

the district director under all the facts and circumstances.

(4) *Statute of limitations.* For exceptions to the limitations on assessment in the event of a failure to provide information under section 6038B, see section 6501(c)(8).

(i) *Definitions*—(1) *Appreciated property.* Appreciated property is property that has a fair market value in excess of basis.

(2) *Domestic partnership.* A domestic partnership is a partnership described in section 7701(a)(4).

(3) *Foreign partnership.* A foreign partnership is a partnership described in section 7701(a)(5).

(4) *Related person.* Persons are related persons if they bear a relationship described in section 267(b)(1) through (3) or (10) through (12), after application of section 267(c) (except for (c)(3)), or in section 707(b)(1)(B).

(5) *Substituted basis property.* Substituted basis property is property described in section 7701(a)(42).

(6) *Taxpayer-initiated adjustment.* A taxpayer-initiated adjustment is a section 482 adjustment that is made by the taxpayer pursuant to §1.482-1(a)(3).

(7) *United States person.* A United States person is a person described in section 7701(a)(30).

(j) *Effective dates*—(1) *In general.* Except as otherwise provided in this section, this section applies to transfers made on or after January 1, 1998. However, for a transfer made on or after January 1, 1998, but before January 1, 1999, the filing requirements of this section may be satisfied by—

(i) Filing a Form 8865 with the taxpayer's income tax return (including a partnership return of income) for the first taxable year beginning on or after January 1, 1999; or

(ii) Filing a Form 926 (modified to reflect that the transferee is a partnership, not a corporation) with the taxpayer's income tax return (including a partnership return of income) for the taxable year in which the transfer occurred.

(2) *Transfers made between August 5, 1997 and January 1, 1998.* A United States person that made a transfer of property between August 5, 1997, and January 1, 1998, that is required to be reported under section 6038B may sat-

isfy its reporting requirement by reporting in accordance with the provisions of this section or in accordance with the provisions of Notice 98-17 (1998-11 IRB 6)(see §601.601(d)(2) of this chapter).

(3) *Special rule for transfers made before January 1, 2000.* Even if not reported in accordance with the rules provided in paragraph (a)(5) of this section, or paragraph (j) (1) or (2) of this section, a transfer that occurred before January 1, 2000 will nevertheless be considered timely reported if the transferor reports it on a Form 8865 attached to an amended tax return for the transferor's tax year in which the transfer occurred, provided such amended return is filed no later than September 15, 2000.

[T.D. 8817, 64 FR 5715, Feb. 5, 1999; 64 FR 15686, Apr. 1, 1999; T.D. 8850, 64 FR 72554, Dec. 28, 1999]

§ 1.6039-1 Statements to persons with respect to whom information is furnished.

(a) *Requirement of statement with respect to incentive stock options under section 6039(a)(1).* Every corporation which transfers stock to any person pursuant to such person's exercise of an incentive stock option described in section 422(b) must furnish to such transferee, for each calendar year in which such a transfer occurs, a written statement with respect to the transfer or transfers made during such year. This statement must include the following information—

(1) The name, address, and employer identification number of the corporation transferring the stock;

(2) The name, address, and identifying number of the person to whom the share or shares of stock were transferred;

(3) The name and address of the corporation the stock of which is the subject of the option (if other than the corporation transferring the stock);

(4) The date the option was granted;

(5) The date the shares were transferred to the person exercising the option;

(6) The fair market value of the stock at the time the option was exercised;

(7) The number of shares of stock transferred pursuant to the option;

(8) The type of option under which the transferred shares were acquired; and

(9) The total cost of all the shares.

(b) *Requirement of statement with respect to stock purchased under an employee stock purchase plan under section 6039(a)(2).* (1) Every corporation which records, or has by its agent recorded, a transfer of the title to stock acquired by the transferor pursuant to the transferor's exercise on or after January 1, 1964, of an option granted under an employee stock purchase plan which meets the requirements of section 423(b), and with respect to which the special rule of section 423(c) applied, must furnish to such transferor, for each calendar year in which such a recorded transfer of title to such stock occurs, a written statement with respect to the transfer or transfers containing the information required by paragraph (b)(2) of this section.

(2) The statement required by paragraph (b)(1) of this section must contain the following information—

(i) The name and address of the corporation whose stock is being transferred;

(ii) The name, address, and identifying number of the transferor;

(iii) The date such stock was transferred to the transferor;

(iv) The number of shares to which title is being transferred; and

(v) The type of option under which the transferred shares were acquired.

(3) If the statement required by this paragraph is made by the authorized transfer agent of the corporation, it is deemed to have been made by the corporation. The term *transfer agent*, as used in this section, means any designee authorized to keep the stock ownership records of a corporation and to record a transfer of title of the stock of such corporation on behalf of such corporation.

(4) A statement is required by reason of a transfer described in section 6039(a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option. Thus, for example, if the owner has record title to a share or shares of stock transferred to a recognized broker or financial institution and the stock is subsequently sold by such

broker or institution (on behalf of the owner), the corporation is only required to furnish a written statement to the owner relating to the transfer of record title to the broker or financial institution. Similarly, a written statement is required when a share of stock is transferred by the optionee to himself and another person (or persons) as joint tenants, tenants by the entirety or tenants in common. However, when stock is originally issued to the optionee and another person (or persons) as joint tenants, or as tenants by the entirety, the written statement required by this paragraph shall be furnished (at such time and in such manner as is provided by this section) with respect to the first transfer of the title to such stock by the optionee.

(5) Every corporation which transfers any share of stock pursuant to the exercise of an option described in this paragraph shall identify such stock in a manner sufficient to enable the accurate reporting of the transfer of record title to such shares. Such identification may be accomplished by assigning to the certificates of stock issued pursuant to the exercise of such options a special serial number or color.

(c) *Time for furnishing statements—(1) In general.* Each statement required by this section to be furnished to any person for a calendar year must be furnished to such person on or before January 31 of the year following the year for which the statement is required.

(2) *Extension of time.* For good cause shown upon written application of the corporation required to furnish statements under this section, the Director, Martinsburg Computing Center, may grant an extension of time not exceeding 30 days in which to furnish such statements. The application must contain a full recital of the reasons for requesting an extension to aid the Director in determining the period of the extension, if any, which will be granted and must be sent to the Martinsburg Computing Center (Attn: Extension of Time Coordinator). Such a request in the form of a letter to the Martinsburg Computing Center, 250 Murall Drive, Kearneysville, West Virginia 25430, signed by the applicant (or its agent) will suffice as an application. The application must be filed on or before the

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date prescribed in paragraph (c)(1) of this section for furnishing the statements required by this section, and must contain the employer identification number of the corporation required to furnish statements under this section.

(3) *Last day for furnishing statement.* For provisions relating to the time for performance of an act when the last day prescribed for performance falls on Saturday, Sunday, or a legal holiday, see § 301.7503-1 of this chapter (Regulations on Procedure and Administration).

(d) *Statements furnished by mail.* For purposes of this section, a statement is considered to be furnished to a person if it is mailed to such person's last known address.

(e) *Penalty.* For provisions relating to the penalty provided for failure to furnish a statement under this section, see section 6722.

(f) *Electronic furnishing of statements.* The statements required to be furnished pursuant to this section may be provided in an electronic format in lieu of a paper format, with the consent of the recipient. See § 31.6051-1(j) of the Regulations on Employment Taxes and Collection of Income Tax at the Source for further guidance regarding the manner in which such electronic statements must be furnished.

(g) *Effective date—(1) In general.* These regulations are effective on August 3, 2004.

(2) *Reliance and transition period.* For statutory options transferred on or before June 9, 2003, taxpayers may rely on the 1984 proposed regulations LR-279-81 (49 FR 4504), the 2003 proposed regulations REG-122917-02 (68 FR 34344), or this section until the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring 6 months after August 3, 2004. For statutory options transferred after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring at least 6 months after August 3, 2004, taxpayers may rely on either REG-122917-02 or this section. Taxpayers may not rely on LR-279-81 or REG-122917-02 after December 31, 2005. Reliance on LR-279-81,

REG-122917-02, or this section must be in its entirety, and all statutory options granted during the reliance period must be treated consistently.

[T.D. 9144, 69 FR 46425, Aug. 3, 2004; 69 FR 61311, Oct. 18, 2004]

§ 1.6041-1 Return of information as to payments of \$600 or more.

(a) *General rule—(1) Information returns required—(i) Payments required to be reported.* Except as otherwise provided in §§ 1.6041-3 and 1.6041-4, every person engaged in a trade or business shall make an information return for each calendar year with respect to payments it makes during the calendar year in the course of its trade or business to another person of fixed or determinable income described in paragraph (a)(1)(i) (A) or (B) of this section. For purposes of the regulations under this section, the person described in this paragraph (a)(1)(i) is a payor.

(A) Salaries, wages, commissions, fees, and other forms of compensation for services rendered aggregating \$600 or more.

(B) Interest (including original issue discount), rents, royalties, annuities, pensions, and other gains, profits, and income aggregating \$600 or more.

(ii) *Information returns required under other provisions of the Internal Revenue Code.* The payments described in paragraphs (a)(1)(i) (A) and (B) of this section shall not include any payments of amounts with respect to which an information return is required by, or may be required under authority of, section 6042(a) (relating to dividends), section 6043(a)(2) (relating to distributions in liquidation), section 6044(a) (relating to patronage dividends), section 6045 (relating to brokers' transactions with customers), sections 6049(a) (1) and (2) (relating to interest), section 6050N(a) (relating to royalties), or section 6050P (a) or (b) (relating to cancellation of indebtedness). In addition, the payments described in paragraphs (a)(1)(i) (A) and (B) of this section shall not include amounts excepted from the definition of dividends under section 6042(b)(2) and § 1.6042-3(b)(1), amounts described in section 6044(b), amounts excepted from reporting under § 1.6045-1(g), amounts excepted from the definition of interest