

such return relates a statement identifying the information described in paragraph (1).

**(3) Time for furnishing statement**

**(A) In general**

Each statement required to be furnished under paragraph (1) or (2) shall be furnished at such time as the Secretary may prescribe, but in no case at a time later than the earlier of—

(i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any), or

(ii) the date which is 30 days after the date such return is filed.

**(B) Adjustments**

In any case in which there is an adjustment to the information required to be included on a statement filed under paragraph (1) or (2) after such statement has been filed, a supplemental statement under such paragraph shall be filed not later than the date which is 30 days after such adjustment is made.

**(b) Regulations**

The Secretary shall prescribe such regulations as necessary to carry out this section, including regulations relating to—

(1) the application of this section to property with regard to which no estate tax return is required to be filed, and

(2) situations in which the surviving joint tenant or other recipient may have better information than the executor regarding the basis or fair market value of the property.

(Added Pub. L. 114-41, title II, §2004(b)(1), July 31, 2015, 129 Stat. 455.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 6035, act Aug. 16, 1954, ch. 736, 68A Stat. 743; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §340(a), Sept. 3, 1982, 96 Stat. 633, related to information returns of officers, directors, and shareholders of foreign personal holding companies, prior to repeal by Pub. L. 108-357, title IV, §413(c)(26), (d)(1), Oct. 22, 2004, 118 Stat. 1509, 1510, applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section applicable to property with respect to which an estate tax return is filed after July 31, 2015, see section 2004(d) of Pub. L. 114-41, set out as an Effective Date of 2015 Amendment note under section 1014 of this title.

**§ 6036. Notice of qualification as executor or receiver**

Every receiver, trustee in a case under title 11 of the United States Code, assignee for benefit of creditors, or other like fiduciary, and every executor (as defined in section 2203), shall give notice of his qualification as such to the Secretary in such manner and at such time as may be re-

quired by regulations of the Secretary. The Secretary may by regulation provide such exemptions from the requirements of this section as the Secretary deems proper.

(Aug. 16, 1954, ch. 736, 68A Stat. 744; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, §6(i)(6), Dec. 24, 1980, 94 Stat. 3410.)

**Editorial Notes**

**AMENDMENTS**

1980—Pub. L. 96-589 substituted “trustee in a case under title 11 of the United States Code” for “trustee in bankruptcy”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1980 AMENDMENT**

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

**§ 6037. Return of S corporation**

**(a) In general**

Every S corporation shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

**(b) Copies to shareholders**

Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations.

**(c) Shareholder's return must be consistent with corporate return or Secretary notified of inconsistency**

**(1) In general**

A shareholder of an S corporation shall, on such shareholder's return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

**(2) Notification of inconsistent treatment**

**(A) In general**

In the case of any subchapter S item, if—

(i)(I) the corporation has filed a return but the shareholder's treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

(II) the corporation has not filed a return, and

(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

**(B) Shareholder receiving incorrect information**

A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder's return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

(ii) elects to have this paragraph apply with respect to that item.

**(3) Effect of failure to notify**

In any case—

(A) described in subparagraph (A)(i)(I) of paragraph (2), and

(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

**(4) Subchapter S item**

For purposes of this subsection, the term “subchapter S item” means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

**(5) Addition to tax for failure to comply with section**

**For addition to tax in the case of a shareholder's negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.**

(Added Pub. L. 85-866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; amended Pub. L. 94-455, title XIX, § 1906(a)(3), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97-354, § 5(a)(39)(A), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98-369, div. A, title VII, § 714(q)(2), July 18, 1984, 98 Stat. 965; Pub. L. 104-188, title I, § 1307(c)(2), Aug. 20, 1996, 110 Stat. 1781.)

**Editorial Notes**

**PRIOR PROVISIONS**

A prior section 6037 was renumbered section 6040 of this title.

**AMENDMENTS**

1996—Subsec. (c). Pub. L. 104-188 added subsec. (c).

1984—Pub. L. 98-369 designated existing provisions as subsec. (a) and added subsec. (a) heading and subsec. (b).

1982—Pub. L. 97-354 substituted “S corporation” for “electing small business corporation” in section catchline, substituted “Every S corporation” for “Every electing small business corporation (as defined in section 1371(b))”, and substituted “each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information” for “and such other information”.

1976—Pub. L. 94-455 substituted “section 1371(b)” for “section 1371(a)(2)” and struck out “or his delegate” after “Secretary”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104-188, set out as a note under section 641 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 714(q)(5) of Pub. L. 98-369, set out as an Effective Date note under section 6034A of this title.

**EFFECTIVE DATE OF 1982 AMENDMENT**

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

**EFFECTIVE DATE**

Section applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 64(e) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 172 of this title.

**§ 6038. Information reporting with respect to certain foreign corporations and partnerships**

**(a) Requirement**

**(1) In general**

Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));<sup>1</sup>

(C) a balance sheet for such entity listing assets, liabilities, and capital;

(D) transactions between such entity and—

(i) such person,

(ii) any corporation or partnership which such person controls, and

(iii) any United States person owning, at the time the transaction takes place—

(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

<sup>1</sup> See References in Text note below.