

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.

(l) *Use of magnetic media.* For information returns filed after December 31, 1996, see § 301.6011-2 of this chapter for rules relating to filing information returns on magnetic media and for rules relating to waivers granted for undue hardship. A broker or barter exchange that fails to file a Form 1099 on magnetic media, when required, may be subject to a penalty under section 6721 for each such failure. See paragraph (j) of this section.

(m) *Reporting on options transactions.* [Reserved]

(n) *Reporting on bond discounts.* [Reserved]

(o) *Additional reporting by stock transfer agents.* [Reserved]

(p) *Transitional rules—(1) Information required from brokers.* In the case of reporting periods ending before January 1, 1984, a broker may show the information required by this paragraph (p)(1) on Form 1099 in lieu of the information required under paragraph (d)(2). As to each customer account for which a return of information is required under this section with respect to sales, the broker must report the name, address, and taxpayer identification number of the customer, the aggregate gross proceeds of all sales of the account during the reporting period for which a return of information is required under this section, and such other information as may be required by Form 1099, in the form, manner, and number of copies required by Form 1099.

(2) *Information required from barter exchanges.* In the case of reporting periods ending before January 1, 1984, a barter exchange may show the information required by this paragraph (p)(2) on Form 1099 in lieu of the information required under paragraph (f)(2). As to each member or client providing property or services in an exchange for which a return of information is required under this section, the barter exchange must report the name, address, and taxpayer identification number of the member or client, the aggregate amount received by the member

or client during the reporting period for property or services provided by such member or client in exchanges for which a return of information is required, and such other information as may be required by Form 1099, in the form, manner, and number of copies required by Form 1099.

(q) *Effective date.* This section applies to calendar year 1983 and all succeeding calendar years, and, as to 1983, only to transactions occurring on or after July 1, 1983. With regard to paragraph (l) of this section, see section 6011(e) of the Internal Revenue Code for information returns required to be filed after December 31, 1989, and before January 1, 1997; and see paragraph (l) of this section for information returns required to be filed after December 31, 1996.

(r) *Electronic filing.* Notwithstanding the time prescribed for filing in paragraph (j) of this section, Forms 1096 and 1099 required under this section for reporting periods ending during a calendar year shall, if filed electronically, be filed after the last calendar day of the reporting period elected by the broker or barter exchange and on or before March 31 of the following calendar year.

[T.D. 7873, 48 FR 10304, Mar. 11, 1983, as amended by T.D. 7932, 48 FR 57485, Dec. 30, 1983; 49 FR 2469, Jan. 20, 1984; T.D. 7960, 49 FR 22283, May 29, 1984; T.D. 8445, 57 FR 53032, Nov. 6, 1992; T.D. 8452, 57 FR 58984, Dec. 14, 1992; T.D. 8683, 61 FR 53060, Oct. 10, 1996; T.D. 8734, 62 FR 53476, Oct. 14, 1997; T.D. 8445, 63 FR 12410, Mar. 13, 1998; T.D. 8770, 63 FR 35519, June 30, 1998; T.D. 8804, 63 FR 72186, 72188, Dec. 31, 1998; T.D. 8856, 64 FR 73411, 73412, Dec. 30, 1999; T.D. 8881, 65 FR 32206, 32212, May 22, 2000; T.D. 8895, 65 FR 50407, Aug. 18, 2000; 66 FR 18189, Apr. 6, 2001; T.D. 9010, 67 FR 48758, July 26, 2002]

§ 1.6045-1T Returns of information of brokers and barter exchanges (temporary).

(a)-(k) [Reserved]

For further guidance, see § 1.6045-1 (a) through (k).

(l) *Use of magnetic media.* For information returns filed after December 31, 1996, see § 301.6011-2T of this chapter for rules relating to filing information returns on magnetic media and for rules relating to waivers granted for undue

§ 1.6045-2

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

hardship. For information returns filed prior to January 1, 1997, see § 1.6045-1(l) [T.D. 8683, 61 FR 53060, Oct. 10, 1996]

§ 1.6045-2 Furnishing statement required with respect to certain substitute payments.

(a) *Requirement of furnishing statements*—(1) *In general.* Any broker (as defined in paragraph (a)(4)(ii) of this section) that transfers securities (as defined in § 1.6045-1(a)(3)) of a customer (as defined in paragraph (a)(4)(iii) of this section) for use in a short sale and receives on behalf of the customer a substitute payment (as defined in paragraph (a)(4)(i)) shall, except as otherwise provided, furnish a statement to the customer identifying such payment as being a substitute payment.

(2) *Special rule for transfers for broker's own use.* Any broker that borrows securities of a customer for use in a short sale entered into for the broker's own account shall be deemed to have transferred the stock to itself and received on behalf of the customer any substitute payment made with respect to the transferred securities, and shall be required to furnish a statement with respect to such payments in accordance with paragraph (a)(1) of this section.

(3) *Special rule for furnishing statements to individual customers with respect to payments in lieu of dividends*—(i) *In general.* Except as otherwise provided in paragraph (a)(3)(ii) of this section, for taxable years beginning before January 1, 2003, a broker that receives a substitute payment in lieu of a dividend on behalf of a customer who is an individual ("individual customer") need not furnish a statement to the customer.

(ii) *Reporting for certain dividends.* Any broker that receives on behalf of an individual customer a substitute payment in lieu of—

(A) An exempt-interest dividend (as defined in paragraph (a)(4)(vii) of this section);

(B) A capital gain dividend (as defined in paragraph (a)(4)(vi) of this section);

(C) A distribution treated as a return of capital under section 301(c)(2) or (c)(3); or

(D) An FTC dividend (as defined in paragraph (a)(4)(viii) of this section) shall furnish a statement to the individual customer identifying the payment as being a substitute payment as prescribed by this section, provided that the broker has reason to know not later than the record date of the dividend payment that the payment is a substitute payment in lieu of an exempt-interest dividend, a capital gain dividend, a distribution treated as a return of capital, or an FTC dividend.

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

(i) The term *substitute payment* means a payment in lieu of—

(A) Tax-exempt interest, to the extent that interest has accrued on the obligation for the period during which the short sale is open;

(B) A dividend, the ex-dividend date for which occurs during the period after the transfer of stock for use in a short sale, and prior to the closing of the short sale; or

(C) Any other item specified in a rule-related notice published in the FEDERAL REGISTER (provided that such items shall be subject to the rules of this section only subsequent to the time of such publication).

For purposes of this section original issue discount accruing on an obligation (the interest upon which is exempt from tax under section 103) for the period during which the short sale is open shall be deemed a payment in lieu of tax-exempt interest.

(ii) The term *broker* means both a person described in § 1.6045-1(a)(1) and a person that, in the ordinary course of a trade or business during the calendar year, loans securities owned by others.

(iii) The term *customer* means, with respect to a transfer of securities for use in a short sale, the person that is the record owner of the securities so transferred.

(iv) The term *dividend* means a dividend (as defined in section 316) or a distribution that is treated as a return of capital under section 301(c)(2) or (c)(3).

(v) The term *tax-exempt interest* means interest to which the exception in section 6049 (b)(2)(B) applies.