Tax Exempt and Government Entities

EXEMPT ORGANIZATIONS

APPLYING
for 501(c)(3) Tax-Exempt Status

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Applying for 501(c)(3) Tax-Exempt Status

Federal tax law provides tax benefits to nonprofit organizations recognized as exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code (IRC). It requires that most organizations apply to the Internal Revenue Service (IRS) for that status.

This IRS Publication 4220 presents general guidelines for organizations that seek tax-exempt status under IRC Section 501(c)(3). Content includes references to the statute, Treasury Regulations, other IRS publications that explain the requirements for tax-exempt status and IRS forms with instructions. Publication 4220 is neither comprehensive nor intended to address every situation. As an alternative to applying for exemption, an organization may obtain many of the benefits of 501(c)(3) status by affiliating with an existing charity that acts as its agent. It is important to note that the existing charity must be given full control and authority over the program.

To learn more about the rules and procedures that pertain to organizations applying for exemption from federal income tax under IRC Section 501(c)(3), see Publication 557, Tax-Exempt Status for Your Organization. For assistance on 501(c)(3) status, you may also want to consult a tax adviser.

the founder's family, its shareholders or persons controlled by these interests;

Why Apply for 501(c)(3) Status?

The benefits of having 501(c)(3) status include exemption from federal income tax and eligibility to receive tax-deductible charitable contributions. To qualify for these benefits, most organizations must file an application with, and be recognized by, the IRS as described in this publication. Another benefit is that some organizations may be exempt from certain employment taxes.

Individual and corporate donors are more likely to support organizations with 501(c)(3) status because their donations can be tax deductible. Recognition of exemption under IRC Section 501(c)(3) assures foundations and other grant-making institutions that they are issuing grants or sponsorships to permitted beneficiaries.

An IRS determination of 501(c)(3) status is recognized and accepted for other purposes. For example, state and local officials may grant exemption from income, sales or property taxes. In addition, the U.S. Postal Service offers reduced postal rates to certain organizations.

Who is Eligible for 501(c)(3) Status?

There are three key components for an organization to be exempt from federal income tax under IRC Section 501(c)(3). A not-for-profit (in other words nonprofit) organization must be organized and operated exclusively for one or more exempt purposes.

Organized – A 501(c)(3) organization must be organized as a corporation, trust or unincorporated association. An organization's organizing documents (articles of incorporation, trust documents, articles of association) must:

- limit its purposes to those described in IRC Section 501(c)(3);
- not expressly permit activities that do not further its exempt purposes, in other words unrelated activities; and
- permanently dedicate its assets to exempt purposes.

Operated – Because a substantial portion of an organization's activities must further its exempt purpose, certain other activities are prohibited or restricted including, but not limited to, the following activities. A 501(c)(3) organization:

- must absolutely refrain from participating in the political campaigns of candidates for local, state or federal office;
- must restrict its lobbying activities to an insubstantial part of its total activities;
- must ensure that its earnings do not inure to the benefit of any private shareholder or individual;
- must not operate for the benefit of private interests such as those of its founder,

- must not operate for the primary purpose of conducting a trade or business that is not related to its exempt purpose, such as a school's operation of a factory; and
- must not have purposes or activities that are illegal or violate fundamental public policy.

Exempt Purpose – To be tax exempt, an organization must have one or more exempt purposes, stated in its organizing document. IRC Section 501(c)(3) lists the following exempt purposes: charitable, educational, religious, scientific, literary, fostering national or international sports competition, preventing cruelty to children or animals, and testing for public safety.

501(c)(3) Organizations

The most common types of 501(c)(3) organizations are charitable, educational and religious.

CHARITABLE

Charitable organizations conduct activities that promote:

- relief of the poor, the distressed or the underprivileged
- advancement of religion
- advancement of education or science
- erection or maintenance of public buildings, monuments or works
- lessening the burdens of government
- lessening neighborhood tensions
- eliminating prejudice and discrimination
- defending human and civil rights secured by law
- combating community deterioration and juvenile delinquency

EDUCATIONAL

Educational organizations include:

- schools such as a primary or secondary school, a college, or a professional or trade school
- organizations that conduct public discussion groups, forums, panels, lectures or similar programs
- organizations that present a course of instruction by means of correspondence or through the use of television or radio
- museums, zoos, planetariums, symphony orchestras or similar organizations
- nonprofit day-care centers
- youth sports organizations

501(c)(3)

RELIGIOUS

The term church includes synagogues, temples, mosques and similar types of organizations. Although the IRC excludes these organizations from the requirement to file an application for exemption, many churches voluntarily file applications for exemption. This recognition by the IRS assures church leaders, members and contributors that the church is tax exempt under IRC Section 501(c)(3) and qualifies for related tax benefits. Other religious organizations that do not carry out the functions of a church, such as mission organizations, speakers' organizations, nondenominational ministries, ecumenical organizations or faith-based social agencies, may qualify for exemption. These organizations must apply for exemption from the IRS. See Publication 1828, Tax Guide for Churches and Religious Organizations, for more details.

Public Charities and Private Foundations

Every organization that qualifies for tax-exempt status under IRC Section 501(c)(3) is further classified as either a public charity or a private foundation. Under IRC Section 508(b), every organization is automatically classified as a private foundation unless it meets one of the exceptions listed in Sections 508(c) or 509(a).

For some organizations, the primary distinction between a classification as a public charity or a private foundation is the organization's source of financial support. Generally, a public charity has a broad base of support while a private foundation has very limited sources of support. This classification is important because different tax rules apply to the operations of each. Deductibility of contributions to a private foundation is more limited than deductibility of contributions to a public charity. See Publication 526, Charitable Contributions, for more information on deductibility of contributions. In addition, private foundations are subject to excise taxes that are not imposed on public charities. For more information about the special tax rules that apply to private foundations, see Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations, and the Life Cycle of a Private Foundation website.

Organizations statutorily classified as public charities under IRC Section 509(a) are:

- churches;
- schools;
- organizations that provide medical or hospital care (including the provision of medical education and in certain cases, medical research);
- organizations that receive a substantial part of their support in the form of contributions from publicly supported organizations, governmental units and/or from the general public;
- organizations that normally receive not more than one-third of their support from gross investment income and more than one-third of their support from contributions, membership fees and gross receipts from activities related to their exempt functions; and
- organizations that support other public charities.

If the organization requests public charity classification based on receiving support from the public, it must continue to seek significant and diversified public support

in later years. Beginning with the organization's sixth year of existence and for all succeeding years, the organization must demonstrate in its annual return that it receives the required amount of public support. If the organization does not meet the public support requirement, it could be reclassified as a private foundation.

In addition, to avoid unexpectedly losing its public charity classification, the organization should keep careful track of its public support information throughout the year, so that it will have the information it needs to complete Schedule A, Form 990 or 990-EZ. Unless the organization is committed to raising funds from the public, it may be more appropriate to consider an alternate statutorily based public charity classification. See Publication 557, Tax-Exempt Status for Your Organization, for assistance with determining how your organization would be classified.

What Responsibilities Accompany 501(c)(3) Status?

While conferring benefits on 501(c)(3) organizations, federal tax law also imposes responsibilities on organizations receiving that status.

Recordkeeping

Section 501(c)(3) organizations are required to keep books and records detailing all activities, both financial and nonfinancial. Financial information, particularly information on its sources of support (contributions, grants, sponsorships and other sources of revenue) is crucial to determining an organization's private foundation status. See Publications 4221-PC, 4221-PF, 557 and the instructions to Forms 990, 990-EZ and 990-PF for more information.

Filing Requirements

Annual Information Returns – Organizations recognized as tax exempt under IRC Section 501(c)(3) may be required to file an annual information return - Form 990, Form 990-EZ, Form 990-N (see below) or Form 990-PF along with certain schedules that may be required for your organization. Certain categories of organizations are excepted from filing Form 990 or Form 990-EZ, including churches. See the instructions with each of these forms and the publications in the "Recordkeeping" section above for more information and guidance.

Annual Electronic Notice – To meet their annual filing requirement, organizations with gross receipts normally $50,000 or less may choose to submit an annual electronic notice using Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or Form 990-EZ. The e-Postcard can only be filed electronically; there is no paper version.

Any organization that fails to file a required annual return or notice for three consecutive years will automatically lose its tax-exempt status, by act of law, as of the due date of the return for the third consecutive year.

Unrelated Business Income Tax – In addition to filing Form 990, 990-EZ or 990-PF, an exempt organization must file Form 990-T if it has $1,000 or more of gross income from an unrelated trade or business during the year. The organization must make quarterly payments of estimated tax on unrelated business income if it expects its tax liability for the year to be $500 or more. The organization may use Form 990-W to help calculate the amount of estimated payments required. In general, the tax is imposed on income from a regularly carried-on trade or business that does not further the organization's exempt purposes (other than by providing funds). See Publication 598, Tax on Unrelated Business Income of Exempt Organizations, and the Form 990-T instructions for more information.

Disclosure Requirements

Public Inspection of Exemption Applications and Returns – Section 501(c)(3) organizations must make their applications (Form 1023 or 1023-EZ) and the annual returns (Form 990, Form 990-EZ or Form 990-PF) available to the public for inspection, upon request and without charge (except for a reasonable charge for copying). Each annual return must be made available for a three-year period starting with the filing date of the return. The IRS is also required to make these documents available for public inspection and copying. These documents must be made available at the organization's principal office during regular business hours. The requests may be made in person or in writing. See Publication 557 for more information.

For tax years beginning after August 17, 2006, Section 501(c)(3) organizations that file unrelated business income tax returns (Forms 990-T) must make them available for public inspection, and the IRS must make those returns publicly available. Organizations should not include private information of donors or other individuals, such as a Social Security number, in any information return.

Charitable Contributions—Substantiation and Disclosure – Organizations that are tax exempt under IRC Section 501(c)(3) must meet certain requirements for documenting charitable contributions. The federal tax law imposes two general disclosure rules: 1) donors must obtain a *written acknowledgment* from a charity for any single contribution of $250 or more before the donors can claim a charitable contribution on their federal income tax returns and 2) a charitable organization must provide a *written disclosure* to a donor who makes a payment in excess of $75 partly as a contribution and partly for goods and services provided by the organization. See Publication 1771, Charitable Contributions – Substantiation and Disclosure Requirements, for more information.

Recordkeeping Requirements

A donor cannot claim a tax deduction for any contribution of cash, a check or other monetary gift made on or after January 1, 2007, unless the donor maintains a record of the contribution in the form of either a bank record (such as a cancelled check) or a written communication from the charity (such as a receipt or a letter) showing the name of the charity, the date of the contribution and the amount of the contribution.

How Do You Apply for 501(c)(3) Status?

Organizations that want to apply for 501(c)(3) status should be aware of the forms required, the user fee, the filing deadline and the processing procedures.

FORMS TO FILE

Form SS-4

An Employer Identification Number (EIN) is your account number with the IRS and is required regardless of whether the organization has employees. Include the organization's EIN on all correspondence to the IRS. Apply for an EIN by faxing or mailing a completed Form SS-4, Application for Employer Identification Number, to the IRS by calling or by submitting an online version of the form. (International applicants may request an EIN by telephone.) Form SS-4 is available at Social Security Administration offices, by request through the IRS at 800-829-3676 and by downloading the form from www.irs.gov. For more information about EINs, see Publication 1635, Understanding Your EIN.

Do not apply for an EIN until your organization is legally formed. Applying for an EIN signals to IRS computer systems that an organization has been created, and therefore triggers filing requirements.

TYPES OF APPLICATIONS

Form 1023

Complete Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, and mail to the address indicated in the instructions. If you submit a substantially incomplete Form 1023, we'll return the application package and user fee to you with a letter of explanation. We'll also return your application package and user fee if you do not use the current version of Form 1023.

A substantially complete application includes:

- The current version of the application form found at www.irs.gov
- The correct user fee
- A signature by an authorized individual
- An employer identification number
- A statement of receipts and expenses
- A copy of your organizing document that meets the requirements of a conformed copy
- A detailed narrative of your proposed activities
- A copy of your bylaws or similar governing rules, if adopted

Note: If your particular letter request doesn't require a listed element, we won't consider that element when determining whether your application is substantially complete.

If we return your application package, our records won't show a pending application for a determination letter. If you still want a determination letter, you must resubmit your entire application package, including the missing information and the correct user fee.

Form 1023-EZ

Small organizations may file Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, instead of Form 1023, and pay the required user fee. Form 1023-EZ must be filed electronically. For more information, see IRS.gov/charities-non-profits.

Form 1023, Interactive

Interactive version of Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, includes helpful hints and links to help you submit a complete application.

Forms 2848 and 8821

Attach Form 2848, Power of Attorney and Declaration of Representative, if someone other than your principal officer or director will represent you on matters about the application. Attach Form 8821, Tax Information Authorization, if you want the IRS to be able to provide information about your application to someone other than a principal officer or director.

When to File

Most organizations must file this application by the end of the 27th month after they were legally formed.

Formation date: A corporation is legally formed when its articles of incorporation are filed with the state, an unincorporated association is legally formed when its organizing document is adopted by the signature of at least two individuals, and a trust is legally formed when all non-charitable interests in the trust property expire or when it is funded if there are no non-charitable interests.

An organization that is not a private foundation is not required to file an application unless its annual gross receipts are normally more than $5,000. An organization must file an application within 90 days of the end of the tax year in which it exceeds this threshold.

Example 1: An organization that was created on January 1, 2016, and exceeds the gross receipts threshold, must file an application by April 30, 2018.

Example 2: An organization that was created on January 1, 2015, but did not exceed the gross receipts threshold until its tax year ending December 31, 2017, must file an application by March 31, 2018.

An organization that files its application before the deadline will usually be recognized as tax exempt under IRC Section 501(c)(3) from the date of its creation, if it meets exemption requirements. An organization that files an application after the deadline will usually be recognized as tax exempt from the date of the application. It may also request exemption retroactive as of the date of creation. See the instructions to the application form for more information.

Determination Letter

The IRS tax specialist reviewing an application may request additional information in writing. If all information received establishes that an organization meets the requirements for exemption, the IRS will issue a determination letter recognizing the organization's exempt status and providing its foundation classification. This is an important document that you should keep in the organization's permanent records.

While Your Application is Pending

While an organization's application is waiting for processing by the IRS, the organization may operate as a tax-exempt organization.

Most organizations are required to file an annual information return (Form 990, Form 990-EZ or Form 990-PF) or electronic notice (Form 990-N) while their application for exemption is pending. An organization's exempt status can be automatically revoked while its application is pending if it has not filed a required return or notice for three consecutive tax periods after its *formation date*. These returns are subject to public disclosure. If the organization has unrelated business income of more than $1,000, it must also file a Form 990-T. See Publication 4221-PC or 4221-PF for more information.

Although donors have no assurance that contributions are tax-deductible for federal income tax purposes until the application is approved, contributions made while an application is pending would qualify if the application is approved. However, if the application is disallowed, contributions would not qualify. Moreover, the organization would be liable for filing federal income tax returns unless its income is otherwise excluded from federal taxation.

The IRS Exempt Organizations website provides information about how to find out about the status of an application for tax-exempt status.

How Do You Get IRS Assistance and Information?

The IRS offers help through live telephone assistance and with reading material that is accessible either online, via mail or at IRS walk-in offices in many areas across the country. IRS forms and publications can be downloaded from the internet and ordered by telephone.

Specialized Assistance for Tax-Exempt Organizations

Get help with questions about applying for tax-exempt status, annual filing requirements and information about exempt organizations.

EO Website www.irs.gov/filing/charities-non-profits

Highlights:

- Applying for Tax Exempt Status provides information about how to apply for IRS recognition of tax-exempt status.
- Annual Reporting & Filing describes 990-series forms, requirements and filing tips.
- Revoked? Reinstated? Learn More provides information about the automatic revocation process and how to be reinstated.
- EO Select Check allows you to search for an organization's tax-exempt status and Form 990-N filings.
- How to Stay Exempt provides resources for tax-exempt nonprofit organizations.
- StayExempt.IRS.gov provides tax basics for exempt organizations.
- Educational Resources and Guidance provides EO related publications, forms, official guidance and other materials.

Subscribe to the EO Update, an electronic newsletter with information for tax-exempt organizations and tax practitioners who represent them.

EO Customer Service 877-829-5500

EO Determinations Office Mailing Address

Internal Revenue Service
Exempt Organizations Determinations
Room 4024
P.O. Box 2508
Cincinnati, OH 45201

Fax Number 855-204-6184

Tax Publications for Exempt Organizations

Download these publications or order a copy by calling the IRS at 800-829-3676.

Pub 15, Circular E, Employer's Tax Guide

Pub 15-A, Employer's Supplemental Tax Guide

Pub 15-B, Employer's Tax Guide to Fringe Benefits

Pub 463, Travel, Entertainment, Gift, and Car Expenses

Pub 517, Social Security and Other Information for Members of the Clergy and Religious Workers

Pub 526, Charitable Contributions

Pub 538, Accounting Periods and Methods

Pub 557, Tax-Exempt Status for Your Organization

Pub 583, Starting a Business and Keeping Records

Pub 598, Tax on Unrelated Business Income of Exempt Organizations

Pub 892, How to Appeal an IRS Determination on Tax-Exempt Status

Pub 1546, Taxpayer Advocate Service We are Here to Help You

Pub 1771, Charitable Contributions—Substantiation and Disclosure Requirements

Pub 1828, Tax Guide for Churches and Religious Organizations

Pub 3079, Tax-Exempt Organizations and Gaming

Pub 3833, Disaster Relief, Providing Assistance Through Charitable Organizations

Pub 4302, A Charity's Guide to Vehicle Donation

Pub 4303, A Donor's Guide to Vehicle Donation

Pub 4221-NC, Compliance Guide for Tax-Exempt Organizations (Other than 501(c)(3) Public Charities and Private Foundations)

Pub 4221-PC, Compliance Guide for 501(c)(3) Public Charities

Pub 4221-PF, Compliance Guide for 501(c)(3) Private Foundations

Pub 4573, Group Exemptions

Pub 4779, Facts about Terminating or Merging Your Exempt Organization

Pub 5248, IRS Form 990-N Electronic Filing System (e-Postcard) User Guide

Forms for Exempt Organizations

Download these forms or order a copy by calling the IRS at 800-829-3676.

Form SS-4, Application for Employer Identification Number

Form 911, Request for Taxpayer Advocate Service Assistance (And Application for Taxpayer Assistance Order)

Form 941, Employer's Quarterly Federal Tax Return

Form 990, Return of Organization Exempt From Income Tax

Form 990-EZ, Short Form Return of Organization Exempt From Income Tax

Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Form 990-N, Electronic Notice (e-Postcard) For Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ (available electronically only)

Form 990-T, Exempt Organization Business Income Tax Return

Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations

Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

Form 1023, Interactive

Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

Form 1041, U.S. Income Tax Return for Estates and Trusts

Form 2848, Power of Attorney and Declaration of Representative

Form 3115, Application for Change in Accounting Method

Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code

Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax

Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation

Form 8282, Donee Information Return

Form 8283, Noncash Charitable Contributions

Form 8821, Tax Information Authorization

Form 8822, Change of Address

Form 8868, Application for Automatic Extension of Time To File an Exempt Organization Return

Form 8879-EO, IRS e-file Signature Authorization for an Exempt Organization

FinCEN Form 114, Report of Foreign Bank and Financial Accounts (filed with Treasury Department)