



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.26.10

MARCH 23, 2020

## EFFECTIVE DATE

(03-23-2020)

## PURPOSE

- (1) This transmits revised text for IRM 4.26.10, *Bank Secrecy Act, Form 8300 History and Law*.

## MATERIAL CHANGES

- (1) IRM 4.26.10.1 added to conform to the new internal control requirements described in IRM 1.11.2, *Internal Controls*. All sections have been renumbered due to this addition.
- (2) Form number of Currency Transaction Report was changed to FinCEN CTR Form 112.
- (3) IRM 4.26.10.3 – Deleted incorrect statement which said payee statement must be retained for 5 years by a business.
- (4) Deleted all references to former CFR sections. This information is not needed.
- (5) 4.26.10.5.6 – Information moved to 4.26.10.1.5, *Terms*
- (6) IRM 4.26.10.7.1 – Add that Form 8300 may be e-filed.
- (7) IRM 4.26.10.7.2 – Deleted incorrect statement which said payee statement must be retained for 5 years by a business.
- (8) IRM 4.26.10.10 – Updated penalty information for IRC 6721 and 6722. Deleted all references to the law before 1/1/2011. This information is no longer needed.
- (9) IRM 4.26.10.10.3.3 – Deleted the material in this section as repetitive and added reference to IRM 20.1.1.3.2, *Reasonable Cause*, and IRM 20.1.7.12, *Waivers, Definitions and Special Rules IRC 6724*.
- (10) 4.26.10.11.1 – Added a reference to IRM 4.26.11.12.10, *Statute of Limitation for penalties under IRC Section 6721 and 6722*, for additional information.
- (11) 4.26.10.12 – Material moved to IRM 4.26.10.1.2.
- (12) Removed any reference to Treasury Directive 15-41, which was made obsolete.
- (13) Removed Exhibit 4.26.10-1 as it was unneeded and confusing.
- (14) Removed Exhibit 4.26.10-2. Information may be found on BSA Policy SharePoint.

## EFFECT ON OTHER DOCUMENTS

This supersedes IRM 4.26.10 dated July 13, 2012.

**AUDIENCE**

Intended audience is employees of the Bank Secrecy Act Program in the Small Business/Self Employed (SB/SE) Division and can be referenced by all field compliance personnel.

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Small Business/Self-Employed

4.26.10

Form 8300 History and Law

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4.26.10.11 Form 8300 Statutes of Limitations

4.26.10.11.1 Statute of Limitations Under Title 26

4.26.10.11.2 Statute of Limitations Under Title 31

4.26.10.1  
(03-23-2020)  
**Program Scope and Objectives**

- (1) **Purpose.** This IRM describes Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, requirements, laws, regulations, and procedures.
- (2) **Audience.** This IRM is for Bank Secrecy Act (BSA) managers and examiners and can be referenced by all other divisions of the IRS.
- (3) **Policy Owner.** Director, Specialty Examination Policy – Small Business/Self-Employed.
- (4) **Program Owner.** Director, Examination - Specialty Examination owns Bank Secrecy Act.
- (5) **Primary Stakeholders.** SB/SE Specialty Examination BSA; SB/SE Headquarters Exam, Specialty Exam Policy BSA; Exam Quality and Technical Support, Field and Specialty Exam Quality; Chief Counsel, Division Counsel SB/SE.
- (6) **Contact Information.** To recommend changes or make any other suggestions related to this IRM section, see IRM 1.11.6.6, *Providing Feedback About an IRM Section - Outside of Clearance*.
- (7) **Program Goals.** The mission of the BSA Program is to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity by providing the financial community top quality service to help them understand their obligations under the BSA and to ensure BSA compliance with integrity and fairness to all.

4.26.10.1.1  
(03-23-2020)  
**Background**

- (1) This subsection provides information on the statutory history of Form 8300 and describes its major provisions.

4.26.10.1.2  
(03-23-2020)  
**Authority**

- (1) Congress enacted IRC 6050I, *Returns relating to cash received in trade or business, etc.*, to require that information returns relating to cash payments over \$10,000 received in trade or business (Form 8300) are filed by all trades or businesses that are not required to file similar reports on currency transactions under the Bank Secrecy Act (BSA) (Title 31).
- (2) Subsequently, nearly the entire language of IRC 6050I was enacted as 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*. Form 8300 fulfills the requirements under two different titles of the U.S. Code, requiring reporting to FinCEN.
- (3) IRC 6721, *Failure to file correct information returns*, provides a penalty for failure to file correct or timely information returns.
- (4) IRC 6722, *Failure to furnish correct payee statements*, provides a penalty for failure to furnish correct or timely payee statements.
- (5) IRC 6724, *Waiver; definitions and special rules*, provides reasonable cause waiver, definitions of information returns, and special rules.
- (6) The term information return means any statement, form, or return as described in IRC 6724(d), *Waiver; definitions and special rules*, or 26 CFR 301.6721-1(g), *Definitions*, and 26 CFR 301.6722-1(d), *Definitions*.
- (7) IRS's authority to conduct the Form 8300 (Title 26) examination is found in IRC 7601, *Canvass of districts for taxable persons and objects*, which authorizes

the Secretary to inquire into taxpayers' tax liability, and IRC 7602, *Examination of books and witnesses*, which authorizes the Secretary to examine books and witnesses for specific purposes including determining and collecting federal tax liabilities.

- (8) Authority to conduct the Form 8300 examination under Title 31 is found in 31 USC 310(2)(b)(2)(I).

4.26.10.1.3  
(03-23-2020)  
**Responsibilities**

- (1) Director, Examination – Specialty Policy is the executive responsible for BSA Examination policy and procedures.
- (2) Director, Examination – Specialty Examination is the executive responsible for BSA examination operational compliance.
- (3) Chief, BSA Policy is responsible for ensuring general information about basic BSA examiner responsibilities and IRM sections is communicated to and carried out by BSA examiners.

4.26.10.1.4  
(03-23-2020)  
**Acronyms**

- (1) The following table contains acronyms, and their definitions, used throughout this IRM.

Acronym	Definition
AML	Anti-Money Laundering
BSA	Bank Secrecy Act
CFR	Code of Federal Regulations
CI	IRS Criminal Investigation
CTR	Currency Transaction Report
FBAR	Report of Foreign Bank and Financial Reports
FinCEN	Financial Crimes Enforcement Network
IDRS	Integrated Data Retrieval System
LB&I	Large Business & International
MSB	Money Service Business
NBFI	Non-Bank Financial Institution
SAR	Suspicious Activity Report
TIN	Taxpayer Identification Number
USC	United States Code

4.26.10.1.5  
(03-23-2020)  
**Terms**

- (1) The following table contains terms, and their definitions, used throughout this IRM.

Term	Definition
AML Program	A written, risk-based plan, reasonably designed to prevent the business from being used to facilitate money laundering and the financing of terrorism.
Identified Person	Each person identified on a Form 8300 from whom cash was received or on whose behalf the transaction was conducted.
Recipient	The person engaged in a trade or business who receives cash in excess of \$10,000 subject to the reporting requirements.
SB/SE BSA Policy Liaison to FinCEN	Employee within BSA Policy designated as the communication hub between the IRS and FinCEN.

4.26.10.1.6  
(03-23-2020)

#### Related Resources

- (1) The following is a list of resources related to the information found in this IRM.

Resource	Title
<a href="https://www.fincen.gov/">https://www.fincen.gov/</a>	FinCEN website
<a href="https://organization.ds.irsnet.gov/sites/SbseSpec/BSA/SitePages/Home.aspx">https://organization.ds.irsnet.gov/sites/SbseSpec/BSA/SitePages/Home.aspx</a>	BSA Exam SharePoint
<a href="https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx">https://organization.ds.irsnet.gov/sites/SbseFraudBSA/BkSecAct/SitePages/Home.aspx</a>	BSA Policy SharePoint

4.26.10.2  
(07-13-2012)

#### Statutory History

- (1) IRC 6050I, *Returns relating to cash received in trade or business, etc.*, (Title 26) was added, effective January 1, 1985, by section 146 of the Deficit Reduction Act of 1984 (P.L. 98-369, section 146), commonly known as the Tax Reform Act of 1984. Final Regulations under IRC 6050I were issued on September 4, 1986.
- (2) In 1986, the Tax Reform Act of 1986 (P.L. 99-514 Sec. 1504(c)(12)) amended the notice provisions effective for returns due after December 31, 1986, by requiring, among other things, an annual statement to the payer that aggregates the amounts received during the year.
- (3) In 1988, as part of the Anti-Drug Abuse Act of 1988 (P.L. 100-690, Sec. 7601(a)(1)), Congress added subsection (f) to IRC 6050I, effective for actions after November 18, 1988. The new section prohibited causing or attempting to cause a trade or business to fail to file a required return, to file a required return that contains a material omission or misstatement of fact, or structuring transactions; and provided penalties for violating the rules of IRC 6050I.

- (4) The Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508, section 11318), commonly known as the Revenue Reconciliation Act of 1990, expanded the definition of cash to include certain monetary instruments, along with foreign currency, effective for amounts received after November 5, 1990. Amendments to the final regulations were effective February 3, 1992.
- (5) IRC 6050I(g), *Cash Received by Criminal Court Clerks*, applies the provisions of IRC 6050I to cash received as bail for specified offenses by criminal court clerks. It was added by the Violent Crime Control and Law Enforcement Act of 1994 (P.L. 103-322, section 20415(a)), effective February 13, 1995.
- (6) The notice requirements of IRC 6050I(e) , *Statements to be furnished to persons with respect to whom information is required*, were amended to include the telephone number of the contact in addition to the name and address. The amendment, included in the Taxpayer Bill of Rights 2 (P.L. 104.168, section 1201(a)), applies to statements required to be furnished after December 31, 1996.
- (7) In 2001, Congress enacted the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (P.L. 107-56, section 365), commonly known as the USA PATRIOT Act, which added 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, to the BSA. This section requires nonfinancial trades or businesses to file reports under the BSA with FinCEN. Treasury regulations allowing a single Form 8300 to satisfy both Title 26 and Title 31 filing requirements were issued December 20, 2001. See 31 CFR 1010.330(a)(1)(ii), *Certain financial transactions*.
- (8) Effective January 1, 2011, the penalties for Form 8300 violations under Title 26 were increased and effective January 1, 2015 they will be adjusted annually for inflation.
- (9) On December 23, 2011, 31 USC 5331 was amended to require clerks of criminal courts as well as trades and businesses to file Form 8300 under Title 31. A regulation at 31 CFR 1010.331, *Reports relating to currency in excess of \$10,000 received as bail by court clerks*, implementing this new rule was added effective July 9, 2012.

4.26.10.3  
(07-13-2012)  
**Requirements of IRC  
6050I**

- (1) IRC 6050I(a), *Cash Receipts of More Than \$10,000*, and 26 CFR 1.6050I-1(e) , *Time, manner, and form of reporting*, require that any person engaged in a trade or business that receives cash in excess of \$10,000 in one transaction, or two or more related transactions, must file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, by the 15th day after the date the cash is received. Under IRC 6050I(g) , *Cash Received by Court Clerks*, and 26 CFR 1.6050I-2 , *Returns relating to cash in excess of \$10,000 received as bail by court clerks*, the reporting requirement explicitly extends to criminal court clerks in specified circumstances.
- (2) Financial institutions required to file FinCEN Report 112, *BSA Currency Transaction Report (BCTR)*, are not required to file Form 8300 .
- (3) Any person required to file Form 8300 must retain a copy for five years. See 26 CFR 1.6050I-1(e)(3)(iii), *Retention of returns*.
- (4) IRC 6050I(e), *Statements to be Furnished to Persons With Respect to Whom Information is Required*, and 26 CFR 1-6050I-1(f) , *Requirement of furnishing*



*statements*, explains that any person filing a required Form 8300 must also furnish a written statement to each person identified on Form 8300 by January 31 of the succeeding calendar year. The statement must show:

- The name, address, and telephone number of the information contact for the business.
- The aggregate amount of reportable cash received during the calendar year.
- That the information was reported to the IRS.

- (5) Court clerks 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. See 26 CFR 1.6050I-2(d), *Requirement to furnish statements*.

4.26.10.4  
(07-13-2012)  
**Requirements of 31 USC 5331**

- (1) 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, of the BSA and 31 CFR 1010.330, *Reports relating to currency in excess of \$10,000 received in a trade or business*, require reporting by any person, who in the course of a nonfinancial trade or business in which that person is engaged, receives currency in excess of \$10,000 in one transaction (or two or more related transactions).
- (2) The section does not apply to amounts received for which a CTR filing is required.
- (3) The BSA requirements mirror the IRC 6050I, *Returns relating to cash received in trade or business, etc.*, requirements and definitions, with the following major exceptions:
- Criminal court clerks were not required to file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, under Title 31 until Title 31 was amended on December 23, 2011 and implementing regulations were issued effective July 9, 2012; and
  - The written statement to the person named in Form 8300 is not required under Title 31.

**Note:** 31 USC 5331 does not require the person making a report (either as a trade or business or a clerk of court) to furnish a statement concerning the report to the person whose name is required to be set forth on the report; or to Federal prosecutors for the jurisdiction in which such person resides and the jurisdiction in which the specified criminal offense occurred.

- (4) A single Form 8300 satisfies both the IRC 6050I and the 31 USC 5331 filing requirements. See 31 CFR 1010.330(a)(1)(ii), *Certain financial transactions*, and 31 CFR 1010.330(e), *Time, manner, and form of reporting*.

4.26.10.5  
(07-13-2012)  
**Definitions / Elements**

- (1) In general, the definitions of terms expressed in both IRC 6050I, *Returns relating to cash received in trade or business, etc.*, and 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, are the same.

4.26.10.5.1  
(03-23-2020)  
**Person**

- (1) The term “person” is not defined the same way under Titles 26 and 31, but the regulations explicitly bring them into conformity using the definition of person at IRC 7701(a)(1), *Person*. See 26 CFR 1.6050I-1(a)(1)(i), *In General*, and 26 CFR 1010.330(a)(1)(i) , *In General*.
- (2) IRC 7701(a)(1), *Person*, defines “person” to mean and include an individual, trust, estate, partnership, association, company, or corporation.
- (3) “Person”, as defined in 31 USC 5312(a)(5), *Person*, includes an individual, corporation, company, association, firm, partnership, society, joint stock company, trustee, a representative of an estate, and, when the Secretary prescribes, a governmental entity.
- (4) 31 CFR 1010.330(a)(1) , *Reportable transactions*, states that solely for purposes of section 5331 of title 31, United States Code and this section, “person” shall have the same meaning as under 26 USC 7701(a)(1).
- (5) The end result is that “person” is defined exactly the same for purposes of the Form 8300 under IRC 6050I, *Returns relating to cash received in trade or business, etc.*, and 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*.
- (6) The prohibition against structuring and similar actions to evade reporting requirements, which appears in IRC 6050I (f), *Structuring Transactions to Evade Reporting Requirements Prohibited*, was included in 31 USC 5324(b), *Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Business*, not 31 USC 5331. Therefore, the definition of “person” for purposes of applying the prohibition against these actions is not determined by IRC 7701 . In Title 31 examinations involving this situation, the definition of person in 31 USC 5312(a)(5), *Person*, applies.

4.26.10.5.2  
(07-13-2012)  
**Trade or Business**

- (1) The requirements of both IRC 6050I , *Returns relating to cash received in trade or business, etc.*, and 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, apply to cash received by any person in a trade or business, with trade or business having the same meaning as under IRC 162 , *Trade or business expenses*. Note that criminal court clerks are specifically included by IRC 6050I (g), *Cash Received by Criminal Court Clerks*, if the examination is conducted under Title 26, and by 31 USC 5331(a)(2) if the examination is conducted under Title 31.
- (2) Trade or business transactions include:
  - Any transaction by a corporation received in connection with a trade or business;
  - Non-gaming businesses activity of a casino, such as shops, restaurants, and hotels, are considered separate trades or businesses;
  - Payments received by accountants, attorneys, doctors, and other service providers for services rendered or reimbursement of expenses, including cash received to be held in trust;
  - Payments received by a collection agency for any one account;
  - Sales of assets used in a trade or business; and,
  - Transactions in which a person acts on behalf of another. (But an agent who receives cash from a principal and uses it within 15 days in a second cash transaction is not required to report initial receipt of the cash if the agent discloses the name, address, and TIN of the principal to the recipient of the second reportable cash transaction. The recipient

in the second transaction is required to report the receipt of cash on Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*.

- (3) To avoid duplicate reporting, 26 CFR 1.6050I-1(d)(1), *Receipt of cash by certain financial institutions*, provides an exception to the reporting requirements of IRC 6050I for cash received by most financial institutions having a requirement under the BSA (Title 31) to file Currency Transaction Reports (CTRs). In addition, IRC 6050I(d)(2), *Receipt of cash by certain casinos having gross annual gaming revenue in excess of \$1,000,000*, clarifies casinos with gross annual gaming revenue over \$1 million must file CTRs under the BSA and, therefore, need not file Form 8300. Those casinos exempted from the CTR filing requirement because their gross annual gaming revenue is below the threshold must file Form 8300. In any case, cash greater than \$10,000 received in a non-gaming business of a casino is reportable on Form 8300.

4.26.10.5.3  
(07-13-2012)  
**Cash or Currency**

- (1) IRC 6050I, *Returns relating to cash received in trade or business, etc.*, requires reporting cash receipts while 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, requires reporting receipts of coins or currency.
- (2) IRC 6050I(d), *Cash includes foreign currency and certain monetary instruments*, defines “cash” to include foreign currency and, to the extent provided in regulations, any monetary instrument with a face amount of not more than \$10,000 except a check drawn on the account of the writer in a financial institution.
- (3) “Cash” is defined in the regulation, 26 CFR 1.6050I-1(c)(1), *Cash*, to include:
- Coin and currency of the United States, or any other country, which circulates and is accepted as money in the country in which it is issued
  - If received after February 3, 1992, a cashier’s check, bank draft, traveler’s check, or money order having a face amount of not more than \$10,000 that is (1) received in a designated reporting transaction, or (2) received in any transaction in which the recipient knows that the instrument is being used in an attempt to avoid the reporting of the transaction under IRC 6050I.
- (4) Under Title 31 “currency” is defined to include foreign currency and to the extent provided in regulations prescribed by the Secretary, any monetary instrument (whether or not in bearer form) with a face amount of not more than \$10,000, except a check drawn on the account of the writer in most financial institutions.
- (5) The regulatory definition of currency at 31 CFR 1010.330(c)(1), *Currency*, parallels the definition of cash under 26 CFR 1.6050I-1(c)(1), *Currency*. It includes the cash equivalent rules discussed below.

4.26.10.5.4  
(07-13-2012)  
**Cash Equivalent Rules and Exceptions**

- (1) Regulations under both titles are the same regarding the cash equivalent rules. See 26 CFR 1.6050I-1(c)(1)(ii), *Amounts received on or after February 3, 1992*, and 31 CFR 1010.330(c)(1), *Cash*. Both Title 31 and Title 26 regulations contain the same references to Title 26. Both contain examples of the application of the following rules.

- (2) A monetary instrument, including a cashier's check, bank draft, traveler's check, or money order having a face amount of \$10,000 or less may be considered cash if received in a "Designated Reporting Transaction", which is a retail sale of a consumer durable, collectible, or a travel or entertainment activity, or if received in any transaction in which the recipient knows that such instrument is being used in an attempt to avoid reporting the transaction.
- Retail Sale - Any sale made during a trade or business, if that trade or business principally consists of making sales to ultimate consumers.
  - Consumer Durable - An item of tangible personal property of a type suitable under ordinary usage for personal consumption or use, has a sales price of more than \$10,000 and can reasonably be expected to be useful for at least one year under ordinary usage.
  - Collectible - An item described in paragraphs (A) through (D) of IRC 408(m)(2), *Collectible Defined*, which includes any work of art, rug or antique, metal, gem, stamp or coin.
  - Travel or Entertainment - An item of travel or entertainment (within the meaning of 26 CFR 1.274-2(b)(1) , *Entertainment defined*) pertaining to a single trip or event where the aggregate sale price of the item and all other items pertaining to the same trip or event that are sold in the same transaction (or related transactions) exceeds \$10,000.
- (3) There are exceptions to these rules. A cashier's check, bank draft, traveler's check, or money order received in a designated reporting transaction is not treated as cash if the instrument:
- a. Constitutes proceeds of a loan from a bank. The recipient of cash may rely on a copy of the loan document, a written statement, lien instructions from the bank, or similar documentation as evidence that the proceeds are from a loan.
  - b. Is received in payment of a promissory note or an installment sale contract but only if promissory notes or installment sale contracts with the same or substantially similar terms are used in the ordinary course of the recipient's trade or business in connection with sales to ultimate consumers; and the aggregate payments for the sale that are received on or before the 60th day after the date of the sale do not exceed 50 percent of the purchase price of the sale.
  - c. Is received in payment for a consumer durable, collectible, or travel or entertainment activity under a payment plan requiring one or more down payments and payment of the rest of the purchase price by the date of sale (or the date of furnishing an item of travel or entertainment) and the following statements are true: i) The recipient uses payment plans with the same or substantially similar terms in the ordinary course of its trade or business in connection with sales to ultimate consumers; and ii) It is received more than 60 days before the date of sale.

4.26.10.5.5  
(07-13-2012)  
**Transaction and Related Transactions**

- (1) Transaction - A transaction subject to reporting is the underlying event precipitating the payer's transfer of cash to the recipient. A transaction may be, but is not limited to:
- A sale of goods or services
  - A sale of real property
  - A sale of intangible property
  - A rental of real or personal property
  - An exchange of currency for other currency

- The establishment, maintenance of, or contribution to an escrow, trust, or custodial arrangement
- Payment of a pre-existing debt
- Conversion of currency to a negotiable instrument
- Reimbursement for expenses paid
- The making or repayment of a loan

(2) Related transactions are:

- Any transactions between a payer (or the agent of the payer) with the recipient that occur within a 24-hour period.
- Transactions conducted during a period of greater than 24 hours are related if the recipient knows, or has reason to know, that each transaction is one of a series of connected transactions.

4.26.10.6  
(07-13-2012)

**Exceptions to Form 8300 Rules**

- (1) Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, rules do not apply in the following situations:
- a. Cash received by financial institutions and casinos that have a requirement under the BSA (Title 31) to file similar reports of currency transactions. See 26 CFR 1.6050I-1(d)(1), *Receipt of cash by certain financial institutions*, and 26 CFR 1.6050I-1(d)(2), *Receipt of cash by certain casinos having gross annual gaming revenue in excess of \$1,000,000*.
  - b. Cash received is not during the recipient's trade or business. See 26 CFR 1.6050I-1(d)(3), *Receipt of cash not in the course of the recipient's trade or business*.
  - c. A cash transaction that occurs entirely outside the United States (the fifty states and the District of Columbia) does not have to be reported unless part of the transaction occurs in Puerto Rico or a possession or territory of the United States, and the recipient of the cash is subject to the general jurisdiction of the Internal Revenue Service under Title 26. See 26 CFR 1.6050I-1(d)(4)(i), *In general*.
- (2) The language of IRC 6050I does not require governmental units to file Form 8300 except for the specific requirements for criminal court clerks.
- (3) Criminal court clerks were not required to file Form 8300 under Title 31 until the statute was amended on December 23, 2011 and the regulation at 31 CFR 1010.331, *Reports relating to currency in excess of \$10,000 received as bail by court clerks*, effecting the statute was issued effective July 9, 2012.
- (4) Under Title 31, a recipient of cash does not need to furnish a written statement to each person identified on Form 8300 or to Federal prosecutors for the jurisdiction in which such person resides and the jurisdiction in which the specified criminal offense occurred.

4.26.10.7  
(07-13-2012)

**Documents Required**

- (1) Two types of documents are required by IRC 6050I, *Returns relating to cash received in trade or business, etc.*:
- Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, must be filed for the transaction(s).
  - An annual written statement must be sent to each person identified on the Form 8300.



- (2) The annual statement is not required under Title 31, but Form 8300 must be filed.
- (3) The rules for clerks of criminal court are somewhat different and are discussed after the general rules. See IRM 4.26.10.8.

4.26.10.7.1  
(03-23-2020)  
**Form 8300 Rules**

- (1) Any person who, while carrying on a trade or business, receives more than \$10,000 in cash in one transaction, or two or more related transactions, must file Form 8300 by mailing it to the address shown on the form by the 15th day after the reportable cash payment was received. The form may also be filed electronically by using FinCEN's BSA E-Filing System found at <https://bsaefiling.fincen.treas.gov/main.html>.
- (2) Filing is considered to occur on the date that the Form 8300 is postmarked under IRC 7502 , *Timely mailing treated as timely filing and paying*, if the postmark date is on or before the 15th day after the reportable cash payment and the Form 8300 was properly deposited in the U.S. mail. If the postmark date is after the 15th day, then filing occurs when the Form 8300 is received. If Form 8300 is filed electronically, the date and time in the filer's time zone when the Form 8300 is transmitted controls whether the form is filed timely. The filer will receive an electronic acknowledgement that the IRS has accepted the electronically filed form. That acknowledgment will serve as evidence of when the form was filed.
- (3) Form 8300 must contain the name, address, and Taxpayer Identification Number (TIN) of the person from whom the cash was received; the amount of cash received; and the date and nature of the transaction. Failure to complete the form in its entirety is considered an incomplete form and is subject to a penalty. If the business filing Form 8300 was unable to complete it due to reasons out of their control such as the customer refused to provide their identification number to the business, the business can notate in the corresponding field that the customer refused to provide identification. If not indicated on Form 8300, examiner should inquire if an attempt was made to get the identification number or determine the business failed to provide the required information. Refer to IRM 4.26.10.10.3.1 for additional details.
- (4) In addition, if the recipient knows or has reason to know that the person from whom the cash was received conducted the transaction as an agent for another person, Form 8300 must contain the name, address, and TIN of the person on whose behalf the transaction was conducted. A Form 8300 is considered incomplete if a recipient knows or has reason to know that an agent is conducting the transaction for a principal, and the return does not identify both the principal and the agent.
- (5) Before completing any transaction requiring the filing of a Form 8300, a recipient must verify the identity of the person from whom the cash was received.
  - a. For aliens or nonresidents, verification must be done using the person's passport, alien identification card, or other official document evidencing nationality or residence.
  - b. Verification of the identity of any other person may be by any document normally accepted as a means of identification when cashing or accepting checks (for example, a driver's license).

c. The document used to verify the identity must be recorded on Form 8300.

- (6) A Form 8300 may be filed voluntarily if the filer believes the transaction is suspicious even if the transaction is \$10,000 or less. The "Suspicious Transaction" box serves the same purpose for voluntarily filed forms not required to be filled as well as forms required to be filed. Marking the Form 8300 suspicious is voluntary. Form 8300s marked as suspicious are to be treated as confidential information and examiners should place Form 8300 marked suspicious in the confidential envelope with Form Other Gov TDF 15-05.11, *Sensitive But Unclassified (SBU) Cover Sheet*, on the outside cover of the case file and attached to the confidential envelope. Examiners should follow the procedures found in IRM 4.26.11.7.3.5, *Suspicious Activity Reports (SARs)*.
- (7) A person required to file a Form 8300 must keep a copy of each return filed for five years from the date of filing.
- (8) See <https://www.irs.gov/businesses/small-businesses-self-employed/form-8300-and-reporting-cash-payments-of-over-10000> for additional information regarding Form 8300 filing requirements.

4.26.10.7.2  
(07-13-2012)

**Annual Statement Rules**

- (1) Any person required to make an information return under IRC 6050I(a), *Cash Receipts of More than \$10,000*, must furnish a single, annual written statement to each person whose name is identified on Form 8300. The statement must include the following:
- The name and address of the information contact for the business filing the form,
  - The aggregate amount of reportable cash received during the calendar year from the identified person, and
  - That the information contained in the statement was reported to the Internal Revenue Service.
- (2) The customer is not to be notified when a Form 8300 is voluntarily filed.
- (3) Except as noted in (2) above, the statement must be furnished to the identified person by January 31 of the year following the transaction. The statement is considered furnished to the identified person if it is mailed to that person's last known address.
- (4) The statement is not required to be in any form or format.
- If there is only one Form 8300 filed during the year, a copy of that Form 8300 can satisfy the annual statement requirement. The copy contains the filer's name and address and the total amount of cash received, and the obvious purpose of the form is to report the transactions to the Service. Therefore, a Form 8300 filer can use a copy of the filed form as the required notification if it includes all the reportable transactions with the customer during the calendar year. It must be provided after the close of the year, otherwise it could not reflect the entire year. If the filer uses the filed Form 8300 as notification, the filer should redact his/her TIN from the copy of the Form 8300 given to the customer.
  - If there is more than one transaction, the requirement of a single annual statement means that the Form 8300 amounts must be aggregated on one end-of-year statement with all the required information. The statement is sufficient by itself. Copies of the Forms 8300 may, but are

not required to, be attached. The practice of providing a copy of the Form 8300 to the payer at the time of sale or sending multiple copies at year's end does not meet the Form 8300 notice requirements.

4.26.10.8  
(03-23-2020)  
**Clerk of Criminal Court  
Provisions**

- (1) IRC 6050I(g), *Cash Received by Criminal Court Clerks*, and 26 CFR 1.6050I-2, *Returns relating to cash in excess of \$10,000 received as bail by court clerks*, require any clerk of a Federal or state criminal court who receives more than \$10,000 in cash as bail for an individual charged with any of the following specified criminal offenses to file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, by the 15th day after the date the cash bail is received:
  - Any Federal offense involving a controlled substance (as defined in 21 USC 802, *Definitions*);
  - Racketeering (as defined in 18 USC 1951, 1952, or 1955);
  - Money laundering (as defined in 18 USC 1956 or 1957); or,
  - Any state offenses substantially like the three listed above.
- (2) Cash for purposes of this requirement includes
  - 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
  - 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. There is no requirement that the cash equivalent be received in a designated reporting transaction.
- (3) If someone other than the clerk receives bail on behalf of the clerk (such as a sheriff), the clerk is treated as having received the bail. The clerk must file the Form 8300 if the other filing requirements are met.
- (4) 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 required by IRC 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.
- (5) A clerk required to file Form 8300 under this section must, in accordance with the regulations at 26 CFR 1.6050I-1(e)(3)(ii), *Verification*, verify the identity of each payer of bail listed in the return.
- (6) By January 31 of the succeeding calendar year, the court clerk is required to provide a statement of the aggregate amount of reportable cash received during the year to each payor of bail. This 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 payer of bail. This is an exception to the general rule that providing copies of multiple forms cannot substitute for a single annual statement. 26 CFR 1.6050I-2(d)(2)(iii), *Aggregate amount*. This statement is not required under Title 31.
- (7) A copy of each Form 8300 filed by the court clerk must also be sent to the United States Attorney in the jurisdiction in which the individual charged with the specified crime resides, **and** the jurisdiction in which the specified crime



occurred, if different. This copy must be sent by the 15th day after the date the reportable cash bail is received. This statement is not required under Title 31.

- (8) Exception for Federal Courts - Normally, Form 8300 examinations are not recommended for the Federal Courts because Policy Statement P-2-4 prohibits penalties against another Federal entity and adequate self-audit procedures exist. Educational contacts are suggested. Before visiting a Federal Court, notify the BSA Policy Program manager sixty (60) days prior to your planned visit. This allows time for coordination with the Administrative Office of the Federal Courts' Audit Branch.
- (9) The clerk of court requirement for Form 8300 filing was not carried over to 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, until December 23, 2011 and implementing regulations did not become effective until July 9, 2012. Any clerk of court Form 8300 examinations for periods before that date must be conducted under Title 26.

4.26.10.9  
(07-13-2012)  
**Available Form 8300  
Publication**

- (1) Publication 1544, *Reporting Cash Payments of Over \$10,000 (Received in a Trade or Business)*, explains why, when, and where a business should file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*. It also explains key issues and terms related to Form 8300. This publication is available in English or Spanish.
- (2) The publication can be ordered by:
  - Calling the IRS forms line at 800-829-3676, or
  - Visiting the IRS website at <https://www.irs.gov/>.

4.26.10.10  
(03-23-2020)  
**Form 8300 Penalties**

- (1) Civil penalties are applicable under IRC 6721, *Failure to file correct information returns*, and IRC 6722, *Failure to furnish correct payee statements*, for failure to timely file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, failure to include complete and correct information on the form, intentional disregard of the filing requirements of the form, and failure to furnish notification to the persons required to be identified in the form about its filing. The same penalty provisions apply to the Clerk of Court rules, 26 CFR 1-60501-2, *Returns relating to cash in excess of \$10,000 received as bail by court clerks*. These penalty provisions also apply to violations of IRC 60501(f), *Structuring transactions to evade reporting requirements prohibited*, for structuring or attempting to cause a trade or business to file incorrectly or not at all. Criminal penalties under IRC 7203, *Willful failure to file return*, supply information, or pay tax, may apply if required criminal criteria are met. See IRM 4.26.10.10.1 for failure to file penalties and IRM 4.26.10.10.2 for failure to furnish penalties. See IRM 4.26.10.10.6 for criminal penalties.
- (2) Section 2102 of the Small Business Jobs and Credit Act of 2010 changed the civil penalties and ceilings for failure to file (IRC 6721) and furnish (IRC 6722) information returns and related statements. No changes in the Title 31 penalties resulted from the Small Business Jobs and Credit Act of 2010.
- (3) Title 26 penalty provisions have a technical reasonable cause exception. The reasonable cause provisions of IRC 6724, *Waiver; definitions and special rules*, are unchanged by the Small Business Jobs and Credit Act and do not apply to Title 31 penalties. There are special rules regarding securing Taxpayer Identification Numbers (TINs) and reasonable cause. See IRM 4.26.10.10.3 for reasonable cause.

- (4) Because Form 8300 is a dual-purpose form, civil penalties may be asserted either under Title 31 or Title 26. Differences in requirements mean that the same action may or may not involve a penalty depending on the title under which the examination is conducted. The BSA lacks some of the Title 26 requirements and where there is no requirement, there is no penalty. Under the BSA:
  - a. Clerks of court were not required to file Form 8300 until December 23, 2011 and the implementing regulation at 31 CFR 1010.331, *Reports relating to currency in excess of \$10,000 received as bail by court clerks*, became effective in July 9, 2012; and
  - b. Recipients are not required to provide an end-of-year statement to persons required to be named in the Form 8300 or to U.S. Attorneys.
- (5) The amount of the penalties under Title 31 is also different. The provisions of 31 USC 5321, *Civil penalties*, apply to civil penalties and 31 USC 5322, *Criminal penalties*, apply to criminal penalties for most violations. The criminal penalties for structuring are found in 31 USC 5324, *Structuring transactions to evade reporting requirement prohibited*. See IRM 4.26.10.10.5 for civil penalties and IRM 4.26.10.10.6 for criminal penalties under Title 31.
- (6) The statute of limitations on assessment of the penalties is different under Titles 26 and 31. See IRM 4.26.10.11 for Form 8300 statutes of limitations.
- (7) Generally, BSA examiners conduct their Form 8300 examinations under Title 26. However, for entities that are required to have an anti-money laundering compliance program under Title 31 (such as insurance companies or dealers in precious metals, precious stones, and jewels), the Form 8300 examination is conducted under Title 31. Form 8300 violations under Title 31 are included on the Letter 1112, Title 31 Violation Notification Letter. If any Form 8300 penalties are applicable, they can only be asserted under Title 26. Form 8300 examinations opened under Title 31 will not have penalty asserted since FinCEN has sole penalty authority under Title 31. See IRM 4.26.11.12.9, *Entities subject to both Title 26 and Title 31*, for additional information.

4.26.10.10.1  
(03-23-2020)  
**Title 26 Civil Penalties  
for Failures to File**

- (1) IRC 6724, *Waiver; definitions and special rules*, defines information returns for purposes of the information return penalty provisions found in IRC 6721, *Failure to file correct information returns*.
  - a. The term "information return" includes any return required by IRC 6050I(a), *Cash receipts of more than \$10,000*, or IRC 6050I(g), *Cash received by criminal court clerks*.
  - b. The failure to file penalty includes any failure to file Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, on or before the required filing date, and any failure to include all the information required to be shown on the return or the inclusion of incorrect information.
- (2) IRC 6721 provides for a penalty when an information return is not timely and/or correctly filed by the due date of the return.
- (3) IRC 6721 penalty rates and maximum amounts are subject to annual inflationary adjustments enacted by the Tax Increase Prevention Act (TIPA) of 2014, section 208, effective for returns required to be filed in a calendar year beginning after 2014.

- (4) The Trade Preferences Extension Act (TPEA) of 2015, section 806, increased the tiered penalty amounts for IRC 6721. The following penalty amounts are effective for returns and statements required to be filed on or after January 1, 2016.

- a. \$50 per failure, not to exceed an annual maximum of \$500,000 for returns filed correctly within 30 days of the due date.
- b. \$260 per failure, not to exceed an annual maximum of \$3,000,000 for returns filed more than 30 days after the due date. The penalty is \$270 after 1/1/2019.

**Note:** There are lower annual maximums applicable to small businesses with gross receipts of \$5 million or less. Penalty amounts are higher, with no maximum amounts, if the failure is due to intentional disregard. See IRM 4.26.10.10.1.

**Note:** See BSA Policy SharePoint for penalty rates and maximum amounts with inflationary adjustments.

- (5) An inconsequential error or omission is not considered a failure to include correct information, IRC 6721(c) , *Exceptions for certain de minimis failures*. A failure is inconsequential if it does not prevent the IRS from putting the return to its intended use. Errors or omissions never considered inconsequential include:
- a. A Taxpayer Identification Number (TIN);
  - b. A surname of a person required to be furnished a copy of the information set forth on an information return; or
  - c. Any monetary amounts, 26 CFR 301.6721-1(c)(2) , *Errors or omissions that are never inconsequential*.
- (6) Other reductions for certain information returns do not apply to Form 8300 :
- a. Reductions that are related to corrections after 30 days but on or before August 1 of the year in which the form is due do not apply to Form 8300. See 26 CFR 301.6721-1(b)(6), *Application to returns not due on February 28, or March 15*.
  - b. The exception for a de minimis number of failures does not apply to Form 8300. See 26 CFR 301.6721-1(d)(4), *Nonapplication to returns not due on February 28 or March 15*.
- (7) The penalty for intentional disregard of the requirement to timely file or to correctly include all required information, is the greater of:
- a. \$25,000 for each return, or
  - b. The amount of cash received in the transaction, not to exceed \$100,000 (with no calendar year limitation applicable), IRC 6721(e)(2)(C) .
- (8) Under IRC 6724(a) , *Reasonable cause waiver*, no penalty is imposed for any failure that is due to reasonable cause and not to willful neglect. See the discussion of reasonable cause below.

4.26.10.10.2  
(03-23-2020)  
**Title 26 Civil Penalties  
for Failures to Furnish**

- (1) IRC 6724, *Waiver*, definitions and special rules, defines payee statements for purposes of the information return penalty provisions of IRC 6722 , *Failure to Furnish Correct Payee Statements*.

- a. The term “payee statement” includes any statement required to be furnished under IRC 6050I(e), *Statements to be furnished to persons with respect to whom information is required*, by businesses to persons required to be named in Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, or under IRC 6050I(g), *Cash received by criminal court clerks, by clerks of court to Federal prosecutors or payers of bail*, IRC 6724(d)(2)(N). This situation differs from most information returns, such as Forms W-2 or 1099, where the payee statement is provided by the payer filer to a payee.
  - b. There is no special form or format required for Form 8300 payee statements.
- (2) IRC 6722 provides for a penalty when a payee statement is not timely and/or correctly furnished.
- (3) IRC 6722 penalty rates and maximum amounts are subject to annual inflationary adjustments enacted by the Tax Increase Prevention Act (TIPA) of 2014, section 208, effective for returns required to be filed in a calendar year beginning after 2014.
- (4) The Trade Preferences Extension Act (TPEA) of 2015, section 806, increased the tiered penalty amounts for IRC 6722. The following penalty amounts are effective for returns and statements required to be filed on or after January 1, 2016. See IRM 4.26.10.10.2.
- a. \$50 per failure, not to exceed an annual maximum of \$500,000 for statements furnished correctly within 30 days of the due date,
  - b. \$100 per failure, not to exceed an annual maximum of \$1,500,000 for statements furnished correctly after 30 days, but on or before August 1, or
  - c. \$260 per failure, not to exceed an annual maximum of \$3,000,000 for statements not furnished by the due date (or not containing all required information or containing incorrect information) and not corrected by August 1. The penalty is \$270 after 1/1/2019.
- Note:** There are lower annual maximums applicable to small businesses with gross receipts of \$5 million or less. Penalty amounts are higher, with no maximum amounts, if the failure is due to intentional disregard.
- Note:** See BSA Policy SharePoint for penalty rates and maximum amounts with inflationary adjustments.
- (5) Inconsequential errors and omissions in the payee statement are not considered failures. See 26 CFR 301.6722-1(b) , *Exception for inconsequential errors or omissions*.
- a. A failure is inconsequential when it cannot reasonably be expected to prevent or hinder the identified person from timely receiving correct information and reporting it on his or her return or from otherwise putting the statement to its intended use.
  - b. Failures that are never inconsequential for a Form 8300 payee statement relate to dollar amounts and significant items in the address of the identified person.

- (6) The penalty for intentional disregard of the requirement to timely furnish a correct payee statement is the greater of:
- \$500 for each statement, or
  - 10 percent of the aggregate amount of the items required to be reported correctly (with no calendar year limitation applicable), IRC 6722(e), *Penalty in case of intentional disregard*.

4.26.10.10.3  
(07-13-2012)  
**Reasonable Cause  
Penalty Waiver**

- (1) The penalty for a failure relating to an information reporting requirement can be waived if the failure is due to reasonable cause and is not due to willful neglect, IRC 6724 , *Waiver*, definitions and special rules, and 26 CFR 301.6724-1 , *Reasonable cause*. The regulation spells out the requirements in general and defines each element that must be proven by the person required to file to avoid the penalty.
- (2) The burden of proof is on the filer to establish:
- Significant mitigating factors for the failure, such as prior to the failure, the filer was never required to file that return or furnish that statement for which the failure occurred, or that the filer has an established compliance history. See 26 CFR 301.6724-1(b) , *Significant mitigating factors*.
  - Alternatively, the filer must establish that the failure arose from events beyond the filer's control. This may include events resulting in the destruction of needed records or actions of others such as the IRS or refusal of the transactor to reveal their Taxpayer Identification Number (TIN) to the recipient. See 26 CFR 301.6724-1(c) , *Events beyond the filer's control*.
  - In addition to one of the above, it must also be established that the filer acted in a responsible manner both before and after the failure occurred. In other words, the filer must show that reasonable care was exercised and significant steps to avoid or mitigate the failure were taken. See 26 CFR 301.6724-1(d) , *Responsible manner*.
  - Mitigation means rectifying the failure as promptly as possible once the impediment was removed or the failure was discovered. Ordinarily, a rectification is considered prompt if made within 30 days after the date the impediment is removed, or the failure is discovered, or on the earliest date following a regular submission of corrections.
- (3) Special rules apply to TIN issues. See 26 CFR 301.6724-1(e) , *Acting in a responsible manner - special rules for missing TINs*, and 26 CFR 301.6724-1(f) , *Acting in a responsible manner - special rules for incorrect TINs*.

4.26.10.10.3.1  
(07-13-2012)  
**Reasonable Cause and  
Missing TINs**

- (1) A filer seeking a waiver for reasonable cause for a failure resulting from a missing or an incorrect TIN will be deemed to have acted in a responsible manner only if the filer satisfies the requirements of 26 CFR 301.6724-1(e) , *Acting in a responsible manner - special rules for missing TINs*, relating to missing TINs, or (f) relating to incorrect TINs.
- (2) A number is treated as a missing TIN if the number does not contain nine digits or includes one or more alpha characters. A filer seeking a reasonable cause waiver based on a failure of the transactor to provide information to the filer (such as a missing TIN) must make the initial and, if required, annual solicitations.



- (3) A filer must make an initial solicitation specifically requesting the TIN at the time the transaction occurs.
  - a. If the transaction occurs in person, the initial solicitation may be made by oral or written request, such as on an account creation document.
  - b. If the transaction is affected by mail, telephone, or other electronic means, the TIN may be requested through the same type of communications. If the account is opened by completing and mailing an application furnished by the Form 8300 filer that requests the transactor's TIN, the initial solicitation requirement is considered met.
- (4) If the initial solicitation is made but the requested TIN is not received, a first annual solicitation must be made on or before December 31 of the year in which the transaction occurred (for transactions occurring before December) or January 31 of the following year (for transactions occurring in December).
  - a. Where the initial solicitation and the first annual solicitation have been made, but the TIN has not been received, the business has satisfied its requirement to act in a reasonable manner. The failure was caused by the transactor's refusal to provide the TIN, an event beyond the business' control. Therefore, the penalty is waived. See 26 CFR 301.6724-1(k)(i) , *Example 1*.
  - b. Only two solicitations are required to establish responsible action-- the initial solicitation and a follow-up solicitation at the end of the year. An annual solicitation is not required when no reportable transactions occur during the year following the year in which the transaction with the missing TIN occurred. See 26 CFR 301.6724-1(e)(1)(vi)(B) , *Exceptions and limitations*.
  - c. If the trade or business fails to make one (or more) of the required solicitations under 26 CFR 301.6724-1(e)(1)(i) , *Initial solicitation*, 26 CFR 301.6724-1(e)(1)(ii) , *First annual solicitation*, and 26 CFR 301.6724-1(e)(1)(iii) , *Second annual solicitation* (Not required for Form 8300 ) , the penalty will apply to the year in which the filer failed to make the initial solicitation. See 26 CFR 301.6724-1(e)(1)(vi)(C) , *Exceptions and limitations*.
- (5) The annual solicitation must meet the form (in person, phone, letter) prescribed in 26 CFR 301.6724-1(e)(2) , *Manner of making annual solicitations - by mail or telephone*, and contain:
  - a. A request for the TIN, and
  - b. Information for the person failing to provide the TIN that he or she is subject to a \$50 penalty imposed by the Internal Revenue Service under IRC 6723 , *Failure to comply with other information reporting requirements*, if he or she fails to furnish his or her TIN.
- (6) The filer must maintain contemporaneous records showing that the solicitation was properly made and provide them to the IRS on request.

4.26.10.10.3.2  
(07-13-2012)

**Reasonable Cause and  
Incorrect TINs**

- (1) A filer seeking a waiver for reasonable cause for a failure resulting from a missing or an incorrect TIN will be deemed to have acted in a responsible manner only if the filer satisfies the requirements of 26 CFR 301.6724-1(e) , *Acting in a responsible manner - special rules for missing TINs*, relating to missing TINs, or 26 CFR 301.6724-1(f) , *Acting in a responsible manner - special rules for incorrect TINs*, relating to incorrect TINs.

- (2) Acting in a responsible manner for an incorrect TIN requires that an initial solicitation for a correct TIN be made at the time of the transaction. See 26 CFR 301.6724-1(f)(1)(i) , *Initial solicitation*.
- (3) No additional solicitation is required after the filer receives the TIN unless the Internal Revenue Service or, in some cases, a broker notifies the filer that the TIN is incorrect. See 26 CFR 301.6724-1(f)(1)(i) . Also see 26 CFR 301.6724-1(k)(i) , *Example 2*.
- (4) Following notification, the filer must make a first annual solicitation on or before December 31 of the year in which the filer is notified of the incorrect TIN, or by January 31 of the following year if the filer is notified of an incorrect TIN in the preceding December. A second annual solicitation is not required if no payments are made to the account for the year or if no return is required to be filed for the account for the year. See 31 CFR 301.6721-1(f)(5)(ii) , *Exceptions and limitations*.
- (5) The method and content of the solicitation must be like the manner used for failure to provide a TIN.

4.26.10.10.3.3  
(03-23-2020)  
**Procedure for Seeking a Reasonable Cause Waiver**

- (1) See IRM 20.1.1.3.2 , *Reasonable Cause*, and IRM 20.1.7.12 , *Waivers, Definitions and Special Rules IRC 6724*, for procedures for seeking a reasonable cause waiver.

4.26.10.10.4  
(03-23-2020)  
**Civil Penalties Under Title 31**

- (1) IRS does not have the authority to assess civil penalties under Title 31 for violations of the Form 8300 reporting and recordkeeping requirements. If it is determined that a penalty under Title 31 is appropriate, the case must be forwarded to the Financial Crimes Enforcement Network (FinCEN) through the BSA Policy Liaison to FinCEN. However, information obtained during a Form 8300 examination conducted under Title 26 may be disclosed to FinCEN only as authorized by IRC 6103 , *Confidentiality and disclosure of returns and return information*.
- (2) Title 31 Form 8300 requirements do not include two important areas included under Title 26, so there is no penalty parallel to the Title 26 penalty in these situations:
  - a. There is no requirement to furnish an annual statement to the persons required to be identified in the Form 8300 and U.S. Attorney for the jurisdiction in which such person resides and the jurisdiction in which the specified criminal offense occurred; and
  - b. Clerks of court were not required to file Form 8300 under Title 31 until December 23, 2011. The requirement to file, under the regulation at 31 CFR 1010.331 , *Reports relating to currency in excess of \$10,000 received as bail by court clerks*, became effective on July 9, 2012.
- (3) Title 31 penalties are higher than the Title 26 penalties, even after the Title 26 penalty increase effective January 1, 2011. There are no limitations or reductions. There is no waiver for reasonable cause.
- (4) There are two types of negligence penalties under Title 31.

- a. 31 USC 5321(a)(6), *Negligence*, provides a penalty of not more than \$500 on any nonfinancial trade or business that negligently violates any provision of or regulation prescribed under this subchapter.
  - b. If any nonfinancial trade or business engages in a pattern of negligent violations of any provision of or any regulation prescribed under this subchapter, the Secretary of the Treasury may, in addition to the basic negligence penalty, impose a civil money penalty of not more than \$50,000 on the nonfinancial trade or business. This additional penalty is not available under Title 26.
- (5) The Title 31 willfulness penalty found in 31 USC 5321(a)(1) is generally the same as the penalty for intentionally disregarding the rules in Title 26. This section provides that a domestic nonfinancial trade or business, and a partner, director, officer, or employee of a domestic financial institution or nonfinancial trade or business, willfully violating this subchapter or a regulation prescribed, or order issued under this subchapter is liable to the United States Government for a civil penalty of not more than the greater of the amount (not to exceed \$100,000) involved in the transaction (if any) or \$25,000.

4.26.10.10.5  
(07-13-2012)

**Form 8300 Structuring**

- (1) Structuring and related activities are prohibited and penalized under both Title 26 and Title 31 of the U.S. Code.
- (2) The Title 31 structuring definition is limited to persons structuring to affect a “nonfinancial trade or business”, whereas the Title 26 definition refers to a “trade or business”.
  - a. The definition in IRC 6050I(f) , *Structuring transactions to evade reporting requirements prohibited*, provides that no person shall, for evading the return requirements of this section, cause or attempt to cause a trade or business to fail to file or to file an incomplete or incorrect return required by this section, or structure.
  - b. 31 USC 5324(b), *Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Businesses*, provides that no person shall, for the purpose of evading the Form 8300 reporting requirements of 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, cause or attempt to cause a nonfinancial trade or business to fail to file or to file a return with a material omission or misstatement, or structure.
- (3) As applied, the two structuring prohibitions reach the same result. They only apply if the trade or business is not required to file a CTR.
  - a. Title 26 arrives at this result in the initial filing requirement, which is limited to certain financial institutions defined in 31 USC 5312(a)(2), *Financial Institution*, and excepts those required to file a CTR, such as money services businesses.
  - b. Title 31 arrives at this result by reference to 31 USC 5331, which requires Form 8300 but excepts those who are required to file a CTR by 31 USC 5313, *Reports on domestic coins and currency transactions*.
- (4) Although the application of the structuring provisions is the same, the penalties are different under the two titles.
  - a. The Secretary of the Treasury is authorized by 31 USC 5321(a)(4), *Nonfinancial Trade or Business*, to impose a civil money penalty on any person who violates any provision of 31 USC 5324, *Structuring transac-*



*tions to evade reporting requirement prohibited.* The penalty may be up to the amount involved in the transaction.

- b. Under Title 26 IRC 6050I(f)(2) , *Penalties*, any violation is subject to the same civil and criminal sanctions that apply to a person who fails to file or completes a false or incorrect return under this section. In other words, the provisions of IRC 6721 , *Failure to file correct information returns*, apply. See the general discussion of penalties in this section.

4.26.10.10.5.1  
(07-13-2012)  
**Form 8300 Structuring  
Under Title 26**

- (1) Structuring is prohibited and penalized under IRC 6050I(f) , *Structuring transactions to evade reporting requirements prohibited*.
- (2) The section provides that no person shall for the purpose of evading the return requirements of IRC 6050I , *Returns relating to cash received in trade or business, etc.*:
  - a. Cause or attempt to cause a trade or business to fail to file a return required under this section;
  - b. Cause or attempt to cause a trade or business to file a return required under this section that contains a material omission or misstatement of fact; or
  - c. Structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more trades or businesses.
- (3) Violations are subject to the same civil and criminal sanctions that apply to a person who fails to file or completes a false or incorrect Form 8300 as discussed above. See IRC 6050I(f)(2) , *Penalties*.

4.26.10.10.5.2  
(07-13-2012)  
**Form 8300 Structuring  
Under Title 31**

- (1) The structuring prohibitions of IRC 6050I(f), *Structuring transactions to evade reporting requirements prohibited*, were not carried over to its Title 31 counterpart, 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*. The BSA's structuring prohibitions are found in 31 USC 5324(b), *Domestic Coin and Currency Transactions Involving Nonfinancial Trades or Businesses*.
- (2) That section provides that no person shall, for evading the Form 8300 reporting requirements of 31 USC 5331 or any regulation prescribed under such section:
  - a. Cause or attempt to cause a nonfinancial trade or business to fail to file a report required under 31 USC 5331 or any regulation prescribed under such section;
  - b. Cause or attempt to cause a nonfinancial trade or business to file a report required under 31 USC 5331 or any regulation prescribed under such section that contains a material omission or misstatement of fact; or
  - c. Structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more nonfinancial trades or businesses.
- (3) A civil penalty for violating these prohibitions is found in 31 USC 5321(a)(4), *Structured Transaction Violation*. The Secretary of the Treasury may impose a civil money penalty on any person who violates any provision of 31 USC 5324, *Structuring transactions to evade reporting requirement prohibited*.

- a. The amount of any civil money penalty imposed shall not exceed the amount of the coins and currency (or other monetary instruments as the Secretary may prescribe) involved in the transaction for which the penalty is imposed.
  - b. The amount of any civil money penalty imposed shall be reduced by the amount of any forfeiture to the United States in connection with the transaction for which the penalty is imposed.
- (4) Criminal penalties are provided in 31 USC 5324(d), *Criminal Penalty*.
- a. Whoever violates this section prohibiting structuring shall be fined in accordance with Title 18, USC, imprisoned for not more than 5 years, or both.
  - b. An enhanced penalty is provided for violating the structuring provisions while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period. The penalty is twice the amount provided in 18 USC 3571(b)(3), *Fines for Individuals*, or 18 USC 3571(c)(3), *Fines for Organizations*, imprisonment for not more than 10 years, or both.

4.26.10.10.6  
(07-13-2012)  
**Criminal Penalties**

- (1) Criminal penalties are available for failures to file Form 8300 under both titles, but there is no criminal failure to furnish under Title 31 because there is no requirement to furnish a statement under Title 31. Criminal structuring is discussed under structuring.

4.26.10.10.6.1  
(07-13-2012)  
**Criminal Penalties Under Title 26**

- (1) A Form 8300 criminal case under Title 26 is examined by IRS Criminal Investigation.
- (2) In the case of a willful violation of any provision of IRC 6050I, *Returns relating to cash received in trade or business, etc.*, any person shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$25,000 (\$100,000 in the case of a corporation), or imprisoned not more than five years, or both, together with the costs of prosecution. 26 USC 7203. See also IRM 9.1.3.3.4, *26 USC §7203 - Willful Failure to File Return, Supply Information, or Pay Tax*. Since this section applies to any provision of IRC 6050I, it applies not only to failure to file, but also failure to furnish, and structuring.
- (3) Any person who willfully files a Form 8300 made under penalties of perjury, without believing every material matter to be true and correct may be fined up to \$100,000 (\$500,000 in the case of a corporation), and/or imprisoned up to three years, plus the costs of prosecution. IRC 7206(1), *Declaration under penalties of perjury*.

4.26.10.10.6.2  
(07-13-2012)  
**Criminal Penalties Under Title 31**

- (1) A Form 8300 criminal case under Title 31 is examined by IRS Criminal Investigation. See 31 CFR 1010.810(c)(2).
- (2) Criminal penalties under Title 31 for willful violations of the Form 8300 provisions of 31 USC 5331, *Reports relating to coins and currency received in nonfinancial trade or business*, are found at 31 USC 5322. They are more severe than the Form 8300 criminal penalties under Title 26.

- a. A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter shall be fined not more than \$ 250,000, or imprisoned for not more than five years, or both.
- b. A person willfully violating this subchapter or a regulation prescribed or order issued under this subchapter while violating another law of the United States or as part of a pattern of any illegal activity involving more than \$100,000 in a 12-month period, shall be fined not more than \$500,000, imprisoned for not more than 10 years, or both.

4.26.10.11  
(07-13-2012)  
**Form 8300 Statutes of Limitations**

- (1) The statutes of limitations on assessing penalties for the Form 8300 , *Report of Cash Payments Over \$10,000 Received in a Trade or Business*, requirements differ depending on whether the examination is conducted under Title 26 or Title 31, and whether the case is civil or criminal.

4.26.10.11.1  
(03-23-2020)  
**Statute of Limitations Under Title 26**

- (1) Failure to file a timely correct and complete Form 8300 can result in civil and criminal penalties.
- (2) Under IRC 6724(b) , *Payment of penalty*, civil penalties relating to information returns “shall be paid on notice and demand by the Secretary and in the same manner as tax”. Thus, the usual civil statute of limitations found in IRC 6501, *Limitations on assessment and collection*, applies to assessment of Form 8300 penalties, as follows:
  - a. Under IRC 6501(a) , *General Rule*, the penalty must be assessed generally within three years from the date the return was filed. This rule applies to both negligent and intentional failures to include complete and correct information.
  - b. Under IRC 6501(c)(3) , *No Return*, the failure to file penalty may be assessed at any time. This rule applies to both negligent and intentional failures to file the Form 8300 .
- (3) Under IRC 6050I(f)(2) , *Penalties*, which prohibits structuring, a violator is subject to the same civil and criminal sanctions applicable to a person that fails to file or completes a false or incorrect return under this section.
  - a. There is a three-year statute if the structuring was an attempt to cause a trade or business to file a Form 8300 containing a material omission or misstatement of fact.
  - b. No statute applies if the structuring caused a trade or business to fail to file.
- (4) Similarly, criminal court clerk penalties under IRC 650I(g) , *Cash received by criminal court clerks*, depend on whether the required Form 8300 was filed. The regulations specifically refer to IRC 6721 , *Failure to file correct information returns*, through IRC 6724 , *Waiver; definitions and special rules, for penalties*. The statute under IRC 6501(a) , *General Rule*, is three years for a violation when the Form 8300 has been filed. There is no statute when a court clerk files no Form 8300 .
- (5) Title 26 criminal prosecution is governed by IRC 7203 , *Willful failure to file return, supply information, or pay tax*, and IRC 6531 , *Periods of limitation on criminal prosecutions*. IRC 7203 provides that in the case of a criminally willful violation of any provision of IRC 6050I , the penalty shall be a felony with up to five years of imprisonment.

- (6) Because IRC 7203 applies to any provision of IRC 6050I , IRC 6531 applies to:
  - a. Filing a Form 8300 that is not timely, complete, nor correct;
  - b. Failure to file Form 8300 ;
  - c. Structuring; and
  - d. Court clerk violations.
- (7) IRC 6722, *Failure to Furnish Correct Payee Statements*, civil penalties for failure to furnish or include all required information in the statement required under IRC 6050I(e), *Statements to be furnished to persons with respect to whom information is required*, and IRC 6050I(g), *Cash received by criminal court clerks*, have no statute of limitations. They can be assessed at any time.
- (8) The criminal penalty of IRC 7203 applies to any violation of IRC 6050I and the general statute of IRC 6531 applies so that the criminal prosecution is limited to within three years after the commission of the offense of failure to furnish.
- (9) See IRM 4.26.11.12.10, *Statute of Limitation for penalties under IRC 6721 and IRC 6722*, for additional information.

4.26.10.11.2  
(07-13-2012)  
**Statute of Limitations  
Under Title 31**

- (1) The civil statute of limitations for assessing civil penalties for violation of Title 31 requirements is six years from the date of the transaction for which the penalty is assessed. 31 USC 5321(b)(1), *Assessments*. There is no exception to the running of the statute for unfiled returns under Title 31. Even if the Form 8300 was not filed, the statute still runs in a case examined under Title 31.
- (2) Criminal penalties are imposed under 31 USC 5322, *Criminal Penalties*, (filing) and 31 USC 5324, *Structuring transactions to evade reporting requirement prohibited*. There is no failure to furnish penalty under Title 31. Title 31 criminal penalties look to Title 18 for procedure. For non-capital offenses, 18 USC 3282, *Offenses not capital*, provides a general statute of limitations for finding an indictment or instituting an investigation within five years after the offense was committed.