

file 10 paper Forms 1040 (U.S. Individual Income Tax Return) in 2012, based upon the requests that she has received from some of her clients. Because the total number of individual income tax returns B reasonably expects to file in 2012 (fifteen) exceeds 10, B is a specified tax return preparer for calendar year 2012, and B must electronically file all individual income tax returns that B prepares and files in 2012 that are not otherwise excluded from the electronic filing requirement.

Example 5. Firm X consists of two tax return preparers, Tax Return Preparer C who owns Firm X, and Tax Return Preparer D who is employed by C in Firm X. Based upon the firm's experience over the past three years, C and D reasonably expect to file nine and ten individual income tax returns for compensation, respectively, in 2012. Both C and D must electronically file the individual income tax returns that they prepare in 2012, unless the returns are otherwise excluded from the electronic filing requirement, because they are members of the same firm and the aggregated total of individual income tax returns that they reasonably expect to file in 2012 (nineteen), exceeds 10 individual income tax returns.

(f) *Additional guidance.* The IRS may implement the requirements of this section through additional guidance, including by revenue procedures, notices, publications, forms and instructions, including those issued electronically.

(g) *Effective/applicability date.* This section is effective on March 30, 2011, and applicable to individual income tax returns filed after December 31, 2010.

[T.D. 9518, 76 FR 17528, Mar. 30, 2011]

§ 301.6011(g)-1 Disclosure by taxable party to the tax-exempt entity.

(a) *Requirement of disclosure—(1) In general.* Except as provided in paragraph (d)(2) of this section, any taxable party (as defined in paragraph (c) of this section) to a prohibited tax shelter transaction (as defined in section 4965(e) and § 53.4965-3 of this chapter) must disclose by statement to each tax-exempt entity (as defined in section 4965(c) and § 53.4965-2 of this chapter) that the taxable party knows or has reason to know is a party to such transaction (as defined in paragraph (b) of this section) that the transaction is a prohibited tax shelter transaction.

(2) *Determining whether a taxable party knows or has reason to know.* Whether a taxable party knows or has reason to

know that a tax-exempt entity is a party to a prohibited tax shelter transaction is based on all the facts and circumstances. If the taxable party knows or has reason to know that a prohibited tax shelter transaction involves a tax-exempt, tax indifferent or tax-favored entity, relevant factors for determining whether the taxable party knows or has reason to know that a specific tax-exempt entity is a party to the transaction include—

(i) The extent of the efforts made to determine whether a tax-exempt entity is facilitating the transaction by reason of its tax-exempt, tax indifferent or tax-favored status (or is identified in published guidance, by type, class or role, as a party to the transaction); and

(ii) If a tax-exempt entity is facilitating the transaction by reason of its tax-exempt, tax indifferent or tax-favored status (or is identified in published guidance, by type, class or role, as a party to the transaction), the extent of the efforts made to determine the identity of the tax-exempt entity.

(b) *Definition of tax-exempt party to a prohibited tax shelter transaction.* For purposes of section 6011(g), a tax-exempt entity is a party to a prohibited tax shelter transaction if the entity is defined as such under § 53.4965-4 of this chapter.

(c) *Definition of taxable party—(1) In general.* For purposes of this section, the term *taxable party* means—

(i) A person who has entered into and participates or expects to participate in the transaction under §§ 1.6011-4(c)(3)(i)(A), (B), or (C), 20.6011-4, 25.6011-4, 31.6011-4, 53.6011-4, 54.6011-4, or 56.6011-4 of this chapter; or

(ii) A person who is designated as a taxable party by the Secretary in published guidance.

(2) *Special rules—(i) Certain listed transactions.* If a transaction that was otherwise not a prohibited tax shelter transaction becomes a listed transaction after the filing of a person's tax return (including an amended return) reflecting either tax consequences or a tax strategy described in the published guidance listing the transaction (or a tax benefit derived from tax consequences or a tax strategy described in the published guidance listing the transaction), the person is a taxable

party beginning on the date the transaction is described as a listed transaction in published guidance.

(ii) *Persons designated as non-parties.* Published guidance may identify which persons, by type, class or role, will not be treated as a party to a prohibited tax shelter transaction for purposes of section 6011(g).

(d) *Time for providing disclosure statement—(1) In general.* A taxable party to a prohibited tax shelter transaction must make the disclosure required by this section to each tax-exempt entity that the taxable party knows or has reason to know is a party to the transaction within 60 days after the last to occur of—

(i) The date the person becomes a taxable party to the transaction within the meaning of paragraph (c) of this section;

(ii) The date the taxable party knows or has reason to know that the tax-exempt entity is a party to the transaction within the meaning of paragraph (b) of this section; or

(iii) July 6, 2010.

(2) *Termination of a disclosure obligation.* A person shall not be required to provide the disclosure otherwise required by this section if the person does not know or have reason to know that the tax-exempt entity is a party to the transaction within the meaning of paragraph (b) of this section on or before the first date on which the transaction is required to be disclosed by the person under §§ 1.6011-4, 20.6011-4, 25.6011-4, 31.6011-4, 53.6011-4, 54.6011-4, or 56.6011-4 of this chapter.

(3) Disclosure is not required with respect to any prohibited tax shelter transaction entered into by a tax-exempt entity on or before May 17, 2006.

(e) *Frequency of disclosure.* One disclosure statement is required per tax-exempt entity per transaction. See paragraph (h) of this section for rules relating to designation agreements.

(f) *Form and content of disclosure statement.* The statement disclosing to the tax-exempt entity that the transaction is a prohibited tax shelter transaction must be a written statement that—

(1) Identifies the type of prohibited tax shelter transaction (including the published guidance citation for a listed transaction); and

(2) States that the tax-exempt entity's involvement in the transaction may subject either it or its entity manager(s) or both to excise taxes under section 4965 and to disclosure obligations under section 6033(a) of the Internal Revenue Code.

(g) *To whom disclosure is made.* The disclosure statement must be provided—

(1) In the case of a non-plan entity as defined in § 53.4965-2(b) of this chapter, to—

(i) Any entity manager of the tax-exempt entity with authority or responsibility similar to that exercised by an officer, director or trustee of an organization; or

(ii) If a person described in paragraph (g)(1)(i) of this section is not known, to the primary contact on the transaction.

(2) In the case of a plan entity as defined in § 53.4965-2(c) of this chapter, including a fully self-directed qualified plan, IRA, or other savings arrangement, to any entity manager of the plan entity who approved or otherwise caused the entity to become a party to the prohibited tax shelter transaction.

(h) *Designation agreements.* If more than one taxable party is required to disclose a prohibited tax shelter transaction under this section, the taxable parties may designate by written agreement a single taxable party to disclose the transaction. The transaction must then be disclosed in accordance with this section. The designation of one taxable party to disclose the transaction does not relieve the other taxable parties of their obligation to disclose the transaction to a tax-exempt entity that is a party to the transaction in accordance with this section, if the designated taxable party fails to disclose the transaction to the tax-exempt entity in a timely manner.

(i) *Penalty for failure to provide disclosure statement.* See section 6707A for the penalty applicable to the failure to disclose a prohibited tax shelter transaction in accordance with this section.

(j) *Effective date/applicability date.* This section will apply with respect to transactions entered into by a tax-exempt entity after May 17, 2006.

[T.D. 9492, 75 FR 38709, July 6, 2010]

Internal Revenue Service, Treasury

§ 301.6020-1

Income Tax Returns

§ 301.6012-1 Persons required to make returns of income.

For provisions with respect to persons required to make returns of income, see §§ 1.6012-1 to 1.6012-4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6013-1 Joint returns of income tax by husband and wife.

For provisions with respect to joint returns of income tax by husband and wife, see §§ 1.6013-1 to 1.6013-7, inclusive, of this chapter (Income Tax Regulations).

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7670, 45 FR 6932, Jan. 31, 1980]

§ 301.6014-1 Income tax return—tax not computed by taxpayer.

For provisions relating to the election not to show on an income tax return the amount of tax due in connection therewith, see §§ 1.6014-1 and 1.6014-2 of this chapter (Income Tax Regulations).

[T.D. 7102, 36 FR 5498, Mar. 24, 1971]

§ 301.6015-1 Declaration of estimated income tax by individuals.

For provisions relating to requirements of declarations of estimated income tax by individuals, see §§ 1.6015 (a)-1 through 1.6015 (j)-1 of this chapter (Income Tax Regulations).

[T.D. 7427, 41 FR 34033, Aug. 12, 1976]

§ 301.6016-1 Declarations of estimated income tax by corporations.

For provisions concerning the requirement of declarations of estimated income tax by corporations, see §§ 1.6016-1 to 1.6016-4, inclusive, of this chapter (Income Tax Regulations).

§ 301.6017-1 Self-employment tax returns.

For provisions relating to the requirement of self-employment tax returns, see § 1.6017-1 of this chapter (Income Tax Regulations).

Estate and Gift Tax Returns

§ 301.6018-1 Estate tax returns.

For provisions relating to requirement of estate tax returns, see §§ 20.6018-1 to 20.6018-4, inclusive, of this chapter (Estate Tax Regulations).

§ 301.6019-1 Gift tax returns.

For provisions relating to requirement of gift tax returns, see §§ 25.6019-1 to 25.6019-4, inclusive, of this chapter (Gift Tax Regulations).

Miscellaneous Provisions

§ 301.6020-1 Returns prepared or executed by the Commissioner or other Internal Revenue Officers.

(a) *Preparation of returns*—(1) *In general.* If any person required by the Internal Revenue Code or by the regulations to make a return fails to make such return, it may be prepared by the Commissioner or other authorized Internal Revenue Officer or employee provided such person consents to disclose all information necessary for the preparation of such return. The return upon being signed by the person required to make it shall be received by the Commissioner as the return of such person.

(2) *Responsibility of person for whom return is prepared.* A person for whom a return is prepared in accordance with paragraph (a)(1) of this section shall for all legal purposes remain responsible for the correctness of the return to the same extent as if the return had been prepared by him.

(b) *Execution of returns*—(1) *In general.* If any person required by the Internal Revenue Code or by the regulations to make a return (other than a declaration of estimated tax required under section 6654 or 6655) fails to make such return at the time prescribed therefore, or makes, willfully or otherwise, a false, fraudulent or frivolous return, the Commissioner or other authorized Internal Revenue Officer or employee shall make such return from his own knowledge and from such information as he can obtain through testimony or otherwise. The Commissioner or other authorized Internal Revenue Officer or employee may make the return by gathering information and making