(C) A withdrawal of consent does not apply to a Form W–2 that was furnished electronically in the manner described in this paragraph (j) before the withdrawal of consent is furnished.

(vi) *Notice of termination.* The recipient must be informed of the conditions under which a furnisher will cease furnishing statements electronically to the recipient (for example, termination of the recipient's employment with furnisher-employer).

(vii) *Updating information.* The recipient must be informed of the procedures for updating the information needed by the furnisher to contact the recipient.

(viii) *Hardware and software requirements.* The recipient must be provided with a description of the hardware and software required to access, print, and retain the Form W–2, and the date when the Form W–2 will no longer be available on the website. The recipient must be informed that the Form W–2 may be required to be printed and attached to a Federal, State, or local income tax return.

(4) *Format.* The electronic version of the Form W–2 must contain all required information and comply with applicable revenue procedures relating to substitute statements to recipients.

(5) *Posting.* The furnisher must on or before January 31 of the year following the calendar year to which the Form W–2 relates (or such other date permitted or required for furnishing the Forms W–2) post it on a website accessible to the recipient.

(6) *Notice*—(i) *In general.* The furnisher must on or before January 31 of the year following the calendar year to which the Form W–2 relates (or such other date permitted or required for furnishing the Form W–2) notify the recipient that the Form W–2 is posted on a website. The notice may be delivered by mail, electronic mail, or in person. The notice must provide instructions on how to access and print the statement. The notice must include the following statement in capital letters, ''IMPORTANT TAX RETURN DOCUMENT AVAILABLE.'' If the notice is provided by electronic mail, the foregoing statement should be on the subject line of the electronic mail and sent with high importance.

(ii) *Undeliverable electronic address.* If an electronic notice described in paragraph (j)(6)(i) of this section is returned as undeliverable, and the correct electronic address cannot be obtained from the furnisher's records or from the recipient, then the furnisher must furnish the notice by mail or in person within 30 days after the electronic notice is returned.

(iii) *Corrected Forms W–2.* A furnisher must notify a recipient that it has posted corrected Forms W–2 on a website within 30 days of such posting in the manner described in paragraph (j)(6)(i) of this section. This notice must be furnished by mail or in person if—

(A) An electronic notice of the website posting of an original Form W–2 was returned as undeliverable; and

(B) The recipient has not provided a new e-mail address.

(7) *Retention.* The furnisher must maintain access to the Forms W–2 on the website through October 15 of the year following the calendar year to which the Forms W–2 relate (or the first business day after October 15, if October 15 falls on a Saturday, Sunday, or legal holiday). The furnisher must maintain access to corrected Forms W–2 that are posted on the website through October 15 of the year following the calendar year to which the Forms W–2 relate (or the first business day after such October 15, if October 15 falls on a Saturday, Sunday, or legal holiday) or the date 90 days after the corrected forms are posted, whichever is later.

(k) *Effective date.* Paragraph (j) of this section applies to Forms W–2 required to be furnished under section 6051 after December 31, 2000.

[T. D. 8942, 66 FR 10195, Feb. 14, 2001]

§ 31.6051–2 Information returns on Form W–3 and Internal Revenue Service copies of Forms W–2.

(a) *In general.* Every employer who is required to make a return of tax under § 31.6011(a)–1 (relating to returns under the Federal Insurance Contributions Act), § 31.6011(a)–4 (relating to returns of income tax withheld from wages), or § 31.6011(a)–5 (relating to monthly returns) for a calendar year or any period therein shall file the Social Security

Administration copy of each Form W–2 required under § 31.6051–1 to be furnished by the employer with respect to wages paid during the calendar year. Each Form W–2 and the transmittal Form W–3 shall together constitute an information return to be filed with the Social Security Administration office indicated on the instructions to such forms. However, in the case of an employer who elects to file a composite return pursuant to § 31.6011(a)–8, the information return required by this section shall consist of magnetic tape (or other approved media) containing all information required to be on the employee statement, together with transmittal Form 4804.

(b) *Corrected returns.* The Social Security Administration copies of corrected Forms W–2 (or magnetic tape or other approved media) for employees for the calendar year shall be submitted with Form W–3 (or Form 4804), on or before the date on which information returns for the period in which the correction is made would be due under paragraph (a)(3)(ii) of § 31.6071(a)–1, to the Social Security Administration office with which Forms W–2 are required to be filed.

(c) *Cross references.* For provisions relating to the time for filing the information returns required by this section and to extensions of the time for filing, see §§ 31.6071(a)–1(a)(3) and 31.6081(a)–1(a)(3), respectively. For the penalty provided in case of each failure to file, see paragraph (a) of § 301.6652–1 of this chapter (Regulations on Procedure and Administration). For the penalties applicable to information returns and payee statements the due date for which (determined without regard to extensions) is after December 31, 1989, see sections 6721–6724 as amended by section 7711 of the Omnibus Budget Reconciliation Act of 1989 (Publ. L. 101–239, 103 Stat. 2106 (1989). See section 6723 (prior to its amendment by section 7211 of the Omnibus Reconciliation Act of 1989) and § 301.6723–1A of this chapter for provisions relating to the penalty for failure to include correct information on an information return or a payee statement and for the exceptions to the penalty, particularly the exception for timely correction, with respect to information returns and payee statements the due date for which, determined without regard to extensions, is after December 31, 1986, and before January 1, 1990.

(68A Stat. 747, 26 U.S.C. 6051; 68A Stat. 917, 26 U.S.C. 7805)

[T.D. 7351, 40 FR 17145, Apr. 17, 1975, as amended by T.D. 7580, 43 FR 60160, Dec. 26, 1978; T.D. 8155, 52 FR 34357, Sept. 10, 1987; T.D. 8344, 56 FR 15042, Apr. 15, 1991; T.D. 8636, 60 FR 66141, Dec. 21, 1995]

§ 31.6051–3 Statements required in case of sick pay paid by third parties.

(a) *Statements required from payor.* (1) Every payor of sick pay shall furnish to the employer of the payee of the sick pay a written statement. The written statement must contain the following information:

(i) The name and, if there is withholding from sick pay under section 3402(o) and the regulations thereunder, the social security account number of the payee,

(ii) The total amount of sick pay paid to the payee during the calendar year, and

(iii) The total amount (if any) deducted and withheld from sick pay under section 3402(o) and the regulations thereunder.

The statement must be furnished to the employer on or before January 15 of the year following the calendar year in which any sick pay was paid.

(2) These reporting requirements are in lieu of the requirements of sections 6051(a) (relating to written statements for employees) and 6041 (relating to information returns). Statements required to be furnished by this paragraph shall be treated as statements required under section 6051 to be furnished to employees for purposes of sections 6674 (relating to fraudulent statement or failure to furnish statement to employee) and 7204 (relating to fraudulent statement or failure to make statement to employees).

(3) A multiemployer plan paying sick pay pursuant to a collectively bargained agreement may furnish the statement required to be furnished by this paragraph, which shall include the total amount of sick pay paid to the employee under the plan regardless of the identity or number of employers