

Part III – Administrative, Procedural, and Miscellaneous

PENALTY RELIEF RELATED TO RELIANCE ON REVENUE PROCEDURE 2018-38

Notice 2019-47

This Notice provides penalty relief related to taxpayer reliance on Revenue Procedure 2018-38, which was set aside by an order issued on July 30, 2019, by the United States District Court for the District of Montana in the case of Bullock v. IRS, 2019 WL 3423485 (D. Mont. Jul. 30, 2019).

Revenue Procedure 2018-38, 2018-31 IRB 280, provided information reporting relief to organizations exempt from tax under section 501(a), other than organizations described in section 501(c)(3), that are required to file an annual Form 990, Return of Organization Exempt From Income Tax, or Form 990-EZ, Short Form Return of Organization Exempt From Income Tax. Pursuant to Revenue Procedure 2018-38, those organizations that are exempt from tax under section 501(a), other than organizations described in section 501(c)(3), were granted relief from the general requirement to report the names and addresses of their contributors on the Schedule B of their Forms 990 or 990-EZ filed for taxable years ending on or after December 31, 2018. The information reporting relief did not apply to political organizations described

in section 527. The instructions to Schedule B of Forms 990 and 990-EZ were modified to conform to Revenue Procedure 2018-38.

Section 6652(c)(1)(A)(i) imposes a penalty for a failure to file a return required under section 6033(a)(1) on the date and in the manner prescribed. Section 6652(c)(1)(A)(ii) imposes a penalty for a failure to include any of the information required to be shown on a return filed under section 6033(a)(1) or to show the correct information. The section 6652(c) penalty is not imposed if it is shown that the failure was due to reasonable cause. I.R.C. § 6652(c)(5). In general, an organization exempt from tax under section 501(a) must file its Form 990 or 990-EZ by the 15th day of the 5th month after the organization's accounting period ends. Treas. Reg. § 1.6033-1(e).

The court's July 30, 2019 order in Bullock has raised questions from taxpayers regarding the filing requirements for the 2018 tax year because the order was issued after the due date for most 2018 Forms 990 or 990-EZ. Any exempt organization filing before July 30, 2019, other than organizations described in section 501(c)(3), that did not report the names and addresses of its contributors on the Schedule B of its Forms 990 or 990-EZ, would have filed consistent with Revenue Procedure 2018-38 and according to the instructions to Schedule B of Forms 990 and 990-EZ.

In consideration of these facts, and the reliance interests of taxpayers, and consistent with how the IRS has previously exercised the authority under section 6652(c)(5) to provide relief from penalties for failures due to reasonable cause, the IRS will not impose a penalty under section 6652(c) for organizations exempt from tax under section 501(a), other than those organizations described in section 501(c)(3), that do

not report the names and addresses of their contributors on the Schedule B of their Forms 990 or 990-EZ filed for a taxable year ending on or after December 31, 2018, and on or prior to July 30, 2019. Exempt organizations may still be liable for a penalty under section 6652(c) for a failure to report any information required under section 6033(a) that is unrelated to the donor information described in Revenue Procedure 2018-38.

The Office of the Associate Chief Counsel (Procedure & Administration) is the principal author of this notice. For further information regarding this Notice, call 202-317-3400 (not a toll-free call).