

SUPPORTING STATEMENT

Revenue Procedure 98-19

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This revenue procedure is needed to provide guidance to organizations exempt from taxation under §501(a) of the Internal Revenue Code of 1986 on certain exceptions from the reporting and notice requirements of section 6033(e)(1) and the tax imposed by section 6033(e)(2).

Section 6033(e) imposes reporting and notice requirements on tax-exempt organizations (other than §501(c)(3) organizations) that incur lobbying and political expenditures to which §162(e) applies ("nondeductible lobbying expenditures"). Section 162(e) denies a deduction, otherwise allowable under §162(a) as an ordinary and necessary trade or business expense, for certain lobbying and political expenditures. Section 162(e)(3) denies a deduction for the dues (or other similar amounts) paid to certain tax-exempt organizations to the extent that the organization, at the time the dues are assessed or paid, notifies the dues payer that the dues are allocable to nondeductible lobbying expenditures.

Section 6033(e)(1) requires a tax-exempt organization that pays or incurs nondeductible lobbying expenditures to notify its members, at the time the dues (or other similar amounts) are assessed or paid, of its reasonable estimate of the portion of the dues that is allocable to those expenditures. Section 6033(e)(1) does not, however, apply to tax-exempt organizations described in §501(c)(3), or to organizations that establish to the satisfaction of the Secretary that substantially all the dues they receive are not deductible without regard to §162(e). In addition, organizations whose lobbying and political expenditures consist solely of certain in-house expenditures for nondeductible lobbying and whose total such expenditures do not exceed \$2,000 in a taxable year are not subject to the reporting and notice requirements of §6033(e)(1).

Section 6033(e)(2)(A) provides that if a tax-exempt organization fails to provide the notices required by section 6033(e)(1), or if the notices underestimate the actual amount of dues allocable to nondeductible lobbying expenditures, the organization is subject to tax (at the highest rate imposed by §11) on the aggregate amount of dues allocable to nondeductible lobbying expenditures paid during the

taxable year that was not reported on the notices. However, §6033(e)(2)(B) provides that if a tax would be imposed on the organization because its estimate of the nondeductible portion of the dues was less than the actual amount allocable to nondeductible lobbying expenditures, the Secretary may waive the tax if the organization agrees to increase the amount reasonably estimated to be nondeductible for the following taxable year by the amount of the underestimate.

Section 6033(e)(3) provides that §6033(e)(1)(A) shall not apply to an exempt organization that establishes to the satisfaction of the Secretary that substantially all the dues or similar amounts paid by persons to the organization are not deductible without regard to §162(e). The tax imposed by §6033(e)(2)(A) only applies to organizations subject to the notice requirements of §6033(e)(1)(A).

This revenue procedure identifies specific circumstances in which certain tax-exempt organizations are treated as meeting the requirements of §6033(e)(3). It also provides guidance to tax-exempt organizations that do not meet the specific circumstances regarding how they may establish that they also satisfy the requirements of §6033(e)(3).

Tax-exempt organizations that do not meet the specific circumstances set out in the revenue procedure and do not maintain records necessary to establish that they otherwise satisfy the requirements of §6033(e)(3), are subject to the reporting and notice requirements of §6033(e)(1), and the tax imposed by §6033(e)(2).

2. USE OF DATA

The records maintained by affected tax-exempt organizations will be used by the Service to determine whether they meet the requirements of §6033(e)(3) for exclusion from the reporting and notice requirements of §6033(e)(1), and the tax imposed by §6033(e)(2).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

IRS Publications, Regulations, Notices and Letters are to be electronically enabled on an as practicable basis in accordance with the IRS Reform and Restructuring Act of 1998.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency

wherever possible.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER ENTITIES

This revenue procedure was drafted pursuant to the authority granted the Secretary in §6033(e) to relieve tax-exempt organizations from the burden of meeting the reporting and notice requirements of section 6033(e)(1) or the tax imposed by section 6033(e)(2) where the organization establishes to the satisfaction of the Secretary that substantially all of the dues or other similar amounts paid by persons to such organization are not deductible without regard to section 162(e). It further relieves the burden of §6033(e)(1) by increasing, from \$50 to \$75, the amount of annual dues, that may be received from more than 90% of certain tax-exempt organization's members without subjecting the organization to the burden of section 6033(e).

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Not applicable.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

Not applicable.

8. CONSULTATION WITH INDIVIDUALS OUTSIDE THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

Revenue Procedure 98-19 was published in the **Internal Revenue Bulletin** on February 17, 1998 (1998-7 IRB 30).

In response to the **Federal Register** notice dated March 29, 2010 (**75 FR 15490**), we received no comments during the comment period regarding Revenue Procedure 98-19.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Submissions for ruling letters under this revenue procedure are

considered tax returns and tax return information, which are confidential as required by 26 U.S.C. § 6103. In general, certain matters relating to taxability and deductibility are disclosable under 26 U.S.C. §6110.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Section 5.06 of the revenue procedure provides that any exempt organization that is not treated as satisfying the requirements of §6033(e)(3) under section 4 of this revenue procedure may still establish that it satisfies the requirements of §6033(e)(3) by: (i) maintaining records establishing that 90 percent or more of the annual dues (or similar amounts) paid to the organization are not deductible without regard to §162(e), and (ii) notifying the Service that it is described in §6033(e)(3) on any Form 990 (Return of Organization Exempt From Income Tax) that it is required to file.

We estimate that 15,000 tax-exempt organizations exempt under §501(c)(4), §501(c)(5), or §501(c)(6) will be required to maintain records to satisfy the requirements of Section 5.06 of the revenue procedure to establish that they are described in §6033(e). The estimated burden per tax-exempt organization for recordkeeping is from 1 hour to 100 hours with an average burden of 10 hours, for a total estimated burden of 150,000 hours annually. The burden for notifying the Service that the organization is described in §6033(e)(3) is reflected in the burden of Form 990.

These burdens do not necessarily represent a net additional burden to a tax-exempt organization, because failure to establish that it meets the requirements of §6033(e)(3) results in the requirement that the organization comply with the requirement imposed by §6033(e)(1) that it provide its members, at the time dues are assessed or collected, of a reasonable estimate of the percentage of dues attributable to nondeductible lobbying or political expenditures.

Estimates of the annualized cost to respondents for the hour burdens shown above are not available at this time.

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO TAXPAYERS

As suggested by OMB, our **Federal Register** notice dated March 29, 2010, requested public comments on estimates of cost burden that are not captured in the estimates of burden hours, i.e., estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. However, we did not receive any response from taxpayers on this subject. As a result, estimates of the cost burdens are not available at this time.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

Not applicable.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the paperwork burden previously approved by OMB. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

Not applicable.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it would cause confusion by leading tax-exempt organizations to believe that the revenue procedure sunsets as of the expiration date. Taxpayers may not be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT ON OMB FORM 83-I

Not applicable.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to the

collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential as required by 26 U.S.C. §6103.