

§ 505. Additional requirements for organizations described in paragraph (9) or (17) of section 501(c)

(a) Certain requirements must be met in the case of organizations described in section 501(c)(9)

(1) Voluntary employees' beneficiary associations, etc.

An organization described in section 501(c)(9) which is part of a plan shall not be exempt from tax under section 501(a) unless such plan meets the requirements of subsection (b) of this section.

(2) Exception for collective bargaining agreements

Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to an agreement between employee representatives and 1 or more employers if the Secretary finds that such agreement is a collective bargaining agreement and that such plan was the subject of good faith bargaining between such employee representatives and such employer or employers.

(b) Nondiscrimination requirements

(1) In general

Except as otherwise provided in this subsection, a plan meets the requirements of this subsection only if—

(A) each class of benefits under the plan is provided under a classification of employees which is set forth in the plan and which is found by the Secretary not to be discriminatory in favor of employees who are highly compensated individuals, and

(B) in the case of each class of benefits, such benefits do not discriminate in favor of employees who are highly compensated individuals.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit shall not be considered to fail to meet the requirements of subparagraph (B) merely because the benefits available bear a uniform relationship to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

(2) Exclusion of certain employees

For purposes of paragraph (1), there may be excluded from consideration—

(A) employees who have not completed 3 years of service,

(B) employees who have not attained age 21,

(C) seasonal employees or less than half-time employees,

(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

(E) employees who are nonresident aliens and who receive no earned income (within

the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).

(3) Application of subsection where other non-discrimination rules provided

In the case of any benefit for which a provision of this chapter other than this subsection provides nondiscrimination rules, paragraph (1) shall not apply but the requirements of this subsection shall be met only if the non-discrimination rules so provided are satisfied with respect to such benefit.

(4) Aggregation rules

At the election of the employer, 2 or more plans of such employer may be treated as 1 plan for purposes of this subsection.

(5) Highly compensated individual

For purposes of this subsection, the determination as to whether an individual is a highly compensated individual shall be made under rules similar to the rules for determining whether an individual is a highly compensated employee (within the meaning of section 414(q)).

(6) Compensation

For purposes of this subsection, the term "compensation" has the meaning given such term by section 414(s).

(7) Compensation limit

A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed \$200,000. The Secretary shall adjust the \$200,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B). This paragraph shall not apply in determining whether the requirements of section 79(d) are met.

(c) Requirement that organization notify Secretary that it is applying for tax-exempt status

(1) In general

An organization shall not be treated as an organization described in paragraph (9) or (17) of section 501(c)—

(A) unless it has given notice to the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition of such status, or

(B) for any period before the giving of such notice, if such notice is given after the time prescribed by the Secretary by regulations for giving notice under this subsection.

(2) Special rule for existing organizations

In the case of any organization in existence on July 18, 1984, the time for giving notice under paragraph (1) shall not expire before the date 1 year after such date of the enactment.

(Added Pub. L. 98-369, div. A, title V, §513(a), July 18, 1984, 98 Stat. 863; amended Pub. L. 99-514, title XI, §§1114(b)(16), 1151(e)(2)(B), (g)(6), (j)(3), title XVIII, §§1851(c), 1899A(16), Oct. 22, 1986, 100 Stat. 2452, 2506-2508, 2863, 2959; Pub. L. 100-647, title I, §1011B(a)(27)(C), (31)(B), (32), Nov.

10, 1988, 102 Stat. 3487, 3488; Pub. L. 101-140, title II, §§ 203(a)(1), (2), 204(c), Nov. 8, 1989, 103 Stat. 830, 833; Pub. L. 103-66, title XIII, § 13212(c), Aug. 10, 1993, 107 Stat. 472; Pub. L. 107-16, title VI, § 611(c)(1), June 7, 2001, 115 Stat. 97; Pub. L. 115-141, div. U, title IV, § 401(b)(21)(D), Mar. 23, 2018, 132 Stat. 1203.)

AMENDMENTS

2018—Pub. L. 115-141, § 401(b)(21)(D)(i), substituted “paragraph (9) or (17)” for “paragraph (9), (17), or (20)” in section catchline.

Subsec. (a). Pub. L. 115-141, § 401(b)(21)(D)(ii), substituted “section 501(c)(9)” for “paragraph (9) or (20) of section 501(c)” in heading.

Subsec. (a)(1). Pub. L. 115-141, § 401(b)(21)(D)(iii), substituted “section 501(c)(9)” for “paragraph (9) or (20) of subsection (c) of section 501”.

Subsec. (c)(1). Pub. L. 115-141, § 401(b)(21)(D)(iv), substituted “paragraph (9) or (17)” for “paragraph (9), (17), or (20)” in introductory provisions.

2001—Subsec. (b)(7). Pub. L. 107-16 substituted “\$200,000” for “\$150,000” in two places.

1993—Subsec. (b)(7). Pub. L. 103-66 substituted “Compensation limit” for “\$200,000 compensation limit” in heading and “exceed \$150,000. The Secretary shall adjust the \$150,000 amount at the same time, and by the same amount, as any adjustment under section 401(a)(17)(B).” for “exceed \$200,000. The Secretary shall adjust the \$200,000 amount at the same time and in the same manner as under section 415(d).” in text.

1989—Subsec. (a)(1). Pub. L. 101-140, § 203(a)(2), amended par. (1) to read as if amendments by Pub. L. 100-647, § 1011B(a)(27)(C), had not been enacted, see 1988 Amendment note below.

Subsec. (b)(2). Pub. L. 101-140, § 203(a)(2), amended par. (2) to read as if amendments by Pub. L. 100-647, § 1011B(a)(31)(B), had not been enacted, see 1988 Amendment note below.

Pub. L. 101-140, § 203(a)(1), amended par. (2) to read as if amendments by Pub. L. 99-514, § 1151(g)(6), had not been enacted, see 1986 Amendment note below.

Subsec. (b)(7). Pub. L. 101-140, § 204(c), inserted at end “This paragraph shall not apply in determining whether the requirements of section 79(d) are met.”

1988—Subsec. (a)(1). Pub. L. 100-647, § 1011B(a)(27)(C), inserted at end “This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies.”

Subsec. (b)(2). Pub. L. 100-647, § 1011B(a)(31)(B), substituted “there shall be” for “there may be” and “who are” for “who may be”.

Subsec. (b)(7). Pub. L. 100-647, § 1011B(a)(32), added par. (7).

1986—Subsec. (a)(1). Pub. L. 99-514, § 1851(c)(1), struck out “of an employer” before “shall”.

Subsec. (a)(2). Pub. L. 99-514, § 1851(c)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Paragraph (1) shall not apply to any organization which is part of a plan maintained pursuant to 1 or more collective bargaining agreements between 1 or more employee organizations and 1 or more employers.”

Subsec. (b)(1). Pub. L. 99-514, § 1851(c)(2), (3), substituted “as otherwise provided in this subsection” for “as provided in paragraph (2)” in introductory provision, and in subpar. (B) substituted “highly compensated individuals” for “highly compensated employees”.

Subsec. (b)(2). Pub. L. 99-514, § 1151(g)(6), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “For purposes of paragraph (1), there may be excluded from consideration—

“(A) employees who have not completed 3 years of service,

“(B) employees who have not attained age 21,

“(C) seasonal employees or less than half-time employees,

“(D) employees not included in the plan who are included in a unit of employees covered by an agreement between employee representatives and 1 or more employers which the Secretary finds to be a collective bargaining agreement if the class of benefits involved was the subject of good faith bargaining between such employee representatives and such employer or employers, and

“(E) employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)).”

Subsec. (b)(4). Pub. L. 99-514, § 1151(e)(2)(B), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “For purposes of this subsection—

“(A) AGGREGATION OF PLANS.—At the election of the employer, 2 or more plans of such employer may be treated as 1 plan.

“(B) TREATMENT OF RELATED EMPLOYERS.—Rules similar to the rules of subsections (b), (c), (m), and (n) of section 414 shall apply. For purposes of the preceding sentence, section 414(n) shall be applied without regard to paragraph (5).”

Subsec. (b)(5). Pub. L. 99-514, § 1114(b)(16), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “For purposes of this subsection, the term ‘highly compensated individual’ has the meaning given such term by section 105(h)(5). For purposes of the preceding sentence, section 105(h)(5) shall be applied by substituting ‘10 percent’ for ‘25 percent’.”

Subsec. (b)(6). Pub. L. 99-514, § 1151(j)(3), added par. (6).

Subsec. (c)(2). Pub. L. 99-514, § 1899A(16), substituted “July 18, 1984” for “the date of the enactment of the Tax Reform Act of 1984”.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to years beginning after Dec. 31, 2001, see section 611(i)(1) of Pub. L. 107-16, set out as a note under section 415 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, to benefits accruing in plan years beginning after Dec. 31, 1993, see section 13212(d) of Pub. L. 103-66, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 203(a)(1), (2) of Pub. L. 101-140 effective as if included in section 1151 of Pub. L. 99-514, see section 203(c) of Pub. L. 101-140, set out as a note under section 79 of this title.

Pub. L. 101-140, title II, § 204(d)(4), Nov. 8, 1989, 103 Stat. 833, provided that: “The amendment made by subsection (c) [amending this section] shall take effect as if included in the amendment made by section 1011B(a)(32) of the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100-647].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1114(b)(16) of Pub. L. 99-514 applicable to years beginning after Dec. 31, 1987, see section 1114(c)(2) of Pub. L. 99-514, set out as a note under section 414 of this title.

Amendment by section 1151(e)(2)(B), (g)(6), (j)(3) of Pub. L. 99-514 applicable, with certain qualifications and exceptions, to years beginning after Dec. 31, 1988, see section 1151(k) of Pub. L. 99-514, as amended, set out as a note under section 79 of this title.

Amendment by section 1851(c) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Pub. L. 98-369, div. A, title V, §513(c), July 18, 1984, 98 Stat. 865, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section] shall apply to years beginning after December 31, 1984.

“(2) TREATMENT OF CERTAIN BENEFITS IN PAY STATUS AS OF JANUARY 1, 1985.—For purposes of determining whether a plan meets the requirements of section 505(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (a)), there may (at the election of the employer) be excluded from consideration all disability or severance payments payable to individuals who are in pay status as of January 1, 1985. The preceding sentence shall not apply to any payment to the extent such payment is increased by any plan amendment adopted after June 22, 1984.”

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1114 of Pub. L. 99-514, see section 1141 of Pub. L. 99-514, set out as a note under section 401 of this title.

NONENFORCEMENT OF AMENDMENT MADE BY SECTION 1151 OF PUB. L. 99-514 FOR FISCAL YEAR 1990

No monies appropriated by Pub. L. 101-136 to be used to implement or enforce section 1151 of Pub. L. 99-514 or the amendments made by such section, see section 528 of Pub. L. 101-136, set out as a note under section 89 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 115-141 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Mar. 23, 2018, for purposes of determining liability for tax for periods ending after Mar. 23, 2018, see section 401(e) of Pub. L. 115-141, set out as a note under section 23 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 506. Organizations required to notify Secretary of intent to operate under 501(c)(4)

(a) In general

An organization described in section 501(c)(4) shall, not later than 60 days after the organization is established, notify the Secretary (in such manner as the Secretary shall by regulation prescribe) that it is operating as such.

(b) Contents of notice

The notice required under subsection (a) shall include the following information:

- (1) The name, address, and taxpayer identification number of the organization.

- (2) The date on which, and the State under the laws of which, the organization was organized.

- (3) A statement of the purpose of the organization.

(c) Acknowledgment of receipt

Not later than 60 days after receipt of such a notice, the Secretary shall send to the organization an acknowledgment of such receipt.

(d) Extension for reasonable cause

The Secretary may, for reasonable cause, extend the 60-day period described in subsection (a).

(e) User fee

The Secretary shall impose a reasonable user fee for submission of the notice under subsection (a).

(f) Request for determination

Upon request by an organization to be treated as an organization described in section 501(c)(4), the Secretary may issue a determination with respect to such treatment. Such request shall be treated for purposes of section 6104 as an application for exemption from taxation under section 501(a).

(Added Pub. L. 114-113, div. Q, title IV, §405(a), Dec. 18, 2015, 129 Stat. 3118.)

EFFECTIVE DATE

Pub. L. 114-113, div. Q, title IV, §405(f), Dec. 18, 2015, 129 Stat. 3120, provided that:

“(1) IN GENERAL.—The amendments made by this section [enacting this section and amending sections 6033 and 6652 of this title] shall apply to organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and organized after the date of the enactment of this Act [Dec. 18, 2015].

“(2) CERTAIN EXISTING ORGANIZATIONS.—In the case of any other organization described in section 501(c)(4) of such Code, the amendments made by this section shall apply to such organization only if, on or before the date of the enactment of this Act—

“(A) such organization has not applied for a written determination of recognition as an organization described in section 501(c)(4) of such Code, and

“(B) such organization has not filed at least one annual return or notice required under subsection (a)(1) or (i) (as the case may be) of section 6033 of such Code.

In the case of any organization to which the amendments made by this section apply by reason of the preceding sentence, such organization shall submit the notice required by section 506(a) of such Code, as added by this Act, not later than 180 days after the date of the enactment of this Act.”

LIMITATION ON EXPENDITURE OF USER FEES

Pub. L. 114-113, div. Q, title IV, §405(e), Dec. 18, 2015, 129 Stat. 3119, provided that: “Notwithstanding any other provision of law, any fees collected pursuant to section 506(e) of the Internal Revenue Code of 1986, as added by subsection (a), shall not be expended by the Secretary of the Treasury or the Secretary’s delegate unless provided by an appropriations Act.”

PART II—PRIVATE FOUNDATIONS

- Sec. 507. Termination of private foundation status.
- 508. Special rules with respect to section 501(c)(3) organizations.
- 509. Private foundation defined.

AMENDMENTS

1969—Pub. L. 91-172, title I, §101(a), Dec. 30, 1969, 83 Stat. 492, added part heading and analysis for part II.