

Part IV - Items of General Interest

Tax-Exempt Organizations - Effective Date of New Disclosure Rules Affecting Tax-Exempt Organizations and Summary Description of Those Rules

Announcement 99-62

This document reminds exempt organizations that new requirements to provide copies of their exemption applications and three most-recently filed annual information returns are effective June 8, 1999. The new requirements were added to § 6104 of the Internal Revenue Code by § 1313 of the Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, but they were not to become effective until 60 days after the Secretary of the Treasury promulgated final regulations. Final regulations were issued in Treasury Decision 8818, 64 Fed. Reg. 17279 (April 9, 1999), and may be found by selecting the "Tax Regs in English" option on the Service's Home Page, <http://www.irs.ustreas.gov>. The new rules require any organization, other than a private foundation, that is exempt from federal income tax under § 501(a) and described in § 501(c) or § 501(d), to comply with requests made either in-person or in-writing from individuals who seek a copy of those documents.

An exemption application includes the Form 1023 (for organizations recognized exempt under § 501(c)(3)), Form 1024 (for organizations recognized exempt under most other paragraphs of § 501(c)), or the letter submitted under the paragraphs for which no form is prescribed, together with supporting documents and any letter or document issued by the Service concerning the application. The information returns are the Form 990, *Return of Organization Exempt From Income Tax*, Form 990-EZ,

Short Form Return of Organization Exempt From Income Tax, Form 990-BL, *Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons*, and the Form 1065, *U.S. Partnership Return of Income*. The regulations do not require an exempt organization to disclose the Form 990-T, *Exempt Organization Business Income Tax Return*, nor the Schedule K-1 of the Form 1065.

The documents must be available at a tax-exempt organization's principal office and at certain regional or district offices that have the equivalent of at least three full-time employees. In other words, employees who normally work an aggregate of at least 120 paid hours a week.

A tax-exempt organization may charge a reasonable fee for providing copies, which is defined as the amount charged by the IRS for providing copies. Currently, that amount is \$1.00 for the first page and .15 for each subsequent page. An organization may require payment before it provides copies, but must advise requesters of the total cost of the copies requested if adequate payment is not included with the request.

Responsible persons of a tax-exempt organization who fail to provide the documents as required may be subject to a penalty of \$20 per day for as long as the failure continues. There is a maximum penalty of \$10,000 for each failure to provide a copy of an annual information return. There is no maximum penalty for the failure to provide a copy of an exemption application.

A tax-exempt organization does not have to comply with individual requests if it makes the documents "widely available" as described in the regulations. This can be done by posting the documents on a readily accessible World Wide Web site, either its

own or on a database of exempt organization documents maintained by another organization, provided the documents are posted in a format that meets the criteria set forth in the regulations. In general, the format must exactly reproduce the image of the original document and allow an Internet user to access, download, view and print the posted document without the payment of a fee. One format that currently meets the criteria is Portable Document Format (*.pdf*). An organization that makes its documents widely available in this manner, must advise requesters how the forms may be accessed.

The principal author of this announcement is Toussaint Tyson of Office of the Assistant Commissioner (Employee Plans and Exempt Organizations). For further information regarding this announcement contact Toussaint Tyson on (202) 622-8363 (not a toll-free call).