

24, 1980, 94 Stat. 3466, related to returns of general stock ownership corporations.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 22, 1986, see section 1311(f) of Pub. L. 99-514, as amended, set out as an Effective Date; Transitional Rules note under section 141 of this title.

**§ 6039C. Returns with respect to foreign persons holding direct investments in United States real property interests**

**(a) General rule**

To the extent provided in regulations, any foreign person holding direct investments in United States real property interests for the calendar year shall make a return setting forth—

(1) the name and address of such person,

(2) a description of all United States real property interests held by such person at any time during the calendar year, and

(3) such other information as the Secretary may by regulations prescribe.

**(b) Definition of foreign persons holding direct investments in United States real property interests**

For purposes of this section, a foreign person shall be treated as holding direct investments in United States real property interests during any calendar year if—

(1) such person did not engage in a trade or business in the United States at any time during such calendar year, and

(2) the fair market value of the United States real property interests held directly by such person at any time during such year equals or exceeds \$50,000.

**(c) Definitions and special rules**

For purposes of this section—

**(1) United States real property interest**

The term “United States real property interest” has the meaning given to such term by section 897(c).

**(2) Foreign person**

The term “foreign person” means any person who is not a United States person.

**(3) Attribution of ownership**

For purposes of subsection (b)(2)—

**(A) Interests held by partnerships, etc.**

United States real property interests held by a partnership, trust, or estate shall be treated as owned proportionately by its partners or beneficiaries.

**(B) Interests held by family members**

United States real property interests held by the spouse or any minor child of an individual shall be treated as owned by such individual.

**(4) Time and manner of filing return**

All returns required to be made under this section shall be made at such time and in such manner as the Secretary shall by regulations prescribe.

**(d) Special rule for United States interest and Virgin Islands interest**

A nonresident alien individual or foreign corporation subject to tax under section 897(a) (and

any person required to withhold tax under section 1445) shall pay any tax and file any return required by this title—

(1) to the United States, in the case of any interest in real property located in the United States and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the United States) described in section 897(c)(1)(A)(ii), and

(2) to the Virgin Islands, in the case of any interest in real property located in the Virgin Islands and an interest (other than an interest solely as a creditor) in a domestic corporation (with respect to the Virgin Islands) described in section 897(c)(1)(A)(ii).

(Added Pub. L. 96-499, title XI, §1123(a), Dec. 5, 1980, 94 Stat. 2687; amended Pub. L. 97-34, title VIII, §831(a)(3), (e), Aug. 13, 1981, 95 Stat. 352, 354; Pub. L. 98-369, div. A, title I, §129(b)(1), July 18, 1984, 98 Stat. 659; Pub. L. 99-514, title XVIII, §1810(f)(7), Oct. 22, 1986, 100 Stat. 2828.)

AMENDMENTS

1986—Subsec. (d). Pub. L. 99-514 inserted “(and any person required to withhold tax under section 1445)” after “section 897(a)”.

1984—Pub. L. 98-369 amended section generally, inserting in section catchline “foreign persons holding direct investments in” and substituting in text provisions concerning returns with respect to foreign persons holding direct investments in United States real property for provisions concerning returns with respect to United States real property interests.

1981—Subsec. (b)(4)(C). Pub. L. 97-34, §831(e), substituted “For purposes of determining whether an entity to which this subsection applies has a substantial investor in United States real property, the assets of any person shall include the person’s pro rata share of the United States real property interest held by any corporation (whether domestic or foreign) if the person’s pro rata share of the United States real property interests exceeded \$50,000” for “The assets of any entity to which this subsection applies shall include its pro rata share of the United States real property interests held by any corporation in which the entity is a substantial investor in United States real property”.

Subsec. (f). Pub. L. 97-34, §831(a)(3), added subsec. (f).

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Section 129(c)(2) of Pub. L. 98-369 provided that: “The amendments made by subsection (b) [amending this section] shall apply to calendar year 1980 and subsequent calendar years.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to dispositions after June 18, 1980, in taxable years ending after such date, see section 831(i) of Pub. L. 97-34, set out as a note under section 897 of this title.

EFFECTIVE DATE

Section applicable to 1980 and subsequent calendar years, with 1980 being treated as beginning on June 19, 1980, and ending on Dec. 31, 1980, see section 1125(b) of Pub. L. 96-499, set out as a note under section 897 of this title.

**§ 6039D. Returns and records with respect to certain fringe benefit plans**

**(a) In general**

Every employer maintaining a specified fringe benefit plan during any year beginning after December 31, 1984, for any portion of which the applicable exclusion applies, shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) with respect to such plan showing for such year—

- (1) the number of employees of the employer,
- (2) the number of employees of the employer eligible to participate under the plan,
- (3) the number of employees participating under the plan,
- (4) the total cost of the plan during the year,
- (5) the name, address, and taxpayer identification number of the employer and the type of business in which the employer is engaged, and
- (6) the number of highly compensated employees among the employees described in paragraphs (1), (2), and (3).

**(b) Recordkeeping requirement**

Each employer maintaining a specified fringe benefit plan during any year shall keep such records as may be necessary for purposes of determining whether the requirements of the applicable exclusion are met.

**(c) Additional information when required by the Secretary**

Any employer—

- (1) who maintains a specified fringe benefit plan during any year for which a return is required under subsection (a), and
- (2) who is required by the Secretary to file an additional return for such year,

shall file such additional return. Such additional return shall be filed at such time and in such manner as the Secretary shall prescribe and shall contain such information as the Secretary shall prescribe. The Secretary may require returns under this subsection only from a representative group of employers.

**(d) Definitions and special rules**

For purposes of this section—

**(1) Specified fringe benefit plan**

The term “specified fringe benefit plan” means any plan under section 79, 105, 106, 120, 125, 127, 129, or 137.

**(2) Applicable exclusion**

The term “applicable exclusion” means, with respect to any specified fringe benefit plan, the section specified under paragraph (1) under which benefits under such plan are excludable from gross income.

**(3) Special rule for multiemployer plans**

In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer).

(Added Pub. L. 98-611, §1(d)(1), Oct. 31, 1984, 98 Stat. 3176; amended Pub. L. 99-514, title XI,

§1151(h), title XVIII, §1879(d)(1), Oct. 22, 1986, 100 Stat. 2507, 2906; Pub. L. 100-647, title I, §1011B(a)(24), title III, §3021(a)(15)(A), Nov. 10, 1988, 102 Stat. 3486, 3631; Pub. L. 101-508, title XI, §11704(a)(24), Nov. 5, 1990, 104 Stat. 1388-519; Pub. L. 105-34, title XVI, §1601(h)(2)(D)(iii), Aug. 5, 1997, 111 Stat. 1092.)

CODIFICATION

Another section 6039D, added Pub. L. 98-612, §1(b)(1), Oct. 31, 1984, 98 Stat. 3180, also related to returns and records with respect to certain fringe benefits, prior to repeal by Pub. L. 99-514, title XVIII, §1879(d)(2), Oct. 22, 1986, 100 Stat. 2906, effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such repeal relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

AMENDMENTS

1997—Subsec. (d)(1). Pub. L. 105-34 substituted “129, or 137” for “or 129”.

1990—Subsec. (d)(3). Pub. L. 101-508 substituted “the employer.” for “the employer”.

1988—Subsec. (c). Pub. L. 100-647, §1011B(a)(24), amended directory language of Pub. L. 99-514, §1151(h)(3), see 1986 Amendment note below.

Subsec. (d). Pub. L. 100-647, §3021(a)(15)(A)(ii), inserted “and special rules” after “Definitions” in heading.

Subsec. (d)(3). Pub. L. 100-647, §3021(a)(15)(A)(i), added par. (3).

1986—Subsec. (a)(6). Pub. L. 99-514, §1151(h)(2), added par. (6).

Subsec. (c). Pub. L. 99-514, §1151(h)(3), as amended by Pub. L. 100-647, §1011B(a)(24), inserted at end “The Secretary may require returns under this subsection only from a representative group of employers.”

Subsec. (d). Pub. L. 99-514, §1151(h)(1), amended subsec. (d) generally. Prior to amendment, par. (1) defined a specified fringe benefit plan as (A) any qualified group legal services plan (as defined in section 120), (B) any cafeteria plan (as defined in section 125), and (C) any educational assistance plan (as defined in section 127), and par. (2) defined “applicable exclusion” as meaning (A) section 120 in the case of a qualified legal group services plan, (B) section 125 in the case of a cafeteria plan, and (C) section 127 in the case of an educational assistance plan.

Pub. L. 99-514, §1879(d)(1), in amending subsec. (d) generally, added subpars. (1)(A) and (2)(A). Former subpars. (1)(A) and (B) and (2)(A) and (B) were redesignated as subpars. (1)(B) and (C) and (2)(B) and (C), respectively.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 effective as if included in the provisions of the Small Business Job Protection Act of 1996, Pub. L. 104-188, to which it relates, see section 1601(j) of Pub. L. 105-34, set out as a note under section 23 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 1011B(a)(24) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

Section 3021(a)(15)(B) of Pub. L. 100-647 provided that: “The amendments made by this paragraph [amending this section] shall apply to years beginning after 1984.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1151(h) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1988, with certain qualifications and exceptions, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.