

Supporting Statement- Revenue Procedure to Modify Notice 2011-44 Related to Auto Revocation
OMB # 1545-2206

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

The proposed collection of information in this Revenue Procedure results from the Pension Protection Act of 2006, Public Law 109-280, § 1223(a) (120 Stat. 780 (2006)) (PPA), which enacted § 6033(j). Section 6033(j) revokes the tax-exempt status of any organization that fails to comply with the reporting requirements of § 6033(a)(1) or (i) for three consecutive years and requires any organization so revoked to apply in order to obtain reinstatement of its exempt status. If upon application for reinstatement, an organization can show to the satisfaction of the Secretary evidence of reasonable cause for its consecutive three-year failure to file, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation. In order to meet the reasonable cause standard under § 6033(j)(3), Notice 2011-44 provided that an organization requesting retroactive reinstatement must show evidence that it exercised ordinary business care and prudence in each of the three years (and over the entire three-year period) that it failed to meet its reporting requirements under § 6033. This revenue procedure modifies and supersedes Notice 2011-44 to provide a special streamlined retroactive reinstatement procedure for small organizations that meet the qualifications to file a Form 990-N or Form 990-EZ and are applying for reinstatement within 15 months of revocation. If a small organization's application for reinstatement is approved, the organization will be deemed to have reasonable cause for the failure to file and will receive reinstatement retroactive to the date of revocation. The Revenue Procedure also modifies and supersedes Notice 2011-44 to provide that larger sized organizations that apply for reinstatement within 15 months, may establish that they met the reasonable cause standard under § 6033(j)(3) if they show that they exercised ordinary business care and prudence for just one of the three years that they failed to meet its reporting requirement under § 6033 instead of all three years. The information requested in the revenue procedure is necessary for inspection by the Internal Revenue Service (IRS) in determining whether reasonable cause exists.

2. USE OF DATA

The IRS will use the information provided pursuant to this notice to determine whether reasonable cause exists for purposes of granting retroactive reinstatement under section 6033(j)(3).

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

Not applicable.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible. The information provided pursuant to section 5 and 6 of this revenue procedure is necessary for the IRS to determine whether reasonable cause exists for purposes of granting retroactive reinstatement under section 6033(j)(3) and is not duplicative of any other requirement imposed on the affected organizations. In addition, it requires less information than is required in Notice 2011-44, which this revenue procedure is modifying and superseding. It will be less burdensome on the exempt organizations providing the information and will reduce the amount of time it takes the IRS to process the application. Furthermore, once an exempt organization provides the evidence of reasonable cause, it will not need to provide such information a second time unless and until it is again auto-revoked under section 6033(j) for a consecutive three-year failure to file and again seeks retroactive reinstatement.

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

Most small organizations (those eligible to file Form 990-EZ or Form 990-N) will not have to submit a reasonable cause statement in order to be retroactively reinstated unless they apply after the Form 1023 and Form 1024 are revised to permit inclusion of such a statement.

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 OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

The IRS engaged in extensive outreach efforts to educate exempt organizations about the new reporting requirements under § 6033(i) and the new penalty under § 6033(j)(1) for consecutive, three-year failures to meet reporting requirements. This revenue

procedure modifies Notice 2011-44 to reduce the burden required by organizations seeking to establish the reasonable cause standard for retroactive reinstatement of tax-exempt status under § 6033(j)(2) and (3). Notice 2011-44 and Notice 2011-43 provided interim guidance with respect to retroactive reinstatement and reasonable cause under § 6033(j)(2) and (3) and invited interested parties to submit comments regarding the interim guidance. In response to the *Federal Register* notice dated June 7, 2011, (76 FR 33024), we received no comments during the comment period regarding Notice 2011-43 and Notice 2011-44.

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

Not applicable.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 USC 6103. However, 26 USC 6104 provides that if an organization described in section 501(c) or (d) is exempt from taxation under section 501(a) for any taxable year, the application filed by the organization with respect to which the Secretary made his determination that such organization was entitled to exemption under section 501(a), together with any papers submitted in support of such application or notice, shall be open to public inspection at the national office of the IRS.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

Not applicable.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

We estimate the following burden of information for sections 5 and 6 of the revenue procedure:

Estimated total annual reporting burden: 6,206 hours

Estimated average annual burden per respondent: 1 hour

Estimated number of respondents over the next three years: 18,618

Additional collection of information is proposed in section 4 and 7 of the revenue procedure, which will be reported and approved through Forms 1023 and 1024 (OBM approval numbers 1545-0056 and 1545-0057, respectively).

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information are not available at this time.

As suggested by OMB, our *Federal Register* notice dated June 7, 2011, (76 FR 33024), 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

This form is being submitted to include a new revenue procedure under the previously issued OMB control number for Notice 2011-44. This revenue procedure modifies and supersedes Notice 2011-44 to reduce the burden on organizations seeking to establish reasonable cause for their failure to file and thereby obtain retroactive reinstatement under § 6033(j)(2) and (3), and to reduce the amount of time it takes to process applications for reinstatement.

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 could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of 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.

19. REASON FOR EMERGENCY SUBMISSION

The proposed collection of information in this notice results from the Pension Protection Act of 2006, Public Law 109-280, § 1223(a) (120 Stat. 780 (2006)) (PPA), which enacted § 6033(j). Section 6033(j) revokes the tax-exempt status of any organization that fails to comply with the reporting requirements of § 6033(a)(1) or (i) for three consecutive years and requires any organization so revoked to apply in order to obtain reinstatement of its exempt status. If upon application for reinstatement, an organization can show to the satisfaction of the Secretary evidence of reasonable cause for its consecutive three-year failure to file, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation.

In order to meet the reasonable cause standard under § 6033(j)(3), Notice 2011-44 was issued to provide that an organization requesting retroactive reinstatement must show evidence that it exercised ordinary business care and prudence in each of the three years (and over the entire three-year period) that it failed to meet its reporting requirements under § 6033. The information requested in this notice is necessary for inspection by the Internal Revenue Service (IRS) in determining whether reasonable cause exists. This revenue procedure modifies and supersedes Notice 2011-44 to lessen the burden on organizations seeking to establish reasonable cause for their failure to file and thereby obtain retroactive reinstatement under § 6033(j)(2) and (3), and to reduce the amount of time it takes to process applications for reinstatement.

Thus, we are requesting an emergency Paperwork Reduction Act review by December 30, 2013.

Please advise me whether this Emergency request will be accepted by OMB by December 27, 2013. If you have any questions or concerns, please let me know. I can be reached at by e-mail at Gerald.J.Shields@irs.gov.

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 control number assigned by the Office of Management and Budget.