

Part III

Administrative, Procedural, and Miscellaneous

[26 CFR 1.6033-2]: Returns by exempt organizations and returns by certain non-exempt organizations

(Also: §§ 6001 6033 and §1.6001-1)

Rev. Proc. 2018-38

SECTION 1. PURPOSE

This document contains procedures modifying the information to be reported to the IRS by organizations exempt from tax under § 501(a) of the Internal Revenue Code (Code), other than organizations described in § 501(c)(3), that are required to file an annual Form 990 or Form 990-EZ information return. These organizations are no longer required to report the names and addresses of their contributors on the Schedule B of their Forms 990 or 990-EZ. These organizations, however, must continue to collect and keep this information in their books and records and to make it available to the IRS upon request, when needed for tax administration.

SECTION 2. BACKGROUND

Section 6001 of the Code requires any person subject to tax under the Code to keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, the Secretary may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title. Specifically for organizations exempt from tax under § 501(a) (tax-exempt organizations), § 1.6001-1(c) provides that such organizations shall keep such permanent books of account or records as are sufficient to show specifically the items of gross income, receipts, and disbursements.

Section 6033(a) requires certain tax-exempt organizations to file annual information returns that include gross income, receipts and disbursements, and such other information required by forms or regulations. The annual information returns required under § 6033 are Forms 990, “Return of Organization Exempt From Income Tax,” 990-EZ, “Short Form Return of Organization Exempt From Income Tax,” 990-PF, “Return of Private Foundation,” and 990-BL, “Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons.” Section 6033(b) provides that tax-exempt organizations described in § 501(c)(3) that are subject to the requirements of § 6033(a) must furnish information annually setting forth certain items including, “the total of the contributions and gifts received by it during the year, and the names and addresses of all substantial contributors.”

Although the statute does not address contributor reporting by tax-exempt organizations other than those described in § 501(c)(3), the implementing regulations under § 6033(a) generally require all types of tax-exempt organizations to report the names and addresses of all persons who contribute \$5,000 or more in a year under § 1.6033-2(a)(2)(ii)(f). Section 1.6033-2(a)(2)(iii)(d) also requires organizations described in § 501(c)(7) (generally, social clubs), (8) (generally, fraternal beneficiary societies), or (10) (generally, domestic fraternal societies) to report the name of each person who contributed more than \$1,000 during the taxable year to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

The regulation that extends contributor reporting requirements to all types of tax-exempt organizations also authorizes the Commissioner to grant relief from those requirements. Specifically, § 1.6033-2(g)(6) authorizes the Commissioner to “relieve any organization or class of organizations (other than an organization described in § 509(a)(3)) from filing, in whole or in part the annual return required by this section where [the Commissioner] determines that such returns are not necessary for the efficient administration of the internal revenue laws.”¹ The Commissioner has exercised this authority in the past through revenue procedures. See, e.g., Rev. Proc. 2011-15 2011-3 I.R.B. 322, and Rev. Proc. 2003-21 2003-1 C.B. 448.

¹ Likewise, section 6033(a)(3)(B) provides a discretionary exception from the annual filing requirement under which the Secretary may relieve any organization (other than a supporting organization described in § 509(a)(3)) otherwise required to file an information return from filing such a return if the Secretary determines that the filing is not necessary to the efficient administration of the internal revenue laws.

Under existing rules, the names and addresses of contributors for all types of organizations are reported on Schedule B, “Schedule of Contributors,” filed with Forms 990, 990-EZ, and 990-PF, or, with respect to organizations described in § 501(c)(21) in Part IV of Form 990-BL.

In general, under § 6104(b), the Secretary must make the annual returns filed under § 6033 available to the public. However, the Secretary is not authorized to disclose the name or address of any contributor to any tax-exempt organization other than a private foundation (as defined in § 509(a) including trusts described in § 4947(a)(1) that are treated as private foundations) or a § 527 organization. Further, § 301.6104(b)-1(b)(2) provides that even if the names and addresses are not disclosed, the amounts of contributions to an organization shall be made available for public inspection unless the disclosure of such information can reasonably be expected to identify any contributor.

In addition to the required disclosure by the Secretary, § 6104(d) and § 301.6104(d)-1 require certain tax-exempt organizations to provide their annual information returns upon request by a member of the public. Similar to the restrictions on disclosing contributor information placed on the Secretary by § 6104(b), an organization, other than a private foundation or a § 527 organization, is not required to disclose the names and addresses of its contributors under § 6104(d)(3)(A).

SECTION 3. APPLICATION

In exercising his discretion under § 1.6033-2(g)(6) the Commissioner balances the IRS’s need for the information against the costs and risks associated with reporting

of the information. The IRS does not need personally identifiable information of donors to be reported on Schedule B of Form 990 or Form 990-EZ in order for it to carry out its responsibilities. The requirement to report such information increases compliance costs for some private parties, consumes IRS resources in connection with the redaction of such information, and poses a risk of inadvertent disclosure of information that is not open to public inspection.

Accordingly, tax-exempt organizations required to file the Form 990 or Form 990-EZ, other than those described in § 501(c)(3), will no longer be required to provide names and addresses of contributors on their Forms 990 or Forms 990-EZ and thus will not be required to complete these portions of their Schedules B (or complete the similar portions of Part IV of the Form 990-BL). Similarly, organizations described in § 501(c)(7) (8), or (10) will no longer be required to provide on Forms 990 or Forms 990-EZ the names and addresses of persons who contributed more than \$1,000 during the taxable year to be used for exclusively charitable purposes. This revenue procedure does not affect the information required to be reported on Forms 990, 990-EZ, or 990-PF by organizations described in § 501(c)(3) (which for purposes of § 6033 include nonexempt charitable trusts described in § 4947(a)(1) and nonexempt private foundations described in § 6033(d) or political organizations described in § 527

This revenue procedure does not affect the reporting of contribution information, other than the names and addresses of contributors, required to be reported on Schedule B of Forms 990 and 990-EZ and Part IV of the Form 990-BL. This revenue procedure does not affect the disclosure requirements under § 6104(b) or (d) of any

information reported on the Schedule B of Forms 990 and 990-EZ and Part IV of the Form 990-BL. As a result, this revenue procedure will have no effect on the reporting of Schedule B information that is currently open to public inspection. Organizations relieved of the obligation to report contributors' names and addresses must continue to keep this information in their books and records in order to permit the IRS to efficiently administer the internal revenue laws through examinations of specific taxpayers.

SECTION 4. EFFECTIVE DATE

The revised reporting requirements of this revenue procedure will apply to information returns for taxable years ending on or after December 31, 2018. Thus, the revised reporting requirements generally will apply to returns that become due on or after May 15, 2019.

SECTION 5. PAPERWORK REDUCTION ACT

The collection of information contained in this revenue procedure has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545-0047. Please refer to the Paperwork Reduction Act statement accompanying Form 990 Instructions, for further information.

An organization is not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents can become material in the administration of any Internal Revenue law.

SECTION 6. DRAFTING INFORMATION

The principal author of this revenue procedure is Jonathan Carter of the Office of Associate Chief Counsel (Tax-Exempt and Government Entities). However, other personnel from the office of the Associate Chief Counsel (Tax-Exempt and Government Entities) participated in its development. For further information regarding this revenue procedure contact Jonathan Carter at (202) 317-5800 (not a toll-free call).