
IRS Publishes New Rules on Deposit Interest Payments to Non-Resident Aliens

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The Internal Revenue Service (“IRS”) has issued final regulations requiring financial institutions to report deposit interest payments to nonresident alien individuals. The new rules are effective as of April 19, 2012, but only apply to interest payments made on or after January 1, 2013.

The intent of the new rules is to assist the United States in battling offshore tax evasion. A foreign jurisdiction’s willingness to share information about United States taxpayers’ offshore income depends in large part upon the United States’ willingness and ability to share information that will assist the foreign jurisdiction in combating offshore tax evasion by its own citizens. The IRS believes that the final regulations will ensure that the IRS is in a position to exchange such information reciprocally with a treaty partner when it is appropriate to do so.

The final regulations require banks, savings institutions, and credit unions to report interest payments in the case of a nonresident alien individual who is resident in a country with which the United States has an information exchange agreement in place. The IRS will publish a list of such countries annually in a Revenue Procedure. The current list of countries with which the United States has an exchange agreement in effect can be found in [Revenue Procedure 2012-24](#).

Financial institutions and other payors are required to report interest paid on deposits at an office within the United States and paid to a nonresident alien who is a resident of a country identified in the Revenue Procedure as of December 31st of each year. To alleviate the burden imposed on payors of attempting to determine whether a particular country is included on the list, the final regulations permit payors to report interest paid to all nonresident aliens. The final regulations clarify that a financial institution may rely upon the permanent address provided by the nonresident alien on Form W-8BEN to determine the depositor’s country of residence (unless the institution has reason to know that the information provided on the form was false).

If you have any questions regarding the application of the final regulations, please do not hesitate to contact Joseph D. Simon at 516-357-3710 or by e-mail at jsimon@cullenanddykman.com or Deirdre M. Mitacek at 516-296-9136 or by e-mail at dmitacek@cullenanddykman.com.

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