copy) is to be filed at the following address:

Internal Revenue Service
P.O. Box 331
Attn: LIHC Unit, DP 607 South
Philadelphia Campus
Bensalem, PA 19020

The IRS will return a copy of the approved form. However, taxpayers are no longer required to attach that copy to their income tax return. Instead, taxpayers should keep the returned copy in their records. This treatment supersedes the current revision (February 1997) of Form 8693, which instructs taxpayers to attach the approved copy to their income tax return.

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

Announcement 2005–44

The name of an organization that no longer qualifies as an organization described in section 170(c)(2) of the Internal Revenue Code of 1986 is 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 June 27, 2005, 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.

E.N.Y.P. Charity Fund
Brooklyn, NY

Finality of Foreign Adoptions

Announcement 2005–45

The Internal Revenue Service has issued Rev. Proc. 2005–31, 2005–26 I.R.B. 1374, which finalizes, with modifications, a revenue procedure proposed in Notice 2003–15, 2003–1 C.B. 540 (the proposed revenue procedure). This announcement discusses issues raised by comments received in response to Notice 2003–15 and the modifications to the proposed revenue procedure.

BACKGROUND

Section 23 of the Internal Revenue Code provides a credit for qualified adoption expenses (QAE) paid or incurred in connection with the adoption of an eligible child. Section 137 provides an exclusion from income for employer-provided adoption assistance. Notice 2003–15 proposed a revenue procedure to establish certain safe harbors for determining the finality of the adoption of a foreign-born child who has received an "immediate relative" (IR) visa from the Department of State. The proposed revenue procedure provided:

(1) If the child receives an IR2 or an IR4 visa and enters the United States under a decree of simple adoption, the adoption will be treated as final in the taxable year in which a home state court enters a decree of re-adoption or otherwise recognizes the adoption decree of the foreign-sending country;

(2) If the child receives an IR3 visa, the adoption will be treated as final in the taxable year in which the competent authority enters the decree of adoption; and

(3) If the child receives an IR4 visa and enters the United States under a guardianship or legal custody arrangement, the adoption will be treated as final in the taxable year in which a home state court enters a decree of adoption.

The Service requested comments on the proposed revenue procedure. Several comments were received.

COMMENTS

Time of finality and alternative provisions

Commentators disagreed that the adoption of a foreign-born child who receives an IR2 visa or who receives an IR4 visa and enters the United States under a decree of simple adoption should be final only upon action of the home state. The commentators suggested that the credit should be available earlier, when the foreign-sending country enters a decree of adoption. The final revenue procedure adopts this suggestion and provides alternative dates of finality for the adoption of a child who receives an IR2 or an IR3 visa, or who receives an IR4 visa and enters the United States under a decree of simple adoption. Taxpayers may treat these adoptions as final for federal income tax purposes:

(a) In the taxable year in which the competent authority enters a decree of adoption; or

(b) In the taxable year in which a home state enters a decree of re-adoption or otherwise recognizes the decree of the foreign-sending country, if that taxable year is one of the next two taxable years after the taxable year in which the competent authority enters the decree.

Retroactivity

A commentator expressed concern that the proposed revenue procedure, if applied retroactively, would require taxpayers who had taken positions inconsistent with the proposed revenue procedure to file amended returns. Specifically, the commentator asserted that many taxpayers whose children received IR4 visas and entered the United States under a decree of simple adoption had claimed the credit in the year the competent authority of the foreign-sending country entered the decree of adoption, rather than in the year that a state court re-adoption occurred. The final