

sweepstakes, wagering pools, and other wagering transactions, including a wagering transaction in a parimutuel pool with respect to horse races, dog races, or jai alai, see § 31.3402(q)-1.

[T.D. 9807, 81 FR 96377, Dec. 30, 2016]

**§ 1.6041A-1 Returns regarding payments of remuneration for services and certain direct sales.**

(a) through (c) [Reserved]

(d) *Exceptions to return requirement.* [Reserved]

(1) and (2) [Reserved]

(3) *Foreign transactions—(i) In general.* No return shall be required under section 6041A with respect to payments described in this paragraph (d)(3).

(A) Returns of information are not required for payments that a payor can, prior to payment, associate with documentation upon which it may rely to treat as made to a foreign beneficial owner in accordance with § 1.1441-1(e)(1)(ii) or as made to a foreign payee in accordance with § 1.6049-5(d)(1) or presumed to be made to a foreign payee under § 1.6049-5(d)(2), (3), (4), or (5). However, such payments may be reportable under § 1.1461-1(b) and (c). For purposes of this paragraph (d)(3)(i)(A), the provisions in § 1.6049-5(c) (regarding rules applicable to documentation of foreign status and definition of U.S. payor and non-U.S. payor) shall apply. The provisions of § 1.1441-1 shall apply by substituting the term *payor* for the term *withholding agent*.

(B) Returns of information are not required for payments of remuneration for services from sources outside the United States (determined under the provisions of part I, subchapter N, chapter 1 of the Internal Revenue Code and the regulations under those provisions) if payments are made outside the United States by a non-U.S. payor or non U.S. middleman. For a definition of non U.S. payor or non-U.S. middleman, see § 1.6049-5(c)(5). For circumstances in which a payment is considered to be made outside the United States, see § 1.6049-5(e).

(C) Returns of information are not required under sections 6041 or 6041A for amounts paid outside of the United States (within the meaning of § 1.6049-5(e)) as remuneration for services as a direct seller (within the meaning of

section 3508) performed outside of the United States or for sales described in section 6041A(b) made outside of the United States of consumer products for resale outside of the United States.

(ii) *Payor.* The term *payor* has the same meaning as described in § 1.6049-4(a)(2).

(iii) *Joint owners.* Amounts paid to joint owners for which a certificate or documentation is required as a condition for being exempt from reporting under paragraph (d)(3)(i) of this section are presumed made to U.S. payees who are not exempt recipients if, prior to payment, the payor or middleman cannot reliably associate the payment either with a Form W-9 furnished by one of the joint owners in the manner required in §§ 31.3406(d)-1 through 31.3406(d)-5 of this chapter, or with documentation described in paragraph (d)(3)(i)(A) of this section furnished by each joint owner upon which it can rely to treat each joint owner as a foreign payee or foreign beneficial owner.

(iv) *Conversion into United States dollars of amounts paid in foreign currency.* For rules concerning foreign currency conversion, see § 1.6049-4(d)(3)(i).

(v) *Effective date.* The provisions of this paragraph (d)(3) apply to payments made after December 31, 2000.

(4) *Information returns required under section 6050W for calendar years beginning after December 31, 2010.* (i) For payments made by payment card (as defined in § 1.6050W-1(b)(3)) or through a third party payment network (as defined in § 1.6050W-1(c)(3)) after December 31, 2010, that are required to be reported on an information return under section 6050W (relating to payment card and third party network transactions), the following rule applies. Transactions that otherwise would be reportable under both sections 6041A(a) and 6050W are reported under section 6050W and not section 6041A(a). For provisions relating to information reporting for payment card transactions and third party network transactions, see § 1.6050W-1. Solely for purposes of this paragraph, the de minimis threshold for third party network transactions in § 1.6050W-1(c)(4) is disregarded in determining whether the transaction is subject to reporting under section 6050W.

(ii) *Examples.* The provisions of paragraph (d)(4) of this section are illustrated by the following examples:

*Example 1.* Service-recipient A, in the course of its business, pays remuneration of \$600 to service provider B by credit card for services performed by B. B is one of a network of unrelated persons that has agreed to accept A's credit card as payment under an agreement that provides standards and mechanisms for settling the transactions between a merchant acquiring bank and the persons who accept the cards. Merchant acquiring bank Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because Y, as the payment settlement entity for the payment card transaction, is required to file an information return under section 6050W.

*Example 2.* Service-recipient A, in the course of business, pays \$600 of fixed or determinable income to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether the transaction is subject to reporting under section 6050W, the de minimis threshold for third party network transactions in § 1.6050W-1(c)(4) is disregarded.

(iii) *Effective/applicability date.* Paragraph (d)(4) of this section applies to payments made by payment card or through a third party payment network after December 31, 2010.

(e) [Reserved]

(f) *Statements to be furnished to persons with respect to whom information is required to be furnished—(1)* [Reserved]

(2) *Time for furnishing statement.* [Reserved]

(3) *Contents of statement.* [Reserved]

(g) [Reserved]

(h) *Cross-reference to penalties.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6041A(a) or (b), see § 301.6721-1 of this chapter (Procedure and Adminis-

tration Regulations). For provisions relating to the penalty provided for failure to furnish timely a correct payee statement required under section 6041A(e), see § 301.6722-1 of this chapter. See § 301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

[T.D. 8734, 62 FR 53474, Oct. 14, 1997, as amended by T.D. 8804, 63 FR 72188, Dec. 31, 1998; T.D. 8856, 64 FR 73412, Dec. 30, 1999; T.D. 8881, 65 FR 32205, May 22, 2000; T.D. 9496, 75 FR 49828, Aug. 16, 2010]

**§ 1.6042-1 Return of information as to dividends paid in calendar years before 1963.**

(a) *Requirement of return—(1) In general.* Except as provided in subparagraphs (2) and (3) of this paragraph, every domestic corporation, or foreign corporation engaged in business within the United States or having an office or place of business or a fiscal or paying agent in the United States, making payments during any calendar year before 1963 of \$10 or more of dividends and distributions (other than distributions in liquidation) to any shareholder who is an individual (citizen or resident of the United States), a resident fiduciary, or a resident partnership any member of which is a citizen or resident shall file for the calendar year a return setting forth the amount of such payments for such calendar year. A separate return on Form 1099, showing the name and address of the payer and the shareholder, and the amount paid, shall be prepared with respect to each shareholder. These returns shall be accompanied by transmittal Form 1096.

(2) *Federal land bank associations and certain other corporations.* A corporation described in section 501(c) (12), (15), or (16), or section 521(b)(1), or a Federal land bank association or a production credit association, making a payment of a dividend, or a distribution, to any shareholder in any calendar year before 1963 shall file an information return with respect to such payments when they total \$100 or more during the calendar year.

(3) *Savings and loan associations, etc.* A savings and loan association, a cooperative bank, a homestead association, a