

taxpayer identification number of the debtor or other person whose assets are controlled.

(c) In the case of a court proceeding:

(1) The name and location of the court in which the proceedings are pending,

(2) The date on which such proceedings were instituted,

(3) The number under which such proceedings are docketed, and

(4) When possible, the date, time, and place of any hearing, meeting of creditors, or other scheduled action with respect to such proceedings.

(ii) *Assignment for benefit of creditors.* The written notice required under subparagraph (3) of this paragraph shall contain:

(a) The name and address of, and the date the asset or assets were assigned to, the assignee,

(b) The name, address, and, for notice filed after December 21, 1972, the taxpayer identification number of the debtor whose assets were assigned.

(c) A brief description of the assets assigned,

(d) An explanation of the action expected to be taken with respect to such assets, and

(e) When possible, the date, time, and place of any hearing, meeting of creditors, sale, or other scheduled action with respect to such assets.

(iii) The notice required by this section shall be sent to the attention of the Chief, Special Procedures Staff, of the district office to which it is required to be sent.

(b) *Executors, administrators, and persons in possession of property of decedent.* For provisions relating to the requirement of filing, by an executor, administrator, or person in possession of property of a decedent, of a preliminary notice in the case of the estate of a decedent dying before January 1, 1971, see § 20.6036-1 of this chapter (Estate Tax Regulations).

(c) *Notice of fiduciary relationship.* When a notice is required under § 301.6903-1 of a person acting in a fiduciary capacity and is also required of such person under this section, notice given in accordance with the provisions of this section shall be considered as complying with both sections.

(d) *Suspension of period on assessment.* For suspension of the running of the period of limitations on the making of assessments from the date a proceeding is instituted to a date 30 days after receipt of notice from a fiduciary in any proceeding under the Bankruptcy Act or from a receiver in any other court proceeding, see section 6872 and § 301.6872-1.

(e) *Applicability.* Except as provided in paragraph (a)(1)(ii) of this section, the provisions of this section shall apply to those persons referred to in this section whose appointments, authorizations, or assignments occur on or after the date of publication of these regulations in the FEDERAL REGISTER as a Treasury decision.

(f) *Cross references.* (1) For criminal penalty for willful failure to supply information, see section 7203.

(2) For criminal penalties for willfully making false or fraudulent statements, see sections 7206 and 7207.

(3) For time for performance of acts where the last day falls on a Saturday, Sunday, or legal holiday, see section 7503 and § 301.7503-1.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7218, 37 FR 24748, Nov. 21, 1972; T.D. 7238, 37 FR 28738, Dec. 29, 1972; T.D. 8172, 53 FR 2600, Jan. 29, 1988]

#### **§ 301.6037-1 Return of electing small business corporation.**

For provisions relating to requirement of return of electing small business corporation, see § 1.6037-1 of this chapter (Income Tax Regulations).

#### **§ 301.6037-2 Required use of magnetic media for returns of electing small business corporation.**

(a) *Returns of electing small business corporation required on magnetic media.* An electing small business corporation required to file an electing small business return on Form 1120S, "U.S. Income Tax Return for an S Corporation," under § 1.6037-1 of this chapter must file its Form 1120S on magnetic media if the small business corporation is required by the Internal Revenue Code and regulations to file at least 250 returns during the calendar year ending with or within its taxable year. Returns filed on magnetic media must be made in accordance with applicable

revenue procedures, publications, forms, or instructions. In prescribing revenue procedures, publications, forms, or instructions, the Commissioner may direct the type of magnetic media filing. (See § 601.601(d)(2) of this chapter).

(b) *Waiver.* The Commissioner may grant waivers of the requirements of this section in cases of undue hardship. A request for waiver must be made in accordance with applicable revenue procedures or publications. The waiver also will be subject to the terms and conditions regarding the method of filing as may be prescribed by the Commissioner.

(c) *Failure to file.* If an electing small business corporation fails to file a return on magnetic media when required to do so by this section, the corporation is deemed to have failed to file the return. (See section 6651 for the addition to tax for failure to file a return.) In determining whether there is reasonable cause for failure to file the return, § 301.6651-1(c) and rules similar to the rules in § 301.6724-1(c)(3) (undue economic hardship related to filing information returns on magnetic media) will apply.

(d) *Meaning of terms.* The following definitions apply for purposes of this section:

(1) *Magnetic media.* The term *magnetic media* means any magnetic media permitted under applicable regulations, revenue procedures, or publications. These generally include magnetic tape, tape cartridge, and diskette, as well as other media, such as electronic filing, specifically permitted under the applicable regulations, procedures, publications, forms, or instructions. (See § 601.601(d)(2) of this chapter).

(2) *Corporation.* The term *corporation* means a corporation as defined in section 7701(a)(3).

(3) *Electing small business corporation return.* The term *electing small business corporation return* means a Form 1120S, “U.S. Income Tax Return for an S Corporation,” along with all other related forms, schedules, and statements that are required to be attached to the Form 1120S, and all members of the Form 1120S series of returns, including amended and superseding returns.

(4) *Electing small business corporation.* The term *electing small business corporation* means an S corporation as defined in section 1361(a)(1).

(5) *Determination of 250 returns.* For purposes of this section, a corporation is required to file at least 250 returns if, during the calendar year ending with or within the taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns. In the case of a short year return, a corporation is required to file at least 250 returns if, during the calendar year which includes the short taxable year of the corporation, the corporation is required to file at least 250 returns of any type, including information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns, and excise tax returns.

(e) *Example.* The following example illustrates the provisions of paragraph (d)(5) of this section. In the example, the corporation is a calendar year taxpayer:

*Example.* In 2007, Corporation S, an electing small business corporation with assets in excess of \$10 million, is required to file one Form 1120S, “U.S. Corporation Income Tax Return,” 100 Forms W-2, “Wage and Tax Statement,” 146 Forms 1099-DIV, “Dividends and Distributions,” one Form 940, “Employer’s Annual Federal Unemployment (FUTA) Tax Return,” and four Forms 941, “Employer’s Quarterly Federal Tax Return.” Because S is required to file 252 returns during the calendar year, S is required to file its 2007 Form 1120S electronically.

(f) *Effective/applicability dates.* This section applies to returns of electing small business corporations that report total assets at the end of the corporation’s taxable year that equal or exceed \$10 million on Schedule L of Form 1120S for taxable years ending on or after December 31, 2006, except for the application of the short year rules in paragraph (d)(5) of this section, which is applicable for taxable years ending on or after November 13, 2007.

[T.D. 9363, 72 FR 63812, Nov. 13, 2007]