

§ 1.6046-2

26 CFR Ch. I (4-1-14 Edition)

(h) *Penalties for violating section 6046A.* For penalties for violating section 6046A, see sections 6679 and 7203.

(i) *Statute of limitations.* For exceptions to the limitations on assessment in the event of a failure to provide information under section 6046A, see section 6501(c)(8).

(j) *Effective date.* This section applies to reportable events occurring after December 31, 1999. No reporting under section 6046A is required for reportable events occurring on or before December 31, 1999.

[T.D. 8851, 64 FR 72556, Dec. 28, 1999]

§ 1.6046-2 Returns as to foreign corporations which are created or organized, or reorganized, on or after September 15, 1960, and before January 1, 1963.

(a) *Requirement of returns.* In the case of any foreign corporation which is created or organized, or reorganized, on or after September 15, 1960, and before January 1, 1963:

(1) Each United States citizen or resident who was an officer or director of such corporation at any time within 60 days after such creation or organization, or reorganization, and

(2) Each United States shareholder of such corporation by or for whom, at any time within 60 days after such creation or organization, or reorganization, 5 percent or more in value of such corporation's then outstanding stock was owned directly or indirectly (including, in the case of an individual stock owned by members of his family), shall file a return on Form 959 (Rev. Oct. 1960), United States Information Return With Respect to the Creation or Organization, or Reorganization, of a Foreign Corporation.

(b) *Information required to be shown on return.* The return required by section 6046, prior to its amendment by section 20(b) of the Revenue Act of 1962, and this section shall set forth the following information:

(1) The name and address of the person (or persons) filing the return, and an indication that he is a United States shareholder, officer, or director;

(2) The name and business address of the foreign corporation;

(3) The name of the country under the laws of which the foreign corpora-

tion was created or organized, or reorganized;

(4) The name and address of the foreign corporation's statutory or resident agent in the country of incorporation;

(5) The date of the foreign corporation's creation or organization, or reorganization;

(6) A statement of the manner in which the creation or organization, or reorganization, of the foreign corporation was effected;

(7) A complete statement of the reasons for, and the purposes sought to be accomplished by, the creation or organization, or reorganization, of the foreign corporation;

(8) A statement showing the classes and kinds of assets transferred to the foreign corporation in connection with its creation or organization, or reorganization, including a list completely describing each asset or group of assets, its value, date of transfer, and the name and address of person (or persons) owning such asset or group immediately prior to the transfer;

(9) A statement showing the assets transferred and the securities issued by the foreign corporation in its creation or organization or reorganization, as well as the name and address of each person to whom such a transfer or issuance was made;

(10) A statement specifying the amount and type of any indebtedness due from the foreign corporation to each of its shareholders and the name of each such shareholder;

(11) The names and addresses of the shareholders of the foreign corporation at the time of its creation or organization or reorganization, and the classes of stock and number of shares held by each;

(12) The names and addresses of subscribers to the stock of the foreign corporation, and the number of shares subscribed to by each; and

(13) The name and address of the person (or persons) having custody of the books of account and records of the foreign corporation, and the location of such books and records if different from such address.

(c) *Time and place for filing return.* The return required by section 6046, prior to its amendment by section 20(b)

of the Revenue Act of 1962, and this section shall be filed with the Internal Revenue Service Center designated in the instructions of the applicable form. Such return shall be filed on or before the 90th day after the date such foreign corporation is created or organized, or reorganized.

[T.D. 6623, 27 FR 11882, Dec. 1, 1962, as amended by T.D. 7322, 39 FR 30932, Aug. 27, 1974]

§ 1.6046-3 Returns as to formation or reorganization of foreign corporations prior to September 15, 1960.

(a) *Requirement of returns.* Every attorney, accountant, fiduciary, bank, trust company, financial institution, or other person, who, on or before September 14, 1960, aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of any foreign corporation shall file an information return on Form 959 (as in use prior to the October 1960 revision). The return must be filed in every such case regardless of:

(1) The nature of the counsel or advice given, whether for or against the formation, organization, or reorganization of the foreign corporation, or the nature of the aid or assistance rendered, and

(2) The action taken upon the advice or counsel, that is, whether the foreign corporation is actually formed, organized or reorganized.

(b) *Special provisions*—(1) *Employers.* In the case of aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by a person in whole or in part through the medium of employees (including, in the case of a corporation, the officers thereof), the return made by the employer must set forth in detail the information required by this section including that which, as an incident to such employment, is within the possession or knowledge or under the control of such employees.

(2) *Employees.* The obligation of an employee (including, in the case of a corporation, the officers thereof) to file a return with respect to any aid, assistance, counsel, or advice in or with respect to the formation, organization, or reorganization of a foreign corporation, given as an incident to his em-

ployment, will be satisfied if a return as prescribed by this section is duly filed by the employer. Clerks, stenographers, and other employees rendering aid or assistance solely of a clerical or mechanical character in or with respect to the formation, organization, or reorganization of a foreign corporation are not required to file returns by reason of such services.

(3) *Partners.* In the case of aid, assistance, counsel, or advice in, or with respect to, the formation, organization, or reorganization of a foreign corporation given by one or more members of a partnership in the course of its business, the obligation of each such individual member to file a return will be satisfied if a return as prescribed by this section is duly filed by the partnership executed by all the members of the firm who gave any such aid, assistance, counsel, or advice. If, however, the partnership has been dissolved at the time the return is due, individual returns must be filed by each member of the former partnership who gave any such aid, assistance, counsel, or advice.

(4) *Return jointly made.* If two or more persons aid, assist, counsel, or advise in, or with respect to, the formation, organization, or reorganization of a particular foreign corporation, any two or more of such persons may, in lieu of filing several returns, jointly execute and file one return.

(5) *Separate return for each corporation.* If a person aids, assists, counsels, or advises in, or with respect to, the formation, organization, or reorganization of more than one foreign corporation, a separate return must be filed with respect to each foreign corporation.

(c) *Information required to be shown on return.* The return required by section 6046, prior to its amendment by section 7(a) of the Act of September 14, 1960, and this section shall set forth the following information to the extent the information is within the possession or knowledge, or under the control, of the person filing the return:

(1) The name and address of the person (or persons) to whom, and the person (or persons) for whom, or on whose behalf, the aid, assistance, counsel, or advice was given;