

at the time of the completion of its formation, organization, or reorganization, showing the classes of stock and number of shares held by each and, in the case of Forms 959 filed after December 31, 1958, the names and addresses of the subscribers to the stock of the foreign corporation and the number of shares subscribed to by each;

(8) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation; and

(9) Such other information as is required by the return form.

(d) *Privileged communications.* An attorney-at-law is not required to file a return with respect to any advice given or information obtained through the relationship of attorney and client.

(e) *Time and place for filing return—(1) Time for filing.* Returns required by section 6046, prior to its amendment by section 7(a) of the Act of September 14, 1960, and this section shall be filed within 30 days after the first performance of any of the functions referred to in paragraph (a) of this section. If in a particular case, the aid, assistance, counsel, or advice given by any person extends over a period of more than one day, such person, to avoid multiple filing of returns, shall file a return within 30 days after either of the following events:

(i) The formation, organization, or reorganization of the foreign corporation, or

(ii) The termination of his aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of the foreign corporation.

(2) *Place for filing.* Returns required by section 6046 of the Internal Revenue Code of 1954 and this section shall be filed with the Internal Revenue Service Center designated in the instructions of the applicable form.

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

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 6623, 27 FR 11882, Dec. 1, 1962; T.D. 7322, 39 FR 30932, Aug. 27, 1974]

§ 1.6047-1 Information to be furnished with regard to employee retirement plan covering an owner-employee.

(a) *Trustees and insurance companies—*

(1) *Requirement of return.* (i) Every trustee of a trust described in section 401(a) and exempt from tax under section 501(a) which makes payments of amounts described in subparagraph (2) of this paragraph aggregating \$10 or more during any calendar year to an individual (or his beneficiary) who was covered, within the meaning of paragraph (a)(2) of § 1.401-10, as an owner-employee under the plan of which such trust is a part shall make a return on Forms 1096 and 1099 for such year showing the name and address of the person to whom paid, the aggregate amount of such payments, specifically identified as an amount to which this paragraph applies, and such other information as is required by the forms. A separate Form 1099 shall be filed with respect to each payee. The term "owner-employee" means an owner-employee as defined in section 401(c)(3) and paragraph (d) of § 1.401-10. Any custodial account which satisfies the requirements of section 401(f) shall be treated as a qualified trust and the custodian of such a custodial account must comply with the requirements of this section as if he were the trustee.

(ii) Every issuer of a contract which is treated as an annuity contract under sections 401 through 404 purchased by a trust described in section 401(a) and exempt from tax under section 501(a) or under a plan described in section 403(a) which makes payments of amounts described in subparagraph (2) of this paragraph aggregating \$10 or more during any calendar year to an individual (or his beneficiary) who was covered, within the meaning of paragraph (a)(2) of § 1.401-10, as an owner-employee under the plan of which such trust is a part or under which such contract was purchased shall make a return on Forms 1096 and 1099 for such year showing the name and address of the person to whom paid, the aggregate amount of such payments, specifically identified as an amount to which this paragraph applies, and such other information as is required by the form. A separate Form 1099 shall be filed with respect to each payee.

(2) *Amounts subject to this section.* The amounts subject to reporting under subparagraph (1) of this paragraph include all amounts distributed or made available to which section 402(a) (relating to employees' trusts) or section 403(a) (relating to employee annuity plans) applies, whether or not such amounts are includible in gross income and whether or not attributable to contributions made while the individual to whom they relate was an owner-employee. However, amounts subject to reporting do not include any amounts distributed or made available by the trustee of any trust or the issuer of any contract under any plan with respect to which he has not received the notification provided in either subparagraph (3) of this paragraph or paragraph (b) of this section. Amounts distributed or made available under the plan include, for example, amounts received by the individual as loans on contracts purchased under the plan, and payments made to the individual by reason of the surrender of contracts purchased under the plan, whether or not prior to their maturity.

(3) *Notification by trustee.* The trustee of any trust described in section 401(a) and exempt from tax under section 501(a) who receives notification from any owner-employee that contributions have been made to the trust on behalf of that owner-employee as an owner-employee shall notify in writing the issuer of any contract which is treated as an annuity contract under sections 401 through 404 purchased by the trust for the benefit of that owner-employee that such contributions have been made to such trust. Such notification shall be delivered to such issuer at the time such contract is purchased or within 90 days after the notification required by paragraph (b) of this section is received by the trustee, whichever is later. Only one such notification must be made with respect to any contract.

(4) *Record keeping.* Any trustee, insurance company, or other person, which is referred to in subparagraph (1) of this paragraph and which is notified under section 6047(b) that contributions to the trust or under the plan have been made on behalf of an owner-employee shall maintain a record of such notification until all funds of the

trust or under the plan on behalf of the owner-employee have been distributed.

(5) *Inclusion of other payments.* The Form 1099 filed under this section by any person with respect to payments to another person during a calendar year may, at the election of the maker, include other payments made by him to such other person during such year which are required to be reported on Form 1099.

(6) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year 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. For extensions of time for filing returns under this section, see § 1.6081-1.

(b) *Notification by owner-employee.* Any owner-employee on behalf of whom contributions are made to a trust described in section 401(a) and exempt under section 501(a) or under a plan described in section 403(a) shall notify in writing:

(1) The trustee of such a trust, or

(2) The issuer of any contract which is treated as an annuity contract under sections 401 through 404 under such plan,

that such contributions have been made to such trust or plan. Such notification shall be delivered to such trustee or such issuer during the first calendar year in which such contributions are made or on or before February 28 of the year following such year. Only one such notification must be made with respect to any contract or any trust.

(c) *Penalties.* For civil penalty for failure to file a return required by this section, and for criminal penalty for furnishing fraudulent information under this section, see §§ 301.6652-3 and 301.7207-1 respectively.

(d) *Permission to submit information required by Form 1099 on magnetic tape.* For rules relating to permission to submit the information required by Form

1099 on magnetic tape or other media, see § 1.9101-1.

[T.D. 6677, 28 FR 10147, Sept. 17, 1963, as amended by T.D. 6883, 31 FR 6589, May 3, 1966; T.D. 7551, 43 FR 29292, July 7, 1978; T.D. 8895, 65 FR 50407, Aug. 18, 2000]

§ 1.6049-1 Returns of information as to interest paid in calendar years before 1983 and original issue discount includible in gross income for calendar years before 1983.

(a) *Requirement of reporting*—(1) *In general.* (i) Every person who makes payments of interest (as defined in § 1.6049-2) aggregating \$10 or more to any other person during a calendar year before 1983 shall make an information return on Forms 1096 and 1099 for such calendar year showing the aggregate amount of such payments, the name and address of the person to whom paid, the total of such payments for all persons, and such other information as is required by the forms. In the case of interest paid during calendar years beginning with 1963 and continuing until such time as the Commissioner determines that it is feasible to aggregate payments on two or more accounts, insurance contracts, or investment certificates and this subdivision is amended accordingly to provide for reporting on an aggregate basis, the requirement of this subdivision for the filing of Form 1099 will be met if a person making payments of interest to another person on two or more such accounts, insurance contracts, or investment certificates, files a separate Form 1099 with respect to each such account, contract, or certificate on which \$10 or more of interest is paid to such other person during the calendar year. In the case of evidences of indebtedness described in section 6049(b)(1)(A), separate Forms 1099 may be filed as provided in the preceding sentence with respect to holdings in different issues. Thus, if a bank pays to a person interest totaling \$15 on one account and \$20 on a second account, it may file separate Forms 1099 with respect to the payments of \$15 and \$20. If the interest on the second account totaled \$5 instead of \$20, no return would be required with respect to the \$5.

(ii) (a) Every person which is a corporation that has outstanding any

bond, debenture, note, or certificate or other evidence of indebtedness (referred to in this section and § 1.6049-2 as an obligation) in “registered form” (as defined in paragraph (d) of § 1.6049-2) issued after May 27, 1969 (other than an obligation issued by a corporation pursuant to a written commitment which was binding on May 27, 1969, and at all times thereafter) and on or before December 31, 1982, as to which there is during any calendar year before 1983 an amount of original issue discount (as defined in § 1.6049-2) aggregating \$10 or more includible as interest in the gross income for such calendar year of any holder (determined, if semiannual record date reporting is being used under (b)(1) of this subdivision, by treating each holder as holding the obligation on every day it was outstanding during the calendar year), shall make an information return on Forms 1096 and 1099-OID for such calendar year showing the following:

(1) The name and address of each record holder for whom such aggregate amount of original issue discount is \$10 or more and, for calendar years subsequent to 1972, the account, serial, or other identifying number of each obligation for which a return is being made.

(2) The aggregate amount of original issue discount includible by each such holder for the period during the calendar year for which the return is made (or, if the aggregation rules of (b)(2) of this subdivision are being used, that he held the obligations). If however, the semiannual record date reporting rules are being used under (b)(1) of this subdivision, such aggregate amount shall be determined by treating each such record date holder as if he held each such obligation on every day it was outstanding during the calendar year. For purposes of this section, an obligation shall be considered to be outstanding from the date of original issue (as defined in paragraph (b)(3) of § 1.1232-3). In the case of a time deposit open account arrangement to which paragraph (e)(5) of § 1.1232-3A applies, for example, the amount to be shown under this subdivision (2) on the Forms 1096 and 1099-OID is the sum (computed under such paragraph (e)(5)) of the amounts separately computed