shall continue and may be relied upon until the earliest of—

(A) The expiration or material modification of the plan or agreement;

(B) The issuance of all employer stock and other compensation that has been allocated under the plan; or

(C) The first meeting of shareholders at which directors are to be elected that occurs after December 31, 1996.

(iii) *Stock-based compensation.* This paragraph (h)(3) will apply to any compensation received pursuant to the exercise of a stock option or stock appreciation right, or the substantial vesting of restricted property, granted under a plan or agreement described in paragraph (h)(3)(i) of this section if the grant occurs on or before the earliest of the events specified in paragraph (h)(3)(ii) of this section.

(iv) *Example.* The following example illustrates the application of this paragraph (h)(3):

Example. Corporation Z adopted a stock option plan in 1991. Pursuant to Rule 16b–3 under the Exchange Act, the stock option plan has been administered by disinterested directors and was approved by Corporation Z shareholders. Under the terms of the plan, shareholder approval is not required again until 2001. In addition, the terms of the stock option plan include an aggregate limit on the number of shares available under the plan. Option grants under the Corporation Z plan are made with an exercise price equal to or greater than the fair market value of Corporation Z stock. Compensation attributable to the exercise of options that are granted under the plan before the earliest of the dates specified in paragraph (h)(3)(ii) of this section will be treated as satisfying the requirements of paragraph (e) of this section for qualified performance-based compensation, regardless of when the options are exercised.

(i) (*Reserved*)

(j) *Effective date*—(1) *In general.* Section 162(m) and this section apply to compensation that is otherwise deductible by the corporation in a taxable year beginning on or after January 1, 1994.

(2) *Delayed effective date for certain provisions—(i) Date on which remuneration is considered paid.* Notwithstanding paragraph (j)(1) of this section, the rules in the second sentence of each of paragraphs (e)(3)(ii)(A), (e)(3)(ii)(B), and (e)(3)(ii)(C) of this section for determining the date or dates on which remuneration is considered paid to a director are effective for taxable years beginning on or after January 1, 1995. Prior to those taxable years, taxpayers must follow the rules in paragraphs (e)(3)(ii)(A), (e)(3)(ii)(B), and (e)(3)(ii)(C) of this section or another reasonable, good faith interpretation of section 162(m) with respect to the date or dates on which remuneration is considered paid to a director.

(ii) *Separate treatment of publicly held subsidiaries.* Notwithstanding paragraph (j)(1) of this section, the rule in paragraph (c)(1)(ii) of this section that treats publicly held subsidiaries as separately subject to section 162(m) is effective as of the first regularly scheduled meeting of the shareholders of the publicly held subsidiary that occurs more than 12 months after December 2, 1994. The rule for stock-based compensation set forth in paragraph (f)(3) of this section will apply for this purpose, except that the grant must occur before the shareholder meeting specified in this paragraph (j)(2)(ii). Taxpayers may choose to rely on the rule referred to in the first sentence of this paragraph (j)(2)(ii) for the period prior to the effective date of the rule.

(iii) *Subsidiaries that become separate publicly held corporations.* Notwithstanding paragraph (j)(1) of this section, if a subsidiary of a publicly held corporation becomes a separate publicly held corporation as described in paragraph (f)(4)(i) of this section, then, for the duration of the reliance period described in paragraph (f)(2) of this section, the rules of paragraph (f)(1) of this section are treated as applying (and the rules of paragraph (f)(4) of this section do not apply) to remuneration paid to covered employees of that new publicly held corporation pursuant to a plan or agreement that existed prior to December 2, 1994, provided that the treatment of that remuneration as performance-based is in accordance with a reasonable, good faith interpretation of section 162(m). However, if remuneration is paid to covered employees of that new publicly held corporation pursuant to a plan or agreement that existed prior to December 2, 1994, but that remuneration is not performance-based under a reasonable, good faith interpretation of section 162(m), the rules of paragraph (f)(1) of this section will be treated as applying only until the first regularly scheduled meeting of shareholders that occurs more than 12 months after December 2, 1994. The rules of paragraph (f)(4) of this section will apply as of that first regularly scheduled meeting. The rule for stock-based compensation set forth in paragraph (f)(3) of this section will apply for purposes of this paragraph (j)(2)(iii), except that the grant must occur before the shareholder meeting specified in the preceding sentence if the remuneration is not performance-based under a reasonable, good faith interpretation of section 162(m). Taxpayers may choose to rely on the rules of paragraph (f)(4) of this section for the period prior to the applicable effective date referred to in the first or second sentence of this paragraph (j)(2)(iii).

(iv) *Bonus pools.* Notwithstanding paragraph (j)(1) of this section, the rules in paragraph (e)(2)(iii)(A) that limit the sum of individual percentages of a bonus pool to 100 percent will not apply to remuneration paid before January 1, 2001, based on performance in any performance period that began prior to December 20, 1995.

(v) *Compensation based on a percentage of salary or base pay.* Notwithstanding paragraph (j)(1) of this section, the requirement in paragraph (e)(4)(i) of this section that, in the case of certain formulas based on a percentage of salary or base pay, a corporation disclose to shareholders the maximum dollar amount of compensation that could be paid to the employee, will apply only to plans approved by shareholders after April 30, 1995.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. In § 602.101, paragraph (c) is amended by adding the entry ''1.162–27. . . . 1545–1466'' in numerical order to the table.

Margaret Milner Richardson,
Commissioner of Internal Revenue.

Approved: December 12, 1995.

Leslie Samuels,
Assistant Secretary of the Treasury.

[FR Doc. 95–30869 Filed 12–19–95; 8:45 am]
BILLING CODE 4830–01–U

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26 CFR Part 1

[TD 8635]

RIN 1545–AS92

Nonbank Trustee Net Worth Requirements

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains regulations that provide guidance to nonbank trustees with respect to the adequacy of net worth requirements that must be satisfied in order to be or

remain an approved nonbank trustee. These regulations affect nonbank trustees and custodians of individual retirement accounts, and nonbank custodians of qualified plans and tax-sheltered annuities.

EFFECTIVE DATE: These regulations are effective December 20, 1995.

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman, (202) 622–6030 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 6, 1994, temporary regulations (TD 8570) under section 401 were published in the Federal Register (59 FR 62570). A notice of proposed rulemaking (EE–38–94), cross-referencing the temporary regulations, was published in the Federal Register (59 FR 62644) on the same day. The temporary regulations provide guidance on the adequacy of net worth requirements for nonbank trustees and custodians of individual retirement plans, and for nonbank custodians of custodial accounts of qualified plans and tax-sheltered annuities.

After consideration of all of the comments, the temporary regulations are replaced and the proposed regulations are adopted as revised by this Treasury decision. Because section 401(d)(1), under which § 1.401–12 was originally issued, was repealed by section 237(a) of the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97–248 (1982), these final regulations also move all the rules for nonbank trustees and custodians that were previously in § 1.401–12(n) to § 1.408–2.

Explanation of Provisions

The fiduciary conduct rules for nonbank trustees and custodians under longstanding Treasury regulations require nonbank trustees and custodians to maintain a minimum amount of net worth in order to qualify as an approved nonbank trustee or custodian. Under this requirement, the nonbank trustee or custodian's net worth must exceed the greater of a specified dollar amount or a percentage of the value of all assets held in fiduciary accounts of retirement plans. A primary objective of this adequacy-of-net-worth requirement has been to ensure that nonbank trustees and custodians maintain a level of solvency commensurate with their financial and fiduciary responsibilities.

Under the general net worth requirement, nonbank trustees and custodians may not accept new accounts unless their net worth exceeds the greater of $100,000 or four percent of the value of all assets held in fiduciary accounts. Additionally, nonbank trustees and custodians must take whatever steps are necessary (including the relinquishment of fiduciary accounts) to ensure that their net worth exceeds the greater of $50,000 or two percent of the value of all assets held by them in fiduciary accounts.

For passive nonbank trustees and custodians (qualified nonbank entities that have no discretion to direct the investment of assets), the percentage requirements are lower. Specifically, passive nonbank trustees and custodians may not accept new accounts unless their net worth exceeds the greater of $100,000 or two percent of the value of all assets held in fiduciary accounts. Additionally, they must take appropriate action (including the relinquishment of fiduciary accounts) to ensure that their net worth exceeds the greater of $50,000 or one percent of the value of assets held in their fiduciary accounts.

The proposed and temporary regulations provide a special rule for passive nonbank trustees and custodians that are broker-dealers and members of the Securities Investor Protection Corporation (SIPC). The proposed and temporary regulations provide that, to the extent that assets held in any fiduciary accounts are insured by SIPC in the event of the member's liquidation ($500,000 per account, $100,000 of which may be cash), the assets will be disregarded in determining the value of assets held in fiduciary accounts by the trustee or custodian for purposes of the percentage part of the net worth requirement.

The final regulations adopt the provisions of the proposed and temporary regulations. In addition, in response to comments, the final regulations extend the SIPC-related relief to all nonbank trustees and custodians that are broker-dealers and members of SIPC rather than limiting the relief to passive nonbank trustees and custodians. The final regulations provide that the amount of the minimum net worth requirement for nonbank trustees and custodians that are SIPC members is reduced by either two percent of assets insured by SIPC (in the case of the minimum net worth requirement that applies to a trustee or custodian accepting additional accounts) or one percent of assets insured by SIPC (in the case of the minimum net worth requirement that must be satisfied to avoid a mandatory relinquishment of accounts). An example in the regulations illustrates this rule.

The final regulations also retain the rule in the proposed and temporary regulations that increased the initial net worth requirement for all nonbank trustees and custodians. The purpose of the rule is to better assure that the enterprises are sound and well-funded during their start-up period. This initial net worth requirement requires all new entities applying for nonbank trustee or custodian status to have a net worth of not less than $250,000 for the most recent taxable year preceding the applicant's initial application.

This new initial net worth requirement applies only to applications received after January 5, 1995. Previously approved nonbank trustees and custodians need only satisfy the ongoing net worth requirement.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Marjorie Hoffman, Office of the Associate Chief Counsel, (Employee Benefits and Exempt Organizations) IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805. * * *

§ 1.401–12 also issued under 26 U.S.C. 401(d)(1). * * *

§§ 1.401–12 and 1.408–2 [Amended]

Par. 2. Paragraph (n) of § 1.401–12 is redesignated as paragraph (e) of § 1.408–2 and the authority citation immediately following § 1.401–12 is removed.

§ 1.401–12T [Removed]

Par. 3. Section 1.401–12T is removed.

§ 1.401(f)–1 [Amended]

Par. 4. Section 1.401(f)–1 is amended by:

1. Removing the language ''section 401(d)(1) and the regulations thereunder'' and adding ''§ 1.408–2(e)'' in its place in the last sentence of paragraph (b)(1)(ii).

2. Removing the language ''401(d)(1) and adding ''408(n)'' in its place in paragraph (d)(1).

Par. 5. Section 1.408–2 is amended by:

1. Removing the language ''401(d)(1)'' and adding ''408(n)'' in its place in paragraph (b)(2)(i).

2. Removing the language ''(b)(2)(ii)'' and adding ''(e)'' in its place in paragraph (b)(2)(i).

3. Removing paragraph (b)(2)(ii).

4. Redesignating (b)(2)(iii) as (b)(2)(ii).

5. Removing newly designated paragraphs (e)(1) and (e)(9).

6. Further redesignating paragraphs (e)(2) through (e)(8) as paragraphs (e)(1) through (e)(7), respectively.

7. Removing the language ''For the plan years to which this paragraph applies, the'' and adding ''The'' in its place, and removing the language ''(c)(1)(i)'' and adding ''(b)'' in its place, in the first sentence of newly designated paragraph (e)(1).

8. Removing the language ''401'' and adding ''408'' in its place, and removing the language ''(n)(3) to (n)(7)'' and adding ''(e)(2) to (e)(6)'' in its place, in the second sentence of newly designated paragraph (e)(1).

9. Removing the language ''Commissioner of Internal Revenue, Attention: E:EP, Internal Revenue Service, Washington, D.C. 20224'' and adding ''the address prescribed by the Commissioner in revenue rulings, notices, and other guidance published in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(*b*) of this chapter)'' in its place in the third sentence of newly designated paragraph (e)(1), in the last sentence of newly designated (e)(6)(9)(iv), and in the first sentence of newly designated (e)(6)(v)(B).

10. Removing the language ''(n)(8)'' and adding ''(e)(7)'' in its place in the last sentence of newly designated paragraph (e)(1).

11. Removing the language ''(n)(6)'' and adding ''(e)(5)'' in its place in newly designated paragraph (e)(2)(iv).

12. Redesignating newly designated paragraph (e)(5)(ii)(A) as paragraph (e)(5)(ii)(E).

13. Removing the language ''(n)(7)(i)(A)'' and adding ''(e)(6)(i)(A)'' in its place in newly designated paragraph (e)(5)(ii)(B)(*2*) and in newly designated paragraph (e)(5)(ii)(C)(*2*).

14. Removing the language ''(n)(6)(iii)(A)'' and adding ''(e)(5)(iii)(A)'' in its place in newly designated paragraph (e)(5)(iii)(B).

15. Removing the language ''(n)(6)(vi)'' and adding ''(e)(5)(vi)'' in its place in newly designated paragraph (e)(5)(v)(A).

16. Removing the language ''(n)(6)(viii)(C)'' and adding ''(e)(5)(viii)(C)'' in its place in newly designated paragraph (e)(5)(vi).

17. Removing the language ''(n)(3)(v)'' and adding ''(e)(2)(v)'' in its place, and removing the language ''(n)(8)'' and adding ''(e)(7)'' in its place, in newly designated paragraph (e)(5)(viii).

18. Removing the language ''(n)(6)(i)(A)(3)'' and adding ''(e)(5)(i)(A)(3)'' in its place, and removing the language ''(n)(5)(ii)(E)'' and adding ''(e)(4)(ii)(E)'' in its place, in the third sentence of newly designated paragraph (e)(6)(i)(A).

19. Removing the language ''(n)(7)(iii)(A)(*3*)'' and adding ''(e)(6)(iii)(A)(*3*)'' in its place in newly designated paragraph (e)(6)(iii)(C).

20. Revising newly designated paragraph (e)(5)(ii)(A) and adding paragraph (e)(5)(ii)(D).

21. The revision and addition read as follows:

§ 1.408–2 Individual retirement accounts.

* * * * *

(e) * * *

* * * * *

(5) * * *

(ii) *Adequacy of net worth*—(A) *Initial net worth requirement.* In the case of applications received after January 5, 1995, no initial application will be accepted by the Commissioner unless the applicant has a net worth of not less than $250,000 (determined as of the end of the most recent taxable year). Thereafter, the applicant must satisfy the adequacy of net worth requirements of paragraph (e)(6)(ii) (B) and (C) of this section.

* * * * *

(D) *Assets held by members of SIPC*—(*1*) For purposes of satisfying the adequacy-of-net-worth requirement of this paragraph, a special rule is provided for nonbank trustees that are members of the Securities Investor Protection Corporation (SIPC) created under the Securities Investor Protection Act of 1970 (SIPA)(15 U.S.C. 78aaa et seq., as amended). The amount that the net worth of a nonbank trustee that is a member of SIPC must exceed is reduced by two percent for purposes of paragraph (e)(5)(ii)(B)(2), and one percent for purposes of paragraph (e)(5)(ii)(C)(2), of the value of assets (determined on an account-by-account basis) held for the benefit of customers (as defined in 15 U.S.C. 78fff–2(e)(4)) in fiduciary accounts by the nonbank trustee to the extent of the portion of each account that does not exceed the dollar limit on advances described in 15 U.S.C. 78fff–3(a), as amended, that would apply to the assets in that account in the event of a liquidation proceeding under the SIPA.

(*2*) The provisions of this special rule for assets held in fiduciary accounts by members of SIPC are illustrated in the following example.

Example—(a) Trustee X is a broker-dealer and is a member of the Securities Investment Protection Corporation. Trustee X also has been approved as a nonbank trustee for individual retirement accounts (IRAs) by the Commissioner but not as a passive nonbank trustee. Trustee X is the trustee for four IRAs. The total assets of each IRA (for which Trustee X is the trustee) as of the most recent valuation date before the last day of Trustee X's taxable year ending in 1995 are as follows: the total assets for IRA–1 is $3,000,000 (all of which is invested in securities); the value of the total assets for IRA–2 is $500,000 ($200,000 of which is cash and $300,000 of which is invested in securities), the value of the total assets for IRA–3 is $400,000 (all of which is invested in securities); and the value of the total assets of IRA–4 is $200,000 (all of which is cash). The value of all assets held in fiduciary accounts, as defined in § 1.408–2(e)(6)(viii)(A), is $4,100,000.

(b) The dollar limit on advances described in 15 U.S.C. § 78fff–3(a) that would apply to the assets in each account in the event of a liquidation proceeding under the Securities Investor Protection Act of 1970 in effect as of the last day of Trustee X's taxable year ending in 1995 is $500,000 per account (no more than $100,000 of which is permitted to be cash). Thus, the dollar limit that would apply to IRA–1 is $500,000; the dollar limit for IRA–2 is $400,000 ($100,000 of the cash and the $300,000 of the value of the securities); the dollar limit for IRA–3 is $400,000 (the full value of the account because the value of the account is less than $500,000 and no portion of the account is cash); and the dollar limit for IRA–4 is $100,000 (the entire account is cash and the dollar limit per account for cash is $100,000). The aggregate dollar limits of the four IRAs is $1,400,000.

(c) For 1996, the amount determined under § 1.408–2(e)(6)(ii)(B) is determined as follows for Trustee X: (1) four percent of $4,100,000 equals $164,000; (2) two percent of $1,400,000 equals $28,000; and (3) $164,000 minus $28,000 equals $136,000. Thus, because $136,000 exceeds $100,000, the minimum net worth necessary for Trustee X to accept new accounts for 1996 is $136,000.

(d) For 1996, the amount determined under § 1.408–2(e)(6)(ii)(C) for Trustee X is determined as follows: (1) two percent of $4,100,000 equals $82,000; (2) one percent of $1,400,000 equals $14,000; and (3) $82,000 minus $14,000 equals $68,000. Thus, because $68,000 exceeds $50,000, the minimum net worth necessary for Trustee X to avoid a mandatory relinquishment of accounts for 1996 is $68,000.

* * * * *

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved: December 12, 1995.

Leslie Samuels,

Assistant Secretary of the Treasury.

[FR Doc. 95–30684 Filed 12–19–95; 8:45 am]

BILLING CODE 4830–01–U

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26 CFR Part 1

[TD 8640]

RIN 1545–AI52

Exempt Organizations Not Required To File Annual Returns: Integrated Auxiliaries of Churches

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations that exempt certain integrated auxiliaries of churches from filing information returns. These regulations incorporate the rules of Rev. Proc. 86–23 (1986–1 C.B. 564), into the regulations defining integrated auxiliary for purposes of determining what entities must file information returns. The new definition focuses on the sources of an organization's financial support in addition to the nature of the organization's activities.

DATES: These regulations are effective December 20, 1995.

For dates of applicability of these regulations, see § 1.6033–2(h)(6).

FOR FURTHER INFORMATION CONTACT: Terri Harris or Paul Accettura, of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS, at 202–622–6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On December 15, 1994 proposed regulations §§ 1.6033–2 and 1.508–1 [EE–41–86 (1995–2 I.R.B. 20)] under sections 6033(a)(2) and 508 of the Internal Revenue Code of 1986, respectively, were published in the Federal Register (59 FR 64633). The proposed regulations adopted the rules of Rev. Proc. 86–23 (1986–1, C.B. 564) as the definition of integrated auxiliary of a church replacing the current definition set forth in § 1.6033–2(g)(5). Additionally, section 508(c) excepts integrated auxiliaries of a church from the requirement that new organizations notify the Secretary of the Treasury that they are applying for recognition of section 501(c)(3) status (Form 1023). For consistency, § 1.508–1(a)(3)(i)(*a*), which gives several examples of integrated auxiliaries, was proposed to be amended by deleting the examples and by adding a cross-reference to § 1.6033–2(h) for the definition of integrated auxiliary of a church. After IRS and Treasury consideration of the public comments received regarding the proposed regulations, the regulations are adopted as revised by this Treasury decision.

Explanation of Provisions

Section 6033(a)(1) requires organizations that are exempt from income tax under section 501(a) to file annual returns. Section 6033(a)(2)(A) provides exceptions to this requirement for certain specified types of organizations, including, among others, churches, their integrated auxiliaries, and conventions or associations of churches. Section 6033(a)(2)(B) provides that the Secretary may relieve any organization from the filing requirement where the Secretary determines that filing is not necessary to the efficient administration of the internal revenue laws.

Prior to this Treasury decision, § 1.6033–2(g)(5)(i) defined the term integrated auxiliary of a church as an organization that is: (1) exempt from taxation as an organization described in section 501(c)(3); (2) affiliated with a church (within the meaning of § 1.6033–2(g)(5)(iii)); and (3) engaged in a principal activity that is ''exclusively religious.'' Section 1.6033–2(g)(5)(ii) provides that an organization's principal activity is not ''exclusively religious'' if that activity is educational, literary, charitable, or of another nature (other than religious) that would serve as a basis for exemption under section 501(c)(3).

The ''exclusively religious'' element of the definition was litigated in *Lutheran Social Service of Minnesota* v. *United States*, 583 F. Supp. 1298 (D. Minn. 1984), *rev'd* 758 F.2d 1283 (8th Cir. 1985), and *Tennessee Baptist Children's Homes, Inc.* v. *United States*, 604 F. Supp. 210 (M.D. Tenn. 1984) *aff'd*, 790 F.2d 534 (6th Cir. 1986). While the litigation over the ''exclusively religious'' standard was proceeding, Congress enacted section 3121(w) of the Internal Revenue Code, Tax Reform Act of 1984, Pub. L. 98–369, section 2603(b), 98 Stat. 494, 1128 (1984), which permits certain church-related organizations to elect out of social security coverage if they meet a standard based on the degree of financial support they receive from a church. In light of this litigation and the enactment of section 3121(w), IRS personnel met with representatives of various church organizations to encourage voluntary compliance with the filing requirements and to develop a less controversial and more objective standard for identifying an integrated auxiliary of a church.

Subsequent to these meetings the IRS published Rev. Proc. 86–23, which provides that, for tax years beginning after December 31, 1975, an organization is not required to file Form 990 if it is: (1) described in sections 501(c)(3) and 509(a) (1), (2), or (3); (2) affiliated with a church or a convention or association of churches; and (3) internally supported. With respect to this last criterion, Rev. Proc. 86–23 sets forth an internal support standard that is similar to the financial support standard in section 3121(w).

The proposed regulations adopted the rules of Rev. Proc. 86–23 as the definition of the term integrated auxiliary of a church replacing the current definition set forth in § 1.6033–2(g)(5). The final regulations retain the definition of an integrated auxiliary of a church that is contained in the proposed regulations.

Under this Treasury decision, to be an integrated auxiliary of a church an organization must first be described in section 501(c)(3) and section 509(a) (1), (2), or (3), and be affiliated with a church in accordance with standards set forth in the regulations. An organization meeting those tests is an integrated auxiliary if it either: (1) does not offer admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public; or (2) offers admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public and not more than 50 percent of its support comes from a combination of government sources, public solicitation of contributions, and receipts other than those from an unrelated trade or business.

Some commentators have noted that certain church-related organizations that finance, fund and manage pension programs were originally excused from filing by Notice 84–2 (1984–1 C.B. 331), which was issued pursuant to the Commissioner's discretionary authority