved] For further guidance, see § 1.6049-4T(h).

[T.D. 7881, 48 FR 12968, Mar. 28, 1983]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.6049-4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.fdsys.gov](http://www.fdsys.gov).

**§ 1.6049-4T Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982 (temporary).**

(a) [Reserved] For further guidance, see § 1.6049-4(a).

(b) *Information to be reported*—(1) *Interest payments*. Except as provided in paragraphs (b)(3) and (5) of this section, in the case of interest other than original issue discount treated as interest under § 1.6049-5(f), an information return on Form 1099 shall be made for the calendar year showing the aggregate amount of the payments, the name, address, and taxpayer identification number of the person to whom paid, the amount of tax deducted and withheld under section 3406 from the payments, if any, and such other information as required by the forms. An information return is generally not required if the amount of interest paid to a person aggregates less than \$10 or if the payment is made to a person who is an exempt recipient described in paragraph (c)(1)(ii) of this section, unless the payor backup withholds under section 3406 on such payment (because, for example, the payee (that is, exempt recipient) has failed to furnish a Form W-9 on request), in which case the payor must make a return under this section, unless the payor refunds the amount withheld pursuant to § 31.6413(a)-3 (Employment Tax Regulations). For reporting interest paid to

## § 1.6049-4T

## 26 CFR Ch. I (4-1-14 Edition)

certain nonresident alien individuals, see § 1.6049-8.

(2) through (c)(3) [Reserved] For further guidance, see § 1.6049-4(b)(2) through (c)(3).

(4) *Coordination of reporting with chapter 4 reporting or an applicable IGA*—(i) *U.S. accounts reported by FFIs that are non-U.S. payors.* An information return shall not be required with respect to an interest payment made by a participating FFI (including a reporting Model 2 FFI), or registered deemed-compliant FFI (including a reporting Model 1 FFI), that is a non-U.S. payor (as defined in § 1.6049-5(c)(5)) to an account holder of an account maintained by the FFI, when the payment is not subject to withholding under chapters 3 or 4 or to backup withholding under section 3406, and the conditions of paragraphs (c)(4)(i)(A) through (C) are met. See paragraph (c)(4)(iii) of this section for circumstances in which an FFI may allocate a payment described in this paragraph (c)(4)(i) to a chapter 4 withholding rate pool of U.S. payees.

(A) The FFI is a participating FFI (including a reporting Model 2 FFI) reporting the account holder of the U.S. account (as defined in § 1.1471-1(b)(133)) pursuant to either § 1.1471-4(d)(3) or (5) for the year in which the payment is made (including reporting of the account holder's TIN).

(B) The FFI is a registered deemed-compliant FFI (other than a reporting Model 1 FFI) reporting the account holder of the U.S. account pursuant to the conditions of its applicable deemed-compliant status under § 1.1471-5(f)(1) for the year in which the payment is made (including reporting of the account holder's TIN).

(C) The FFI is a reporting Model 1 FFI reporting the account holder of the reportable U.S. account pursuant to an applicable Model 1 IGA for the year in which the payment is made (including reporting of the account holder's TIN).

(ii) *Other accounts reported by FFIs under chapter 4.* An information return shall not be required under this section with respect to a payment that is not subject to withholding under chapter 3 (as defined in § 1.1441-2(a)) or backup withholding under § 31.3406(g)-1(e) and that is made to a recalcitrant account holder of a participating FFI (or non-

consenting U.S. account of a reporting Model 2 FFI), provided that the FFI reports such account holder in accordance with the classes of account holders described in § 1.1471-4(d)(6) for the year in which the payment is made. See paragraph (c)(4)(iii) of this section for circumstances in which an FFI may allocate a payment described in this paragraph (c)(4)(ii) to a chapter 4 withholding rate pool of U.S. payees. In the case of a payment made by an FFI that is a reporting Model 1 FFI, an information return shall not be required with respect to a payment that is not subject to withholding under chapter 3 or backup withholding under § 31.3406(g)-1(e) and that is made to an account holder of the FFI if the account—

(A) Has U.S. indicia for which appropriate documentation sufficient to treat the account as held by other than a specified U.S. person has not been provided pursuant to the due diligence requirements described in an applicable Model 1 IGA and,

(B) Is therefore treated as a U.S. reportable account that the FFI is required to report pursuant to the applicable Model 1 IGA.

(iii) *Coordination of reporting exceptions with reporting of chapter 4 withholding rate pools.* For purposes of paragraphs (c)(4)(i) and (ii) of this section, a participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (including a reporting Model 1 FFI) receiving a payment from another payor may provide a withholding statement to the payor allocating the payment to a chapter 4 withholding rate of pool of U.S. payees only if the payment is excepted from reporting under paragraph (c)(4)(i) of this section or if the payment is both excepted from reporting under paragraph (c)(4)(ii) of this section and not subject to withholding under chapter 4. See § 1.6049-5(b)(14) (providing an exception from reporting under section 6049 to a payor that has been furnished a withholding statement from a participating FFI (including a reporting Model 2 FFI) or registered deemed-compliant FFI (including a reporting Model 1 FFI) and that allocates the payment to a chapter 4 withholding rate pool). Thus, for example, a U.S. payor that is a participating FFI may

not allocate a payment to a chapter 4 withholding rate pool of U.S. payees on a withholding statement described in § 1.6049-5(b)(14) when the payment is made to a U.S. account maintained by the FFI, regardless of whether the FFI reports the account in accordance with § 1.1471-4(d)(3) because the U.S. payor is not excepted from reporting under this section pursuant to paragraph (c)(4)(i) of this section.

(iv) *Example.* The application of the provisions of paragraphs (c)(4)(ii) and (iii) of this section may be illustrated by the following example:

*Example.* USP is a payor that makes an interest payment that is not a withholdable payment (as defined in paragraph (f)(15) of this section) to RM2, a U.S. payor and reporting Model 2 FFI. The payment is paid and received outside of the United States and is not an amount subject to withholding under chapter 3. RM2 receives the payment as an intermediary on behalf of its account holder, A. RM2 has account information with respect to A which includes U.S. indicia as described in § 1.1441-7(b)(5) or (8). Additionally, A does not provide consent for RM2 to report A's account. Under the presumption rules described in § 1.6049-5(d)(2)(i), RM2 is required to treat A as a U.S. non-exempt recipient. Despite this presumption rule, and because backup withholding does not apply under § 1.3406(g)-1(e), no information return shall be required with respect to the payment under paragraph (c)(4)(ii) of this section if A is reported by RM2 consistent with § 1.1471-4(d)(6) as a non-consenting account holder. Additionally, RM2 may include A in the chapter 4 withholding rate pool of U.S. payees on the withholding statement provided to USP consistent with the requirements of paragraph (c)(4)(iii) of this section.

(d) through (f)(2) [Reserved] For further guidance, see § 1.6049-4(d) through (f)(2).

(3) *Obligation.* The term *obligation* includes bonds, debentures, notes, certificates, and other evidences of indebtedness regardless of how denominated. For the definition of the term *offshore obligation*, see paragraph (f)(9) of this section.

(4) and (4)(i) [Reserved] For further guidance, see § 1.6049-4(f)(4) introductory text and (f)(4)(i).

(ii) *Example.* The application of the provisions of paragraph (f)(4) of this section may be illustrated by the following example:

*Example.* In January, 1984, Broker B, a U.S. payor, purchases on behalf of its customer, Individual A, an obligation issued by partnership RR in a public offering on that date. Broker B holds the obligation for A throughout 1984. Broker B is required to make an information return showing the amount of original issue discount treated as paid to A under § 1.6049-5(f).

(5) *Chapter 4 withholding rate pool.* The term *chapter 4 withholding rate pool* has the meaning set forth in § 1.1471-1(b)(20). However, for determining the U.S. payees included in a chapter 4 withholding rate pool for purposes of section 6049, see paragraph (c)(4)(iii).

(6) *Foreign financial institution (or FFI).* The term *foreign financial institution* or *FFI* means an entity described in § 1.1471-1(b)(47).

(7) *Intergovernmental agreement (or IGA).* The term *intergovernmental agreement* or *IGA* has the meaning set forth in § 1.1471-1(b)(67) (i.e., either a *Model 1 IGA* described in § 1.1471-1(b)(78) or a *Model 2 IGA* described in § 1.1471-1(b)(79)).

(8) *Non-consenting U.S. accounts.* The term *non-consenting U.S. accounts* has the meaning set forth in an applicable Model 2 IGA.

(9) *Offshore obligation.* The term *offshore obligation* means an offshore obligation defined in § 1.6049-5(c)(1). For the definition of the term *obligation*, see paragraph (f)(3) of this section.

(10) *Participating FFI.* The term *participating FFI* means an FFI that is described in § 1.1471-1(b)(91).

(11) *Recalcitrant account holder.* The term *recalcitrant account holder* has the same meaning set forth in § 1.1471-1(b)(110).

(12) *Registered deemed-compliant FFI.* The term *registered deemed-compliant FFI* means an FFI that is described in § 1.1471-1(b)(111).

(13) *Reporting Model 1 FFI.* The term *reporting Model 1 FFI* means an FFI that is described in § 1.1471-1(b)(114).

(14) *Reporting Model 2 FFI.* The term *reporting Model 2 FFI* means a participating FFI that is described in § 1.1471-1(b)(91).

(15) *Withholdable payment.* The term *withholdable payment* means a payment described in § 1.1471-1(b)(145).

(16) *Paid and received outside the United States—(i) In general.* Except as otherwise provided in paragraphs

(f)(16)(ii) and (iii) of this section, the term *paid and received outside the United States* means an amount that is paid by a payor or middleman outside the United States as described in § 1.6049-5(e).

(ii) *Transfers to the United States.* Without regard to the location of the account from which the amount is drawn, an amount that is described in paragraph (f)(16)(ii)(A) or (B) of this section and paid by transfer to an account maintained by the payee in the United States or by mail to a United States address (including an amount paid with respect to a bond or a discount obligation described in § 1.6049-5(e)(4)) is not considered to be paid and received outside the United States.

(A) An amount is described in this paragraph (f)(16)(ii)(A) if it is paid by an issuer or the paying agent of the issuer with respect to an obligation that is—

(1) Issued by a U.S. payor, as defined in § 1.6049-5(c)(5);

(2) Registered under the Securities Act of 1933 (15 U.S.C. 77a); or

(3) Listed on an exchange that is registered as a national securities exchange in the United States or included in an interdealer quotation system in the United States.

(B) An amount is described in this paragraph (f)(16)(ii)(B) if it is paid by a U.S. middleman (as defined in § 1.6049-5(c)(5)) that, as a custodian, nominee, or other agent of a payee, collects the amount for or on behalf of the payee.

(iii) *Deposits or accounts with banks and other financial institutions.* In the case of an amount paid by a bank or other financial institution with respect to a deposit or an account that is considered paid at a branch or office outside the United States as described in § 1.6049-5(e)(2), the amount is not considered paid and received outside the United States if the institution has knowledge that the customer has transmitted instructions to an agent, branch, or office of the institution from inside the United States by mail, telephone, electronic transmission, or otherwise concerning the deposit or account (unless the transmission from the United States has taken place in isolated and infrequent circumstances).

(iv) *Examples.* The application of the provisions of paragraph (f)(16) of this section may be illustrated by the following examples:

*Example 1.* FC is a foreign corporation that is not a U.S. payor or U.S. middleman, as defined in § 1.6049-5(c)(5). A holds FC coupon bonds that are not in registered form under section 163(f) and the regulations. FB, a foreign branch of DC, a domestic corporation, is the designated paying agent with respect to the bonds issued by FC. A does not have an account with FB. A presents a coupon to FB at its office outside the United States with instructions to transfer funds to a bank account maintained by A in the United States. FB transfers the funds in accordance with A's instructions. Even though the amount is credited to an account in the United States, the interest on the FC bonds is paid and received outside the United States under paragraph (f)(16)(ii) of this section and § 1.6049-5(e)(3) because the coupon is presented for payment outside the United States; because FC is a foreign person that is not a U.S. payor or U.S. middleman, as defined in § 1.6049-5(d)(1); because FB is not acting as A's agent; and because the obligation is not registered under the Securities Act of 1933 (15 U.S.C. 77a), listed on a securities exchange that is registered as a national securities exchange in the United States, or included in an interdealer quotation system.

*Example 2.* FC is a foreign corporation that is not a U.S. payor or U.S. middleman, as defined in § 1.6049-5(d)(1). B, a United States citizen, holds a bond issued by FC in registered form under section 163(f) and the regulations thereunder and registered under the Securities Act of 1933 (15 U.S.C. 77a). The bond is not a foreign-targeted registered obligation as defined in § 1.871-14(e)(2). DB, a United States branch of a foreign corporation engaged in the commercial banking business, is the registrar of the bonds issued by FC. DB supplies FC with a list of the holders of the FC bonds. Interest on the FC bonds is paid to B and other bondholders by checks prepared by FC at its principal office outside the United States, and B's check is mailed from there to his designated address in the United States. The bond is described in paragraph (f)(16)(ii)(A)(2) of this section. The interest on the FC bonds paid to B by FC is not paid and received outside the United States under paragraph (f)(16) of this section.

*Example 3.* The facts are the same as in *Example 2* except that the checks are prepared and mailed in the United States by DC, a U.S. corporation engaged in the commercial banking business that is the designated paying agent with respect to the bonds issued by FC, and B's check is mailed to his designated address outside the United States. For purposes of section 6049, the interest on the FC bonds paid by DC is not paid and received

**Internal Revenue Service, Treasury**

**§ 1.6049-5**

outside the United States under paragraph (f)(16)(i) of this section.

(g) [Reserved] For further guidance, see §1.6049-4(g).

(h) *Effective/applicability dates.* The provisions of paragraphs (c)(4), (f)(5) through (f)(16) of this section apply to payments made after June 30, 2014.

(i) *Expiration date.* The applicability of this section expires on February 28, 2017.

[T.D. 9658, 79 FR 12798, Mar. 6, 2014]

**§ 1.6049-5 Interest and original issue discount subject to reporting after December 31, 1982.**

(a) *Interest subject to reporting requirement.* For purposes of §§1.6049-4, 1.6049-6 and this section, except as provided in paragraph (b) of this section, the term “interest” means:

(1) Interest on an obligation:

(i) In registered form (as defined in §5f.103-1(c)), or

(ii) Of a type offered to the public. Principles consistent with §5f.163-1 shall be applied to determine whether an obligation is of a type offered to the public.

(2) Interest on deposits with persons carrying on the banking business. Such term shall include deposits evidenced by time certificates of deposit issued in any amount whether negotiable or non-negotiable. The term “interest” includes payments to a mortgage escrow account and amounts paid with respect to repurchase agreements and banker’s acceptances. Property which the payee receives from the payor as interest (or in lieu of a cash payment of interest) shall be interest for purposes of section 6049. The amount subject to reporting is the fair market value of such property.

(3) Amounts, whether or not designated as interest, paid or credited by mutual savings banks, savings and loan associations, building and loan associations, cooperative banks, homestead associations, credit unions, industrial loan associations or banks, or similar organizations, in respect of deposits, face amount certificates, investment certificates, or withdrawable or repurchasable shares. Thus, even though amounts paid or credited by such organizations with respect to deposits are designated as “dividends”, such

amounts are included in the definition of interest for purposes of section 6049. The term “interest” includes payments to a mortgage escrow account and amounts paid with respect to repurchase agreements. Property which the payee receives from the payor as interest (or in lieu of a cash payment of interest) is “interest” for purposes of section 6049. The fair market value of such property is the amount subject of reporting.

(4) Interest on amounts held by insurance companies under an agreement to pay interest thereon. Any increment in value of “advance premiums”, “prepaid premiums”, or “premium deposit funds” which is applied to the payment of premiums due on insurance policies, or made available for withdrawal by the policyholder, shall be considered interest subject to reporting. Interest that an insurance company pays pursuant to an agreement with the policyholder to a beneficiary because he payment due has been delayed is interest subject to reporting. Interest subject to reporting also includes interest paid by insurance companies with respect to policy “dividend” accumulations (see sections 61 and 451 and the regulations thereunder for rules as to when such interest is considered paid), and interest paid with respect to the proceeds of insurance policies left with the insurer. The so-called “interest element” in the case of annuity or installment payments under life insurance or endowment contracts does not constitute interest for purposes of section 6049.

(5) Interest on deposits with brokers as defined in section 6045(c) and the regulations thereunder. Any payment made in lieu of interest to a person whose obligation has been borrowed in connection with a short sale or other similar transaction is subject to reporting under section 6049. See §1.6045-2T for reporting requirements with respect to payments in lieu of tax-exempt interest. See §1.6045-2 for reporting requirements with respect to payments in lieu of tax-exempt interest.

(6) Interest paid on amounts held by investment companies as defined in section 3 of the Investment Company Act (15 U.S.C. section 80-a) and on amounts paid on pooled funds or trusts.