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legal title to a recognized broker or financial institution. If a contractual agreement exists or is entered into with a recognized broker or financial institution pursuant to which shares acquired upon exercise of the option will be immediately deposited into a brokerage account established on behalf of the transferor, then the deposit of shares by the transferor into the brokerage account following the exercise of the option is the first transfer of legal title of the shares acquired by the transferor, and the corporation is only required to file a return relating to such transfer of legal title.

(4) Every corporation that 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 legal 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 filing returns. Each return required by this section for a calendar year must be filed in accordance with the guidelines and procedures set forth in the instructions to Form 3921 and Form 3922.

(d) Penalty. For provisions relating to the penalty applicable to the failure to file a return under this section, see section 6721.

(e) Exception to return requirements of section 6039(a) for certain nonresident aliens—(1) Return requirement under section 6039(a)(1). The return requirement of section 6039(a)(1) is not applicable to the exercise of an incentive stock option by an employee who is a nonresident alien (as defined in section 7701(b)) and to whom the corporation is not required to provide a Form W–2 for any calendar year within the time period beginning with the first day of the calendar year in which the option was granted to the employee and ending on the last day of the calendar year in which the employee first transferred legal title to shares acquired under the option as described in paragraph (b)(3) of this section.

(3) For purposes of this paragraph (e), the term corporation is defined in section 7701(a) and includes, but is not limited to, the corporation issuing the stock, a related corporation of the corporation, any agent of the corporation, any party distributing shares of stock or other payments in connection with the plan (for example, a brokerage firm), and any party in control of the payment of remuneration for employment to the employee.

(2) Transition period. Taxpayers are not required to comply with the return requirements of paragraphs (a) and (b) of this section for stock transfers that occur during the 2007, 2008 and 2009 calendar years.

[T.D. 9470, 74 FR 59090, Nov. 17, 2009]

§ 1.6039–2 Statements to persons with respect to whom information is reported.

(a) Requirement of statement with respect to incentive stock options under section 6039(b). (1) Every corporation filing a return under § 1.6039–1(a) shall furnish to each person whose name is set forth in such return a written statement with respect to the transfer or transfers made to such person during such year. This statement must include the information described in § 1.6039–1(a)(1).

(2) Each statement required by this paragraph (a) to be furnished to any person must be furnished to such person on Form 3921, Exercise of an Incentive Stock Option Under Section 422(b) (or its designated successor) and be delivered at such time and in such manner as provided in the instructions thereto.
§ 1.6039I–1 Reporting of certain employer-owned life insurance contracts.

(a) Requirement to report. Section 6039I requires every taxpayer that is an applicable policyholder owning one or more employer-owned life insurance contracts issued after August 17, 2006, to file a return showing the following information for each year the contracts are owned—

(1) The number of employees of the applicable policyholder at the end of the year;

(2) The number of such employees insured under such contracts at the end of the year;

(3) The total amount of insurance in force at the end of the year under such contracts;

(4) The name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged; and

(5) That the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

(b) Time and manner of reporting. Applicable policyholders owning one or more employer-owned life insurance contracts issued after August 17, 2006, must provide the information required under §6039I by attaching Form 8925, "Report of Employer-Owned Life Insurance Contracts", to the policyholder’s income tax return by the due date of that return, or by filing such other

endar years. For purposes of furnishing information statements for stock transfers that occur during the 2007 or 2008 calendar years, taxpayers may rely on §1.6039–1 of the 2004 final regulations (69 FR 46401) or §1.6039–2 of the 2008 proposed regulations (REG–103146–08) (73 FR 40999). For purposes of furnishing information statements for stock transfers that occur during the 2009 calendar year, taxpayers may rely on §1.6039–1 of the 2004 final regulations (69 FR 46401), §1.6039–2 of the 2008 proposed regulations (REG–103146–08) (73 FR 40999), or this section.