



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 53

[TD 9855]

RIN 1545-BO80

Regulations to Prescribe Return and Time for Filing for Payment of Section 4960, 4966, 4967, and 4968 Taxes and to Update the Abatement Rules for Section 4966 and 4967 Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations specifying which return to use to pay certain excise taxes and the time for filing the return. The regulations also implement the statutory addition of two excise taxes to the first-tier taxes subject to abatement. These regulations affect applicable tax-exempt organizations and their related organizations, applicable educational institutions, sponsoring organizations that maintain certain donor advised funds, fund managers of such sponsoring organizations, and certain donors, donor advisors, and persons related to a donor or donor advisor of a donor advised fund.

DATES: Effective date: These regulations are effective on **[INSERT DATE OF**

PUBLICATION IN THE *FEDERAL REGISTER*]. Applicability date: These regulations apply on and after **[INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

See also §53.6071-1(j)(3).

FOR FURTHER INFORMATION CONTACT: Amber L. MacKenzie, (202) 317-4086 or Ward L. Thomas, (202) 317-6173 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending 26 CFR part 53 under chapter 42, subtitle D, section 4963 and chapter 61, subtitle F, sections 6011 and 6071 of the Internal Revenue Code (Code), to specify the return to accompany payment of excise taxes under sections 4960, 4966, 4967, and 4968; to specify the time for filing that return; and to conform the regulations to the statutorily expanded definition of the first-tier taxes subject to abatement under section 4962.

On November 7, 2018, the Department of the Treasury (Treasury Department) and the IRS published a notice of proposed rulemaking (REG–107163–18) in the **Federal Register** (83 FR 55653) setting forth proposed regulations under sections 6011 and 6071. The proposed regulations specified Form 4720, “Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code,” as the return to accompany payment of excise taxes under sections 4960, 4966, 4967, and 4968; required that a person (including a governmental entity) required to file a return to report such tax file Form 4720 by the 15th day of the 5th month after the end of the person’s taxable year; and added sections 4966 and 4967 to the first-tier taxes subject to abatement under section 4962.

Only one comment from the public was received, which did not raise any concerns or make any recommendations specific to the proposed regulation, and no hearing was requested or held. Therefore, the proposed regulations are adopted

without change by this Treasury decision. (All comments are available at www.regulations.gov or upon request.)

Explanation of Provisions

1. Section 4962 Abatement

These final regulations add section 4966 and section 4967 excise taxes to the definitions of “first tier tax” and “taxable event” in §53.4963-1. Qualified first tier taxes are subject to abatement under section 4962.

2. Requirement To File a Form 4720

These final regulations amend § 53.6011-1(b) to provide that persons (including governmental entities) that are liable for section 4960, 4966, 4967, or 4968 excise taxes are required to file a return on Form 4720.

3. Deadline for Filing a Form 4720

Under §53.6071-1(i) of these final regulations, a person required to file a Form 4720 to report an excise tax under section 4960, 4966, 4967, or 4968 must file a Form 4720 by the 15th day of the fifth month after the end of the person’s taxable year during which the excise tax liability was incurred.

4. Effective/Applicability Date

These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. These regulations apply on and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. See also § 53.6071–1(j)(3).

Availability of IRS Documents

For copies of recently issued revenue procedures, revenue rulings, notices and other guidance published in the Internal Revenue Bulletin, please visit the IRS Web site

at <http://www.irs.gov> or contact the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402.

Special Analyses

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Treasury Department and the Office of Management and Budget regarding review of tax regulations.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that this rule merely provides guidance as to the timing and filing of Form 4720 for persons liable for the specified excise taxes and who have a statutory filing obligation. Completing the applicable portion of the Form 4720 imposes little incremental burden in time or expense as compared to any other filing method.

In addition, a person may already be required to file the Form 4720 under the existing final regulations in §§ 53.6011–1 and 53.6071–1 if it is liable for another excise tax for which filing of the Form 4720 is required. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small businesses, and no comment was received.

Drafting Information

The principal authors of these regulations are Amber L. MacKenzie and Ward L. Thomas of the Office of Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Tax). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 53

Excise taxes, Foundations, Investments, Lobbying, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 53 is amended as follows:

PART 53 – FOUNDATION AND SIMILAR EXCISE TAXES

Paragraph 1. The authority citation for part 53 continues to read in part as follows:

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

§ 53.4963–1 [Amended]

Par. 2. Section 53.4963–1 is amended by:

1. In paragraph (a), removing the language “4958, 4971” and adding “4958, 4966, 4967, 4971” in its place.

2. In paragraph (c), removing the language “4958, 4971” and adding “4958, 4966, 4967, 4971” in its place.

Par. 3. Section 53.6011–1(b) is amended by:

1. Revising the first sentence.

2. Removing from the third sentence the language “4958(a), or 4965(a),” and adding “4958(a), 4960(a), 4965(a), 4966(a), or 4967(a),” in its place.

The revision reads as follows:

§53.6011–1 General requirement of return, statement or list.

* * * * *

(b) Every person (including a governmental entity) liable for tax imposed by sections 4941(a), 4942(a), 4943(a), 4944(a), 4945(a), 4955(a), 4958(a), 4959, 4960(a), 4965(a), 4966(a), 4967(a), or 4968(a), and every private foundation and every trust described in section 4947(a)(2) which has engaged in an act of self-dealing (as defined in section 4941(d)) (other than an act giving rise to no tax under section 4941(a)) shall file an annual return on Form 4720, "Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code," and shall include therein the information required by such form and the instructions issued with respect thereto. * * *

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§53.6071–1 [Amended]

Par. 4. Section 53.6071–1 is amended by:

1. Redesignating paragraph (i) as paragraph (j).
2. Adding new paragraphs (i) and (j)(3).

The additions read as follows:

§53.6071–1 Time for filing returns.

* * * * *

(i) Taxes under section 4960, 4966, 4967, or 4968. A person (including a governmental entity) required by §53.6011–1(b) to file a return for a tax imposed by section 4960(a), 4966(a), 4967(a), or 4968(a) in a taxable year must file the Form 4720 on or before the 15th day of the fifth month after the end of the person's taxable year

(or, if the person has not established a taxable year for Federal income tax purposes, the person's annual accounting period).

(j) * * *

(3) Paragraph (i) of this section applies on and after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: March 25, 2019.

David J. Kautter,
Assistant Secretary of the Treasury (Tax Policy).

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