GOVERNMENT OF
THE VIRGIN ISLANDS OF THE UNITED STATES
--------0--------
VIRGIN ISLANDS BUREAU OF INTERNAL REVENUE

Estate Smith Bay – Suite 225
St. Thomas VI 00802
Phone: (340) 715-1040
Fax: (340) 774-2672

4008 Estate Diamond Plot 7 B
Christiansted VI 00820-4421
Phone: (340) 773-1040
Fax: (340) 773-1006

Section 6049 – Returns regarding payment of interest

REVENUE RULING 2025-1223-1 Withholding and Reporting of Interest Payments Paid to Non-residents of the U.S. Virgin Islands

PURPOSE

This revenue ruling provides clarification on the mirrored application in the United States Virgin Islands of Treas. Reg. § 1.6049-8(a) to require the reporting of interest paid with respect to deposits maintained at offices within the Virgin Islands to certain nonresident aliens.

LAW

Title 48 of the U.S. Code at section 1397 establishes the mirror code system by providing, in relevant part, that "[t]he income-tax laws in force in the United States of America and those which may hereafter be enacted shall be held to be likewise in force in the Virgin Islands of the United States."

Internal Revenue Code § 6049(a) generally requires the reporting of interest payments by persons who make such payments and nominee recipients of interest who make a payment to any other person with respect to interest so received. Such returns are to be made according to the forms or regulations prescribed by the Secretary of the Treasury.

Treas. Reg. § 1.6049-4(b)(5) requires a payor or middleman to prepare and file with the Internal Revenue Service a Form 1042-S (Foreign Person's U.S. Source Income Subject to Withholding) with respect to interest reportable under Treas. Reg. § 1.6049-8(a) totaling $10 or more paid during a calendar year. The Form 1042-S must be filed at the time and in the manner prescribed by Internal Revenue Code § 1461 and the regulations thereunder.

Treas. Reg. § 1.6049-6(e)(4) requires persons who report interest described in Treas. Reg. § 1.6049-8(a) to furnish a statement to the recipient and a copy of the Form 1042-S.

Treas. Reg. § 1.6049-8(a) generally defines "interest" for purposes of Treas. Reg. §§ 1.6049-4, 1.6049-6, and 1.6049-8, and, except as provided in § 1.6049-8(b), includes interest described in Internal Revenue Code § 871(i)(2)(A) that relates to a deposit maintained at an office within the United States, and that is paid to a nonresident alien individual who is a resident of a country

with which the United States has in effect a tax convention or bilateral agreement providing for the exchange of tax information.

Internal Revenue Code § 871(i)(2)(A) describes interest on deposits, if such interest is not effectively connected with the conduct of a trade or business within the United States. "Deposits" is defined by Internal Revenue Code § 871(i)(3) as meaning amounts that are:

(A) deposits with persons carrying on the banking business;
(B) deposits or withdrawable accounts with savings institutions chartered and supervised as savings and loan or similar associations, but only to the extent that amounts paid or credited on such deposits are deductible under Internal Revenue Code § 591 (determined without regard to sections 265 and 291) in computing the taxable income of such institutions; and
(C) amounts held by an insurance company under an agreement to pay interest thereon.

Treas. Reg. § 31.3406(g)-1(d) provides that a payment of interest to a nonresident alien individual that is described in § 1.6049-8(a) is not subject to withholding under Internal Revenue Code § 3406 if the payor may treat the payee as a foreign beneficial owner or foreign payee under the rules of Treas. Reg. § 1.6049-5(b)(12).

ANALYSIS

Title 48, section 1397 provides that the income tax laws in force in the United States are likewise in force in the U.S. Virgin Islands. In addition to mirroring the income tax laws, regulations implementing such laws are also mirrored, where appropriate to do so. *Vitco Inc. v. Government of the Virgin Islands*, 560 F.2d 180, 181 (3d Cir. 1977). This results in a mirrored tax code in which the Virgin Islands applies the income tax provisions of the Internal Revenue Code and related regulations within the territory. In interpreting the Internal Revenue Code as it applies in the Virgin Islands, there are three rules of construction.

First, the substitution principle requires the words "Virgin Islands" to be substituted for "United States." Second, the equality principle dictates that the tax burden on persons in the Virgin Islands be equivalent to what the United States would collect on the same income if the taxpayer resided in the United States. Finally, the manifest incompatibility principle requires that the Internal Revenue Code should not apply to Virgin Islands tax law if the result is "manifestly inapplicable or incompatible with a separate territorial income tax." *Abramson Enterprises v. Government of the Virgin Islands*, 994 F.2d 140, 142 (3d Cir. 1993).

The ultimate aim of these rules of construction is to duplicate in all substantive particulars the United States' tax system in the Virgin Islands by making changes in nomenclature where appropriate to avoid jurisdictional confusion and effect the intent of the law. *See Chase Manhattan Bank v. Government of the Virgin Islands*, 300 F.3d 320, 324-325 (3d Cir. 2002).

With respect to Treas. Reg. § 1.6049-8(a), the Virgin Islands Bureau of Internal Revenue has determined that in order to avoid jurisdictional confusion, and to give the intended effect to this provision as mirrored, certain references to the "United States" must be retained and not substituted. Specifically, references to "United States," the "Secretary of the Treasury," and "an

applicable revenue procedure [published by the Internal Revenue Service]" should be retained where they are made to define the population of nonresident alien individuals for whom interest must be reported under Treas. Reg. § 1.6049-4(b)(5).

For the Virgin Islands, the mirrored provisions of Treas. Reg. § 1.6049-8(a) should read as follows (substitutions underlined):

Section 1.6049-8

(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 described in section 871(i)(2)(A) that relates to a deposit maintained at an office within the Virgin Islands, and that is paid to a nonresident alien individual who is a resident of a country that is identified, in an applicable revenue procedure (see § 601.601(d)(2) of this chapter) as of December 31 prior to the calendar year in which the interest is paid, as a country with which the United States has in effect an income tax or other convention or bilateral agreement relating to the exchange of tax information within the meaning of section 6103(k)(4), under which the competent authority is the Secretary of the Treasury or his delegate and the United States agrees to provide, as well as receive, information. Notwithstanding the foregoing, for purposes of §§ 1.6049-4, 1.6049-6, and this section, for any year for which the information return under § 1.6049-4(b)(5) is required, a payor may elect to treat interest as including all interest described in section 871(i)(2)(A) that relates to a deposit maintained at an office within the Virgin Islands and that is paid to any nonresident alien individual. A payor shall make this election by reporting all such interest. For purposes of the regulations under section 6049 (§§ 1.6049-1 through 1.6049-8), a nonresident alien individual is a person described in section 7701(b)(1)(B). A payor or middleman may rely upon the permanent residence address provided on a valid Form W-8BEN, "Beneficial Owners Certificate of Foreign Status for U.S. Tax Withholding", to determine the country in which a nonresident alien individual is resident unless such payor or middleman knows or has reason to know that such documentation of the country of residence is unreliable or incorrect. Amounts described in this paragraph (a) are not subject to backup withholding under section 3406 if the payor may treat the payee as a foreign beneficial owner or foreign payee under the rules of § 1.6049-5(b)(12). See § 31.3406(g)-1(d) of this chapter. However, if the payor or middleman does not have either a valid Form W-8BEN or valid Form W-9, "Request for Taxpayer Identification Number and Certification", the payor or middleman must report the payment as made to a Virgin Islands 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 the payor must also backup withhold under section 3406. (For interest paid to a Canadian nonresident alien individual on or before December 31, 2012, see paragraph (a) of this section as in effect and contained in 26 CFR part 1 revised April 1, 2000).

As mirrored, Treas. Reg. §§ 1.6049-4(b)(5) and 1.6049-8(a) require payors to submit a Form 1042-S to the Virgin Islands Bureau of Internal Revenue reporting interest relating to a deposit maintained at an office within the Virgin Islands that is paid to a nonresident alien individual resident in a jurisdiction with which the United States has a tax convention providing for the exchange of information. Pursuant to Treas. Reg. § 1.6049-6(e)(4), as mirrored, payors who submit a Form 1042-S pursuant to Treas. Reg. § 1.6049-4(b)(5) must provide to the recipient a statement and copy of the Form 1042-S. Forms 1042-S must be submitted to the Virgin Islands Bureau of Internal Revenue and provided to the recipient by March 15 of the year following the year in which the amount is paid.

This ruling clarifies that Forms 1042-S relating to interest paid on or after **January 1, 2026** must be submitted pursuant to the mirrored Internal Revenue Code § 6049 and Treas. Reg. §§ 1.6049-8 and 1.6049-4(b)(5). The failure to file a Form 1042-S or the late or incorrect filing of a Form 1042-S with the Virgin Islands Bureau of Internal Revenue may be subject to penalties under the mirrored provisions of Internal Revenue Code § 6721. The failure to furnish a correct payee statement may be subject to penalties under the mirrored provisions of Internal Revenue Code § 6722.

This Revenue Ruling can be cited as Revenue Ruling 2025-1223-1. Taxpayers with questions can contact Tamarah Parson-Smalls in the Office of Chief Counsel at 340-715-1040.