

**(c) Definitions and special rules**

For purposes of this section—

**(1) United States real property interest**

The term “United States real property interest” has the meaning given to such term by section 897(c).

**(2) Foreign person**

The term “foreign person” means any person who is not a United States person.

**(3) Attribution of ownership**

For purposes of subsection (b)(2)—

**(A) Interests held by partnerships, etc.**

United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

**(B) Interests held by family members**

United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

**(4) Time and manner of filing return**

All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

**(d) Special rule for United States interest and Virgin Islands interest**

A nonresident alien individual or foreign corporation subject to tax under section 897(a) (and any person required to withhold tax under section 1445) shall pay any tax and file any return required by this title—

(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).

(Added Pub. L. 96-499, title XI, §1123(a), Dec. 5, 1980, 94 Stat. 2687; amended Pub. L. 97-34, title VIII, §831(a)(3), (e), Aug. 13, 1981, 95 Stat. 352, 354; Pub. L. 98-369, div. A, title I, §129(b)(1), July 18, 1984, 98 Stat. 659; Pub. L. 99-514, title XVIII, §1810(f)(7), Oct. 22, 1986, 100 Stat. 2828.)

## AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 inserted “(and any person required to withhold tax under section 1445)” after “section 897(a)”.

1984—Pub. L. 98-369 amended section generally, inserting in section catchline “foreign persons holding direct investments in” and substituting in text provisions concerning returns with respect to foreign persons holding direct investments in United States real property for provisions concerning returns with respect to United States real property interests.

1981—Subsec. (b)(4)(C). Pub. L. 97-34, §831(e), substituted “For purposes of determining whether an entity to which this subsection applies has a substantial investor in United States real property, the assets of

any person shall include the person’s pro rata share of the United States real property interest held by any corporation (whether domestic or foreign) if the person’s pro rata share of the United States real property interests exceeded \$50,000” for “The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property”.

Subsec. (f). Pub. L. 97-34, §831(a)(3), added subsec. (f).

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

## EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §129(c)(2), July 18, 1984, 98 Stat. 660, provided that: “The amendments made by subsection (b) [amending this section] shall apply to calendar year 1980 and subsequent calendar years.”

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to dispositions after June 18, 1980, in taxable years ending after such date, see section 831(i) of Pub. L. 97-34, set out as a note under section 897 of this title.

## EFFECTIVE DATE

Section applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as a note under section 897 of this title.

**§ 6039D. Returns and records with respect to certain fringe benefit plans****(a) In general**

Every employer maintaining a specified fringe benefit plan during any year for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

- (1) the number of employees of the employer,
- (2) the number of employees of the employer eligible to participate under the plan,
- (3) the number of employees participating under the plan,
- (4) the total cost of the plan during the year,
- (5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged, and
- (6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3).

**(b) Recordkeeping requirement**

Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

**(c) Additional information when required by the Secretary**

Any employer—

- (1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and

(2) who is required by the Secretary to file an additional return for such year, shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe. The Secretary may require returns under this subsection only from a representative group of employers.

**(d) Definitions and special rules**

For purposes of this section—

**(1) Specified fringe benefit plan**

The term “specified fringe benefit plan” means any plan under section 79, 105, 106, 125, 127, 129, or 137.

**(2) Applicable exclusion**

The term “applicable exclusion” means, with respect to any specified fringe benefit plan, the section specified under paragraph (1) under which benefits under such plan are excludable from gross income.

**(3) Special rule for multiemployer plans**

In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer).

(Added Pub. L. 98-611, §1(d)(1), Oct. 31, 1984, 98 Stat. 3176; amended Pub. L. 99-514, title XI, §1151(h), title XVIII, §1879(d)(1), Oct. 22, 1986, 100 Stat. 2507, 2906; Pub. L. 100-647, title I, §1011B(a)(24), title III, §3021(a)(15)(A), Nov. 10, 1988, 102 Stat. 3486, 3631; Pub. L. 101-508, title XI, §11704(a)(24), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 105-34, title XVI, §1601(h)(2)(D)(iii), Aug. 5, 1997, 111 Stat. 1092; Pub. L. 113-295, div. A, title II, §221(a)(19)(B)(vii), (108), Dec. 19, 2014, 128 Stat. 4040, 4053.)

**CODIFICATION**

Another section 6039D, added Pub. L. 98-612, §1(b)(1), Oct. 31, 1984, 98 Stat. 3180, also related to returns and records with respect to certain fringe benefits, prior to repeal by Pub. L. 99-514, title XVIII, §1879(d)(2), Oct. 22, 1986, 100 Stat. 2906, effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such repeal relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

**AMENDMENTS**

2014—Subsec. (a). Pub. L. 113-295, §221(a)(108), struck out “beginning after December 31, 1984,” after “during any year” in introductory provisions.

Subsec. (d)(1). Pub. L. 113-295, §221(a)(19)(B)(vii), struck out “120,” after “106.”

1997—Subsec. (d)(1). Pub. L. 105-34 substituted “129, or 137” for “or 129”.

1990—Subsec. (d)(3). Pub. L. 101-508 substituted “the employer.” for “the employer”.

1988—Subsec. (c). Pub. L. 100-647, §1011B(a)(24), amended directory language of Pub. L. 99-514, §1151(h)(3), see 1986 Amendment note below.

Subsec. (d). Pub. L. 100-647, §3021(a)(15)(A)(ii), inserted “and special rules” after “Definitions” in heading.

Subsec. (d)(3). Pub. L. 100-647, §3021(a)(15)(A)(i), added par. (3).

1986—Subsec. (a)(6). Pub. L. 99-514, §1151(h)(2), added par. (6).

Subsec. (c). Pub. L. 99-514, §1151(h)(3), as amended by Pub. L. 100-647, §1011B(a)(24), inserted at end “The Secretary may require returns under this subsection only from a representative group of employers.”

Subsec. (d). Pub. L. 99-514, §1151(h)(1), amended subsec. (d) generally. Prior to amendment, par. (1) defined a specified fringe benefit plan as (A) any qualified group legal services plan (as defined in section 120), (B) any cafeteria plan (as defined in section 125), and (C) any educational assistance plan (as defined in section 127), and par. (2) defined “applicable exclusion” as meaning (A) section 120 in the case of a qualified legal group services plan, (B) section 125 in the case of a cafeteria plan, and (C) section 127 in the case of an educational assistance plan.

Pub. L. 99-514, §1879(d)(1), in amending subsec. (d) generally, added subpars. (1)(A) and (2)(A). Former subpars. (1)(A) and (B) and (2)(A) and (B) were redesignated as subpars. (1)(B) and (C) and (2)(B) and (C), respectively.

**EFFECTIVE DATE OF 2014 AMENDMENT**

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by section 1011B(a)(24) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Pub. L. 100-647, title III, §3021(a)(15)(B), Nov. 10, 1988, 102 Stat. 3631, provided that: “The amendments made by this paragraph [amending this section] shall apply to years beginning after 1984.”

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by section 1151(h) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1879(d)(1) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

**EFFECTIVE DATE**

Section effective Jan. 1, 1985, see section 1(g)(2) of Pub. L. 98-611, set out as an Effective Date of 1984 Amendment note under section 127 of this title.

**NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990**

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

**PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989**

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [ §§1101-1147 and 1171-1177 ] or title XVIII [ §§1800-1899A ] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the

first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

### § 6039E. Information concerning resident status

#### (a) General rule

Notwithstanding any other provision of law, any individual who—

- (1) applies for a United States passport (or a renewal thereof), or
- (2) applies to be lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws,

shall include with any such application a statement which includes the information described in subsection (b).

#### (b) Information to be provided

Information required under subsection (a) shall include—

- (1) the taxpayer's TIN (if any),
- (2) in the case of a passport applicant, any foreign country in which such individual is residing,
- (3) in the case of an individual seeking permanent residence, information with respect to whether such individual is required to file a return of the tax imposed by chapter 1 for such individual's most recent 3 taxable years, and
- (4) such other information as the Secretary may prescribe.

#### (c) Penalty

Any individual failing to provide a statement required under subsection (a) shall be subject to a penalty equal to \$500 for each such failure, unless it is shown that such failure is due to reasonable cause and not to willful neglect.

#### (d) Information to be provided to Secretary

Notwithstanding any other provision of law, any agency of the United States which collects (or is required to collect) the statement under subsection (a) shall—

- (1) provide any such statement to the Secretary, and
- (2) provide to the Secretary the name (and any other identifying information) of any individual refusing to comply with the provisions of subsection (a).

Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence).

#### (e) Exemption

The Secretary may by regulations exempt any class of individuals from the requirements of this section if he determines that applying this section to such individuals is not necessary to carry out the purposes of this section.

(Added Pub. L. 99-514, title XII, §1234(a)(1), Oct. 22, 1986, 100 Stat. 2565; amended Pub. L. 100-647, title I, §1012(o), Nov. 10, 1988, 102 Stat. 3515.)

#### REFERENCES IN TEXT

Section 245A of the Immigration and Nationality Act, referred to in subsec. (d), is classified to section 1255a of Title 8, Aliens and Nationality.

The date of the enactment of this sentence, referred to in subsec. (d), is the date of enactment of Pub. L. 100-647, which was approved Nov. 10, 1988.

#### AMENDMENTS

1988—Subsec. (d). Pub. L. 100-647 inserted sentence at end relating to disclosure of information subject to section 245A of the Immigration and Nationality Act.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE

Pub. L. 99-514, title XII, §1234(a)(3), Oct. 22, 1986, 100 Stat. 2566, provided that: "The amendments made by this subsection [enacting this section] shall apply to applications submitted after December 31, 1987 (or, if earlier, the effective date which shall not be earlier than January 1, 1987) of the initial regulations issued under section 6039E of the Internal Revenue Code of 1986 as added by this subsection."

### § 6039F. Notice of large gifts received from foreign persons

#### (a) In general

If the value of the aggregate foreign gifts received by a United States person (other than an organization described in section 501(c) and exempt from tax under section 501(a)) during any taxable year exceeds \$10,000, such United States person shall furnish (at such time and in such manner as the Secretary shall prescribe) such information as the Secretary may prescribe regarding each foreign gift received during such year.

#### (b) Foreign gift

For purposes of this section, the term "foreign gift" means any amount received from a person other than a United States person which the recipient treats as a gift or bequest. Such term shall not include any qualified transfer (within the meaning of section 2503(e)(2)) or any distribution properly disclosed in a return under section 6048(c).

#### (c) Penalty for failure to file information

##### (1) In general

If a United States person fails to furnish the information required by subsection (a) with respect to any foreign gift within the time prescribed therefor (including extensions)—

(A) the tax consequences of the receipt of such gift shall be determined by the Secretary, and

(B) such United States person shall pay (upon notice and demand by the Secretary and in the same manner as tax) an amount equal to 5 percent of the amount of such foreign gift for each month for which the failure continues (not to exceed 25 percent of such amount in the aggregate).

##### (2) Reasonable cause exception

Paragraph (1) shall not apply to any failure to report a foreign gift if the United States person shows that the failure is due to reasonable cause and not due to willful neglect.

#### (d) Cost-of-living adjustment

In the case of any taxable year beginning after December 31, 1996, the \$10,000 amount under sub-