

Internal Revenue Code Section 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 beginning after December 31, 1984, 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, 120, 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).