

**O. UPDATE: THE FINAL REGULATIONS ON THE DISCLOSURE  
REQUIREMENTS FOR ANNUAL INFORMATION RETURNS  
AND APPLICATIONS FOR EXEMPTION**

by  
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1. Introduction

The Internal Revenue Service ("Service") has published final regulations (T.D. 8818) concerning the public disclosure requirements pursuant to IRC 6104(d)(IRC 6104(e) prior to redesignation as (d) under the Tax and Trade Relief Extension Act of 1998) for tax-exempt organizations other than private foundations. The term tax-exempt organization is defined as any organization that is described in IRC 501(c)(including 501(e) and (f) organizations, which are described under 501(c)(3)) and (d), and is exempt from taxation under IRC 501(a). Private foundation means a private foundation as defined in IRC 509(a).

Taxpayer Bill of Rights 2 ("TBOR2"), P.L. 104-268, 110 Stat. 1452, amended IRC 6104. The Service issued proposed regulations ((REG-246250-96), 62 Fed. Reg. 50533 (1997)(proposed Sept. 26, 1997) on the public disclosure requirements for exemption applications and annual information returns to implement the TBOR2 amendments. After consideration of all written comments from the public and the changes made in the Tax and Trade Relief Extension Act of 1998, P.L. 105-277, 112 Stat. 2681 ("the 1998 Act"), the Service issued final regulations, which became effective on June 8, 1999. (See Announcement 99-62, Internal Revenue Bulletin 1999-25).

This article discusses the new public disclosure rules as explained in the final regulations. This article also provides a brief summary of the public disclosure law prior to TBOR2, background to TBOR2, and the 1998 Act.

2. Brief Summary of the Disclosure Law Prior to Taxpayer Bill of Rights 2 and the Tax and Trade Relief Extension Act of 1998

IRC 6104(d) and IRC 6104(e) governed the disclosure of exemption applications and annual information returns by all tax-exempt organizations described in sections 501(c) or (d). IRC 6104(e) dealt with the disclosure of these documents by tax-exempt organizations except for the annual information returns of private foundations. IRC 6104(d) specifically dealt with the disclosure of this item. These two provisions required that all tax-exempt organizations described in IRC 501(c) or 501(d) allow public inspection of their exemption applications, any letter or other document issued by the Service concerning such applications, and annual information returns. The covered documents are subject to public inspection at the tax-exempt organization's principal office (and certain regional or district offices). Certain returns filed by tax-exempt organizations are not subject to public inspection.

For a detailed discussion, see the 1997 CPE, Publicity and Disclosure of Form 990, at pp. 5-15, ("1997 CPE"), and Notice 88-120, 1988-2 C.B. 454.

3. Changes to the Disclosure Law Under the Taxpayer Bill of Rights 2 and the Tax and Trade Relief Extension Act of 1998

TBOR2, enacted in 1996, amended IRC 6104(e) by expanding the disclosure requirements. (The changes made by TBOR2 and the proposed regulations issued thereunder were discussed in detail in the 1999 CPE, The Proposed Regulations on the Disclosure Requirements for Annual Information Returns and Applications for Exemption, at pp. 243-259). Thereafter, Congress enacted the 1998 Act which extends all the disclosure requirements that apply to public charities and other tax-exempt organizations to private foundations. In addition, the 1998 Act repeals IRC 6104(d) and redesignates the amended IRC 6104(e) as new IRC 6104(d) (hereinafter referred to as "amended IRC 6104(d)").

The final regulations issued under the amended IRC 6104(d) became effective on June 8, 1999, and apply to all tax-exempt organizations other than private foundations. The Service plans to extend the new disclosure regulations to apply to private foundations. During the meantime, tax-exempt private foundations must continue to comply with the disclosure requirements of IRC 6104(d), Regs. 301.6104(d)-1 and IRC 6104(e) as in effect prior to the 1998 Act.

4. The Final Regulations - Overview

The final regulations address five major areas:

- the documents that a tax-exempt organization must disclose in response to a request for information;
- the manner of disclosing these documents;
- the manner of providing copies and conditions that may be placed on in-person or written requests for copies of the documents; and the amount, form, and time of payment of any fees a tax-exempt organization may charge for the copies;
- how an organization can make its application for tax exemption and annual information returns "widely available"; and

- the standards that apply in determining whether a tax-exempt organization is the subject of a harassment campaign and on the procedures for obtaining relief.

## 5. Documents Subject to Disclosure

Regs. 301.6104(d)-3(b)(3) and (4) describe the documents that all tax-exempt organizations other than private foundations must disclose. These documents include applications for tax exemption and annual information returns.

### A. Exemption Applications

An exemption application includes any prescribed application forms (Forms 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code ("Form 1023"), 1024, Application for Recognition of Exemption under Section 501(a) ("Form 1024"), or letter applications). See Regs. 301.6104(d)-3(b)(3)(i). It also includes the following:

- all documents and statements the Service requires an applicant to file with the form;
- any statement or other supporting document submitted by an organization in support of its application (for example, a legal brief supporting an application, or a response to questions from the Service during the application process); and
- any letter or other document issued by the Service concerning the exemption application (such as a favorable determination letter or a list of questions from the Service about the application).

If no form is prescribed for an organization's exemption application, the application for tax exemption includes the following:

- the application letter and copy of the articles of incorporation, declaration of trust, or other similar instrument that sets forth the permitted powers or activities of the organization;
- the organization's bylaws or other code of regulations;

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- statements describing the character of the organization, the purpose for which it was organized, and its actual activities;
- the organization's latest financial statements showing assets, liabilities, receipts and disbursements;
- statements showing the sources of the organization's income and receipts and their disposition; and
- any other statements or documents the Service required the organization to file with, or that the organization submitted in support of, the application letter. See Regs. 301.6104(d)-3(b)(3)(ii)(A)-(F).

B. Disclosure Exceptions Relating to Exemption Applications

An exemption application does not include any application for tax exemption filed by an organization that has not yet been recognized, on the basis of the application, by the Service as exempt from taxation for any taxable year. Also it does not include any application for tax exemption filed before July 15, 1987, if the organization filing the application did not have a copy of the application on July 15, 1987. Finally, it does not include any material, including the material listed in Regs. 301.6104(a)-1(i) and information that the Service would be required to withhold from public inspection, that is not available for public inspection under IRC 6104. See Regs. 301.6104(d)-3(b)(3)(iii)(A)-(C).

C. Annual Information Returns

An annual information return includes an exact copy of any return filed with the Service by a tax-exempt organization pursuant to IRC 6033. Examples of an information return include Forms 990, Return of Organization Exempt From Income Tax ("Form 990") and 990-EZ, Short Form Return of Organization Exempt From Income Tax ("Form 990-EZ"). It also includes any amended return filed with the Service after the date the original return is filed.

The copy must include all information furnished to the Service on the Form 990 (or any version thereof) and Form 1065, U.S. Partnership Return of Income, as well as all schedules, attachments and supporting documents. Examples of schedules, attachments and supporting documents include Schedule A of Form 990 (containing supplementary information on IRC 501(c)(3) organizations), Part V of Form 990, and Parts I and II of Schedule A of Form 990 (showing compensation paid to specific persons). However, an organization is not required to

disclose the name or address of any contributor to the organization. See Regs. 301.6104(d)-3(b)(4)(i).

D. Disclosure Exceptions Relating to the Annual Information Return

An information return does not include Schedule A of Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons; Form 990-T, Exempt Organization Business Income Tax Return; Form 1120-POL, U.S. Income Tax Return For Certain Political Organizations; or the return of a private foundation (Form 990-PF, Return of Private Foundation and Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code). See Regs. 301.6104(d)-3(b)(4)(ii). Also Schedules K-1 that are filed by religious and apostolic organizations described in IRC 501(d) are specifically excluded from disclosure. See IRC 6104(d)(3)(A).

A tax-exempt organization does not have to allow public inspection of any return after the expiration of 3 years from the date the return is required to be filed (including any extension of time that has been granted for filing such return) or the date the return is actually filed, whichever is later. If an organization has filed an amended return, however, the amended return must be made available for inspection and copying for a period of 3 years beginning on the date it is filed with the Service. See Regs. 301.6104(d)-3(b)(4)(iii).

E. Request for Parts of Exemption Application or Annual Information Returns

A tax-exempt organization must comply with a request for all or part of its annual information returns or application for exemption. A request for a copy of less than the entire application or return must specifically identify the requested part(s) or schedule(s). See Regs. 301.6104(d)-3(d)(2)(ii)(B).

6. Manner of Disclosure for In-Person Requests for Public Inspection

A tax-exempt organization must make the applicable documents available for public inspection at its principal, regional, or district offices during regular business hours. See IRC 6104(d)(1)(A) and Regs. 301.6104(d)-3(d)(1)(i). During the inspection, the tax-exempt organization may have an employee present in the room. The inspecting individual is allowed to take notes freely and may make photocopy of the documents for a reasonable fee. If he provides his own photocopying equipment, the organization must allow him to photocopy the documents without charge. See Regs. 301.6104(d)-3(c)(1).

A. Tax-Exempt Organization That Has No Permanent Offices, or No Office Hours or Limited Hours

A tax-exempt organization that does not maintain a permanent office must permit public inspection of the requested documents within a reasonable amount of time after receiving a request for inspection (normally not more than 2 weeks). It must permit public inspection to occur at a reasonable location of its choice and at a reasonable time of day. Alternatively, the tax-exempt organization may mail a copy of the requested documents to the requester within two weeks of receiving the request. It may charge the requester for copying and actual postage costs only if the requester consents to the charge. See Regs. 301.6104(d)-3(c)(2).

A tax-exempt organization that has a permanent office, but has no office hours or has very limited hours during certain times of the year, must respond to requests made during those periods when office hours are limited or not available as though it were an organization without a permanent office. See Regs. 301.6104(d)-3(c)(2).

7. In-Person Requests for Copies of Documents

While the tax-exempt organization must make its documents available for public inspection without charge, if the individual requests copies of the documents, it may charge a reasonable fee for such service. A fee is reasonable if it is no more than the per-page copying charge stated in Regs. 601.702(f)(5)(iv)(B), which is the amount charged by the Service for providing copies. (Currently, that amount is \$1.00 for the first page and .15 for each subsequent page; see Announcement 99-62, Internal Revenue Bulletin 1999-25). The tax-exempt organization may require the individual making the request to pay the fee before providing copies of the documents. See Regs. 301.6104(d)-3(d)(3)(i).

The tax-exempt organization must respond to questions from any individual concerning the fees it charges for providing documents. For example, if an individual is requesting certain documents from a tax-exempt organization, it must inform that individual of the charge for copying such documents. See Regs. 301.6104(d)-3(d)(3)(iv).

The tax-exempt organization must accept payment in cash or money order. It may accept credit cards, personal checks or other forms of payment in lieu of the aforementioned. See Regs. 301.6104(d)-3(d)(3)(ii)(A).

A. Cannot Comply Due to Unusual Circumstances

Absent unusual circumstances, an in-person request for copies of the covered documents must be fulfilled on the day the request is made. If the tax-exempt organization cannot provide the requested documents on the same business day due to unusual circumstance, then it must provide the documents no later than the next business day following the day that the unusual circumstances cease to exist or the fifth business day after the date of the request, whichever occurs first. Unusual circumstances include, but are not limited to, the following:

- Receipt of a volume of requests that exceeds the tax-exempt organization's capacity to make copies;
- The requests are made shortly before the end of regular business hours, and they require an extensive amount of copying of the documents;
- The requests are made on a day when the tax-exempt organization's managerial staff capable of fulfilling the requests is conducting special duties, such as student registration or attending an off-site meeting, rather than its regular administrative duties. See Regs. 301.6104(d)-3(d)(1)(ii).

B. Agent Used To Handle In-Person Requests For Copies of Documents

A tax-exempt organization may retain a local agent, within reasonable proximity of the applicable principal, regional or district office, to process in-person requests for copies of its documents. An agent must provide the copies within the time and under the conditions that apply to the tax-exempt organization itself. See Regs. 301.6104(d)-3(d)(1)(iii). For example, when an individual makes an in-person requests to have copies of the documents, the tax-exempt organization must immediately provide him the name, address, and telephone number of its local agent. Thereafter, the tax-exempt organization in not required to respond to him further.

C. Failure to Comply

Should the tax-exempt organization or its agent fail to provide the documents as required under IRC 6104(d), the responsible person of the tax-exempt organization may be liable for penalties pursuant to three provisions, IRC 6652(c)(1)(C) and (D), failure to allow public inspection of annual returns and exemption applications, and IRC 6685, willful failure to allow public inspection of annual returns and exemption applications. See Regs. 301.6104(d)-3(d)(1)(iii) and (f)(3), and Announcement 99-62, Internal Revenue Bulletin 1999-25.

8. Written Requests for Copies of Documents

A tax-exempt organization must honor a written request for a copy of the documents that the organization is required to provide under amended IRC 6104(d) if the request

- is addressed to, and delivered by mail, electronic mail, facsimile, a private delivery service (as defined in IRC 7502(f)) to the principal, regional or district office of the organization; and
- sets forth the address to which the copy of the documents should be sent. 301.6104(d)-3(d)(2)(i).

The tax-exempt organization must provide the copies within 30 days from the date it receives the request. If it requires payment for the requested documents in advance, it must provide the documents 30 days from the date it receives the payment.

A. Date of Receipt and Delivery of Requested Documents

In the absence of contrary evidence, a mailed request or payment for documents is considered to be received by the tax-exempt organization seven days after the date of the postmark. Requests transmitted to the organization by electronic mail or facsimile are considered received the day the request is successfully transmitted. Copies are considered provided on the date of the postmark or private delivery mark (or if sent by certified or registered mail, the date of registration or the date of the postmark on the sender's receipt).

If an individual making a request consents, a tax-exempt organization may provide a copy of the requested document by electronic mail. In such case, the material is provided on the date the organization successfully transmits the electronic mail. See Regs. 301.6104(d)-3(d)(2)(ii)(A).

B. Reasonable Fee Charged For Providing Copies of the Requested Documents

The same rules pertaining to in-person requests also govern the amount of the fee a tax-exempt organization may charge respond to requests for copies in writing. See section 7 above. See Regs. 301.6104(d)-3(d)(3)(i). However, in addition to money order, it must accept certified check, and either personal check or credit card. See Regs. 301.6104(d)-3(d)(3)(ii)(B).

If the tax-exempt organization does not require prepayment and a requester does not enclose payment with a request, it must obtain consent from that requester before providing



copies for which the fee charged for copying and postage exceeds \$20. See Reg. 301.6104(d)-3(d)(3)(iii).

C. Agent Used to Handle Written Requests for Copies of Documents

As with in-person requests (see sub-section 7B above), a tax-exempt organization may retain an agent to process written requests for copies of its documents. The agent must provide the copies within the time and conditions that apply to the tax-exempt organization itself.

If the tax-exempt organization itself receives the request, and then forwards it to the agent, the deadline for response is the day the tax-exempt organization received the request, not when the agent received the request. Where the tax-exempt organization transfers a written request to its agent, it is not required to respond to the individual further. Should its agent fails to provide the copies to the individual as provided by IRC 6104(d), the responsible person for the tax-exempt organization maybe liable to penalties pursuant to the three provisions described in sub-section 7B above.

9. Manner of Disclosure by Regional and District Offices

A tax-exempt organization's regional or district office must satisfy the same rules as the principal office concerning the disclosure of its exemption application and annual information returns. However, the regional or local office need not make the annual information return available for inspection or to provide copies until thirty days after the date the return is required to be filed (including any extension) or is actually filed, whichever is later. See Regs. 301.6104(d)-3(e).

A. Definition of a Regional and District Office

A regional or district office is any office of a tax-exempt organization, other than its principal office, that has the following characteristics:

- Paid part-time or full-time employees;
- Whose aggregate number of paid hours are normally at least 120. See Regs. 301.6104(d)-3(b)(5)(i).

The above notwithstanding, a site is not considered a regional or district office if:

- The only services provided at the site further exempt purposes (such as day care, health care or scientific or medical research); and
- The site does not serve as an office for management staff, other than managers involved solely in managing the exempt function activities at the site. See Regs. 301.6104(d)-3(b)(5)(ii).

10. Disclosure Requirements of a Tax-Exempt Organization's Local or Subordinate Organizations

A. Exemption Applications

If a local or subordinate organization ("subordinate") is covered by a group exemption letter, it must make available for public inspection and furnish in response to requests for copies the following:

- the exemption application submitted to the Service by its parent or central organization ("parent") to obtain the group exemption letter; and

- any additional documents submitted to bring the subordinate organization under the group exemption letter. See Regs. 301.6104(d)-3(f)(1).

If the parent organization provides the Service a list or directory of subordinate organizations covered by the group exemption letter, the local or subordinate need only provide the exemption application and the pages of the list or directory that specifically refer to it. See Regs. 301.6104(d)-3(f)(1).

#### B. Annual Information Returns

If a local or subordinate organization does not file its own annual information return because it is affiliated with a central organization that files a group return pursuant to Regs. 1.6033-2(d), it must make the central organization's annual information returns available for public inspection and provide copies thereof to requesters, as the case may be. However, if the group information return includes separate schedules for each subordinate organization, a subordinate organization may omit those schedules relating only to the other subordinate organizations. See Regs. 301.6104(d)-3(f)(2).

#### C. Manner of Disclosure By Subordinate Organization

A local or subordinate organization must allow inspection or provide copies of documents, upon request, within a reasonable time, not normally more than two weeks, and at a reasonable time of day. The subordinate organization may mail a copy of the applicable documents to the requester within the aforementioned time frame in lieu of inspection. It may charge the requester for copying and actual postage costs, provided the requester consents. The same rules pertaining to response to written requests for copies of documents by a tax-exempt organization also govern its local or subordinate organization (see section 8 above).

### 11. Making Exemption Applications and Annual Information Returns Widely Available for Public Inspection

A tax-exempt organization is not required to comply with requests for copies of its exemption application or annual information returns if it has made the requested documents "widely available." The tax-exempt organization must nevertheless continue to allow public inspection of the aforementioned documents even if it has made them widely available. See Regs. 301.6104(d)-4(a).

#### A. Definition of "Widely Available"

(1) Posting on the Internet

A tax-exempt organization makes its annual information returns or application for tax exemption widely available by posting them on its World Wide Web page on the Internet or by having the applicable form posted, as part of a database of similar documents of other tax-exempt organizations, on a Web page established and maintained by another entity. The final regulations do not define an "other entity" that will establish or maintain the envisioned database. The World Wide Web page must:

- clearly inform readers that the documents are available and provide instruction for downloading;
- exactly reproduce the image of the exemption application and annual information returns as they were originally filed with the Service, excluding any information not subject to public disclosure, when the documents are accessed and viewed, downloaded, viewed and printed in hard copy from the World Wide Web page;
- allow anyone with access to the Internet to access, download, view and print the document without special computer hardware or software required for that format (other than software that is readily available without charge) and without payment of a fee to the tax-exempt organization or to another entity maintaining the World Wide Web page. See Regs. 301.6104(d)-4(b)(1) and (2)(i)(A)-(C). (One format that currently meets this criteria is Portable Document Format (.pdf)); see Public Announcement 99-62, Internal Revenue Bulletin 1999-25).

In order for the documents to be "widely available" within the meaning of Regs. 301.6104(d)-4, the entity that maintains the World Wide Web page must have procedures that ensure the reliability and accuracy of the documents posted. It must take reasonable precautions to prevent alteration, destruction or accidental loss of the document when posted on the page. Should a posted document be altered, destroyed or lost, the entity must correct or replace the document. See Regs. 301.6104(d)-4(b)(2)(iii).

(2) Other Methods of Making Documents Widely Available

There are currently no other prescribed methods of making exemption applications and annual information returns widely available. The Service nevertheless may prescribe additional

methods, other than Internet posting, that a tax-exempt organization may use to make its documents widely available. See Regs. 301.6104(d)-4(c).

(3) Notice to Requesters

Where a tax-exempt organization has posted its exemption application and/or annual information on the Internet in the manner prescribed by Regs. 301.6104(d)-4(b)(2), it must notify any person requesting a copy where the documents are available, such as the address on the World Wide Web. In response to an in-person request, the tax-exempt organization must provide the notice immediately; if a written request, it must provide the notice within seven days of receiving the request. See Regs. 301.6104(d)-4(d).

B. Transition Rule for Tax-exempt Organizations That Posted Their Documents on the Internet Before the Effective Date of These Regulations

A tax-exempt organization that posted its exemption application and annual information returns on the World Wide Web page on or before April 9, 1999, in a manner consistent with regulation project REG-246250-96 (1997-2 C.B. 627)(see Regs. 601.601(d)(2)), will be treated as complying with the Internet posting requirements prescribed in Regs. 301.6104(d)-4(b)(2), as discussed above, until June 8, 2000. This transition rule is effective only if the documents can be accessed, downloaded, viewed and printed without payment of a fee to the tax-exempt organization or to the entity maintaining the World Wide Web page. See Regs. 301.6104(d)-4(b)(2)(ii).

12. Tax-Exempt Organizations Subject to Harassment Campaigns

A tax-exempt organization that is the subject of a campaign of harassment via the request of many copies of annual returns or exemption applications is not required to fulfill such requests, provided it receives a harassment determination letter from the Service. Specifically, the district director of the key district (or such person as the Commissioner may designate) in which the tax-exempt organization's principal office is located must determine that it is the subject of a harassment campaign and that compliance with the requests would not be in the public interest. See the amended IRC 6104(d)(4) and Regs. 301.6104(d)-5. There is a two part inquiry: (1) whether there is a harassment campaign; and (2) whether compliance with such requests would not be in the public interest.

A. Harassment Defined

A prerequisite for a harassment campaign is the receipt by a tax-exempt organization of a "group of requests" for its exemption application and annual information returns. The final regulations do not quantify how many or how few requests constitute a "group of requests" or specify the time period over which a "group of requests" is measured. However, the final regulations include four examples that provide considerable guidance on this matter. See Regs. 301.6104(d)-5(f).

But Regs. 301.6104(d)-5(c) specifically provides that a tax-exempt organization may disregard any request for copies of all or part of an exemption application or annual information returns beyond the first two received within any 30-day-period or the first four within any one-year-period from the same individual or the same address. The tax-exempt organization may follow this rule regardless of whether the district director has determined that it is subject to a harassment campaign.

A group of requests may constitute a harassment campaign if the relevant facts and circumstances indicate that the requests are part of a single coordinated effort to disrupt the operations of the tax-exempt organization. See Regs. 301.6104(d)-5(b). Facts and circumstances that indicate the tax-exempt organization is the subject of a campaign of harassment include the following:

- a sudden increase in the number of requests;
- an extraordinary number of requests made through form letters or similarly worded correspondence;
- evidence of a purpose to deter significantly the organization's employees or volunteers from pursuing the organization's exempt purpose;
- requests that contain language hostile to the tax-exempt organization;
- direct evidence of bad faith by organizers of the purported harassment campaign;
- evidence that the organization has already provided the requested documents to a member of the purported harassing group; and
- a demonstration by the tax-exempt organization that it routinely provides copies of its documents upon request. See Regs. 301.6104(d)-5(b).

The regulations suggest that one indicator is not determinative of a harassment campaign. See example 2 in Regs. 301.6104(d)-5(f), which highlights this.

#### B. Determination Procedure

A tax-exempt organization may apply for a determination that it is the subject of a harassment campaign by submitting a signed application to the district director for the Key District where its principal office is located. The application must contain the following:

- a written statement giving the organization's name, address, and employer identification number;
- the name, address and telephone number of the person to contact regarding the application; and
- description, in detail, of the facts and circumstances that the organization believes support a determination that it is subject to a harassment campaign.

The tax-exempt organization may suspend compliance with any request it reasonably believes to be part of a harassment campaign, provided that it files its application within ten business days from the day it first suspends compliance with the requests. See Regs. 301.6104(d)-5(f), example 3. The tax-exempt organization may continue the suspension until it receives a response from the Service. See Regs. 301.6104(d)-5(d).

If the district director determines that the tax-exempt organization is the subject of a harassment campaign and it is not in the public interest to comply with the requests, the organization is not required to comply with the requests for copies that it reasonably believes are part of the campaign. This determination may be subject to other terms and conditions imposed by the district director. See Regs. 301.6104(d)-5(e). A revenue procedure clarifying this procedure is being drafted at the time of this writing.

#### C. Suspension of Penalties

Liability for penalties under IRC 6652(c)(1)(C), IRC 6652(c)(1)(D) or IRC 6685 are suspended during the consideration of a request for a harassment campaign determination. Where the district director determines that the tax-exempt organization is not the subject of a harassment campaign, the tax-exempt organization must fulfill the requests within thirty days of receiving the determination. See Regs. 301.6104(d)-5(e).

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If the district director determines that the tax-exempt organization did not have a reasonable basis for requesting a determination that it is a subject of a harassment campaign or a reasonable belief that a particular request was part of the campaign, the person (as defined by IRC 6652(c)(4)(C)) remains liable for any penalties that result from not providing the copies of the requested documents in a timely fashion. See Regs. 301.6104(d)-5(e). For specific examples, see Regs. 301.6104(d)-5(f).

13. Conclusion

The final regulations (T.D. 8818) provides considerable guidance to Service personnel trying to administer the law and tax payers trying to comply with the law. Any IRC 6104(d) disclosure questions should be directed to Michael Seto at (202) 622-2253, or to Toussaint Tyson at (202) 622-8363.