

(3) *Determination of person to whom a patronage dividend is paid.* For purposes of applying the provisions of this section, the person whose identifying number is required to be included by the cooperative on an information return with respect to a patronage dividend shall be considered the person to whom such dividend is paid. For regulations relating to the use of identifying numbers, see § 1.6109-1.

(4) *Inclusion of other payments.* The Form 1099 filed by an organization with respect to payments of patronage dividends made to any person during a calendar year may, at the election of the organization, include other payments made by it to such person during such year which are required to be reported on Form 1099.

(b) *Organizations subject to reporting requirement.* The organizations subject to the reporting requirements of paragraph (a) of this section are:

(1) Any organization exempt from tax under section 521 (relating to exemption of farmers' cooperatives from tax), and

(2) Any corporation operating on a cooperative basis other than an organization:

(i) Which is exempt from tax under chapter 1 (other than section 521), or

(ii) Which is subject to the provisions of part II of subchapter H of chapter 1 (relating to mutual savings banks, etc.), or subchapter L of chapter 1 (relating to insurance companies), or

(iii) Which is engaged in furnishing electric energy, or providing telephone service, to persons in rural areas.

(c) *When payment deemed made.* For purposes of this section, money or other property (except written notices of allocation) is deemed to have been paid when it is credited or set apart to a person without any substantial limitation or restriction as to the time or manner of payment or condition upon which payment is to be made, and is made available to him so that it may be drawn at any time, and its receipt brought within his own control and disposition. A written notice of allocation is considered to have been paid when it is issued by the organization to the distributee. Similarly, a qualified check (as defined in section 1388(d)(4)) is con-

sidered to have been paid when it is issued to the distributee.

(d) *Time and place for filing.* The return required under this section on Forms 1096 and 1099 for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year, with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. For extensions of time for filing returns under this section, see § 1.6081-1.

(e) *Cross-reference to penalty.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6044(a), see § 301.6721-1 of this chapter (Procedure and Administration Regulations). See § 301.6724-1 of this chapter for the waiver of a penalty if the failure is due to reasonable cause and is not due to willful neglect.

(f) *Magnetic media requirement.* For the requirement to submit the information required by Form 1099 on magnetic media for payments after December 31, 1983, see section 6011(e) and § 301.6011-2 of this chapter (Procedure and Administration Regulations). For rules relating to permission to submit the information required by Form 1099 on magnetic tape or other media, see § 1.9101-1.

[T.D. 6628, 27 FR 12798, Dec. 28, 1962, as amended by T.D. 6677, 28 FR 10147, Sept. 17, 1963; T.D. 6879, 31 FR 3493, Mar. 8, 1966; T.D. 6883, 31 FR 6589, May 3, 1966; T.D. 8734, 62 FR 53476, Oct. 14, 1997; T.D. 8895, 65 FR 50407, Aug. 18, 2000]

§ 1.6044-3 Amounts subject to reporting.

(a) *In general.* Except as provided in paragraph (c) of this section, the amounts subject to reporting under § 1.6044-2 are:

(1) Payments by all organizations subject to such reporting requirements of:

(i) Patronage dividends (as defined in section 1388(a)) paid in money, qualified written notices of allocation (as defined in section 1388(c)), or other property (except nonqualified written

§ 1.6044-4

26 CFR Ch. I (4-1-08 Edition)

notices of allocation as defined in section 1388(d)); and

(ii) Amounts described in section 1382(b)(2) (relating to redemption of nonqualified written notices of allocation previously paid as patronage dividends) paid in money or property (except written notices of allocation); and

(2) Payments by farmers' cooperatives exempt from tax under section 521 of:

(i) Amounts described in section 1382(c)(2)(A) (relating to distributions with respect to earnings derived from sources other than patronage) paid in money, qualified written notices of allocation, or other property (except nonqualified written notices of allocation); and

(ii) Amounts described in section 1382(c)(2)(B) (relating to redemption of nonqualified written notices of allocation previously paid as distributions with respect to earnings derived from sources other than patronage) paid in money or other property (except written notices of allocation).

(b) *Special rules.* (1) If an organization makes a distribution consisting in whole or in part of a written notice of allocation and a qualified check and, at the time it files its return under § 1.6044-2, is unable to determine whether such written notice of allocation and such check constitute nonqualified written notices of allocation, such organization shall for purposes of such return treat such written notice of allocation as a qualified written notice of allocation and such qualified check as a payment in money.

(2) An amount described in paragraph (a) of this section is subject to reporting even though the organization paying such amount is allowed no deduction for it because it was not paid within the time prescribed in section 1382. Thus, a patronage dividend of \$25 paid by a marketing cooperative must be reported even though it is paid after the end of the payment period (see section 1382(d)) for the organization's taxable year in which the patronage occurred.

(c) *Exceptions.* An amount described in paragraph (a) of this section does not include—

(1) Any amount described in § 1.6042-3(b); or

(2) With respect to amounts paid or credited after December 31, 1982, any amount paid or credited to any person described in § 1.6049-4(c)(1)(ii).

(d) *Determination of amount paid.* For purposes of § 1.6044-2 and this section, in determining the amount of any payment subject to reporting under paragraph (a) of this section:

(1) Property (other than a qualified written notice of allocation) shall be taken into account at its fair market value, and

(2) A qualified written notice of allocation shall be taken into account at its stated dollar amount.

[T.D. 6628, 27 FR 12798, Dec. 28, 1962, as amended by T.D. 8734, 62 FR 53476, Oct. 14, 1997]

§ 1.6044-4 Exemption for certain consumer cooperatives.

(a) *In general—*(1) *Determination of exemption.* Exemption from the reporting requirements of § 1.6044-2 shall, upon application therefor, be granted by the district director to any cooperative which he determines is primarily engaged in selling at retail goods or services of a type which is generally for personal, living, or family use. A cooperative is not exempt from the reporting requirements merely because it is an organization of a type to which section 6044(c) and this section relate. In order for the exemption from reporting to apply, it is necessary that the cooperative file an application in accordance with this section and obtain a determination of exemption.

(2) *Basis for exemption.* For a cooperative to qualify for the exemption from reporting provided by section 6044(c) and this section 85 percent of its gross receipts for the preceding taxable year, or 85 percent of its aggregate gross receipts for the preceding three taxable years, must have been derived from the sale at retail of goods or services of a type which is generally for personal, living, or family use. In determining whether an item is of a type that is generally for personal, living, or family use, an item which may be purchased either for such use or for business use and which when acquired for business purposes is generally purchased at wholesale will, when sold by a cooperative at retail, be treated as goods or