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## DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9674]

RIN 1545-BM07

Guidelines for the Streamlined Process of Applying for Recognition of Section 501(c)(3) Status

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to eligible organizations seeking recognition of tax-exempt status under section 501(c)(3) of the Internal Revenue Code (Code). The final and temporary regulations amend current regulations to allow the Commissioner of Internal Revenue to adopt a streamlined application process that eligible organizations may use to apply for recognition of tax-exempt status under section 501(c)(3). The text of the temporary regulations also serves as the text of the proposed regulations (REG-110948-14) set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: Effective date: These regulations are effective on July 1, 2014.

Applicability date: For dates of applicability, see §§1.501(a)-1T(f)(1), 1.501(c)(3)-1T(h)(1), 1.508-1T(c)(1).

FOR FURTHER INFORMATION CONTACT: James R. Martin or Robin Ehrenberg at (202) 317-5800 (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

### **Background**

Section 508 requires an organization seeking tax-exempt status under section 501(c)(3), as a condition of its exemption, to notify the Secretary of the Treasury (or his delegate) that it is applying for recognition of exempt status in the manner prescribed in the Treasury Regulations, unless it is specifically excepted from the requirement. Section 1.508-1(a) describes the process for giving notice, and requires that an organization “submit[ ] a properly completed and executed Form 1023, exemption application.” Section 1.501(c)(3)-1(b)(1)(v) states that an organization must, to establish its exemption, submit a detailed statement of its proposed activities with and as a part of its application for exemption. Similarly, §1.501(a)-1(b)(1)(iii) provides that an organization described in section 501(c)(3) shall submit with, and as part of, an application, a detailed statement of its proposed activities. Section 1.501(a)-1(b)(2) states that the Commissioner may require any additional information deemed necessary for a proper determination of whether a particular organization is exempt, and when deemed advisable in the interest of an efficient administration of the internal revenue laws, the Commissioner may, in the cases of particular types of organizations, prescribe the form in which the proof of exemption shall be furnished.

Detailed procedures for applying for recognition of exemption are set out in Rev. Proc. 2014-9, 2014-2 IRB 281, and in the instructions to Form 1023,

“Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.” See §601.601(d)(2)(ii)(b) of this chapter.

### **Explanation of Provisions**

The Treasury Department and the IRS have considered how the process of meeting the notice requirement of section 508 can be made more efficient for certain smaller organizations. The IRS is developing a streamlined form and process for these organizations. Accordingly, this Treasury decision amends §§1.501(a)-1, 1.501(c)(3)-1, and 1.508-1 to permit eligible organizations to use a streamlined process, described in guidance published in the Internal Revenue Bulletin, to meet the notice requirements of section 508.

Specifically, this Treasury decision amends §§1.501(a)-1 and 1.501(c)(3)-1 to authorize the Treasury Department and the IRS to prescribe, in applicable regulations or other guidance published in the Internal Revenue Bulletin, an exception to the requirement that an organization applying for tax-exempt status provide a detailed statement of its proposed activities. This document also amends the §1.501(a)-1 provisions relating to the Commissioner’s ability to revoke a determination because of a change in the law or regulations, or for other good cause, to reference the Commissioner’s authority to retroactively revoke a determination under section 7805(b). No substantive change is intended by this amendment. This Treasury decision also amends the requirement in §1.501(a)-1(b)(3) that an organization claiming to be exempted from filing annual returns file a statement supporting its claim with and as a part of its application. This amendment would provide flexibility for the Treasury

Department and the IRS to prescribe in published guidance other methods of notifying the IRS that the organization is claiming an annual filing exemption.

In addition, this document amends §1.508-1 to provide that eligible organizations may use Form 1023-EZ, “Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,” to notify the Commissioner of their applications for tax-exempt status under section 501(c)(3). This Treasury decision also amends §§1.501(a)-1 and 1.508-1 to state that the office to which applications should be submitted will be published in the Internal Revenue Bulletin or instructions to the Form 1023 or Form 1023-EZ.

Finally, this Treasury decision makes certain technical revisions to the regulations. In §1.501(a)-1, the reference to “internal revenue district” is removed because such reference has been made obsolete by the enactment of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, 112 Stat. 685. References to a district director in §§1.501(a)-1, 1.501(c)(3)-1, and 1.508-1 are also modified, as those positions no longer exist within the IRS. Proposed regulations in the Rules and Regulations section of this issue of the Federal Register use the text of these temporary regulations as the text of the proposed regulations. Treasury and the IRS seek comments on all aspects of the proposed rules, including whether additional technical revisions are necessary. Simultaneously with the publication of this Treasury decision, the Treasury Department and the IRS will release for publication a Revenue Procedure that provides procedures for applying for recognition of exemption using Form 1023-EZ.

## **Special Analyses**

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), refer to the Special Analyses section of the preamble to the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f), these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

## **Drafting Information**

The principal authors of these regulations are James R. Martin and Robin Ehrenberg of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

## **List of Subjects in 26 CFR Part 1**

Income taxes, Nonprofit organizations, Foundations, Reporting and recordkeeping requirements.

## **Adoption of Amendments to the Regulations**

Accordingly, 26 CFR part 1 is amended 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 1.501(a)-1 is amended by:

1. Revising paragraphs (a)(2), (b)(1), and (b)(3).
2. Adding paragraph (f).

The revisions and addition read as follows:

§1.501(a)-1 Exemption from taxation.

(a) \* \* \*

(2) [Reserved]. For further guidance, see §1.501(a)-1T(a)(2).

\* \* \* \* \*

(b)(1) [Reserved]. For further guidance, see §1.501(a)-1T(b)(1).

\* \* \* \* \*

(3) [Reserved]. For further guidance, see §1.501(a)-1T(b)(3).

\* \* \* \* \*

(f) [Reserved]. For further guidance, see §1.501(a)-1T(f).

Par. 3. Section 1.501(a)-1T is added to read as follows:

§1.501(a)-1T Exemption from taxation (temporary).

(a)(1) [Reserved]. For further guidance see §1.501(a)-1(a)(1).

(2) An organization, other than an employees' trust described in section 401(a), is not exempt from tax merely because it is not organized and operated for profit. In order to establish its exemption, it is necessary that every such

organization claiming exemption file an application form as set forth below with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms or instructions to the applicable forms. Subject only to the Commissioner's inherent power to revoke rulings, including with retroactive effect as permitted under section 7805(b), because of a change in the law or regulations or for other good cause, an organization that has been determined by the Commissioner (or previously by a district director) to be exempt under section 501(a) or the corresponding provision of prior law may rely upon such determination so long as there are no substantial changes in the organization's character, purposes, or methods of operation. An organization that has been determined to be exempt under the provisions of the Internal Revenue Code of 1939 or prior law is not required to secure a new determination of exemption merely because of the enactment of the Internal Revenue Code of 1954 unless affected by substantive changes in law made by such Code.

(3) [Reserved]. For further guidance, see §1.501(a)-1(a)(3).

(b) Additional proof by particular classes of organizations. (1) Unless otherwise prescribed by applicable regulations or other guidance published in the Internal Revenue Bulletin, organizations mentioned below shall submit with and as a part of their applications the following information:

(i) Mutual insurance companies shall submit copies of the policies or certificates of membership issued by them.

(ii) In the case of title holding companies described in section 501(c)(2), if the organization for which title is held has not been specifically notified in writing

by the Internal Revenue Service that it is held to be exempt under section 501(a), the title holding company shall submit the information indicated herein as necessary for a determination of the status of the organization for which title is held.

(iii) An organization described in section 501(c)(3) shall submit with, and as a part of, an application filed after July 26, 1959, a detailed statement of its proposed activities.

(2) [Reserved]. For further guidance, see §1.501(a)-1(b)(2).

(3) An organization claiming to be specifically exempted by section 6033(a) from filing annual returns shall submit with and as a part of its application (or in such other manner as is prescribed in guidance published in the Internal Revenue Bulletin) a statement of all the facts on which it bases its claim.

(c) through (e) [Reserved]. For further guidance, see §1.501(a)-1(c) through (e).

(f) Effective/applicability date. (1) Paragraphs (a)(2), (b)(1), and (b)(3) of this section apply on and after July 1, 2014.

(2) Expiration date. Paragraphs (a)(2), (b)(1), and (b)(3) of this section expire on or before July 1, 2017.

Par. 4. Section 1.501(c)(3)-1 is amended by:

1. Revising paragraphs (b)(1)(v) and (b)(6).
2. Adding paragraph (h).

The revisions and addition read as follows:

§1.501(c)(3)-1 Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.

\* \* \* \* \*

(b) \* \* \* (1) \* \* \*

(v) [Reserved]. For further guidance see §1.501(c)(3)-1T(b)(1)(v).

\* \* \* \* \*

(6) [Reserved]. For further guidance see §1.501(c)(3)-1T(b)(6).

\* \* \* \* \*

(h) [Reserved]. For further guidance see §1.501(c)(3)-1T(h).

Par. 5. Section 1.501(c)(3)-1T is added to read as follows:

§1.501(c)(3)-1T Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals (temporary).

(a) through (b)(1)(iv) [Reserved]. For further guidance see §1.501(c)(3)-1(a) through (b)(1)(iv).

(v) Unless otherwise prescribed by applicable regulations or other guidance published in the Internal Revenue Bulletin, an organization must, in order to establish its exemption, submit a detailed statement of its proposed activities with and as a part of its application for exemption (see paragraph (b) of §1.501(a)-1).

(b)(2) through (b)(5) [Reserved]. For further guidance see §1.501(c)(3)-1(b)(2) through (b)(5).

(6) Applicability of the organizational test. A determination by the Commissioner that an organization is described in section 501(c)(3) and exempt under section 501(a) will not be granted after July 26, 1959, regardless of when the application is filed, unless such organization meets the organizational test prescribed by this paragraph (b)(6). If, before July 27, 1959, an organization has been determined by the Commissioner or district director to be exempt as an organization described in section 501(c)(3) or in a corresponding provision of prior law and such determination has not been revoked before such date, the fact that such organization does not meet the organizational test prescribed by this paragraph (b)(6) shall not be a basis for revoking such determination.

Accordingly, an organization that has been determined to be exempt before July 27, 1959, and which does not seek a new determination of exemption is not required to amend its articles of organization to conform to the rules of this paragraph (b)(6), but any organization that seeks a determination of exemption after July 26, 1959, must have articles of organization that meet the rules of this paragraph (b)(6). For the rules relating to whether an organization determined to be exempt before July 27, 1959, is organized exclusively for one or more exempt purposes, see 26 CFR (1939) 39.101(6)–1 (Regulations 118) as made applicable to the Code by Treasury Decision 6091, approved August 16, 1954 (19 FR 5167; CB 1954–2, 47).

(c) through (g) [Reserved]. For further guidance, see §1.501(c)(3)-1(c) through (g).

(h) Effective/applicability date. (1) Paragraphs (b)(1)(v) and (b)(6) of this section apply on and after July 1, 2014.

(2) Expiration date. Paragraphs (b)(1)(v) and (b)(6) of this section expire on or before July 1, 2017.

Par. 6. Section 1.508-1 is amended by:

1. Revising paragraphs (a)(2)(i) and (ii).
2. Revising paragraphs (b)(2)(iv) and (v).
3. Adding paragraph (c).

The revisions and addition read as follows:

§1.508–1 Notices.

(a) \* \* \*

(2)(i) [Reserved]. For further guidance, see §1.508-1T(a)(2)(i).

(ii) [Reserved]. For further guidance, see §1.508-1T(a)(2)(ii).

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) [Reserved]. For further guidance, see §1.508-1T(b)(2)(iv).

(v) [Reserved]. For further guidance, see §1.508-1T(b)(2)(v).

\* \* \* \* \*

(c) [Reserved]. For further guidance, see §1.508-1T(c).

Par. 7. Section 1.508-1T is revised to read as follows:

§1.508–1T Notices (temporary).

(a)(1) [Reserved]. For further guidance, see §1.508-1(a)(1).

(2) Filing of notice. (i) For purposes of paragraph (a)(1) of this section, except as provided in paragraph (a)(3) of this section, an organization seeking exemption under section 501(c)(3) must file the notice described in section 508(a) within 15 months from the end of the month in which the organization was organized, or before March 22, 1973, whichever comes later. Such notice is filed by submitting a properly completed and executed Form 1023 (or if applicable, Form 1023-EZ), exemption application. Notice should be filed with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms or instructions to the applicable forms. A request for extension of time for the filing of such notice should be submitted to such appropriate office. Such request may be granted if it demonstrates that additional time is required.

(ii) Although the information required by either Form 1023 or Form 1023-EZ must be submitted to satisfy the notice required by this section, the failure to supply, within the required time, all of the information required to complete such form is not alone sufficient to deny exemption from the date of organization to the date such complete information for such form is submitted by the organization. If the information that is submitted within the required time is incomplete, and the organization supplies the necessary additional information at the request of the Commissioner within the additional time period allowed by him, the original notice will be considered timely.

(iii) through (b)(2)(iii) [Reserved]. For further guidance, see §1.508-1(a)(2)(iii) through (b)(2)(iii).

(iv) Any organization filing notice under this paragraph (b)(2)(iv) that has not received a ruling or determination letter from the Internal Revenue Service dated on or before July 13, 1970, recognizing its exemption from taxation under section 501(c)(3) (or the corresponding provisions of prior law), shall file its notice by submitting a properly completed and executed Form 1023 (or if applicable, Form 1023-EZ) and providing information that it is not a private foundation. The organization shall also submit all information required by the regulations under section 170 or 509 (whichever is applicable) necessary to establish recognition of its classification as an organization described in section 509(a)(1), (2), (3), or (4). A Form 1023 submitted prior to July 14, 1970, will satisfy this requirement if the organization submits an additional statement that it is not a private foundation together with all pertinent additional information required. Any statement filed under this paragraph (b)(2)(iv) shall be accompanied by a written declaration by the principal officer, manager or authorized trustee that there is a reasonable basis in law and in fact for the statement that the organization so filing is not a private foundation, and that to the best of the knowledge and belief of such officer, manager or trustee, the information submitted is complete and correct.

(v) The notice filed under paragraph (b)(2)(ii) of this section should be filed in accordance with the instructions applicable to Form 4653. The notice required by paragraph (b)(2)(iv) of this section should be filed with the appropriate office as designated by the Commissioner in guidance published in the Internal Revenue Bulletin, forms, or instructions to the applicable forms. An extension of time for the filing of such notice may be granted by such office upon timely

request by the organization, if the organization demonstrates that additional time is required.

(b)(3) through (8) [Reserved]. For further guidance, see §1.508-1(b)(3) through (8).

(c) Effective/applicability date. (1) Paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), and (b)(2)(v) of this section apply on and after **[INSERT DATE OF FILING (PUBLIC INSPECTION) OF THIS DOCUMENT WITH THE FEDERAL REGISTER].**

(2) Expiration date. Paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), and (b)(2)(v) of this section expire on or before **[INSERT DATE THREE YEARS AFTER THE DATE THIS DOCUMENT IS FILED (PUBLIC INSPECTION) IN THE FEDERAL REGISTER].**

John Dalrymple,  
Deputy Commissioner for Services and Enforcement.  
Approved: June 27, 2014.

Mark J. Mazur,  
Assistant Secretary of the Treasury (Tax Policy).

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