

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 601.602: Forms and instructions. (Also, Part 1, Section 6033, 1.6033-2)

Rev. Proc. 2003-21

SECTION 1. PURPOSE

This revenue procedure supplements Rev. Proc. 83-23, 1983-1 C.B. 687, by relieving certain United States possession organizations (other than private foundations) from the requirement of having to file an annual information return on Form 990, Return of Organization Exempt from Income Tax.

SEC. 2. BACKGROUND

.01 Section 6033(a)(1) of the Internal Revenue Code states that, with certain exceptions, every organization exempt from taxation under section 501(a) shall file an annual information return.

.02 Section 6033(a)(2)(B) of the Code provides that the Secretary may relieve any organization from the requirement to file a return if the Secretary determines that such filing is not necessary to the efficient administration of the internal revenue laws. Section 1.6033-2(g)(6) of the Income Tax Regulations delegates this authority to the Commissioner.

.03 Rev. Proc. 83-23, 1983-1 C.B. 687, lists certain classes or groups of organizations described in section 501(c) of the Code and exempt from tax under section 501(a) that are not required to file an annual information return on Form 990. The list of organizations that are not required to file an annual information returns includes, for tax years ending on or after December 31, 1982, any organization (other than a private foundation) that normally has

annual gross receipts of not more than \$25,000. Rev. Proc. 94-17, 1994-1 C.B. 579, relieves certain foreign organizations (other than private foundations) from the requirement to file an annual return on Form 990. However, neither revenue procedure addresses organizations formed in United States possessions. Further, these revenue procedures do not distinguish between receipts from sources within the United States and from sources within United States possessions.

.04 Sections 861 through 865 of the Code and the regulations thereunder describe what types of income will be treated as income from sources within the United States.

.05 Section 7701(a)(9) of the Code defines "United States" when used in a geographical sense as only the States and the District of Columbia.

.06 Section 7701(a)(30) of the Code defines "United States person" as a citizen or resident of the United States, a domestic partnership, a domestic corporation, any estate that is not a foreign estate (within the meaning of section 7701(a)(31) of the Code), or any trust if "(i) a court within the United States is able to exercise primary supervision over the administration of the trust, and (ii) one or more United States persons have the authority to control all substantial decisions of the trust."

.07 For purposes of this revenue procedure, a "United States possession organization" is any organization created or organized in a possession of the United States.

.08 A number of organizations formed in United States possessions have asked the Service for relief from filing Form 990 similar to the relief offered to foreign organizations. Because they do not have more than \$25,000 in receipts from United States sources and no significant activity in the United States, the organizations believe the filing serves no useful purpose for tax administration but imposes a significant burden on the affected organizations.

SEC. 3. SCOPE

This revenue procedure applies to United States possession organizations exempt under section 501(a) of the Code (other than private foundations) that normally do not have more than \$25,000 in annual gross receipts from sources within the United States and have no significant activity in the United States. For purposes of the preceding sentence: (i) the tests set forth in section 5 of Revenue Procedure 83-23 apply to determine whether the annual gross receipts of an organization are not normally more than \$25,000; (ii) an organization's gifts, grants, contributions and membership fees are considered to be from sources within the United States only if they are received directly or indirectly from a United States person, as defined in section 7701(a)(30) of the Code; for purposes of this provision, amounts received from individuals who are bona fide residents of a United States possession will not be considered to be from a United States person; and (iii) the source of an organization's other gross receipts is determined by applying rules provided in sections 861 through 865 of the Code and the regulations thereunder (relating to the source of taxable income).

SEC. 4. PROCEDURE

.01 A United States possession organization (other than a private foundation) otherwise required to file Form 990 will be relieved from the filing requirement for any year in which it meets the following conditions:

(1) it normally does not receive more than \$25,000 in gross receipts annually, as defined in section 5 of Rev. Proc. 83-23, from: (i) gifts, grants, contributions and membership fees received directly or indirectly from a United States person as defined in section 7701(a)(30) of the Code; for purposes of this provision a United States person does not include individuals who are bona fide residents of a United States possession; and (ii)

other gross receipts from sources in the United States as determined under rules provided in sections 861 through 865 of the Code and the regulations thereunder; and

(2) it has no significant activity in the United States, as "United States" is defined in section 7701(a)(9) of the Code. For these purposes, the term "activity" includes lobbying and political activity and the operation of a trade or business, but does not include investment activity.

.02 If at any time an organization ceases to meet one or both of the conditions described in section 4.01, the organization is required to file the annual information return for the year in which it first ceased to qualify for relief under this procedure and for all subsequent years in which the organization does not qualify.

SEC. 5. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 83-23 is hereby supplemented.

SEC. 6. EFFECTIVE DATE

This revenue procedure applies for tax years ending on or after December 31, 2002.

SEC. 7. DRAFTING INFORMATION

The principal author of this revenue procedure is Mary Jo Salins of Exempt Organizations Rulings and Agreements. For further information regarding this revenue procedure, contact Ms. Salins at (202) 283-9453 (not a toll free number).