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willful furnishing of a false or fraudulent statement, or for the willful failure to furnish a statement, see §31.6674–1 and section 7204. For additional provisions relating to the inclusion of identification numbers and account numbers in statements on Form W–2, see §31.6109–1. For provisions relating to the penalty for failure to report an identification number or an account number, as required by §31.6109–1, see §301.6676–1 of this chapter (Regulations on Procedure and Administration). For the penalties applicable to information returns and payee statements the due date for which (determined without regard to extensions) is after December 31, 1989, see sections 6721–6724 as amended by section 7711 of the Omnibus Budget Reconciliation Act of 1989. See section 6723 (prior to its amendment by section 7711 of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239, 103 Stat. 2106 (1989)) and §31.6723–1A of this chapter (as issued thereunder) for provisions relating to the penalty for failure to include correct information on an information return or a payee statement and for the exceptions to the penalty, particularly the exception for timely correction, with respect to information returns and payee statements the due date for which, determined without regard to extensions, is after December 31, 1986, and before January 1, 1990.

(86 Stat. 944, 26 U.S.C. 6364; 68A Stat. 917, 26 U.S.C. 7805; 68A Stat. 747, 26 U.S.C. 6051(c))

[T.D. 6516, 25 FR 13032, Dec. 20, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations to §31.6051–1, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§31.6051–2 Information returns on Form W–3 and Internal Revenue Service copies of Forms W–2.

(a) *In general.* Every employer who is required to make a return of tax under §31.6011(a)–1 (relating to returns under the Federal Insurance Contributions Act), §31.6011(a)–4 (relating to returns of income tax withheld from wages), or §31.6011(a)–5 (relating to monthly returns) for a calendar year or any period therein shall file the Social Security Administration copy of each Form W–2 required under §31.6051–1 to be furnished by the employer with respect to wages paid during the calendar year. Each Form W–2 and the transmittal Form W–3 shall together constitute an information return to be filed with the Social Security Administration office indicated on the instructions to such forms. However, in the case of an employer who elects to file a composite return pursuant to §31.6011(a)–8, the information return required by this section shall consist of magnetic tape (or other approved media) containing all information required to be on the employee statement, together with transmittal Form 4804.

(b) *Corrected returns.* The Social Security Administration copies of corrected Forms W–2 (or magnetic tape or other approved media) for employees for the calendar year shall be submitted with Form W–3 (or Form 4804), on or before the date on which information returns for the period in which the correction is made would be due under paragraph (a)(3)(ii) of §31.6071(a)–1, to the Social Security Administration office with which Forms W–2 are required to be filed.

(c) *Cross references.* For provisions relating to the time for filing the information returns required by this section and to extensions of the time for filing, see §§31.6071(a)–1(a)(3) and 31.6081(a)–1(a)(3), respectively. For the penalty provided in case of each failure to file, see paragraph (a) of §301.6652–1 of this chapter (Regulations on Procedure and Administration). For the penalties applicable to information returns and payee statements the due date for which (determined without regard to extensions) is after December 31, 1989, see sections 6721–6724 as amended by section 7711 of the Omnibus Budget Reconciliation Act of 1989 (Publ. L. 101–239, 103 Stat. 2106 (1989). See section 6723 (prior to its amendment by section 7211 of the Omnibus Reconciliation Act of 1989) and §301.6723–1A of this chapter for provisions relating to the penalty for failure to include correct information on an information return or a payee statement and for the exceptions to the penalty, particularly the exception for timely correction, with respect to information returns and payee statements the due date for which, determined without regard to extensions,

is after December 31, 1986, and before January 1, 1990.

(68A Stat. 747, 26 U.S.C. 6051; 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7351, 40 FR 17145, Apr. 17, 1975, as amended by T.D. 7580, 43 FR 60160, Dec. 26, 1978; T.D. 8155, 52 FR 34357, Sept. 10, 1987; T.D. 8344, 56 FR 15042, Apr. 15, 1991; T.D. 8636, 60 FR 66141, Dec. 21, 1995]

§ 31.6051–3 Statements required in case of sick pay paid by third parties.

(a) *Statements required from payor.* (1) Every payor of sick pay shall furnish to the employer of the payee of the sick pay a written statement. The written statement must contain the following information:

(i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations thereunder, the social security account number of the payee,

(ii) The total amount of sick pay paid to the payee during the calendar year, and

(iii) The total amount (if any) deducted and withheld from sick pay under section 3402(o) and the regulations thereunder.

The statement must be furnished to the employer on or before January 15 of the year following the calendar year in which any sick pay was paid.

(2) These reporting requirements are in lieu of the requirements of sections 6051(a) (relating to written statements for employees) and 6041 (relating to information returns). Statements required to be furnished by this paragraph shall be treated as statements required under section 6051 to be furnished to employees for purposes of sections 6674 (relating to fraudulent statement or failure to furnish statement to employee) and 7204 (relating to fraudulent statement or failure to make statement to employees).

(3) A multiemployer plan paying sick pay pursuant to a collectively bargained agreement may furnish the statement required to be furnished by this paragraph, which shall include the total amount of sick pay paid to the employee under the plan regardless of the identity or number of employers for whom the employee worked during the calendar year under the plan, to one of the following:

(i) The employer for whom the employee worked the most hours during the calendar year for which the statement is to be furnished,

(ii) The employer for whom the employee first worked during such year,

(iii) The employer for whom the employee last worked during such year,

(iv) The employer for whom the employee worked immediately preceding his absence for which sick pay was paid,

(v) The employer for whom the employee worked immediately following his absence for which sick pay was paid,

(vi) The employer designated through the operation of a specific clause of the collective bargaining agreement, or

(vii) The employer designated through the operation of a specific system of designation chosen by the payor.

(b) *Information required to be furnished by employer.* Every employer of a payee of sick pay who receives a statement under paragraph (a) from a payor of sick pay shall furnish to each payee of sick pay a written statement, which must be furnished on Form W–2. The written statement must contain the following information:

(1) All of the information required to be furnished under paragraph (a),

(2) The name, the address, and the Employer Identification Number (EIN) of the employer,

(3) The words ''sick pay'', which shall be written in the box labelled ''Employer's use'', and

(4) If any portion of the sick pay is excludable from gross income under section 104(a)(3), the amount of the portion which is not so excludable and of the portion which is so excludable. Only sick pay payments includable in gross income shall be reported in the box labelled ''Wages, tips, other compensation'' on Form W–2. Any amount excludable from gross income under section 104(a)(3) shall be reported in the box labelled ''Employer's use'' on Form W–2 and any amount so reported shall be described as ''Nontaxable''. The information required to be furnished by this paragraph may be furnished either on the same Form W–2 that is required