

## **Part IV. Items of General Interest**

### **Elimination of Schedule P of Form 5500 Series**

#### **Announcement 2007-63**

On July 21, 2006, the Department of Labor announced rules mandating electronic filings of the Form 5500, *Annual Return/Report of Employee Benefit Plan*, under Title I of the Employee Retirement Income Security Act of 1974 (ERISA), 71 Fed. Reg. 41359 (Jul. 21, 2006). To reduce administrative burdens of employers, plans, their administrators and trustees and custodians, and in anticipation of the transition to a wholly electronic filing environment under the ERISA Filing Acceptance System (EFAST), the Service has determined that the continued use of a Schedule P, *Annual Return of Fiduciary of Employee Benefit Trust*, in connection with the filing of a plan's Form 5500 is no longer necessary for the efficient administration of the Internal Revenue laws.

Pursuant to the authority contained in § 6033(a) of the Internal Revenue Code, the Schedule P, which may be completed by a trustee of an employee benefit trust as the annual return of that trust, is being eliminated. The elimination of Schedule P is effective for the 2005 and later plan years for Form 5500-EZ filers. For all other Form 5500 series filers, the elimination of Schedule P is effective for the 2006 and later plan years.

For plan years in which the Schedule P is eliminated, the Service will treat the plan's filing of a return from the applicable Form 5500 series as if the filing constitutes a return of the plan's employee benefit trust for purposes of § 6501(g)(2). Thus, the Service will not assess income taxes with respect to an employee benefit trust later than the limitations periods specified in section 6501 for the assessment of tax related to the Form 5500 filed by the plan to which the trust relates. Notwithstanding the preceding sentence, in any case in

which the plan has been a party to an abusive tax avoidance transaction, as defined in section 4.13(2) of Rev. Proc. 2006-27, 2006-1 C.B. 945, or any successor thereto, the period during which the Service may assess income taxes with respect to the plan's employee benefit trust shall expire 6 years from the date the plan administrator or employer files a complete and accurate Form 5500 series (including all related schedules).

#### **Drafting Information**

The principal authors of this announcement are Michael Rubin of the Employee Plans, Tax Exempt and Government Entities Division, and William D. Gibbs and Dana A. Barry of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). For further information regarding this announcement, please contact the Employee Plans taxpayer assistance answering service at 1-877-829-5500 (a toll-free call) between the hours of 8:30 a.m. and 4:30 p.m. Eastern time Monday through Friday or Mr. Rubin at *RetirementPlanQuestions@irs.gov*. Mr. Gibbs and Ms. Barry can be reached at 202-622-6060 (not a toll-free call).

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### **Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code**

#### **Announcement 2007-65**

The names of organizations that no longer qualify as organizations described in section 170(c)(2) of the Internal Revenue Code of 1986 are listed below.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date

of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on July 23, 2007, and would end on the date the court first determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Eagle A C, Inc.  
Louisville, KY

Annie T. Smith Mercy Fund  
Randolph, VT