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Exempt Organizations

IRS to Reconsider Requirements For Exempts Changing Domiciles

The IRS is taking another look at how exempt organizations move from state to state.

The Internal Revenue Service plans to update Revenue Ruling 67-390, which says an organization must “establish its exemption” when there is a change in form or change in state of incorporation—a situation nonprofit organizations may encounter if they reincorporate in a different state. The agency announced the project in its 2016-2017 Priority Guidance Plan, released Aug. 15 (158 DTR G-3, 8/16/16).

In a 2014 private letter ruling (PLR 201446025), the IRS said in certain cases, a 501(c)(3) nonprofit can change its domicile without needing to file a new exemption application. Central to the IRS’s decision in that instance was that both states involved had laws

that said a domesticated nonprofit would be the same entity that existed under the laws of its original state of incorporation (221 DTR K-8, 11/17/14).

An updated ruling could “encourage states to modify their statutes to allow for redomiciliation,” Alexander Reid, a partner at Morgan, Lewis & Bockius, told Bloomberg BNA Aug. 16. Easing the process for changing a domicile would be a welcome change for exempt organizations, he said.

“It would be really just very helpful for organizations to be able move to different states just like for-profit corporations can,” he said.

The American Bar Association Section of Taxation has requested the change, as has the New York City Bar Association’s Non-Profit Organizations Committee (149 DTR G-2, 8/4/15).

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