

and all other related forms and schedules that are required to be attached to the Series 1065 form.

(5) *Partnerships with more than 100 partners.* A partnership has more than 100 partners if, over the course of the partnership's taxable year, the partnership had more than 100 partners, regardless of whether a partner was a partner for the entire year or whether the partnership had over 100 partners on any particular day in the year. For purposes of this paragraph (d)(5), however, only those persons having a direct interest in the partnership must be considered partners for purposes of determining the number of partners during the partnership's taxable year.

(e) *Examples.* The following examples illustrate the provisions of paragraph (d)(5) of this section. In the examples, the partnerships utilize the calendar year, and the taxable year in question is 2000:

Example 1. Partnership P had five general partners and 90 limited partners on January 1, 2000. On March 15, 2000, 10 more limited partners acquired an interest in P. On September 29, 2000, the 10 newest partners sold their individual partnership interests to C, a corporation which was one of the original 90 limited partners. On December 31, 2000, P had the same five general partners and 90 limited partners it had on January 1, 2000. P had a total of 105 partners over the course of partnership taxable year 2000. Therefore, P must file its 2000 partnership return on magnetic media.

Example 2. Partnership Q is a general partnership that had 95 partners on January 1, 2000. On March 15, 2000, 10 partners sold their individual partnership interests to corporation D, which was not previously a partner in Q. On September 29, 2000, corporation D sold one-half of its partnership interest in equal shares to five individuals, who were not previously partners in Q. On December 31, 2000, Q had a total of 91 partners, and on no date in the year did Q have more than 100 partners. Over the course of the year, however, Q had 101 partners. Therefore, Q must file its 2000 partnership return on magnetic media.

Example 3. Partnership G is a general partnership with 100 partners on January 1, 2000. There are no new partners added to G in 2000. One of G's partners, A, is a partnership with 53 partners. A is one partner, regardless of the number of partners A has. Therefore, G has 100 partners and is not required to file its 2000 partnership return on magnetic media.

(f) *Effective date.* In general, this section applies to partnership returns for

taxable years ending on or after December 31, 2000. However, electing large partnerships under section 775 and partnerships using foreign addresses on their Series 1065 forms are not required to file using magnetic media for taxable years ending before January 1, 2001.

[T.D. 8843, 64 FR 61503, Nov. 12, 1999]

§ 301.6011-5 Required use of magnetic media for corporate income tax returns.

(a) *Corporate income tax returns required on magnetic media*—(1) A corporation required to file a corporate income tax return on Form 1120, "U.S. Corporation Income Tax Return," under § 1.6012-2 of this chapter must file its corporate income tax return on magnetic media if the corporation is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter.)

(2) All members of a controlled group of corporations must file their corporate income tax returns on magnetic media if the aggregate number of returns required to be filed by the controlled group of corporations is at least 250.

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If a corporation fails to file a corporate income tax return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return). In determining whether there is reasonable cause for failure to file the return, § 301.6651-1(c) and rules similar to

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the rules in § 301.6724-1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Controlled group of corporations.* The term *controlled group of corporations* means a group of corporations as defined in section 1563(a).

(4) *Corporate income tax return.* The term *corporate income tax return* means a Form 1120, "U.S. Corporation Income Tax Return," along with all other related forms, schedules, and statements that are required to be attached to the Form 1120, and all members of the Form 1120 series of returns, including amended and superseding returns.

(5) *Determination of 250 returns.* For purposes of this section, a corporation or controlled group of corporations is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation or the controlled group, the corporation or the controlled group is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, a corporation is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. If the corporation is a member of a controlled group, the determination of the

number of returns includes all returns required to be filed by all members of the controlled group during the calendar year ending with or within the taxable year of the controlled group.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section:

Example. The taxable year of Corporation X, a fiscal year taxpayer with assets in excess of \$10 million, ends on September 30. During the calendar year ending December 31, 2007, X was required to file one Form 1120, "U.S. Corporation Income Tax Return," 100 Forms W-2, "Wage and Tax Statement," 146 Forms 1099-DIV, "Dividends and Distributions," one Form 940, "Employer's Annual Federal Unemployment (FUTA) Tax Return," and four Forms 941, "Employer's Quarterly Federal Tax Return." Because X is required to file 252 returns during the calendar year that ended within its taxable year ending September 30, 2008, X is required to file its Form 1120 electronically for its taxable year ending September 30, 2008.

(f) *Effective/applicability dates.* This section applies to corporate income tax returns for corporations that report total assets at the end of the corporation's taxable year that equal or exceed \$10 million on Schedule L of their Form 1120, for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(5) of this section, which is applicable for taxable years ending on or after November 13, 2007.

[T.D. 9363, 72 FR 63811, Nov. 13, 2007]

§ 301.6011-6 Statement of series and series organizations [Reserved]

§ 301.6011-7 Specified tax return preparers required to file individual income tax returns using magnetic media.

(a) *Definitions.* (1) *Magnetic media.* For purposes of this section, the term *magnetic media* has the same meaning as in § 301.6011-2(a)(1).

(2) *Individual income tax return.* The term *individual income tax return* means any return of tax imposed by subtitle A on individuals, estates, and trusts.

(3) *Specified tax return preparer.* The term *specified tax return preparer* means any person who is a tax return preparer, as defined in section 7701(a)(36)