

4, 1976, 90 Stat. 1834; Pub. L. 97-248, title III, §340(a), Sept. 3, 1982, 96 Stat. 633, related to information returns of officers, directors, and shareholders of foreign personal holding companies, prior to repeal by Pub. L. 108-357, title IV, §413(c)(26), (d)(1), Oct. 22, 2004, 118 Stat. 1509, 1510, applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end.

§ 6036. Notice of qualification as executor or receiver

Every receiver, trustee in a case under title 11 of the United States Code, assignee for benefit of creditors, or other like fiduciary, and every executor (as defined in section 2203), shall give notice of his qualification as such to the Secretary in such manner and at such time as may be required by regulations of the Secretary. The Secretary may be regulation provide such exemptions from the requirements of this section as the Secretary deems proper.

(Aug. 16, 1954, ch. 736, 68A Stat. 744; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 96-589, §6(i)(6), Dec. 24, 1980, 94 Stat. 3410.)

AMENDMENTS

1980—Pub. L. 96-589 substituted “trustee in a case under title 11 of the United States Code” for “trustee in bankruptcy”.

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not applicable to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as a note under section 108 of this title.

§ 6037. Return of S corporation

(a) In general

Every S corporation shall make a return for each taxable year, stating specifically the items of its gross income and the deductions allowable by subtitle A, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each such distribution, each shareholder’s pro rata share of each item of the corporation for the taxable year, and such other information, for the purpose of carrying out the provisions of subchapter S of chapter 1, as the Secretary may by forms and regulations prescribe. Any return filed pursuant to this section shall, for purposes of chapter 66 (relating to limitations), be treated as a return filed by the corporation under section 6012.

(b) Copies to shareholders

Each S corporation required to file a return under subsection (a) for any taxable year shall (on or before the day on which the return for such taxable year was filed) furnish to each person who is a shareholder at any time during such taxable year a copy of such information shown on such return as may be required by regulations.

(c) Shareholder’s return must be consistent with corporate return or Secretary notified of inconsistency

(1) In general

A shareholder of an S corporation shall, on such shareholder’s return, treat a subchapter S item in a manner which is consistent with the treatment of such item on the corporate return.

(2) Notification of inconsistent treatment

(A) In general

In the case of any subchapter S item, if—

(i)(I) the corporation has filed a return but the shareholder’s treatment on his return is (or may be) inconsistent with the treatment of the item on the corporate return, or

(II) the corporation has not filed a return, and

(ii) the shareholder files with the Secretary a statement identifying the inconsistency,

paragraph (1) shall not apply to such item.

(B) Shareholder receiving incorrect information

A shareholder shall be treated as having complied with clause (ii) of subparagraph (A) with respect to a subchapter S item if the shareholder—

(i) demonstrates to the satisfaction of the Secretary that the treatment of the subchapter S item on the shareholder’s return is consistent with the treatment of the item on the schedule furnished to the shareholder by the corporation, and

(ii) elects to have this paragraph apply with respect to that item.

(3) Effect of failure to notify

In any case—

(A) described in subparagraph (A)(i)(I) of paragraph (2), and

(B) in which the shareholder does not comply with subparagraph (A)(ii) of paragraph (2),

any adjustment required to make the treatment of the items by such shareholder consistent with the treatment of the items on the corporate return shall be treated as arising out of mathematical or clerical errors and assessed according to section 6213(b)(1). Paragraph (2) of section 6213(b) shall not apply to any assessment referred to in the preceding sentence.

(4) Subchapter S item

For purposes of this subsection, the term “subchapter S item” means any item of an S corporation to the extent that regulations prescribed by the Secretary provide that, for purposes of this subtitle, such item is more appropriately determined at the corporation level than at the shareholder level.

(5) Addition to tax for failure to comply with section

For addition to tax in the case of a shareholder’s negligence in connection with, or disregard of, the requirements of this section, see part II of subchapter A of chapter 68.

(Added Pub. L. 85-866, title I, § 64(c), Sept. 2, 1958, 72 Stat. 1656; amended Pub. L. 94-455, title XIX, § 1906(a)(3), (b)(13)(A), Oct. 4, 1976, 90 Stat. 1824, 1834; Pub. L. 97-354, § 5(a)(39)(A), Oct. 19, 1982, 96 Stat. 1696; Pub. L. 98-369, div. A, title VII, § 714(q)(2), July 18, 1984, 98 Stat. 965; Pub. L. 104-188, title I, § 1307(c)(2), Aug. 20, 1996, 110 Stat. 1781.)

PRIOR PROVISIONS

A prior section 6037 was renumbered section 6040 of this title.

AMENDMENTS

1996—Subsec. (c). Pub. L. 104-188 added subsec. (c).

1984—Pub. L. 98-369 designated existing provisions as subsec. (a) and added subsec. (a) heading and subsec. (b).

1982—Pub. L. 97-354 substituted “S corporation” for “electing small business corporation” in section catchline, substituted “Every S corporation” for “Every electing small business corporation (as defined in section 1371(b))”, and substituted “each shareholder’s pro rata share of each item of the corporation for the taxable year, and such other information” for “and such other information”.

1976—Pub. L. 94-455 substituted “section 1371(b)” for “section 1371(a)(2)” and struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1996, see section 1317(a) of Pub. L. 104-188, set out as a note under section 641 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1984, see section 714(q)(5) of Pub. L. 98-369, set out as an Effective Date note under section 6034A of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-354 applicable to taxable years beginning after Dec. 31, 1982, see section 6(a) of Pub. L. 97-354, set out as an Effective Date note under section 1361 of this title.

EFFECTIVE DATE

Section applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 64(e) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 172 of this title.

§ 6038. Information reporting with respect to certain foreign corporations and partnerships

(a) Requirement

(1) In general

Every United States person shall furnish, with respect to any foreign business entity which such person controls, such information as the Secretary may prescribe relating to—

(A) the name, the principal place of business, and the nature of business of such entity, and the country under whose laws such entity is incorporated (or organized in the case of a partnership);

(B) in the case of a foreign corporation, its post-1986 undistributed earnings (as defined in section 902(c));

(C) a balance sheet for such entity listing assets, liabilities, and capital;

(D) transactions between such entity and—

(i) such person,

(ii) any corporation or partnership which such person controls, and

(iii) any United States person owning, at the time the transaction takes place—

(I) in the case of a foreign corporation, 10 percent or more of the value of any class of stock outstanding of such corporation, and

(II) in the case of a foreign partnership, at least a 10-percent interest in such partnership; and

(E)(i) in the case of a foreign corporation, a description of the various classes of stock outstanding, and a list showing the name and address of, and number of shares held by, each United States person who is a shareholder of record owning at any time during the annual accounting period 5 percent or more in value of any class of stock outstanding of such foreign corporation, and

(ii) information comparable to the information described in clause (i) in the case of a foreign partnership.

The Secretary may also require the furnishing of any other information which is similar or related in nature to that specified in the preceding sentence or which the Secretary determines to be appropriate to carry out the provisions of this title.

(2) Period for which information is to be furnished, etc.

The information required under paragraph (1) shall be furnished for the annual accounting period of the foreign business entity ending with or within the United States person’s taxable year. The information so required shall be furnished at such time and in such manner as the Secretary shall prescribe.

(3) Limitation

No information shall be required to be furnished under this subsection with respect to any foreign business entity for any annual accounting period unless the Secretary has prescribed the furnishing of such information on or before the first day of such annual accounting period.

(4) Information required from certain shareholders in certain cases

If any foreign corporation is treated as a controlled foreign corporation for any purpose under subpart F of part III of subchapter N of chapter 1, the Secretary may require any United States person treated as a United States shareholder of such corporation for any purpose under subpart F to furnish the information required under paragraph (1).

(5) Information required from 10-percent partner of controlled foreign partnership

In the case of a foreign partnership which is controlled by United States persons holding at least 10-percent interests (but not by any one United States person), the Secretary may require each United States person who holds a 10-percent interest in such partnership to furnish information relating to such partnership, including information relating to such partner’s ownership interests in the partnership