

FINANCIAL INFORMATION FORUM

5 Hanover Square
New York, New York 10004

212-422-8568

March 14, 2016

Electronic Delivery

Pamela Lew
Room 5203
Internal Revenue Service
P.O. Box 7604, Ben Franklin Station,
Washington, DC 20044

Re: 26 CFR 1.1275-4 - Contingent Payment Debt Instruments

Dear Ms. Lew,

The Financial Information Forum (FIF)¹ on behalf of our Cost Basis Working Group is submitting this comment letter with respect to the requirements for brokers to report basis beginning January 1, 2016 for complex debt instruments described in Section 6045(n)(3). Specifically, our members are encountering conditions that make it impossible to fulfill those obligations under particular circumstances we have described below. We are seeking relief from the reporting obligations in these circumstances or some revisions to the underlying regulations governing the calculation of basis for affected instruments that will facilitate the calculations we are required to perform. The comments below focus on the challenges we currently face.

Calculating OID and Adjusted Basis for Contingent Payment Debt Instruments

In order to apply the Non-contingent Bond Method as described in § 1.1275-4 (b), brokers must obtain a comparable yield and projected payment schedule from the issuer. Paragraph (C) (iv) of that section specifically states the issuer must provide projected payment schedule to the holder or the holder may determine the comparable yield and projected payment schedule.

*(iv) Issuer/holder consistency. The issuer's projected payment schedule is used to determine the holder's interest accruals and adjustments. The issuer must provide the projected payment schedule to the holder in a manner consistent with the issuer disclosure rules of §1.1275-2(e). If the issuer does not create a projected payment schedule for a debt instrument or the issuer's projected payment schedule is unreasonable, the holder of the debt instrument must determine the comparable yield and projected payment schedule for the debt instrument under the rules of this paragraph (b)(4).*²

Unfortunately the broker is neither the issuer nor the holder. Although many issuers make this information publically available or provide it on request, we are encountering situations where issuers

¹ FIF (www.fif.com) was formed in 1996 to provide a centralized source of information on the implementation issues that impact the financial technology industry across the order lifecycle. Our [participants](#) include trading and back office service bureaus, broker-dealers, market data vendors and exchanges. Through topic-oriented working groups, FIF participants focus on critical issues and productive solutions to technology developments, regulatory initiatives, and other industry changes.

² §1.1275-4 Contingent payment debt instruments, (b)(4)(C) paragraph (iv).

decline to provide this information to brokers because we are not the holders and they do not interpret their obligations under §1.1275-4 to include providing information to brokers. We understand that in this circumstance the holder is obligated to determine their own comparable yield and projected payment schedule. However, as a broker we do not feel that we can create the comparable yield and payment schedule and impose it upon all holders for whom we maintain custody. Under these circumstances, we do not see any way to fulfill our obligations to report either adjusted basis or OID.

Recommended Solution

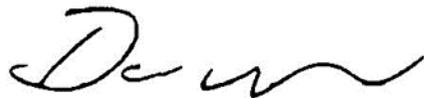
We believe in order to fulfill our reporting obligations under 6045 and 6049 for contingent payment debt instruments, the issuer's obligation to provide the comparable yield and projected payment schedule must be extended to include the broker. This change may require a revision to §1.1275-4 as noted above. When this information is not available to brokers, we do not see any way to fulfill our obligations to report either OID income or adjusted basis for these instruments. In these circumstances, we feel we need to treat these securities as non-covered for basis reporting and we need penalty relief when we are unable fulfill our obligation to report OID for these instruments.

Summary

FIF members are requesting relief from reporting obligations for OID and adjusted basis for contingent payment debt when comparable yield and projected payment schedule are not available. We appreciate the IRS's willingness to accept comments on this matter.

Please contact me at 212-655-2935 or darren.wasney@fif.com if you have any questions.

Regards,

A handwritten signature in black ink, appearing to read "Darren", with a stylized, cursive flourish at the end.

Darren Wasney
Program Manager
Financial Information Forum