

§ 1.6050I-2

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

(2) *Form of statement.* The statement required by the preceding paragraph need not follow any particular format, but it must contain the following information:

(i) The name and address of the person making the return;

(ii) The aggregate amount of reportable cash received by the person who made the information return required by this section during the calendar year in all cash transactions relating to the identified person; and

(iii) A legend stating that the information contained in the statement is being reported to the Internal Revenue Service.

(3) *When statement is to be furnished.* Statements required under this paragraph (f) must be furnished to an identified person on or before January 31 of the year following the calendar year in which the cash is received. A statement shall be considered to be furnished to an identified person if it is mailed to the identified person at the identified person's last known address.

(g) *Cross-reference to penalty provisions—*(1) *Failure to file correct information return.* See section 6721 for civil penalties relating to the failure to file a correct return under section 6050I(a) and paragraph (a) of this section.

(2) *Failure to furnish correct statement.* See section 6722 for civil penalties relating to the failure to furnish a correct statement to identified persons under section 6050I(e) and paragraph (f) of this section.

(3) *Criminal penalties.* Any person who willfully fails to make a return or makes a false return under section 6050I and this section may be subject to criminal prosecution.

[T.D. 8098, 51 FR 31611, Sept. 4, 1986; 51 FR 33033, Sept. 18, 1986, as amended by T.D. 8373, 56 FR 57976, 57977, Nov. 15, 1991; 58 FR 16496, Mar. 29, 1993; T.D. 8479, 58 FR 33764, June 21, 1993; T.D. 8974, 66 FR 67687, Dec. 31, 2001]

§ 1.6050I-2 Returns relating to cash in excess of \$10,000 received as bail by court clerks.

(a) *Reporting requirement.* Any clerk of a Federal or State court who receives more than \$10,000 in cash as bail for any individual charged with a specified criminal offense must make a return of information with respect to

that cash receipt. For purposes of this section, a clerk is the clerk's office or the office, department, division, branch, or unit of the court that is authorized to receive bail. If someone other than a clerk receives bail on behalf of a clerk, the clerk is treated as receiving the bail for purposes of this paragraph (a).

(b) *Meaning of terms.* The following definitions apply for purposes of this section—

Cash means—

(1) The coin and currency of the United States, or of any other country, that circulate in and are customarily used and accepted as money in the country in which issued; and

(2) A cashier's check (by whatever name called, including treasurer's check and bank check), bank draft, traveler's check, or money order having a face amount of not more than \$10,000.

Specified criminal offense means—

(1) A Federal criminal offense involving a controlled substance (as defined in section 802 of title 21 of the United States Code), provided the offense is described in Part D of Subchapter I or Subchapter II of title 21 of the United States Code;

(2) Racketeering (as defined in section 1951, 1952, or 1955 of title 18 of the United States Code);

(3) Money laundering (as defined in section 1956 or 1957 of title 18 of the United States Code); and

(4) Any State criminal offense substantially similar to an offense described in this paragraph (b).

(c) *Time, form, and manner of reporting—*(1) *Time of reporting—*(i) *In general.* The information return required by this section must be filed with the Internal Revenue Service by the 15th day after the date the cash bail is received.

(ii) *Multiple payments.* If multiple payments are made to satisfy bail reportable under this section and the initial payment does not exceed \$10,000, the initial payment and subsequent payments must be aggregated and the information return required by this section must be filed with the Internal Revenue Service by the 15th day after receipt of the payment that causes the aggregate amount to exceed \$10,000.

However, if payments are made to satisfy separate bail requirements, no aggregation is required. Thus, if in Month 1 a clerk receives \$6,000 in bail for an individual charged with a specified criminal offense and later, in Month 2, receives \$7,000 in bail for that same individual charged with another specified criminal offense, no aggregation is required.

(2) *Form of reporting.* The return of information required by paragraph (a) of this section must be made on Form 8300 and must contain the following information—

(i) The name, address, and taxpayer identification number (TIN) of the individual charged with the specified criminal offense;

(ii) The name, address, and TIN of each person posting the bail (payor of bail), other than a person posting bail who is licensed as a bail bondsman in the jurisdiction in which the bail is received;

(iii) The amount of cash received;

(iv) The date the cash was received; and

(v) Any other information required by Form 8300 or its instructions.

(3) *Manner of reporting*—(i) *Where to file.* Returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 8300. A copy of the information return required to be filed under this section must be retained for five years from the date of filing.

(ii) *Verification of identity.* A clerk required to make an information return under this section must, in accordance with § 1.6050I-1(e)(3)(ii), verify the identity of each payor of bail listed in the return.

(d) *Requirement to furnish statements*—

(1) *Information to Federal prosecutors*—

(i) *In general.* A clerk required to make an information return under this section must furnish a written statement to the United States Attorney for the jurisdiction in which the individual charged with the specified crime resides and the United States Attorney for the jurisdiction in which the specified criminal offense occurred (applicable United States Attorney(s)). The written statement must be filed with the applicable United States Attor-

ney(s) by the 15th day after the date the cash bail is received.

(ii) *Form of statement.* The written statement must include the information required by paragraph (c)(2) of this section. The requirement of this paragraph (d)(1)(ii) will be satisfied if the clerk provides to the applicable United States Attorney(s) a copy of the Form 8300 that is filed with the Internal Revenue Service pursuant to this section.

(2) *Information to payors of bail*—(i) *In general.* A clerk required to make an information return under this section must furnish a written statement to each payor of bail whose name is set forth in a return required by this section. A statement required under this paragraph (d)(2) must be furnished to a payor of bail on or before January 31 of the year following the calendar year in which the cash is received. A statement will be considered furnished to a payor of bail if it is mailed to the payor's last known address.

(ii) *Form of statement.* The statement required by this paragraph (d)(2) need not follow any particular format, but must contain the following information—

(A) The name and address of the clerk's office making the return;

(B) The aggregate amount of reportable cash received during the calendar year by the clerk who made the information return required by this section in all cash transactions relating to the payor of bail; and

(C) A legend stating that the information contained in the statement has been reported to the Internal Revenue Service and the applicable United States Attorney(s).

(iii) *Aggregate amount.* The requirement of furnishing the aggregate amount in paragraph (d)(2)(ii)(B) of this section will be satisfied if the clerk provides to the payor of bail either a single written statement listing the aggregate amount, or a copy of each Form 8300 relating to that payor of bail.

(e) *Cross-reference to penalty provisions.* See sections 6721 through 6724 for penalties relating to the failure to comply with the provisions of this section.

(f) *Effective date.* This section applies to cash received by court clerks on or after February 13, 1995.

[T.D. 8652, 61 FR 7, Jan. 2, 1996]

§ 1.6050J-1T Questions and answers concerning information returns relating to foreclosures and abandonments of security (temporary).

The following questions and answers relate to the requirement of reporting foreclosures and abandonments of security under section 6050J of the Internal Revenue Code Act of 1954, as added by section 148 of the Tax Reform Act of 1984 (98 Stat. 687).

REQUIREMENT OF REPORTING

In General

Q-1: What does section 6050J provide with respect to the reporting of acquisitions and abandonments of property that secures indebtedness?

A-1: Section 6050J provides that an information return must be made by any person who, in connection with a trade or business conducted by the person (except as provided in A-13), lends money and, in full or partial satisfaction of the debt, acquires an interest in any property that is security for the debt, or has reason to know that the property has been abandoned. For purposes of these questions and answers, a person who lends money in connection with a trade or business is referred to as a "lender".

Trade or Business Requirement

Q-2: Must a person be in the trade or business of lending money in order to be subject to the reporting requirement of this section?

A-2: No. A person does not have to be in the trade or business of lending money to be subject to this reporting requirement. Thus, if L sells automobiles and lends money to B to enable B to purchase an automobile from L for use in B's trade or business, and that automobile is security for the loan, L would be subject to this reporting requirement. Similarly, if P promotes interests in an oil well, and lends money to I to enable I to invest in the oil well which is security for the loan, P would be subject to this reporting requirement.

Q-3: How does the reporting requirement apply in the case of pools, fixed investment trusts, or other similar arrangements through which undivided beneficial interests or participations in indebtedness are offered?

A-3: In these cases, the owners of the undivided beneficial interests or participations are not subject to this reporting requirement. Instead, the trustee, record owner, or person acting in a similar capacity is treated

as the lender for purposes of this reporting requirement and is the party required to report. For purposes of both section 6050J and the applicable penalty provisions, only one return and one statement must be filed with respect to each loan or other evidence of indebtedness. For situations when more than one return or statement must be filed, see A-29, A-31, and A-41. The trustee, record owner, or person acting in a similar capacity, rather than the owners of beneficial interests or participations, is subject to the applicable penalty provisions (see A-43).

Q-4: How does the reporting requirement apply in the case of corporate, tax-exempt, or other bond issues?

A-4: In these cases, the owners or holders of a bond issue are not required to report. Instead, the trustee or person acting in a similar capacity is treated as the lender for purposes of this reporting requirement and is the party required to report. For purposes of both section 6050J and the applicable penalty provisions, only one return and one statement must be filed with respect to a bond issue. For situations when more than one return or statement must be filed, see A-29, A-31, and A-41. The trustee or person acting in a similar capacity, rather than the owners or holders of a bond issue, is subject to the applicable penalty provisions (see A-43).

Property Subject to Reporting

Q-5: Does the reporting requirement apply to all types of property securing indebtedness?

A-5: No. The reporting requirement does not apply to any loan made to an individual and secured by an interest in tangible personal property which is neither held for investment nor used in a trade or business. For rules governing when the reporting requirement applies to tangible personal property of a type ordinarily used for personal purposes, see A-8.

Q-6: Does the reporting requirement apply when property securing indebtedness is held both for personal use and for use in a trade or business?

A-6: Yes. The reporting requirement applies when property securing indebtedness is held both for personal use and for use in a trade or business. Similarly, the reporting requirement applies when the borrower holds such property both for personal use and for investment purposes.

Q-7: Does the reporting requirement apply to indebtedness secured by a personal residence?

A-7: Yes. A lender is subject to the reporting requirement if the property that is security for the loan is real property, including a personal residence, whether or not held for investment or used in a trade or business.

Q-8: In the case of a loan made to an individual and secured by personal property of a