

shareholders on the last day of the most recent taxable year of the corporation for which there was such a person who was a United States citizen or resident.

(2) *10-percent shareholder.* (i) The term “10-percent shareholder” means any individual who owns directly or indirectly (within the meaning of section 544) 10 percent or more in value of the outstanding stock of a foreign corporation.

(ii) An individual who does not own 10 percent or more in value of the outstanding stock directly but is required to file solely by attribution of another United States person’s stock ownership is excused from filing if the direct owner that is an individual furnishes all the information required.

(3) *Two or more persons required to submit the same information.* If two or more persons are required to furnish the information for the same foreign personal holding company for the same period, one person may make one return on Form 5471. The single Form 5471 may be filed with the income tax return of any one of the persons and shall disclose the name, address, and identifying number of each other person or persons on whose behalf the return is filed. Each person on whose behalf the return is filed remains liable for any penalties imposed under sections 6679, 7203, 7206, and 7207.

(4) *Statement required.* Any United States citizen or resident required to furnish information under this section with his return who does not do so by reason of the provisions of subparagraph (2)(ii) or (3) of this paragraph shall file a statement with his income tax return indicating that such requirement has been or will be satisfied and identifying the return with which the information was or will be filed and the place of filing.

(c) *Separate returns for each corporation.* If a person is required to file returns under section 6035 and this section with respect to more than one foreign personal holding company, separate returns must be filed with respect to each company.

(d) *Corrective filing.* If an information return with respect to a taxable year of a foreign personal holding company beginning after September 3, 1982, is filed

before [date which is 30 days after the date of publication of a Treasury decision in the FEDERAL REGISTER] and that return does not contain all of the information required by this section, then the filer of the return shall file an amended information return containing all of such information within 90 days after June 4, 1985.

(e) *Penalties—(1) Criminal penalties.* For criminal penalties for failure to file a return and filing a false or fraudulent return, see sections 7203, 7206, and 7207.

(2) *Civil penalties.* For civil penalties for failure to file a proper foreign personal holding company information return, see section 6679 and the regulations thereunder.

[T.D. 8028, 50 FR 23408, June 4, 1985; 50 FR 26359, June 26, 1985, as amended by T.D. 8573, 59 FR 64301, Dec. 14, 1994]

**§ 1.6035-2 Returns of U.S. officers and directors of foreign personal holding companies for taxable years beginning before September 4, 1982.**

For rules relating to information returns required to be filed by officers and directors of foreign personal holding companies for taxable years beginning before September 4, 1982, see section 6035(a) (as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 26 CFR 1.6035-1 (Revised as of April 1, 1981).

[T.D. 8028, 50 FR 23409, June 4, 1985]

**§ 1.6035-3 Returns of 50-percent U.S. shareholders of foreign personal holding companies for taxable years beginning before September 4, 1982.**

For rules relating to information returns required to be filed by shareholders of foreign personal holding companies for taxable years beginning before September 4, 1982, see section 6035(b) (as in effect before the enactment of the Tax Equity and Fiscal Responsibility Act of 1982) and 26 CFR 1.6035-2 (Revised as of April 1, 1961).

[T.D. 8028, 50 FR 23409, June 4, 1985]

**§ 1.6036-1 Notice of qualification as executor or receiver.**

For provisions relating to the notice required of fiduciaries, see the regulations under section 6036 contained in

## § 1.6037-1

part 301 of this chapter (Regulations on Procedure and Administration).

### § 1.6037-1 Return of electing small business corporation.

(a) *In general.* Every small business corporation (as defined in section 1371(a)) which has made an election under section 1372(a) not to be subject to the tax imposed by chapter 1 of the Code shall file, with respect to each taxable year for which the election is in effect, a return of income on Form 1120-S. The return shall set forth the items of gross income and the deductions allowable in computing taxable income as required by the return form or in the instructions issued with respect thereto and shall be signed in accordance with section 6062 by the person authorized to sign a return. The return shall also set forth the following information concerning the electing small business corporation:

(1) The names and addresses of all persons owning stock in the corporation at any time during the taxable year;

(2) The number of shares of stock owned by each shareholder at all times during the taxable year;

(3) The amount of money and other property distributed by the corporation during the taxable year to each shareholder;

(4) The date of each distribution of money and other property; and

(5) Such other information as is required by the form or by the instructions issued with respect to such form.

(b) *Time and place for filing return.* The return shall be filed on or before the 15th day of the third month following the close of the taxable year with the internal revenue officer designated in the instructions applicable to Form 1120-S. (See section 6072.)

(c) *Other provisions.* The return on Form 1120-S will be treated as a return filed by the corporation under section 6012, relating to persons required to make returns of income, for purposes of the provisions of chapter 66 of the Code, relating to limitations. Thus, for example, the period of limitation on assessment and collection of any corporate tax found to be due upon a subsequent determination that the corporation was not entitled to the bene-

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

fits of subchapter S, chapter 1 of the Code, will run from the date of filing the return under section 6037, or from the date prescribed for filing such return, whichever is the later. For the rules requiring the disclosure of certain transactions, see § 1.6011-4T.

(d) *Penalties.* For criminal penalties for failure to file a return, supply information, or pay tax, and for filing a false or fraudulent return, statement, or other document, see sections 7203, 7206, and 7207.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 7012, 34 FR 7690, May 15, 1969; T.D. 9000, 67 FR 41328, June 18, 2002]

### § 1.6038-1 Information returns required of domestic corporations with respect to annual accounting periods of certain foreign corporations beginning before January 1, 1963.

(a) *Requirement of return.* For taxable years beginning after December 31, 1960, every domestic corporation shall make a separate annual information return on Form 2952, in duplicate, with respect to each foreign corporation which it controls, as defined in paragraph (b) of this section, and with respect to each foreign subsidiary, as defined in paragraph (c) of this section, for each annual accounting period (described in paragraph (d) of this section) of each such controlled foreign corporation or foreign subsidiary beginning after December 31, 1960, and before January 1, 1963. Such information shall not be required to be furnished, however, with respect to a corporation defined in section 1504(d) of the Code which makes a consolidated return for the taxable year. For annual accounting periods beginning after December 31, 1962, see § 1.6038-2.

(b) *Control.* A domestic corporation shall be deemed to be in control of a foreign corporation if at any time during its taxable year it owns more than 50 percent of the voting stock of such foreign corporation.

(c) *Foreign subsidiary.* A foreign corporation more than 50 percent of the voting stock of which is owned by a controlled foreign corporation at any