

SECTION 1. PURPOSE

.01 The purpose of this Revenue Procedure is to state what forms will be accepted by the Internal Revenue Service as substitutes for the detailed income statement and balance sheet portions (currently Part II) of Form 990, Return of Organization Exempt from Income Tax.

.02 Rev. Proc. 61-3, 1961-1 C.B. 888, permits exempt labor organizations to use copies of United States Department of Labor forms as substitutes for Part II (the part calling for an income statement and a balance sheet) of Form 990. The Service will continue to accept the Department of Labor forms as substitutes under the circumstances given in this Revenue Procedure. This Revenue Procedure broadens the scope of Rev. Proc. 61-3, which it supersedes, by permitting certain employee welfare benefit plans to file copies of Form 5500, Annual Return/Report of Employee Benefit Plan, or Form 5500-C (in the case of plans with fewer than 100 participants) as substitutes for the income statement and balance sheet portions (currently Part II) of Form 990.

SEC. 2. BACKGROUND

.01 Section 6033 of the Internal Revenue Code of 1954 requires that every organization exempt from taxation under section 501(a), with certain exceptions, must file an annual return stating specifically its gross income, receipts, and disbursements, and such other information as the Service may prescribe by forms or regulations.

.02 Rev. Proc. 61-3 sets forth the circumstances under which copies of the information forms filed with the United States Department of Labor pursuant to the Labor-Management Reporting and Disclosure Act of 1959, as amended, will partially satisfy the requirements of the Income Tax Regulations under section 6033 of the Code with regard to the information to be furnished by a labor organization described in section 501(c)(5). The United States Department of Labor forms are Form LM-2, Labor Organization Financial Report, and Form LM-3, Short Form Labor Organization Financial Report.

.03 For 1977 and later years, certain welfare benefit plans, which are exempt from Federal income tax under section 501(c)(9), (17), or (20) of the Code, are required to file with the Service Form 5500 or Form 5500-C pursuant to section 104 of the Employee Retirement Income Security Act of 1974 (Pub. L. 93-406, 1974-3 C.B. 1). A pension benefit plan exempt under section 501(c)(18) must also file one of these annual reports. These exempt employee benefit plans are also required to file an annual information return with the Service on Form 990 in accordance with section 6033 and the regulations thereunder. If certain conditions are satisfied, the Service will accept Forms 5500 or 5500-C as substitutes for the detailed income statement and balance sheet portions (currently Part II) of Form 990.

.04 In Announcement 75-18, 1975-10 I.R.B. 62, the Service stated that it would accept as substitutes for Part II of Form 990 the reports required of federal employee labor organizations under Executive Order 11491, as amended. At the time of the announcement federal employee labor organizations were filing forms with the Department of Labor different from those filed by other labor organizations. However, federal employee labor organizations now file the Form LM-2 or LM-3, the same forms filed by other labor organizations.

.05 Announcement 75-18 also stated that the Service would no longer accept substitutes for Part II of the Form 990, other than such reports of federal employee labor organizations and the returns of other labor organizations covered in Rev. Proc. 61-3.

SEC. 3. SUBSTITUTION

.01 The Service will accept as substitutes for the income statement and balance sheet portions (currently Part II) of Form 990, copies of the Forms LM-2 and LM-3 that labor organizations exempt under section 501(c)(5) of the Code file with the U.S. Department of Labor under the Labor-Management Reporting and Disclosure Act or under Executive Order 11491. This substitution, however, is subject to the guidelines set forth in subsection .04 below.

.02 Organizations exempt from federal income tax under section 501(c)(9), (17), (18), or (20) may now file with the Service as substitutes now filed with the Service as substitutes for the income statement and balance sheet portions (currently Part II) of Form 990. Substitution of these forms for part of the information required by Form 990 will not satisfy the separate filing requirements under section 104 of the Employee Retirement Income Security Act of 1974. The copy of Form 5500 or 5500-C that is used as the substitute need not include the Schedule A, B, or SSA of such forms. Substitution of Form 5500 or 5500-C for the income statement and balance sheet of Form 990 will be permitted provided that:

1. The section 501(c) organization (the Form 990 filer) and the employee benefit plan (the Form 5500 filer) are identical entities for financial reporting purposes. Thus, receipts and disbursements, assets, liabilities, and equity accounts of the plan and the section 501(c) organization must be identical;
2. The employee benefit plan does not include more than one section 501(c) organization and the section 501(c) organization is not a part of more than one employee benefit plan; and,
3. The taxable year of the section 501(c) organization coincides with the employee benefit plan year. (If the tax years are not the same, the section 501(c) entity may want to change its accounting period by filing Form 1128, Application for Change in Accounting Period, in accordance with Rev. Proc. 76-9, 1976-1 C.B. 547, so that its taxable year will coincide with the plan year).

.03 The Service will not accept substitutes for any part of the Form 990 other than the forms mentioned in this Revenue Procedure.

.04 Even though the exempt organizations referred to in .01 and .02 above may file an approved substitute form in lieu of the income statement and balance sheet of Form 990, they must complete Form 990 in all other respects. This includes the currently required schedules of certain balance sheet and income and expense items and a statement explaining how each business activity of the filing organization not reported on Form 990-T, Exempt Organizations Business Income Tax Return, contributed importantly to the accomplishment of the organization's exempt purposes. The financial data shown on the substitute form must also be reconciled to the summary line items in Part I of Form 990, and all applicable parts of any substitute form submitted with the Form 990 must be completed by the filing organization. An approved substitute form shall be filed by attaching it to the organization's Form 990.

SEC. 4. EFFECT ON OTHER DOCUMENTS

This Revenue Procedure supersedes Revenue Procedure 61-3, 1961-1 C.B. 888.

SEC. 5. EFFECTIVE DATE

This Revenue Procedure is effective January 15, 1979, the date of its publication in the Internal Revenue Bulletin.