

§ 31.6053-2

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

(5) *Record retention.* The record retention requirements applicable to automatic data processing systems also apply to electronic tip reporting systems.

(6) *Effective date.* The provisions pertaining to electronic systems and electronic tip reports are applicable as of December 13, 2000. However, employers may apply these provisions to earlier periods.

[T.D. 7001, 34 FR 1004, Jan. 23, 1969, as amended by T.D. 8910, 65 FR 77819, Dec. 13, 2000]

§ 31.6053-2 Employer statement of uncollected employee tax.

(a) *Requirement that statement be furnished.* If—

(1) The amount of the employee tax imposed by section 3101 in respect of tips reported by an employee to his employer pursuant to section 6053(a) (see § 31.6053-1) exceeds

(2) The amount of employee tax imposed by section 3101 in respect of such tips which can be collected by the employer from wages (exclusive of tips) of such employee or from funds furnished to the employer by the employee, the employer shall furnish to the employee a statement showing the amount of the excess. For provisions relating to the collection of, and liability for, employee tax on tips, see § 31.3102-3.

(b) *Form of statement.* Form W-2 is the form prescribed for use in furnishing the statement required by paragraph (a) of this section, except that if an employer files a composite return pursuant to § 31.6011(a)-8 he may furnish to the employee, in lieu of Form W-2, a statement containing the required information in a form suitable for retention by the employee. A statement is required under this section in respect of an excess referred to in paragraph (a) of this section, even though the employer may not be required to furnish a statement to the employee under § 31.6051. Provisions applicable to the furnishing of a statement under § 31.6051 shall be applicable to statements under this section.

(c) *Excess to be shown on statement.* If there is an excess in respect of the tips reported by an employee in two or more statements furnished pursuant to section 6053(a), only the total excess

for the period covered by the employer statement shall be shown on such statement.

[T.D. 7001, 34 FR 1005, Jan. 23, 1969, as amended by T.D. 7351, 40 FR 17145, Apr. 17, 1975]

§ 31.6053-3 Reporting by certain large food or beverage establishments with respect to tips.

(a) *Information return by an employer with respect to tips—(1) In general.* An employer shall file a separate information return for each calendar year (as defined in paragraph (j)(14) of this section) with respect to each large food or beverage establishment (as defined in paragraph (j)(7) of this section) in which such employer has employees. The information return shall contain the following:

(i) The employer's name, address, and employer identification number;

(ii) The establishment's name, address, and identification number (see paragraph (a)(5) of this section);

(iii) The aggregate gross receipts (other than nonallocable receipts) of the establishment from the provision of food or beverages;

(iv) The aggregate amount of charge receipts (other than nonallocable receipts) on which there were charged tips;

(v) The aggregate amount of charged tips shown on such charge receipts;

(vi) The aggregate amount of tips actually received by food or beverage employees of the establishment during the calendar year and reported to the employer under section 6053(a) (see paragraph (j)(15) of this section);

(vii) The aggregate amount the employer is required to report under section 6051 and the regulations thereunder with respect to service charges of less than 10 percent.

(viii) The name and social security number of each employee of the establishment during the calendar year to whom an allocation was made under section 6053(c)(3) and paragraph (d) of this section and the amount of such allocation.

(2) *Calendar year 1983 information return.* In the case of the 1983 calendar year information return, the information required by paragraphs (a)(1)(iii) through (viii) of this section shall be reported for the period beginning with