Reg. Section 1.6041-1(a)(1)(iv)

Return of information as to payments of $ 600 or more.

(a) General rule.

(1) Information returns required –

(i) Payments required to be reported. Except as otherwise provided in §§ 1.6041-3 and 1.6041-4, every person engaged in a trade or business shall make an information return for each calendar year with respect to payments it makes during the calendar year in the course of its trade or business to another person of fixed or determinable income described in paragraph (a)(1)(i) (A) or (B) of this section. For purposes of the regulations under this section, the person described in this paragraph (a)(1)(i) is a payor.

(A) Salaries, wages, commissions, fees, and other forms of compensation for services rendered aggregating $ 600 or more.

(B) Interest (including original issue discount), rents, royalties, annuities, pensions, and other gains, profits, and income aggregating $ 600 or more.

(ii) Information returns required under other provisions of the Internal Revenue Code. The payments described in paragraphs (a)(1)(i)(A) and (B) of this section shall not include any payments of amounts with respect to which an information return is required by, or may be required under authority of, section 6042(a) (relating to dividends), section 6043(a)(2) (relating to distributions in liquidation), section 6044(a) (relating to patronage dividends), section 6045 (relating to brokers' transactions with customers and certain other transactions), sections 6049(a)(1) and (2) (relating to interest), section 6050N(a) (relating to royalties), or section 6050P(a) or (b) (relating to cancellation of indebtedness). For information returns required under section 6045(f) (relating to payments to attorneys), see special rules in §§ 1.6041-1(a)(1)(iii) and 1.6045-5(c)(4). For payment card transactions (as described in § 1.6050W-1(b)) and third party network transactions (as defined in § 1.6050W-1(c)) required to be reported on information returns required under section 6050W (relating to payment card and third party network transactions), see special rules in § 1.6041-1(a)(1)(iv).

(iii) Information returns required under section 6045(f) on or after January 1, 2007. For payments made on or after January 1, 2007 to which section 6045(f) (relating to payments to attorneys) applies, the following rules apply. Not withstanding the provisions of paragraph (a)(1)(ii) of this section, payments to an attorney that are described in paragraph (a)(1)(i) of this section but which otherwise would be

reportable under section 6045(f) are reported under section 6041 and this section and not section 6045(f). This exception applies only if the payments are reportable with respect to the same payee under both sections. Thus, a person who, in the course of a trade or business, pays $ 600 of taxable damages to a claimant by paying that amount to the claimant's attorney is required to file an information return under section 6041 with respect to the claimant, as well as another information return under section 6045(f) with respect to the claimant's attorney. For provisions relating to information reporting for payments to attorneys, see § 1.6045-5.

(iv) Information returns required under section 6050W for calendar years beginning after December 31, 2010. For payments made by payment card (as defined in § 1.6050W-1(b)(3)) or through a third party payment network (as defined in § 1.6050W-1(c)(3)) after December 31, 2010, that are required to be reported on an information return under section 6050W (relating to payment card and third party network transactions), the following rule applies. Transactions that are described in paragraph (a)(1)(ii) of this section that otherwise would be subject to reporting under both sections 6041 and 6050W are reported under section 6050W and not section 6041. For provisions relating to information reporting for payment card and third party network transactions, see § 1.6050W-1. Solely for purposes of this paragraph, the de minimis threshold for third party network transactions in § 1.6050W-1(c)(4) is disregarded in determining whether the transaction is subject to reporting under section 6050W.

(v) Examples. The provisions of paragraph (a)(1)(iv) of this section are illustrated by the following examples:

Example 1. Restaurant owner A, in the course of business, pays $ 600 of fixed or determinable income to B, a repairman, by credit card. B is one of a network of unrelated persons that has agreed to accept A's credit card as payment under an agreement that provides standards and mechanisms for settling the transactions between a merchant acquiring bank and the persons who accept the cards. Merchant acquiring bank Y is responsible for making the payment to B. Under paragraph (a)(1)(iv) of this section, A, as payor, is not required to file an information return under section 6041 with respect to the transaction because Y, as the payment settlement entity for the payment card transaction, is required to file an information return under section 6050W.

Example 2. Restaurant owner A, in the course of business, pays $ 600 of fixed or determinable income to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (a)(1)(iv) of this section, A, as payor, is not required to file an information return under section 6041 with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether A is eligible for relief from reporting under section 6041, the de minimis threshold for third party network transactions in § 1.6050W-1(c)(4) is disregarded.

(2) Prescribed form. The return required by subparagraph (1) of this paragraph shall be made on Forms 1096 and 1099 except that (i) the return with respect to distributions to beneficiaries of a trust or of an estate shall be made on Form 1041, and (ii) the return with respect to certain payments of compensation to an employee by his employer shall

be made on Forms W-3 and W-2 under the provisions of § 1.6041-2 (relating to return of information as to payments to employees). Where Form 1099 is required to be filed under this section, a separate Form 1099 shall be furnished for each person to whom payments described in subdivision (i), (ii), or (iii) of subparagraph (1) of this paragraph are made. For time and place for filing Forms 1096 and 1099, see § 1.6041-6. For the requirement to submit the information required by Form 1099 on magnetic media for payments after December 31, 1983, see section 6011(e) and § 301.6011-2 of this chapter (Procedure and Administration Regulations).

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