

because \$136,000 exceeds \$100,000, the minimum net worth necessary for Trustee X to accept new accounts for 1996 is \$136,000.

(d) For 1996, the amount determined under § 1.408-2(e)(6)(ii)(C) for Trustee X is determined as follows: (1) two percent of \$4,100,000 equals \$82,000; (2) one percent of \$1,400,000 equals \$14,000; and (3) \$82,000 minus \$14,000 equals \$68,000. Thus, because \$68,000 exceeds \$50,000, the minimum net worth necessary for Trustee X to avoid a mandatory relinquishment of accounts for 1996 is \$68,000.

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Margaret Milner Richardson,  
*Commissioner of Internal Revenue.*

Approved: December 12, 1995.

Leslie Samuels,

*Assistant Secretary of the Treasury.*

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## 26 CFR Part 1

[TD 8640]

RIN 1545-A152

### Exempt Organizations Not Required To File Annual Returns: Integrated Auxiliaries of Churches

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations.

**SUMMARY:** This document contains final regulations that exempt certain integrated auxiliaries of churches from filing information returns. These regulations incorporate the rules of Rev. Proc. 86-23 (1986-1 C.B. 564), into the regulations defining integrated auxiliary for purposes of determining what entities must file information returns. The new definition focuses on the sources of an organization's financial support in addition to the nature of the organization's activities.

**DATES:** These regulations are effective December 20, 1995.

For dates of applicability of these regulations, see § 1.6033-2(h)(6).

**FOR FURTHER INFORMATION CONTACT:** Terri Harris or Paul Accettura, of the Office of the Associate Chief Counsel (Employee Benefits and Exempt Organizations), IRS, at 202-622-6070 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 15, 1994 proposed regulations §§ 1.6033-2 and 1.508-1 [EE-41-86 (1995-2 I.R.B. 20)] under sections 6033(a)(2) and 508 of the Internal Revenue Code of 1986, respectively, were published in the Federal Register (59 FR 64633). The

proposed regulations adopted the rules of Rev. Proc. 86-23 (1986-1, C.B. 564) as the definition of integrated auxiliary of a church replacing the current definition set forth in § 1.6033-2(g)(5). Additionally, section 508(c) excepts integrated auxiliaries of a church from the requirement that new organizations notify the Secretary of the Treasury that they are applying for recognition of section 501(c)(3) status (Form 1023). For consistency, § 1.508-1(a)(3)(i)(a), which gives several examples of integrated auxiliaries, was proposed to be amended by deleting the examples and by adding a cross-reference to § 1.6033-2(h) for the definition of integrated auxiliary of a church. After IRS and Treasury consideration of the public comments received regarding the proposed regulations, the regulations are adopted as revised by this Treasury decision.

#### Explanation of Provisions

Section 6033(a)(1) requires organizations that are exempt from income tax under section 501(a) to file annual returns. Section 6033(a)(2)(A) provides exceptions to this requirement for certain specified types of organizations, including, among others, churches, their integrated auxiliaries, and conventions or associations of churches. Section 6033(a)(2)(B) provides that the Secretary may relieve any organization from the filing requirement where the Secretary determines that filing is not necessary to the efficient administration of the internal revenue laws.

Prior to this Treasury decision, § 1.6033-2(g)(5)(i) defined the term integrated auxiliary of a church as an organization that is: (1) exempt from taxation as an organization described in section 501(c)(3); (2) affiliated with a church (within the meaning of § 1.6033-2(g)(5)(iii)); and (3) engaged in a principal activity that is "exclusively religious." Section 1.6033-2(g)(5)(ii) provides that an organization's principal activity is not "exclusively religious" if that activity is educational, literary, charitable, or of another nature (other than religious) that would serve as a basis for exemption under section 501(c)(3).

The "exclusively religious" element of the definition was litigated in *Lutheran Social Service of Minnesota v. United States*, 583 F. Supp. 1298 (D. Minn. 1984), *rev'd* 758 F.2d 1283 (8th Cir. 1985), and *Tennessee Baptist Children's Homes, Inc. v. United States*, 604 F. Supp. 210 (M.D. Tenn. 1984) *aff'd*, 790 F.2d 534 (6th Cir. 1986). While the litigation over the "exclusively religious" standard was

proceeding, Congress enacted section 3121(w) of the Internal Revenue Code, Tax Reform Act of 1984, Pub. L. 98-369, section 2603(b), 98 Stat. 494, 1128 (1984), which permits certain church-related organizations to elect out of social security coverage if they meet a standard based on the degree of financial support they receive from a church. In light of this litigation and the enactment of section 3121(w), IRS personnel met with representatives of various church organizations to encourage voluntary compliance with the filing requirements and to develop a less controversial and more objective standard for identifying an integrated auxiliary of a church.

Subsequent to these meetings the IRS published Rev. Proc. 86-23, which provides that, for tax years beginning after December 31, 1975, an organization is not required to file Form 990 if it is: (1) described in sections 501(c)(3) and 509(a) (1), (2), or (3); (2) affiliated with a church or a convention or association of churches; and (3) internally supported. With respect to this last criterion, Rev. Proc. 86-23 sets forth an internal support standard that is similar to the financial support standard in section 3121(w).

The proposed regulations adopted the rules of Rev. Proc. 86-23 as the definition of the term integrated auxiliary of a church replacing the current definition set forth in § 1.6033-2(g)(5). The final regulations retain the definition of an integrated auxiliary of a church that is contained in the proposed regulations.

Under this Treasury decision, to be an integrated auxiliary of a church an organization must first be described in section 501(c)(3) and section 509(a) (1), (2), or (3), and be affiliated with a church in accordance with standards set forth in the regulations. An organization meeting those tests is an integrated auxiliary if it either: (1) does not offer admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public; or (2) offers admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public and not more than 50 percent of its support comes from a combination of government sources, public solicitation of contributions, and receipts other than those from an unrelated trade or business.

Some commentators have noted that certain church-related organizations that finance, fund and manage pension programs were originally excused from filing by Notice 84-2 (1984-1 C.B. 331), which was issued pursuant to the Commissioner's discretionary authority