

Internal Revenue Code Section 6045(c)(1)(D)

Returns of brokers

(a) General rule.

Every person doing business as a broker shall, when required by the Secretary, make a return, in accordance with such regulations as the Secretary may prescribe, showing the name and address of each customer, with such details regarding gross proceeds and such other information as the Secretary may by forms or regulations require with respect to such business.

(b) Statements to be furnished to customers.

Every person required to make a return under subsection (a) shall furnish to each customer whose name is required to be set forth in such return a written statement showing-

- (1) the name, address, and phone number of the information contact of the person required to make such return, and
- (2) the information required to be shown on such return with respect to such customer.

The written statement required under the preceding sentence shall be furnished to the customer on or before February 15 of the year following the calendar year for which the return under subsection (a) was required to be made. In the case of a consolidated reporting statement (as defined in regulations) with respect to any customer, any statement which would otherwise be required to be furnished on or before January 31 of a calendar year with respect to any item reportable to the taxpayer shall instead be required to be furnished on or before February 15 of such calendar year if furnished with such consolidated reporting statement.

(c) Definitions.

For purposes of this section -

(1) Broker.

The term "broker" includes-

- (A) a dealer,
- (B) a barter exchange,
- (C) any person who (for consideration) regularly acts as a middleman with respect to property or services , and
- (D) any person who (for consideration) is responsible for regularly providing any service effectuating transfers of digital assets on behalf of another person.



A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person.

(2) Customer.

The term "customer" means any person for whom the broker has transacted any business.

(3) Barter exchange.

The term "barter exchange" means any organization of members providing property or services who jointly contract to trade or barter such property or services.

(4) Person.

The term "person" includes any governmental unit and any agency or instrumentality thereof.

(d) Statements required in case of certain substitute payments.

If any broker-

(1) transfers securities of a customer for use in a short sale or similar transaction, and

(2) receives (on behalf of the customer) a payment in lieu of-

(A) a dividend,

(B) tax-exempt interest, or

(C) such other items as the Secretary may prescribe by regulations,

during the period such short sale or similar transaction is open, the broker shall furnish such customer a written statement (in the manner as the Secretary shall prescribe by regulations) identifying such payment as being in lieu of the dividend, tax-exempt interest, or such other item. The written statement required under the preceding sentence shall be furnished on or before February 15 of the year following the calendar year in which the payment was made. The Secretary may prescribe regulations which require the broker to make a return which includes the information contained in such written statement.

(e) Return required in the case of real estate transactions.

(1) In general.

In the case of a real estate transaction, the real estate reporting person shall file a return under subsection (a) and a statement under subsection (b) with respect to such transaction.

(2) Real estate reporting person.

For purposes of this subsection, the term "real estate reporting person" means any of the following persons involved in a real estate transaction in the following order:

(A) the person (including any attorney or title company) responsible for closing the transaction,

(B) the mortgage lender,

(C) the seller's broker,

(D) the buyer's broker, or

(E) such other person designated in regulations prescribed by the Secretary.

Any person treated as a real estate reporting person under the preceding sentence shall be treated as a broker for purposes of subsection (c)(1) .

(3) Prohibition of separate charge for filing return.

It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1) . Nothing in this paragraph shall be construed to prohibit the real estate reporting person from taking into account its cost of complying with such requirement in establishing its charge (other than a separate charge for complying with such requirement) to any customer for performing services in the case of a real estate transaction.

(4) Additional information required.

In the case of a real estate transaction involving a residence, the real estate reporting person shall include the following information on the return under subsection (a) and on the statement under subsection (b) :

(A) The portion of any real property tax which is treated as a tax imposed on the purchaser by reason of section 164(d)(1)(B) .

(B) Whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3)).

(5) Exception for sales or exchanges of certain principal residences.

(A) In general. Paragraph (1) shall not apply to any sale or exchange of a residence for \$250,000 or less if the person referred to in paragraph (2) receives written assurance in a form acceptable to the Secretary from the seller that-

(i) such residence is the principal residence (within the meaning of section 121) of the seller,

(ii) if the Secretary requires the inclusion on the return under subsection (a) of information as to whether there is federally subsidized mortgage financing assistance with respect to the mortgage on residences, that there is no such assistance with respect to the mortgage on such residence, and

(iii) the full amount of the gain on such sale or exchange is excludable from gross income under section 121 .

If such assurance includes an assurance that the seller is married, the preceding sentence shall be applied by substituting "\$500,000" for "\$250,000". The Secretary may by regulation increase the dollar amounts under this subparagraph if the Secretary determines that such an increase will not materially reduce revenues to the Treasury.

(B) Seller. For purposes of this paragraph , the term "seller" includes the person relinquishing the residence in an exchange.

(f) Return required in the case of payments to attorneys.

(1) In general.

Any person engaged in a trade or business and making a payment (in the course of such trade or business) to which this subsection applies shall file a return under subsection (a) and a statement under subsection (b) with respect to such payment.

(2) Application of subsection.

(A) In general. This subsection shall apply to any payment to an attorney in connection with legal services (whether or not such services are performed for the payor).

(B) Exception. This subsection shall not apply to the portion of any payment which is required to be reported under section 6041(a) (or would be so required but for the dollar limitation contained therein) or section 6051 .

(g) Additional information required in the case of securities transactions, etc.

(1) In general.

If a broker is otherwise required to make a return under subsection (a) with respect to the gross proceeds of the sale of a covered security, the broker shall include in such return the information described in paragraph (2) .

(2) Additional information required.

(A) In general. The information required under paragraph (1) to be shown on a return with respect to a covered security of a customer shall include the customer's adjusted basis in such security and whether any gain or loss with respect to such security is long-term or short-term (within the meaning of section 1222).

(B) Determination of adjusted basis. For purposes of subparagraph (A) -

(i) In general. The customer's adjusted basis shall be determined-

(I) in the case of any security (other than any stock for which an average basis method is permissible under section 1012), in accordance with the first-in first-out method unless the customer notifies the broker by means of making an adequate identification of the stock sold or transferred, and

(II) in the case of any stock for which an average basis method is permissible under section 1012 , in accordance with the broker's default method unless the customer notifies the broker that he elects another acceptable method under section 1012 with respect to the account in which such stock is held.

(ii) Exception for wash sales. Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined without regard to section 1091 (relating to loss from wash sales of stock or securities) unless the transactions occur in the same account with respect to identical securities.

(iii) Treatment of uncorrected de minimis errors. Except as otherwise provided by the Secretary, the customer's adjusted basis shall be determined by treating any incorrect dollar amount which is not required

to be corrected by reason of section 6721(c)(3) or section 6722(c)(3) as the correct amount.

(3) Covered security.

For purposes of this subsection -

(A) In general. The term "covered security" means any specified security acquired on or after the applicable date if such security-

(i) was acquired through a transaction in the account in which such security is held, or

(ii) was transferred to such account from an account in which such security was a covered security, but only if the broker received a statement under section 6045A with respect to the transfer.

(B) Specified security. The term "specified security" means-

(i) any share of stock in a corporation,

(ii) any note, bond, debenture, or other evidence of indebtedness,

(iii) any commodity, or contract or derivative with respect to such commodity, if the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection ,

(iv) any digital asset, and

(v) any other financial instrument with respect to which the Secretary determines that adjusted basis reporting is appropriate for purposes of this subsection .

(C) Applicable date. The term "applicable date" means-

(i) January 1, 2011, in the case of any specified security which is stock in a corporation (other than any stock described in clause (ii)),

(ii) January 1, 2012, in the case of any stock for which an average basis method is permissible under section 1012 ,

(iii) January 1, 2023, in the case of any specified security which is a digital asset, and

(iv) January 1, 2013, or such later date determined by the Secretary in the case of any other specified security.

(D) Digital asset. Except as otherwise provided by the Secretary, the term "digital asset" means any digital representation of value which is recorded on a cryptographically secured distributed ledger or any similar technology as specified by the Secretary.

(4) Treatment of S corporations.

In the case of the sale of a covered security acquired by an S corporation (other than a financial institution) after December 31, 2011, such S corporation shall be treated in the same manner as a partnership for purposes of this section .

(5) Special rules for short sales.

In the case of a short sale, reporting under this section shall be made for the year in which such sale is closed.

(6) Special rule for certain stock held in connection with dividend reinvestment plan. For purposes of this subsection, stock acquired before January 1, 2012, in connection with a dividend reinvestment plan shall be treated as stock described in clause (ii) of paragraph (3)(C) (unless the broker with respect to such stock elects not to have this paragraph apply with respect to such stock).

(h) Application to options on securities.

(1) Exercise of option.

For purposes of this section , if a covered security is acquired or disposed of pursuant to the exercise of an option that was granted or acquired in the same account as the covered security, the amount received with respect to the grant or paid with respect to the acquisition of such option shall be treated as an adjustment to gross proceeds or as an adjustment to basis, as the case may be.

(2) Lapse or closing transaction.

In the case of the lapse (or closing transaction (as defined in section 1234(b)(2)(A))) of an option on a specified security or the exercise of a cash-settled option on a specified security, reporting under subsections (a) and (g) with respect to such option shall be made for the calendar year which includes the date of such lapse, closing transaction, or exercise.

(3) Prospective application.

Paragraphs (1) and (2) shall not apply to any option which is granted or acquired before January 1, 2013.

(4) Definitions.

For purposes of this subsection , the terms "covered security" and "specified security" shall have the meanings given such terms in subsection (g)(3) .