

Section 6041A.—Returns Regarding Payments of Remuneration for Services and Direct Sales

(Also: 6050M.)

26 CFR 1.6041A-1: Return of information as to payments of \$600 or more.

(Also: 1.6050M-1.)

Information reporting requirements.

This ruling provides guidance to federal agencies about the information reporting requirements under sections 6041A and 6050M of the Code for the payment of services.

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PURPOSE

This revenue ruling provides guidance to federal agencies about the information

reporting requirements under sections 6041A and 6050M of the Internal Revenue Code. This revenue ruling clarifies that sections 6041A and 6050M impose separate information reporting requirements and have different underlying purposes and that, in some cases, the required information may overlap.

ISSUE

When is a federal executive agency required to report under sections 6041A and 6050M?

FACTS

Agency X is a federal executive agency of the United States as defined by section 6050M(b), which is (1) any Executive agency (as defined in section 105 of title 5, United States Code) other than the General Accounting Office, (2) any military department (as defined in section 102 of such title), and (3) the United States Postal Service and the Postal Rate Commission of the United States. All payments are made during the same calendar year.

Situation 1. Agency X pays Corporation A for cleaning services. The contract between Agency X and Corporation A provides that the total payment for the services is \$30,000.

Situation 2. Agency X pays Corporation B for the purchase of computer equipment. The contract requires a total payment of \$25,000 for the computer equipment.

Situation 3. Agency X pays Corporation C for repairs to one of the agency's automobiles. The repairs include the replacement of parts. The agency pays \$1000 for the repairs of which \$700 is for services.

None of the situations described above fall within the exception under section 6050M(e).

LAW

Section 6041A(a) provides that if (1) any service-recipient engaged in a trade or business pays in the course of such trade or business during any calendar year remuneration to any person for services performed by such person, and (2) the aggregate of such remuneration paid to such person during such calendar year is \$600 or more, then the service-recipient must file a return, according to the forms or regulations prescribed by the Secretary, set-

ting forth the aggregate amount of such payments and the name and address of the recipient of such payments. For purposes of the preceding sentence, the term "service-recipient" means the person for whom the service is performed. This information must be filed on Form 1099-MISC, *Miscellaneous Income*.

Section 6041A(d)(1) provides that the term "person" includes any governmental unit (and any agency or instrumentality thereof). Section 6041A(d)(2) provides that in the case of any payment by a governmental entity or any agency or instrumentality thereof (A) section 6041A(a) shall be applied without regard to the trade or business requirement contained therein, and (B) any return under section 6041A shall be made by the officer or employee having control of the payment or appropriately designated for the purpose of making such return.

Section 6041A(d)(3)(A) provides that section 6041A(a) shall apply to remuneration paid to a corporation by any federal executive agency (as defined in section 6050M(b)).

Section 6050M(a) provides that the head of every federal executive agency which enters into any contract shall make a return setting forth (1) the name, address, and TIN of each person with which such agency entered into a contract during the calendar year, and (2) such other information as the Secretary may require. This information must be filed on Form 8596, *Information Return for Federal Contracts*. See Treas. Reg. § 1.6050M-1(d).

Section 1.6050M-1(b)(2) of the Income Tax Regulations defines a "contract" as an obligation of a federal executive agency to make payment of money (or other property) to a person in return for the sale of property, the rendering of services, or other consideration.

Section 1.6050M-1(c)(1)(i) limits the information reporting requirement of section 6050M by providing that any contract or contract action for which the amount obligated is \$25,000 or less does not have to be reported.

Sections 6041A and 6050M are separate reporting requirements and differ in their primary purpose. The purpose of section 6041A is to identify unreported income. See S. Rep. No. 494, 97th Cong, 2d Sess. 247 (1982), July 12, 1982 (Senate Report). The purpose of section 6050M is to

provide the IRS with information concerning sources from which it can collect delinquent taxes owed by federal contractors. *See* H.R. Rep. No. 426, 99th Congress, 1st Sess. 855 (1985), 1986-3 (Vol. 2) C.B. 855.

sions and Judicial Practice Division. For further information regarding this revenue procedure, contact Tiffany P. Smith at (202) 622-4910 (not a toll-free call).

ANALYSIS

Situation 1. The payment for the contracted cleaning services is subject to information reporting under section 6041A because the agency's payment for services exceeds the \$600 threshold. Agency X must file Form 1099-MISC. In addition, upon entering into the contract, Agency X is subject to information reporting under section 6050M because the contracted amount exceeds the \$25,000 threshold. Agency X must file Form 8596.

Situation 2. The payment for the purchase of computer equipment is not subject to information reporting under section 6041A because the payment is not for services. The contract is not subject to information reporting under section 6050M because the agency did not enter into a contract obligating an amount exceeding \$25,000. Agency X does not have to file either Form 1099-MISC or Form 8596.

Situation 3. The payment for the automobile repairs is subject to information reporting under section 6041A because the portion attributable to services exceeds the \$600 threshold. Agency X must file Form 1099-MISC. Agency X is not subject to section 6050M because the agency did not enter into a contract obligating an amount exceeding \$25,000. Agency X does not have to file Form 8596.

HOLDING

Sections 6041A and 6050M are separate information reporting requirements. Thus, with respect to a contract and the payments under that contract, a federal agency may be required, depending on the circumstances, to make an information return only under section 6041A, only under section 6050M, under both provisions, or under neither provision.

DRAFTING INFORMATION

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