

be required by Form 1096, in the form, manner, and number of copies required by Form 1096. With respect to each customer for which a broker is required to furnish a statement, the broker shall make a return of information on Form 1099, in the form, manner and number of copies required by Form 1099.

(2) *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 (g)(4) of this section.

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

(4) *Cross-reference to penalties.* For provisions relating to the penalty provided for failure to file timely a correct information return required under section 6045(d) and §1.6045-2(g)(1), including a failure to file on magnetic media, see §301.6721-1 of this chapter. For provisions relating to the penalty provided for failure to furnish timely a correct payee statement required under section 6045(d) and §1.6045-2(a), see §301.6722-1 of this chapter. 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.

(h) *Coordination with section 6042.* In cases in which reporting is required by both sections 6042 and 6045(d) with respect to the same substitute payment in lieu of a dividend, the provisions of section 6045(d) control, and no report or statement under section 6042 need be made. If reporting is not required under section 6045(d) with respect to a substitute payment in lieu of a dividend, a report under section 6042 must be made if required in accordance with

the rules of section 6042 and the regulations thereunder. Thus, if a broker receives a substitute payment in lieu of a dividend on behalf of an individual customer and the broker does not have reason to know by the record date of the payment that the payment is in lieu of a dividend of a type described in paragraphs (a)(3)(ii)(A) through (D) of this section, the broker must report with respect to the substitute payment if required in accordance with section 6042 and the regulations thereunder.

(i) *Effective date.* These regulations apply to substitute payments received by a broker after December 31, 1984. With regard to paragraph (g)(2) 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 (g)(2) of this section for information returns required to be filed after December 31, 1996.

[T.D. 8029, 50 FR 23677, June 5, 1985, as amended by T.D. 8683, 61 FR 53060, Oct. 10, 1996; T.D. 8734, 62 FR 53480, Oct. 14, 1997; T.D. 8770, 63 FR 35519, June 30, 1998; T.D. 8895, 65 FR 50407, Aug. 18, 2000; T.D. 9010, 67 FR 48758, July 26, 2002; T.D. 9103, 68 FR 74848, Dec. 29, 2003]

**1.6045-2T Furnishing statement required with respect to certain substitute payments (temporary).**

(a)-(g)(1) [Reserved]

For further guidance, see §1.6045-2 (a) through (g)(1).

(g)(2) *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 hardship. For information returns filed prior to January 1, 1997, see §1.6045-2(g)(2).

[T.D. 8683, 62 FR 53060, Oct. 10, 1996]

**§1.6045-3T Information reporting for an acquisition of control or a substantial change in capital structure (temporary).**

(a) *In general.* Any broker (as defined in §1.6045-1(a)(1)) that holds shares on behalf of a customer in a corporation that the broker knows or has reason to

know based on readily available information (including, for example, information from a clearing organization or from information published by the Internal Revenue Service (see § 601.601(d)(2) of this chapter)) has engaged in a transaction described in § 1.6043-4T(c) (acquisition of control) or § 1.6043-4T(d) (substantial change in capital structure), shall file a return of information with respect to the customer, unless the customer is an exempt recipient as defined in paragraph (b) of this section.

(b) *Exempt recipients.* A broker is not required to file a return of information under this section with respect to the following customers:

(1) Any customer who receives only cash in exchange for its stock in the corporation, which must be reported by the broker pursuant to § 1.6045-1(a).

(2) Any customer who is an exempt recipient as defined in § 1.6043-4T(b)(5) or § 1.6045-1(c)(3)(i).

(c) *Form, manner and time for making information returns.* The return required by paragraph (a) of this section must be on Forms 1096, "Annual Summary and Transmittal of U.S. Information Returns", and 1099-B, "Proceeds from Broker and Barter Exchange Transactions," or on an acceptable substitute statement. Such forms must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of control or the substantial change in capital structure occurs.

(d) *Contents of return.* A separate Form 1099-B must be prepared for each customer showing—

(1) The name, address and taxpayer identification number (TIN) of the customer;

(2) The name and address of the corporation which engaged in the transaction described in § 1.6043-4T(c) or (d);

(3) The number and class of shares in the corporation exchanged by the customer;

(4) The aggregate amount of cash and the fair market value of any stock (other than stock described in 1.6043-4T(a)(1)(v)(C)) or other property provided to the customer in exchange for its stock; and

(5) Such other information as may be required by Form 1099-B.

(e) *Furnishing of forms to customers.* The Form 1099-B prepared for each customer must be furnished to the customer on or before January 31 of the year following the calendar year in which the customer receives stock, cash or other property.

(f) *Single Form 1099.* If a broker is required to file a Form 1099-B with respect to a customer under both this § 1.6045-3T and § 1.6045-1(b) with respect to the same transaction, the broker may satisfy the requirements of both sections by filing and furnishing one Form 1099-B that contains all the relevant information, as provided in the instructions to Form 1099-B.

(g) *Effective date.* (1) This section applies with respect to any acquisition of control and any substantial change in capital structure occurring after December 31, 2001, if the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) as a result of the transaction. However, paragraphs (a) through (f) of this section apply to acquisitions of control and substantial changes in capital structure occurring after December 31, 2002, if the reporting corporation or any shareholder is required to recognize gain (if any) as a result of the application of section 367(a) as a result of the transaction. For transactions prior to that date, see § 1.6045-3T as published in 26 CFR Part 1 (revised as of April 1, 2003). This section expires on November 14, 2005.

(2) For any acquisition of control or any substantial change in capital structure occurring during the 2003 calendar year, a broker may elect to satisfy the requirements of this section by using Form 1099-CAP in lieu of Form 1099-B.

[T.D. 9101, 68 FR 75125, Dec. 30, 2003; 69 FR 7351, Feb. 17, 2004]

**§ 1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.**

(a) *Requirement of reporting.* Except as otherwise provided in paragraphs (c) and (d) of this section, a real estate reporting person ("reporting person") must make an information return with respect to a real estate transaction