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Exempt Organizations

IRS Extends Deadline for Filing New Section 501(c)(4) Notices

The IRS has extended the date by which social welfare organizations must notify the agency of intent to operate as that type of exempt organization.

In Notice 2016-9, the Internal Revenue Service on Jan. 19 gave groups intending to be tax code Section 501(c)(4) social welfare groups until at least 60 days from the date that upcoming IRS regulations are issued.

Section 506, created by the Protecting Americans from Tax Hikes Act (PATH Act; Division Q of Pub. L. No. 114-113), set up the notification requirement, which gave the organizations only 60 days after they are established to notify the IRS that they are operating as social welfare organizations.

Certain existing organizations have until June 15, 2016—180 days after the enactment of the PATH Act—to submit the Section 506 notification.

“The extension of the deadline to 60 days after regulations are issued is reasonable, assuming that the form of notice will be fairly simple,” Susan Leahy, of counsel with Covington & Burling LLP, told Bloomberg BNA Jan. 19. “I’m guessing the notice will merely require the information now required by the 990-N.”

According to Notice 2016-9, these organizations would have to provide basic information, including their names, the date and state in which they were organized and a statement of their purpose.

Election Year Fix? It may also serve other purposes in an election year.

Prior to enactment of the new Section 506, social welfare groups were allowed to set up shop and begin operating without notifying the IRS of their existence—known as self-declaring.

In an election year, that could mean the groups were around long enough to influence the election and then could disappear before their first Form 990, Return of Organization Exempt From Income Tax, was due, in some instances, a year and a half later—and before the IRS could take any action if they were operating improperly. The Form 990 would have given the IRS its first inkling that the organizations existed.

“It will lead to more compliance, and could lead to more enforcement, particularly if the IRS uses the notices it receives to trigger a follow-up request for information about electioneering activity,” Alex Reid, a partner with Morgan, Lewis & Bockius LLP, told Bloomberg BNA.

Recognition Is Separate. The IRS must acknowledge receipt of the Section 506 notification, the IRS said. The acknowledgment is not a determination by the IRS that the organization qualifies for Section 501(c)(4) tax exempt status.

Instead, organizations seeking IRS recognition of their exempt status may separately request a determination, the agency said.

Until further guidance is issued, the IRS said organizations seeking recognition as 501(c)(4)s should continue to use Form 1024, Application for Recognition of Exemption Under Section 501(a).

Filing of Form 1024 won’t relieve an organization of the requirement to submit the Section 506 notification, the IRS said.

Notice 2016-9 is scheduled to be published in Internal Revenue Bulletin 2016-6, dated Feb. 8.

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Text of Notice 2016-9 is in TaxCore.