

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 1.6012-1: Individuals required to make returns of income.
(Also: Part 1, § 1.6017-1)

Rev. Proc. 2008-21

SECTION 1. PURPOSE

This revenue procedure provides that the Internal Revenue Service will not challenge the accuracy of income tax returns filed in compliance with Notice 2008-28 by eligible individuals who enter \$1.00 in adjusted gross income solely for purposes of effectuating the electronic filing of the return.

SECTION 2. BACKGROUND

.01 The Economic Stimulus Act of 2008 amended section 6428 of the Internal Revenue Code to provide economic stimulus payments to eligible individuals. For this purpose, an eligible individual is any individual other than a nonresident alien, an estate or trust, or an individual who can be claimed as dependent under section 151 for the taxable year. See section 6428(e)(3). In general, the amount of the economic stimulus

payment is the lesser of (1) the individual's net income tax liability, or (2) \$600 (\$1,200 in the case of a joint return). See section 6428(a).

.02 As provided in section 6428(b), individuals with at least \$3,000 of "qualifying income" may receive a minimum payment of \$300 (\$600 in the case of a joint return), even though the individual has no net income tax liability. Qualifying income as defined in section 6428(e)(1) means: earned income as defined in section 32(c)(2) that is includible in gross income for federal income tax purposes (including, if elected, certain combat zone compensation of members of the Armed Forces); social security benefits (including monthly retirement, survivor and disability benefits, but not including supplemental security income (SSI) payments) and Tier I railroad retirement benefits described in section 86(d); and disability compensation, disability pension and survivors' benefits from the Department of Veterans' Affairs (VA) pursuant to Chapters 11, 13, or 15 of Title 38 of the United States Code.

.03 Section 6012(a) requires every individual who (1) has gross income for the taxable year which equals or exceeds the sum of the exemption amount plus the applicable standard deduction, or (2) has received advance payment of earned income credit under section 3507 to file an income tax return for that taxable year. In addition, section 6017 requires an individual to file an income tax return with respect to self-employment tax on net earnings from self-employment of \$400 or more.

In order to receive an economic stimulus payment to be advanced in 2008, a taxpayer must file an income tax return for 2007. See section 6428(g)(2). No advance payments of economic stimulus amounts shall be made or allowed after December 31, 2008. See

section 6428(g)(3). Most taxpayers who are eligible for the economic stimulus payment are already required by sections 6012 or 6017 to file a return. Additionally, some taxpayers who are not required to file a return nevertheless file to obtain refunds of withholding or estimated tax payments.

.04 In the case of a taxpayer required by sections 6012 or 6017 to file an income tax return, eligibility for a stimulus payment in 2008, and the amount of that payment, is based on information reported on the taxpayer's filed income tax return for 2007. See section 6428(g)(2). These taxpayers will not need to file any extra forms or call the IRS to request the payment. However, eligible individuals with qualifying income not already reported on the 2007 income tax return (*e.g.*, certain disability or survivor benefits from the VA) may need to file an amended return in some situations to receive a larger stimulus payment.

.05 Similarly, for a taxpayer who does not have a filing requirement under sections 6012 or 6017, but who files an income tax return to receive a refund of withheld tax (for example, tax withheld on wages under section 31), the IRS will determine eligibility and the amount of the 2008 stimulus payment based on the information reported on the taxpayer's filed income tax return for 2007.

.06 Many individuals who have low earned income, or only social security benefits, railroad retirement benefits, or certain disability or survivors' benefits from the VA would not be required by sections 6012 or 6017 to file an income tax return and would be due no refund of tax other than the economic stimulus amount. Notice 2008-28 informs these individuals of the minimum filing necessary to obtain the stimulus

payment. Notice 2008-28 advises these individuals to complete only certain lines on the income tax return that are necessary to identify the individual and report the amount of qualifying income. Thus, in many cases, such as where an individual's qualifying income consists only of social security benefits, the income tax return will show no adjusted gross income, even though the individual has minimal amounts of nonqualifying income, such as interest or dividend income.

.07 To effectuate electronic filing, a return must include at least \$1.00 of adjusted gross income.

SECTION 3. SCOPE

This revenue procedure applies to eligible individuals who are not required by sections 6012 or 6017 to file an income tax return, but who file a return as provided in Notice 2008-28 solely for the purpose of obtaining a stimulus payment.

SECTION 4. PROCEDURE

.01 An individual, within the scope of this revenue procedure, who wishes to electronically file an income tax return may enter \$1.00 of income in the Income section of the return and at least \$1.00 of adjusted gross income even though the return prepared as instructed in Notice 2008-28 would otherwise show no adjusted gross income.

.02 The IRS will not challenge the accuracy of the entry of \$1.00 of adjusted gross income on the return for any eligible individual who follows the procedures in Notice 2008-28 and in this revenue procedure and who has no filing requirement under sections 6012 or 6017.

.03 However, the IRS may challenge and assert any applicable penalties if the return contains inaccuracies not related to this procedure for electronically filing a return solely to claim an economic stimulus payment. For example, failure to report actual adjusted gross income (in excess of the \$1.00) as required would continue to be subject to applicable penalties.

SECTION 5. EXAMPLE

A, an unmarried individual, receives \$200 of interest income, \$100 of dividend income and \$7,000 of social security retirement benefits during the year 2007. Under section 86, no portion of A's social security benefits is includible in A's gross income for 2007. Because A's gross income does not exceed the sum of the exemption amount plus the basic standard deduction applicable to an unmarried individual, A is not required by sections 6012 or 6017 to file an income tax return for 2007. In accordance with the procedures provided in Notice 2008-28, A enters the amount of his social security benefits on line 14a of Form 1040A, but does not enter the amount of his interest income or dividend income on Form 1040A. A seeks to file his return electronically. In order to effectuate the electronic filing of A's return, A may include \$1.00 in the adjusted gross income reported on his electronically filed return.