payment to a qualified payee and, under paragraph (f)(1)(i) of this section, is not subject to backup withholding. 

(iv) Q has not validated Merchant X’s TIN at the time of the payments that are treated as being made on September 30, 2005, and December 31, 2005. Accordingly, under paragraphs (f)(3) and (f)(4) of this section, Q must notify Customer A within four months of the beginning of each reporting period during which Q makes these payments that Merchant X is not a qualified payee with respect to the payments. In the case of the September 30 payment, the notification must be furnished no later than October 31, 2005. Q may provide the notification in its quarterly report of payee data for the July-September quarter furnished on October 15, 2005. 

(v) Although Merchant X is not a qualified payee with respect to the payments that are treated as being made on September 30, 2005, and December 31, 2005, paragraph (f)(1)(ii) of this section provides that backup withholding is not required for purchases made no later than two months after the last date prescribed for furnishing the first notification that Merchant X is not a qualified payee. The last date for furnishing the first notification is October 31, 2005, and the two-month period expires on December 31, 2005. Because the payments relate to purchases on July 29, 2005, and December 19, 2005, backup withholding is not required with respect to either payment. Backup withholding may be required with respect to any payment Customer A makes through the Q payment card for purchases from Merchant X after December 31, 2005, unless Q has previously succeeded in validating Merchant X’s TIN.


§ 31.3406(g)–1T Exception for payments to certain payees and certain other payments (temporary).

(a) through (d) [Reserved] For further guidance, see §31.3406(g)–1(a) through (d).

(e) Certain reportable payments made outside the United States by foreign persons, foreign offices of United States banks and brokers, and others. For reportable payments made after June 30, 2014, a payor is not required to backup withhold under section 3406 on a reportable payment that is paid and received outside the United States (as defined in §1.6049–4(f)(16)) with respect to an offshore obligation (as defined in §1.6049–5(c)(1)) or on gross proceeds from a sale effected outside the United States (as defined in §1.6045–1(g)(3)(iii)), unless the payor has actual knowledge that the payee is a United States person. Further, no backup withholding is required for reportable a payment of an amount already withheld upon by a participating FFI (as defined in §1.1471–1(b)(91)) or another payor in accordance with the withholding provisions under chapters 3 or 4 of the Code and the regulations under those chapters even if the payee is a known U.S. person. For example, a participating FFI is not required to backup withhold on a reportable payment allocable to its chapter 4 withholding rate pool (as defined in §1.6049–4(f)(5)) of recalcitrant account holders (as described in §1.6049–4(f)(11)), if withholding was applied to the payment (either by the participating FFI or another payor) pursuant to §1.1471–4(b) or §1.1471–2(a). For rules applicable to notional principal contracts, see §1.6041–1(d)(5) of this chapter. For rules applicable to reportable payments made before July 1, 2014, see this paragraph (e) as in effect and contained in 26 CFR part 1 revised April 1, 2013.

(f) [Reserved] For further guidance, see §31.3406(g)–1(f) introductory text through (f)(5).

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

[T.D. 9658, 79 FR 12808, Mar. 6, 2014]

§ 31.3406(g)–2 Exception for reportable payment for which withholding is otherwise required.

(a) In general. A payor of a reportable payment (as defined in section 3406(b)) must not withhold under section 3406 if the payment is subject to withholding under any other provision of the Internal Revenue Code.

(b) Payment of wages. A payor who is required to make an information return under section 6041 with respect to a payment of wages (as defined in section 3401) because, e.g., the employee makes a certification under section 3402(n) (relating to employees incurring no income tax liability), must not withhold under section 3406 on those wages.