

§ 1.1494-1

26 CFR Ch. I (4-1-02 Edition)

Code, shall have the meaning prescribed by section 7701(a)(31).

[T.D. 7332, 39 FR 44230, Dec. 23, 1974]

§ 1.1494-1 Returns; payment and collection of tax.

(a) *Returns and payment.* Every person making a transfer described in section 1491 shall make a return to the district director on the day on which the transfer is made and, unless the transfer is nontaxable under section 1492, pay the tax due on such transfer. This return, which shall contain, or be verified by, a written declaration that it is made under the penalties of perjury, shall be made on Form 926 and shall be filed with the district director to whom the transferor's return of income is required to be made. The return shall set forth in detail the following information:

(1) Name and address of transferor, and place of organization or creation, if a corporation, partnership, or trust.

(2) Name and address of transferee, place of organization or creation, and whether the transferee is a foreign corporation, a foreign trust, or a foreign partnership. If the transferee is a foreign trust or a foreign partnership, the name and address of the fiduciary and each beneficiary, in the case of a trust, or of each partner, in the case of a partnership, must be shown.

(3) Description and amount of stock or securities transferred, the date of transfer, and a complete statement showing all the facts relating to the transfer, accompanied by a copy of the plan under which the transfer was made.

(4) The fair market value of the stock or securities transferred as of the date of transfer, and the adjusted basis provided in section 1011 for determining gain in the hands of the transferor.

(5) Whether the transfer was made in pursuance of a plan submitted to and approved by the Commissioner as not having as one of its principal purposes the avoidance of Federal income taxes. If the plan has been so approved, a copy of the Commissioner's letter approving the plan shall accompany the return.

(6) Such other information as may be required by the return form.

(b) *Certificate.* (1) If the transferee of the stock or securities, the transfer of

which is reported in the return, is a foreign organization meeting the tests of exemption from income tax provided in part I (section 501 and following), subchapter F, chapter 1 of the Code, and the transferor on that account claims that no liability for tax is imposed by section 1491, such transferor must file with Form 926 a certificate establishing the exemption of the transferee under such part I. This certificate, which shall contain, or be verified by, a written declaration that it is made under the penalties of perjury, shall contain complete information showing the character of the transferee, the purpose for which it was organized, its actual activities, the source of its income and the disposition of such income, whether or not any of its income is credited to surplus or may inure to the benefit of any private shareholder or individual, and in general all facts relating to its operations which affect its right to exemption. To such certificate shall be attached a copy of the charter or articles of incorporation, the by-laws of the organization, and the latest financial statement showing the assets, liabilities, receipts, and disbursements of the organization.

(2) If the transferee is a foreign organization which has been held to be exempt from income tax under such part I (or corresponding provisions of prior law), a copy of the Commissioner's letter so holding shall be filed with Form 926 in lieu of the above certificate and attachments.

(c) *Assessment and collection.* The determination, assessment, and collection of the tax and the examination of returns and claims filed pursuant to chapter 5 of the Code will be made under such procedure as may be prescribed from time to time by the Commissioner.

[T.D. 6500, 25 FR 12082, Nov. 26, 1960]

§ 1.1494-2 Effective date.

Chapter 5 (section 1491 and following) of the Internal Revenue Code of 1954 and the regulations prescribed thereunder apply with respect to transfers occurring after December 31, 1954. (See section 7851(a)(1)(B).) Chapter 7 (section 1250 and following) of the Internal