

Part I. Rulings and Decisions Under the Internal Revenue Code of 1986

Section 6071.—Time for Filing Returns and Other Documents

26 CFR 31.6071(b): Electronically filed information returns.

T.D.8895

DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1, 31, and 301

Extension of Due Date for Electronically Filed Information Returns; Limitation of Failure to Pay Penalty for Individuals During Period of Installment Agreement

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations implementing section 6071(b) relating to the extension of the due date for certain electronically filed information returns. The final regulations also provide rules under section 6651(h) relating to a penalty reduction for certain individuals who have agreed with the IRS to make installment payments in satisfaction of their tax liability. The regulations relating to extension of filing dates affect payors required to file information returns after December 31, 1999. The regulations relating to penalty reduction affect individual taxpayers with installment agreements in effect during months beginning after December 31, 1999.

DATES: *Effective Date:* These regulations are effective August 18, 2000.

Applicability Date: The provisions of these regulations under section 6071(b) apply for returns required to be filed after December 31, 1999. The provisions of these regulations under section 6651(h) apply for determining the addition to tax for months beginning after December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Marilyn E. Brookens, (202) 622-4920 (for information relating to the extension of due dates under section 6071(b)); or Robert B. Taylor, (202) 622-4940 (for information relating to the reduction in the penalty under section 6651(h)) (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

This document contains amendments to the Income Tax Regulations, Employment Tax Regulations, and Procedure and Administration Regulations (26 CFR Parts 1, 31, and 301), and implements sections 6071(b) and 6651(h), which were added to the Internal Revenue Code (Code) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206 (112 Stat. 685, 724 (1998 Act)). Section 6071(b) was added to the Code by section 2002 of the 1998 Act and extends the due date for information returns required by chapter 61, subchapter A, part III, subparts B and C (sections 6041 through 6053) that are filed electronically. The information returns affected include the Form W-2 series, Form W-2G, the Form 1098 series, the Form 1099 series, and Form 8027. Under section 6071(b) such information returns are due on or before March 31 of the year following the calendar year to which the returns relate. Section 6071(b) applies to information returns required to be filed with the IRS or the Social Security Administration after December 31, 1999.

Section 6651(h) was added to the Code by section 3303 of the 1998 Act and provides that, for individuals, the failure to pay penalty is reduced from 0.5 percent per month to 0.25 percent per month during the period an installment agreement under section 6159 is in effect with regard to a timely filed return. Section 6651(h) applies to any Federal tax liability of an individual (including a liability under subtitle C) and is effective for determining the addition to tax for months beginning after December 31, 1999.

On January 27, 2000, a notice of proposed rulemaking (REG-105279-99, 2000-8 I.R.B. 707) under sections 6071(b) and 6651(h) was published in the **Federal Register** (65 F.R. 4396). Although written or electronic comments and requests for a public hearing were solicited, no comments were received and no public hearing was requested or held. The proposed regulations under sections 6071(b) and 6651(h) are adopted by this Treasury decision.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulations do not impose a collection of information on small entities, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of the regulations relating to the extension of due dates under section 6071(b) is Marilyn E. Brookens, Office of Associate Chief Counsel (Income Tax & Accounting). The principal author of the regulations relating to the reduction in the penalty under section 6651(h) is Robert B. Taylor, Office of Assistant Chief Counsel (Administrative Provisions and Judicial Practice). However, other personnel from the IRS and Treasury Department participated in their development.

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Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 31, and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.6041-2, paragraph (a)(3)(ii) is revised to read as follows:

§ 1.6041-2 Return of information as to payments to employees.

(a) * * *

(3) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under §31.6011(a)-4 or §31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under this paragraph (a) for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

Par. 3. In §1.6041-6, the first sentence is revised to read as follows:

§1.6041-6 Returns made on Forms 1096 and 1099 under section 6041; contents and time and place for filing.

Returns made under section 6041 on Forms 1096 and 1099 for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

Par. 4. In §1.6042-2, the first sentence of paragraph (c) is revised to read as follows:

§1.6042-2 Returns of information as to dividends paid in calendar years after 1962.

* * * * *

(c) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

Par. 5. In §1.6043-2, paragraph (a) is revised to read as follows:

§1.6043-2 Return of information respecting distributions in liquidation.

(a) Unless the distribution is one in respect of which information is required to be filed pursuant to §1.332-6(b), 1.368-3(a), or 1.1081-11, every corporation making any distribution of \$600 or more during a calendar year to any shareholder in liquidation of the whole or any part of its capital stock shall file a return of information on Forms 1096 and 1099,

giving all the information required by such form and by the regulations in this part. A separate Form 1099 must be prepared for each shareholder to whom such distribution was made, showing the name and address of such shareholder, the number and class of shares owned by him in liquidation of which such distribution was made, and the total amount distributed to him on each class of stock. If the amount distributed to such shareholder on any class of stock consisted in whole or in part of property other than money, the return on such form shall in addition show the amount of money distributed, if any, and shall list separately each class of property other than money distributed, giving a description of the property in each such class and a statement of its fair market value at the time of the distribution. Such forms, accompanied by transmittal Form 1096 showing the number of Forms 1099 filed therewith, shall be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which such distribution was made with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

* * * * *

Par. 6. In §1.6044-2, the first sentence of paragraph (d) is revised to read as follows:

§1.6044-2 Returns of information as to payments of patronage dividends with respect to patronage occurring in taxable years beginning after 1962.

* * * * *

(d) *Time and place for filing.* The return required under this section on Forms 1096 and 1099 for any calendar year shall be filed after September 30 of such year, but not before the payer's final payment for the year, and on or before February 28 (March 31 if filed electronically) of the following year, with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for such forms. * * *

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Par. 7. Section §1.6045-1 is amended by adding paragraph (r) to read as follows:

§1.6045-1 Returns of information of brokers and barter exchanges.

* * * * *

(r) *Electronic filing.* Notwithstanding the time prescribed for filing in paragraph (j) of this section, Forms 1096 and 1099 required under this section for reporting periods ending during a calendar year shall, if filed electronically, be filed after the last calendar day of the reporting period elected by the broker or barter exchange and on or before March 31 of the following calendar year.

Par. 8. In §1.6045-2, paragraph (g)(3) is revised to read as follows:

§1.6045-2 Furnishing statement required with respect to certain substitute payments.

* * * * *

(g) * * *

(3) *Time and place of filing.* The returns required under this paragraph (g) for any calendar year shall be filed after September 30 of such year, but not before the final substitute payment for the year is received by the broker, and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096.

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Par. 9. In §1.6045-4, the first sentence of paragraph (j) is revised to read as follows:

§1.6045-4 Information reporting on real estate transactions with dates of closing on or after January 1, 1991.

* * * * *

(j) *Time and place for filing.* A reporting person shall file the information returns required by this section with respect to a real estate transaction after December 31 of the calendar year that includes the date of closing (as determined under paragraph (h)(2)(ii) of this section) and on or before February 28 (March 31 if filed electronically) of the following calendar year. * * *

* * * * *

Par. 10. In §1.6047-1, the first sentence of paragraph (a)(6) is revised to read as follows:

§1.6047-1 Information to be furnished with regard to employee retirement plan covering an owner-employee.

(a) * * *

(6) *Time and place for filing.* The return required under this section for any calendar year shall be filed after the close of that year and on or before February 28 (March 31 if filed electronically) of the following year with any of the Internal Revenue Service Centers, the addresses of which are listed in the instructions for Form 1096. * * *

Par. 11. Section 1.6049-4 is amended by:

1. Revising the first sentence of paragraph (g)(1).

2. Revising the first sentence of paragraph (g)(2).

The revisions read as follows:

§1.6049-4 Return of information as to interest paid and original issue discount includible in gross income after December 31, 1982.

* * * * *

(g) * * * (1) *Annual return.* Except as provided in paragraph (g)(2) of this section, the returns required under this section for any calendar year for the payment of interest shall be filed after September 30 of such year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

(2) *Transactional return.* In the case of a return under paragraph (e) of this section, relating to returns on a transactional basis, such return shall be filed at any time but in no event later than February 28 (March 31 if filed electronically) of the year following the calendar year in which the interest was paid. * * *

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Par. 12. In §1.6049-7, the first sentence of paragraph (b)(2)(iv) is revised to read as follows:

§1.6049-7 Returns of information with respect to REMIC regular interests and collateralized debt obligations.

* * * * *

(b) * * *

(2) * * *

(iv) *Time and place for filing a return with respect to amounts includible as interest.* The returns required under this paragraph (b)(2) for any calendar year

must be filed after September 30 of that year, but not before the payor's final payment to the payee for the year, and on or before February 28 (March 31 if filed electronically) of the following year.

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Par. 13. In §1.6050A-1, paragraph (b) is revised to read as follows:

§1.6050A-1 Reporting requirements of certain fishing boat operators.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section on Form 1099-MISC shall be filed with the Internal Revenue Service Center, designated in the instructions for Form 1099-MISC, on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the relevant services were performed.

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Par. 14. In §1.6050D-1, paragraph (b) is revised to read as follows:

§1.6050D-1 Information returns relating to energy grants and financing.

* * * * *

(b) *Time and place for filing.* Returns required to be made under this section shall be filed with the Internal Revenue Service Center designated in the instructions for Form 6497 or 1099-G on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which the return is made.

Par. 15. In §1.6050E-1, the first sentence of paragraph (h) is revised to read as follows:

§1.6050E-1 Reporting of State and local income tax refunds.

* * * * *

(h) *Time and place for filing.* The returns required under this section for any calendar year shall be filed after September 30 of that calendar year, but not before the refund officer's final payment (or allowance of credit or offset) for the year, and on or before February 28 (March 31 if filed electronically) of the following year. * * *

* * * * *

Par. 16. In §1.6050H-2, the first and second sentences of paragraph (a)(4) are revised to read as follows:

§1.6050H-2 Time, form, and manner of reporting interest received on qualified mortgage.

(a) * * *

(4) *Time and place for filing return.* An interest recipient must file a return required by this paragraph (a) on or before February 28 (March 31 if filed electronically) of the year following the calendar year for which it receives the mortgage interest. If no interest is required to be reported for the calendar year, but a reimbursement of interest on a qualified mortgage is required to be reported for the calendar year, then a return required by this paragraph (a) must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the reimbursement was made. * * *

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Par. 17. In §1.6050J-1T, A-33 is revised to read as follows:

§1.6050J-1T Questions and answers concerning information returns relating to foreclosures and abandonments of security (temporary).

* * * * *

A-33: The return or returns must be filed on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the acquisition of an interest in the property occurs or in which the lender knows or has reason to know of the abandonment of the property.

* * * * *

Par. 18. In §1.6050P-1, paragraph (a)(4)(i) is revised to read as follows:

§1.6050P-1 Information reporting for discharges of indebtedness by certain financial entities.

(a) * * *

(4) * * * (i) *In general.* Except as provided in paragraph (a)(4)(ii) of this section, returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 1099-C on or before February 28 (March 31 if filed electronically) of the year following the calendar year in which the identifiable event occurs.

* * * * *

Par. 19. In §1.6052-1, paragraph (b)(1)(ii) is revised to read as follows:

§1.6052-1 Information returns regarding payment of wages in the form of group-term life insurance.

* * * * *

(b) * * * (1) * * *

(ii) *Exception.* In a case where an employer is not required to file Forms W-3 and W-2 under §31.6011(a)-4 or §31.6011(a)-5 of this chapter, returns on Forms W-3 and W-2 required under paragraph (a) of this section for any calendar year shall be filed on or before February 28 (March 31 if filed electronically) of the following year.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT THE SOURCE

Par. 20. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 21. In §31.3402(q)-1, the first sentence of paragraph (f)(1) is revised to read as follows:

§31.3402(q)-1 Extension of withholding to certain gambling winnings.

* * * * *

(f)(1) *In general.* Every person making payment of winnings for which a statement is required under paragraph (e) of this section shall file a return on Form W-2G with the Internal Revenue Service Center serving the district in which is located the principal place of business of the person making the return on or before February 28 (March 31 if filed electronically) of the calendar year following the calendar year in which the payment of winnings is made. * * *

* * * * *

Par. 22. In §31.6053-3, the first sentence of paragraph (a)(4) is revised to read as follows:

§31.6053-3 Reporting by certain large food or beverage establishments with respect to tips.

(a) * * *

(4) *Time and place for filing.* The information return required by this paragraph (a) shall be filed on or before the last day of February (March 31 if filed

electronically) of the year following the calendar year for which the return is made with the Internal Revenue Service Center specified by the Form 8027 or its instructions. * * *

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Par. 23. In §31.6071(a)-1, paragraph (a)(3)(i) is revised to read as follows:

§31.6071(a)-1 Time for filing returns and other documents.

(a) * * *

(3) * * * (i) *General rule.* Each information return in respect of wages as defined in the Federal Insurance Contributions Act or of income tax withheld from wages which is required to be made under §31.6051-2 shall be filed on or before the last day of February (March 31 if filed electronically) of the year following the calendar year for which it is made, except that, if a tax return under §31.6011(a)-5(a) is filed as a final return for a period ending prior to December 31, the information statement shall be filed on or before the last day of the second calendar month following the period for which the tax return is filed.

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PART 301—PROCEDURE AND ADMINISTRATION

Par. 24. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 25. Section 301.6651-1 is amended by:

1. Revising the last sentence in paragraph (a)(2).
2. Revising the second sentence in paragraph (a)(3).
3. Adding paragraph (a)(4).

The revisions and additions read as follows:

§301.6651-1 Failure to file tax return or to pay tax.

(a) * * *

(2) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount of tax shown on the return if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during

which the failure continues, but not to exceed 25 percent in the aggregate.

(3) * * * Except as provided in paragraph (a)(4) of this section, the amount to be added to the tax is 0.5 percent of the amount stated in the notice and demand if the failure is for not more than 1 month, with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not to exceed 25 percent in the aggregate. * * *

(4) *Reduction of failure to pay penalty during the period an installment agreement is in effect—(i) In general.* In the case of a return filed by an individual on or before the due date for the return (including extensions)—

(A) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(2) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax; and

(B) The amount added to tax for a month or fraction thereof is determined by using 0.25 percent instead of 0.5 percent under paragraph (a)(3) of this section if at any time during the month an installment agreement under section 6159 is in effect for the payment of such tax.

(ii) *Effective date.* This paragraph (a)(4) applies for purposes of determining additions to tax for months beginning after December 31, 1999.

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Robert E. Wenzel,
*Deputy Commissioner
of Internal Revenue.*

Approved August 1, 2000.

Jonathan Talisman,
*Acting Assistant Secretary
of the Treasury.*

(Filed by the Office of the Federal Register on August 17, 2000, 8:45 a.m., and published in the issue of the Federal Register for August 18, 2000, 65 F.R. 50405)