DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1 and 56

[TD 9898]

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Guidance Under Section 6033 Regarding the Reporting Requirements of Exempt Organizations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations updating information reporting regulations under section 6033 that are generally applicable to organizations exempt from tax under section 501(a) to reflect statutory amendments and certain grants of reporting relief for tax-exempt organizations required to file an annual Form 990 or 990–EZ information return that have been made since the previous regulations were adopted. The final regulations affect tax-exempt organizations.

DATES:

Effective date: The final regulations contained in this document are effective on May 28, 2020.

Applicability date: For dates of applicability, see § 1.6033–2(l)(2).

FOR FURTHER INFORMATION CONTACT: Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes) at (202) 317–3150 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Subject to various exceptions, section 6033(a)(1) of the Internal Revenue Code (Code) requires every organization exempt from taxation under section 501(a) (tax-exempt organization) to file an annual return, stating specifically the items of gross income, receipts, and disbursements, and such other information for the purpose of carrying out the internal revenue laws as the Secretary of the Treasury or his delegate (Secretary) may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. This requirement also applies to certain political organizations described in section 527(e)(1) (section 527 organizations). The annual information returns required under section 6033 are Forms 990, ''Return of Organization Exempt From Income Tax;'' 990–EZ, ''Short Form Return of Organization Exempt From Income Tax;'' 990–PF, ''Return of Private Foundation;'' and 990–BL, ''Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons.'' Annual returns filed by tax-exempt organizations, section 527 organizations, nonexempt private foundations described in section 6033(d), and section 4947(a)(1) trusts (which are both treated as organizations described in section 501(c)(3) for this purpose) are information returns intended to help ensure that the filing organizations comply with applicable federal tax laws. Most information on these annual returns is available for public inspection under section 6104.

Section 6033(a)(3) provides a list of organizations that are excepted from the filing requirements imposed under section 6033(a)(1). Specifically, section 6033(a)(3)(A)(ii) provides that section 6033(a)(1) shall not apply to any organization (other than a private foundation) that is described in section 6033(a)(3)(C) whose gross receipts are not normally more than $5,000 annually. The list of organizations provided in section 6033(a)(3)(C) includes certain fraternal beneficiary societies, orders or associations described in section 501(c)(8); certain organizations described in section 501(c)(3) (such as religious organizations and educational organizations described in section 170(b)(1)(A)(ii)); and organizations described in section 501(c)(1) that are corporations wholly owned by the United States or any agency or instrumentality thereof or wholly-owned subsidiaries of such corporations.

Section 6033(a)(3)(B) provides discretionary authority to the Secretary to relieve any organization required to file under section 6033(a)(1) (other than supporting organizations described in section 509(a)(3)) from filing an information return where he determines that such filing is ''not necessary to the efficient administration of the internal revenue laws.''

Section 6033(b) provides a list of items that are generally required to be furnished annually by organizations described in section 501(c)(3), ''at such time and in such manner as the Secretary may by forms or regulations prescribe.'' The statutory list of items generally required to be furnished annually has been amended by Congress from time to time to account for additional requirements of organizations described in section 501(c)(3). For example, section 6033(b) was updated by the Taxpayer Bill of Rights 2, Public Law 104–168, in 1996 to include items in sections 6033(b)(10) (relating to taxes imposed on certain lobbying and political expenditures by organizations described in section 501(c)(3)) and 6033(b)(11) (relating to taxes imposed with respect to an organization, an organization manager, or any disqualified person under section 4958).

Section 6033(g) provides that a section 527 organization that has gross receipts of $25,000 or more for a taxable year [1] shall file an annual return containing the information required by section 6033(a)(1) for organizations exempt from taxation under section 501(a). The statute authorizes the Secretary to modify the information required to be reported to require only information that is necessary for purposes of carrying out section 527 and such other information as the Secretary deems necessary to carry out the provisions of section 6033(g).

Section 6033(h) provides additional reporting requirements for controlling organizations, within the meaning of section 512(b)(13). Section 6033(h) requires controlling organizations to include on their returns any (1) interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)), (2) any loans made to each such controlled entity, and (3) any transfers of funds between such controlling organization and each such controlled entity.

Section 6033(k) provides additional reporting requirements for sponsoring organizations described in section 4966(d)(1). Section 6033(k) requires each such organization to report on its annual return (1) the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year, (2) the aggregate value of assets held in such funds at the end of such taxable year, and (3) the aggregate contributions to and grants made from such funds during such taxable year.

Section 6033(l) provides additional reporting requirements for supporting organizations described in section 509(a)(3). Section 6033(l) requires each supporting organization to report on its annual return: (1) The supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support; (2) whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B); and (3) a

[1] In the case of a qualified State or local political organization described in section 527(e)(5), $25,000 is replaced by $100,000.

certification that the organization meets the requirements of section 509(a)(3)(C).

The general rule regarding confidentiality of returns is found in section 6103, which provides that returns and return information shall be confidential, and, except as authorized by the Code, no person having access to this information shall disclose any return or return information obtained by that person in any manner.

Section 6104 provides an exception to the general rule regarding confidentiality of returns. In general, under section 6104(b), the Secretary must make the annual returns filed under section 6033 available to the public. However, section 6104(b) does not authorize the Secretary to disclose to the public the name or address of any contributor to any tax-exempt organization except a private foundation (as defined in section 509(a), including a trust described in section 4947(a)(1) that is treated as a private foundation) or a section 527 organization. Section 301.6104(b)–1(b)(2) provides that although the names and addresses are not to be disclosed, the amounts of contributions to an organization shall be made available for public inspection unless the disclosure of such information can reasonably be expected to identify any contributor.

In addition to the required disclosure of annual returns by the Secretary, section 6104(d) and § 301.6104(d)–1 require certain tax-exempt organizations to provide their annual information returns to a member of the public upon request. Similar to the restrictions on disclosing contributor information placed on the Secretary by section 6104(b), section 6104(d)(3)(A) provides that an organization, other than a private foundation or a section 527 organization, is not required to disclose the names and addresses of its contributors.

The Treasury Regulations in effect prior to this Treasury Decision (prior regulations), which remain largely unchanged, reflected many of the statutory requirements of section 6033. Consistent with section 6033(a)(1), § 1.6033–2(a)(1) of the regulations provides that ''except as provided in section 6033(a)(3) and paragraph (g) [of § 1.6033–2], every organization exempt from taxation under section 501(a) shall file an annual information return specifically setting forth its items of gross income, gross receipts and disbursements, and such other information as may be prescribed in the instructions, issued with respect to the return.''

Although the information to be reported for any particular tax year is set forth in the forms and instructions for each such year, § 1.6033–2(a)(2)(ii) of the regulations also provides a list of ''information generally required to be furnished by an organization exempt under section 501(a)'' on the annual return, which generally tracks section 6033(b).[2] However, the list in the prior regulations had not been updated to reflect certain information that the statute generally requires to be reported because the statute had been amended following the original issuance of the regulations. Specifically, items in sections 6033(b)(10) (relating to taxes imposed on certain lobbying and political expenditures by organizations described in section 501(c)(3)) and 6033(b)(11) (relating to taxes imposed with respect to an organization, an organization manager, or any disqualified person under section 4958) were not reflected in the prior regulations.

Two provisions of the prior regulations expanded upon the statute with regard to the reporting of certain contributor information. First, section 6033(b)(5) requires organizations described in section 501(c)(3) generally to provide on the annual information return filed with the IRS the names and addresses of persons who contribute $5,000 or more during the taxable year. Section 1.6033–2(a)(2)(ii)(F) of the prior regulations had extended this requirement beyond section 501(c)(3) organizations to all organizations exempt from taxation under section 501(a). Second, § 1.6033–2(a)(2)(iii)(D) of the prior regulations provided that organizations described in section 501(c)(7) (social clubs), section 501(c)(8) (fraternal beneficiary societies), or section 501(c)(10) (domestic fraternal societies) generally must report the name of each person who contributes more than $1,000 to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

Incorporating the statutory filing exceptions of section 6033(a)(3), § 1.6033–2(g)(1) provides a list of organizations that are not required to file an annual return under section 6033(a)(1). Within that list, § 1.6033–2(g)(1)(iii) previously provided that certain specified organizations described in section 6033(a)(3)(C) whose gross receipts are generally not more than $5,000 annually are not required to file the return required under section 6033(a)(1). Further, § 1.6033–2(g)(6) provides that the Commissioner may relieve any organization or class of organizations (other than a supporting organization described in section 509(a)(3)) from filing, in whole or in part, the annual return required under section 6033 if the Commissioner ''determines that such returns are not necessary for the efficient administration of the internal revenue laws.''

Accordingly, other than with regard to supporting organizations, section 6033 and the regulations under section 6033 provide the Commissioner with broad discretionary authority to determine what information must be reported and to grant relief, in whole or in part, from the annual filing requirements of tax-exempt organizations if the Commissioner determines that the information is not necessary for the efficient administration of the internal revenue laws.

For decades, the Commissioner has exercised discretion under section 6033(a)(3)(B) and § 1.6033–2(g)(6) to relieve organizations of filing requirements under section 6033 through subregulatory guidance such as revenue procedures and annual information return instructions including, for example, Rev. Proc. 95–48, 1995–2 C.B. 418, which grants reporting relief for governmental units and affiliates of governmental units, and Rev. Proc. 96–10, 1996–1 C.B. 577, which relieves from a filing requirement under section 6033(a) certain organizations that are operated, controlled, or supervised by one or more churches, integrated auxiliaries, or conventions or associations of churches. (Both revenue procedures are discussed further in Part VI of the Summary of Comments and Explanation of Provisions section of this preamble.) Revenue Procedure 83–23, 1983–1 C.B. 687, represents another exercise of this discretion. In that revenue procedure, the Department of the Treasury (Treasury Department) and the IRS increased to $25,000 the minimum amount of gross receipts normally required to be received in a year by an organization exempt under section 501(a) to trigger a filing requirement under section 6033(a). That revenue procedure also expanded the group of

[2] The list in the regulations includes, but is not limited to, gross income for the year; dues and assessments from members and affiliates for the year; expenses incurred within the year attributable to gross income; disbursements (including prior years' accumulations) made within the year for the purposes for which it is exempt; a balance sheet showing its assets, liabilities, and net worth as of the beginning and end of such year; the total of the contributions, gifts, grants and similar amounts received by it during the taxable year; the names and addresses of all officers, directors, or trustees (or any person having responsibilities or powers similar to those of officers, directors or trustees) of the organization; and certain compensation and payment information. See § 1.6033–2(a)(2)(ii).

tax-exempt organizations not required to file an annual information return due to a gross receipts threshold beyond those listed in section 6033(a)(3)(C). Revenue Procedure 2011–15, 2011–3 I.R.B. 322, further increased this gross receipts threshold amount to $50,000 for most organizations exempt under section 501(a).[3] Revenue Procedure 2011–15 also relieved most foreign organizations and organizations formed in a United States possession from a filing requirement under section 6033(a) if their gross receipts from sources within the United States do not exceed the $50,000 threshold and if they have no significant activity (including lobbying and political activity and the operation of a trade or business, but excluding investment activity) in the United States.

Similarly, consistent with past exercises of authority under section 6033 and the prior regulations, the Treasury Department and the IRS issued Rev. Proc. 2018–38, 2018–31 I.R.B. 280, granting tax-exempt organizations required to file the Form 990 or Form 990–EZ, other than organizations described in section 501(c)(3), relief from reporting the names and addresses of contributors on Schedules B, ''Schedule of Contributors,'' filed with Form 990 or 990–EZ (or completing the similar portions of Part IV of the Form 990–BL). Revenue Procedure 2018–38 also provided that organizations described in sections 501(c)(7), (8), or (10) need not provide the names and addresses of persons who contributed more than $1,000 during the taxable year to be used for exclusively charitable purposes on their annual information returns required under section 6033. Revenue Procedure 2018–38 did not affect the information required to be reported on Forms 990, 990–EZ, or 990–PF by organizations described in section 501(c)(3) (which for purposes of section 6033 include nonexempt charitable trusts described in section 4947(a)(1) and nonexempt private foundations described in section 6033(d)) or section 527 organizations.

On July 30, 2019, the United States District Court for the District of Montana set aside Rev. Proc. 2018–38 on procedural grounds because, in the court's view, the notice and comment procedures of the Administrative Procedure Act applied and Rev. Proc. 2018–38 had not been subject to such notice and comment. *See Bullock, et al.* v. *IRS,* 401 F.Supp.3d 1144 (D. Mont. Jul. 30, 2019). However, the court emphasized that its ruling did not implicate the merits of the revenue procedure and that ''the substance'' of the Commissioner's ultimate decision on reporting the names and addresses of contributors ''remains subject to the Commissioner's discretion.'' *Id.* at 1154, 1159.

On September 10, 2019, the Treasury Department and the IRS published a notice of proposed rulemaking (REG–102508–16) in the **Federal Register** (84 FR 47447) containing proposed regulations under section 6033 (2019 proposed regulations). The Treasury Department and the IRS received 8,387 written and electronic comments responding to the 2019 proposed regulations. Comments are available at *www.regulations.gov* or upon request. A public hearing on the 2019 proposed regulations was held on February 7, 2020.

After consideration of all comments received on the 2019 proposed regulations and the testimony presented at the public hearing, this Treasury Decision adopts the proposed regulations with minor modifications, as described in the Summary of Comments and Explanation of Provisions.

Summary of Comments and Explanation of Provisions

I. Overview

The 2019 proposed regulations proposed to modify the regulations under section 6033 to align them with certain statutory amendments to section 6033 that had not previously been reflected in the regulations, and to update them to encompass certain instances in which the Commissioner has previously exercised discretion under the statute and regulations to relieve organizations, in whole or in part, from the filing requirements set forth in section 6033 or in the regulations issued under section 6033.

Specifically, the proposed changes included the following: (1) Adding items listed in section 6033(b)(10) and (11), as applicable, to the list of items generally required to be reported and adding other statutory reporting requirements for controlling organizations, sponsoring organizations, and supporting organizations; (2) amending the gross receipts threshold (with an additional requirement for foreign organizations and United States possession organizations) that triggers a filing requirement under section 6033 for tax-exempt organizations (other than private foundations and supporting organizations); (3) clarifying that section 527 organizations with gross receipts greater than $25,000 generally are subject to the reporting requirements under section 6033(a)(1) as if they were exempt from taxes under section 501(a); and (4) specifying that only organizations described in section 501(c)(3) and section 527 organizations generally would continue to be required to provide names and addresses of contributors on their Forms 990, Forms 990–EZ, and Forms 990–PF.

The following sections address these proposed changes in more detail, summarize the comments received on the proposed changes, provide the responses of the Treasury Department and the IRS to the comments, and describe the final regulation adopted in this Treasury Decision.

II. Items Required in Annual Information Returns

In the 2019 proposed regulations, the Treasury Department and the IRS proposed to amend § 1.6033–2(a)(2)(ii) by adding two new provisions to reflect information to be furnished annually that had been added to section 6033(b) but that had not yet been added to the list in the regulations of items generally required to be reported on an organization's annual information return. These items of information are listed in section 6033(b)(10) (relating to taxes imposed on certain lobbying and political expenditures by organizations described in section 501(c)(3)) and 6033(b)(11) (relating to taxes imposed with respect to an organization, an organization manager, or any disqualified person on any excess benefit transaction under section 4958). In addition, a cross-reference to § 1.6033–2(a)(1) was proposed to be added to the introductory sentence of § 1.6033–2(a)(2)(ii).

The Treasury Department and the IRS also proposed to incorporate into the regulations the statutory reporting requirements found in section 6033(h) for controlling organizations (as defined in section 512(b)(13)), section 6033(k) for sponsoring organizations (as defined in section 4966(d)(1)), and section 6033(l) for supporting organizations (as defined in section 509(a)(3)).

The Treasury Department and the IRS did not receive any comments on these additions to § 1.6033–2. This Treasury Decision adopts these provisions from the 2019 proposed regulations without change.

III. Gross Receipts Filing Threshold

Consistent with the discretionary authority granted by section 6033(a)(1)(B), the Treasury Department and the IRS previously determined that the efficient administration of the tax

[3] An organization that is not required to file an annual return by virtue of Rev. Proc. 2011–15 must submit a Form 990–N e-Postcard annually in electronic format as described in section 6033(i)(1). Rev. Proc. 2011–15, section 3.03.

laws does not require the filing of returns by organizations that are exempt under section 501(a) (other than private foundations and supporting organizations) that normally have less than $50,000 in gross receipts annually, except for foreign organizations and organizations formed in a United States possession that have significant activity (including lobbying and political activity and the operation of a trade or business, but excluding investment activity) in the United States. See Rev. Proc. 2011–15. In the 2019 proposed regulations, the Treasury Department and the IRS proposed to amend § 1.6033–2(g)(1)(iii) to reflect the $50,000 gross receipts filing threshold currently in effect, rather than the $5,000 gross receipts threshold found in section 6033(a)(3)(A)(ii), and the application of the $50,000 threshold to organizations other than those listed in section 6033(a)(3)(C).

The Treasury Department and the IRS received two comments expressing support for amending the regulations to reflect the $50,000 threshold and one comment stating, without explaining why, that organizations with annual gross receipts normally not more than $50,000 but more than $25,000 ought to be required to file a return. As discussed earlier in this section III, the Treasury Department and the IRS increased the filing threshold from $25,000 to $50,000 in 2011 based on a consideration of the needs of tax administration. The Treasury Department and the IRS continue to consider the $50,000 threshold to strike an appropriate balance between the efficient use of resources for both tax-exempt organizations and the IRS, and ensuring compliance with the tax laws by tax-exempt organizations. Organizations with gross receipts below the threshold must continue to file Form 990–N under section 6033(i).

Accordingly, the final regulations provide that the gross receipts threshold for all organizations (other than private foundations and supporting organizations) formed in the United States is $50,000. The final regulations also incorporate the previously granted relief from the filing requirement under section 6033(a) for foreign organizations and organizations formed in a United States possession (other than private foundations and supporting organizations) that is reflected in Rev. Proc. 2011–15.

In the 2019 proposed regulations, the Treasury Department and the IRS also proposed to amend § 1.6033–2(g)(6) to clarify that the Commissioner has authority to provide further relief (including possible further increases in filing thresholds) through forms, instructions to forms, or guidance published in the Internal Revenue Bulletin. The Treasury Department and the IRS did not receive any comments on this proposed clarification, and the final regulations incorporate the language as proposed.

IV. Clarifying the Treatment of Section 527 Organizations

In the 2019 proposed regulations, the Treasury Department and the IRS proposed to add § 1.6033–2(a)(5) to state the current requirement that section 527 organizations, subject to the filing exceptions provided by section 6033(g)(3) or as permitted under section 6033(g)(4), follow the reporting requirements under section 6033(a)(1) in the same manner as tax-exempt organizations, except to the extent that the Commissioner revises those requirements as appropriate to carry out the purposes of section 527. Proposed § 1.6033–2(a)(5) would also state the current requirement that section 527 organizations, like organizations described in section 501(c)(3), must continue to report the names and addresses of certain contributors on the section 527 organizations' annual Forms 990 or Forms 990–EZ.

The Treasury Department and the IRS did not receive comments on this clarification of the treatment of section 527 organizations in § 1.6033–2(a)(5). This Treasury Decision adopts these provisions from the 2019 proposed regulations without change.

The Treasury Department and the IRS received one comment requesting that all qualified state and local political organizations described in section 527(e)(5) be exempted from annual filing requirements. Section 6033(g)(1) generally requires a section 527 organization to file an annual information return if it has annual gross receipts of $25,000 or more for the taxable year (subject to mandatory exceptions in section 6033(g)(3)) but provides a higher threshold of $100,000 or more of gross receipts for qualified state and local political organizations. Under section 6033(g)(4), the Secretary has discretionary authority to relieve any section 527 organization from filing an information return if the Secretary determines that such filing is ''not necessary to the efficient administration of the internal revenue laws.'' Because the filing threshold for qualified state and local political organizations under section 6033(g)(1) already is higher than the threshold that applies to organizations exempt from tax under section 501(a), the Treasury Department and the IRS do not adopt this suggestion.

V. Reporting of Names and Addresses of Contributors

As stated in the 2019 proposed regulations, section 6033 does not specify that the names and addresses of contributors to tax-exempt organizations, other than those described in section 501(c)(3), be reported on annual information returns. Consistent with the Secretary's broad discretion under section 6033(a) to set forth information reporting requirements ''for the purpose of carrying out the internal revenue laws . . . by forms or regulations,'' § 1.6033–2(a)(2)(ii) lists items that are generally required to be included in the annual filings of organizations exempt under section 501(a). In the 2019 proposed regulations, the Treasury Department and the IRS proposed to amend the regulations to specify that the need to provide the names and addresses of substantial contributors will generally apply only to tax-exempt organizations described in section 501(c)(3), and to remove reference to the provision of names of certain contributors to organizations described in sections 501(c)(7), (8), and (10). The proposed regulations did not alter the existing requirement contained in Schedule B of the Form 990 and 990–EZ for tax-exempt organizations to report annually the amounts of contributions from each substantial contributor, or the existing requirement to maintain the names and addresses of substantial contributors should the IRS need this information on a case-by-case basis.

In proposing to exercise this discretion, the Treasury Department and the IRS sought to balance the IRS's need for the information for tax administration purposes against the costs and risks associated with reporting of the information.

The majority of the comments the Treasury Department and the IRS received in response to the 2019 proposed regulations concerned the general requirement for reporting of names and addresses of substantial contributors.[4] This information is reported on Schedule B, ''Schedule of Contributors,'' to Forms 990, 990–EZ, or

[4] No comments were received specifically addressing the removal of the requirement to provide the names of certain contributors to organizations described in sections 501(c)(7), (8), and (10). However, most comments did not distinguish between types of tax-exempt organizations affected by the proposed changes, and some of the issues discussed are applicable to the specific change to reporting requirements of organizations described in sections 501(c)(7), (8), and (10).

990–PF. The next several sections of this preamble summarize and respond to those comments.

a. IRS Need for Annual Reporting of Names and Addresses of Substantial Contributors for Tax Administration Purposes

Some commenters favoring the proposed changes stated that the IRS does not need the names and addresses of substantial contributors to tax-exempt organizations to which the relief extends to be reported annually, and expected that other information contained in Forms 990 or 990–EZ would be adequate for administration of the Code. Commenters favoring the proposed changes also noted that the names and addresses are still required to be maintained and the IRS can obtain that information on examination. These commenters asserted that such an approach is more appropriately tailored to the IRS's need for the information than a blanket reporting requirement.

Several other commenters opposing the proposed changes asserted instead that the IRS would not be as efficient in enforcing federal tax laws without direct access to the names and addresses of substantial contributors to the tax-exempt organizations affected by the proposed rule. These commenters asserted that information contained elsewhere in Forms 990 and 990–EZ were not adequate substitutes for information contained in Schedule B for purposes of evaluating private benefit or enforcing political activity limits on organizations described in section 501(c)(4). Some commenters also asserted that obtaining contributor names and addresses on examination was not a sufficient substitute for having the information on hand for the following reasons. Some commenters suggested that requesting the information on examination could be a ''tip-off'' to the organization that it is under additional scrutiny, leading the organization to hide assets and destroy or falsify evidence. Some commenters suggested that Schedule B contains information that helps the IRS initially determine whether or not it should conduct an examination. And some commenters suggested that requesting information on an *ad hoc* basis is not efficient for the IRS or affected tax-exempt organizations.

The concerns expressed by commenters opposing the proposed changes are misplaced. As explained in the preamble to the 2019 proposed regulations, the IRS does not need the names and addresses of substantial contributors to tax-exempt organizations not described in section 501(c)(3) to be reported annually on Schedule B of Form 990 or Form 990–EZ in order to administer the internal revenue laws. For the specific purpose of evaluating possible private benefit or inurement or other potential issues relating to qualification for exemption, the IRS can obtain sufficient information from other elements of the Form 990 or Form 990–EZ and can obtain the names and addresses of substantial contributors, along with other information, upon examination, as needed. In light of the inefficiencies involved in collecting, maintaining, and redacting this information if it were reported annually, the Treasury Department and the IRS do not agree with comments suggesting that requiring affected tax-exempt organizations to provide name and address information of substantial contributors upon examination is less efficient for the IRS and affected tax-exempt organizations. Moreover, as noted in the proposed regulations, the primary utility of the names and addresses of substantial contributors arises during the examination process. While some commenters suggested that such information could be used before an examination to determine whether an examination is warranted, the IRS takes various factors into account when deciding whether to select a case for examination, and the IRS's process for selection would not be affected by this change. Since examinations are initiated by prescribed correspondence, the taxpayer will already know of the IRS's compliance interest before receiving the request for the particular information.

Therefore, the Treasury Department and the IRS have determined that the annual collection of the names and addresses of substantial contributors to tax-exempt organizations, other than organizations described in section 501(c)(3), is not necessary for the efficient administration of the internal revenue laws. Instead, requiring all tax-exempt organizations to report the amounts of contributions from each substantial contributor on the Schedule B of the Form 990 and 990–EZ, as well as requiring them to maintain the names and addresses of substantial contributors should the IRS need this information on a case-by-case basis, is sufficient for the efficient administration of the Code.

b. Privacy and Risk of Disclosure

Commenters supporting the proposed changes relating to the furnishing of certain contributors' names and addresses expressed general concerns about the privacy of contributors to tax-exempt organizations. While the IRS is statutorily required to maintain the confidentiality of contributor names and addresses pursuant to section 6104(b), some commenters expressed concern that such information may accidentally be disclosed or that IRS systems could be breached. Some commenters also discussed the risk of disclosure by state authorities to the extent contributor names and addresses are shared by the IRS with an appropriate state officer consistent with section 6104(c). A few commenters also expressed concern that politically or ideologically motivated IRS employees could leak contributor names and addresses or select certain contributors for additional tax scrutiny. In contrast, however, some commenters, who opposed the proposed changes eliminating the requirement to report certain contributor names and addresses, asserted that the risk of disclosure is insubstantial.

The IRS takes seriously its duty to protect confidential information as required by section 6103 and to enforce the internal revenue laws with integrity and fairness to all. However, reporting the names and addresses of substantial contributors on an annual basis poses a risk of inadvertent disclosure of information that is not open to public inspection because information on Schedule B generally must be redacted from an otherwise disclosable information return. The IRS has experienced incidents of inadvertent disclosure and has taken other steps to reduce future occurrences of such disclosures. By removing the general requirement to report names and addresses of substantial contributors to tax-exempt organizations not described in section 501(c)(3), the final regulations further reduce the risk of inadvertent disclosure of names and addresses of contributors for such organizations. Without a tax administration need to collect this information on an annual basis, the Treasury Department and the IRS have determined this change in affected tax-exempt organizations' reporting obligations furthers the steps already taken to protect confidential taxpayer information.

c. Harassment of Contributors and Related Constitutional Concerns

Commenters supporting the proposed change also discussed, often in connection with the risk-of-disclosure issue, the concern that supporters of certain causes or organizations face possible reprisals (such as harassment, threats of violence, or economic retribution) if their status as contributors is revealed publicly. Additional commenters discussed the concern that fear of exposure and fear of reprisal may have a ''chilling effect,''

discouraging or deterring potential contributors from giving to certain tax-exempt organizations and reducing public participation in organizations benefiting social welfare. Many of these commenters believed this ''chilling effect'' implicates constitutional rights such as freedom of speech and freedom of association.

Other commenters opposing the proposed change asserted that requiring reporting to the IRS of substantial contributors' names and addresses is constitutional, citing federal appellate court decisions upholding state laws requiring that charitable organizations provide state regulators with copies of unredacted Schedules B.[5]

The Treasury Department and the IRS note that the names and addresses of substantial contributors provided to the IRS are generally required to be kept confidential in accordance with section 6103. By removing the general requirement to report annually names and addresses of substantial contributors to organizations exempt under section 501(a) but not described in section 501(c)(3), the final regulations reduce the risk of inadvertent disclosure of names and addresses of contributors for such organizations and thereby address concerns expressed by some commenters regarding potential adverse consequences of any such public disclosures.

d. Compliance Burden on Affected Tax-Exempt Organizations and Associated Costs on the IRS

Some commenters supporting the proposed changes to the general requirement to report names and addresses of substantial contributors mentioned an expectation that the changes would reduce the compliance burden on affected tax-exempt organizations, allowing such organizations to spend more time and resources on their missions. Commenters also expressed an expectation that the proposed changes would reduce the burden on the IRS associated with the redaction of information as required by section 6104(b).

Other commenters opposed the proposed changes regarding the general requirement to report names and addresses of substantial contributors, stating that both the compliance costs associated with reporting contributor names and addresses and the IRS burden associated with redacting such information are insubstantial. Some commenters further argued that the proposed changes would lead to an increase in compliance costs for tax-exempt organizations as individual states, no longer able to rely on Schedule B information obtained from the IRS, would develop their own disparate reporting requirements.

The Treasury Department and the IRS agree with certain commenters that limiting the general requirement to report names and addresses of substantial contributors will reduce costs with respect to federal tax compliance. While it is true that all tax-exempt organizations will continue to be required to maintain records regarding their substantial contributors, removing the annual reporting requirement will lessen their overall compliance burden. In addition, this change will obviate the need for an affected tax-exempt organization to redact name and address information if the tax-exempt organization must provide its Schedule B to a member of the public if requested under section 6104(b). Particularly for smaller tax-exempt organizations with limited resources, few dedicated staff, and less access to advisors regarding the rules governing tax-exempt organizations eliminating this requirement will be beneficial.

Without a tax administration need for annually reporting name and address information, the Treasury Department and the IRS determined that it is valuable to save tax-exempt organizations the administrative burdens of reporting and redacting it. While some commenters have suggested that some states may choose to impose their own reporting requirements, thereby increasing the compliance burden on tax-exempt organizations, the Treasury Department and the IRS expect that each state can determine the appropriateness of the burdens it may impose in light of its own tax administration needs.

Similarly, the potential burden on the IRS associated with redacting Schedule B information is lessened when fewer organizations are required to report names and addresses on Schedule B. This reduction in burden, when combined with the lack of tax administration need discussed earlier in this preamble, supports specifying that the need to provide the names and addresses of substantial contributors will generally apply only to organizations described in section 501(c)(3), as provided in the statute.

e. Extension of Relief to Organizations Described in Section 501(c)(3)

A few commenters supported the proposed changes, but also requested that the Treasury Department and the IRS extend the relief from reporting the names and addresses of substantial contributors to organizations described in section 501(c)(3). One commenter asserted that the IRS had exceeded its statutory authority by requiring the reporting of the names and addresses of substantial contributors to organizations described in section 501(c)(3) (other than private foundations). That commenter contends that the Secretary only has the authority to request the names and addresses of substantial contributors as that term is defined in section 507(d)(2). This definition, according to the commenter, would limit the existence of substantial contributors solely to contributors to private foundations and would require that a contributor have provided more than two percent of the total contributions to the organization over its lifetime.

The Treasury Department and the IRS do not agree with this interpretation of section 6033(b). Section 507(d)(2) specifically limits the application of the definition of ''substantial contributor'' found therein to section 507(d)(1). Section 6033 does not incorporate the definition of substantial contributor found in section 507(d)(2) and provides the Secretary with broad discretion to prescribe information to be collected on an annual return that is necessary for carrying out the purposes of the Code. Accordingly, consistent with section 6033(b), the Treasury Department and the IRS have the authority to continue to require that organizations described in section 501(c)(3) report the names and addresses of substantial contributors on Schedule B. The Treasury Department and the IRS decline to extend the relief from reporting names and addresses of substantial contributors to organizations described in section 501(c)(3) in this final regulation.

f. Campaign Finance Enforcement

Commenters opposing the proposed changes to the general requirement to report names and addresses of substantial contributors commonly invoked concerns about the use of tax-exempt entities, including by special interests, to anonymously influence elections and enable improper interference in U.S. elections. Commenters asserted that the proposed changes would lead to an increase in the flow of money into U.S. elections

[5] *Citizens United* v. *Schneiderman,* 882 F.3d 374 (2d Cir. 2018); *Center for Competitive Politics* v. *Harris,* 784 F.3d 1307 (9th Cir. 2015).

through organizations described in sections 501(c)(4) and (6). Several commenters also suggested that the changes would make it more difficult to detect foreign spending or federal contractor spending on U.S. elections in violation of federal campaign finance laws. One commenter discussed 52 U.S.C. 30111(f), asserting that Congress had directed the IRS to ''consult and work with'' the Federal Election Commission (FEC) on rulemakings regarding campaign finance matters.

Other commenters supporting the proposed changes stated that there are other, better measures in place to track foreign spending on U.S. elections than Schedule B and that it is unlikely that contributors who are intending to violate campaign finance laws will use foreign addresses or otherwise make clear their violation in a manner subject to reporting to the IRS on Schedule B. Commenters also stated that the IRS generally cannot share Schedule B information with the agencies charged with enforcing campaign finance laws.

As stated in the preamble to the 2019 proposed regulations, the Treasury Department and the IRS reiterate that Congress has not authorized the IRS to enforce campaign finance laws. Schedule B reflects the enforcement needs related to the Code, not the campaign finance laws. Furthermore, section 6103 generally prohibits the IRS from disclosing any names and addresses of organizations' substantial contributors to federal agencies for non-tax investigations, including campaign finance matters, except in narrowly prescribed circumstances.[6]

With regard to coordination with the FEC, section 30111(f) of title 52 does not require the IRS to consult with the FEC on regulations issued by the IRS under the Code. Instead, section 30111 of title 52 authorizes the FEC to prescribe rules, regulations, and forms to carry out the provisions of the Federal Election Campaign Act and requires the FEC to consult with the IRS when ''prescribing such rules under this section.'' This final regulation is prescribed by the IRS, not by the FEC; and, it is prescribed under section 7805 of title 26, not section 30111 of title 52.

Finally, the Treasury Department and the IRS note that the change in reporting of the names and addresses of substantial contributors will have no effect on information currently available to the public. Sections 6103 and 6104 prohibit the IRS from publicly disclosing the names and addresses of contributors to tax-exempt organizations (other than private foundations). With respect to such tax-exempt organizations, any names and addresses of substantial contributors on Schedule B are not made public and disclosure restrictions generally prohibit making such information available for use by other agencies for their enforcement purposes.[7]

g. Impact on States

Some commenters opposing the proposed changes discussed the impact on the state taxing and other authorities that may use Schedule B information shared by the IRS pursuant to sections 6103(d) or 6104(c).[8] In these comments, which included a comment from the attorneys general of nineteen states[9] and the District of Columbia, commenters discussed the states' use of Schedule B information for purposes related to state tax administration, enforcement of state-level campaign finance law, and enforcement of state-level consumer protection law. Commenters claimed that no longer receiving Schedule B information from the IRS would require a reorientation of processes that would cost the states time and money. A few commenters also referenced a history of cooperation between the IRS and state tax regulators in this area.

Other commenters in favor of the proposed changes asserted that states are not allowed to use Schedule B information for non-tax purposes and that states, in any event, did not need Schedule B information for the efficient administration of state tax laws. A comment from eleven state attorneys general[10] asserted that states would not be negatively impacted by the proposed rule because they do not rely on the Schedule B data for enforcement efforts and can receive the information through targeted examinations.

The Treasury Department and the IRS reiterate that the Code limits the purposes for which states may use returns or return information obtained from the IRS. When states receive returns or return information under section 6103(d), the use of that information is limited to the administration of state tax laws. When states receive returns or return information under section 6104(c), the use of that information is limited by statute to administering state laws relating to the solicitation or administration of charitable funds or charitable assets of such organizations. Use of returns or return information received from the IRS under these sections for purposes other than those listed above (for example, for the enforcement of campaign finance laws or consumer protection laws) is not consistent with states' authorized use under sections 6103(d) and 6104(c). While some states may use name and address information for those authorized purposes, the divergent comments from state attorneys general indicate that the desire to obtain such information, and the purpose for doing so, may differ from state to state. To the extent that any state determines that the burdens of collecting and maintaining such information are justified by its own needs, such a state is free to require reporting of such information to the state and to maintain the information at the state's own expense.

h. Conclusion

As explained in the preamble to the 2019 proposed regulations, in exercising the discretion to relieve tax-exempt organizations not described in section 501(c)(3) of the obligation to annually report the names and addresses of substantial contributors, the Treasury Department and the IRS seek to balance the IRS's need for the information for tax administration purposes against the

[6] The confidentiality and disclosure of tax returns and return information in both tax and non-tax investigations is governed by section 6103. Section 6103 contains several provisions authorizing the disclosure of returns and return information to Federal law enforcement agencies under prescribed circumstances after meeting specified procedural requirements. For example, these include disclosures to DOJ for the investigation and prosecution of non-tax Federal crimes via an ex parte court order or via a request from the highest ranking official of a Federal agency or the highest officials within DOJ and in the course of an investigation after referral to and approval by DOJ as a Grand Jury Tax Investigation.

In the context of states, sections 6103 and 6104 authorize disclosure of certain returns and return information to the states for specified purposes. Generally, section 6103(d) authorizes disclosure to state tax agencies for state tax administration purposes only, while section 6104(c) permits disclosure of return information, in the case of organizations other than those described in section 501(c)(1) or (3), to an appropriate state officer to the extent necessary in administering state laws relating to the solicitation or administration of charitable funds or charitable assets of such organizations, if certain requirements are met. Some states may also independently obtain contributor information from the organizations.

[7] See note 6.

[8] Note that some commenters are unclear as to how the states obtained the Schedule B information. Information that a state obtains directly from a tax-exempt organization as part of its state filing is not information disclosed by the IRS under either section 6103 or section 6104.

[9] The nineteen attorneys general represented the states of New Jersey, New York, California, Connecticut, Colorado, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Mexico, Oregon, Pennsylvania, Rhode Island, and Virginia.

[10] The eleven attorneys general represented the states of Arizona, Alabama, Alaska, Indiana, Kansas, Louisiana, Oklahoma, South Carolina, Tennessee, Texas, and West Virginia.

burden and risks associated with reporting of the information.

The Treasury Department and the IRS have concluded that the IRS does not need the names and addresses of substantial contributors to tax-exempt organizations not described in section 501(c)(3) to be reported annually on Schedule B of Form 990 or Form 990–EZ in order to administer the internal revenue laws. In light of the risks and burden associated with requiring the annual reporting of such information, this Treasury Decision revises the regulations under section 6033 to remove the general requirement for tax-exempt organizations not described in sections 501(c)(3) or 527 to report annually the names and addresses of substantial contributors.

This Treasury Decision revises § 1.6033–2(a)(2)(ii)(F) to provide that organizations described in section 501(c)(3) generally are required to provide names and addresses of contributors of more than $5,000 on their Forms 990, 990–EZ, and 990–PF. Similarly, § 1.6033–2(a)(2)(iii)(D) is revised to remove the requirement to provide the names of contributors who contribute over $1,000 for a specific charitable purpose to organizations described in sections 501(c)(7), (8), and (10). Additionally, as discussed earlier in this preamble, section 527 organizations must continue to report the names and addresses of substantial contributors.

Tax-exempt organizations must continue to report the amounts of contributions from each substantial contributor as well as maintain the names and addresses of their substantial contributors in their books and records in accordance with section 6001 and § 1.6001–1(a) and (c) in order to permit the IRS to efficiently administer the internal revenue laws through examinations of specific taxpayers. The records retained will enable organizations to substantiate upon examination the number of certain contributors and the amounts of their contributions and, if needed, to address any concerns identified during the examination for which the identity of the substantial contributors would be relevant.

VI. Rev. Proc. 95–48 and Rev. Proc. 96–10

In the preamble to the 2019 proposed regulations, the Treasury Department and the IRS requested comments on any other grants of section 6033 reporting relief announced in past exercises of the Commissioner's discretion that should be incorporated into the regulations or any other clarifications to reflect statutory changes since the original promulgation of § 1.6033–2. In light of the 2006 amendment to section 6033(a)(3)(B), which proscribes the Commissioner's ability to exercise discretion to relieve from filing any organization described in section 509(a)(3), the Treasury Department and the IRS requested comments on the continued applicability of Rev. Proc. 96–10, 1996–1 C.B. 138, which relieves from a filing requirement under section 6033(a) certain organizations that are operated, controlled, or supervised by one or more churches, integrated auxiliaries, or conventions or associations of churches.

The Treasury Department and the IRS received five comments requesting that the filing exception contained in Rev. Proc. 96–10 be incorporated into the regulations or that the Treasury Department and the IRS simply refrain from obsoleting Rev. Proc. 96–10. One commenter suggested that certain organizations are described in Rev. Proc. 96–10 and continue to rely appropriately on the filing exception provided in that revenue procedure because they are not supporting organizations described in section 509(a)(3).

This Treasury Decision does not incorporate the provisions of Rev. Proc. 96–10 into the final regulations. The Treasury Department and the IRS continue to study the applicability of Rev. Proc. 96–10, which is not withdrawn with the issuance of this Treasury Decision. However, the Treasury Department and the IRS note that organizations for which public charity status is dependent on being described in section 509(a)(3) are not eligible to rely on the filing relief provided in Rev. Proc. 96–10.

The Treasury Department and the IRS also requested comments on Rev. Proc. 95–48, 1995–2 C.B. 418, which grants reporting relief for governmental units and affiliates of governmental units. The Treasury Department and the IRS received one comment asserting that reporting relief granted under Rev. Proc. 95–48 is inappropriate because a government affiliate's decision to seek the benefits of exemption under section 501(c)(3) calls for it accepting the burdens of that status as well. This Treasury Decision does not incorporate the provisions of Rev. Proc. 95–48 into the final regulations and the Treasury Department and the IRS continue to consider whether the reporting relief in this revenue procedure should be updated.

VII. Technical Corrections

This Treasury Decision conforms the paragraph structure throughout § 1.6033–2 to the current Code of Federal Regulations paragraph level structure. Previously, the fourth level of the paragraph structure utilized a lower-case letter (*e.g.,* § 1.6033–2(a)(2)(ii)(a)). This Treasury Decision modifies all fourth level letters to be upper-case (*e.g.,* § 1.6033–2(a)(2)(ii)(A)). For consistency with these amendments, this Treasury Decision also modifies §§ 1.401–1, 56.4911–9, and 56.4911–10 to correct certain cross-references to § 1.6033–2.

Additionally, throughout § 1.6033–2, this Treasury Decision makes certain other non-substantive changes.

VIII. Applicability Dates

Consistent with the applicability dates in the 2019 proposed regulations, the final regulations apply as of May 28, 2020. Pursuant to section 7805(b)(7), an organization may choose to apply the paragraphs listed in § 1.6033–2(l)(2) to returns filed after September 6, 2019.

Effect on Other Documents

The following publication is obsolete as of May 28, 2020: Rev. Proc. 2018–38 (2018–31 I.R.B. 280).

Special Analyses

I. Regulatory Planning and Review

This regulation is not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (April 11, 2018) between the Department of the Treasury and the Office of Management and Budget regarding review of tax regulations.

II. Paperwork Reduction Act

The collection of information contained in these final regulations is reflected in the collection of information for Forms 990 and 990–EZ that have been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507(c)) under control number 1545–0047. To the extent there is a decrease in burden as a result of this change, the decrease in burden will be reflected in the updated burden estimates for Forms 990 and 990–EZ included in this control number. The requirement to maintain records to substantiate information on the Form 990 or 990–EZ is already contained in the burden associated with the control number for those forms and remains unchanged.

The paperwork burden estimate for tax-exempt organizations is reported under OMB control number 1545–0047,

which represents a total estimated burden time, including all other related forms and schedules for corporations, of 52 billion hours and total estimated monetized costs of $4.17 billion ($2017). The burden estimates provided in the OMB control number are aggregate amounts that relate to the entire package of forms associated with the OMB control number, and will in the future include, but not isolate, the estimated burden of these regulations. These numbers are therefore unrelated to the future calculations needed to assess the burden removed by adoption of these regulations. The Treasury Department and the IRS urge readers to recognize that these numbers are duplicates and to guard against overcounting the burden. No burden estimates specific to these regulations are currently available. The Treasury Department has not estimated the burden related to the requirements under these regulations. The current status of the Paperwork Reduction Act submissions related to these regulations is provided in the following table.

Form	OMB control No.	Status
990 and related forms ...	1545–0047	Sixty-day notice published on 9/24/2019. Thirty-day notice published on 12/31/2019. Approved by OIRA on 2/12/2020.
	Web address: *https://www.irs.gov/forms-pubs/about-form-990.*	

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 a 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 return information are confidential, as required by 26 U.S.C. 6103.

III. Regulatory Flexibility Act

It is hereby certified that these final regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations reflect statutory requirements and reporting relief previously announced through forms, instructions to forms, or guidance published in the Internal Revenue Bulletin. The collection of information contained in these regulations instead maintains a current recordkeeping obligation while removing a filing burden. Accordingly, this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. chapter 6). Pursuant to section 7805(f), the proposed regulations preceding these final regulations were submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Drafting Information

The principal authors of these regulations are personnel from the Office of the Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes). However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

IRS revenue procedures and other guidance cited in this document are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *http://www.irs.gov.*

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 56

Public charity excise taxes.

Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 56 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** In § 1.401–1, revise the last sentence of paragraph (e)(2) to read as follows:

§ 1.401–1 Qualified pension, profit-sharing, and stock bonus plans.

* * * * *

(e) * * *

(2) * * * For information required to be furnished periodically by an employer with respect to the qualification of a plan, see §§ 1.404(a)–2, and 1.6033–2(a)(2)(ii)(I).

■ **Par. 3.** Section 1.6033–2 is amended by:

■ 1. Revising the section heading;

■ 2. In paragraph (a)(2)(ii) introductory text, removing ''The'' and adding ''Subject to paragraph (a)(1) of this section, the'' in its place;

■ 3. Redesignating paragraph (a)(2)(ii)(*a*) through (*l*) as paragraphs (a)(2)(ii)(A) through (L) respectively;

■ 4. In newly redesignated paragraph (a)(2)(ii)(F), revising the first and last sentences;

■ 5. Revising newly redesignated paragraph (a)(2)(ii)(H);

■ 6. Redesignating paragraphs (a)(2)(ii)(K) and (L) as paragraphs (a)(2)(ii)(M) and (N);

■ 7. Adding new paragraphs (a)(2)(ii)(K) and (L);

■ 8. Revising the last sentence of paragraph (a)(2)(iii) introductory text;

■ 9. Redesignating paragraphs (a)(2)(iii)(*a*) through (*d*) as paragraphs (a)(2)(iii)(A) through (D) respectively;

■ 10. Revising the last sentence of newly redesignated paragraph (a)(2)(iii)(B);

■ 11. Revising redesignated paragraph (a)(2)(iii)(C);

■ 12. Revising the first sentence of newly redesignated paragraph (a)(2)(iii)(D)(*1*);

■ 13. Redesignating paragraphs (a)(2)(iv)(*a*) and (*b*) as paragraphs (a)(2)(iv)(A) and (B) respectively;

■ 14. Revising the next to last sentence in paragraph (a)(4);

■ 15. Adding paragraphs (a)(5) through (8);

■ 16. Revising paragraph (d)(5) introductory text and the last sentence of paragraph (d)(5)(ii);

■ 17. Revising paragraph (g)(1)(iii);

■ 18. Removing ''or'' at the end of paragraph (g)(1)(vi);

■ 19. Removing the period at the end of paragraph (g)(1)(vii) and adding ''; or'' in its place;

■ 20. Adding paragraph (g)(1)(viii);

■ 21. Revising paragraph (g)(3);

■ 22. Adding paragraph (g)(5);

■ 23. Adding a sentence at the end of paragraph (g)(6);

■ 24. Redesignating paragraph (k) as paragraph (l);

■ 25. Adding a new paragraph (k); and

■ 26. Revising newly redesignated paragraph (l).

The revisions and additions read as follows:

§ 1.6033–2 Returns by exempt organizations and returns by certain nonexempt organizations.

(a) * * *

(2) * * *

(ii) * * *

(F) The total of the contributions, gifts, grants, and similar amounts received by it during the taxable year, and, in the case of an organization described in section 501(c)(3), the names and addresses of all persons that contributed, bequeathed, or devised $5,000 or more (in money or other property) during the taxable year. * * * For special rules with respect to contributors and donors, see paragraph (a)(2)(iii) of this section.

* * * * *

(H) A schedule showing the compensation and other payments made to each person whose name is required to be listed pursuant to paragraph (a)(2)(ii)(G) of this section during the calendar year ending within the organization's annual accounting period, or during such other period as prescribed by publication, form, or instructions.

* * * * *

(K) In the case of an organization described in section 501(c)(3), the respective amounts (if any) of the taxes imposed on the organization, or any organization manager of the organization, during the taxable year under any of the following provisions (and the respective amounts (if any) of reimbursements paid by the organization during the taxable year with respect to taxes imposed on any such organization manager under any of such provisions):

(*1*) Section 4911 (relating to tax on excess expenditures to influence legislation);

(*2*) Section 4912 (relating to tax on disqualifying lobbying expenditures of certain organizations); and

(*3*) Section 4955 (relating to taxes on political expenditures of section 501(c)(3) organizations), except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded.

(L) In the case of organizations described in section 501(c)(3), (4), or (29), the respective amounts (if any) of—

(*1*) The taxes imposed with respect to the organization on any organization manager, or any disqualified person, during the taxable year under section 4958 (relating to taxes on excess benefit transactions); and

(*2*) Reimbursements paid by the organization during the taxable year with respect to taxes imposed under such section, except to the extent that, by reason of section 4962, the taxes imposed under such section are not required to be paid or are credited or refunded.

* * * * *

(iii) * * * In providing the names and addresses of contributors and donors under paragraph (a)(2)(ii)(F) of this section:

* * * * *

(B) * * * In such case, unless the organization has actual knowledge that a particular employee gave more than $5,000 (and in excess of 2 percent if paragraph (a)(2)(iii)(A) of this section is applicable), the organization need report only the name and address of the employer, and the total amount paid over by the employer.

(C) Separate and independent gifts made by one person in a particular year need be aggregated to determine whether his contributions and bequests exceed $5,000 (and are in excess of 2 percent if paragraph (a)(2)(iii)(A) of this section is applicable), only if such gifts are of $1,000 or more.

(D)(*1*) Organizations described in section 501(c)(7), (8), or (10) that receive contributions or bequests to be used exclusively for purposes described in section 170(c)(4), 2055(a)(3), or 2522(a)(3), must attach a schedule with respect to all gifts that aggregate more than $1,000 from any one person showing the total amount of the contributions or bequests from each such person, the specific purpose or purposes for which such amount was received, and the specific use or uses to which such amount was put. * * *

* * * * *

(4) * * * Similarly, for purposes of paragraph (a)(2)(ii)(D) of this section, the purposes for which a section 4947(a)(1) trust or a nonexempt private foundation is organized shall be treated as the purposes for which it is exempt. * * *

(5) Political organizations, as defined by section 527(e)(1), that have gross receipts of $25,000 or more for the taxable year (or in the case of a qualified State or local political organization, as defined in section 527(e)(5), that has gross receipts of $100,000 or more for the taxable year) generally must comply with the requirements of section 6033 and this section in the same manner as organizations exempt from tax under section 501(a), except to the extent that the Commissioner may modify such requirements through forms, instructions to forms, or guidance published in the Internal Revenue Bulletin as appropriate for carrying out the purposes of section 527. For the purposes of this section, all references to organizations exempt from tax under section 501(a) shall include political organizations referred to in section 6033(g), other than those referred to in section 6033(g)(3) and except to the extent the Commissioner exercises discretion under section 6033(g)(4). This discretion may be exercised through forms, instructions to forms, or guidance published in the Internal Revenue Bulletin. In addition to the reporting requirements applicable to organizations exempt under section 501(a), such political organizations generally must report the names and addresses of all persons that contributed, bequeathed, or devised $5,000 or more (in money or other property) during the taxable year.

(6) Each controlling organization (within the meaning of section 512(b)(13)) that is subject to the requirements of section 6033(a) shall include on its annual return such information required by that return regarding—

(i) Any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13));

(ii) Any loans made to each such controlled entity; and

(iii) Any transfers of funds between such controlling organization and each such controlled entity.

(7) Every organization described in section 4966(d)(1) shall, on its annual return for the taxable year—

(i) List the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year;

(ii) Report the aggregate value of assets held in such funds at the end of such taxable year; and

(iii) Report the aggregate contributions to and grants made from such funds during such taxable year.

(8) Every organization described in section 509(a)(3) shall, on its annual return—

(i) List the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support;

(ii) Specify whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B); and

(iii) Certify that the organization meets the requirements of section 509(a)(3)(C).

* * * * *

(d) * * *

(5) In providing the information required by paragraphs (a)(2)(ii)(F), (G),

and (H) of this section, such information may be provided: * * *

(ii) * * * A central or parent organization shall indicate whether it has provided such information in the manner described in paragraphs (d)(5)(i) or (ii) of this section, and may not change the manner in which it provides such information without the consent of the Commissioner.

* * * * *

(g) * * *

(1) * * *

(iii) Except as provided in paragraph (g)(1)(viii) of this section, an organization described in section 501(c) (other than a private foundation or a supporting organization described in section 509(a)(3)) the gross receipts of which in each taxable year are normally not more than $50,000 (as described in paragraph (g)(3) of this section);

* * * * *

(viii) A foreign organization (described in paragraph (k)(1) of this section) or a United States possession organization (described in paragraph (k)(2) of this section) (other than a private foundation or a supporting organization described in section 509(a)(3))—

(A) The gross receipts of which in each taxable year from sources within the United States (as determined under paragraph (k)(3) of this section) are normally not more than $50,000 (as described in paragraph (g)(3) of this section); and

(B) That has no significant activity (including lobbying and political activity and the operation of a trade or business, but excluding investment activity) in the United States.

* * * * *

(3) For purposes of paragraphs (g)(1)(iii) and (viii) of this section, the gross receipts (as defined in paragraph (g)(4) of this section) of an organization are normally not more than $50,000 if:

(i) In the case of an organization that has been in existence for 1 year or less, the organization has received, or donors have pledged to give, gross receipts of $75,000 or less during the first taxable year of the organization;

(ii) In the case of an organization that has been in existence for more than one but less than 3 years, the average of the gross receipts received by the organization in its first 2 taxable years is $60,000 or less; and

(iii) In the case of an organization that has been in existence for 3 years or more, the average of the gross receipts received by the organization in the immediately preceding 3 taxable years, including the year for which the return would be required to be filed, is $50,000 or less.

* * * * *

(5) An organization that is not required to file an annual return by virtue of paragraphs (g)(1)(iii) and (viii) of this section must submit an annual electronic notification as described in section 6033(i). See § 1.6033–6.

(6) * * * This discretion may be exercised through forms, instructions to forms, or guidance published in the Internal Revenue Bulletin.

* * * * *

(k) *Foreign organizations and United States possession organizations*—(1) *Foreign organization.* For purposes of this section, a *foreign organization* is any organization not described in section 170(c)(2)(A).

(2) *United States possession organization.* For purposes of this section, a *United States possession organization* is any organization created or organized in a possession of the United States.

(3) *Source of funds.* For purposes of paragraph (g)(1)(viii) of this section, the source of an organization's gross receipts from gifts, grants, contributions or membership fees is determined by applying the rules found in § 53.4948–1(b) of this chapter. For purposes of paragraph (g)(1)(viii) of this section, the source of an organization's gross receipts other than gifts, grants, contributions, and membership fees is determined by applying the rules in sections 861 through 865 and the regulations in this part issued under section 861 through 865. For purposes of applying this paragraph (k)(3) regarding United States possession organizations, a United States person does not include individuals who are *bona fide* residents of a United States possession.

(l) *Applicability date*—(1) *Generally.* This section applies to returns filed on or after January 30, 2020. Section 1.6033–2T (as contained in 26 CFR part 1, revised April 2019) applies to returns filed before January 30, 2020.

(2) Paragraphs (a)(2)(ii)(F), (a)(2)(iii)(D)(*1*), (g)(1)(iii) and (viii), and (g)(3) of this section apply to annual information returns filed after May 28, 2020. Under section 7805(b)(7) an organization may choose to apply the paragraphs listed in this paragraph (l)(2) to returns filed after September 6, 2019.

PART 56—PUBLIC CHARITY EXCISE TAXES

■ **Par. 4.** The authority citation for part 56 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 56.4911–9 [Amended]

■ **Par. 5.** In § 56.4911–9, amend paragraphs (d)(2) and (3) and (d)(4) introductory text by removing the language ''1.6033–2(a)(2)(ii)(*k*)'' and adding in its place ''1.6033–2(a)(2)(ii)(M)''.

§ 56.4911–10 [Amended]

■ **Par. 6.** In § 56.4911–10, amend paragraph (f)(1) by removing the language ''1.6033–2(a)(2)(ii)(*k*)'' and adding in its place ''1.6033–2(a)(2)(ii)(M).''

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: May 20, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2020–11465 Filed 5–26–20; 4:15 pm]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG–2015–1118]

RIN 1625–AA01

Anchorage Grounds; Lower Chesapeake Bay, Cape Charles, VA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: This final rule establishes new, deep-water anchorage grounds for the Hampton Roads area near Cape Charles, VA, and increases the size and relocates the existing quarantine anchorage from near Cape Charles to further south in the lower Chesapeake Bay. The intended effect is to protect the environment, facilitate safe navigation of maritime commerce and national defense assets, and more safely and effectively support commercial vessel anchoring needs in the lower Chesapeake Bay.

DATES: This rule is effective June 29, 2020.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *https://www.regulations.gov,* type USCG–2015–1118 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or