

§ 301.6058-1 Information required in connection with certain plans of deferred compensation.

(a) *Reporting of information*—(1) *Annual return.* For each funded plan of deferred compensation an annual return must be filed with the Internal Revenue Service. The annual return of the plan is the appropriate Annual Return/Report of Employee Benefit Plan (Form 5500 series) as determined under these forms. The annual period for the annual return of the plan shall be either the plan year or the taxable year of the employer maintaining the plan as determined under these forms. These forms are hereinafter referred to as the “forms prescribed by section 6058(a).”

(2) *Plans subject to requirements.* For purposes of this section, the term “funded plan of deferred compensation” means each pension, annuity, stock bonus, profit-sharing, or other funded plan of deferred compensation described in part 1 of subchapter D of chapter 1. Accordingly, the term includes qualified plans under sections 401(a), 403(a), and 405(a); individual retirement accounts and annuities described in sections 408(a) and 408(b); and custodial accounts under section 403(b)(7). The term also includes: funded plans of deferred compensation which are not qualified plans; funded governmental plans and church plans, whether or not qualified (See sections 414(d) and 414(e)); and plans maintained outside the United States primarily for nonresident aliens (as described in subsection (b)(4) of section 4 of subtitle A of title I of the Employee Retirement Income Security Act of 1974; (88 Stat. 840)). The term does not include annuity contracts described in section 403(b)(1) or individual retirement accounts (an individual participant or surviving beneficiary in such account must file under paragraph (d)(2) of this section) and bonds described in sections 408(c) and 409.

(3) *Required information.* The information required to be furnished on the forms prescribed by section 6058(a) shall include such information concerning the qualification of the plan, the financial condition of the trust, fund, or custodial or fiduciary account which is a part of the plan, and the operation of the plan as shall be required

by the forms, applicable accompanying schedules and related instructions applicable to the annual period.

(4) *Time of filing.* The forms prescribed by section 6058(a) shall be filed in the manner and at the time as required by the forms and related instructions applicable to the annual period.

(b) *Who must file*—(1) *In general.* The annual return required to be filed under section 6058(a) and paragraph (a) of this section for the annual period shall be filed by either the employer maintaining the plan or the plan administrator (as defined in section 414(g)) of the plan for that annual period. Whether the employer or plan administrator files shall be determined under the forms prescribed by section 6058(a) and related instructions applicable to the annual period. Nothing in these forms shall preclude an employer from filing the return on behalf of the plan administrator, or the plan administrator from filing on behalf of the employer.

(2) *Definition of employer.* For purposes of subparagraph (1) of this paragraph, the term “employer” includes a sole proprietor and a partnership.

(c) *Other rules applicable to annual returns*—(1) *Extensions of time for filing.* For rules relating to the extension of time for filing, see section 6081 and the regulations thereunder and the instructions on the forms prescribed by section 6058(a).

(2) *Amended filing.* Any form prescribed by this section may be filed as an amendment to a form previously filed under this section with respect to the same annual period pursuant to the instructions for such forms.

(3) *Additional information.* In addition to the information otherwise required to be furnished by this section, the district director may require any further information that is considered necessary to determine allowable deductions under section 404, qualification under section 401, or the financial condition and operation of the plan.

(4) *Records.* Records substantiating all data and information required by this section to be filed must be kept at all times available for inspection by internal revenue officers at the principal

office or place of business of the employer or plan administrator.

(5) *Relief from filing.* Notwithstanding paragraph (a) of this section, the Commissioner may, in his discretion, relieve an employer, or plan administrator, from reporting information on the forms prescribed by section 6058(a). This discretion includes the ability to relieve an employer, or plan administrator, from filing the applicable form.

(d) *Special rules for individual retirement arrangements*—(1) *Application.* This paragraph, in lieu of paragraph (a) of this section, applies to an individual retirement account described in section 408(a) and an individual retirement annuity described in section 408(b), including such accounts and annuities for which a deduction is allowable under section 220 (spousal individual retirement arrangements).

(2) *General rule.* For each taxable year beginning after December 31, 1974, every individual who during such taxable year—

(i) Establishes or maintains an individual retirement account described in section 408(a) (including an individual who is a participant in an individual retirement account described in section 408(c)).

(ii) Purchases or maintains an individual retirement annuity described in section 408(b), or

(iii) Is a surviving beneficiary with respect to an account or annuity referred to in this subparagraph which is in existence during such taxable year, shall file Form 5329 (or any other form designated by the Commissioner for this purpose), as an attachment to or part of the Form 1040 filed by such individual for such taxable year, setting forth in full the information required by that form and the accompanying instructions.

(3) *Special information returns.* If an individual described in subparagraph (2) of this paragraph is not required to file a Form 1040 for such taxable year, such individual shall file a Form 5329 (or any other designated form) with the Internal Revenue Service by the 15th day of the 4th month following the close of such individual's taxable year setting forth in full the information required by that form and the accompanying instructions.

(4) *Relief from filing.* The Commissioner may, in his discretion, relieve an individual from filing the form prescribed by this paragraph.

(5) *Retirement bonds.* An individual who purchases, holds, or maintains a retirement bond described in section 409 may be required to file a return under other provisions of the Code.

(e) *Actuarial statement in case of mergers, etc.* For requirements with respect to the filing of actuarial statements in the case of a merger, consolidation, or transfer of assets or liabilities, see section 6058(b) and section 414(l) and the regulations thereunder.

(f) *Effective dates*—(1) *Section 6058 (a) requirements.* The rules with respect to annual returns required under section 6058(a) (the rules in this section, other than paragraph (e) thereof) are effective for plan years beginning after September 2, 1974.

(2) *Section 6058(b) requirements.* The requirements of section 6058(b) relating to mergers, etc., and paragraph (e) of this section are effective on September 2, 1974, with respect to events described in section 6058(b) occurring on or after such date.

[T.D. 7551, 43 FR 29292, July 7, 1978]

§ 301.6059-1 Periodic report of actuary.

(a) *In general.* The actuarial report described in this section must be filed on behalf on a defined benefit plan to which the minimum funding standards of section 412 apply. The actuarial report must be filed by the plan administrator (within the meaning of section 414(g)) on Schedule B as an attachment to the annual Return/Report of Employee Benefit Plan (Form 5500 series). The instructions accompanying the Form 5500 series prescribe the place and date for filing Schedule B.

(b) *Plan years for which report required.* In the case of a plan in existence on January 1, 1974, Schedule B must be filed for the first plan year beginning after December 31, 1975, for which the minimum funding standards apply to the plan, and for each plan year thereafter for which the Schedule must be filed under the instructions accompanying the Schedule and the Form 5500 series. In the case of a plan not in existence on January 1, 1974,