
tax-exempt organizations lawflash

August 26, 2013

Treasury Department and IRS Issue Priority Guidance Plan

Plan lays out the agencies' top priorities for the 2013–2014 fiscal year, including those affecting tax-exempt organizations.

On August 9, the U.S. Department of the Treasury and the Internal Revenue Service released their annual Priority Guidance Plan (the Plan) for the July 2013 to July 2014 fiscal year.¹ The Plan lists 324 project priorities based on the suggestions of taxpayers, tax practitioners, and industry groups and is revised and republished throughout the fiscal year to reflect additional projects and guidance. Although listing on the Plan by no means guarantees that the project will be accomplished in the coming year, organizations should review the projects listed below as the Plan provides a helpful insight into the regulatory guidance that may soon be forthcoming.

Exempt Organization Projects

The 2013–2014 Plan includes a section on exempt organizations, which includes the following 12 projects:

1. Revenue Procedures to update the grantor and contributor reliance criteria under Internal Revenue Code (IRC) sections 170 and 509.
2. Revenue Procedure to update Revenue Procedure 2011-33 for Exempt Organizations Select Check.
3. Guidance under IRC section 501(c)(4) relating to the measurement of an organization's primary activity and whether it is operated primarily for the promotion of social welfare, including guidance relating to political campaign intervention.
4. Final regulations under IRC sections 501(r) and 6033 concerning the additional requirements for charitable hospitals as added by section 9007 of the Patient Protection and Affordable Care Act (ACA) of 2010. Proposed regulations were published on June 26, 2012 and April 5, 2013. Additional temporary and proposed regulations were published on August 15, 2013.
5. Additional guidance on IRC section 509(a)(3) supporting organizations.
6. Guidance under IRC section 4941 regarding private foundations' investments in partnerships in which disqualified persons are also partners.
7. Final regulations under IRC section 4944 on program-related investments. Proposed regulations were published on April 19, 2012.
8. Guidance regarding the new excise taxes on donor-advised funds as added by section 1231 of the Pension Protection Act of 2006.
9. Regulations under IRC sections 6011 and 6071 regarding the return and filing requirements for the IRC section 4959 excise tax for community health needs assessment failures by charitable hospitals as added by section 9007 of the ACA.
10. Guidance under IRC section 6033 regarding the content and filing of annual returns by exempt organizations.
11. Final regulations under IRC section 6104(c) regarding the Treasury Department's provision of information on exempt organizations to state officials. Proposed regulations were published on March 15, 2011.
12. Final regulations under IRC section 7611 regarding church tax inquiries and examinations. Proposed regulations were published on August 5, 2009.

1. View the 2013–2014 Plan at http://www.irs.gov/pub/irs-utl/2013-2014_pgp.pdf.

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Employee Benefit Projects

The 2013–2014 Plan’s employee benefits section contains the following three projects that may be of particular interest to exempt organizations:

1. Proposed regulations under IRC section 414(d) to define what is a “governmental plan.” These regulations will be of interest to tax-exempt organizations that may currently be considered governmental instrumentalities under ERISA for the purpose of their benefits plans.
2. Regulations affecting IRC section 457(f) plans. A 457(f) plan is a nonqualified tax-advantaged deferred-compensation plan that state governments, local governments, and tax-exempt organizations (other than churches and church-controlled organizations) may offer to their executives.
3. Regulations under IRC section 512 to explain how to compute unrelated business taxable income of voluntary employees’ beneficiary associations as described in IRC section 501(c)(9).

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