



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[REG-113229-25]

RIN 1545-BR73

Increase in Threshold for Requiring Information Reporting with Respect to Certain Payees; Extension and Modification of Limitation on Wagering Losses

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments relating to the dollar thresholds in regulations governing information reporting for payments made in the course of a trade or business and the corresponding backup withholding regulations. This document also contains proposed amendments to the regulations governing wagering losses. The proposed regulations reflect recent changes to the statutory law. These changes will affect persons who make payments in the course of their trade or business and those persons claiming a deduction for wagering losses.

DATES: Electronic or written comments and requests for a public hearing must be received by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Commenters are strongly encouraged to submit public comments electronically. Submit electronic submissions via the Federal eRulemaking Portal at <https://www.regulations.gov> (indicate IRS and REG-113229-25) by following the online instructions for submitting comments. As required by 5 U.S.C. 553(b)(4), a plain language summary of the proposed rule is also available on the Federal eRulemaking Portal. Requests for a public hearing must be submitted as prescribed in the “Comments and Requests for a Public Hearing” section. Once submitted to the Federal

eRulemaking Portal, comments cannot be edited or withdrawn. The Department of the Treasury (Treasury Department) and the IRS will publish for public availability any comment submitted to the IRS's public docket. Send paper submissions to: CC:PA:01:PR (REG-113229-25), room 5503, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, William Prater at (202) 317-6845 (not toll-free number); concerning submissions of comments or requests for a hearing, the Publications and Regulations Section at (202) 317-6901 (not toll-free number) or by email at *publichearings@irs.gov* (preferred).

SUPPLEMENTARY INFORMATION:

Authority

This document contains proposed amendments to the Income Tax Regulations (26 CFR part 1) under sections 165, 6041, and 6041A of the Internal Revenue Code (Code) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31) under section 3406 of the Code. The proposed regulations are issued under the authority of sections 6041(a) and 6041A(a), which provide the Secretary of the Treasury or the Secretary's delegate (Secretary) with authority to prescribe regulations to carry out sections 6041 and 6041A. The proposed regulations are also issued under the authority conferred by section 3406 and 3406(i), which provides the Secretary with authority to prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 3406.

Additionally, these proposed regulations are issued pursuant to section 7805(a) of the Code, which authorizes the Secretary to "prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue."

Background

This document contains proposed amendments to regulations impacted by amendments to the Code made by sections 70114 and 70433 of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

I. Section 165

Section 165(a) provides an itemized deduction for losses sustained during the taxable year that are not otherwise compensated for by insurance or otherwise. Section 165(d) limits the deduction available for losses from wagering transactions, including any deduction otherwise allowable that is incurred in carrying on wagering transactions.

Prior to the changes made by the OBBBA, section 165(d) limited losses from wagering transactions to the extent of the gains from such transactions. Current §1.165-10 restates this limitation and provides a rule for the treatment of wagering losses on a joint return.

OBBBA section 70114(a) amended section 165(d) to limit this deduction to 90 percent of the amount of wagering losses during a taxable year and only to the extent of gains from wagering transactions during a taxable year.

II. Section 6041

Section 6041(a) requires persons engaged in a trade or business to file information returns reporting payments of fixed or determinable gains, profits, and income equal to, or in excess of, a particular dollar threshold made to another person in the course of that trade or business. Prior to the enactment of the OBBBA, this dollar threshold was \$600. OBBBA section 70433(a) increased the \$600 threshold in section 6041 to a base threshold of \$2,000 for payments made after December 31, 2025. Additionally, OBBBA section 70433(b) added section 6041(h), which provides that, for calendar years after 2026, this base threshold will be indexed to inflation. Lastly, OBBBA section 70433(e)(1) and (2) amended section 6041 by amending the section

heading from “\$600 or More” to “Exceeding Threshold” and changing the phrase “taxable year” to “calendar year.” Pursuant to OBBBA section 70433(f), these changes are effective for payments made after December 31, 2025.

Several existing regulations promulgated under section 6041 reference the prior \$600 threshold amount in their text. However, §1.6041-10, which was published in the ***Federal Register*** (TD 9807, 81 FR 96374) on December 30, 2016, contains a \$1,200 reporting threshold for winnings from bingo and slot machine play and a \$1,500 reporting threshold for winnings from keno.

III. Section 6041A

Section 6041A(a) requires persons engaged in a trade or business to file information returns reporting payments of remuneration for services made in the course of that trade or business that equal or exceed a dollar threshold. Prior to the enactment of the OBBBA, this dollar threshold was \$600. OBBBA section 70433(c) amended the \$600 threshold in section 6041A(a)(2) to cross-reference “the dollar amount in effect for such calendar year under section 6041(a).” Pursuant to OBBBA section 70433(f), this change is effective for payments made after December 31, 2025.

IV. Section 3406

Section 3406(a)(1) requires backup withholding for reportable payments if certain conditions are met. Sections 3406(b)(1)(B), (b)(3)(A), and (b)(3)(B) provide that payments required to be shown on a return under sections 6041 and 6041A are reportable payments. Section 3406(b)(4) provides that, generally, whether a payment is reportable is determined without regard to the minimum amount that must be paid before a return is required. However, pursuant to section 3406(b)(6)(A) payments described in sections 6041 and 6041A were only treated as reportable payments for backup withholding if the aggregate amount of payments to a payee in the calendar year equaled or exceeded \$600.

OBBBA section 70433(d)(1) amended the \$600 threshold in section 3406(b)(6)(A) to cross reference “the dollar amount in effect for such calendar year under section 6041(a).” In addition, OBBBA section 70433(d)(2) amended the reference to “\$600 or More” in the heading of section 3406(b)(6) to say “Only Where in Excess of Threshold.” These changes are effective for payments made after December 31, 2025.

Explanation of Provisions

I. Limitation on Deduction for Wagering Losses

Following the enactment of OBBBA section 70114(a), the first sentence of §1.165-10, providing that losses from wagering transactions are limited to the extent of gains from such transactions, no longer accurately describes the limitations on wagering losses in section 165(d). The proposed regulations would amend this sentence to limit the deduction to 90 percent of the amount of wagering losses during a taxable year and only to the extent of gains from wagering transactions during a taxable year. The proposed regulations would also make corresponding changes to the treatment of combined losses of spouses from wagering transactions to reflect the changes made by the OBBBA.

II. Thresholds for Payments Reported under Sections 6041 and 6041A

The proposed regulations would also update the regulations under sections 6041, 6041A, and 3406 to change the references to the pre-OBBBA \$600 threshold. Consistent with the wording of the OBBBA, these references (specifically, in §§1.6041-1, 1.6041-2, 1.6041-7, 1.6041A-1, 31.3406(b)(3)-1, and 31.3406(g)-2) would be replaced with a reference to an amount equaling or exceeding the dollar threshold in effect for the calendar year under section 6041(a) and (h). The references in the proposed regulations have non-substantive variations in the wording, for readability.

Proposed §1.6041-1(a)(3) would define the dollar amount in effect for the calendar year under section 6041(a) as \$2,000 for calendar year 2026, adjusted for inflation in subsequent calendar years as provided in section 6041(h). Proposed §1.6041-1(a)(1)(iv) also contains non-substantive revisions to improve readability.

Because the dollar thresholds for reporting winnings from bingo, keno, and slot machine play provided in current §1.6041-10(b)(2)(i) are below the threshold established in the OBBBA, the proposed regulations would update those thresholds to match the new statutory threshold in section 6041(a) as revised by Congress. Accordingly, the proposed regulations would modify §1.6041-10 to provide that the threshold for reporting payments of winnings from bingo, keno, and slot machine play is \$2,000 for calendar year 2026, adjusted for inflation in subsequent calendar years as provided in section 6041(h). The existing limitations related to the amount wagered in each of the affected games would be maintained under the proposed regulations.

Proposed Applicability Date

Section 1.165-10 is proposed to apply to taxable years beginning after December 31, 2025. Sections 1.6041-1, 1.6041-2, 1.6041-7, 1.6041-10 1.6041A-1, 31.3406(b)(3)-1, and 31.3406(g)-2 are proposed to apply to payments made on or after January 1, 2026.

Special Analyses

I. Regulatory Planning and Review – Economic Analysis

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing

costs, harmonizing rules, and promoting flexibility. This rule is expected to be an Executive Order 14192 deregulatory action.

These proposed regulations have been designated by the Office of Management and Budget's (OMB's) Office of Information and Regulatory Affairs (OIRA) as subject to review under Executive Order 12866 pursuant to the Memorandum of Agreement (MOA, July 4, 2025) between the Treasury Department and the OMB regarding review of tax regulations. OIRA has determined that these proposed regulations are economically significant and subject to review under section 3(f) of Executive Order 12866 and section 1(c) of the MOA. Accordingly, the proposed regulations have been reviewed by OMB.

A. Background, Statute, and Proposed Regulations

Under section 6041 of the Internal Revenue Code (Code), persons engaged in a trade or business that make certain payments in the course of their trade or business (payors) must file an information return with the Internal Revenue Service (IRS) to report such payments. The return contains information about the payment; the name of the payment recipient (payee); and the address of the payee; and provides the IRS with a third-party verification of income that the payee may report on their Federal income tax return. Similarly, under section 6041A, persons engaged in a trade or business that make payments in the course of that trade or business as remuneration for services must file information returns to report those payments. Under section 3406 of the Code, when certain conditions are met, reportable payments under sections 6041 or 6041A may be subject to backup withholding, wherein the payor withholds a specified percentage of the payment and remits that amount to the IRS. Backup withholding ensures that Federal income tax is paid on a payment that the payee might otherwise fail to report. In addition, when payors withhold amounts from payments subject to backup withholding, they are required to file an annual return to report the amounts

withheld during the year. That same return is also used by payors to report Federal income tax withheld from other nonpayroll payments, such as pensions, annuities, gambling winnings, etc.

Under sections 6041 and 6041A, an information return is required to be submitted to the IRS only when the aggregate dollar amount of payments made to a payee over a reportable period equals or exceeds the statutory threshold in section 6041(a). Under section 3406, backup withholding, when certain conditions are met, is also generally required only when the aggregate dollar amount of payments made to a payee over the reportable period equals or exceeds the threshold described in section 6041(a). These statutory dollar thresholds apply to certain payments reported on four information returns—Form 1099-MISC (Miscellaneous Information), Form 1099-NEC (Nonemployee Compensation), Form W-2 (Wage and Tax Statement), and Form W-2G (Certain Gambling Winnings)—as well as backup withholding with respect to these payments reported on Form 945 (Annual Return of Withheld Federal Income Tax), as affected by the enactment of Public Law 119-21, 139 Stat. 72 (July 4, 2025), commonly known as the One, Big, Beautiful Bill Act (OBBBA).

The OBBBA increased the statutory threshold in section 6041(a) to a base threshold of \$2,000 for payments made after December 31, 2025, and indexed the threshold for inflation for calendar years after 2026. Prior to the enactment of the OBBBA, the dollar threshold for reporting certain payments on Form 1099-MISC, Form 1099-NEC, and Form W-2 was \$600. This reporting level had been in place since 1954 and had not been indexed to inflation. Information reporting on gambling winnings reported on Form W-2G was governed by the same statutory threshold, but regulations under section 6041 provided that the dollar threshold was \$1,200 for a single winning from bingo and slot machine play and \$1,500 for a single winning from keno. The statutory amendments made by the OBBBA change the dollar thresholds for all of these

payments to be \$2,000 in a calendar year for payments made after December 31, 2025, with an adjustment for inflation in calendar years after 2026. The proposed regulations would conform the language in the regulations to match the new statutory threshold, including the regulatory thresholds for reporting winnings from keno, bingo, and slot machine play.

The OBBBA also modified the rules governing the itemized deduction for losses from wagering transactions under section 165(d) of the Code. Prior to the statutory change in the OBBBA, such deduction was limited to the extent of the gains from wagering transactions during a taxable year (reported as income elsewhere on the tax return). The OBBBA amended the deduction to be 90 percent of the amount of wagering losses, up to the extent of gains from wagering transactions during the taxable year. The proposed regulations would modify the existing regulations to reflect this statutory change.

B. Need for Regulation

The proposed amendments ensure that the regulations reflect current law, thereby preventing confusion by individuals and entities who are impacted by the updates to the relevant statutory provisions.

C. Economic Analysis

1. Baseline

The Treasury Department and the IRS have assessed the benefits and costs of the proposed regulations relative to a no-action baseline reflecting anticipated Federal income tax-related behavior in the absence of the proposed regulations.

2. Economic Effects of the Proposed Regulations

a. Reporting and backup withholding threshold

The proposed amendments revise the existing regulations to reflect the aforementioned statutory changes made by the OBBBA. In addition to the proposed

regulations, the IRS may publish sub-regulatory and informal guidance, such as notices, announcements, publications on form instructions, website materials, etc., to instruct taxpayers about how to interpret and apply the new statutory language to their situations. Published draft Publication 1099, General Instructions for Certain Information Returns, for Tax Year 2026 already contains references to the statutory changes to the reporting threshold made by the OBBBA. Because the interpretation and application of the newly enacted statutory language is likely to have no ambiguity, the sub-regulatory and informal guidance will likely provide sufficient guidance for taxpayers, and the benefits of the proposed regulations beyond such guidance may be limited.

Failure to update now-outdated regulations after law changes could create confusion and uncertainty for taxpayers impacted by the statutory changes. Taxpayers and practitioners who normally rely on the existing regulations must turn to other sources to learn about how to apply the statutory changes to their situations or else use their own interpretations. In cases of interpretive uncertainty, taxpayers and practitioners would incur additional compliance costs as they try to understand how to apply accurately the new statutory requirements. Some taxpayers and practitioners may apply the lower, outdated thresholds in the regulations despite the new, higher thresholds in the statutes. This is especially true for payors of winnings from keno, bingo, and slot machine play, which have historically followed a regulatory exception to the statutory threshold.

For payors, the enacted higher dollar threshold eliminates the reporting and backup withholding requirements on affected payments between the old and new thresholds. This change will reduce the compliance costs incurred by these payors to report payments and withhold taxes. Because this is a change in the statute, these dollar thresholds apply regardless of these proposed regulations. However, because

payors may follow the existing regulations, failing to update the regulations to reflect the changes in the statute increases the likelihood that payors will not take full advantage of the burden reductions associated with the lessened reporting and withholding requirements. The dollar thresholds specified in the existing regulations for reporting winnings from keno, bingo, and slot machine play are above the pre-OBBBA statutory level of \$600 and below the \$2,000 level in current law. Because the new statutory level exceeds the pre-OBBBA regulatory reporting thresholds for these games, the proposed regulations amend these thresholds to match the new statutory level of \$2,000. In the absence of the proposed regulations, the new dollar threshold of \$2,000 would still apply for reporting winnings from keno, bingo, and slot machine play. Updating the regulations would provide clear and consistent guidance to taxpayers with respect to the increased reporting threshold.

Because the proposed regulations only modify the existing regulations to comport with the new statutory thresholds, the discretionary effects of the proposed regulations hinge on the extent to which they eliminate interpretive ambiguity and informational inconsistency and, as a result, facilitate application of the new statutory law by affected taxpayers and entities. Persons engaged in a trade or business are no longer required to report to the IRS certain payments below \$2,000, effective for payments made in calendar year 2026. The Treasury Department and IRS estimate that, for tax year 2024, more than 328,000 payors filed 7.9 million Forms 1099-MISC reporting affected payments of at least \$600 and less than \$2,000, and approximately 3.3 million payors filed 18.8 million Forms 1099-NEC reporting payments of non-employee compensation of at least \$600 and less than \$2,000. For the same tax year, more than 4,000 payors filed 17.3 million Forms W-2G reporting gambling winnings in the range between the old and new reporting thresholds, almost 80 percent of which were for winnings from slot machine play. These payors also filed Forms 945 to report

Federal income tax they withheld on the reportable payments, when certain conditions are met. In addition, for tax year 2024 approximately 32,000 employers filed 0.9 million W-2s with paid wages of at least \$600 and less than \$2,000 that were not subject to withholding for social security, Medicare, or federal income taxes. This situation applies in a narrow set of circumstances where withholding for social security and Medicare taxes is not required, such as for cases of foreign agricultural workers, election workers, and certain members of the clergy.

In total, 3.5 million payors filed information returns for tax year 2024 that were between the old and new filing thresholds. This estimate counts a payor only once if they are in the affected range for more than one type of return. After adjusting for an expected growth rate to tax year 2026, the Treasury Department and the IRS estimate that 3.6 million payors are potentially affected by the statutory change and the clarity provided by these proposed regulations. The Treasury Department and IRS expect that most of these affected payors will only file information returns that are above the new threshold provided by OBBBA, without needing clarification from the proposed regulations. However, the proposed regulations will provide clarity and save some affected payors time and resources to identify the appropriate filing threshold.

For the projected reductions in compliance burdens associated with filing these returns as a result of the higher reporting thresholds established in the OBBBA, please refer to the Paperwork Reduction Act section of this document found in Part II of this Special Analyses.

b. Treatment of wagering losses

The statutory change in the percentage of wagering losses that may be deducted from 100 percent to 90 percent reduces the expected after-tax return to wagering transactions for taxpayers who claim an itemized deduction for wagering losses. For taxpayers who do not itemize deductions no deduction may be claimed for wagering

losses. Most taxpayers that report gains from wagering transactions do not itemize deductions and would be unaffected by the statutory change. For tax year 2022, the Treasury Department and IRS estimate that about 2.3 million taxpayers reported gains from wagering transactions on individual tax returns, but less than a third of these taxpayers, approximately 670,000, also claim an itemized deduction for wagering losses. The Treasury Department and the IRS project a total of 673,000 taxpayers will take an itemized deduction for wagering losses for tax year 2026. The relatively small share of taxpayers that report an itemized deduction for wagering losses is consistent with the small share of taxpayers overall that itemize deductions. The Treasury Department and the IRS estimate that 15 percent or fewer taxpayers itemize under current law.

The proposed regulations provide clarity regarding how to report wagering losses on a tax return and certainty to affected taxpayers about the expected after-tax return on wagering transactions. However, it is expected that tax software companies and tax professionals will update their products and services to reflect the law change even in the absence of updated regulations. The Treasury Department estimates that, of the more than 161 million individual income tax returns filed for tax year 2022, nearly 98 percent used assistance from a preparer or tax software while less than 3 percent were self-prepared paper returns filed by taxpayers without software assistance, likely following IRS instructions on tax forms. For these reasons, although updating the existing regulations helps reduce interpretive ambiguity and informational inconsistency, the economic impacts of any discretionary aspects of the proposed regulations relating to the deduction of wagering losses are likely minimal.

3. Summary

Based on the available models and data, the Treasury Department and the IRS estimate that the economic costs and benefits of the proposed regulations would be

small. The Treasury Department and the IRS invite public comments and additional data on the economic effects that would result from these proposed regulations.

II. Paperwork Reduction Act

The Paperwork Reduction Act of 1995, 44 U.S.C. 3501-3520 (PRA), generally requires that a Federal agency obtain the approval of the OMB before collecting information from the public, whether that collection of information is mandatory, voluntary, or required to obtain or retain a benefit. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the OMB.

The collections of information in the proposed regulations with respect to sections 6041 and 6041A are in proposed §§1.6041-1 and 1.6041A-1. The likely respondents are persons who make payments in the course of their trade or business. For purposes of the PRA, the reporting burden associated with the collection of information in proposed §§1.6041-1 and 1.6041A-1 will be reflected in the Paperwork Reduction Act Submissions associated with Forms 1099-MISC, 1099-NEC, W-2, and W-2G (OMB control numbers 1545-0115, 1545-0116, 1545-0029, and 1545-0238, respectively). The collection of information in the proposed regulations with respect to section 3406 is in proposed §§31.3406(b)(3)-1 and 31.3406(g)-2. The collected information would be used by the payor to determine whether payments to the payee exceed a threshold that would require backup withholding and the issuance of an information return. The burden for these requirements is included with the Form and Instructions for Form 945, *Annual Return of Withheld Federal Income Tax*. The Form 945 and Instructions for Form 945 are approved under OMB control number 1545-0029.

The higher reporting threshold set by OBBBA leads to a significant reduction in the expected number of Forms 1099-MISC, 1099-NEC, W-2G, and to a lesser extent, Forms W-2 and 945, that will need to be filed. For calendar year 2027, reflecting tax

year 2026 returns, the Treasury Department and the IRS estimate that the higher reporting threshold will result in an overall reduction in filing burden of \$982 million in 2024 dollars as described below and summarized in the accompanying table.

Prior to the passage of the OBBBA, the IRS projected that 42.60 million Form 1099-MISCs would be filed in calendar year 2027 (see IRS Publication 6961 (Rev. 9-2025)). The Treasury Department and the IRS estimate that 9.32 million of these forms would have payments in the range affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 9.32 million forms filed by the 0.41 hours per form time burden yields a decrease of 3.82 million burden hours and then multiplying by the \$58.40 per hour monetization rate (in 2024 dollars) provides an expected reduction in filing burden of \$223 million.

Similarly, prior to the passage of the OBBBA, the IRS projected that 62.72 million Form 1099-NECs would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 19.54 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 19.54 million forms filed by the 0.25 hours per form time burden yields a decrease of 4.89 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$285 million.

In addition, prior to the passage of the OBBBA, the IRS projected that 267.82 million Form W-2s would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 0.94 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 0.94 million forms filed by the 0.51 hours per form time burden yields a decrease of 0.48 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$28 million.

Also, prior to the passage of the OBBBA, the IRS projected that 34.06 million Form W-2Gs would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 19.06 million of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 19.06 million forms filed by the 0.4 hours per form time burden yields a decrease of 7.62 million burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$445 million.

Finally, prior to the passage of the OBBBA, the IRS projected that 47.8 thousand Form 945s would be filed in calendar year 2027. The Treasury Department and the IRS estimate that 600 of these forms would have payments affected by the change in the filing threshold and would no longer need to be filed. Multiplying the reduction in 610 forms filed by the 8.18 hours per form time burden yields a decrease of 5 thousand burden hours and then multiplying by the \$58.40 per hour monetization rate provides an expected reduction in filing burden of \$292 thousand.

The Treasury Department and the IRS request comments on all aspects of these estimates.

Table 1. Estimate of the Reduction in Filing Burden from Increased Reporting Threshold, Calendar Year 2027

Form	Estimated Reduction in Forms Filed Due to Increase in Reporting Threshold	Burden Hours Per Form	Total Reduction in Burden Hours	Total Reduction in Monetized Hours
1099-MISC	9,320,000	0.41	3,821,200	\$223,146,000
1099-NEC	19,540,000	0.25	4,885,000	\$285,284,000
W-2	944,000	0.51	481,000	\$28,090,000
W-2G	19,060,000	0.40	7,624,000	\$445,242,000
945	600	8.18	5,000	\$292,000
Total	48,864,600	N/A	16,816,000	\$982,054,000

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any Internal Revenue law. Tax returns and tax return information are confidential, unless section 6103 authorizes disclosure.

III. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. chapter 6) (RFA), it is hereby certified that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Although the proposed regulations may affect a substantial number of small entities, the economic impact of the proposed regulations is not likely to be significant. The Treasury Department and the IRS estimate that approximately 3.6 million taxpayers are affected by the proposed regulations, of which approximately 98 percent are considered small entities with gross receipts under \$40 million. The economic impact of these proposed regulations is not likely to be significant, however, because they do not impose any new requirements on small entities but rather increase the threshold at which they are required to issue information returns, thus reducing the amount of information returns entities must issue. For example, small entities with less than \$40 million in gross receipts will on average need to issue 10 fewer information returns under the increased threshold. The benefits

from the higher filing threshold and the increased certainty from the proposed regulations will be less than one percent of gross revenues for these small entities. Notwithstanding this certification, the Treasury Department and the IRS welcome comments on the impact of these proposed regulations on small entities.

IV. Submission to Small Business Administration

Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business.

V. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

VI. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These proposed regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are timely submitted to the Treasury Department and the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed regulations. Any electronic and paper comments submitted will be available at <https://www.regulations.gov> or upon request. Once submitted to the Federal eRulemaking Portal, comments cannot be edited or withdrawn.

A public hearing will be scheduled if requested in writing by any person that timely submits electronic or written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the ***Federal Register***.

Drafting Information

The principal author of these proposed regulations is the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

Proposed Amendments to the Regulations

Accordingly, the Treasury Department and IRS propose to amend 26 CFR parts 1 and 31 as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

* * * * *

Par. 2. Section 1.165-10 is revised to read as follows:

§1.165-10 Wagering losses.

(a) *In general.* For purposes of losses from wagering transactions, a deduction is allowed under section 165(d) of the Internal Revenue Code for 90 percent of the amount of such losses during the taxable year, but only to the extent of the gains from wagering transactions during that year.

(b) *Joint returns.* In the case of spouses making a joint return, 90 percent of the combined losses of the spouses from wagering transactions during the taxable year are allowed as a deduction under section 165(d) only to the extent of the combined gains of the spouses from wagering transactions during that year.

(c) *Applicability date.* This section applies to taxable years beginning after December 31, 2025.

Par. 3. Section 1.6041-1 is amended by:

1. Revising the section heading, paragraphs (a)(1)(i)(A) and (B), and paragraph (a)(1)(iii).

2. In paragraph (a)(1)(v), designating *Example 1* and *2* as paragraphs (a)(1)(v)(A) and (B).

3. Revising the first sentence of newly designated paragraph (a)(1)(v)(A).

4. Revising newly designated paragraph (a)(1)(v)(B).

5. Adding paragraph (a)(3).

6. Revising paragraph (j).

The revisions and addition read as follows:

§1.6041-1 Return of information as to payments exceeding threshold.

(a) * * *

(1) * * *

(i) * * *

(A) Salaries, wages, commissions, fees, and other forms of compensation for services rendered that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

(B) Interest (including original issue discount), rents, royalties, annuities, pensions, and other gains, profits, and income that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

(iii) *Information returns required under section 6045(f) on or after January 1, 2007.* For payments made on or after January 1, 2007, to which section 6045(f) (relating to payments to attorneys) applies, the following rules apply. Notwithstanding the provisions of paragraph (a)(1)(ii) of this section, payments to an attorney that are described in paragraph (a)(1)(i) of this section but which otherwise would be reportable under section 6045(f) are reported under section 6041 and this section and not section 6045(f) of the Code. This exception applies only if the payments are reportable with respect to the same payee under both sections 6041 and 6045(f). Thus, a person who, in the course of a trade or business, pays taxable damages in an amount that equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h) to a claimant by paying that amount to the claimant's attorney is required to file an information return under section 6041 with respect to the claimant, as well as another information return under section 6045(f) with respect to the claimant's attorney. For provisions relating to information reporting for payments to attorneys, see §1.6045-5.

* * * * *

(v) * * *

(A) * * * In 2026, Restaurant owner A, in the course of business, pays \$2,500 of fixed or determinable income to B, a repairman, by credit card. * * *

(B) *Example 2.* In 2026, Restaurant owner A, in the course of business, pays \$2,500 of fixed or determinable income to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (a)(1)(iv) of this section, A, as payor, is not required to file an information return under section 6041 with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether A is required to report under section 6041, the de minimis threshold for third party network transactions in §1.6050W-1(c)(4) is disregarded.

* * * * *

(3) *Dollar threshold in effect for the calendar year.* For payments made before January 1, 2026, the dollar threshold in effect for the calendar year under section 6041(a) is \$600. For payments made after December 31, 2025, and before January 1, 2027, the dollar threshold in effect for the calendar year under section 6041(a) is \$2,000. For payments made after December 31, 2026, the dollar threshold in effect for the calendar year under section 6041(a) is \$2,000 plus the inflation adjustment provided in section 6041(h).

* * * * *

(j) *Applicability date.* This section applies to payments made on or after January 1, 2026.

Par. 4. Section 1.6041-2 is amended by:

1. Adding a heading to paragraph (a).
2. Revising the third and fourth sentences of paragraph (a)(1).
3. Revising paragraphs (b)(1)(ii) and (d).

The addition and revisions read as follows:

§1.6041-2 Return of information as to payments to employees.

(a) *Reporting payments to employees*--(1) * * * All other payments of compensation, including the cash value of payments made in any medium other than cash, to an employee by the employee's employer in the course of the trade or business of the employer must also be reported on Form W-2 if the total of such payments and the amount of the employee's wages (as defined in section 3401), if any, required to be reported on Form W-2 equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h). For example, in 2026, when the threshold in effect under section 6041(a) is \$2,000, if a payment of \$2,500 is made to an employee and \$1,500 thereof represents wages subject to withholding under section 3402 and the remaining \$1,000 represents compensation not subject to withholding, such wages and compensation must both be reported on Form W-2. * * *

* * * * *

(b) * * *

(1) * * *

(ii) Described in section 72(m)(3)(B), shall be reported on Forms 1096 and 1099 to the extent such amounts are includible in the gross income of such beneficiary if the amounts so includible equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h). In addition, every trust described in section 501(c)(17) which makes one or more payments (including separation and sick and accident benefits) in an amount that equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h) to an individual must file an annual

information return on Form 1096, accompanied by a statement on Form 1099, for each such individual. Payments made by an employer or a person other than the trustee of the trust should not be considered in determining whether the amount paid by the trustee equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

(d) *Applicability date.* This section applies to returns filed with respect to payments made on or after January 1, 2026.

Par. 5. Section 1.6041-7 is amended by revising paragraph (b)(1) to read as follows:

§1.6041-7 Magnetic media requirement.

* * * * *

(b) * * *

(1) For calendar years beginning on or after January 1, 1971, a health care carrier, or an agent thereof, making payment of fees or other compensation to providers of medical and health care services, may make a separate return on magnetic media for each separate department within a specific line of such carrier's business, so long as all of such returns taken together contain all of the information required by section 6041 with respect to each provider of medical and health care services to whom such health care carrier makes payments that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h).

* * * * *

Par. 6. Section 1.6041-10 is amended by:

1. Revising paragraph (b)(1)(i).
2. Revising the introductory text of paragraph (g)(5).

3. In paragraph (g)(5), designating *Examples 1* through *6* as paragraphs (g)(5)(i) through (vi).

4. Revising newly designated paragraphs (g)(5)(i) and (ii).

5. In newly designated paragraph (g)(5)(iv), removing the language “example 3” and adding, in its place, the language “in paragraph (g)(5)(iii) of this section (*Example 3*)”.

6. Revising newly designated paragraph (g)(5)(v).

7. Revising paragraph (i).

The revisions read as follows:

§1.6041-10 Return of information as to payments of winnings from bingo, keno, and slot machine play.

* * * * *

(b) * * *

(1) * * *

(i) For purposes of this section, the term *reportable gambling winnings* is defined as follows:

(A) For bingo, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one bingo game, without reduction for the amount wagered. All winnings received from all wagers made during one bingo game are combined (for example, all winnings from all cards played during one bingo game are combined).

(B) For keno, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one keno game reduced by the amount wagered on the same keno game. All winnings received from all wagers made during one keno game are combined (for example, all winnings from all “ways” on a multi-way keno ticket are combined).

(C) For slot machine play, the term *reportable gambling winnings* means winnings that equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) from one slot machine play, without reduction for the amount wagered.

* * * * *

(g) * * *

(5) *Examples.* The following examples illustrate the provisions of this section. For each example, assume that for purposes of the aggregate reporting method in this paragraph (g), casino R's "information reporting period" for all calendar years is a gaming day that begins at 3 a.m. and ends at 2:59 a.m. the following day (except for January 1 and December 31), that (ignoring the inflation adjustment in 6041(h) for simplicity of illustration) the dollar threshold in effect for each calendar year under section 6041(a) is \$2,000, and that individuals C, D, and E are U.S. persons.

(i) *Example 1.* On Day 1, between 7 a.m. and 4 p.m., C places five wagers at casino R on five different slot machines. The first two wagers result in no win. The third wager results in a \$2,000 win. The fourth wager results in a \$2,500 win. The fifth wager results in an \$800 win:

(A) Under paragraph (b)(1)(i)(C) of this section, there are reportable gambling winnings from the slot machine play of \$4,500 (\$2,000 + \$2,500). The \$800 win is not a reportable gambling winning from slot machine play because it does not equal or exceed the dollar threshold.

(B) Because all the amounts were won on the same type of game (even though each of the winnings occurred on different machines) during the same information reporting period, R is permitted to use the aggregate reporting method under this paragraph (g). If R decides not to use the aggregate reporting method, a separate Form W-2G would have to be filed and furnished for the payment of reportable

gambling winnings of \$2,000 and for the payment of reportable gambling winnings of \$2,500. However, if R decides to use the aggregate reporting method, R may report total reportable gambling winnings from slot machine play of \$4,500 (\$2,000 + \$2,500) on one Form W-2G.

(ii) *Example 2.* Assume the same facts as in paragraph (g)(5)(i) of this section (*Example 1*), except that in addition to the winnings described in paragraph (g)(5)(i) of this section (*Example 1*), at 5 a.m. on Day 2, C wins \$3,250 from one slot machine play at casino R. Even though C played the same type of game (slot machine play) on Day 1 and Day 2, under paragraph (b)(2) of this section, the win at 5 a.m. on Day 2 is a win during a separate information reporting period. Under paragraph (g)(2)(i) of this section, the \$3,250 of reportable gambling winnings on Day 2 cannot be aggregated with the reportable gambling winnings of \$4,500 from Day 1 on a single Form W-2G.

Accordingly, if R uses the aggregate reporting method, R must file two Forms W-2G with respect to C's reportable gambling winnings on Day 1 and Day 2. R must report \$4,500 of reportable gambling winnings from slot machine play paid to C on Day 1 on the first Form W-2G, and \$3,250 of reportable gambling winnings from slot machine play paid to C on Day 2 on the second Form W-2G.

* * * * *

(v) *Example 5.* At 2 p.m. on Day 1, D won \$2,000 (after reducing the amount of the win by the amount wagered) playing one keno game at casino R. D provides R with his driver's license. The driver's license has D's photograph on it, as well as D's name and address. The driver's license does not include D's social security number. D cannot remember his social security number and has no other identification at the time with his social security number on it. D does not provide R with his social security number before R pays the winnings to D. Because D cannot remember his social security number, D cannot complete and sign a Form W-9. R deducts and withholds

under the backup withholding provisions of section 3406(a) and pays the remainder to D. D returns to casino R and at 6 p.m. on Day 1 wins \$2,500 (after reducing the amount of the win by the amount wagered) in one keno game. D provides R with his driver's license as well as D's social security card. R generally uses the aggregate reporting method and, in all cases where it is used, R complies with the requirements of this paragraph (g). At 8 p.m. and 10 p.m. on Day 1, D wins an additional \$2,800 and \$2,700 (after reducing the amount of the win by the amount wagered), respectively, from two different keno games. For each of these two wins, an employee of R obtains the information from D required by this paragraph (g). Under paragraph (b)(1)(i)(B) of this section, each of D's wins from the four games of keno on Day 1 (\$2,000, \$2,500, \$2,800, and \$2,700) are reportable gambling winnings. Because D's first win on Day 1 was at 2 p.m. and D's last win on Day 1 was at 10 p.m., all of D's reportable gambling winnings from keno are won during the same information reporting period. Because R satisfies the requirements of paragraph (g)(2)(i) of this section, R may use the aggregate reporting method to report D's reportable gambling winnings from keno. However, pursuant to paragraph (g)(4)(iii) of this section, the \$2,000 payment made to D at 2 p.m. cannot be reported under the aggregate reporting method because that payment was subject to backup withholding. Accordingly, if R uses the aggregate reporting method under this paragraph (g), R will have to file two Forms W-2G with respect to D's reportable gambling winnings from keno on Day 1. On the first Form W-2G, R will report \$2,000 of reportable gambling winnings and of the amount of backup withholding with respect to the 2 p.m. win from keno, and, on the second Form W-2G, R will report \$8,000 of reportable gambling winnings from keno (representing the three payments of \$2,500, \$2,800, and \$2,700 that D won between 6 p.m. and 10 p.m. on Day 1).

* * * * *

(i) *Applicability date.* This section applies to payments of reportable gambling winnings from bingo, keno, or slot machine play made on or after January 1, 2026.

* * * * *

Par. 7. Section 1.6041A-1 is amended by revising paragraphs (d)(4)(ii) and (iii) to read as follows:

§1.6041A-1 Returns regarding payments of remuneration for services and certain direct sales.

* * * * *

(d) * * *

(4) * * *

(ii) *Examples.* The provisions of this paragraph (d)(4) are illustrated by the following examples:

(A) *Example 1.* In 2026, service recipient A, in the course of its business, pays by credit card remuneration of \$2,500 to service provider B for services performed by B. B is one of a network of unrelated persons that has agreed to accept A's credit card as payment under an agreement that provides standards and mechanisms for settling the transactions between a merchant acquiring bank and the persons who accept the cards. Merchant acquiring bank Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because Y, as the payment settlement entity for the payment card transaction, is required to file an information return under section 6050W.

(B) *Example 2.* In 2026, service recipient A, in the course of business, pays through a third party payment network \$2,500 to B, a repairman, through a third party payment network. B is one of a substantial number of persons who have established accounts with Y, a third party settlement organization that provides standards and

mechanisms for settling the transactions and guarantees payments to those persons for goods or services purchased through the network. Y is responsible for making the payment to B. Under paragraph (d)(4)(i) of this section, A is not required to file an information return under section 6041A(a) with respect to the transaction because the transaction is a third party network transaction that is subject to reporting under section 6050W. Solely for purposes of determining whether the transaction is subject to reporting under section 6041A, the de minimis threshold for third party network transactions in §1.6050W-1(c)(4) is disregarded.

(iii) *Applicability date.* This section applies to payments made by payment card or through a third party payment network on or after January 1, 2026.

* * * * *

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 8. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805.

* * * * *

Par. 9. Section 31.3406-0 is amended by revising the entry for §31.3406(b)(3)-1(b)(3) to read as follows:

§31.3406-0 Outline of the backup withholding regulations.

* * * * *

§31.3406(b)(3)-1 Reportable payments of rents, commissions, nonemployee compensation, etc.

* * * * *

(b) * * *

(3) Payments exceeding threshold.

* * * * *

Par. 10. Section 31.3406(b)(3)-1 is amended by:

1. Revising the second sentence of paragraph (a).

2. Revising the heading of paragraph (b)(3) and revising paragraph (b)(3)(i).
3. Revising paragraph (b)(3)(ii)(A).
4. Revising the heading and the first sentence of paragraph (b)(3)(ii)(B).

The revisions read as follows:

§31.3406(b)(3)-1 Reportable payments of rents, commissions, nonemployee compensation, etc.

(a) * * * See paragraph (b) of this section for an exception concerning payments aggregating less than the dollar threshold in effect for the calendar year under section 6041(a) and (h). * * *

(b) * * *

(3) *Payments exceeding threshold*—(i) *In general.* A payment is a reportable payment under paragraph (a) of this section only if the aggregate amount of the current payment and all previous payments to the payee during the calendar year equals or exceeds the dollar threshold in effect for the calendar year under section 6041(a) and (h). The amount subject to withholding is the entire amount of the payment that causes the total amount paid to the payee to equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h), plus the amount of any subsequent payments made to the payee during that calendar year. This paragraph (b)(3)(i) does not apply to gambling winnings (as provided in §31.3406(g)–2(d)(1)).

(ii) * * *

(A) *The aggregation rule.* The aggregation rule of paragraph (b)(3)(i) of this section does not apply if the payor was required to make an information return under section 6041 or 6041A(a) for the preceding calendar year with respect to payments to the payee, or the payor was required to withhold under section 3406 during the preceding calendar year with respect to payments to the payee that were reportable under section 6041 or 6041A(a).

(B) *Determination of whether payments exceed the dollar threshold.* In determining whether payments to a payee equal or exceed the dollar threshold in effect for the calendar year under section 6041(a) and (h) for purposes of withholding under section 3406, the payor must aggregate only payments of the same kind made to the same payee. * * *

* * * * *

Par. 11. Section 31.3406(g)-2 is amended by:

1. Revising the second sentence of paragraph (d)(2).
2. Revising paragraph (h).

The revisions read as follows:

§31.3406(g)-2 Exception for reportable payment for which withholding is otherwise required.

* * * * *

(d) * * *

(2) * * * A gambling winning (other than a winning from bingo, keno, or slot machines) is a reportable gambling winning only if the amount paid with respect to the wager equals or exceeds the dollar amount in effect for the calendar year under section 6041(a) and (h) and if the proceeds are at least 300 times as large as the amount wagered. * * *

* * * * *

(h) *Applicability date.* This section applies to payments of reportable gambling winnings paid with respect to a winning event that occurs on or after January 1, 2026.

Frank J. Bisignano,

Chief Executive Officer.

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