

adjudicated as a result of action by the U.S. Government over which the alien had no control and for which the alien was not responsible, which precluded the applicant from benefitting from the processing, or as provided in paragraph (b)(2).

(2) *Waiver or refund of fees for replacement immigrant visas.* The consular officer shall waive the application processing fee for a replacement immigrant visa or, upon request, refund such a fee where already paid, if the consular officer is satisfied that the alien, the alien's parent(s), or the alien's representative has established that:

(i) The prior immigrant visa was issued on or after March 27, 2013, to an alien who has been lawfully adopted, or who is coming to the United States to be adopted, by a United States citizen;

(ii) The alien was unable to use the original immigrant visa during the period of its validity as a direct result of extraordinary circumstances, including the denial of an exit permit; and

(iii) The inability to use the visa was attributable to factors beyond the control of the adopting parent or parents and of the alien.

■ 5. Section 42.73 is revised to read as follows:

§ 42.73 Procedure in issuing visas.

(a) *Evidence of visa.* An immigrant visa shall be evidenced by a physical visa or by an electronic visa located in the Department's records. The appropriate symbol as prescribed in § 42.11, showing the classification of the alien, shall be entered on the visa.

(b) *Visa format.* A machine-readable visa shall be in the format designated by the Department, and contain, at a minimum, the following data:

- (1) Full name of the immigrant;
- (2) Visa symbol;
- (3) Location of the visa issuing office;
- (4) Passport number;
- (5) The registration number (A-number) assigned to the immigrant;
- (6) Sex;
- (7) Date of birth;
- (8) Nationality;
- (9) Date of issuance;
- (10) Date of expiration;
- (11) Visa control number;
- (12) Any annotations entered to reflect waivers or other information useful to an immigration officer at a port of entry (POE) upon the immigrant's application for admission to the United States;

(13) A digitized photo of the immigrant; and

(14) Machine-readable data that can be processed by an immigration officer at a POE.

(c) *Disposition of supporting documents.* Post shall, wherever possible, return original supporting documents furnished by the alien. Duplicate copies may be retained in the consular system, as required or necessary.

■ 6. Section 42.74 is revised to read as follows:

§ 42.74 Issuance of new, replacement, or duplicate visas.

(a) *New immigrant visa for a special immigrant under INA 101(a)(27)(A) and (B).* The consular officer may issue a new immigrant visa to a qualified alien entitled to status under INA 101(a)(27)(A) or (B), who establishes:

(1)(i) That the original visa has been lost, mutilated or has expired; or

(ii) That the alien will be unable to use it during the period of its validity; provided that:

(A) The alien pays anew the application processing fees prescribed in the Schedule of Fees (22 CFR 22.1); and

(B) The consular officer ascertains whether the original issuing office knows of any reason why a new visa should not be issued.

(2) [Reserved]

(b) *Replacement immigrant visa for an immediate relative or for an alien subject to numerical limitation.* A consular officer may issue a replacement visa under the original number of a qualified alien entitled to status as an immediate relative (INA 201(b)(2)), a family or employment preference immigrant (INA 203(a) or (b)), or a diversity immigrant (INA 203(c)), if—

(1) The alien is unable to use the visa during the period of its validity due to reasons beyond the alien's control;

(2) The visa is issued during the same fiscal year in which the original visa was issued, or in the following year in the case of an immediate relative only, if the original number had been reported as recaptured;

(3) The number has not been returned to the Department as a "recaptured visa number" in the case of a preference or diversity immigrant;

(4) The alien pays anew the application processing fees prescribed in the Schedule of Fees; and

(5) The consular officer ascertains whether the original issuing office knows of any reason why a new visa should not be issued.

(c) *Replacement visa for adoptees.* A consular officer may issue a replacement immigrant visa to a qualified alien, if the conditions in paragraphs (a)(1) and (3) of this section

are met, and if the consular officer determines—

(1) A prior immigrant visa was issued on or after March 27, 2013, to a child who has been lawfully adopted, or who is coming to the United States to be adopted, by a United States citizen;

(2) The inability to use the visa was attributable to factors beyond the control of the adoptee or the adopting parent(s); and

(3) The application processing fee has been waived pursuant to § 42.71(b)(2) or has been paid anew.

(d) *Duplicate visas issued within the validity period of the original visa.* If the validity of a visa previously issued has not yet terminated and the original visa has been lost or mutilated, a duplicate visa may be issued containing all of the information appearing on the original visa, including the original issuance and expiration dates. The applicant shall execute a new application and provide copies of the supporting documents submitted in support of the original application. The alien must pay anew the application processing fees prescribed in the Schedule of Fees.

Carl C. Risch,

Assistant Secretary of Consular Affairs, U.S. Department of State.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 570

[Docket No. FR-6167-N-01]

Section 108 Loan Guarantee Program: Announcement of Fee To Cover Credit Subsidy Costs for FY 2020

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Announcement of fee.

SUMMARY: This document announces the fee that HUD will collect from borrowers of loans guaranteed under HUD's Section 108 Loan Guarantee Program (Section 108 Program) to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in Fiscal Year 2020.

DATES: *Applicability Date:* October 1, 2019.

FOR FURTHER INFORMATION CONTACT: Paul Webster, Director, Financial Management Division, Office of Block Grant Assistance, Office of Community Planning and Development, U.S.

Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410; telephone number 202-402-4563 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339. FAX inquiries (but not comments) may be sent to Mr. Webster at 202-708-1798 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Transportation, Housing and Urban Development, and Related Agencies Appropriations Act, 2015 (division K of Pub. L. 113-235, approved December 16, 2014) (2015 Appropriations Act) provided that “the Secretary shall collect fees from borrowers . . . to result in a credit subsidy cost of zero for guaranteeing” Section 108 loans. Identical language was continued or included in the Department’s continuing resolutions and appropriations acts authorizing HUD to issue Section 108 loan guarantees during Fiscal Years (FYs) 2016, 2017, 2018, and 2019. The Fiscal Year (FY) 2020 HUD appropriations bill under consideration in the House of Representatives (H.R. 3163) also has identical language regarding the fees and credit subsidy cost for the Section 108 Program.

On November 3, 2015, HUD published a final rule (80 FR 67626) that amended the Section 108 Program regulations at 24 CFR part 570 to establish additional procedures, including procedures for announcing the amount of the fee each fiscal year when HUD is required to offset the credit subsidy costs to the Federal Government to guarantee Section 108 loans. For FYs 2016, 2017, 2018, and 2019, HUD published notifications to set the fees.¹

II. FY 2020 Fee: 2.00 Percent of the Principal Amount of the Loan

This document sets the fee for Section 108 loan disbursements under loan guarantee commitments awarded for FY 2020 at 2.00 percent of the principal amount of the loan. HUD will collect this fee from borrowers of loans guaranteed under the Section 108 Program to offset the credit subsidy costs of the guaranteed loans pursuant to commitments awarded in FY 2020. For this fee announcement, HUD is not changing the underlying assumptions or

creating new considerations for borrowers. The calculation of the FY 2020 fee uses a similar calculation model as the FY 2016, FY 2017, FY 2018, and FY 2019 fee notifications, but incorporates updated information regarding the composition of the Section 108 portfolio and the timing of the estimated future cash flows for defaults and recoveries. The calculation of the fee is also affected by the discount rates required to be used by HUD when calculating the present value of the future cash flows as part of the Federal budget process.

As described in 24 CFR 570.712(b), HUD’s credit subsidy calculation is based on the amount required to reduce the credit subsidy cost to the Federal Government associated with making a Section 108 loan guarantee to the amount established by applicable appropriation acts. As a result, HUD’s credit subsidy cost calculations incorporated assumptions based on: (1) Data on default frequency for municipal debt where such debt is comparable to loans in the Section 108 loan portfolio; (2) data on recovery rates on collateral security for comparable municipal debt; (3) the expected composition of the Section 108 portfolio by end users of the guaranteed loan funds (e.g., third-party borrowers and public entities); and (4) other factors that HUD determined were relevant to this calculation (e.g., assumptions as to loan disbursement and repayment patterns).

Taking these factors into consideration, HUD determined that the fee for disbursements made under loan guarantee commitments awarded in FY 2020 will be 2.00 percent, which will be applied only at the time of loan disbursements. Note that future notifications may provide for a combination of upfront and periodic fees for loan guarantee commitments awarded in future fiscal years but, if so, will provide the public an opportunity to comment if appropriate under 24 CFR 570.712(b)(2).

The expected cost of a Section 108 loan guarantee is difficult to estimate using historical program data because there have been no defaults in the history of the program that required HUD to invoke its full faith and credit guarantee or use the credit subsidy reserved each year for future losses.² This is due to a variety of factors, including the availability of Community Development Block Grant (CDBG) funds

as security for HUD’s guarantee as provided in 24 CFR 570.705(b). As authorized by Section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5308), borrowers may make payments on Section 108 loans using CDBG grant funds. Borrowers may also make Section 108 loan payments from other anticipated sources but continue to have CDBG funds available should they encounter shortfalls in the anticipated repayment source. Despite the program’s history of no defaults, Federal credit budgeting principles require that the availability of CDBG funds to repay the guaranteed loans cannot be assumed in the development of the credit subsidy cost estimate (see 80 FR 67629, November 3, 2015). Thus, the estimate must incorporate the risk that alternative sources are used to repay the guaranteed loan in lieu of CDBG funds, and that those sources may be insufficient. Based on the rate that CDBG funds are used annually for repayment of loan guarantees, HUD’s calculation of the credit subsidy cost must acknowledge the possibility of future defaults if those CDBG funds were not available. The fee of 2.00 percent of the principal amount of the loan will offset the expected cost to the Federal Government due to default, financing costs, and other relevant factors. To arrive at this measure, HUD analyzed data on comparable municipal debt over an extended period. The estimated rate is based on the default and recovery rates for general purpose municipal debt and industrial development bonds. The cumulative default rates on industrial development bonds were higher than the default rates on general purpose municipal debt during the period from which the data were taken. These two subsectors of municipal debt were chosen because their purposes and loan terms most closely resemble those of Section 108 guaranteed loans.

In this regard, Section 108 guaranteed loans can be broken down into two categories: (1) Loans that finance public infrastructure and activities to support subsidized housing (other than financing new construction) and (2) other development projects (e.g., retail, commercial, industrial). The 2.00 percent fee was derived by weighting the default and recovery data for general purpose municipal debt and the data for industrial development bonds according to the expected composition of the Section 108 portfolio by corresponding project type. Based on the dollar amount of Section 108 loan guarantee commitments awarded from FY 2013

¹ 80 FR 67634 (November 3, 2015), 81 FR 68297 (October 4, 2016), 82 FR 44518 (September 25, 2017), and 83 FR 50257 (October 5, 2018), respectively.

² U.S. Department of Housing and Urban Development, *Study of HUD’s Section 108 Loan Guarantee Program*, (prepared by Econometrica, Inc. and The Urban Institute), September 2012, at pages 73–74. This fact has not changed since the issuance of this report.

through FY 2018, HUD expects that 43 percent of the Section 108 portfolio will be similar to general purpose municipal debt and 57 percent of the portfolio will be similar to industrial development bonds. In setting the fee at 2.00 percent of the principal amount of the guaranteed loan, HUD expects that the amount generated will fully offset the cost to the Federal Government associated with making guarantee commitments awarded in FY 2020. Note that the FY 2020 fee represents a 0.23 percent decrease from the FY 2019 fee of 2.23 percent.

This document establishes a rate that does not constitute a development decision that affects the physical condition of specific project areas or building sites. Accordingly, under 24 CFR 50.19(c)(6), this document is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Dated: July 12, 2019.

David C. Woll, Jr.,

Principal Deputy Assistant Secretary for
Community Planning and Development.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9873]

RIN 1545-BN25

Regulations on the Requirement To Notify the IRS of Intent To Operate as a Section 501(c)(4) Organization

AGENCY: Internal Revenue Service (IRS),
Treasury.

ACTION: Final regulations and removal of
temporary regulations.

SUMMARY: This document contains final regulations relating to the section 506 requirement, added by the Protecting Americans from Tax Hikes Act of 2015 (the PATH Act), enacted on December 18, 2015, that organizations described in section 501(c)(4) of the Internal Revenue Code (Code) must notify the IRS, no later than 60 days after their establishment, of their intent to operate under section 501(c)(4).

DATES: *Effective Date:* These regulations are effective on July 19, 2019.

Applicability Date: For date of applicability, see § 1.506-1(f).

FOR FURTHER INFORMATION CONTACT:

Melinda Williams at (202) 317-6172 or

Peter A. Holiat at (202) 317-5800 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations amending 26 CFR parts 1 and 602, to specify the notification requirement of section 501(c)(4) organizations under section 506 of the Code. Section 506, which was added by the PATH Act (Pub. L. 114-113, div. Q), requires an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization.

1. Section 501(c)(4) Organizations

Section 501(a) of the Code generally provides that an organization described in section 501(c) is exempt from federal income tax. Section 501(c)(4) describes certain civic leagues or organizations operated exclusively for the promotion of social welfare and certain local associations of employees. An organization is described in section 501(c)(4) and exempt from tax under section 501(a) if it satisfies the requirements applicable to such status. Subject to certain exceptions, section 6033, in part, requires organizations exempt from taxation under section 501(a) to file annual information returns or notices, as applicable.

Although an organization may apply to the IRS for recognition that the organization qualifies for tax-exempt status under section 501(c)(4), there is no requirement to do so (except as provided in section 6033(j)(2), which requires organizations that lose tax-exempt status for failure to file required annual information returns or notices and want to regain tax-exempt status to apply to obtain reinstatement of such status). Accordingly, a section 501(c)(4) organization that files annual information returns or notices (Form 990, "Return of Organization Exempt From Income Tax," or, if eligible, Form 990-EZ, "Short Form Return of Organization Exempt From Income Tax," or Form 990-N (e-Postcard)), as required under section 6033, need not seek an IRS determination of its qualification for tax-exempt status in order to be described in and operate as a section 501(c)(4) organization.

2. The PATH Act

Section 405(a) of the PATH Act added section 506 to the Code, requiring an organization to notify the IRS of its intent to operate as a section 501(c)(4) organization. In addition, section 405(b) and (c) of the PATH Act amended sections 6033(f) and 6652(c), relating to information that section 501(c)(4) organizations may be required to

include on their annual information returns and penalties for certain failures by tax-exempt organizations to comply with filing or disclosure requirements, respectively.

Section 506(a) requires a section 501(c)(4) organization, no later than 60 days after the organization is established, to notify the Secretary of the Department of the Treasury (Secretary) that it is operating as a section 501(c)(4) organization (the notification). Section 506(b) provides that the notification must include: (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; and (3) a statement of the purpose of the organization. Section 506(c) requires the Secretary to send the organization an acknowledgment of the receipt of its notification within 60 days. Section 506(d) permits the Secretary to extend the 60-day notification period in section 506(a) for reasonable cause. Section 506(e) provides that the Secretary shall impose a reasonable user fee for submission of the notification. Section 506(f) provides that, upon request by an organization, the Secretary may issue a determination with respect to the organization's treatment as a section 501(c)(4) organization and that the organization's request will be treated as an application for exemption from taxation under section 501(a) subject to public inspection under section 6104.¹

In addition, the PATH Act amended section 6033(f) to require a section 501(c)(4) organization submitting the notification to include with its first annual information return after submitting the notification any additional information prescribed by regulation that supports the organization's treatment as a section 501(c)(4) organization.

The PATH Act also amended section 6652(c) to impose penalties for failure to submit the notification by the date and in the manner prescribed in regulations. In particular, section 6652(c)(4)(A) imposes a penalty on an organization that fails to submit the notification equal to \$20 per day for each day such failure continues, up to a maximum of \$5,000. Additionally, section 6652(c)(4)(B) imposes a similar penalty on persons who fail to timely submit the notification in response to a written request by the Secretary.

¹ The separate procedure by which an organization may request a determination of tax-exempt status is currently prescribed in Rev. Proc. 2019-5, 2019-1 IRB 230 and will be set forth in successor annual updates of that Revenue Procedure.