

SUPPLEMENTARY INFORMATION:

*Paperwork Reduction Act*

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-1449. Responses to this collection of information are required to implement the statutory requirements of section 6050I(g).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The time estimates for the reporting requirements contained in this regulation are reflected in the burden estimates for Form 8300.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, T:FP, Washington, DC 20224, and to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503.

Books and records relating to this collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Background*

This document provides final Income Tax Regulations (26 CFR parts 1 and 602) under section 6050I(g) of the Internal Revenue Code of 1986 (Code). This provision was added by section

20415 of the Violent Crime Control and Law Enforcement Act of 1994 (the Act)(Public Law 103-322).

On December 15, 1994, the IRS published in the Federal Register temporary regulations (TD 8572, 59 FR 64572 [1995-1 C.B. 200]) with a cross-reference to a notice of proposed rulemaking (IA-57-94, 59 FR 64635 [1995-1, C.B. 952]).

Written comments responding to the notice were received. No public hearing was requested or held. After consideration of all comments, the proposed regulations are adopted as revised by this Treasury decision, and the corresponding temporary regulations are removed.

*Explanation of Revisions and Summary of Comments*

Under the temporary and proposed regulations, reporting may be required when more than \$10,000 in cash is received as bail by a clerk of a Federal or State court. The temporary and proposed regulations provide that a clerk is the clerk's office or the office, department, division, branch, or unit of the court that is authorized to receive bail. One commentator suggested that the regulations clarify whether reporting under section 6050I(g) is required by a clerk if an entity that is not a part of the court receives bail. In some jurisdictions, for example, a sheriff receives bail. The final regulations provide that if someone other than a clerk receives bail on behalf of a clerk, the clerk is treated as receiving the bail. Thus, the clerk must make the return of information if the other requirements of section 6050I(g) are satisfied.

Under the temporary and proposed regulations, a statement must be sent to each payor of bail reporting certain information, including the "aggregate amount of reportable cash received during the calendar year by the clerk

**Section 6050I.—Returns Relating to Cash Received in Trade or Business, Etc.**

*26 CFR 1.6050I-1: Returns relating to cash in excess of \$10,000 received in a trade or business.*

T.D. 8652

**DEPARTMENT OF THE TREASURY  
Internal Revenue Service  
26 CFR Parts 1 and 602**

**Cash Reporting by Court Clerks**

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations concerning the information reporting requirements of Federal and State court clerks upon receipt of more than \$10,000 in cash as bail for any individual charged with a specified criminal offense. The final regulations reflect changes to the law made by the Violent Crime Control and Law Enforcement Act of 1994, and affect court clerks who receive more than \$10,000 in cash as bail.

EFFECTIVE DATE: These regulations are effective February 13, 1995.

FOR FURTHER INFORMATION CONTACT: Susie K. Bird, (202) 622-4960 (not a toll-free number).

who made the information return required by [section 6050I(g)] in all cash transactions relating to the payor of bail.” The temporary and proposed regulations reflect the statutory requirement in section 6050I(g)(5)(B) that clerks provide the aggregate amount of reportable cash. A commentator asked whether separately reported amounts satisfy this aggregate amount requirement. The final regulations clarify that the aggregate amount requirement can be satisfied either by sending a single written statement with an aggregate amount listed or by furnishing a copy of each Form 8300 relating to that payor of bail.

In addition, the final regulations clarify that, if multiple payments are made to satisfy bail reportable under this section and the initial payment does not exceed \$10,000, the initial payment and subsequent payments must be aggregated and the information return required by section 6050I(g) must be filed by the 15th day after receipt of the payment that causes the aggregate amount to exceed \$10,000. However, payments made to satisfy separate bail requirements are not required to be aggregated.

#### *Special Analyses*

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 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) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small businesses.

#### *Drafting Information*

The principal author of these regulations is Susie K. Bird, Office of Assistant Chief Counsel (Income Tax and Accounting). 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 and 602 are amended as follows:

#### PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for §1.6050I-2T and adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 \* \* \*  
Section 1.6050I-2 also issued under 26 U.S.C. 6050I. \* \* \*

#### **§§1.6050I-OT and 1.6050I-2T** **[Removed]**

Par. 2. Sections 1.6050I-0T and 1.6050I-2T are removed.

Par. 3. Sections 1.6050I-0 and 1.6050I-2 are added to read as follows:

#### *§1.6050I-0 Table of contents.*

This section lists the major captions that appear in §§1.6050I-1 and 1.6050I-2.

#### *§1.6050I-1 Returns relating to cash in excess of \$10,000 received in a trade or business.*

- (a) Reporting requirement.
  - (1) In general.
  - (2) Cash received for the account of another.
  - (3) Cash received by agents.
    - (i) General rule.
    - (ii) Exception.
    - (iii) Example.
- (b) Multiple payments.
  - (1) Initial payment in excess of \$10,000.
  - (2) Initial payment of \$10,000 or less.
  - (3) Subsequent payments.
  - (4) Example.
- (c) Meaning of terms.
  - (1) Cash.
    - (i) Amounts received prior to February 3, 1992.
    - (ii) Amounts received on or after February 3, 1992.
    - (iii) Designated reporting transaction.
    - (iv) Exception for certain loans.
    - (v) Exception for certain installment sales.

- (vi) Exception for certain down payment plans.
  - (vii) Examples.
  - (2) Consumer durable.
  - (3) Collectible.
  - (4) Travel or entertainment activity.
  - (5) Retail sale.
  - (6) Trade or business.
  - (7) Transaction.
  - (8) Recipient.
  - (d) Exceptions to the reporting requirements of section 6050I.
    - (1) Receipt of cash by certain financial institutions.
    - (2) Receipt of cash by certain casinos having gross annual gaming revenue in excess of \$1,000,000.
      - (i) In general.
      - (ii) Casinos exempt under 31 CFR 103.45(c).
      - (iii) Reporting of cash received in a nongaming business.
      - (iv) Example.
    - (3) Receipt of cash not in the course of the recipient’s trade or business.
    - (4) Receipt is made with respect to a foreign cash transaction.
      - (i) In general.
      - (ii) Example.
  - (e) Time, manner, and form of reporting.
    - (1) Time of reporting.
    - (2) Form of reporting.
    - (3) Manner of reporting.
      - (i) Where to file.
      - (ii) Verification.
      - (iii) Retention of returns.
  - (f) Requirement of furnishing statements.
    - (1) In general.
    - (2) Form of statement.
    - (3) When statement is to be furnished.
  - (g) Cross-reference to penalty provisions.
    - (1) Failure to file correct information return.
    - (2) Failure to furnish correct statement.
    - (3) Criminal penalties.
- §1.6050I-2 Returns relating to cash in excess of \$10,000 received as bail by court clerks.*
- (a) Reporting requirement.
  - (b) Meaning of terms.
  - (c) Time, form, and manner of reporting.

- (1) Time of reporting.
  - (i) In general.
  - (ii) Multiple payments.
- (2) Form of reporting.
- (3) Manner of reporting.
  - (i) Where to file.
  - (ii) Verification of identity.
- (d) Requirement to furnish statements.
  - (1) Information to Federal prosecutors.
    - (i) In general.
    - (ii) Form of statement.
  - (2) Information to payors of bail.
    - (i) In general.
    - (ii) Form of statement.
    - (iii) Aggregate amount.
- (e) Cross-reference to penalty provisions.
- (f) Effective date.

*§1.6050I-2 Returns relating to cash in excess of \$10,000 received as bail by court clerks.*

(a) *Reporting requirement.* Any clerk of a Federal or State court who receives more than \$10,000 in cash as bail for any individual charged with a specified criminal offense must make a return of information with respect to that cash receipt. For purposes of this section, a clerk is the clerk's office or the office, department, division, branch, or unit of the court that is authorized to receive bail. If someone other than a clerk receives bail on behalf of a clerk, the clerk is treated as receiving the bail for purposes of this paragraph (a).

(b) *Meaning of terms.* The following definitions apply for purposes of this section—

*Cash* means—

(1) The coin and currency of the United States, or of any other country, that circulate in and are customarily used and accepted as money in the country in which issued; and

(2) A cashier's check (by whatever name called, including treasurer's check and bank check), bank draft, traveler's check, or money order having a face amount of not more than \$10,000.

*Specified criminal offense* means—

(1) A Federal criminal offense involving a controlled substance (as defined in section 802 of title 21 of the United States Code), provided the offense is described in Part D of Subchapter I or Subchapter II of title 21 of the United States Code;

(2) Racketeering (as defined in section 1951, 1952, or 1955 of title 18 of the United States Code);

(3) Money laundering (as defined in section 1956 or 1957 of title 18 of the United States Code); and

(4) Any State criminal offense substantially similar to an offense described in this paragraph (b).

(c) *Time, form, and manner of reporting*—(1) *Time of reporting*—(i) *In general.* The information return required by this section must be filed with the Internal Revenue Service by the 15th day after the date the cash bail is received.

(ii) *Multiple payments.* If multiple payments are made to satisfy bail reportable under this section and the initial payment does not exceed \$10,000, the initial payment and subsequent payments must be aggregated and the information return required by this section must be filed with the Internal Revenue Service by the 15th day after receipt of the payment that causes the aggregate amount to exceed \$10,000. However, if payments are made to satisfy separate bail requirements, no aggregation is required. Thus, if in Month 1 a clerk receives \$6,000 in bail for an individual charged with a specified criminal offense and later, in Month 2, receives \$7,000 in bail for that same individual charged with another specified criminal offense, no aggregation is required.

(2) *Form of reporting.* The return of information required by paragraph (a) of this section must be made on Form 8300 and must contain the following information—

(i) The name, address, and taxpayer identification number (TIN) of the individual charged with the specified criminal offense;

(ii) The name, address, and TIN of each person posting the bail (payor of bail), other than a person posting bail who is licensed as a bail bondsman in the jurisdiction in which the bail is received;

(iii) The amount of cash received;

(iv) The date the cash was received; and

(v) Any other information required by Form 8300 or its instructions.

(3) *Manner of reporting*—(i) *Where to file.* Returns required by this section must be filed with the Internal Revenue Service office designated in the instructions for Form 8300. A copy of the in-

formation return required to be filed under this section must be retained for five years from the date of filing.

(ii) *Verification of identity.* A clerk required to make an information return under this section must, in accordance with §1.6050I-1(e)(3)(ii), verify the identity of each payor of bail listed in the return.

(d) *Requirement to furnish statements*—(1) *Information to Federal prosecutors*—(i) *In general.* A clerk required to make an information return under this section must furnish a written statement to the United States Attorney for the jurisdiction in which the individual charged with the specified crime resides and the United States Attorney for the jurisdiction in which the specified criminal offense occurred (applicable United States Attorney(s)). The written statement must be filed with the applicable United States Attorney(s) by the 15th day after the date the cash bail is received.

(ii) *Form of statement.* The written statement must include the information required by paragraph (c)(2) of this section. The requirement of this paragraph (d)(1)(ii) will be satisfied if the clerk provides to the applicable United States Attorney(s) a copy of the Form 8300 that is filed with the Internal Revenue Service pursuant to this section.

(2) *Information to payors of bail*—(i) *In general.* A clerk required to make an information return under this section must furnish a written statement to each payor of bail whose name is set forth in a return required by this section. A statement required under this paragraph (d)(2) must be furnished to a payor of bail on or before January 31 of the year following the calendar year in which the cash is received. A statement will be considered furnished to a payor of bail if it is mailed to the payor's last known address.

(ii) *Form of statement.* The statement required by this paragraph (d)(2) need not follow any particular format, but must contain the following information—

(A) The name and address of the clerk's office making the return;

(B) The aggregate amount of reportable cash received during the calendar year by the clerk who made the information return required by this section in all cash transactions relating to the payor of bail; and

(C) A legend stating that the information contained in the statement has been reported to the Internal Revenue Service and the applicable United States Attorney(s).

(iii) *Aggregate amount.* The requirement of furnishing the aggregate amount in paragraph (d)(2)(ii)(B) of this section will be satisfied if the clerk provides to the payor of bail either a single written statement listing the aggregate amount, or a copy of each Form 8300 relating to that payor of bail.

(e) *Cross-reference to penalty provisions.* See sections 6721 through 6724 for penalties relating to the failure to comply with the provisions of this section.

(f) *Effective date.* This section applies to cash received by court clerks on or after February 13, 1995.

## PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

### **§602.101 [Amended]**

Par. 5. In §602.101, paragraph(c) is amended by removing the entry “1.6050I–2T” from the table and adding the entry “1.6050I–2 ..... 1545–1449” in numerical order in the table.

Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved December 12, 1995.

Leslie Samuels,  
*Assistant Secretary of the Treasury.*

(Filed by the Office of the Federal Register on December 29, 1995, 8:45 a.m., and published in the issue of the Federal Register for January 2, 1996, 61 F.R. 6)