



OFFICE OF
CHIEF COUNSEL

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
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INTERNAL REVENUE SERVICE NATIONAL OFFICE CHIEF COUNSEL ADVICE

MEMORANDUM FOR ANTI-MONEY LAUNDERING SPECIALIST
SB/SE (Compliance), Area 3, Territory 1
S:C:3:Phil1:06

FROM: Pamela W. Fuller
Senior Technician Reviewer
CC:PA:APJP:1

SUBJECT: Requirement to Issue Notification Statement - IRC Section
60501

This Chief Counsel Advice responds to your memorandum dated August 16, 2001. In accordance with I.R.C. § 6110(k)(3), this Chief Counsel Advice should not be cited as precedent.

This is in response to your memorandum dated August 16, 2001, asking whether § 60501 of the Internal Revenue Code ("Code") requires information reporting in the following scenarios.

Scenario 1

A wholesale auto auction sells a vehicle to Customer B. The vehicle has a selling price of \$25,000. Customer B indicates he will pay in cash (currency) to settle the transaction. When the sales manager is gathering information necessary to complete Form 8300, Customer B decides to change the form of payment from currency to money orders. He takes back the currency and provides 50 money orders, each with a face value of \$500.00, as full payment for the vehicle.

Scenario 2

Customer D purchased a diamond necklace at a cost of \$15,000.00 at a local jewelry store and he pays in full using currency. The salesman begins to gather the information necessary to complete Form 8300. Customer D states he wants his currency returned, but he will substitute a personal check (secured by a credit card

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imprint) for the entire amount. The salesman agrees and returns the currency, and he accepts the personal check presented by Customer D as full payment.

Scenario 3

Same as Scenario 2, except Customer D only stated that he would pay cash, he never tendered any cash to the salesperson. Customer D paid for the necklace with a personal check.

LAW AND ANALYSIS

Section 6050I(a) of the Code provides that any person who is engaged in a trade or business, and who, in the course of such trade or business, receives more than \$10,000 in cash in one transaction (or 2 or more related transactions), shall make the return described in § 6050I(b) with respect to such transaction (or related transactions) at such time as the Secretary may by regulations prescribe. Form 8300 is the form required to comply with this provision.

According to § 6050I(e) of the Code, every person required to make a return under subsection (a) shall furnish to each person whose name is required to be set forth in such return a written statement that shall be furnished to the person on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

Section 1.6050I-1(c)(1)(ii)(B)(1) and (2) of the Income Tax Regulations ("regulations") describes "cash" as a cashier's check, bank draft, traveler's check, or money order having a face amount of not more than \$10,000 received in a designated reporting transaction or received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid the reporting of the transaction under § 6050I and this section.

Section 1.6050I-1(c)(1)(iii) defines a designated reporting transaction as a retail sale of a consumer durable, a collectible, or a travel or entertainment activity. A consumer durable means an item of tangible personal property of a type that is suitable under ordinary usage for personal consumption or use, that can reasonably be expected to be useful for at least 1 year under ordinary usage, and that has a sales price of more than \$10,000. See § 1.6050I-1(c)(2).

Section 1.6050I-1(e)(2) of the regulations states that a report required by paragraph (a) must be made on Form 8300. In addition, any person required to make an information return under this section must furnish a single, annual, written statement to each person whose name is set forth in a return filed with the Service.

Scenario 1

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In Scenario 1, Customer B uses money orders in the amount of \$25,000 to purchase an automobile. The customer provides 50 money orders, each with a face value of \$500.00. As stated above, § 1.6050I-1(c)(1)(ii)(B)(1) defines “cash” as a money order having a face amount of not more than \$10,000 received in a designated reporting transaction. None of the individual money orders in this scenario exceeds a face value of \$10,000; thus, the money orders fall within the definition of cash. The auto auction received cash in the amount of \$25,000 during one transaction. As a result, this transaction falls within the parameters of § 6050I. Therefore, the auto auction must file Form 8300 with the Service and furnish a statement to Customer B.

Scenario 2

In Scenario 2, Customer D purchases a necklace for \$15,000 initially paying in cash. However, the customer substitutes the cash with a personal check (secured by a credit card imprint) after the salesperson begins to complete Form 8300. As indicated above, personal checks do not fall within the definition of cash under § 1.6050I-1(c)(1)(ii)(B)(1) and (2) of the regulations. However, even though Customer D ultimately paid for the necklace with a personal check, the customer originally tendered the \$15,000 in cash. Section 6050I states that the cash must be **received** by the person engaged in a trade or business. Neither the Code nor the regulations provide a definition of “received.” According to Black’s Law Dictionary, 6th Ed, to receive cash, a person has to take possession and control, accept custody of, or collect the cash. Though the jewelry store did initially accept the cash payment, we conclude that the temporary acceptance of the cash was insufficient to constitute receipt. Accordingly, the store is not required to file Form 8300.

Though the jewelry store is not required to file Form 8300, the store may voluntarily file the form if the transaction is suspicious. A suspicious transaction is a transaction in which it appears that a person is attempting to cause Form 8300 not to be filed, or to file a false or incomplete form or there is an indication of illegal activity. If, in light of the facts and circumstances, the salesperson determines the switch from cash to a personal check is a suspicious transaction, then the jewelry store may file Form 8300. See Publication 1544, Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business).

Scenario 3

According to these facts, Customer D never tendered \$15,000 in cash for the necklace. The jewelry store did not receive a cash payment in excess of \$10,000. Base on these facts, the jewelry store is not required to file a Form 8300 because the personal check is not cash or currency. As stated above, the jewelry store may

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decide to voluntarily file Form 8300 if the salesperson identifies this transaction as suspicious.

If you have any questions, please contact (202) 622-4910.