

Part III - Administrative, Procedural, and Miscellaneous

Information Reporting Requirements for Payments of Interest on Tax-Exempt Bonds

Notice 2006-93

Section 1: Purpose

This Notice provides guidance on the new information reporting requirements in section 6049 of the Internal Revenue Code for payments of interest on State or local bonds that are excludable from gross income under section 103 of the Code (tax-exempt interest). References to “tax-exempt interest” herein also include exempt-interest dividends under section 852(b)(5) (exempt-interest dividends). This Notice provides transitional guidance for persons (payors) required under section 6049, as amended, to file with the Internal Revenue Service and to furnish to payment recipients (payees) information with respect to payments of tax-exempt interest commencing in 2006.

Pursuant to this Notice, in order to satisfy the requirements of section 6049 for payments of tax-exempt interest made in 2006, affected payors may file with the Service and furnish to payees a Form 1099-INT, Interest Income, to report information regarding the aggregate amount of tax-exempt interest paid in 2006 and, to the extent possible after reasonable effort, the separately-identified portion of the tax-exempt interest that constitutes interest on specified private activity bonds that is an item of tax preference under section 57(a)(5) for purposes of the alternative minimum tax (tax-exempt AMT interest). Alternatively, to satisfy the requirements of section 6049 for

payments of tax-exempt interest made in 2006, in lieu of filing and furnishing Form 1099-INT, payors may file with the Service and furnish to payees a substitute statement containing the information specified in Section 3 of this Notice (substitute statement).

This Notice also provides that the Service will not impose penalties for violations of section 6049 with respect to payments of tax-exempt interest in 2006 if a payor satisfies the requirements of Section 3 of this Notice. This Notice further provides that the Service is providing transitional relief from backup withholding under section 3406 with respect to any payment of tax-exempt interest made in 2006 and in the first quarter of 2007. Section 5 of this Notice defers reporting obligations with respect to certain tax-exempt bearer bonds and original issue discount on tax-exempt bonds.

Section 2: Background

On May 17, 2006, the Tax Increase Prevention and Reconciliation Act of 2005, Pub. L. No. 109-222, 120 Stat. 345 (TIPRA), was enacted into law. Section 502 of TIPRA amended section 6049 to remove “interest on any obligation if such interest is tax-exempt under section 103(a)” from the list of payments excluded from the definition of “interest” for purposes of information reporting. Section 6049 now requires the reporting of tax-exempt interest paid after December 31, 2005,

in a manner similar to reporting interest paid on taxable obligations. Section 6049 provides, in relevant part, as follows:

Sec. 6049. Returns regarding payments of interest

(a) Requirement of reporting.--Every person—

(1) who makes payments of interest (as defined in subsection (b)) aggregating \$10 or more to any other person during any calendar year, or

(2) who receives payments of interest (as so defined) as a nominee and who makes payments aggregating \$10 or more during any calendar year to any other person with respect to the interest so received,

shall make a return according to the forms or regulations prescribed by the Secretary, setting forth the aggregate amount of such payments and the name and address of the person to whom paid.

(b) Interest defined.--

(1) General rule.--For purposes of subsection (a), the term "interest" means--

(A) interest on any obligation--

(i) issued in registered form, or

(ii) of a type offered to the public,

other than any obligation with a maturity (at issue) of not more than 1 year which is held by a corporation...

Section 6049 requires payors of interest to file information returns with the Service and to furnish corresponding information statements to payees named on the information returns showing the information that is reported to the Service. The return and information statement are required to include information concerning the aggregate amount of tax-exempt interest and the separately-stated amount of tax-exempt AMT interest that was paid by the payor during the calendar year to assist taxpayers and the Service in determining a taxpayer's correct tax liability for the calendar year.

Payors have advised the Treasury Department and the Service that the amendment to section 6049 enacted by TIPRA and which established January 1, 2006, as the effective date by which payors must begin to capture information on payments of tax-exempt interest, provides insufficient lead time for many payors to make the necessary programming changes to comply with the reporting and backup withholding requirements. In order to provide time for payors to implement these programming changes, the Service will not impose penalties or backup withholding obligations on payors that comply with the requirements in the transition rules set forth in Sections 3 and 4 of this Notice. The penalty and backup withholding relief under this Notice will allow additional time for payors to make the necessary programming changes to enable them to capture information on, and report payments of, tax-exempt interest made in 2006 and future calendar years consistent with the reporting requirements of section 6049, as amended.

Section 3: Transitional Information Reporting Requirements for Tax-exempt Interest Paid in 2006 and Related Penalty Relief

Section 3.1. Background. Section 6721 provides for a penalty in the case of any failure by any person to file a correct information return reporting payments of interest paid pursuant to section 6049. Additionally, section 6722 provides for a penalty in the case of any failure by any person to furnish a correct corresponding payee statement to each person whose name is required to be reported as the recipient of interest paid. Section 6011(e) provides rules regarding electronic

filing of tax returns. Under section 6049, as amended by TIPRA, payments of tax-exempt interest potentially are subject to backup withholding under section 3406.

Section 3.2. Penalty Relief. The Service will not impose penalties under section 6721 or section 6722 for failure to report payments attributable to tax-exempt interest paid in calendar year 2006, and waives any requirement under 6011(e) to file such information returns reporting only such payments in magnetic media if payors comply with the requirements of Sections 3.3 and 3.4 of this Notice.

Section 3.3. Report Tax-exempt Interest on Form 1099-INT or on Prescribed Substitute Statement. For tax-exempt interest paid in 2006, payors may report information regarding tax-exempt interest (including exempt-interest dividends) and, to the extent possible after reasonable effort, tax-exempt AMT interest to the Service and to payees on Form 1099-INT. Alternatively, in lieu of reporting tax-exempt interest on Form 1099-INT, payors may report information regarding tax-exempt interest to the Service and to payees on a substitute statement that meets the requirements described below.

The payor may report to the Service and furnish to the payee a substitute statement that provides information regarding the amount of tax-exempt interest and, to the extent possible after reasonable effort, tax-exempt AMT interest paid in 2006. The substitute statement must include, at a minimum, the following information:

- (a) Payor's name, address and telephone number;
- (b) Payor's federal employer identification number;
- (c) Payee's name and address;
- (d) Payee's taxpayer identification number (TIN), if available;
- (e) Payee's account number;

- (f) The amount of tax-exempt interest (including tax-exempt interest that is paid as exempt-interest dividends);
- (g) The amount of tax-exempt AMT interest (including tax-exempt AMT interest that is paid as exempt-interest dividends), to the extent possible after reasonable effort; and
- (h) Federal income tax withheld, if any.

The substitute statement must also indicate that the amount of tax-exempt interest paid in 2006 must be reported on the applicable Form 1040, U.S. Individual Income Tax Return, for 2006 and that the amount of tax-exempt AMT interest paid in 2006 must be taken into account in computing the alternative minimum tax reported on Form 1040 for 2006. Payors are required to retain records sufficient to show the amounts reported to payees on the substitute statements.

Section 3.4. Timing for Forms 1099-INT and Substitute Statements. For tax-exempt interest paid in 2006, payors must furnish Forms 1099-INT or substitute statements to payees by January 31, 2007, and to the Service by February 28, 2007, if filed on paper or by magnetic media, or by March 31, 2007, if filed electronically.

Section 4: Transitional Provisions Regarding Backup Withholding.

Section 4.1. Backup Withholding Relief in General. The Service understands that the programming changes necessary to institute backup withholding for the first time on accounts that pay tax-exempt interest may require considerable lead time to implement in many circumstances. In recognition of this needed lead time, the Service is providing transitional relief from backup withholding under section 3406 with respect to any payment of tax-exempt interest made in 2006 and in the first quarter of 2007 (i.e., between January 1, 2006, and March 31, 2007).

Section 4.2. Existing Accounts: Special Payee Certification Rules and Backup Withholding after March 31, 2007. For accounts established or instruments acquired on or before [INSERT DATE OF RELEASE OF THIS NOTICE], that involve the payment of tax-exempt interest after March 31, 2007, the general rules on backup withholding under section 3406 will apply to reportable payments of tax-exempt interest made after March 31, 2007. For this purpose, a payee will be treated as satisfying the payee certification requirements under section 3406(d) if the payor of tax-exempt interest obtains from the payee, a valid TIN by any reasonable manner, including by an uncertified writing, by oral communication, or by a completed, certified Form W-9, Request for Taxpayer Identification Number and Certification. Solely for purposes of relief from the backup withholding requirements that would otherwise apply to payments of tax-exempt interest by reason of payee certification failure, this Section shall continue to apply until the Treasury Department and the Service provide further guidance regarding payee certification under section 3406(d) for these accounts and instruments.

Section 4.3. New Accounts: General Payee Certification Rules and Backup Withholding after March 31, 2007. For new accounts established or instruments acquired after [INSERT DATE OF RELEASE OF THIS NOTICE], that involve the payment of tax-exempt interest after March 31, 2007, the general rules on backup withholding under section 3406 will apply to reportable payments of tax-exempt interest made after March 31, 2007. For this purpose, the general rules on payee certification under section 3406(d) require that a payor obtain from a payee a completed, certified Form W-9, Request for Taxpayer Identification Number and Certification.

Section 5: Tax-exempt Original Issue Discount and Tax-exempt Bearer Bonds

This Section makes special provision for “original issue discount” on tax-exempt bonds within the meaning of section 1288 (tax-exempt OID) and for tax-exempt interest on State or local bonds that are not subject to the bond registration requirement under section 149(a) (tax-exempt bearer bonds). For tax-exempt OID and tax-exempt bearer bonds, no information reporting under section 6049 or backup withholding under section 3406 will be required for calendar year 2006 or thereafter until such time as the Service and the Treasury Department provide future guidance.

Section 6: Effective Date

This Notice is effective as of [INSERT DATE OF RELEASE OF THIS NOTICE].

Section 7: Paperwork Reduction Act.

The collection of information required in connection with reporting of information regarding tax-exempt interest on Form 1099-INT, as referenced in this Notice, has been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB control number 1545-0112. The provisions of Section 3 of this Notice, which provide a permissive alternative way to report information regarding tax-exempt interest on a substitute statement, require the same kind of information as required by Form 1099-

INT and do not impose any requirement to report additional information beyond that required by Form 1099-INT.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law.

Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Section 8: Contact Information

The principal author of this Notice is Karen E. Briscoe of the Office of Associate Chief Counsel (Procedure & Administration). For further information regarding this Notice contact Mrs. Briscoe at (202) 622-8117 (not a toll-free call).