

Rules and Regulations

Federal Register

Vol. 74, No. 140

Thursday, July 23, 2009

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9454]

RIN 1545-BG37

Notification Requirement for Tax-Exempt Entities Not Currently Required To File

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations as required by section 6033(i)(1) describing the time and manner in which certain tax-exempt organizations not currently required to file an annual information return under section 6033(a)(1) are required to submit an annual electronic notice including certain information required by section 6033(i)(1)(A) through (F). These regulations affect tax-exempt organizations whose annual gross receipts are not normally in excess of \$25,000.

DATES: *Effective Date:* These regulations are effective on July 23, 2009.

Applicability Date: These regulations are applicable to annual periods beginning after 2006.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum at (202) 622-6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 6033(i)(1) relating to the notification requirement for entities not currently required to file an annual information return under section 6033(a)(1). Section 6033(i)(1) was added by section 1223(a) of the Pension

Protection Act of 2006, Public Law 109-208, 120 Stat. 1090 (2006) (PPA 2006), effective for annual periods beginning after 2006. Section 6033(i)(1) requires the Treasury Secretary to promulgate regulations that describe the time and manner in which certain tax-exempt organizations not currently required to file an annual information return are to submit an annual electronic notification including information set forth in section 6033(i)(1)(A) through (F).

On November 15, 2007, temporary regulations (TD 9366, 2007-52 IRB 1232) were published in the **Federal Register** (72 FR 64147) satisfying the requirement that the Treasury Secretary promulgate regulations as described in the preceding paragraph. Those temporary regulations were corrected on November 23, 2007 (72 FR 65667) and December 14, 2007 (72 FR 71060). A notice of proposed rulemaking (REG-104942-07, 2007-52 IRB 1264) cross-referencing the temporary regulations was published in the **Federal Register** (72 FR 64174) on November 15, 2007.

The IRS and the Treasury Department received four written comments from the public in response to the proposed and temporary regulations. No hearing was requested or held. After consideration of the comments received, it was determined that the proposed regulations would be finalized without change. Accordingly, the proposed regulations are adopted as amended by this Treasury decision and the corresponding temporary regulations are removed. The final regulations retain the provisions of the proposed and temporary regulations and make minor typographical changes.

Explanation of Revisions and Summary of Comments

One comment pointed out that there is no *de minimis* rule regarding the amount of income an organization receives during the year which would exempt it from having to submit an electronic notification. Section 6033(i) does not provide a *de minimis* rule, nor does it provide discretionary authority for the IRS and the Treasury Department to establish a *de minimis* exception for reporting under section 6033(i)(1).

Another comment objected to the requirement that the notification be submitted electronically. The IRS and the Treasury Department note that the statute requires that information be submitted electronically, and makes no

provision for paper notification. However, as stated in the preamble to the temporary regulations, if an organization that is required to submit an annual electronic notification files a complete Form 990, "Return of Organization Exempt from Income Tax," or Form 990-EZ, "Short Form Return of Organization Exempt from Income Tax," the annual notification required under section 6033(i) shall be deemed satisfied. The annual notification requirement is not satisfied if the Form 990 or Form 990-EZ contains only those items of information that would have been required by submitting the notification in electronic form.

One comment asked about the intent of the regulations and the application of the requirement to submit electronic notification to organizations that are local chapters or clubs of larger organizations. The intent of the regulations, which were required by statute, is to provide the public with the most accurate information about tax-exempt organizations. With respect to organizations that are local chapters or clubs of larger organizations, if the organization is a subordinate of a parent organization and the subordinate is included on the parent's group return, the subordinate need not submit the electronic notification. However, if an organization is not part of a group return and is a separate legal entity that meets the criteria for submitting the electronic notification, it must submit Form 990-N, "Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ."

Finally, another comment asked about the applicability of the electronic notification requirement to Qualified State and Local Political Organizations (QSLPOs). QSLPOs are not organizations described in section 501(c) that are required to file a return under section 6033(a); therefore, the provisions of these final regulations do not apply to them. However, QSLPOs may have other reporting requirements under section 6033(g).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. 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.

It is hereby certified that the collection of information in § 1.6033-6 will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601) is not required. The effect of these regulations on small entities flows directly from the statute these regulations implement. Section 6033(i)(1) requires that certain entities submit annual notification, in electronic form, setting forth: The legal name of the organization; any name under which such organization operates or does business; the organization's mailing address and Internet Web site address (if any); the organization's taxpayer identification number; the name and address of a principal officer; and evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1).

Pursuant to section 7805(f) of the Internal Revenue Code, these regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Monice Rosenbaum of the Office of Division Counsel/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, 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 * * *

Section 1.6033-6 also issued under 26 U.S.C. 6033(i)(1). * * *

■ **Par. 2.** Section 1.6033-6 is added to read as follows:

§ 1.6033-6 Notification requirement for entities not required to file an annual information return under section 6033(a)(1) (taxable years beginning after December 31, 2006).

(a) *In general.* Except as otherwise provided in this paragraph, every

organization exempt from taxation under section 501(a) that is not required to file a return described in § 1.6033-2(a)(2), other than an organization described in section 401(a) or 501(d), shall submit annually, in electronic form, a notification setting forth the items described in paragraph (c) of this section and such other information as may be prescribed in the instructions and publications issued with respect to the notification.

(b) *Organizations not required to submit annual electronic notification.*

(1) An organization exempt from taxation under section 501(a) that is required to file or files an annual information return under section 6033(a)(1) shall not submit an annual electronic notification under section 6033(i). This includes the following types of organizations:

(i) Any organization included in a group return for that year under § 1.6033-2(d).

(ii) All private foundations required to file under § 1.6033-2(a)(2)(i) Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation."

(iii) Section 509(a)(3) supporting organizations required to file under § 1.6033-2(a)(2)(i) Form 990, "Return of Organization Exempt From Income Tax," or Form 990-EZ, "Short Form Return of Organization Exempt From Income Tax."

(iv) A section 501(c)(21) black lung trust required to file under § 1.6033-2(a)(2)(i) Form 990-BL, "Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons."

(v) Any organization that is required to file or files an annual information return under section 6033(a)(1) on any other form prescribed by the Internal Revenue Service for that purpose.

(2) An organization exempt from taxation under section 501(a) that is not required to file a return under section 6033(a)(1) is also not required to submit an annual electronic notification under section 6033(i). This includes the following types of organizations:

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in § 1.6033-2(h)).

(ii) An exclusively religious activity of any religious order.

(iii) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in, foreign countries.

(iv) An educational organization (below college level) described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated (within the meaning of § 1.6033-2(h)(2)) with a church or operated by a religious order.

(v) A State institution, the income of which is excluded from gross income under section 115(a).

(vi) An organization described in section 501(c)(1).

(vii) An organization that is a governmental unit or an affiliate of a governmental unit exempt from Federal income tax under section 501(a).

(3) If an organization exempt from taxation under section 501(a) is not described in paragraph (b)(1) or (2) of this section, the organization must submit an annual electronic notification. Thus, a black lung trust that normally has gross receipts of \$25,000 or less is not required to file Form 990-BL but is required to submit an annual electronic notification. A section 509(a)(3) supporting organization of a religious organization that normally has gross receipts of \$5,000 or less is not required to file Form 990 or Form 990-EZ but is required to submit an annual electronic notification.

(c) *Additional notification requirements—*(1) *In general.* Any organization described in paragraph (a) of this section shall submit an annual electronic notification described in section 6033(i)(1). The annual electronic notification shall—

(i) Be in electronic form; and

(ii) Set forth—

(A) The legal name of the organization;

(B) Any name under which the organization operates or does business;

(C) The organization's mailing address and Internet Web site address (if any);

(D) The organization's taxpayer identification number;

(E) The name and address of a principal officer;

(F) Evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1); and

(G) Additional information necessary to process the notification.

(2) The mailing address required by section 6033(i)(1)(C) and submitted in the annual electronic notification shall be the organization's last known address as provided by § 301.6212-2(a) of this chapter. This last known address may be updated as provided under § 301.6212-2 of this chapter, or by clear and concise notification. The Internal Revenue Service will use this last known address as the organization's

address of record and will direct all mailings to this address.

(3) By submitting the annual electronic notification described in paragraph (c)(1) of this section, an organization acknowledges that it is not required to file a return under section 6033(a) because its annual gross receipts are not normally in excess of \$25,000. In order to make this determination, the organization must keep records that enable it to calculate its gross receipts. All organizations are required to maintain records under section 6001. These records will provide evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1).

(4) If an organization that is required to submit an annual electronic notification files a complete Form 990 or Form 990-EZ, the annual electronic notification requirement shall be deemed satisfied. The annual electronic notification requirement is not satisfied if the Form 990 or Form 990-EZ contains only those items of information that would have been required by submitting the notification in electronic form. Also, the filing of a complete Form 990 or Form 990-EZ, rather than the submission of an annual electronic notification, is the filing of a return that starts the period of limitations for assessment under section 6501(g)(2).

(d) *No effect on other filing requirements.* An organization that is relieved from filing an information return under section 6033(a) is still subject to the requirements of §§ 1.6033-2(i) and (j), concerning: notice regarding changes in character, operations, or purpose; provision of additional information; duty to file other returns of information; and duty to file unrelated business tax returns. If an organization is required to file an unrelated business tax return, Form 990-T, "Exempt Organization Business Income Tax Return," the filing of that return does not relieve the organization from the requirement of submitting an annual electronic notification under section 6033(i).

(e) *Accounting period for submitting annual electronic notification.* An annual electronic notification required by this section shall be on the basis of the established annual accounting period of the organization. If the organization has no established accounting period, the annual electronic notification shall be on the basis of the calendar year.

(f) *Time and place for submitting annual electronic notification.* The annual electronic notification required by this section shall be submitted on or before the 15th day of the fifth calendar

month following the close of the period for which the notification is required to be submitted. Thus, an organization with an accounting period ending December 31, 2007, is required to submit an annual electronic notification by May 15, 2008. The notification shall be submitted in accordance with instructions and publications, including those provided at the Internal Revenue Service Web site for exempt organizations.

(g) *Effective/applicability date.* These regulations are applicable to annual periods beginning after 2006.

§ 1.6033-6T [Removed]

■ **Par. 3.** Section 1.6033-6T is removed.

Approved: July 15, 2009.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Michael Mundaca,

Acting Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E9-17478 Filed 7-22-09; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC") is amending the Iranian Transactions Regulations to revise the definition of the term *Iranian accounts* and make conforming changes to other sections of the regulations.

DATES: *Effective Date:* July 23, 2009.

FOR FURTHER INFORMATION CONTACT:

Assistant Director for Compliance Outreach & Implementation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Assistant Director for Policy, tel.: 202/622-4855, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury, Washington, DC 20220 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning the Office of Foreign Assets Control are available from OFAC's Web site (<http://www.treas.gov/ofac>) or via facsimile through a 24-hour fax-on demand service, tel.: 202/622-0077.

www.treas.gov/ofac) or via facsimile through a 24-hour fax-on demand service, tel.: 202/622-0077.

Background

The Iranian Transactions Regulations, 31 CFR part 560 (the "ITR"), implement a series of Executive Orders that began with Executive Order 12613 of October 29, 1987, issued pursuant to authorities including the International Security and Development Cooperation Act of 1985 (22 U.S.C. 2349aa-9). In that original order, after finding, *inter alia*, that the Government of Iran was actively supporting terrorism as an instrument of state policy, the President prohibited the importation of Iranian-origin goods and services. Subsequently, in Executive Order 12957, issued on March 15, 1995, under the authority of, *inter alia*, the International Emergency Economic Powers Act (50 U.S.C. 1701-1706) ("IEEPA"), the President declared a national emergency with respect to the actions and policies of the Government of Iran, including its support for international terrorism, its efforts to undermine the Middle East peace process, and its efforts to acquire weapons of mass destruction and the means to deliver them. To deal with that threat, Executive Order 12957 imposed prohibitions on certain transactions with respect to the development of Iranian petroleum resources. On May 6, 1995, to further respond to this threat, the President issued Executive Order 12959, which imposed comprehensive trade and financial sanctions on Iran. Finally, on August 19, 1997, the President issued Executive Order 13059 consolidating and clarifying the previous orders.

Existing § 560.320 of the ITR defines the term *Iranian accounts* to mean accounts of persons located in Iran or of the Government of Iran maintained on the books of either a United States depository institution or a United States registered broker or dealer in securities. OFAC is revising § 560.320 to clarify the definition by substituting the new phrase "persons who are ordinarily resident in Iran, except when such persons are not located in Iran" for the phrase "persons located in Iran." This change will improve OFAC's overall administration of the ITR and facilitate compliance by U.S. financial institutions. As revised, § 560.320 defines *Iranian accounts* to mean accounts of persons who are ordinarily resident in Iran, except when such persons are not located in Iran, or of the Government of Iran maintained on the books of either a United States depository institution or a United States registered broker or dealer in securities.