

JULY 19, 2016

Section 501(c)(4) Notice Requirement: IRS Implements New Notice System for Organizations Claiming Exemption Under Section 501(c)(4), Announces Updated Compliance Deadlines

The IRS has **finally caught up** with Congress with respect to the **new notice requirement** for new organizations claiming exemption under Section 501(c)(4). Narrowly (?) missing its self-imposed July 1 deadline for implementing this requirement, the IRS last week released new **temporary (and proposed) regulations**, a Revenue Procedure (**Rev. Proc. 2016-41**) explaining the notification system, and an online, electronic-only form, **Form 8976 (Notice of Intent to Operate Under Section 501(c)(4))** for providing the required notice (along with a \$50 User Fee).

Compliance Deadlines

A social welfare organization's obligations under the new rules depend on when it was (or will be) formed and whether it has already told the IRS of its claim to exemption under Section 501(c)(4):

An organization formed **on or before July 8, 2016** must:

- › **Do nothing** if the organization has **either** a) filed Form 1024 requesting recognition of exemption under Section 501(c)(4), **or** b) submitted Form 990 (any variant) claiming exemption under Section 501(c)(4), on or before July 8, 2016.
- › **Complete Form 8976** (including payment of the User Fee) **by September 6, 2016** if the organization **has neither** filed Form 1024 requesting recognition of exemption under Section 501(c)(4), **nor** submitted Form 990 (any variant) claiming exemption under Section 501(c)(4), on or before July 8, 2016.

An organization formed **after July 8, 2016** must **complete Form 8976** (including payment of the User Fee) **within 60 days of formation**, even if the organization first submits a Form 1024 or any version of Form 990.

Providing notice under this system does not constitute an application for recognition of exemption, and the IRS's acknowledgment of receipt of the notice does not constitute a determination that the organization is exempt.

Penalties

Failure to submit Form 8976 exposes the organization to a penalty of \$20/day, up to a cap of \$5,000. If an organization fails to provide notice, the IRS may demand that the organization do so by a specified date, and failure to comply with such a demand can expose managers personally to the same penalties. Penalties may be subject to abatement upon proof of reasonable cause.

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Watch for Changes

The IRS has requested comments on the temporary/proposed regulations and Rev. Proc. 2016-41, and there are some concerns about the application and enforcement of the new notice requirement under certain circumstances, so it is possible that the rules will change before the regulations become final. We'll be watching for developments.