

**§ 1.6033-4**

**26 CFR Ch. I (4-1-08 Edition)**

returns filed for taxable years beginning after December 31, 1980.

[T.D. 8026, 50 FR 20756, May 20, 1985]

**§ 1.6033-4 Required use of magnetic media for returns by organizations required to file returns under section 6033.**

The return of an organization that is required to be filed on magnetic media under § 301.6033-4 of this chapter must be filed in accordance with Internal Revenue Service revenue procedures, publications, forms, or instructions, including those posted electronically. (See § 601.601(d)(2) of this chapter).

[T.D. 9364, 72 FR 63810, Nov. 13, 2007]

**§ 1.6033-5T Disclosure by tax-exempt entities that are parties to certain reportable transactions (temporary).**

(a) *In general.* Every tax-exempt entity (as defined in section 4965(c)) shall file with the IRS on Form 8886-T, "Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction" (or a successor form), in accordance with this section and the instructions to the form, a disclosure of—

(1) Such entity's being a party (as defined in paragraph (b) of this section) to a prohibited tax shelter transaction (as defined in section 4965(e)); and

(2) The identity of any other party (whether taxable or tax-exempt) to such transaction that is known to the tax-exempt entity.

(b) *Definition of tax-exempt party to a prohibited tax shelter transaction—*(1) *In general.* For purposes of section 6033(a)(2), a tax-exempt entity is a party to a prohibited tax shelter transaction if the entity—

(i) Facilitates a prohibited tax shelter transaction by reason of its tax-exempt, tax indifferent or tax-favored status;

(ii) Enters into a listed transaction and the tax-exempt entity's tax return (whether an original or an amended return) reflects a reduction or elimination of its liability for applicable Federal employment, excise or unrelated business income taxes that is derived directly or indirectly from tax consequences or tax strategy described

in the published guidance that lists the transaction; or

(iii) Is identified in published guidance, by type, class or role, as a party to a prohibited tax shelter transaction.

(2) Published guidance may identify which tax-exempt entities, by type, class or role, will not be treated as a party to a prohibited tax shelter transaction for purposes of section 6033(a)(2).

(c) *Frequency of disclosure.* A single disclosure is required for each prohibited tax shelter transaction.

(d) *By whom disclosure is made—*(1) *Tax-exempt entities referred to in section 4965(c)(1), (2) or (3).* In the case of tax-exempt entities referred to in section 4965(c)(1), (2) or (3), the disclosure required by this section must be made by the entity.

(2) *Tax-exempt entities referred to in section 4965(c)(4), (5), (6) or (7).* In the case of tax-exempt entities referred to in section 4965(c)(4), (5), (6) or (7), including a fully self-directed qualified plan, IRA, or other savings arrangement, the disclosure required by this section must be made by the entity manager (as defined in section 4965(d)(2)) of the entity.

(e) *Time and place for filing—*(1) *Tax-exempt entities described in paragraph (b)(1)(i) of this section—*

(i) *In general.* The disclosure required by this section shall be filed on or before May 15 of the calendar year following the close of the calendar year during which the tax-exempt entity entered into the prohibited tax shelter transaction.

(ii) *Subsequently listed transactions.* In the case of subsequently listed transactions (as defined in section 4965(e)(2)), the disclosure required by this section shall be filed on or before May 15 of the calendar year following the close of the calendar year during which the transaction was identified by the Secretary as a listed transaction.

(2) *Tax-exempt entities described in paragraph (b)(1)(ii) of this section.* The disclosure required by this section shall be filed on or before the date on which the first tax return (whether an original or an amended return) is filed

which reflects a reduction or elimination of the tax-exempt entity's liability for applicable Federal employment, excise or unrelated business income taxes that is derived directly or indirectly from tax consequences or tax strategy described in the published guidance that lists the transaction.

(3) *Transition rule.* If a tax-exempt entity entered into a prohibited tax shelter transaction after May 17, 2006 and before January 1, 2007, the disclosure required by this section shall be filed—

(i) In the case of tax-exempt entities described in paragraph (b)(1)(i) of this section, on or before November 5, 2007;

(ii) In the case of tax-exempt entities described in paragraph (b)(1)(ii) of this section, on or before the later of—

(A) November 5, 2007; or

(B) The date on which the first tax return (whether an original or an amended return) is filed which reflects a reduction or elimination of the tax-exempt entity's liability for applicable Federal employment, excise or unrelated business income taxes that is derived directly or indirectly from tax consequences or tax strategy described in the published guidance that lists the transaction.

(4) Disclosure is not required with respect to any prohibited tax shelter transaction entered into by a tax-exempt entity on or before May 17, 2006.

(f) *Penalty for failure to provide disclosure statement.* See section 6652(c)(3) for penalties applicable to failure to disclose a prohibited tax shelter transaction in accordance with this section.

(g) *Effective date—(1) Applicability date.* This section applies with respect to transactions entered into by a tax-exempt entity after May 17, 2006.

(2) *Expiration date.* This section will expire on July 6, 2010.

[T.D. 9335, 72 FR 36870, July 6, 2007; 72 FR 45890, Aug. 16, 2007]

**§ 1.6033-6T Notification requirement for entities not required to file an annual information return under section 6033(a)(1) (taxable years beginning after December 31, 2006).**

(a) *In general.* Except as otherwise provided in this paragraph, every organization exempt from taxation under section 501(a) that is not required to file a return described in § 1.6033-2(a)(2),

other than an organization described in section 401(a) or 501(d), shall submit annually, in electronic form, a notification setting forth the items described in paragraph (b) of this section and such other information as may be prescribed in the instructions and publications issued with respect to the notification.

(b) *Organizations not required to submit annual notification.* (1) An organization exempt from taxation under section 501(a) that is required to file or files an annual information return under section 6033(a)(1) shall not submit an annual notification under section 6033(i). This includes the following types of organizations:

(i) Any organization included in a group return for that year under § 1.6033-2(d).

(ii) All private foundations required to file under § 1.6033-2(a)(2)(i) Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation."

(iii) Section 509(a)(3) supporting organizations required to file under § 1.6033-2(a)(2)(i) Form 990, "Return of Organization Exempt From Income Tax," or Form 990-EZ, "Short Form Return or Organization Exempt From Income Tax."

(iv) A section 501(c)(21) black lung trust required to file under § 1.6033-2(a)(2)(i) Form 990-BL.

(v) Any organization that is required to file or files an annual information return under section 6033(a)(1) on any other form prescribed by the Internal Revenue Service for that purpose.

(2) An organization exempt from taxation under section 501(a) that is not required to file a return under section 6033(a)(1) is also not required to submit an annual notification under section 6033(i). This includes the following types of organizations:

(i) A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church (as defined in § 1.6033-2(h)).

(ii) An exclusively religious activity of any religious order.

(iii) A mission society sponsored by or affiliated with one or more churches or church denominations, more than