DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9713]

RIN 1545–BL46; 1545–BM60

Reporting for Premium; Basis Reporting by Securities Brokers and Basis Determination for Debt Instruments and Options

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations relating to information reporting by brokers for bond premium and acquisition premium. This document also contains final and temporary regulations relating to information reporting by brokers for transactions involving debt instruments and options, including the reporting of original issue discount (OID) on tax-exempt obligations, the treatment of certain holder elections for reporting a taxpayer's adjusted basis in a debt instrument, and transfer reporting for section 1256 options and debt instruments. The regulations in this document provide guidance to brokers and payors and to their customers. The text of the temporary regulations in this document also serves as the text of the proposed regulations (REG–143040–14) set forth in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective date:* These regulations are effective on *March 13, 2015.*

Applicability dates: For the dates of applicability, see §§ 1.6045–1(m)(2)(ii)(B), 1.6045–1T(n)(11)(i)(A), 1.6045–1T(n)(11)(i)(B), 1.6045A–1T(e)(1), 1.6045A–1T(f), 1.6049–9(a), and 1.6049–10T(c).

FOR FURTHER INFORMATION CONTACT: Pamela Lew of the Office of the Associate Chief Counsel (Financial Institutions and Products) at (202) 317–7053 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

Section 1.6049–9 of the final regulations in this document requires a payor to report amortizable bond premium on taxable and tax-exempt debt instruments acquired on or after January 1, 2014, and acquisition premium on taxable debt instruments acquired on or after January 1, 2014. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of interest (including OID) each year. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a debt instrument. The burden for the collection of information contained in § 1.6049–9 will be reflected in the burdens on Form 1099–INT (OMB control number 1545–0112) and Form 1099–OID (OMB control number 1545–0117) when revised to request the additional information in the regulations.

Section 1.6049–10T of the temporary regulations in this document requires a payor to report OID and acquisition premium on tax-exempt obligations acquired on or after January 1, 2017. This information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of tax-exempt interest each year for alternative minimum tax and other purposes. In addition, because this information is used to report a taxpayer's adjusted basis in a debt instrument under section 6045(g), this information is required to enable the IRS to verify that a taxpayer is reporting the correct amount of gain or loss upon the sale of a tax-exempt obligation. The burden for the collection of information contained in § 1.6049–10T will be reflected in the burden on Form 1099–OID (OMB control number 1545–0117) when revised to request the additional information in the regulations.

Upon the transfer of a covered security, section 6045A and § 1.6045A–1 require the transferring broker to provide to the transferee broker a transfer statement containing certain information relating to the security. This transfer statement generally provides the transferee broker the information needed to determine a customer's adjusted basis and whether any gain or loss with respect to the security is long-term, short-term, or ordinary as required by section 6045(g). Prior to the issuance of § 1.6045A–1T in this document, a broker did not have to provide a transfer statement for a section 1256 option. In addition, a broker did not have to provide the last date on or before the transfer date that the broker made an adjustment for a particular item relating to a debt instrument. Section 1.6045A–1T, however, now requires a broker to transfer this information for a section 1256 option transferred on or after January 1, 2016, and for a debt instrument transferred on or after June 30, 2015.

The collection of information contained in § 1.6045A–1 relating to the furnishing of information in connection with the transfer of securities has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. The collection of information in § 1.6045A–1T and the cross-reference notice of proposed rulemaking under § 1.6045A–1 is necessary to allow brokers that effect sales of transferred section 1256 options and debt instruments that are covered securities to determine and report the adjusted basis of these securities in compliance with section 6045(g). This collection of information is required to comply with the provisions of section 403 of the Energy Improvement and Extension Act of 2008, Division B of Public Law 110–343 (122 Stat. 3765, 3854 (2008)) (the Act). The collection of information contained in § 1.6045A–1T and the cross-reference notice of proposed rulemaking under § 1.6045A–1 is an increase in the total annual burden under control number 1545–2186. The likely respondents are brokers transferring section 1256 options and debt instruments that are covered securities.

Estimated total annual reporting burden is 3,333 hours.

Estimated average annual burden per respondent is 2 hours.

Estimated average burden per response is 4 minutes.

Estimated number of respondents is 7,500.

Estimated total frequency of responses is 200,000.

The collection of information is required to comply with the provisions of section 403 of the Act.

The holder of a debt instrument is permitted to make a number of elections that affect how basis is computed. To minimize the need for reconciliation between information reported by a broker to both a customer and the IRS and the amounts reported on the customer's tax return, a broker is required to take into account certain specified elections, including the election under § 1.1272–3 to treat all interest as OID and the election under section 1276(b)(2) to accrue market discount on a constant yield method, in reporting information to the customer. A customer, therefore, must provide certain information concerning an election to the broker in a written notification. A written notification includes a writing in electronic format. See § 1.6045–1(n)(5).

The collection of information contained in § 1.6045–1(n)(5) relating to the furnishing of information by a

customer to a broker in connection with the sale or transfer of a debt instrument that is a covered security has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under control number 1545–2186. Under § 1.6045–1T(n)(11)(i)(A) of the temporary regulations in this document, unlike the rule in current § 1.6045–1(n)(5) adopted in 2013, a broker must not take into account the election under § 1.1272–3 in reporting a customer's adjusted basis in a debt instrument. Therefore, a customer is no longer required to notify the broker that the customer has made or revoked an election under § 1.1272–3. This change represents a decrease in the total annual burden under OMB control number 1545–2186. In addition, under § 1.6045–1T(n)(11)(i)(B), a broker must take into account the election under section 1276(b)(2) unless the customer timely notifies the broker that the customer has not make the election. The temporary regulations reverse the assumption in current § 1.6045–1(n)(5) adopted in 2013. Because the section 1276(b)(2) election results in a more taxpayer-favorable result than the default ratable method for accruing market discount in most cases, it is anticipated that more customers will want to use this method and these customers will no longer need to notify their brokers that they have made the election. As a result, this change represents a decrease in the total annual burden under OMB control number 1545–2186.

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 section 6103.

Background

Section 6045 of the Internal Revenue Code (Code) generally requires a broker to report gross proceeds upon the sale of a security. Section 6045 was amended by section 403 of the Act to require the reporting of adjusted basis for a covered security and whether any gain or loss upon the sale of the security is long-term or short-term. In addition, the Act added section 6045A of the Code, which requires certain information to be reported in connection with a transfer of a covered security to another broker, and section 6045B of the Code, which requires an issuer of a specified security to file a return relating to certain actions that affect the basis of the security. Section 6049 of the Code requires the reporting of interest payments (including accruals of OID treated as payments).

On November 25, 2011, the Treasury Department and the IRS published in the **Federal Register** (76 FR 72652) proposed regulations (REG–102988–11) relating to information reporting by brokers, transferors, and issuers of securities under sections 6045, 6045A, and 6045B for debt instruments, options, and securities futures contracts (the 2011 proposed basis reporting regulations). On April 18, 2013, the Treasury Department and the IRS published in the **Federal Register** (TD 9616 at 78 FR 23116) final regulations under sections 6045, 6045A, and 6045B (the 2013 final basis reporting regulations). A number of commenters on the 2011 proposed basis reporting regulations requested that the rules for reporting interest income associated with a debt instrument acquired at a premium be conformed to the rules regarding basis reporting for these debt instruments. Accordingly, TD 9616 also contained temporary regulations relating to information reporting for bond premium and acquisition premium under section 6049 (the 2013 temporary interest reporting regulations). A notice of proposed rulemaking cross-referencing the 2013 temporary interest reporting regulations also was published in the **Federal Register** on April 18, 2013 (REG–154563–12 at 78 FR 23183) (the 2013 proposed interest reporting regulations).

No written comments were received on the 2013 proposed interest reporting regulations. No public hearing was requested or held. These final regulations adopt the provisions of the 2013 proposed interest reporting regulations with certain clarifications and one conforming change for acquisition premium. These final regulations also remove the corresponding 2013 temporary interest reporting regulations.

After the publication of the 2013 final basis reporting regulations in the **Federal Register**, the Treasury Department and the IRS received written comments on certain provisions of the 2013 final basis reporting regulations. In response to these written comments, this document contains final and temporary regulations under sections 6045 and 6045A relating to certain aspects of the 2013 final basis reporting regulations, as discussed in this preamble.

Explanation of Provisions

A. Final Regulations for Reporting Bond Premium and Acquisition Premium

Under section 171, a taxpayer may elect to amortize bond premium on a taxable debt instrument and must amortize bond premium on a tax-exempt debt instrument. In general, a taxpayer amortizes bond premium by offsetting the qualified stated interest allocable to an accrual period by the amount of the bond premium allocable to the accrual period. This offset occurs when the taxpayer takes the qualified stated interest into account under the taxpayer's regular method of accounting. For example, the offset occurs when a cash method taxpayer receives a payment of qualified stated interest. *See* section 171(e) and § 1.171–2. As a result, only the portion of qualified stated interest that is not offset by the amortized bond premium is treated as interest for federal income tax purposes. A taxpayer's basis in a debt instrument acquired with bond premium is reduced by amortized bond premium. For purposes of section 6045, a broker is required to report the adjusted basis of a taxable debt instrument that is a covered security and that is acquired with bond premium by presuming that the taxpayer has elected to amortize bond premium unless the taxpayer notifies the broker in writing that the taxpayer does not want to amortize bond premium. *See* § 1.6045–1(n)(5) of the 2013 final basis reporting regulations.

Under section 1272(a)(7) and § 1.1272–2, a taxpayer who purchases a debt instrument with acquisition premium is required to reduce the amount of OID includible in income each year by the amount of acquisition premium allocable to the taxable year. In general, the amount of acquisition premium allocable to a taxable year is determined using a ratable method, although a taxpayer may elect under § 1.1272–3 to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.1272–2(b)(5). A taxpayer's basis in a taxable debt instrument purchased with acquisition premium is increased by the amount of OID included in income by the taxpayer. A taxpayer's basis in a tax-exempt debt instrument purchased with acquisition premium is increased by the amount of OID that accrues in accordance with section 1272(a), including section 1272(a)(7). For purposes of section 6045, a broker

currently is required to report the adjusted basis of a debt instrument that is a covered security using the ratable method for acquisition premium, unless the taxpayer notifies the broker in writing that the taxpayer has elected to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.6045–1(n)(5) of the 2013 final basis reporting regulations. However, as explained in Part B.2.a in this preamble, under these final regulations, for a debt instrument acquired on or after January 1, 2015, a broker must use the ratable method to determine the amount of acquisition premium allocable to a taxable year for purposes of basis reporting under section 6045, regardless of any election under § 1.1272–3.

Under section 6049(a), the Secretary may prescribe regulations to implement the reporting of interest payments, which includes the determination of the amount of a payment that is reportable interest. Similarly, under section 6049(a) the Secretary may prescribe by regulations how to determine the amount reportable as OID.

Section 1.6049–9T of the 2013 temporary interest reporting regulations was issued by the Treasury Department and the IRS in response to comments suggesting that the rules under section 6049 for reporting interest income associated with a debt instrument acquired at a premium be conformed to the rules under section 6045 for basis reporting for these debt instruments. Section 6045 generally requires a broker to report on an information return, such as a Form 1099–B, the adjusted basis of a debt instrument that is a covered security, including basis adjustments attributable to amortized bond premium or acquisition premium. *See* § 1.6045–1(n) of the 2013 final basis reporting regulations. However, prior to the issuance of § 1.6049–9T, interest income (including OID) on a debt instrument acquired at a premium was reported under section 6049 without adjustment for amortized bond premium or acquisition premium. Consequently, a customer generally could not reconcile the interest income reported to the customer on Form 1099–INT or Form 1099–OID, whichever was applicable, with the adjusted basis reported to the customer on Form 1099–B upon the sale of the debt instrument. The Treasury Department and the IRS issued the 2013 temporary interest reporting regulations to coordinate the information reporting for income and basis. Under section 1.6049–9T of the 2013 temporary interest reporting regulations, a broker generally is required to report to a customer any amortized bond premium and acquisition premium on a debt instrument that is a covered security. The amount reported may either be a gross number for both stated interest and amortized bond premium (or OID and amortized acquisition premium) or a net number that reflects the offset of the stated interest (or OID) by the amortized bond premium (or amortized acquisition premium).

No comments were received on the 2013 proposed interest reporting regulations and the final regulations in this document generally adopt the provisions of the 2013 temporary interest reporting regulations. However, as explained in the final paragraph of this Part A in this preamble, the final regulations contain a change for the reporting of acquisition premium for a debt instrument acquired on or after January 1, 2015, to conform to the change in this document for reporting basis adjustments for acquisition premium under section 6045.

Under these final regulations, for purposes of section 6049, a broker is required to presume that a customer has elected to amortize bond premium on taxable debt instruments unless the broker has been notified that the customer does not want the broker to take into account the election or has revoked the election. This presumption applies only to the information reported by the broker to its customer. Thus, a customer that chooses not to make the section 171 election may report interest on the customer's income tax return unadjusted for bond premium because the information reporting rules do not change the substantive rules affecting amortizable bond premium (or any of the other rules pertaining to OID or acquisition premium). If a broker is required to report amounts reflecting amortization of bond premium, the final regulations allow a broker to report either a gross amount for both stated interest and amortized bond premium or a net amount of stated interest that reflects the offset of the stated interest payment by the amount of amortized bond premium allocable to the payment.

In addition, under these final regulations, unlike the 2013 temporary interest reporting regulations, a broker must report OID adjusted for acquisition premium based on the ratable method. Under these final regulations, for a debt instrument acquired on or after January 1, 2015, even if a customer has made an election to amortize acquisition premium based on a constant yield under § 1.1272–3, a broker must not take the election into account for reporting acquisition premium. This change conforms the rules for reporting OID with the rules for reporting adjustments to basis attributable to acquisition premium described in section B.2.a of this preamble. *See* § 1.6045–1T(n)(11)(i)(A). As in the 2013 temporary interest reporting regulations, the final regulations allow a broker to report either a gross amount for both OID and acquisition premium, or a net amount of OID that reflects the offset of the OID by the amount of amortized acquisition premium allocable to the OID.

B. Final and Temporary Regulations Relating to Basis and Transfer Reporting

After the publication of the 2013 final basis reporting regulations, commenters recommended a number of changes to the 2013 final basis reporting regulations. Upon consideration of these comments, the Treasury Department and the IRS have decided to make the following changes to the 2013 final basis reporting regulations and to add broker reporting for OID on tax-exempt obligations under section 6049.

1. Request for Delayed Effective Date for Options on Certain Foreign Debt Instruments

Under the 2013 final basis reporting regulations, if a debt instrument requires a payment of either interest or principal in a currency other than the U.S. dollar or if the debt instrument is issued by a non-U.S. issuer, a broker is required to report the debt instrument's basis only if the instrument is acquired on or after January 1, 2016. *See* § 1.6045–1(n)(2)(ii)(D) and (G). The 2013 final basis reporting regulations delayed the applicability date for these types of debt instruments to address commenters' concerns that it would take extra time to build the systems to account for the complexity of these debt instruments (for example, brokers would be required to track and retain on a daily basis foreign exchange rates for translation purposes) and, in some cases, a lack of publicly available information.

Under the 2013 final basis reporting regulations, a broker is required to report gross proceeds and basis for certain options on a debt instrument granted or acquired on or after January 1, 2014. *See* § 1.6045–1(m). The 2013 final basis reporting regulations apply to an option on a debt instrument that requires a payment of either interest or principal in a currency other than the U.S. dollar or an option on a debt instrument issued by a non-U.S. issuer. Because a broker is not required to report basis for these types of debt instruments until January 1, 2016, one commenter requested a delay in the applicability date for reporting gross

proceeds and basis for these types of options. The commenter stated that the data collection and computation difficulties related to the underlying debt instruments also exist for options on these types of debt instruments. Responding to this comment, the final regulations in this document delay until January 1, 2016, the applicability date for reporting gross proceeds and basis for options on debt instruments that provide for one or more payments denominated in a foreign currency and options on debt instruments issued by non-U.S. issuers.

2. Certain Debt Elections Relating to Broker Basis Reporting

Under the 2013 final basis reporting regulations, for purposes of reporting adjusted basis to a customer, a broker must take into account only the debt-related elections specified in § 1.6045–1(n)(4). If an election is not specified in § 1.6045–1(n)(4), a broker may not take the election into account for reporting adjusted basis to a customer. In general, a broker must take into account a specified election if a customer timely notifies the broker that the customer has made the election. Two of the specified elections are the election to treat all interest as OID under § 1.1272–3 and the election to accrue market discount based on a constant yield under section 1276(b)(2).

a. Election To Treat All Interest as OID

Under § 1.1272–3, a customer may elect to treat all interest on a debt instrument, adjusted by any amortizable bond premium or acquisition premium, as OID. If this election is made, the amount of interest (including any adjustment) that accrues during a period is based on a constant yield. This election is made on a debt instrument by debt instrument basis; however, if made, the election may affect other debt instruments with amortizable bond premium or market discount held by the customer even if the debt instrument is held in a separate account with the broker or any other broker.

One commenter on the 2013 final basis reporting regulations indicated that it was extremely difficult to program the election given its effects on other debt instruments. Another commenter argued that the results of the election could mostly be achieved by a combination of other debt elections that the brokers also must support. Also, according to the commenters, the types of customers who receive Forms 1099–B, such as individuals, partnerships, or S corporations, rarely make the election to treat all interest as OID.

In consideration of the comments received and the burden that the rule in the 2013 final basis reporting regulations would impose, these temporary and proposed regulations provide that a broker may not take into account the election under § 1.1272–3 when computing basis. The temporary and proposed regulations supersede the 2013 final basis reporting regulations relating to the broker's treatment of the election under § 1.1272–3.

In general, the amount of acquisition premium allocable to a taxable year is determined using a ratable method, unless the taxpayer elects under § 1.1272–3 to determine the amount of acquisition premium allocable to a taxable year based on a constant yield method. *See* § 1.1272–2(b)(4) and (5). As noted in the final paragraph in Part A in this preamble, to conform the rules for reporting OID with the rules for reporting adjustments to basis attributable to acquisition premium, a broker must report acquisition premium for purposes of section 6049 on the ratable method even if a customer has made the election under § 1.1272–3 to use a constant yield method.

The temporary regulations apply to a debt instrument acquired on or after January 1, 2015. A broker may, however, rely on the temporary regulations for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015.

b. Constant Yield Election for Market Discount

Under section 1276(b)(2), a customer may elect to accrue market discount on a constant yield method rather than a ratable method. The election may be made on a debt instrument by debt instrument basis and must be made for the earliest taxable year for which the customer is required to determine accrued market discount. The election may not be revoked once it has been made.

The 2011 proposed basis reporting regulations attempted to simplify broker reporting by requiring brokers to compute accrued market discount by assuming that a customer had made an election under section 1276(b)(2) to use a constant yield method. The use of a constant yield method to determine accruals of market discount backloads market discount and is therefore more taxpayer favorable than the use of a ratable method in most cases. A number of commenters to the 2011 proposed basis reporting regulations indicated a desire by brokers to support debt instrument election choices made by their customers rather than rely on assumptions provided in the regulations. In response to these comments, the 2013 final basis reporting regulations instructed brokers to assume that a customer did not make an election to determine accrued market discount using a constant yield method unless the broker received timely notification from the customer that the election had been or would be made.

After the 2013 final basis reporting regulations were published, the majority of commenters reconsidered their initial objections to the 2011 proposed basis reporting regulations requirement to use a constant yield method to determine accrued market discount. These commenters indicated that the use of the constant yield method would generally result in a more favorable tax result for most Form 1099–B recipients. The commenters therefore requested that the broker assumption for calculating accrued market discount be changed so that brokers will assume that a customer has made the election unless the customer timely notifies the broker otherwise. The Treasury Department and the IRS agree with the recommendation that brokers should assume the constant yield method for accruing market discount. Accordingly, the temporary regulations supersede the assumption in the 2013 final debt reporting regulations and provide that for a debt instrument acquired on or after January 1, 2015, brokers are required to assume that a customer has elected to determine accrued market discount using a constant yield method unless the customer notifies the broker otherwise. A customer that does not want to use a constant yield method to determine accrued market discount must, by the end of the calendar year in which the customer acquired the debt instrument in an account with the broker, notify the customer's broker in writing that the customer wants the broker to use the ratable method to determine accrued market discount.

3. Transfer Reporting

a. Section 1256 Options

Under § 1.6045A–1(a)(1)(vi) of the 2013 final basis reporting regulations, a transferring broker is not required to provide a transfer statement for the transfer of a section 1256 option. In response to the 2013 final basis reporting regulations, a number of commenters stated that brokers often treat the transfer of a section 1256 option in the same manner as transfers of equities or debt instruments and do not treat the transferred section 1256 option contract as being novated. Thus, commenters stated that a transfer statement, as provided for by section

6045A, is necessary to ensure that a receiving broker has all relevant data required to properly report information for section 1256 options.

In response to these comments, these temporary and proposed regulations supersede the exception for section 1256 options in the 2013 final basis reporting regulations and extend transfer reporting to section 1256 options. Because the 2013 final basis reporting regulations explicitly instruct brokers not to send transfer statements for section 1256 options, it is understood that brokers may need some additional time to modify their systems to generate the required transfer statements. The temporary regulations therefore provide that a transfer statement is required for the transfer of a section 1256 option that occurs on or after January 1, 2016. The temporary regulations also list the data specific to section 1256 options that must be provided in addition to the data required for the transfer of a non-section 1256 option.

b. Debt Instruments

Under § 1.6045A–1 of the 2013 final basis reporting regulations, brokers are required to provide to a receiving broker certain information relating to a transfer of a debt instrument that is a covered security. The preamble to the 2013 final basis reporting regulations indicated that the information required to be provided included the date through which the transferor broker made adjustments. However, several commenters on the 2013 final basis reporting regulations noted that this item of information was not included in the list of information required to be provided in the 2013 final basis reporting regulations. The temporary and proposed regulations correct this omission by adding the date through which the transferring broker made adjustments to the list of information required to be provided upon the transfer of a debt instrument that is a covered security. This change applies to a transfer that occurs on or after June 30, 2015.

4. Reporting of OID on a Tax-Exempt Obligation

The 2013 final basis reporting regulations require a broker to report the adjusted basis for a debt instrument that is a covered security, including a tax-exempt obligation. However, under Notice 2006–93 (2006–2 CB 798), for purposes of section 6049, a broker is not required to report OID on tax-exempt obligations until further guidance is issued.

Several commenters on the 2013 final basis reporting regulations pointed out that the section 6045 rules now require a broker to compute the OID on a tax-exempt obligation to properly report adjusted basis at the time of a transfer, sale, or other disposition of a tax-exempt obligation. These commenters requested that, similar to what was done in § 1.6049–9T for amortizable bond premium and acquisition premium on a debt instrument that is a covered security, reporting of OID under section 6049 be coordinated with reporting of basis for tax-exempt obligations.

To align the rules and improve consistency between OID reporting and basis reporting, § 1.6049–10T of the temporary regulations in this document provides that a payor must report under section 6049 the daily portions of OID on a tax-exempt obligation. The daily portions of OID are determined as if section 1272 and § 1.1272–1 applied to a tax-exempt obligation. A payor must determine whether a tax-exempt obligation was issued with OID and the amount that accrues for each relevant period. In addition, OID on a tax-exempt obligation is determined without regard to the de minimis rule in section 1273(a)(3) and § 1.1273–1(d). Because the temporary regulations require the reporting of OID, payors also must report amortized acquisition premium (which offsets OID) on a tax-exempt obligation. A broker may report either a gross amount for both OID and amortized acquisition premium, or a net amount of OID that reflects the offset of the OID by the amount of amortized acquisition premium allocable to the OID. To provide payors with time to adapt their systems to report this information, the temporary regulations apply to a tax-exempt obligation acquired on or after January 1, 2017.

Applicability Dates

The final regulations under section 6049 apply to a debt instrument that is a covered security (that is, a debt instrument described in § 1.6045–1(a)(15)(i)(C) acquired on or after January 1, 2014, or a debt instrument described in § 1.6045–1(a)(15)(i)(D) acquired on or after January 1, 2016). The temporary regulations under section 6049 apply to a tax-exempt obligation acquired on or after January 1, 2017. The temporary regulations under section 6045A apply to a transfer of a section 1256 option that occurs on or after January 1, 2016, and to a transfer of a debt instrument that occurs on or after June 30, 2015. The temporary regulations under section 6045 apply to a debt instrument acquired on or after January 1, 2015. The final regulations under section 6045 apply to an option on a debt instrument that provides for one or more payments denominated in a foreign currency or a debt instrument issued by a non-U.S. issuer if the option is granted or acquired on or after January 1, 2016.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations.

It is hereby certified that the final regulations in this document will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. It is anticipated that the requirements in the final regulations in this document will fall only on financial services firms with annual receipts greater than the $38.5 million threshold and, therefore, on no small entities.

In addition, any economic impact is expected to be minimal because a broker already is required to determine the amortization of bond premium and acquisition premium for purposes of determining and reporting a customer's adjusted basis on Form 1099–B under section 6045. The information provided to a customer on Form 1099–INT or Form 1099–OID, whichever is applicable, generally will allow a customer to reconcile the interest information reported to the customer with the adjusted basis information reported to the customer on Form 1099–B. Moreover, any effect on small entities by the rules in the final regulations flows from section 6049 of the Code and section 403 of the Act.

Therefore, because the final regulations in this document will not have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

For the applicability of the Regulatory Flexibility Act to the other regulations in this document, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**.

Pursuant to section 7805(f) of the Internal Revenue Code, the proposed regulations preceding the final regulations in this document were submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on their impact on small businesses. No comments were received. In addition, the proposed regulations accompanying the temporary regulations in this document have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Pamela Lew, Office of Associate Chief Counsel (Financial Institutions and Products). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for § 1.6049–9T and adding entries for §§ 1.6045–1T, 1.6045A–1T, 1.6049–9, and 1.6049–10T in numerical order to read in part as follows:

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

Section 1.6045–1T also issued under 26 U.S.C. 6045(g). * * *

Section 1.6045A–1T also issued under 26 U.S.C. 6045A(a). * * *

Section 1.6049–9 also issued under 26 U.S.C. 6049(a). * * *

Section 1.6049–10T also issued under 26 U.S.C. 6049(a). * * *

■ **Par. 2.** Section 1.6045–1 is amended by:

■ 1. Revising paragraph (m)(2)(ii).

■ 2. Adding a sentence at the end of paragraph (n)(4)(iv).

■ 3. Adding a sentence at the end of paragraph (n)(5)(i).

■ 4. Adding paragraph (n)(11).

The revision and additions read as follows:

§ 1.6045–1 Returns of information of brokers and barter exchanges.

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(m) * * *

(2) * * *

(ii) *Delayed effective date for certain options*—(A) Notwithstanding paragraph (m)(2)(i) of this section, if an option, stock right, or warrant is issued as part of an investment unit described in § 1.1273–2(h), paragraph (m) of this section applies to the option, stock right, or warrant if it is acquired on or after January 1, 2016.

(B) Notwithstanding paragraph (m)(2)(i) of this section, if the property referenced by an option (that is, the property underlying the option) is a debt instrument that is issued by a non-U.S. person or that provides for one or more payments denominated in, or determined by reference to, a currency other than the U.S. dollar, paragraph (m) of this section applies to the option if it is granted or acquired on or after January 1, 2016.

* * * * *

(n) * * *

(4) * * *

(iv) * * * However, see § 1.6045–1T(n)(11)(i)(A) for a debt instrument acquired on or after January 1, 2014.

* * * * *

(5) * * *

(i) * * * However, see § 1.6045–1T(n)(11) for the treatment of an election described in paragraph (n)(4)(iii) of this section (election to accrue market discount based on a constant yield) and an election described in paragraph (n)(4)(iv) of this section (election to treat all interest as OID).

* * * * *

(11) [Reserved]. For further guidance, see § 1.6045–1T(n)(11).

* * * * *

■ **Par. 3.** Section 1.6045–1T is amended by revising paragraphs (h) through (p) to read as follows:

§ 1.6045–1T Returns of information of brokers and barter exchanges (temporary).

* * * * *

(h) through (n)(10) [Reserved]. For further guidance, see § 1.6045–1(h) through (n)(10).

(11) *Additional rules for certain holder elections*—(i) *In general.* For purposes of § 1.6045–1, the rules in this paragraph (n)(11) apply notwithstanding any other rule in § 1.6045–1(n).

(A) *Election to treat all interest as OID.* A broker must report the information required under § 1.6045–1(d) without taking into account any election described in § 1.6045–1(n)(4)(iv) (the election to treat all interest as OID in § 1.1272–3). As a result, for example, a broker must determine the amount of any acquisition premium taken into account each year for purposes of § 1.6045–1 in accordance with § 1.1272–2(b)(4). This paragraph (n)(11)(i)(A) applies to a debt instrument acquired on or after January 1, 2015. A broker may, however, rely on this paragraph (n)(11)(i)(A) for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015.

(B) *Election to accrue market discount based on a constant yield.* A broker must report the information required under § 1.6045–1(d) by assuming that a customer has made the election described in § 1.6045–1(n)(4)(iii) (the election to accrue market discount based on a constant yield). However, if a customer notifies a broker in writing that the customer does not want the broker to take into account this election, the broker must report the information required under § 1.6045–1(d) without taking into account this election. The customer must provide this notification to the broker by the end of the calendar year in which the customer acquired the debt instrument in an account with the broker. This paragraph (n)(11)(i)(B) applies to a debt instrument acquired on or after January 1, 2015.

(ii) *Expiration date.* The applicability of this paragraph (n)(11) expires on or before *March 12, 2018.*

(o) through (p) [Reserved]. For further guidance, see § 1.6045–1(o) through (p).

* * * * *

■ **Par. 4.** Section 1.6045A–1 is amended by removing paragraph (a)(1)(vi) and adding paragraphs (e) and (f) to read as follows:

§ 1.6045A–1 Statements of information required in connection with transfers of securities.

* * * * *

(e) *Section 1256 options.* [Reserved.] For further guidance, see § 1.6045A–1T(e).

(f) *Additional information required for a debt instrument.* [Reserved.] For further guidance, see § 1.6045A–1T(f).

■ **Par. 5.** Section 1.6045A–1T is added to read as follows:

§ 1.6045A–1T Statements of information required in connection with transfers of securities (temporary).

(a) through (d) [Reserved.] For further guidance, see § 1.6045A–1(a) through (d).

(e) *Section 1256 options*—(1) *In general.* A transferor of an option described in § 1.6045–1(m)(3) (section 1256 option) is required to furnish to the receiving broker a transfer statement for a transfer that occurs on or after January 1, 2016. The transfer statement must include the information described in § 1.6045A–1(b) and paragraph (e)(2) of this section for a section 1256 option that is a covered security or in § 1.6045A–1(b) for a section 1256 option that is a noncovered security.

(2) *Additional information required for a section 1256 option.* In addition to the information required in § 1.6045A–1(b), the following information is

required for a transfer of a section 1256 option that is a covered security:

(i) The original basis of the option; and

(ii) The fair market value of the option as of the end of the prior calendar year.

(f) *Additional information required for a debt instrument.* In addition to the information required in § 1.6045A–1(b)(3) for a transfer of a debt instrument that is a covered security, the transferor must provide the last date on or before the transfer date that the transferor made an adjustment for a particular item (for example, the last date on or before the transfer date that bond premium was amortized). This paragraph (f) applies to a transfer that occurs on or after June 30, 2015.

(g) *Expiration date.* The applicability of this section expires on or before March 12, 2018.

■ **Par. 6.** Section 1.6049–5 is amended by adding a sentence after the third sentence in paragraph (f) to read as follows:

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

* * * * *

(f) * * * However, see § 1.6049–9 for the reporting of premium for a debt instrument acquired on or after January 1, 2014. * * *

* * * * *

■ **Par. 7.** Section 1.6049–9 is added to read as follows:

§ 1.6049–9 Premium subject to reporting for a debt instrument acquired on or after January 1, 2014.

(a) *General rule.* Notwithstanding § 1.6049–5(f), for a debt instrument acquired on or after January 1, 2014, if a broker (as defined in § 1.6045–1(a)(1)) is required to file a statement for the debt instrument under § 1.6049–6, the broker generally must report any bond premium (as defined in § 1.171–1(d)) or acquisition premium (as defined in § 1.1272–2(b)(3)) for the calendar year. This section, however, only applies to a debt instrument that is a covered security as defined in § 1.6045–1(a)(15).

(b) *Reporting of bond premium amortization.* Unless a broker has been notified in writing in accordance with § 1.6045–1(n)(5) that a customer does not want to amortize bond premium under section 171, the broker must report the amount of any amortizable bond premium allocable to a stated interest payment made to the customer during the calendar year. See §§ 1.171–2 and 1.171–3 to determine the amount of amortizable bond premium allocable to a stated interest payment. Instead of reporting a gross amount for both stated interest and amortizable bond premium, a broker may report a net amount of stated interest that reflects the offset of the stated interest payment by the amount of amortizable bond premium allocable to the payment. In this case, the broker must not report the amortizable bond premium as a separate item. This paragraph (b) also applies to amortizable bond premium on a tax-exempt obligation, which is required to be amortized under section 171.

(c) *Reporting of acquisition premium amortization.* A broker must report the amount of any acquisition premium amortization that reduces the amount of original issue discount includible in income by the customer during a calendar year. For a debt instrument acquired on or after January 1, 2015, a broker must use the rules in § 1.1272–2(b)(4) to determine the amount of acquisition premium amortization. However, for a debt instrument acquired on or after January 1, 2014, and before January 1, 2015, if a customer timely notifies the broker in accordance with § 1.6045–1(n)(5), a broker may use the rules in § 1.1272–3 to determine the amount of acquisition premium amortization. Instead of reporting a gross amount for both original issue discount and acquisition premium amortization, a broker may report a net amount of original issue discount that reflects the offset of the original issue discount includible in income by the customer for the calendar year by the amount of acquisition premium allocable to the original issue discount. In this case, the broker must not report the acquisition premium amortization as a separate item. See § 1.6049–10T for the reporting of acquisition premium on a tax-exempt obligation.

§ 1.6049–9T [Removed]

■ **Par. 8.** Section 1.6049–9T is removed.

■ **Par. 9.** Section 1.6049–10T is added to read as follows:

§ 1.6049–10T Reporting of original issue discount on a tax-exempt obligation (temporary).

(a) *In general.* For purposes of section 6049, a payor (as defined in § 1.6049–4(a)(2)) of original issue discount (OID) on a tax-exempt obligation (as defined in section 1288(b)(2)) is required to report the daily portions of OID on the obligation as if the daily portions of OID that accrued during a calendar year were paid to the holder (or holders) of the obligation in the calendar year. The amount of the daily portions of OID that accrues during a calendar year is determined as if section 1272 and § 1.1272–1 applied to a tax-exempt obligation. Notwithstanding any other rule in section 6049 and the regulations thereunder, a payor must determine whether a tax-exempt obligation was issued with OID and the amount of OID that accrues for each relevant period. As prescribed by section 1288(b)(1), OID on a tax-exempt obligation is determined without regard to the de minimis rules in section 1273(a)(3) and § 1.1273–1(d).

(b) *Acquisition premium.* A payor is required to report acquisition premium amortization on a tax-exempt obligation in accordance with the rules in § 1.6049–9(c) as if section 1272 applied to a tax-exempt obligation. See paragraph (a) of this section to determine the amount of OID allocable to an accrual period.

(c) *Effective/applicability date.* This section applies to a tax-exempt obligation acquired on or after January 1, 2017.

(d) *Expiration date.* The applicability of this section expires on or before March 12, 2018.

John Dalrymple,

Deputy Commissioner for Services and Enforcement.

Approved: February 19, 2015.

Mark J. Mazur,

Assistant Secretary of the Treasury (Tax Policy).

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Allocation of Assets in Single-Employer Plans; Benefits Payable in Terminated Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans to prescribe interest assumptions under the benefit payments regulation for valuation dates in April 2015 and interest assumptions under the asset allocation regulation for valuation dates in the second quarter of 2015. The interest assumptions are used for valuing and paying benefits under terminating single-employer plans covered by the pension insurance system administered by PBGC.

DATES: Effective April 1, 2015.