

*Estate and Gift Tax Returns***§ 301.6018-1 Estate tax returns.**

For provisions relating to requirement of estate tax returns, see §§ 20.6018-1 to 20.6018-4, inclusive, of this chapter (Estate Tax Regulations).

§ 301.6019-1 Gift tax returns.

For provisions relating to requirement of gift tax returns, see §§ 25.6019-1 to 25.6019-4, inclusive, of this chapter (Gift Tax Regulations).

*Miscellaneous Provisions***§ 301.6020-1T Returns prepared or executed by the Commissioner or other internal revenue officers (temporary).**

(a) *Preparation of returns*—(1) *In general.* If any person required by the Code or by the regulations prescribed thereunder to make a return fails to make such return, it may be prepared by the Commissioner or other authorized internal revenue officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the Commissioner as the return of such person.

(2) *Responsibility of person for whom return is prepared.* A person for whom a return is prepared in accordance with paragraph (a)(1) of this section shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by him.

(b) *Execution of returns*—(1) *In general.* If any person required by the Code or by the regulations prescribed thereunder to make a return (other than a declaration of estimated tax required under section 6654 or 6655) fails to make such return at the time prescribed therefor, or makes, willfully or otherwise, a false, fraudulent or frivolous return, the Commissioner or other authorized internal revenue officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise. The Commissioner or other authorized internal revenue officer or employee may make the return by gathering information and

making computations through electronic, automated or other means to make a determination of the taxpayer's tax liability.

(2) *Form of the return.* A document (or set of documents) signed by the Commissioner or other authorized internal revenue officer or employee shall be a return for a person described in paragraph (b)(1) of this section if the document (or set of documents) identifies the taxpayer by name and taxpayer identification number, contains sufficient information from which to compute the taxpayer's tax liability, and the document (or set of documents) purports to be a return. A Form 13496, "IRC Section 6020(b) Certification," or any other form that an authorized internal revenue officer or employee signs and uses to identify a set of documents containing the information set forth above as a section 6020(b) return, and the documents identified, constitute a return under section 6020(b). A return may be signed by the name or title of an internal revenue officer or employee being handwritten, stamped, typed, printed or otherwise mechanically affixed to the return, so long as that name or title was placed on the document to signify that the internal revenue officer or employee adopted the document as a return for the taxpayer. The document and signature may be in written or electronic form.

(3) *Status of returns.* Any return made in accordance with paragraph (b)(1) of this section and signed by the Commissioner or other authorized internal revenue officer or employee shall be prima facie good and sufficient for all legal purposes. Furthermore, the return shall be treated as the return filed by the taxpayer for purposes of determining the amount of the addition to tax under section 6651(a)(2) and (3).

(4) *Deficiency procedures.* For deficiency procedures in the case of income, estate, and gift taxes, see sections 6211 to 6216, inclusive, and §§ 301.6211-1 to 301.6215-1, inclusive.

(5) *Employment status procedures.* For pre-assessment procedures in employment taxes cases involving worker classification, see section 7436 (proceedings for determination of employment status).

(6) *Examples.* The application of this paragraph (b) is illustrated by the following examples:

Example 1. Individual A, a calendar-year taxpayer, fails to file his 2003 return. Employee X, a Service employee, opens an examination related to A's 2003 taxable year. At the end of the examination, X completes a Form 13496 and attaches to it the documents listed on the form. Those documents explain examination changes and provide sufficient information to compute A's tax liability. The Form 13496 provides that the Service employee identified on the Form certifies that the attached pages constitute a return under section 6020(b). When X signs the certification package, the package constitutes a return under paragraph (b) of this section because the package identifies A by name, contains A's taxpayer identifying number (TIN), has sufficient information to compute A's tax liability, and contains a statement stating that it constitutes a return under section 6020(b). In addition, the Service shall determine the amount of the additions to tax under section 6651(a)(2) by treating the section 6020(b) return as the return filed by the taxpayer. Likewise, the Service shall determine the amount of any addition to tax under section 6651(a)(3), which arises only after notice and demand for payment, by treating the section 6020(b) return as the return filed by the taxpayer.

Example 2. Same facts as in *Example 1*, except that, after performing the examination, X does not compile any examination documents together as a related set of documents. X also does not sign and complete the Form 13496 nor associate the forms explaining examination changes with any other document. Because X did not sign any document stating that it constitutes a return under section 6020(b) and the documents otherwise do not purport to be a section 6020(b) return, the documents do not constitute a return under section 6020(b). Therefore, the Service cannot determine the section 6651(a)(2) addition to tax against nonfiler A for A's 2003 taxable year on the basis of those documents.

Example 3. Individual C, a calendar-year taxpayer, fails to file his 2003 return. The Service determines through its automated internal matching programs that C received reportable income and failed to file a return. The Service, again through its automated systems, generates a Letter 2566, "30 Day Proposed Assessment (SFR-01) 910 SC/CG." This letter contains C's name, TIN, and has sufficient information to compute C's tax liability. Contemporaneous with the creation of the Letter 2566, the Service, through its automated system, electronically creates and stores a certification stating that the electronic data contained as part of C's account constitutes a valid return under sec-

tion 6020(b) as of that date. Further, the electronic data includes the signature of the Service employee authorized to sign the section 6020(b) return upon its creation. Although the signature is stored electronically, it can appear as a printed name when the Service requests a paper copy of the certification. The electronically created information, signature, and certification is a return under section 6020(b). The Service will treat that return as the return filed by the taxpayer in determining the amount of the section 6651(a)(2) addition to tax with respect to C's 2003 taxable year. Likewise, the Service shall determine the amount of any addition to tax under section 6651(a)(3), which arises only after notice and demand for payment, by treating the section 6020(b) return as the return filed by the taxpayer.

Example 4. Corporation M, a quarterly taxpayer, fails to file a Form 941, "Employer's Quarterly Federal Tax Return," for the second quarter of 2004. Q, a Service employee authorized to sign returns under section 6020(b), prepares a Form 941 by hand, stating Corporation M's name, address, and TIN. Q completes the Form 941 by entering line item amounts, including the tax due, and then signs the document. The Form 941 that Q prepared and signed constitutes a section 6020(b) return because the Form 941 purports to be a return under section 6020(b), the form contains M's name and TIN, and it includes sufficient information to compute M's tax liability for the second quarter of 2004.

(c) *Cross references*—(1) For provisions that a return executed by the Commissioner or other authorized internal revenue officer or employee will not start the running of the period of limitations on assessment and collection, see section 6501(b)(3) and § 301.6501(b)-1(e).

(2) For determining the period of limitations on collection after assessment of a liability on a return executed by the Commissioner or other authorized internal revenue officer or employee, see section 6502 and § 301.6502-1.

(3) For additions to the tax and additional amounts for failure to file returns, see sections 6651 and § 301.6651-1, and section 6652 and § 301.6652-1, respectively.

(4) For additions to the tax for failure to pay tax, see section 6651 and § 301.6651-1.

(5) For criminal penalties for willful failure to make returns, see sections 7201, 7202, and 7203.

(6) For criminal penalties for willfully making false or fraudulent returns, see sections 7206 and 7207.

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(7) For civil penalties for filing frivolous income tax returns, see section 6702.

(8) For authority to examine books and witnesses, see section 7602 and § 301.7602-1.

(d) *Effective date.* This section applies to returns prepared under section 6020 after July 18, 2005. The applicability of this section expires on July 16, 2008.

[T.D. 9215, 70 FR 41144, July 18, 2005]

§ 301.6021-1 Listing by district directors of taxable objects owned by nonresidents of internal revenue districts.

Whenever there are in any internal revenue district any articles subject to tax, which are not owned or possessed by or under the care or control of any person within such district, and of which no list has been transmitted to the district director, as required by law or by regulations prescribed pursuant to law, the district director, or other authorized internal revenue officer or employee, shall enter the premises where such articles are situated, shall make such inspection of the articles as may be necessary, and shall make lists of the same according to the forms prescribed. Such lists, being subscribed by the district director or other authorized internal revenue officer or employee, shall be sufficient lists of such articles for all purposes.

INFORMATION RETURNS

Information Concerning Persons Subject to Special Provisions

§ 301.6031(a)-1 Return of partnership income.

For provisions relating to the requirement of returns of partnership income, see § 1.6031(a)-1 of this chapter.

[T.D. 8841, 64 FR 61502, Nov. 12, 1999]

§ 301.6032-1 Returns of banks with respect to common trust funds.

For provisions relating to requirement of returns of banks with respect to common trust funds, see § 1.6032-1 of this chapter (Income Tax Regulations).

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§ 301.6033-1 Returns by exempt organizations.

For provisions relating to the requirement of returns by exempt organizations, see § 1.6033-1 of this chapter (Income Tax Regulations).

§ 301.6033-4T Required use of magnetic media for returns by organizations required to file returns under section 6033 (temporary).

(a) *Returns by organizations required to file returns under section 6033 on magnetic media.* An organization required to file a return under section 6033 on Form 990, "Return of Organization Exempt from Income Tax," or Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation," must file its Form 990 or 990-PF on magnetic media if the organization is required by the Internal Revenue Code or regulations to file at least 250 returns during the calendar year ending with or within its taxable year, was required to file its Form 990 or Form 990-PF under section 6033 for the preceding taxable year, and has been in existence for at least one calendar year prior to the due date (excluding extensions) of its Form 990 or Form 990-PF. Returns filed on magnetic media must be made in accordance with applicable revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an organization required to file a return under section 6033 fails to file an information return on magnetic media when required to do so by this section, the organization is deemed to have failed to file the return. (See section 6652 for the addition to tax for failure to file a return.) In

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