



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9873]

RIN 1545-BN25

Regulations on the Requirement to Notify the IRS of Intent to Operate as a Section 501(c)(4) Organization

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations relating to the section 506 requirement, added by the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act), enacted on December 18, 2015, that organizations described in section 501(c)(4) of the Internal Revenue Code (Code) must notify the IRS, no later than 60 days after their establishment, of their intent to operate under section 501(c)(4).

DATES: Effective Date: These regulations are effective on **[INSERT DATE OF FILING FOR PUBLIC INSPECTION IN THE FEDERAL REGISTER]**.

Applicability Date: For date of applicability, see § 1.506-1(f).

FOR FURTHER INFORMATION CONTACT: Melinda Williams at (202) 317-6172 or Peter A. Holiat at (202) 317-5800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending 26 CFR parts 1 and 602, to specify the notification requirement of section 501(c)(4) organizations under section 506 of the Code. Section 506, which was added by the PATH Act (Pub. L. 114-113, div. Q), requires an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization.

1. Section 501(c)(4) Organizations

Section 501(a) of the Code generally provides that an organization described in section 501(c) is exempt from federal income tax. Section 501(c)(4) describes certain civic leagues or organizations operated exclusively for the promotion of social welfare and certain local associations of employees. An organization is described in section 501(c)(4) and exempt from tax under section 501(a) if it satisfies the requirements applicable to such status. Subject to certain exceptions, section 6033, in part, requires organizations exempt from taxation under section 501(a) to file annual information returns or notices, as applicable.

Although an organization may apply to the IRS for recognition that the organization qualifies for tax-exempt status under section 501(c)(4), there is no requirement to do so (except as provided in section 6033(j)(2), which requires organizations that lose tax-exempt status for failure to file required annual information returns or notices and want to regain tax-exempt status to apply to obtain reinstatement of such status). Accordingly, a section 501(c)(4) organization that files annual information returns or notices (Form 990, "Return of

Organization Exempt From Income Tax,” or, if eligible, Form 990-EZ, “Short Form Return of Organization Exempt From Income Tax,” or Form 990-N (e-Postcard)), as required under section 6033, need not seek an IRS determination of its qualification for tax-exempt status in order to be described in and operate as a section 501(c)(4) organization.

2. *The PATH Act*

Section 405(a) of the PATH Act added section 506 to the Code, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization. In addition, section 405(b) and (c) of the PATH Act amended sections 6033(f) and 6652(c), relating to information that section 501(c)(4) organizations may be required to include on their annual information returns and penalties for certain failures by tax-exempt organizations to comply with filing or disclosure requirements, respectively.

Section 506(a) requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Secretary of the Department of the Treasury (Secretary) that it is operating as a section 501(c)(4) organization (the notification). Section 506(b) provides that the notification must include: (1) The name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. Section 506(c) requires the Secretary to send the organization an acknowledgment of the receipt of its notification within 60 days. Section 506(d) permits the Secretary to extend the 60-day notification period in section 506(a)

for reasonable cause. Section 506(e) provides that the Secretary shall impose a reasonable user fee for submission of the notification. Section 506(f) provides that, upon request by an organization, the Secretary may issue a determination with respect to the organization's treatment as a section 501(c)(4) organization and that the organization's request will be treated as an application for exemption from taxation under section 501(a) subject to public inspection under section 6104.¹

In addition, the PATH Act amended section 6033(f) to require a section 501(c)(4) organization submitting the notification to include with its first annual information return after submitting the notification any additional information prescribed by regulation that supports the organization's treatment as a section 501(c)(4) organization.

The PATH Act also amended section 6652(c) to impose penalties for failure to submit the notification by the date and in the manner prescribed in regulations. In particular, section 6652(c)(4)(A) imposes a penalty on an organization that fails to submit the notification equal to \$20 per day for each day such failure continues, up to a maximum of \$5,000. Additionally, section 6652(c)(4)(B) imposes a similar penalty on persons who fail to timely submit the notification in response to a written request by the Secretary.

Section 405(f)(1) of the PATH Act provides that, in general, the requirement to submit the notification and the related amendments to sections

¹ The separate procedure by which an organization may request a determination of tax-exempt status is currently prescribed in Rev. Proc. 2019-5, 2019-1 IRB 230 and will be set forth in successor annual updates of that Revenue Procedure.

6033 and 6652 apply to section 501(c)(4) organizations that are established after December 18, 2015, the date of enactment of the PATH Act. Section 405(f)(2) of the PATH Act provides that these provisions also apply to any other section 501(c)(4) organizations that had not, on or before the date of enactment of the PATH Act: (1) Applied for a written determination of recognition as a section 501(c)(4) organization; or (2) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Organizations described in section 405(f)(2) of the PATH Act must submit the notification within 180 days after the date of enactment of the PATH Act.

3. *Notice 2016-09*

The Treasury Department and the IRS issued Notice 2016-09, 2016-6 IRB 306, to provide interim guidance regarding section 405 of the PATH Act. Specifically, Notice 2016-09 extended the due date for submitting the notification until at least 60 days from the date that implementing regulations are issued in order to provide adequate transition time for organizations to comply with the new requirement to submit the notification. With respect to the separate procedure by which an organization may request a determination from the IRS that it qualifies for tax-exempt status under section 501(c)(4), Notice 2016-09 stated that organizations seeking IRS recognition of section 501(c)(4) status should continue using IRS Form 1024, *Application for Recognition of Exemption Under Section 501(a)*² until further guidance was issued. Notice 2016-09 also

² As of 2018, the successor to Form 1024 for section 501(c)(4) organizations is new IRS Form 1024-A, *Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code*.

clarified that the filing of Form 1024 does not relieve an organization of the requirement to submit the notification.

4. *Temporary Regulations, Notice of Proposed Rulemaking, and Rev. Proc. 2016-41*

On July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45008) temporary regulations under section 506 (TD 9775) that prescribe the manner in which a section 501(c)(4) organization must submit notification under section 506 of its intent to operate under section 501(c)(4). The temporary regulations were effective and applicable on July 8, 2016. Also on July 12, 2016, the Department of Treasury and the IRS published in the **Federal Register** (81 FR 45088) a notice of proposed rulemaking (REG-101689-16) cross-referencing the temporary regulations and soliciting public comments and requests for a hearing. In conjunction with the issuance of the temporary regulations and the notice of proposed rulemaking, the Department of Treasury and the IRS issued Rev. Proc. 2016-41, 2016-30 IRB 165, which sets forth the procedure for an organization to notify the IRS that it is operating as a section 501(c)(4) organization. Specifically, the preamble to the temporary regulations noted that the revenue procedure provides that the notification must be submitted on Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)" (or its successor). Revenue Procedure 2016-41 provides additional information on the procedure for submitting the form and information on requesting relief from a failure to file penalty under section 6652(c)(4), including an example of a situation in which reasonable cause relief would be appropriate.

The temporary regulations, in accordance with section 506(a), generally required a section 501(c)(4) organization to submit the notification to the IRS on Form 8976 no later than 60 days after the date the organization is organized. Because the Form 8976 was not previously available, the temporary regulations provided transitional relief from the notification requirement for organizations that, on or before July 8, 2016, either (1) applied for a written determination of recognition as a section 501(c)(4) organization (using a Form 1024 application); or (2) filed at least one annual return or notice required under section 6033(a)(1) (that is, a Form 990, or if eligible, Form 990-EZ or Form 990-N) (“Form 990 series return or notice”). For organizations that did not qualify for this relief, the temporary regulations also provided a transition rule that extended the due date of the notification to September 6, 2016.

Consistent with section 506(b), the temporary regulations specified that the notification must include: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the state or other jurisdiction under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. In addition, the temporary regulations provided that the notification must include such additional information as may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. To ensure that the statutorily required items of information in the notification are correlated accurately within existing IRS systems, Form 8976 requires organizations to provide their annual accounting period.

The temporary regulations also provided that the notification must be accompanied by payment of the user fee authorized by section 506(e), which will be set forth by published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Consistent with section 506(d), the temporary regulations stated that the 60-day period for submitting the notification may be extended for reasonable cause.

Further, the temporary regulations provided that, within 60 days after receipt of the notification, the IRS will send the organization an acknowledgment of such receipt. The temporary regulations specified that this acknowledgment is not a determination with respect to tax-exempt status. Thus, it is not a determination on which an organization may rely or a determination or a failure to make a determination with respect to which the organization may seek declaratory judgment under section 7428. Furthermore, the temporary regulations specified that the process by which an organization may request an IRS determination that it qualifies for section 501(c)(4) exempt status is separate from the procedure for submitting the notification. Section 506(f) provides that an organization subject to the section 506 notification requirement may request a determination to be treated as an organization described in section 501(c)(4). This indicates that the procedure by which an organization may request a determination that it is described in section 501(c)(4) is separate from the procedure for submitting the notification required by section 506. Accordingly, the temporary regulations provided that submission of the notification does not constitute a request for an IRS determination that the organization qualifies for

tax-exempt status under section 501(c)(4). Rather, an organization that seeks IRS recognition of tax-exempt status under section 501(c)(4) must separately request a determination in the manner prescribed in Rev. Proc. 2019-5, (2019-1 IRB 230), or its successor.

The temporary regulations also referred to section 6652(c)(4) through (6) for information on the applicable penalties for failure to submit the section 506 notification. The temporary regulations specifically referred to section 6652(c)(5), which provides a reasonable cause exception, and section 6652(c)(6), which provides other special rules that generally apply for purposes of section 6652(c) penalties.

The IRS received three comments in response to the notice of proposed rulemaking, two that addressed several issues, which are discussed in detail below, and one that was withdrawn from regulations.gov. The two comments that were not withdrawn are available at www.regulations.gov or upon request. No public hearing was requested or held.

The IRS has considered all the issues addressed in the comments. The proposed regulations that cross-referenced the text of the temporary regulations are adopted without substantive change by this Treasury decision, except that this Treasury decision removes the temporary regulations.

Summary of Comments and Explanation of Provisions

This section discusses comments received in response to the notice of proposed rulemaking.

1. *Exception for organizations that filed a Form 990 series return or notice on or before July 8, 2016*

One commenter recommended that final regulations clarify whether an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, is exempt from the requirement to submit Form 8976. The commenter also suggested that final regulations clarify whether an organization that merely filed an application for extension of time to file Form 990 (Form 8868) on or before July 8, 2016, and not the Form 990 itself, is exempt from the requirement to submit Form 8976.

The PATH Act provides that the requirement to submit the notification does not apply to certain organizations that notified the IRS of their existence on or before December 18, 2015. The Treasury Department and the IRS recognized that additional organizations may have notified the IRS of their existence, after the enactment of the PATH Act but before the availability of the new electronic Form 8976 for submitting the notification, by applying for a written determination of tax-exempt status or filing a required information return or notice. Accordingly, § 1.506-1T(b) provided two special rules for organizations that were organized on or before July 8, 2016. First, the temporary regulations noted that the requirement to submit the notification does not apply to a section 501(c)(4) organization that, on or before December 18, 2015, either (i) applied for a written determination of recognition as a section 501(c)(4) organization; or (ii) filed at least one annual information return or notice required under section 6033(a)(1) or (i). Second, the temporary regulations provided that a section

501(c)(4) organization is not required to submit the notification if, on or before July 8, 2016, the organization either (i) applied for a written determination of recognition as a 501(c)(4) organization; or (ii) filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

Under § 1.6033-2(d)(4), a group return is considered the return of each subsidiary organization included on the return. Consequently, an organization that is included as a subordinate organization on a group return on Form 990 filed on or before July 8, 2016, qualified for the special rules in § 1.506-1T(b), and an additional provision in the regulations is not required. However, filing an extension of time to file Form 990 does not provide the IRS with the information required under section 506, including the date of organization. Accordingly, the special rules apply only to a Form 990 series return or notice, not to a request for an extension of time to file. For these reasons, the commenter's suggestions are not incorporated into the final regulations.

2. Treatment of disregarded entities

One commenter suggested that the final regulations confirm that a single-member limited liability company (LLC), the sole member of which is a section 501(c)(4) organization and that is disregarded as an entity separate from its owner, is not required to submit Form 8976.

Unless the entity elects otherwise, a domestic eligible entity that has a single owner is disregarded as an entity separate from its owner. See § 301.7701-2(c)(2)(i). For this reason, the instructions to Form 990 provide that an

LLC treated as a disregarded entity by its tax-exempt member should not file a separate Form 990; instead the sole member includes activities conducted by the disregarded entity LLC on its Form 990. Similarly, a single-member LLC organization, the sole member of which is a section 501(c)(4) organization, should not submit a separate Form 8976 if it intends to be disregarded as an entity separate from its owner and only the sole member section 501(c)(4) organization should submit a Form 8976. Therefore, any further clarification in the final regulations is not necessary.

3. *Exception for organizations terminated or dissolved before September 6, 2016.*

One commenter requested that the final regulations include an exception from the requirement to submit Form 8976 for organizations terminated or dissolved before September 6, 2016 (the extended due date for organizations as provided in § 1.506-1T(b)(3)). Although there is no statutory basis for exempting organizations that terminated by a certain date from the requirement to submit Form 8976, the commenter suggested that it would serve little purpose for the organization to notify the IRS that it intended to operate as an organization described in section 501(c)(4) if the organization had already terminated by the time it was required to submit Form 8976. However, such organizations may still be included in the IRS's Exempt Organizations Business Master File, and a filed Form 8976 would serve the purpose of notifying the IRS that it operated as an organization described in section 501(c)(4). Thus, these final regulations do not provide the requested exception.

4. *Option to file application for exemption in lieu of Form 8976.*

One commenter requested that the final regulations provide that an organization should be treated as satisfying the requirement under section 506 if it files Form 1024-A, rather than Form 8976, within the 60-day notice period.

The notification requirement under section 506(a) is separate and distinct from the application process. See section 506(f). In addition, it is not administrable for the IRS to treat Form 1024-A as the notification required under section 506. First, there is no systemic process for the IRS to use the Form 1024-A both as a required notification under section 506 and as an optional application for exempt status. Second, the Service is required under section 506(c) to acknowledge receipt of the notification within 60 days, but review of an application for exempt status may require more time than 60 days (as reflected in the 270-day period under the declaratory judgment procedures in section 7428). Thus, the timeline for processing an application for exempt status does not align with the timeline for processing Form 8976 and it would be impractical for the Service to maintain two separate processes for responding to Form 1024-A. Therefore, these final regulations do not adopt the suggestion.

5. *Group ruling organizations*

Both commenters inquired whether a subordinate organization included in a group exemption letter is excepted from the requirement to submit Form 8976, or in the alternative, whether the requirement to notify the IRS that a subordinate organization intends to operate under section 501(c)(4) is satisfied if the central

organization informs the IRS that it is adding the subordinate organization to the group exemption letter within 60 days from when the subordinate is organized.

A group exemption letter is a ruling or determination letter that is issued to a central organization recognizing, on a group basis, the exemption from federal income tax under section 501(a) of subordinate organizations on whose behalf the central organization has applied for recognition of exemption (see Rev. Proc. 80-27, 1980-1 C.B. 677). Under the group ruling procedures of Rev. Proc. 80-27, the central organization is required to submit annually to the IRS at least 90 days before the close of its annual accounting period any changes to the subordinates in the group ruling, including any subordinates that are no longer included in the group exemption letter and any subordinates that are to be added to the group exemption letter.

As discussed in the Background section, the PATH Act provided that the requirement to submit the notification does not apply to organizations that either filed Form 1024 or filed at least one Form 990 series return or notice on or before December 18, 2015. To reduce the burden on organizations and the IRS, the temporary regulations similarly relieved from the notification requirement any organization that filed Form 1024 or filed a Form 990 series return or notice on or before July 8, 2016, the date that Form 8976 became available. Unlike the transition relief provided in the temporary regulations, there is no similar statutory basis for relieving subordinates included in a group exemption letter from the requirement to submit Form 8976 if they do not meet one of these special rules. For the administrative convenience of taxpayers and the IRS, Rev. Proc. 80-27

relieves each of the subordinates covered by a group exemption letter from filing its own application for recognition of exemption. However, this administrative relief from the application requirements does not apply with respect to section 506 because the process for recognition of exemption is separate from the section 506 notification process. See section 506(f).

Similar to annual Form 990 series returns or notices, an annual group exemption update as required by Rev. Proc. 80-27, may replicate the information provided on Form 8976. However, the annual group exemption update also requires different information than the organization initially provides on the Form 8976, such as detailed information on the organization's activities, and the annual group exemption update may be filed significantly later than the 60 days required by section 506 and the Form 8976 depending on when the subordinate joins the group exemption and the due date of the annual group exemption update.

Furthermore, Rev. Proc. 80-27 provides that a central organization must submit information on subordinate organizations to be added to the group exemption letter in an annual update that is due at least 90 days before the end of the central organization's annual accounting period. There is not a procedure for updating the group exemption letter within 60 days of a subordinate organization's date of organization. Allowing such updates to serve in place of the statutory notification required under section 506 would lead to additional administrative burdens on central organizations and the IRS to process changes to group exemption letters multiple times per year rather than once annually.

Accordingly, these final regulations do not adopt the suggestions.

6. *Date of organization.*

One commenter recommended that final regulations define the “date of organization” of an organization that was not initially formed as a section 501(c)(4) organization as the date the change in status to section 501(c)(4) is accomplished (such as the date that the organization’s governing document is amended) or in the case of a foreign organization, the date that the foreign organization first commences activities or receives income that would cause it to have a filing requirement under section 6033.

The section 506(a) notification requirement applies no later than 60 days after the organization is established. Section 506(b)(2) further provides that the 506(a) notification shall include the date on which, and the state under the laws of which, the organization was organized. Section 506 did not indicate that any difference was intended between the use of “established” in section 506(a) and the reference to “organized” in section 506(b). Accordingly, the temporary regulations provided that, except as provided in paragraph (b) of the section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976. See § 1.506-1T(a)(1). Following the longstanding approach on forms used to apply for exemption and for entering data into the IRS system, the temporary regulations in § 1.506-

1T(a)(2)(ii) clarify that the date an organization is “organized” for section 506 purposes is the date on which it is formed as a legal entity.

It would be administratively difficult if the date of organization reported on Form 8976 were different from the date of legal formation reflected on organizational documents and used for other reporting purposes. For this reason, these final regulations do not adopt the suggestion. However, see section 7 of this Summary of Comments and Explanation of Provisions for discussion of availability of reasonable cause relief.

7. Reasonable cause relief

One commenter suggested that the IRS extend automatic reasonable cause relief to: (1) organizations formed before December 18, 2015, that timely submit a first Form 990 after July 8, 2016; (2) foreign organizations that file Forms 8976 within 60 days after first commencing activities or receiving income that would cause them to have a section 6033 filing requirement; (3) small organizations; and (4) organizations formed as organizations described in another paragraph of section 501(c) that file Form 8976 within 60 days after amending their organizing document to qualify under section 501(c)(4). With regard to small organizations, the commenter recommended that the IRS provide small organizations with automatic reasonable cause relief similar to the relief provided under Rev. Proc. 2014-11 regarding reinstatement of exempt status after automatic revocation under section 6033(j). Alternatively, the commenter recommended that the IRS expand the example of reasonable cause relief provided in Rev. Proc. 2016-41 to include a non-exhaustive list of factors that will

weigh in favor of finding “reasonable cause” for a failure to timely submit Form 8976.

Section 6652(c)(5) provides that no penalty shall be imposed under this subsection with respect to any failure if it is shown that such failure is due to reasonable cause. Reasonable cause is determined based on all the facts and circumstances. This reasonable cause provision does not include a provision for automatic reasonable cause.

Furthermore, Rev. Proc. 2014-11 does not provide a helpful model for a procedure to establish automatic reasonable cause relief from section 6652(c) penalties for small organizations because the IRS does not have similar information for Form 8976 as it does for organizations under Rev. Proc. 2014-11 relief. Under section 4.01 of Rev. Proc. 2014-11, the IRS determined that it may retroactively reinstate an organization’s exempt status without requiring the organization to show reasonable cause for the failure to file a Form 990 series return or notice for three consecutive years. In this situation, the IRS already has information in its systems and obtains additional information as part of the application for retroactive reinstatement of exempt status that shows that the size of the organization made it eligible to file Form 990-EZ or 990-N for each of the three years. By contrast, the IRS does not have similar information at the time Form 8976 is filed that would enable the IRS to identify the organization as a “small organization” eligible for the relief requested by the commenter. Thus, the streamlined procedure described in section 4 of Rev. Proc. 2014-11 is not adaptable to the section 506 notification requirement.

Although the final regulations do not provide for a procedure for automatic reasonable cause relief, organizations (including organizations formed before December 18, 2015, foreign organizations, small organizations, and organizations that originally operated under sections other than section 501(c)(4)) may seek reasonable cause relief by following the instructions in the penalty letter, as provided in Rev. Proc. 2016-41. Rev. Proc. 2016-41 includes an example of a situation in which reasonable cause relief would be appropriate regarding foreign organizations. The reasonable cause example included in Rev. Proc. 2016-41 is just one example of reasonable cause for purposes of section 506 only. Similar to the foreign organization discussed in the example provided in Rev. Proc. 2016-41, an organization (other than a section 501(c)(3) organization) that did not originally intend to operate under section 501(c)(4) is subject to the requirement to submit Form 8976 once it begins to operate as a section 501(c)(4) organization. Such an organization that files a Form 8976 within 60 days of amending its organizing document to be described in section 501(c)(4) would have reasonable cause for not filing a Form 8976 within 60 days of formation. The organization may obtain relief from the penalty described under section 6652(c)(4) by submitting a request in response to the correspondence from the IRS regarding the penalty. Because reasonable cause is determined on a case by case basis, it was not intended that Rev. Proc. 2016-41 would provide all situations where reasonable cause relief may be appropriate.

Accordingly, the final regulations do not adopt these suggestions.

8. *Individual authorized to submit Form 8976*

One commenter requested the final regulations clarify that Form 8976 may be submitted by any individual authorized by the organization to submit the form on its behalf and that the authorized individual may receive certain communications regarding Form 8976, including the acknowledgment required by section 506(c). The commenter further requested that guidance clarify that the Form 8976 does not need to be submitted by an officer or a person holding a power of attorney on file with the IRS. Lastly, the commenter recommended that a central organization may submit Form 8976 on behalf of its subordinate organization.

The temporary regulations did not address authorization to submit Form 8976 on behalf of an organization. However, Rev. Proc. 2016-41, section 4.01(2) provides that the individual submitting Form 8976 on behalf of a section 501(c)(4) organization must establish an account at www.irs.gov to submit Form 8976 electronically. The IRS may then send electronically to the account of the individual submitting the Form 8976 on behalf of the organization (1) the confirmation of transmittal of Form 8976 described in section 6.02 of Rev. Proc. 2016-41, (2) the notice of non-acceptance for processing of Form 8976 described in section 5 of Rev. Proc. 2016-41, and/or (3) the acknowledgement of receipt of Form 8976 described in section 6.01 of Rev. Proc. 2016-41. Accordingly, just like any communications regarding a taxpayer's filing obligations, an organization should ensure that the individual submitting the Form 8976 is not only authorized by the organization to submit the Form 8976 on its behalf, but also to receive

communications from the IRS relating to the organization's submission. This would also apply to a subordinate organization included in a group exemption letter, as the organization should ensure that any individual (including an individual who represents the central organization) is authorized by the subordinate organization to submit Form 8976 on behalf of the subordinate organization and to receive communications from the IRS. No additional clarification within the final regulations is needed; thus, the final regulations do not adopt these suggestions.

9. *Correction to Form 8976*

Lastly, one commenter requested clarification in the final regulations that there is no obligation to update Form 8976 if any of the information on the Form 8976 was originally correct, but later changes. The temporary regulations did not address corrections to Form 8976 as this issue is more appropriately addressed, if necessary, in non-regulatory guidance or the instructions to the form.

The Treasury Department and the IRS note, however, that Rev. Proc. 2016-41, section 4.04 provides that a Form 8976 submitted by an organization is complete if it provides accurate responses for each required line item of the form, consistent with the form instructions, and section 5.03 provides that if an organization attempts to submit more than one Form 8976, only the first Form 8976 will be accepted for processing. Thus, Rev. Proc. 2016-41 indicates that there is no obligation to submit a new Form 8976 if the organization's information changes, or if the Form 8976 was accepted for processing. Rather, any updated information should be reported on the organization's annual information return or

notice, as provided in the instructions to that form. Therefore, the final regulations do not adopt this suggestion.

Effective/Applicability Dates

The temporary regulations have applied since July 8, 2016, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, for clarity and continuity in application, the final regulations apply on and after July 8, 2016.

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 Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget under control number 1545-2268 in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). The collection of information is in § 1.506-1(a)(2). The likely respondents are organizations described in section 501(c)(4) of the Code (section 501(c)(4) organizations). The collection of information in § 1.506-1(a)(2) flows from section 506(b) of the Code, which requires a section 501(c)(4) organization to submit a notification including the following items of information: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the state under the laws of which, the organization was

organized; and (3) a statement of the purpose of the organization. The final regulations provide that the notification must be submitted on Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor. In addition to the specific information required by statute, the final regulations require that an organization provide any additional information that may be specified in published guidance in the Internal Revenue Bulletin or in other guidance, such as forms or instructions, issued with respect to the notification. Form 8976 requires an organization to provide its annual accounting period to ensure that the statutorily-required items of information in the notification are correlated accurately within existing IRS systems.

For purposes of the Paperwork Reduction Act, the reporting burden associated with the collection of information with respect to section 506(b), will be reflected in the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545-2161, published in the Federal Register on 10/21/2016). The IRS Form 8976 Paperwork Reduction Act Submission estimated for 2016 the total number of filers at 2,500, with an estimated average time per filer of 45 minutes to complete Form 8976, and with an estimated total annual burden of 1,875 hours. A valuation of the burden hours leads to a Paperwork Reduction Act estimate of the reporting costs to taxpayers of \$85,031. This is a one-time paperwork burden, as the Treasury Department and the IRS anticipate that substantially all paperwork burdens related to these final regulations will only be incurred by the taxpayer in the year of formation. All organizations operating

under section 501(c)(4), regardless of their size, are required to notify the Commissioner utilizing Form 8976.

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 Office of Management and Budget. 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. Generally, tax returns and return information are confidential, as required by 26 U.S.C. 6103.

Regulatory Flexibility Act

It is hereby certified that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. This certification is based on the fact that the registration and filing fee for Form 8976 is \$50.00 and the IRS Form 8976 Paperwork Reduction Act Submission (OMB control number 1545-2161) estimates the time to complete Form 8976 at 45 minutes, which should not constitute an economic burden upon small organizations. Pursuant to section 7805(f), the temporary and proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business and no comments were received.

Drafting Information

The principal authors of these regulations are Peter A. Holiat and Melinda Williams 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.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <http://www.irs.gov>.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are 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 1.506-1 is added to read as follows:

§1.506-1 Organizations required to notify Commissioner of intent to operate under section 501(c)(4).

(a) Notification requirement--(1) In general. Except as provided in paragraph (b) of this section, an organization (whether domestic or foreign) described in section 501(c)(4) must, no later than 60 days after the date the organization is organized, notify the Commissioner that it is operating as an organization described in section 501(c)(4) by submitting a completed Form 8976, "Notice of Intent to Operate Under Section 501(c)(4)," or its successor (the notification). The notification must be submitted in accordance with the form and its instructions. The notification must include the information specified in paragraph (a)(2) of this section and be accompanied by payment of the user fee described in paragraph (a)(3) of this section. Additional guidance on the procedure for submitting the notification may be provided in published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(2) Contents of the notification. The notification must include the following information:

(i) The name, address, and taxpayer identification number of the organization.

(ii) The date on which, and the state or other jurisdiction under the laws of which, the organization was organized (that is, formed as a legal entity). For an organization formed outside the United States, the jurisdiction is the foreign country under the laws of which it is organized.

(iii) A statement of the purpose of the organization.

(iv) Such additional information as may be specified in published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(3) User fee. The notification must be accompanied by payment of the user fee set forth by published guidance in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter) or in other guidance, such as forms or instructions, issued with respect to the notification.

(4) Extension for reasonable cause. The Commissioner may, for reasonable cause, extend the 60-day period for submitting the notification.

(b) Special rules for organizations that were organized on or before July 8, 2016—(1) Notification requirement does not apply to organizations that filed with the IRS on or before December 18, 2015. The requirement to submit the notification does not apply to any organization described in section 501(c)(4) that, on or before December 18, 2015, either—

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(2) Transition relief available for organizations that filed with the IRS on or before July 8, 2016. An organization described in section 501(c)(4) is not

required to submit the notification if, on or before July 8, 2016, the organization either--

(i) Applied for a written determination of recognition as an organization described in section 501(c)(4) in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions; or

(ii) Filed at least one annual information return or annual electronic notification required under section 6033(a)(1) or (i).

(3) Extended due date. An organization that was organized on or before July 8, 2016, and is not described in paragraph (b)(1) or (2) of this section, satisfies the requirement to submit the notification if the notification was submitted on or before September 6, 2016.

(c) Failure to submit the notification. For information on the penalties for failure to submit the notification, the applicable reasonable cause exception, and applicable special rules, see section 6652(c)(4) through (6).

(d) Acknowledgment of receipt. Within 60 days after receipt of the notification, the Commissioner will send the organization an acknowledgment of such receipt. This acknowledgment is not a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). See paragraph (e) of this section.

(e) Separate procedure by which an organization may request an IRS determination that it qualifies for section 501(c)(4) tax-exempt status.

Submission of the notification does not constitute a request by an organization

for a determination by the Commissioner that the organization qualifies for exemption under section 501(a) as an organization described in section 501(c)(4). An organization seeking IRS recognition of its tax-exempt status must separately request such a determination in accordance with §1.501(a)-1 and all applicable guidance published in the Internal Revenue Bulletin (see §601.601(d)(2) of this chapter), forms, and instructions.

(f) Applicability date. This section applies on and after July 8, 2016.

§ 1.506-1T [Removed]

Par. 3. Section 1.506-1T is removed.

**PART 602--OMB CONTROL NUMBERS UNDER THE PAPERWORK
REDUCTION ACT**

Par. 4. The authority for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In §602.101, paragraph (b) is amended by adding an entry in numerical order for §1.506-1 and removing the entry for §1.506-1T to read as follows:

§602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where
Identified and described

Current OMB
control no.

* * * * *

1.506-1.....1545-2268

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Kirsten Wielobob,
Deputy Commissioner for Services and Enforcement.

Approved: July 9, 2019.

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

[FR Doc. 2019-15614 Filed: 7/19/2019 4:15 pm; Publication Date: 7/23/2019]