

shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

(c) Penalty for failure to file information

(1) In general

If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

(2) Reasonable cause exception

Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

(d) Cost-of-living adjustment

In the case of any taxable year beginning after December 31, 1996, the \$10,000 amount under subsection (a) shall be increased by an amount equal to the product of such amount and the cost-of-living adjustment for such taxable year under section 1(f)(3), except that subparagraph (A)(ii) thereof shall be applied by substituting “1995” for “2016”.

(e) Regulations

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section.

(Added Pub. L. 104-188, title I, §1905(a), Aug. 20, 1996, 110 Stat. 1913; amended Pub. L. 115-97, title I, §11002(d)(13), Dec. 22, 2017, 131 Stat. 2062.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

Editorial Notes

CODIFICATION

Another section 6039F was renumbered section 6039G of this title.

AMENDMENTS

2017—Subsec. (d). Pub. L. 115-97 substituted “subparagraph (A)(ii) thereof shall be applied by substituting ‘1995’ for ‘2016’” for “subparagraph (B) thereof shall be applied by substituting ‘1995’ for ‘1992’”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 11002(e) of Pub. L. 115-97, set out as a note under section 1 of this title.

EFFECTIVE DATE

Pub. L. 104-188, title I, §1905(c), Aug. 20, 1996, 110 Stat. 1913, provided that: “The amendments made by this

section [enacting this section] shall apply to amounts received after the date of the enactment of this Act [Aug. 20, 1996] in taxable years ending after such date.”

§ 6039G. Information on individuals losing United States citizenship

(a) In general

Notwithstanding any other provision of law, any individual to whom section 877(b) or 877A applies for any taxable year shall provide a statement for such taxable year which includes the information described in subsection (b).

(b) Information to be provided

Information required under subsection (a) shall include—

- (1) the taxpayer’s TIN,
- (2) the mailing address of such individual’s principal foreign residence,
- (3) the foreign country in which such individual is residing,
- (4) the foreign country of which such individual is a citizen,
- (5) information detailing the income, assets, and liabilities of such individual,
- (6) the number of days during any portion of which that the individual was physically present in the United States during the taxable year, and
- (7) such other information as the Secretary may prescribe.

(c) Penalty

If—

- (1) an individual is required to file a statement under subsection (a) for any taxable year, and
- (2) fails to file such a statement with the Secretary on or before the date such statement is required to be filed or fails to include all the information required to be shown on the statement or includes incorrect information,

such individual shall pay a penalty of \$10,000 unless it is shown that such failure is due to reasonable cause and not to willful neglect.

(d) Information to be provided to Secretary

Notwithstanding any other provision of law—

- (1) any Federal agency or court which collects (or is required to collect) the statement under subsection (a) shall provide to the Secretary—
 - (A) a copy of any such statement, and
 - (B) the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a),
- (2) the Secretary of State shall provide to the Secretary a copy of each certificate as to the loss of American nationality under section 358 of the Immigration and Nationality Act which is approved by the Secretary of State, and
- (3) the Federal agency primarily responsible for administering the immigration laws shall provide to the Secretary the name of each lawful permanent resident of the United States (within the meaning of section 7701(b)(6)) whose status as such has been revoked or has been administratively or judicially determined to have been abandoned.

Notwithstanding any other provision of law, not later than 30 days after the close of each calendar quarter, the Secretary shall publish in the Federal Register the name of each individual losing United States citizenship (within the meaning of section 877(a) or 877A) with respect to whom the Secretary receives information under the preceding sentence during such quarter.

(Added Pub. L. 104-191, title V, §512(a), Aug. 21, 1996, 110 Stat. 2100, §6039F; renumbered §6039G, Pub. L. 105-34, title XVI, §1602(h)(1), Aug. 5, 1997, 111 Stat. 1096; amended Pub. L. 108-357, title VIII, §804(e), Oct. 22, 2004, 118 Stat. 1572; Pub. L. 110-245, title III, §301(e), June 17, 2008, 122 Stat. 1646.)

Editorial Notes

REFERENCES IN TEXT

Section 358 of the Immigration and Nationality Act, referred to in subsec. (d)(2), is classified to section 1501 of Title 8, Aliens and Nationality.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-245, §301(e)(1), inserted “or 877A” after “section 877(b)”.

Subsec. (d). Pub. L. 110-245, §301(e)(2), inserted “or 877A” after “section 877(a)” in concluding provisions.

2004—Subsec. (a). Pub. L. 108-357, §804(e)(1), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “Notwithstanding any other provision of law, any individual who loses United States citizenship (within the meaning of section 877(a)) shall provide a statement which includes the information described in subsection (b). Such statement shall be—

“(1) provided not later than the earliest date of any act referred to in subsection (c), and

“(2) provided to the person or court referred to in subsection (c) with respect to such act.”

Subsec. (b). Pub. L. 108-357, §804(e)(2), reenacted heading, introductory provisions, and pars. (1) to (4) without change, in par. (5), substituted “information detailing the income, assets, and liabilities of such individual,” for “in the case of an individual having a net worth of at least the dollar amount applicable under section 877(a)(2)(B), information detailing the assets and liabilities of such individual, and”, added par. (6), and redesignated former par. (6) as (7).

Subsec. (c). Pub. L. 108-357, §804(e)(4), redesignated subsec. (d) as (c) and struck out heading and text of former subsec. (c). Text read as follows: “For purposes of this section, the acts referred to in this subsection are—

“(1) the individual’s renunciation of his United States nationality before a diplomatic or consular officer of the United States pursuant to paragraph (5) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(5)),

“(2) the individual’s furnishing to the United States Department of State a signed statement of voluntary relinquishment of United States nationality confirming the performance of an act of expatriation specified in paragraph (1), (2), (3), or (4) of section 349(a) of the Immigration and Nationality Act (8 U.S.C. 1481(a)(1)–(4)),

“(3) the issuance by the United States Department of State of a certificate of loss of nationality to the individual, or

“(4) the cancellation by a court of the United States of a naturalized citizen’s certificate of naturalization.”

Subsec. (d). Pub. L. 108-357, §804(e)(4), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Pub. L. 108-357, §804(e)(3), reenacted heading without change and amended text of subsec. (d) generally. Prior

to amendment, text read as follows: “Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty for each year (of the 10-year period beginning on the date of loss of United States citizenship) during any portion of which such failure continues in an amount equal to the greater of—

“(1) 5 percent of the tax required to be paid under section 877 for the taxable year ending during such year, or

“(2) \$1,000,

unless it is shown that such failure is due to reasonable cause and not to willful neglect.”

Subsec. (e). Pub. L. 108-357, §804(e)(4), redesignated subsec. (e) as (d).

Subsec. (f). Pub. L. 108-357, §804(e)(4), struck out heading and text of subsec. (f). Text read as follows: “In lieu of applying the last sentence of subsection (a), any individual who is required to provide a statement under this section by reason of section 877(e)(1) shall provide such statement with the return of tax imposed by chapter 1 for the taxable year during which the event described in such section occurs.”

Subsec. (g). Pub. L. 108-357, §804(e)(4), struck out heading and text of subsec. (g). Text read as follows: “The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.”

1997—Pub. L. 105-34 renumbered section 6039F as this section.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-245 applicable to any individual whose expatriation date is on or after June 17, 2008, see section 301(g)(1) of Pub. L. 110-245, set out as an Effective Date note under section 2801 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to individuals who expatriate after June 3, 2004, see section 804(f) of Pub. L. 108-357, set out as a note under section 877 of this title.

EFFECTIVE DATE

For special rule relating to application of this section to certain individuals who performed an act of expatriation specified in section 1481(a)(1)–(4) of Title 8, Aliens and Nationality, before Feb. 6, 1995, see section 511(g)(3) of Pub. L. 104-191, set out as an Effective Date of 1996 Amendment note under section 877 of this title.

Pub. L. 104-191, title V, §512(c), Aug. 21, 1996, 110 Stat. 2102, provided that: “The amendments made by this section [enacting this section] shall apply to—

“(1) individuals losing United States citizenship (within the meaning of section 877 of the Internal Revenue Code of 1986) on or after February 6, 1995, and

“(2) long-term residents of the United States with respect to whom an event described in [former] subparagraph (A) or (B) of section 877(e)(1) of such Code occurs on or after such date.

In no event shall any statement required by such amendments be due before the 90th day after the date of the enactment of this Act [Aug. 21, 1996].”

§ 6039H. Information with respect to Alaska Native Settlement Trusts and Native Corporations

(a) Requirement

The fiduciary of an electing Settlement Trust (as defined in section 646(h)(1)) shall include with the return of income of the trust a statement containing the information required under subsection (c).