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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9819]

RIN 1545-BM06

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

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document contains final regulations that 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) of the Internal Revenue Code (Code). The final regulations affect organizations seeking recognition of tax-exempt status under section 501(c)(3).

DATES: Effective Date: These regulations are effective on June 30, 2017.

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

FOR FURTHER INFORMATION CONTACT: Peter A. Holiat at (202) 317-5800 (not a toll-free number).

## SUPPLEMENTARY INFORMATION:

### **Background**

Since 1969, section 508 of the Code has required 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 regulations, unless it is specifically excepted from the requirement. Longstanding regulations under §§1.501(a)-1, 1.501(c)(3)-1, and 1.508-1 had required all organizations applying for recognition of section 501(c)(3) exempt status to submit a properly completed and executed Form 1023, “Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,” (see §1.508-1(a)(2) as contained in 26 CFR part 1, revised April 1, 2014) and to submit with, and as part of, the application, a detailed statement of its proposed activities (see §§1.501(a)-1(b)(1)(iii) and 1.501(c)(3)-1(b)(1)(v) as contained in 26 CFR part 1, revised April 1, 2014). Detailed procedures for applying for recognition of exemption are included in annual revenue procedures and in the instructions for Form 1023. See §601.601(d)(2)(i)(b).

On July 2, 2014, final and temporary regulations (TD 9674) authorizing the Commissioner to adopt a streamlined application process that eligible organizations may use to apply for recognition of tax-exempt status under section 501(c)(3) were published in the **Federal Register** (79 FR 37630). The final and temporary regulations were effective and applicable on July 1, 2014. The 2014 final regulations removed and reserved certain paragraphs of the longstanding

final regulations addressed by corresponding paragraphs of the new temporary regulations. Under the temporary regulations, the IRS instituted the streamlined application process on Form 1023-EZ, “Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code,” the detailed procedures for which have been provided in annual revenue procedures, most recently in Rev. Proc. 2017-5, 2017-1 IRB 230, and in the instructions for Form 1023-EZ.

Also on July 2, 2014, a notice of proposed rulemaking (REG-110948-14) cross-referencing the temporary regulations and soliciting public comments and requests for a hearing was published in the **Federal Register** (79 FR 37697). No comments responding to the notice of proposed rulemaking were received, and no public hearing was requested or held. The IRS continues to consider improvements to Form 1023-EZ based on its own experience and informal comments received from the public and other stakeholders on the form, including whether to require applicants to submit a brief statement of actual or proposed activities. Because the proposed regulations contemplate that guidance published in the Internal Revenue Bulletin may prescribe the information required of Form 1023-EZ filers, including regarding their proposed activities, the Department of the Treasury (Treasury Department) and the IRS have concluded that the proposed regulations are sufficiently flexible to allow such a revision to the Form 1023-EZ at a future date, as resources permit. Accordingly, this Treasury decision adopts as final regulations, without substantive change, the

proposed regulations set forth in the 2014 notice of proposed rulemaking and removes the corresponding temporary regulations.

### **Explanation of Provisions**

The Treasury Department and the IRS have considered how the process of meeting the notice requirement of section 508 in seeking recognition of tax-exempt status may be made more efficient for certain smaller organizations. The IRS developed Form 1023-EZ to provide a simplified application form that relies more heavily on attestations by the organization that it meets the section 501(c)(3) organizational and operational requirements, which are explained in the accompanying form instructions. The new form was made available for use by eligible small organizations in July 2014, following the issuance of the temporary regulations and a revenue procedure describing the streamlined application process. The streamlined application process generally allows eligible small organizations to receive IRS determinations of tax-exempt status more quickly and allows the IRS to focus resources on more complex exemption applications and on compliance programs. This Treasury decision adopts the 2014 proposed regulations by amending §§1.501(a)-1, 1.501(c)(3)-1, and 1.508-1 to authorize the continued use of the IRS' streamlined process by eligible organizations to meet the notice requirements of section 508.

Specifically, this Treasury decision amends §§1.501(a)-1 and 1.501(c)(3)-1, as in effect before July 2, 2014, to authorize the Treasury Department and the IRS to modify, by applicable regulations or other guidance published in the Internal Revenue Bulletin, the requirement that an organization applying for

section 501(c)(3) 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. As amended, §1.501(a)-1(b)(3) allows an organization to file the statement either in its application, or in a manner prescribed in guidance published in the Internal Revenue Bulletin. See Rev. Proc. 2017-5 for rules for filing this statement on Form 8940, "Request for Miscellaneous Determinations."

In addition, this document amends §1.508-1 to provide that eligible organizations may use Form 1023-EZ 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 incorporates minor revisions within the portions of §§1.501(a)-1, 1.501(c)(3)-1, and 1.508-1 that are otherwise being amended. In §1.501(a)-1(a)(2), 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 appropriate, as those positions no longer exist within the IRS. Similarly, references to obsolete due dates for filing notices described in section 508 and related transition relief provisions that are no longer relevant have been removed from §§1.508-1(a)(2)(i) and (b)(2)(iv). In addition, §1.508-1(b)(2)(v) has been revised to remove a reference to the instructions for Form 4653, which is no longer in use.

### **Effective/Applicability Dates**

The temporary regulations have applied since July 1, 2014, and this Treasury decision adopts the proposed regulations that cross-referenced the text of those temporary regulations without substantive change. Thus, the final regulations apply on and after July 1, 2014.

### **Statement of Availability of IRS Documents**

Rev. Proc. 2017-5 is published in the Internal Revenue Bulletin and is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or by visiting the IRS website at

<http://www.irs.gov>.

### **Special Analyses**

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It is hereby certified that this rule will not have a significant economic

impact on a substantial number of small entities. Although this rule may affect a substantial number of eligible small entities that choose to use Form 1023-EZ to apply for recognition of tax-exempt status under section 501(c)(3), the Form 1023-EZ streamlines the application process, thereby reducing the economic impact on these entities. This rule merely permits use of the streamlined form of application available to satisfy the notice requirements under section 508(a). Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. 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 author of these regulations is Peter A. Holiat of the Office of Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the Treasury Department and the IRS 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 \* \* \*

Par. 2. Section 1.501(a)-1 is amended by revising paragraphs (a)(2), (b)(1), (b)(3), and (f) to read as follows:

§1.501(a)-1 Exemption from taxation.

(a) \* \* \*

(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.

\* \* \* \* \*

(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.

\* \* \* \* \*

(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.

\* \* \* \* \*

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

**Section 1.501(a)-1T [Removed].**

Par. 3. Section 1.501(a)-1T is removed.

Par. 4. Section 1.501(c)(3)-1 is amended by revising paragraphs (b)(1)(v), (b)(6), and (h) to 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) 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 §1.501(a)-1(b)).

\* \* \* \* \*

(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). 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) 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), 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). 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; 1954-2 CB 47).

\* \* \* \* \*

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

**Section 1.501(c)(3)-1T [Removed].**

Par. 5. Section 1.501(c)(3)-1T is removed.

Par. 6. Section 1.508-1 is amended by revising paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), (b)(2)(v), and (c) to read as follows:

**§1.508–1 Notices.**

(a) \* \* \*

(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. 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 requested by the Commissioner within the additional time period allowed, the original notice will be considered timely.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(iv) Any organization filing notice under this paragraph (b)(2)(iv) 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). The notice required by this paragraph (b)(2)(iv) 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.

(v) An extension of time for the filing of a notice under this paragraph (b)(2) may be granted by the office with which the notice is filed upon timely request by the organization, if the organization demonstrates that additional time is required.

\* \* \* \* \*

(c) Effective/applicability date. Paragraphs (a)(2)(i), (a)(2)(ii), (b)(2)(iv), and (b)(2)(v) of this section apply on and after July 1, 2014.

**Section 1.508-1T [Removed].**

Par. 7. Section 1.508-1T is removed.

Kirsten B. Wielobob

Deputy Commissioner for Services and Enforcement.

Approved: June 9, 2017

Thomas West

Tax Legislative Counsel

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