

relating to criminal activity, but only if such payment is made by the United States, a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, or, with respect to payments made after December 31, 1987, by an organization that is described in section 501(c)(3) and that makes such payments in furtherance of a charitable purpose to lessen the burdens of government within the meaning of § 1.501(c)(3)-1(d)(2).

(m) On and after September 9, 1968, payments by a person carrying on the banking business of interest on a deposit evidenced by a negotiable time certificate of deposit (but for reporting requirements as to payments made after December 31, 1962, of interest on certain deposits, see sec. 6049 and the regulations thereunder in this part).

(n) Payments to individuals as scholarships or fellowship grants within the meaning of section 117(b)(1), whether or not "qualified scholarships" as described in section 117(b). This exception does not apply to any amount of a scholarship or fellowship grant that represents payment for services within the meaning of section 117(c). Instead, these amounts are required to be reported as wages on Form W-2. See § 1.1461-1(c) for applicable reporting requirements for amounts paid to foreign persons.

(o) Per diem of certain alien trainees described under section 1441(c)(6).

(p) Payments made to the following persons:

(1) A corporation described in § 1.6049-4(c)(1)(ii)(A), except a corporation engaged in providing medical and health care services or engaged in the billing and collecting of payments in respect to the providing of medical and health care services. However, no reporting is required where payment is made to a hospital or extended care facility described in section 501(c)(3) which is exempt from taxation under section 501(a) or to a hospital or extended care facility owned and operated by the United States, a State, the District of Columbia, a possession of the United States, or a political subdivision, agency or instrumentality of any of the foregoing. For reporting requirements

as to payments by cooperatives, and to certain other payments, see sections 6042, 6044, and 6049 and the regulations thereunder in this part.

(2) An organization exempt from taxation under section 501(a), as described in § 1.6049-4(c)(1)(ii)(B)(I), or an individual retirement plan, as described in § 1.6049-4(c)(1)(ii)(C).

(3) The United States, as described in § 1.6049-4(c)(1)(ii)(D).

(4) A State, the District of Columbia, a possession of the United States, or any political subdivision of any of the foregoing, as described in § 1.6049-4(c)(1)(ii)(E).

(5) A foreign government or political subdivision of a foreign government, as described in § 1.6049-4(c)(1)(ii)(F).

(6) An international organization, as described in § 1.6049-4(c)(1)(ii)(G).

(7) A foreign central bank of issue, as described in § 1.6049-4(c)(1)(ii)(H) and the Bank for International Settlements.

(8) Any wholly owned agency or instrumentality of any person described in paragraph (q) (2), (3), (4), (5), (6), or (7) of this section.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.6041-3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 1.6041-4 Foreign-related items and other exceptions.

(a) *Exempted foreign-related items*—(1) Returns of information are not required for payments that a payor can, prior to payment, associate with documentation upon which it may rely to treat as made to a foreign beneficial owner in accordance with § 1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with § 1.6049-5(d)(1) or presumed to be made to a foreign payee under § 1.6049-5(d)(2), (3), (4), or (5). However, such payments may be reportable under § 1.1461-1(b) and (c). For purposes of this paragraph (a)(1), the provisions in § 1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. See § 1.1441-1(b)(3)(iii)(B) and (C) for special payee rules regarding scholarships, grants, pensions, annuities, etc.

The provisions of §1.1441-1 shall apply by substituting the term *payor* for the term *withholding agent* and without regard to the fact that the provisions apply only to amounts subject to withholding under chapter 3 of the Internal Revenue Code and the regulations under that chapter.

(2) Returns of information are not required for payments of amounts from sources outside the United States (determined under the provisions of part I, subchapter N, chapter 1 of the Internal Revenue Code and the regulations under those provisions) made by a non-U.S. payor or non-U.S. middleman outside the United States. For a definition of non-U.S. payor and non-U.S. middleman, see §1.6049-5(c)(5). For circumstances in which a payment is considered to be made outside the United States, see §1.6049-5(e).

(3) Returns of information are not required for amounts paid by a foreign intermediary described in §1.1441-1(c)(13) that it has received in its capacity as an intermediary and that are associated with a valid withholding certificate described in §1.1441-1(e)(3)(ii) or (iii) and payments made by a U.S. branch of a foreign bank or of a foreign insurance company described in §1.1441-1(b)(2)(iv) (other than a U.S. branch that is treated as a U.S. person) that are associated with a valid withholding certificate described in §1.1441-1(e)(3)(v), which certificate the intermediary or branch has furnished to the payor or middleman from whom it has received the payment, unless, and to the extent, the intermediary or branch knows that the payments are required to be reported under §1.6041-1 and were not so reported. For example, if a foreign intermediary or U.S. branch described in §1.1441-1(b)(2)(iv) fails to provide information regarding U.S. persons that are not exempt from reporting under §1.6041-3(q) to the person from whom the intermediary or U.S. branch receives the payment, the foreign intermediary or U.S. branch must report the payment on an information return. The exception of this paragraph (a)(3) shall not apply to a qualified intermediary that assumes reporting responsibility under chapter 61 of the Internal Revenue Code.

(4) Returns of information are not required for amounts paid with respect to notional principal contracts referred to in §1.863-7 or 1.988-2(e) which the payor may treat as effectively connected income of a foreign payee under the provisions of §1.1441-4(a)(3) or if the payee provides a representation in a master agreement that governs the transactions in notional principal contracts between the parties (for example, an International Swap and Derivatives Association (ISDA) Agreement, including the Schedule thereto) or in the confirmation on the particular notional principal contract transaction that the counterparty is a foreign person. See, however, §1.1461-1(c)(2)(i) for applicable reporting requirements.

(5) Returns of information are not required for the period that the amounts paid represent assets blocked as described in §1.1441-2(e)(3). The exemption in this paragraph (a)(5) shall terminate when payment is deemed to occur in accordance with the provisions of §1.1441-2(e)(3).

(6) For rules concerning direct sellers, see §1.6041A-1(d)(3)(i)(C).

(b) *Joint owners.* Amounts paid to joint owners for which a certificate or documentation is required as a condition for being exempt from reporting under paragraph (a) of this section are presumed made to U.S. payees who are not exempt recipients if, prior to payment, the payor or middleman cannot reliably associate the payment either with a Form W-9 furnished by one of the joint owners in the manner required in §§31.3406(d)-1 through 31.3406(d)-5 of this chapter, or with documentation described in paragraph (a)(1) of this section furnished by each joint owner upon which the payor or middleman can rely to treat each joint owner as a foreign payee or foreign beneficial owner.

(c) *Conversion into United States dollars of amounts paid in foreign currency.* For rules concerning foreign currency conversion, see §1.6049-4(d)(3)(i).

(d) *Effective date.* The provisions of this section apply to payments made after December 31, 2000.

[T.D. 8734, 62 FR 53473, Oct. 14, 1997, as amended by T.D. 8804, 63 FR 72188, Dec. 31, 1998; T.D. 8856, 64 FR 73412, Dec. 30, 1999; T.D. 8881, 65 FR 32205, May 22, 2000]