

§ 1.6031(c)-2T

26 CFR Ch. I (4-1-04 Edition)

of section 860F(e). For the nominee reporting requirements with respect to REMICs see § 1.6031(c)-2T.

(j) *Penalties.* [Reserved]

(k) *Effective date*—(1) *In general.* Except as otherwise provided in paragraph (k)(2) of this section, the provisions of this section shall apply to partnership taxable years beginning after October 22, 1986.

(2) *Transitional rule for taxable years beginning before January 1, 1989.* For partnership taxable years beginning before January 1, 1989, —

(i) Any statement that a nominee is required to furnish to a partnership under paragraph (a)(1) of this section shall not be required to include the following information:

(A) The information described in paragraph (a)(1)(ii)(C) of this section;

(B) That part of the information described in paragraph (a)(1)(ii)(E) of this section regarding the method of acquisition and acquisition cost of a partnership interest; or

(C) That part of the information described in paragraph (a)(1)(ii)(F) of this section regarding the net proceeds from the transfer of a partnership interest.

(ii) A broker or financial institution shall not be required to furnish the additional statement described in paragraph (a)(3)(i) of this section.

[T.D. 8225, 53 FR 34491, Sept. 7, 1988]

§ 1.6031(c)-2T Nominee reporting of REMIC information (temporary). [Reserved]

§ 1.6032-1 Returns of banks with respect to common trust funds.

Every bank (as defined in section 581) maintaining a common trust fund shall make a return of income of the common trust fund, regardless of the amount of its taxable income. Member banks of an affiliated group that serve as co-trustees with respect to a common trust fund must act jointly in making a return for the fund. If a bank maintains more than one common trust fund, a separate return shall be made for each. No particular fund is prescribed for making the return under this section, but form 1065 may be used if it is designated by the bank as the return of a common trust fund. The re-

turn shall be made for the taxable year of the common trust fund and shall be filed on or before the 15th day of the fourth month following the close of such taxable year with the district director for the district in which the income tax return of the bank is filed. Such return shall state specifically with respect to the fund the items of gross income and the deductions allowed by subtitle A of the Code, shall include each participant's name and address, the participant's proportionate share of taxable income or net loss (exclusive of gains and losses from sales or exchanges of capital assets), the participant's proportionate share of gains and losses from sales or exchanges of capital assets, and the participant's share of items which enter into the determination of the tax imposed by section 56. See § 1.584-2 and § 1.58-5. If the common trust fund is maintained by two or more banks that are members of the same affiliated group, the return must also identify the member bank in the group that has contributed each participant's property or money to the fund. A copy of the plan of the common trust fund must be filed with the return. If, however, a copy of such plan has once been filed with a return, it need not again be filed if the return contains a statement showing when and where it was filed. If the plan is amended in any way after such copy has been filed, a copy of the amendment must be filed with the return for the taxable year in which the amendment was made. For the signing of a return of a bank with respect to common trust funds, see § 1.6062-1, relating to the manner prescribed for the signing of a return of a corporation.

[T.D. 7564, 43 FR 40497, Sept. 12, 1978, as amended by T.D. 7935, 49 FR 1695, Jan. 13, 1984]

§ 1.6033-1 Returns by exempt organizations; taxable years beginning before January 1, 1970.

(a) *In general.* (1) Except as provided in section 6033(a) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual return of information specifically stating its items of gross income, receipts and disbursements, and such other information as may be

prescribed in the instructions issued with respect to the return. Such information return shall be filed annually regardless of the amount or source of the income or receipts of the organization. Except as provided in paragraph (d) of this section, such return shall be filed annually regardless of whether such organization is chartered by, or affiliated or associated with, any central, parent, or other organization.

(2)(i) Except as otherwise provided in this subparagraph, every organization exempt from taxation under section 501 (a), and required to file a return under section 6033 and this section, other than an organization described in section 401 (a), 501(c) (3), or 501(d), shall file its annual return on Form 990. However, such an exempt organization, instead of filing Form 990, may file its annual return on Form 990 (SF), a short form, if its gross receipts for the taxable year do not exceed \$10,000 and its total assets on the last day of its taxable year do not exceed \$10,000.

(ii) For purposes of this subparagraph and subparagraph (4) of this paragraph, "gross receipts" means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, cost of goods or assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus, "gross receipts" includes, but is not limited to, (a) the gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts, (b) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts, (c) gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss from which may be required to be reported on Form 990-T), (d) the gross amount received from the sale of assets without reduction for cost or other basis and expenses of sale, and (e) the gross amount received as investment income such as interest, dividends, rents, and royalties.

(3) Every employees' trust described in section 401 (a) which is exempt from taxation under section 501 (a) shall file an annual return on Form 990-P. The return shall include the information required by paragraph (b)(5) (ii) of § 1.401-1. In addition, the trust must file the information required to be filed by the employer pursuant to the provisions of § 1.404(a)-2, unless the employer has notified the trustee in writing that he has or will timely file such information. If the trustee has received such notification from the employer, then such notification, or a copy thereof, shall be retained by the trust as a part of its records.

(4) Except as otherwise provided in this subparagraph, every organization described in section 501(c) (3), which is required to file a return under section 6033 and this section, shall file its annual return on Form 990-A. However, such an exempt organization, instead of filing Form 990-A, may file its annual return on Form 990-A (SF), a short form, if its gross receipts for the taxable year do not exceed \$10,000 and its total assets on the last day of its taxable year do not exceed \$10,000. For purposes of this subparagraph, "gross receipts" shall be defined in the manner prescribed in subparagraph (2) (ii) of this paragraph. The forms prescribed by this subparagraph shall be as follows:

(i) Form 990-A shall consist of parts I and II. Part I shall contain, in addition to information required in part II, such information as may be prescribed in the return and instructions which is required to be furnished by section 6033(a) or which is necessary to show whether or not such organization is exempt from tax under section 501(a). Part II, which shall be open to public inspection pursuant to section 6104 and other applicable sections and the regulations thereunder, shall contain principally the information required by section 6033(b) and the regulations thereunder. The information contained in part II, to be furnished by the organization in duplicate in the manner prescribed by the instructions issued with respect to the return, is as follows:

(a) Its gross income for the year. For this purpose, gross income includes

tax-exempt income, but does not include contributions, gifts, grants, and similar amounts received. Whether or not an item constitutes a contribution, gift, grant, or similar amount, depends upon all the surrounding facts and circumstances.

(b) Its expenses attributable to such income and incurred within the year.

(c) Its disbursements out of income (including prior years' accumulations) made within the year for the purposes for which it is exempt. Information shall be included as to the class of activity with a separate total for each activity as well as the name, address, and amount received by each individual or organization receiving cash, other property, or services within the taxable year. If the donee is related by blood, marriage, adoption, or employment (including children of employees) to any person or corporation having an interest in the exempt organization, such as a creator, donor, director, trustee, or officer, the relationship of the donee shall be stated. Activities shall be classified according to purpose in greater detail than merely charitable, educational, religious, or scientific. For example, payments for nursing service, for laboratory construction, for fellowships, or for assistance to indigent families shall be so identified. Where the fair market value of the property at the time of disbursement is used as the measure of the disbursement, the book value of such property (and a statement of how book value was determined) shall also be furnished, and any difference between the fair market value at the time of disbursement and the book value should be reflected in the books of account. The expenses allocable to making the disbursements shall be set forth in such detail as is prescribed by the form or instructions.

(d) Its accumulation of income within the year. The amount of such accumulation is obtained by subtracting from the amount in (a) of this subdivision the sum of the amounts determined in (b) and (c) of this subdivision and the expenses allocable to carrying out the purposes for which it is exempt.

(e) Its aggregate accumulation of income at the beginning and end of the

year. The aggregate accumulation of income shall be divided between that which is attributable to the gain or loss on the sale of assets (excluding inventory items) and that which is attributable to all other income. For this purpose expenses and disbursements shall be allocated on the basis of accounting records, the governing instrument, or applicable local law.

(f) Its disbursements out of principal in the current and prior years for the purposes for which it is exempt. In addition, the same type of information shall be required with respect to disbursements out of principal made in the current year as is prescribed by (c) of this subdivision with respect to disbursements out of income.

(g) A balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year. Detailed information on the assets, liabilities, and net worth shall be furnished on the schedule provided for this purpose on the Form 990-A. Such schedule shall be supplemented by attachments where appropriate.

(h) The total of the contributions and gifts received by it during the year. A statement shall be included showing the gross amount of contributions and gifts collected by the organization, the expenses incurred by the organization in collecting such amount, and the net proceeds.

(i) In addition to the information required in (a) through (h) of this subdivision, the organization shall furnish such specific information and answer such specific questions as are required by the form or instructions.

(ii) Form 990-A (SF) is a short form consisting of a single part which contains such information as may be prescribed in the return and instructions which is required to be furnished by section 6033(a) or which is necessary to show whether or not such organization is exempt from tax under section 501(a). In addition, Form 990-A (SF) shall contain the information required by section 6033(b) which must be furnished in the manner prescribed in the instructions issued with respect to the return. Form 990-A (SF) shall be open to public inspection pursuant to section 6104 and other applicable sections and the regulations thereunder.

(5)(i) Every religious or apostolic association or corporation described in section 501 (d) which is exempt from taxation under section 501(a) shall file a return on Form 1065 for each taxable year, stating specifically the items of gross income and deductions, and its taxable income. There shall be attached to the return as a part thereof a statement showing the name and address of each member of the association or corporation and the amount of his distributive share of the taxable income of the association or corporation for such year.

(ii) If the taxable year of any member is different from the taxable year of the association or corporation, the distributive share of the taxable income of the association or corporation to be included in the gross income of the member for his taxable year shall be based upon the taxable income of the association or corporation for its taxable year ending with or within the taxable year of the member.

(b) *Accounting period for filing return.* A return on Form 990, 990-A, 990 (SF), 990-A (SF), or 990-P shall be on the basis of the established annual accounting period of the organization. If the organization has no such established accounting period, such return shall be on the basis of the calendar year.

(c) *Returns when exempt status not established.* An information return on Form 990, 990-A, 990 (SF), or 990-A (SF) is not required to be filed by an organization claiming an exempt status under section 501(a) prior to the establishment by the organization of such exempt status under section 501 and § 1.501(a)-1. If the date for filing an income tax return and paying the tax occurs before the tax-exempt status of the organization has been established, the organization is required to file the income tax return and pay the tax. However, see sections 6081 and 6161 and the regulations thereunder for extensions of time for filing the return and paying the tax. Upon establishment of its exempt status, the organization may file a claim for a refund of income taxes paid for the period for which its exempt status is established.

(d) *Group returns.* (1) A central, parent, or like organization (referred to in

this paragraph as “central organization”), exempt under section 501(a) and described in section 501(c), although required to file a separate annual return for itself under section 6033 and paragraph (a) of this section, may file annually, in addition to such separate annual return, a group return on Form 990 or 990-A, 990 (SF), or 990-A (SF), as may be appropriate. Form 990 (SF) or 990-A (SF) may be used where each local organization qualifies under paragraph (a) of this section. Such group return may be filed for two or more of the local organizations, chapters, or the like (referred to in this paragraph as “local organizations”) which are (i) affiliated with such central organization at the close of its annual accounting period, (ii) subject to the general supervision or control of the central organization, and (iii) exempt from taxation under the same paragraph of section 501(c) of the Code, although the local organizations are not necessarily exempt under the paragraph under which the central organization is exempt.

(2)(i) The filing of the group return shall be in lieu of the filing of a separate return by each of the local organizations included in the group return. The group return shall include only those local organizations which in writing have authorized the central organization to include them in the group return, and which have made and filed, with the central organization, their statements, specifically stating their items of gross income, receipts, and disbursements, and such other information relating to them as is required to be stated in the group return. Such an authorization by a local organization shall be made annually, under the penalties of perjury, and shall be signed by a duly authorized officer of the local organization in his official capacity and shall contain the following statement, or a statement of like import: “I hereby declare under the penalties of perjury that this authorization (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is true, correct and complete and made in good faith for the taxable year stated.” Such authorizations and statements shall be

permanently retained by the central organization.

(ii) There shall be attached to the group return and made a part thereof a schedule showing the name and address of each of the local organizations and the total number thereof included in such return, and a schedule showing the name and address of each of the local organizations and the total number thereof not included in the group return.

(3) The group return shall be on the basis of the established annual accounting period of the central organization. Where such central organization has no established annual accounting period, such return shall be on the basis of the calendar year. The same income, receipts, and disbursements of a local organization shall not be included in more than one group return.

(4) The group return shall be filed in accordance with these regulations and the instructions issued with respect to Form 990, 990-A, 990 (SF), or 990-A (SF), whichever is appropriate, and shall be considered the return of each local organization included therein. The tax-exempt status of a local organization must be established under a group exemption letter issued to the central organization before a group return including the local organization will be considered as the return of the local organization. See §1.501(a)-1 for requirements for establishing a tax-exempt status.

(e) *Time and place for filing.* The annual return of information on Form 990, 990-A, 990 (SF), 990-A (SF), or 990-P shall be filed on or before the 15th day of the fifth calendar month following the close of the period for which the return is required to be filed. The annual return on Form 1065 required to be filed by a religious or apostolic association or corporation shall be filed on or before the 15th day of the fourth month following the close of the taxable year for which the return is required to be filed. Each such return shall be filed in accordance with the instructions applicable thereto.

(f) *Penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207.

(g) *Organizations not required to file annual returns.* (1) (i) Annual returns on Form 990-A or Form 990-A (SF) are not required to be filed by an organization described in section 501 (c) (3) which has established its right to exemption from taxation under section 501 (a) and which is:

(a) Organized and operated exclusively for religious purposes;

(b) Operated, supervised, or controlled by or in connection with an organization which is organized and operated exclusively for religious purposes;

(c) An educational organization which normally maintains a regular faculty and curriculum and normally has a regularly organized body of pupils or students in attendance at the place where its educational activities are regularly carried on; or

(d) A charitable organization, or an organization for the prevention of cruelty to children or animals, which is supported, in whole or in part, by funds contributed by the United States or any State or political subdivision thereof, or which is primarily supported by contributions of the general public.

(ii) An educational organization which normally maintains and has a regular faculty, curriculum, and student body and meets the conditions of subdivision (i)(c) of this subparagraph, which relieves it from the requirement of filing annual returns, shall not be considered as having thereafter failed to continue meeting such conditions if it is temporarily compelled to curtail or discontinue its normal and regular activities during the existence of abnormal circumstances and conditions.

(iii) An organization organized and operated exclusively for charitable purposes or for the prevention of cruelty to children or animals is "primarily supported by contributions of the general public" for any accounting period if more than 50 percent of its income and receipts for such period is actually derived from voluntary contributions and gifts made by the general public, as distinguished from a few contributors or donors or from related or associated persons. For purposes of this subdivision, the words "related or associated persons" refer to persons of a particular group who are connected

with or are interested in the activities of the organization, such as founders, incorporators, shareholders, members, fiduciaries, officers, employees, or the like, or who are connected with such persons by family or business relationships. An organization claiming an exception from the filing of an information return under this subdivision must maintain adequate records in order to substantiate such claim. Furthermore, if it is doubtful to an organization that it falls within this exception for filing annual information returns, it must file the return on Form 990-A or Form 990-A (SF).

(2) The annual return on Form 990 or Form 990 (SF) need not be filed by:

(i) A fraternal beneficiary society, order, or association, described in section 501(c)(8), or

(ii) An organization described in section 501(c)(1) if it is a corporation wholly owned by the United States or any agency or instrumentality thereof, or is a wholly owned subsidiary of such a corporation,

which has established its exemption from tax under section 501(a).

(3) The provisions of section 6033(a) relieving certain specified types of organizations exempt from tax under section 501(a) from filing annual returns do not abridge or impair in any way the powers and authority of district directors or directors of service centers provided for in other provisions of the Code and in the regulations thereunder to require the filing of such returns by such organizations. See section 6001 and § 1.6001-1.

(h) *Records, statements, and other returns of tax-exempt organizations.* (1) An organization which has established its right to exemption from tax under section 501(a) and has also established that it is not required to file annually the return of information on Form 990, 990-A, 990 (SF), or 990-A (SF) shall immediately notify in writing the district director for the internal revenue district in which its principal office is located of any changes in its character, operations, or purpose for which it was originally created.

(2) Every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall

submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and following), chapter 1 of the Code, and of section 6033. See section 6001 and § 1.6001-1 with respect to the authority of the district director or directors of service centers to require such additional information and with respect to the permanent books of account or records to be kept by such organizations.

(3) An organization which has established its right to exemption from tax under section 501(a), including an organization which is relieved under section 6033 and this section from filing annual returns of information, is not, however, relieved from the duty of filing other returns of information. See, for example, sections 6041 and 6051 and the regulations thereunder.

(i) *Unrelated business tax returns.* In addition to the foregoing requirements of this section, certain organizations otherwise exempt from tax under section 501(a) and described in section 501(c)(2), (3), (5), (6), or (17) or section 401(a) which are subject to tax on unrelated business taxable income are also required to file returns on Form 990-T. See paragraph (e) of § 1.6012-2 and paragraph (a)(5) of § 1.6012-3 for requirements with respect to such returns.

(j) *Effective date.* The provisions of this section shall apply with respect to returns filed for taxable years beginning before January 1, 1970.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6722, 29 FR 5075, Apr. 14, 1964; T.D. 6972, 33 FR 12907, Sept. 12, 1968; T.D. 6980, 33 FR 16446, Nov. 9, 1968; T.D. 7122, 36 FR 11026, June 8, 1971]

§ 1.6033-2 Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980).

(a) *In general.* (1) Except as provided in section 6033(a)(2) and paragraph (g) of this section, every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts