

[4830-01-P]

Published January 5, 2005

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

TD 9173

RIN 1545-BB22

Authority to charge fees for furnishing copies of exempt organizations' material open to public inspection.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: These final regulations adopt as final without change the temporary regulations published in the Federal Register on July 9, 2003, which amended the then-existing regulations regarding fees for copies of exempt organizations' material the IRS must make available to the public under section 6104 of the Internal Revenue Code (Code). These final regulations also adopt as final without change the conforming amendment included in the temporary regulations concerning the fees that an exempt organization may charge for furnishing copies of such material when required to do so.

DATES: These final regulations are effective January 5, 2005.

FOR FURTHER INFORMATION CONTACT: Sarah Tate, 202-622-4560 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations published at 68 FR 40768, July 9, 2003, amended the then-existing regulations to make clear that any fee assessed by the IRS for furnishing

copies of documents required to be made publicly available under section 6104 of the Code shall be no more than the fee under the IRS' Freedom of Information Act (FOIA) fee schedule. Those temporary regulations also amended the then-existing regulations to make clear that that an exempt organization may charge the applicable per-page copying fee under the IRS' FOIA fee schedule for any number of pages, without regard to the fee exclusion applicable to the IRS for the first 100 pages.

The IRS simultaneously published a notice of proposed rulemaking at 68 FR 40849, July 9, 2003, with a cross-reference to the text of the temporary regulations. The notice of proposed rulemaking invited public comment on the temporary regulations. The IRS has not received any public comments or any request for a public hearing. The IRS has not identified any reason that the text of the temporary regulations should be altered. The text of the temporary rules, now adopted as final, is identical to the text of that proposed rule.

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these final regulations, and because these final regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration (SBA) for comment on their impact on small businesses.

Drafting Information

The principal author of these final regulations is Sarah Tate, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division. However, other personnel from the IRS and Treasury Department participated in their development.

PART 301 - - PROCEDURE AND ADMINISTRATION

Accordingly, the IRS and the Department of the Treasury adopt as final without change the temporary regulations amending 26 CFR, part 301, which were published July 9, 2003.

Mark E. Matthews

Deputy Commissioner for Services and Enforcement.

Approved: December 28, 2004.

Eric Solomon

Acting Deputy Assistant Secretary of the Treasury.