

## Internal Revenue Service, Treasury

## § 1.6001-1

for the Form 1042 pursuant to § 1.5000C-3(c)(1). Provided that Agency N properly withholds on the nonexempt portion as required under section 5000C and §§ 1.5000C-1 through 1.5000C-7 and that Company C's estimate of the nonexempt amount is the actual nonexempt amount, Company C does not have an additional tax liability or a U.S. tax return filing obligation as a result of receiving the payments.

*Example 5. Foreign contracting party liable for additional tax under Section 5000C not fully withheld upon due to errors on the Section 5000C Certificate.* (i) *Facts.* The facts are the same as in *Example 4*, except that the Section 5000C Certificate submitted to Agency N by Company C erroneously provides that the estimated nonexempt amount is \$1.5 million instead of \$3 million. As a result, Agency N only withholds \$15,000 (2 percent of the \$5 million payment multiplied by a fraction (the numerator of which is the estimated nonexempt amount stated on the Section 5000C Certificate, \$1.5 million, and the denominator of which is the estimated total contract price, or \$10 million)) on each payment made to Company C. Agency N neither discovered nor had reason to know that the information on the Section 5000C Certificate was incorrect or unreliable. After both payments have been made and after the filing due date for Form 1042 for 2015, Company C determines that the estimated nonexempt amount should have been stated as \$3 million on the Section 5000C Certificate.

(ii) *Analysis.* The tax imposed under section 5000C on Company C as a result of the receipt of specified Federal procurement payments is \$60,000 and this amount has not been fully satisfied by withholding by Agency N. Accordingly, Company C must remit additional tax of \$30,000 (\$60,000 tax liability less \$30,000 amounts already withheld by Agency N) and file its required return, a Form 1120-F, "U.S. Income Tax Return of a Foreign Corporation," for 2015 to report this tax liability, as required by § 1.5000C-4. Company C must explain its corrected allocation method in its Form 1120-F. Company C must also attach a copy of the Form 1042-S it received from Agency N to Form 1120-F.

*Example 6. Foreign contracting party submits revised Section 5000C Certificate due to change in circumstances.* (i) *Facts.* The facts are the same as in *Example 4*, except that, after the first payment, Company C changes its business so that all of the goods manufactured with respect to the second payment are manufactured in Country R. Prior to the second payment, Company C submits a revised Section 5000C Certificate indicating this change in circumstance pursuant to § 1.5000C-2(d)(6).

(ii) *Analysis.* Agency N withholds \$30,000 on the first payment made to Company C and does not withhold on the second payment. Company C does not have an additional tax

liability or a U.S. tax return filing obligation as a result of receiving the payments.

[T.D. 9782, 81 FR 55138, Aug. 18, 2016]

### § 1.5000C-7 Effective/applicability date.

Section 5000C applies to specified Federal procurement payments received pursuant to contracts entered into on and after January 2, 2011. Sections 1.5000C-1 through 1.5000C-7 apply on and after November 16, 2016. Contracting parties and acquiring agencies may rely upon the rules in the regulations before such date. If a foreign contracting party fully satisfies its tax and filing obligations under section 5000C with respect to any payments received in tax years ending before November 16, 2016 on or before the later of November 16, 2016 or the due date for the foreign person's income tax return for the year in which the payment was received in a manner consistent with the final regulations, penalties will not be asserted on the foreign contracting parties with respect to those payments or returns.

[T.D. 9782, 81 FR 55138, Aug. 18, 2016]

## RETURNS AND RECORDS

SOURCE: Sections 1.6001-1 through 1.6091-4 contained in T.D. 6500, 25 FR 12108, Nov. 26, 1960, unless otherwise noted.

### RECORDS, STATEMENTS, AND SPECIAL RETURNS

#### § 1.6001-1 Records.

(a) *In general.* Except as provided in paragraph (b) of this section, any person subject to tax under subtitle A of the Code (including a qualified State individual income tax which is treated pursuant to section 6361(a) as if it were imposed by chapter 1 of subtitle A), or any person required to file a return of information with respect to income, shall keep such permanent books of account or records, including inventories, as are sufficient to establish the amount of gross income, deductions, credits, or other matters required to be shown by such person in any return of such tax or information.

(b) *Farmers and wage-earners.* Individuals deriving gross income from the business of farming, and individuals

## § 1.6001-2

whose gross income includes salaries, wages, or similar compensation for personal services rendered, are required with respect to such income to keep such records as will enable the district director to determine the correct amount of income subject to the tax. It is not necessary, however, that with respect to such income individuals keep the books of account or records required by paragraph (a) of this section. For rules with respect to the records to be kept in substantiation of traveling and other business expenses of employees, see § 1.162-17.

(c) *Exempt organizations.* In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§ 1.6033-1 through 1.6033-3.

(d) *Notice by district director requiring returns statements, or the keeping of records.* The district director may require any person, by notice served upon him, to make such returns, render such statements, or keep such specific records as will enable the district director to determine whether or not such person is liable for tax under subtitle A of the Code, including qualified State individual income taxes, which are treated pursuant to section 6361(a) as if they were imposed by chapter 1 of subtitle A.

(e) *Retention of records.* The books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained so long as the contents thereof may become material in the administration of any internal revenue law.

[T.D. 6500, 25 FR 12108, Nov. 26, 1960, as amended by T.D. 7122, 36 FR 11025, June 8, 1971; T.D. 7577, 43 FR 59357, Dec. 20, 1978; T.D. 8308, 55 FR 35593, Aug. 31, 1990]

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### § 1.6001-2 Returns.

For rules relating to returns required to be made by every individual, estate, or trust which is liable for one or more qualified State individual income taxes, as defined in section 6362, for a taxable year, see paragraph (b) of § 301.6361-1 of this chapter (Regulations on procedure and Administration).

[T.D. 7577, 43 FR 59357, Dec. 20, 1978]

#### TAX RETURNS OR STATEMENTS

### § 1.6011-1 General requirement of return, statement, or list.

(a) *General rule.* Every person subject to any tax, or required to collect any tax, under Subtitle A of the Code, shall make such returns or statements as are required by the regulations in this chapter. The return or statement shall include therein the information required by the applicable regulations or forms.

(b) *Use of prescribed forms.* Copies of the prescribed return forms will so far as possible be furnished taxpayers by district directors. A taxpayer will not be excused from making a return, however, by the fact that no return form has been furnished to him. Taxpayers not supplied with the proper forms should make application therefor to the district director in ample time to have their returns prepared, verified, and filed on or before the due date with the internal revenue office where such returns are required to be filed. Each taxpayer should carefully prepare his return and set forth fully and clearly the information required to be included therein. Returns which have not been so prepared will not be accepted as meeting the requirements of the Code. In the absence of a prescribed form, a statement made by a taxpayer disclosing his gross income and the deductions therefrom may be accepted as a tentative return, and, if filed within the prescribed time, the statement so made will relieve the taxpayer from liability for the addition to tax imposed for the delinquent filing of the return, provided that without unnecessary delay such a tentative return is supplemented by a return made on the proper form.