

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007, is amended as follows:

Paragraph 6005. Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM MT E5 Helena, MT [Modified]

Helena Regional Airport, MT

(Lat. 46°36'25" N., long. 111°58'58" W.)

Helena VORTAC

(Lat. 46°36'25" N., long. 111°57'13" W.)

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the Helena VORTAC, and within 5.3 miles northwest and 3.5 miles southeast of the Helena VORTAC 104° radial extending from the 10.5-mile radius to 18.3 miles southeast of the Helena VORTAC, and within 4.0 miles either side of Helena VORTAC 282° radial extending from the 10.5-mile radius to 25 miles west of the Helena VORTAC; that airspace extending upward from 1,200 feet above the surface within a 20.9-mile radius of the Helena VORTAC, and within 5.3 miles south and 10 miles north of the Helena VORTAC 272° radial extending from the 20.9-mile radius to 39.2 miles west of the VORTAC, and within 13.5 miles west and parallel to the Helena VORTAC 352° radial extending from the 20.9-mile radius to 27 miles north of the VORTAC, and within 4.3 miles east and 7.9 miles west of the Helena VORTAC 023° radial extending from the 20.9-mile radius to 31.4 miles northeast of the VORTAC, and within 5.3 miles south and 8.3 miles north of the Helena VORTAC 102° radial extending from the 20.9-mile radius to 24.8 miles east of the VORTAC.

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Issued in Seattle, Washington, on October 18, 2007.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E7–22205 Filed 11–14–07; 8:45 am]

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9366]

RIN 1545–BG38

Notification Requirement for Tax-Exempt Entities Not Currently Required to File

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary regulations describing the time and manner in which certain tax-exempt organizations not currently required to file an annual information return under section 6033(a)(1) are required to submit an annual electronic notice including certain information required by section 6033(i)(1)(A) through (F). The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective on November 15, 2007.

Applicability Date: These regulations are applicable to taxable years beginning after December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum at (202) 622–6070 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1) under section 6033(i)(1) relating to the notification requirement for entities not currently required to file an annual information return under section 6033(a)(1). Section 6033(i)(1) was added by section 1223(a) of the Pension Protection Act of 2006, Public Law 109–208 (120 Stat. 1090 (2006)) (PPA 2006), effective for annual periods beginning after 2006. Section 6033(i)(1) requires the Treasury Secretary to promulgate regulations that describe the time and manner in which certain tax-exempt organizations not currently required to file an annual information return are to submit an annual electronic notice including information set forth in section 6033(i)(1)(A) through (F). Section 1223 of the PPA 2006 also contains new rules for termination, loss of exempt status, and reinstatement. These new rules do not require regulations for implementation and are therefore not addressed in this

temporary regulation but are discussed in this preamble. Substantive and administrative rules related to termination, loss of exempt status, and reinstatement will be considered in separate guidance and other publications.

Prior to the PPA 2006, either by operation of law or through discretionary exceptions, certain organizations were not required to file an information return (for example, Form 990, “Return of Organization Exempt From Income Tax”). Section 6033(a)(3)(A)(ii) provided a mandatory exception from filing by certain organizations (other than private foundations) described in section 6033(a)(3)(C), whose annual gross receipts were normally not more than \$5,000. Section 6033(a)(3)(B) provided a discretionary exception under which the Secretary relieved certain other organizations from filing. Exercising this discretionary authority, the IRS published Announcement 82–88 (1982–25 IRB 23 (June 21, 1982)), which provided an exception for organizations whose annual gross receipts were not normally in excess of \$25,000 from filing Form 990 for tax years ending on or after December 31, 1982. The new electronic notice provision of section 6033(i)(1) applies to organizations whose gross receipts are low enough that they are not required to file information returns under sections (a)(3)(A)(ii) or (a)(3)(B). The substance of this electronic notice is discussed below in this preamble. See § 601.601(d)(2)(ii)(b).

Section 6033(i)(2) provides that organizations required to submit annual electronic notification are also required to provide notice of termination upon the termination of the existence of the organization. The time and manner of the notice of termination is not specified in the statute.

Section 6033(j), added by section 1223(b) of the PPA 2006, provides that if an organization required to file an annual information return under section 6033(a)(1) or submit an electronic notice under section 6033(i) fails to provide the required return or notice for three consecutive years, the organization’s tax-exempt status is revoked. The revocation is effective from the date the Secretary determines was the last day the organization could have timely filed the third required information return or submitted the notice. Any organization whose tax-exempt status is revoked under section 6033(j)(1) must apply in order to obtain reinstatement of that status regardless of whether such organization was originally required to make an application for tax-exempt

status. If, upon application for reinstatement of tax-exempt status, an organization can show to the satisfaction of the Secretary evidence of reasonable cause for the failure to file the information return or submit the notice, the organization's tax-exempt status may, in the discretion of the Secretary, be reinstated retroactive to the date of revocation.

Section 7428(b), regarding limitations on declaratory judgments relating to status and classification of certain tax-exempt organizations, was amended by section 1223(c) of the PPA 2006 and provides that no action may be brought under section 7428 with respect to any revocation of tax-exempt status described in section 6033(j)(1), for failure to provide the required return under section 6033(a)(1) or notice under section 6033(i) for three consecutive years.

Section 6652(c)(1)(E), added by section 1233(d) of the PPA 2006, provides that there is no monetary penalty for failure to submit any notice required under section 6033(i).

Explanation of Provisions

Annual Electronic Notice Requirements and Other General Requirements Related to Maintaining Tax-Exempt Status

Section 6033(i)(1) provides that the annual notification, in electronic form, shall set forth: (A) The legal name of the organization, (B) any name under which the organization operates or does business, (C) the organization's mailing address and Internet Web site address (if any), (D) the organization's taxpayer identification number, (E) the name and address of a principal officer, and (F) evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1). The temporary regulations also provide that additional information necessary to process the notification may be required. For example, an organization will be required to state the tax period for which it is submitting the electronic notification.

The mailing address required by section 6033(i)(1)(C) and submitted in the annual electronic notification shall be the organization's last known address as provided by § 301.6212-2(a) of the Regulations on Procedure and Administration. This last known address may be updated as provided under § 301.6212-2 or by clear and concise notification as described in Rev. Proc. 2001-18 (2001-1 CB 708). The IRS will use this last known address as the organization's address of record and

will direct all mailings to this address. See § 601.601(d)(2)(ii)(b).

By submitting the annual electronic notification described in this paragraph, an organization acknowledges that it is not required to file a return under section 6033(a) because its gross receipts are not normally in excess of \$25,000. In order to make this determination, the organization must keep records that enable it to calculate its gross receipts. All organizations are required to maintain records under section 6001. These records will provide evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1).

The temporary regulations restate that an organization, even though relieved from filing a return under section 6033(a), is still required under § 1.6033-2(i) and (j) to inform the IRS in writing of any changes in the organization's character, operation, or purpose; provide additional information; and file other returns of information and unrelated business tax returns. Organizations are also reminded that if the organization is required to file an unrelated business tax return, Form 990-T, "Exempt Organization Business Income Tax Return," the filing of the Form 990-T does not relieve the organization from the requirement of submitting the annual electronic notification under section 6033(i).

The statute requires that the annual notification be submitted electronically. There is no provision in the temporary regulations for any paper notification. However, if an organization that is required to submit an annual electronic notification files a complete Form 990 or Form 990EZ, "Short Form Return of Organization Exempt From Income Tax," the annual notification requirement of section 6033(i) shall be deemed satisfied. The annual notification requirement is not satisfied if the Form 990 or Form 990-EZ contains only those items of information that would have been required by submitting the notification in electronic form.

The notification shall be submitted on or before the 15th day of the fifth calendar month following the close of the period for which the notification is required to be submitted. Thus, an organization with an accounting period ending December 31, 2007, is required to submit the annual notification by May 15, 2008.

Annual Electronic Notification Is Not a Return

The electronic notification is not a return because it does not contain sufficient data to calculate tax liability

or determine tax-exempt status. Moreover, the electronic notification does not purport to be a return. The electronic notification simply identifies an organization and indicates the basis for it not having to file an information return under section 6033(a)(1). Because the electronic notification is not a tax or information return, submission of the notification does not trigger the period of limitations for assessment under section 6501(g)(2). However, the filing of a complete Form 990 or Form 990-EZ, as noted in this preamble, will start the period of limitations for assessment under section 6501(g)(2). Furthermore, there is no monetary penalty for failure to file under section 6033(i). To further distinguish the electronic notification from a tax or information return, the temporary regulations provide that the electronic notification is submitted to the IRS, rather than filed or furnished, the terms used in connection with tax and information returns.

The notifications required by section 6033(i) are subject to public disclosure and inspection. See section 6104 (generally applicable to Form 990 information returns). Further, this provision does not affect any other obligations an organization may have to file other required information and or tax returns, or penalties for failure to file such returns.

Form 990-N, Electronic Notification (e-Postcard) For Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ

Form 990-N, "Electronic Notification (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ," has been developed to satisfy the requirements of section 6033(i)(1). The IRS plans to deliver a simple, Internet based process for submitting the e-Postcard, Form 990-N. It is anticipated that organizations that do not have access to a computer can use their local public library to file the e-Postcard. Because the system will be Internet based, organizations should not need to purchase software to file the e-Postcard. The temporary regulations provide that the annual electronic notification shall be submitted in accordance with instructions and publications, including those provided at the IRS Web site for exempt organizations.

Organizations Required To File Returns or Submit Electronic Notice

In general, every organization exempt from taxation under section 501(a) that is not required to file a return described in § 1.6033-2(a)(2), other than an organization described in section 401(a)

(qualified pension, profit-sharing, and stock bonus plans) or section 501(d) (religious and apostolic organizations), is required to submit an annual electronic notice under section 6033(i). However, a organization that is required to file or files an annual information return under section 6033(a)(1) should not submit an annual electronic notification under section 6033(i). This includes any organization included in a group return as provided in § 1.6033-2 for that year; all private foundations required to file Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation"; section 509(a)(3) supporting organizations required to file Form 990 or Form 990-EZ; a section 501(c)(21) black lung trust required to file Form 990-BL, "Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Person"; and any organization that is required to file or files an annual information return under section 6033(a)(1) on any other form prescribed by the IRS for that purpose.

Neither annual information returns under section 6033(a)(1) nor annual electronic notices under section 6033(i) are required to be filed or submitted by an organization exemption from taxation under section 501(a) that is a church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in § 1.6033-2(h)); an exclusively religious activity of any religious order; a mission society sponsored by or affiliated with one or more churches or church denominations, more than half of the activities of which society are conducted in, or directed at persons in, foreign countries; an educational organization (below college level) that is described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated (within the meaning of § 1.6033-2(h)(2)) with a church or operated by a religious order; a State institution, the income of which is excluded from gross income under section 115(a); an organization described in section 501(c)(1); or an organization that is a governmental unit or an affiliate of a governmental unit exempt from Federal income tax under section 501(a) as described in Rev. Proc. 95-48 (1995-2 CB 418). See § 601.601(d)(2)(ii)(b).

If an organization exempt from taxation under section 501(a) is not exempted in either of the two preceding paragraphs, the organization must submit an annual electronic notice. Thus, a black lung trust that normally has gross receipts of \$25,000 or less is

not required to file Form 990-BL but is required to submit an electronic notification. A section 509(a)(3) supporting organization of a religious organization that normally has gross receipts of \$5,000 or less is not required to file Form 990 or Form 990-EZ but is required to submit an electronic notification.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 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) does not apply to these regulations. For the applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations have been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Monice Rosenbaum, of the Office of Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

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 * * *
Section 1.6033-6 also issued under 26 U.S.C. 6033(i)(1). * * *

■ **Par. 2.** Section 1.6033-6T is added to read as follows:

§ 1.6033-6T Notification requirement for entities not required to file an annual information return under section 6033(a)(1) (taxable years beginning after December 31, 2006).

(a) *In general.* Except as otherwise provided in this paragraph, every organization exempt from taxation

under section 501(a) that is not required to file a return described in § 1.6033-2(a)(2), other than an organization described in section 401(a) or 501(d), shall submit annually, in electronic form, a notification setting forth the items described in paragraph (b) of this section and such other information as may be prescribed in the instructions and publications issued with respect to the notification.

(b) *Organizations not required to submit annual notification.* (1) An organization exempt from taxation under section 501(a) that is required to file or files an annual information return under section 6033(a)(1) shall not submit an annual notification under section 6033(i). This includes the following types of organizations:

(i) Any organization included in a group return for that year under § 1.6033-2(d).

(ii) All private foundations required to file under § 1.6033-2(a)(2)(i) Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation."

(iii) Section 509(a)(3) supporting organizations required to file under § 1.6033-2(a)(2)(i) Form 990, "Return of Organization Exempt From Income Tax," or Form 990-EZ, "Short Form Return or Organization Exempt From Income Tax."

(iv) A section 501(c)(21) black lung trust required to file under § 1.6033-2(a)(2)(i) Form 990-BL.

(v) Any organization that is required to file or files an annual information return under section 6033(a)(1) on any other form prescribed by the Internal Revenue Service for that purpose.

(2) An organization exempt from taxation under section 501(a) that is not required to file a return under section 6033(a)(1) is also not required to submit an annual notification under section 6033(i). This includes the following types of organizations:

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in § 1.6033-2(h)).

(ii) An exclusively religious activity of any religious order.

(iii) A mission society sponsored by or affiliated with one or more churches or church denominations, more than one-half of the activities of which society are conducted in, or directed at persons in, foreign countries.

(iv) An educational organization (below college level) described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and that is affiliated (within the

meaning of § 1.6033-2(h)(2)) with a church or operated by a religious order.

(v) A State institution, the income of which is excluded from gross income under section 115(a);

(vi) An organization described in section 501(c)(1).

(vii) An organization that is a governmental unit or an affiliate of a governmental unit exempt from Federal income tax under section 501(a).

(3) If an organization exempt from taxation under section 501(a) is not described in paragraph (b)(1) or (2) of this section, the organization must submit an annual notification. Thus, a black lung trust that normally has gross receipts of \$25,000 or less is not required to file Form 990-BL but is required to submit electronic notification. A section 509(a)(3) supporting organization of a religious organization that normally has gross receipts of \$5,000 or less is not required to file Form 990 or Form 990-EZ but is required to submit electronic notification.

(c) *Additional notification requirements*—(1) *In general.* Any organization described in paragraph (a)(1) of this section shall submit an annual notification described in section 6033(i)(1). The annual notification shall—

(i) Be in electronic form; and

(ii) Set forth—

(A) The legal name of the organization;

(B) Any name under which the organization operates or does business;

(C) The organization's mailing address and Internet Web site address (if any);

(D) The organization's taxpayer identification number;

(E) The name and address of a principal officer;

(F) Evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1); and

(G) Additional information necessary to process the notification.

(2) The mailing address required by section 6033(i)(1)(C) and submitted in the annual notification shall be the organization's last known address as provided by § 301.6212-2(a) of this chapter. This last known address may be updated as provided under § 301.6212-2 of this chapter, or by clear and concise notification. The Internal Revenue Service will use this last known address as the organization's address of record and will direct all mailings to this address.

(3) By submitting the annual notification described in this paragraph (c)(1), an organization acknowledges that it is not required to file a return

under section 6033(a) because its annual gross receipts are not normally in excess of \$25,000. In order to make this determination, the organization must keep records that enable it to calculate its gross receipts. All organizations are required to maintain records under section 6001. These records will provide evidence of the continuing basis for the organization's exemption from the filing requirements under section 6033(a)(1).

(4) If an organization that is required to submit an annual electronic notification files a complete Form 990 or Form 990-EZ the annual notification requirement shall be deemed satisfied. The annual notification requirement is not satisfied if the Form 990 or Form 990-EZ contains only those items of information that would have been required by submitting the notification in electronic form. Also, the filing of a complete Form 990 or Form 990-EZ, rather than the submission of an annual electronic notification, is the filing of a return that starts the period of limitations for assessment under section 6501(g)(2).

(d) *No effect on other filing requirements.* An organization that is relieved from filing an information return under section 6033(a) is still subject to the requirements of § 1.6033-2(i) and (j), concerning notice regarding changes in character, operations, or purpose; providing additional information; duty to file other returns of information; and duty to file unrelated business tax returns. If an organization is required to file an unrelated business tax return, Form 990-T, "Exempt Organization Business Income Tax Return," the filing of that return does not relieve the organization from the requirement of submitting notification under section 6033(i).

(e) *Accounting period for submitting electronic notification.* An annual notification required by this section shall be on the basis of the established annual accounting period of the organization. If the organization has no established accounting period, annual notification shall be on the basis of the calendar year.

(f) *Time and place for submitting electronic notification.* The annual notification required by this section shall be submitted on or before the 15th day of the fifth calendar month following the close of the period for which the notification is required to be submitted. Thus, an organization with an accounting period ending December 31, 2007, is required to submit annual notification by May 15, 2008. The notification shall be submitted in accordance with instructions and publications, including those provided

at the Internal Revenue Service Web site for exempt organizations.

(g) *Effective/applicability date.* These regulations are applicable to annual periods beginning after 2006.

(h) *Expiration date.* These regulations expire November 15, 2010.

Linda E. Stiff,

Deputy Commissioner for Services and Enforcement.

Approved: November 6, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

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PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4022 and 4044

Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulations on Benefits Payable in Terminated Single-Employer Plans and Allocation of Assets in Single-Employer Plans prescribe interest assumptions for valuing and paying benefits under terminating single-employer plans. This final rule amends the regulations to adopt interest assumptions for plans with valuation dates in December 2007. Interest assumptions are also published on the PBGC's Web site (<http://www.pbgc.gov>).

DATES: Effective December 1, 2007.

FOR FURTHER INFORMATION CONTACT: Catherine B. Klion, Manager, Regulatory and Policy Division, Legislative and Regulatory Department, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024. (TTY/TDD users may call the Federal relay service toll-free at 1-800-877-8339 and ask to be connected to 202-326-4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulations prescribe actuarial assumptions—including interest assumptions—for valuing and paying plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974. The interest assumptions are intended to reflect current conditions in the financial and annuity markets.