

W-2 made pursuant to the provisions of this paragraph.

(3) *Time for filing*—(i) *General rule.* In a case where an employer must file Forms W-3 and W-2 under this paragraph and also under §31.6011(a)-4 or §31.6011(a)-5 of this chapter (Employment Tax Regulations), the time for filing such forms under this paragraph shall be the same as the time (including extensions thereof) for filing such forms under §31.6011(a)-4 or §31.6011(a)-5.

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under §31.6011(a)-4 or §31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under this paragraph (a) for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

(iii) *Cross reference.* For extensions of time for filing returns, see section 6081 and the regulations thereunder.

(4) *Place for filing.* The returns on Forms W-3 and W-2 required under this paragraph shall be filed pursuant to the rules contained in §31.6091-1 of this chapter (Employment Tax Regulations), relating to the place for filing certain returns.

(b) *Distributions under employees' trust or plan.* (1) Amounts which are:

(i) Distributed or made available to a beneficiary, and to which section 402 (relating to employees' trusts) or section 403 (relating to employee annuity plans) applies, or

(ii) Described in section 72(m)(3)(B), shall be reported on Forms 1096 and 1099 to the extent such amounts are includible in the gross income of such beneficiary if the amounts so includible aggregate \$600 or more in any calendar year. In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) totaling \$600 or more in 1 year to an individual must file an annual information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the \$600 minimum has been paid by the trustee. The provisions of this subpara-

graph shall not be applicable to payments of supplemental unemployment compensation benefits made after December 31, 1970, which are treated as if they were wages for purposes of section 3401(a). Such amounts are required to be reported on Forms W-3 and W-2. See paragraph (b)(14) of §31.3401(a)-1 of this chapter (Employment Tax Regulations).

(2) Any amount with respect to which a statement is required by §1.6047-1, relating to employee retirement plans covering owner-employees, shall not be included in amounts required to be reported under section 6041.

(c) *Payments to foreign persons.* See §1.6041-4 for reporting exemptions regarding payments to foreign persons. See §1.6049-5(d) for determining whether a payment is made to a foreign person.

[T.D. 7284, 38 FR 20827, Aug. 3, 1973, as amended by T.D. 7580, 43 FR 60159, Dec. 26, 1978; T.D. 8734, 62 FR 53472, Oct. 14, 1997; T.D. 8895, 65 FR 50406, Aug. 18, 2000]

§1.6041-2T Return of information as to payments to employees (temporary).

(a)(1) through (4) [Reserved]

(5) *Statement for employees.* An employer that is required under §1.6041-2(a) to file Form W-2 with respect to an employee is also required under section 6041(d) and 6051 to furnish a written statement to the employee. This written statement must be furnished on Form W-2 in accordance with section 6051 and the regulations.

(b) and (c). For further guidance, see §1.6041-2(b) and (c).

[T.D. 8942, 66 FR 10193, Feb. 14, 2001]

§1.6041-3 Payments for which no return of information is required under section 6041.

Returns of information are not required under section 6041 and §§1.6041-1 and 1.6041-2 for payments described in paragraphs (a) through (q) of this section. See §1.6041-4 for reporting exemptions regarding payments to foreign persons.

(a) Payments of income required to be reported on Forms 1120-S, 941, W-2, and W-3 (however, see §1.6041-2(a) with respect to Forms W-2 and W-3).

(b) Payments by a broker to his customer (but for reporting requirements as to certain of such payments, see sections 6042, 6045, and 6049 and the regulations thereunder in this part).

(c) Payments of bills for merchandise, telegrams, telephone, freight, storage, and similar charges.

(d) Payments of rent made to real estate agents (but the agent is subject to the requirements of paragraph (a) (1)(ii) and (2)(ii) of § 1.6041-1).

(e) Payments representing earned income for services rendered without the United States made to a citizen of the United States, if it is reasonable to believe that such amounts will be excluded from gross income under the provisions of section 911 and the regulations thereunder.

(f) Compensation and profits paid or distributed by a partnership to the individual partners (but for reporting requirements, see § 1.6031-1).

(g) Payments of commissions to general agents by fire insurance companies or other companies insuring property, except when specifically directed by the Commissioner to be filed.

(h)(1) *In general.* Payments made under reimbursement or other expense allowance arrangements that meet the requirements of section 62(c) of the Code and § 1.62-2, that do not exceed the amount of the expenses substantiated (i.e., amounts which are treated as paid under an accountable plan), and that are received by an employee on or after January 1, 1989, with respect to expenses paid or incurred on or after January 1, 1989.

(2) *Transition rule.* Payments made under reimbursement or other expense allowance arrangements that are received by an employee on or after January 1, 1989, but prior to July 1, 1990, to the extent that the employee is required to account (within the meaning of the term "account" as set forth in § 1.162-17(b)(4) or 1.274-5T(f)(4), whichever is applicable) and does so account to the payor for such expenses, provided the payor has made a reasonable, good faith effort to comply with the requirements of section 62(c). In general, compliance with the provisions of this section, as in effect for payments made under reimbursement or other expense allowance arrangements that were re-

ceived by an employee before January 1, 1989, with respect to expenses paid or incurred before January 1, 1989, will constitute such reasonable good faith compliance. In no event, however, will reasonable good faith compliance exist if a payor fails to report payments made under an arrangement (other than a per diem or mileage allowance type arrangement) under which an employee is not required to substantiate expenses paid or incurred or is not required to return amounts in excess of the substantiated expenses.

(i) Payments of interest on obligations of the United States, or a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing (but for requirements for reporting certain such payments by the United States or any agency or instrumentality thereof, see §§ 1.1461-1 to 1.1461-3, inclusive).

(j) Payments of interest on corporate bonds (but for reporting requirements as to payments on certain corporate bonds, see § 1.6049-5).

(k) Amounts paid as an allowance or reimbursement for traveling or other bona fide ordinary and necessary expenses, including an allowance for meals and lodging or a per diem allowance in lieu of subsistence, to persons in the service of an international organization (without regard to whether there is a requirement to account for such amounts) if-

(1) The organization is designated as an international organization by the President of the United States in Executive Orders issued pursuant to 22 U.S.C. 288, and

(2) The organization has immunity with respect to the inviolability of its archives pursuant to an international agreement having full force and effect in the United States.

(1) A payment to an informer as an award, fee, or reward for information relating to criminal activity, but only if such payment is made by the United States, a State, Territory, or political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing, or, with respect to payments made after December 31, 1987, by an organization that is described in section

§ 1.6041-3

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

501(c)(3) and that makes such payments in furtherance of a charitable purpose to lessen the burdens of government within the meaning of § 1.501(c)(3)-1(d)(2).

(m) On and after September 9, 1968, payments by a person carrying on the banking business of interest on a deposit evidenced by a negotiable time certificate of deposit (but for reporting requirements as to payments made after December 31, 1962, of interest on certain deposits, see sec. 6049 and the regulations thereunder in this part).

(n) Payments made to principals by persons carrying on the banking business, and by persons which are mutual savings banks, cooperative banks, building and loan associations, home-stead associations, credit unions, or similar organizations chartered and supervised by Federal or State law, of funds collected when acting in the capacity of collection agents. This exception does not apply to collection of items on a regular and continuing basis under a so-called escrow, trust, custody, or investment advisory agreement. However, returns of information are not required unless payment is of the type with respect to which such returns would otherwise be required under section 6041 if the payer were engaged in a trade or business; nor are returns of information required on payments pursuant to a trust with respect to which Form 1041 is required to be filed by the trustee. The exception from reporting set forth in this paragraph shall apply until such time as the Commissioner determines that it is feasible for such persons to report the payments, and this paragraph is amended accordingly to require such reporting.

(o) Payments to individuals as scholarships or fellowship grants within the meaning of section 117(b)(1), whether or not “qualified scholarships” as described in section 117(b). This exception does not apply to any amount of a scholarship or fellowship grant that represents payment for services within the meaning of section 117(c). Instead, these amounts are required to be reported as wages on Form W-2. See § 1.1461-1(c) for applicable reporting requirements for amounts paid to foreign persons.

(p) Per diem of certain alien trainees described under section 1441(c)(6).

(q) Payments made to the following persons:

(1) A corporation described in § 1.6049-4(c)(1)(ii)(A), except a corporation engaged in providing medical and health care services or engaged in the billing and collecting of payments in respect to the providing of medical and health care services. However, no reporting is required where payment is made to a hospital or extended care facility described in section 501(c)(3) which is exempt from taxation under section 501(a) or to a hospital or extended care facility owned and operated by the United States, a State, the District of Columbia, a possession of the United States, or a political subdivision, agency or instrumentality of any of the foregoing. For reporting requirements as to payments by cooperatives, and to certain other payments, see sections 6042, 6044, and 6049 and the regulations thereunder in this part.

(2) An organization exempt from taxation under section 501(a), as described in § 1.6049-4(c)(1)(ii)(B)(I), or an individual retirement plan, as described in § 1.6049-4(c)(1)(ii)(C).

(3) The United States, as described in § 1.6049-4(c)(1)(ii)(D).

(4) A State, the District of Columbia, a possession of the United States, or any political subdivision of any of the foregoing, as described in § 1.6049-4(c)(1)(ii)(E).

(5) A foreign government or political subdivision of a foreign government, as described in § 1.6049-4(c)(1)(ii)(F).

(6) An international organization, as described in § 1.6049-4(c)(1)(ii)(G).

(7) A foreign central bank of issue, as described in § 1.6049-4(c)(1)(ii)(H) and the Bank for International Settlements.

(8) Any wholly owned agency or instrumentality of any person described in paragraph (q) (2), (3), (4), (5), (6), or (7) of this section.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 1.6041-3, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.