

does not file a completed Form 5471 by December 14, 2008, in addition to the penalties under paragraphs (k)(1) and (k)(2) of this section, A will also be subject to the penalties for continued failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section.

Example 4. The facts are the same as in *Example 3* except A submits the written statement to the Director before a notice of failure to furnish information is mailed to A. The notice is mailed to A on September 7, 2008. Under these facts, the time prescribed for furnishing information under paragraph (i) of this section is September 15, 2008, and the 90-day period after mailing of notice of failure under paragraphs (k)(1)(ii) and (k)(2)(iv)(A) of this section begins on that same date.

(1) *Other persons excepted from filing.* For tax years of foreign corporations ending on or after December 29, 1999, any person required to furnish information under this section with respect to a foreign corporation does not have to furnish that information if the following conditions are met—

(1) Such person does not own a direct or indirect interest in the foreign corporation; and

(2) Such person is required to furnish information solely by reason of attribution of stock ownership from a non-resident alien(s) under paragraph (c) of this section.

(m) *Effective/applicability dates.* Except as otherwise provided, this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006. Paragraphs (k)(1) and (k)(5) *Examples 3* and *4* of this section apply June 21, 2006. Paragraph (d) of this section applies to taxable years ending after April 9, 2008.

[T.D. 8040, 50 FR 30163, July 24, 1985, as amended by T.D. 8573, 59 FR 64302, Dec. 14, 1994; T.D. 8733, 62 FR 53385, Oct. 14, 1997; T.D. 8850, 64 FR 72550, Dec. 28, 1999; T.D. 9194, 70 FR 18946, Apr. 11, 2005; T.D. 9268, 71 FR 35525, June 21, 2006; T.D. 9338, 72 FR 38475, July 13, 2007; T.D. 9391, 73 FR 19376, Apr. 9, 2008; T.D. 9650, 78 FR 79611, Dec. 31, 2013]

§ 1.6038-2T Information returns required of United States persons with respect to annual accounting periods of certain foreign corporations (temporary).

(a) through (j)(2). [Reserved] For further guidance, see § 1.6038(a) through (j)(2).

(3) *Statement required.* Any United States person required to furnish information under this section with his return who does not do so by reason of the provisions of paragraph (j)(1) of this section shall file a statement with his income tax return indicating that such liability has been (or will be) satisfied and identifying the return with which the information was or will be filed and the place of filing.

(k) through (l). [Reserved] For further guidance, see § 1.6038(k) through (l).

(m) *Effective/applicability date.* Except as otherwise provided, this section applies with respect to information for annual accounting periods beginning on or after June 21, 2006. Paragraphs (k)(1) and (k)(5) *Examples 3* and *4* of this section apply June 21, 2006. Paragraph (d) of this section applies to taxable years ending after April 9, 2008. Paragraph (j)(3) of this section applies to returns filed on or after December 31, 2013.

(n) *Expiration date.* Paragraph (j)(3) of this section expires on or before December 30, 2016.

[T.D. 9650, 78 FR 79611, Dec. 31, 2013]

§ 1.6038-3 Information returns required of certain United States persons with respect to controlled foreign partnerships (CFPs).

(a) *Persons required to make return—(1) Controlling fifty-percent partners.* The term *controlling fifty-percent partner* means a United States person that controlled (as defined in paragraph (b)(1) of this section) the foreign partnership at any time during the partnership's tax year (as defined in paragraph (b)(8) of this section). Except as provided in paragraph (c), (d), or (e) of this section, for each tax year of a foreign partnership during which the partnership has one or more controlling fifty-percent partners, each controlling fifty-percent partner must complete and file Form 8865, "Return of U.S. Persons With Respect to Certain Foreign Partnerships," containing the information described in paragraph (g) of this section.

(2) *Controlling ten-percent partners.* If at any point during a foreign partnership's tax year (as defined in paragraph (b)(8) of this section) a United States person owned a ten-percent or greater