In order to account for changes in the banking industry, the proposed regulations generally provide that a bank that is a member of a controlled group that includes an investment banking or brokerage firm as a member will not be a disqualified person merely because the investment banking or brokerage firm has provided services to an exchange customer within a two-year period ending on the date of the transfer of the relinquished property by that customer.

Proposed Effective Date

The regulations are applicable for transfers of property made by a taxpayer on or after January 17, 2001.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic or written comments that are submitted timely to the IRS. The IRS and the Treasury Department request comments on the merits of the proposed regulations and how the proposed regulations can be made clearer and easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for June 5, 2001, beginning at 10 a.m. in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the main Constitution Avenue entrance between 10th and 12th Streets, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must submit electronic or written comments and an outline of the topics to be discussed and the time to be devoted to each topic by May 15, 2001. A period of ten (10) minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving the outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these regulations is J. Peter Baumgarten of the Office of Associate Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendment to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.1031(k)–1 is amended by adding a sentence to the end of paragraph (k)(4) to read as follows:

§ 1.1031(k)–1 Treatment of deferred exchanges.

* * * * *

(k) * * *

(4) * * * However, with respect to transfers of relinquished property made by a taxpayer on or after the date on which these regulations are published as final regulations, this paragraph (k)(4) does not apply to a bank (as defined in section 581) that is a member of a controlled group (as determined under section 267(f)(1), substituting ''10 percent'' for ''50 percent'' where it appears), where a person described in paragraph (k)(2) of this section is an investment banker or broker that has provided investment banking or brokerage services to the taxpayer within the 2-year period and also is a member of the controlled group.

* * * * *

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–624 Filed 1–16–01; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG–126100–00]

RIN 1545–AY62

Guidance on Reporting of Deposit Interest Paid to Nonresident Aliens

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations that provide guidance on the reporting requirements for interest on deposits maintained at the U.S. office of certain financial institutions and paid to nonresident alien individuals. These proposed regulations affect persons making payments of interest with respect to such a deposit. This document also provides a notice of public hearing on these proposed regulations.

DATES: Written or electronic comments must be received by February 27, 2001. Requests to speak (with outlines of oral comments to be discussed) at the public hearing scheduled for 10 a.m. on March 21, 2001, must be received by February 27, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–126100–00), Room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions also may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–126100–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at *http://www.irs.gov/tax-regs/regslist.html*. The public hearing will be held in Room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations,

Kate Y. Hwa, (202) 622–3840 (not a toll free number); concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, Lanita Vandyke, (202) 622–7180 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S:O, Washington, DC 20224. Comments on the collections of information should be received by March 19, 2001. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper operation of the functions of the IRS, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in these proposed regulations is in §§ 1.6049–4(b)(5)(i), 1.6049–6(e)(4) (i), and (ii). This information is required to determine if taxpayers have properly reported amounts received as income. The collection of information is mandatory. The likely respondents are businesses and other for-profit institutions.

The estimated average annual burden per respondent and/or recordkeeper required by §§ 1.6049–4(b)(5)(i), 1.6049–6(e)(4) (i), and (ii) will be reflected in the burdens of Forms W–8, 1042, 1042–S, and the income tax return of a foreign person.

Further, the estimated average annual burden per respondent and/or recordkeeper for the statement required by § 1.6049–6(e)(4)(i) is as follows:

Estimated total annual reporting burden: 500 hours.

Estimated average annual burden per respondent: 15 minutes.

Estimated number of respondents: 2,000.

Estimated annual frequency of responses: annually.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information 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.

Background and Explanation of Provisions

The IRS previously determined that information concerning interest paid on deposits from U.S. bank accounts to nonresident alien individuals who are residents of Canada would be significant in furthering its compliance efforts. Consequently, § 1.6049–8(a) requires the reporting of such interest on a Form 1042–S.

The proposed regulations extend the information reporting requirement for bank deposit interest paid to nonresident alien individuals who are residents of other foreign countries. This extension is appropriate for two reasons. First, requiring routine reporting to the IRS of all bank deposit interest paid within the United States will help to ensure voluntary compliance by U.S. taxpayers by minimizing the possibility of avoidance of the U.S. information reporting system (such as through false claims of foreign status). Second, several countries that have tax treaties or other agreements that provide for the exchange of tax information with the United States have requested information concerning bank deposits of individual residents of their countries. Because of the importance that the United States attaches to exchanging tax information as a way of encouraging voluntary compliance and furthering transparency, see e.g. S. Exec. Rep. No. 106–8, at 15 (1st Sess. 1999), Treasury and the IRS believe it is important for the United States to facilitate, wherever possible, the effective exchange of all relevant tax information with our treaty partners.

In addition to extending the information reporting requirement for interest paid on deposits maintained at a bank's office within the United States to all nonresident alien individuals, the proposed regulations also make the following minor changes and clarifications.

Section 1.6049–6 provides that a copy of Form 1042–S must be furnished to the recipient for interest paid on deposits maintained at a bank's office within the United States. Paragraph (e)(4)(i) of that section has been revised to clarify that the payor or middleman can satisfy this requirement by furnishing a copy of Form 1042–S either in person or to the last known address of the recipient.

A new paragraph (e)(4)(ii) has been added to § 1.6049–6 to provide guidance on the manner in which a Form 1042–S is furnished when there are joint account holders. Specifically, if any joint account holder is a U.S. non-exempt recipient, the payor or middleman must report the entire payment to that person. If all joint account holders are foreign persons, the payor or middleman must report the payment to the nonresident alien individual that is a resident of a country with which the United States has an income tax treaty or a tax information exchange agreement (TIEA). If more than one of the joint account holders is a foreign person and is a resident of a country with which the United States has an income tax treaty or a TIEA, the payor or middleman must report the payment to the person that is the primary account holder. The payor or middleman must, however, furnish a Form 1042–S to any account holder who requests it.

Section 1.6049–8(a) provides that interest paid with respect to a deposit maintained at an office within the United States to individuals who are Canadian residents must be reported. The payor or middleman may rely on the permanent address found on Form W–8 to make the determination of whether the nonresident alien individual resides in Canada. However, the regulation also provides that a payor or middleman may rely on its actual knowledge of the individual's residence address in Canada, even if a valid Form W–8 has not been provided, to make such a determination. This ''actual knowledge of the individual's residence address'' rule has been eliminated because it creates a result that is contrary to the presumption rules contained in § 1.1441–1(b)(3)(iii) (and made applicable to reportable payments by § 1.6049–5(d)(2)). Accordingly, § 1.6049–8(a) has been clarified to

provide that, while amounts described in § 1.6049–8(a) generally are not subject to backup withholding under section 3406, the payor must report the payment on a Form 1099 as made to a U.S. non-exempt recipient in accordance with the presumption rules of §§ 1.6049–5(d)(2) and 1.1441–1(b)(3)(iii) if the payor or middleman does not have either a valid Form W–8 or valid Form W–9. Further, such payment is subject to backup withholding under section 3406.

Proposed Effective Date

These regulations are proposed to apply to payments made after December 31 of the year in which they are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely (in the manner described in the **ADDRESSES** portion of this preamble) to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for March 31, 2001, beginning at 10 a.m. in Room 4718, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** portion of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments must submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (a signed original and eight (8) copies) by February 27, 2001. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for reviewing outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of the regulations is Kate Y. Hwa, Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 31 are proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In section 1.6049–4, paragraph (b)(5) is revised to read as follows:

§ 1.6049–4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

* * * * *

(b) * * *

(5) *Interest payments to nonresident alien individuals*—(i) *General rule.* In the case of interest aggregating $10 or more paid to a nonresident alien individual (as defined in section 7701(b)(1)(B)) that is reportable under § 1.6049–8(a), the payor shall make an information return on Form 1042–S for the calendar year in which the interest is paid. The payor or middleman shall prepare and file Form 1042–S at the time and in the manner prescribed by section 1461 and the regulations under that section and by the form and its accompanying instructions. See §§ 1.1461–1(b) (rules regarding the preparation of a Form 1042) and 1.6049–6(e)(4) (rules for furnishing a copy of the Form 1042–S to the payee). To determine whether an information return is required for original issue discount, see §§ 1.6049–5(f) and 1.6049–8(a).

(ii) *Effective date.* Paragraph (b)(5)(i) of this section shall be effective for payments made after December 31 of the year in which the final regulations are published in the **Federal Register** with respect to a Form W–8 (Certificate of Foreign Status) furnished to the payor or middleman after that date. (For interest paid to a Canadian nonresident alien individual on or before December 31 of the year in which final regulations are published in the **Federal Register**, see § 1.6049–4(b)(5) as in effect and contained in 26 CFR part 1 revised April 1, 2000.)

* * * * *

Par. 3. Section 1.6049–6 is amended as follows:

1. Paragraph (e)(4) is revised.
2. In paragraph (e)(5), the first sentence is revised and a new sentence is added at the end of the paragraph.

The addition and revisions read as follows:

§ 1.6049–6 Statements to recipients of interest payments and holders of obligations for attributed original issue discount.

* * * * *

(e) * * *

(4) *Special rule for amounts described in § 1.6049–8(a)*—(i) *In general.* In the case of amounts described in § 1.6049–8(a) (relating to payments of deposit interest to nonresident alien individuals) paid after December 31 of the year in which the final regulations are published in the **Federal Register**, any person who makes a Form 1042–S under section 6049(a) and § 1.6049–4(b)(5) shall furnish a statement to the recipient either in person or by first-class mail to the recipient's last known address. The statement shall include a copy of the Form 1042–S required to be prepared pursuant to § 1.6049–4(b)(5) and a statement to the effect that the information on the form is being furnished to the United States Internal Revenue Service and may be furnished to the government of the foreign country where the recipient resides.

(ii) *Joint account holders.* In the case of joint account holders, a payor or middleman must report the entire amount of interest as paid to any joint account holder that provides a valid Form W–9, or, if any account holder has not furnished a Form W–8 or Form W–9, any account holder that is presumed to be a U.S. non-exempt recipient under § 1.6049–5(d)(2) and 1.1441–1(b)(3)(iii). If all of the joint account holders are

foreign persons, then the payor or middleman must report the payment to the nonresident alien individual that is a resident of a country with which the United States has an income tax treaty or a tax information exchange agreement. If more than one of the joint account holders is a foreign person and is a resident of a country with which the United States has an income tax treaty or a tax information exchange agreement, then the payor or middleman may report the interest as paid to any such account holder that is treated as the primary account holder under § 31.3406(h)–2(a) of this chapter. If, however, any account holder requests its own Form 1042–S, the payor or middleman must furnish a Form 1042–S to the account holder who requests it.

(5) *Effective date.* Paragraph (e)(4) is effective for payee statements due after December 31 of the year in which the final regulations are published in the **Federal Register**, without regard to extensions. * * * (For interest paid to a Canadian nonresident alien individual on or before December 31 of the year in which final regulations are published in the **Federal Register**, see § 1.6049–6(e)(4) as in effect and contained in 26 CFR part 1 revised April 1, 2000.)

* * * * *

Par. 4. In section 1.6049–8, the section heading and paragraph (a) are revised to read as follows:

§ 1.6049–8 Interest and original issue discount paid to nonresident alien individuals.

(a) *Interest subject to reporting requirement.* For purposes of §§ 1.6049–4, 1.6049–6, and this section and except as provided in paragraph (b) of this section, the term *interest* means interest paid to a nonresident alien individual after December 31 of the year in which the final regulations are published in the **Federal Register**, where the interest is described in section 871(i)(2)(A) with respect to a deposit maintained at an office within the United States. For purposes of the regulations under section 6049, a nonresident alien individual is a person described in section 7701(b)(1)(B). The payor or middleman may rely upon a valid Form W–8 to determine whether the payment is made to a nonresident alien individual. Generally, amounts described in this paragraph (a) are not subject to backup withholding under section 3406. See § 31.3406(g)–1(d) of this chapter. However, if the payor or middleman does not have either a valid Form W–8 or valid Form W–9, the payor or middleman must report the payment as made to a U.S. non-exempt recipient if it must so treat the payee under the presumption rules of §§ 1.6049–5(d)(2) and 1.1441–1(b)(3)(iii) and must also backup withhold under section 3406. (For interest paid to a Canadian nonresident alien individual on or before December 31 of the year in which final regulations are published in the **Federal Register**, see § 1.6049–8(a) as in effect and contained in 26 CFR part 1 revised April 1, 2000.)

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 5. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 6. In § 31.3406(g)–1, paragraph (d) is revised to read as follows:

§ 31.3406(g)–1 Exceptions for payments to certain payees and certain other payment.

* * * * *

(d) *Reportable payments made to nonresident alien individuals.* A payment of interest that is reported on Form 1042–S as paid to a nonresident alien individual under § 1.6049–8(a) of this chapter is not subject to withholding under section 3406. (For interest paid to a Canadian nonresident alien individual on or before December 31 of the year in which final regulations are published in the **Federal Register**, see § 31.3406(g)–1(d) as in effect and contained in 26 CFR part 1 revised April 1, 2000.)

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 01–250 Filed 1–16–01; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TREASURY

Internal Revenue Service (IRS)

26 CFR Parts 1 and 54

[REG–130477–00; REG–130481–00]

RIN 1545–AY69, 1545–AY70

Required Distributions from Retirement Plans

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to required minimum distributions from qualified plans, individual retirement plans, deferred compensation plans under section 457, and section 403(b) annuity contracts, custodial accounts, and retirement income accounts. These regulations will provide the public with guidance necessary to comply with the law and will affect administrators of, participants in, and beneficiaries of qualified plans; institutions that sponsor and individuals who administer individual retirement plans, individuals who use individual retirement plans for retirement income, and beneficiaries of individual retirement plans; and employees for whom amounts are contributed to section 403(b) annuity contracts, custodial accounts, or retirement income accounts and beneficiaries of such contracts and accounts.

DATES: Written and electronic comments must be received by April 17, 2001. Outlines of topics to be discussed at the public hearing scheduled for June 1, 2001, at 10 a.m. must be received by May 11, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–130477–00/REG130481–00) room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–130477–00/REG–130481–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option of the IRS Home Page, or by submitting comments directly to the IRS Internet site at: *http://www.irs.gov/tax_regs/reglist.html.* The public hearing on June 1, 2001, will be held in the IRS Auditorium (7th Floor), Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Cathy A. Vohs, 202–622–6090; concerning submissions and the hearing, and/or to be placed on the building access list to attend the hearing, Guy Traynor, 202–622–7180 (not toll-free numbers).

Paperwork Reduction Act

The collections of information contained in these proposed regulations have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–0996, in conjunction with the notice of proposed rulemaking published on July 27, 1987, 52 FR 28070, REG–EE–113–82, Required Distributions From Qualified Plans and Individual Retirement Plans, and control number 1545–1573, in