



Compliance Guide for Tax-Exempt Organizations

**(Other than 501(c)(3)
Public Charities and
Private Foundations)**



Inside:

Activities that may jeopardize
exempt status

Federal information returns, tax
returns or notices that must be filed

Recordkeeping—why, what, when

Changes to be reported to the IRS

Required public disclosures

Resources for tax-exempt organizations



CONTENTS

What activities may jeopardize an organization's tax-exempt status?	2
Private Benefit and Inurement	2
Political Campaign Activities	3
Legislative Activities	5
What federal information returns, tax returns and notices must be filed?	6
Form 990, <i>Return of Organization Exempt From Income Tax</i> , Form 990-EZ, <i>Short Form Return of Organization Exempt From Income Tax</i> and Form 990-N, <i>Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ</i>	6
Form 990-T, <i>Exempt Organization Business Income Tax Return</i>	10
Employment Tax Returns	12
Why keep records?	14
Evaluate Programs	14
Monitor Budgetary Results	14
Prepare Financial Statements	15
Prepare Annual Information and Tax Returns	15
Identify Sources of Receipts	15
Substantiate Revenues, Expenses and Deductions for Unrelated Business Income Tax (UBIT) Purposes	15
What records should be kept?	16
Accounting Periods and Methods	16
Supporting Documents	17
How long should records be kept?	20
Record Retention Periods	20
How should changes be reported to the IRS?	20
Reporting Changes on the Annual Information Return	20
Determination Letters and Private Letter Ruling Requests	21
What disclosures are required?	22
Public Inspection of Exemption Applications and Annual Returns	22
Sale of Free Government Information	23
Solicitation Notice	23
Nondeductible Lobbying and Political Expenditures	24
Charitable Contributions	25
How to get IRS assistance and information	26
Specialized Assistance for Tax-Exempt Organizations	26
Tax Publications for Exempt Organizations	27
Forms for Exempt Organizations	27
General IRS Assistance	28
Tax-exempt organization reference chart	29

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Federal tax law provides tax benefits to nonprofit organizations recognized as exempt from federal income tax under section 501(a) of the Internal Revenue Code (the Code). The Code requires that tax-exempt organizations comply with federal tax law to maintain tax-exempt status and avoid penalties.

In this publication, the IRS focuses on organizations that have been granted tax exemption under section 501(a) of the Code other than section 501(c)(3) public charities and private foundations and section 527 political organizations. For information on the compliance requirements of 501(c)(3) public charities and private foundations, see Publications 4221-PC, *Compliance Guide for 501(c)(3) Public Charities*, and 4221-PF, *Compliance Guide for 501(c)(3) Private Foundations*. For information on 527 political organizations, see www.irs.gov/polorgs.

This publication addresses activities that could jeopardize a tax-exempt organization's exempt status and identifies general compliance requirements on recordkeeping, reporting, and disclosure for exempt organizations (EO's). Content includes references to the statute, Treasury regulations, IRS publications and IRS forms with instructions. This publication is neither comprehensive nor intended to address every situation.

To learn more about compliance rules and procedures that apply to organizations that are exempt from federal income tax, see IRS Publication 557, *Tax-Exempt Status for Your Organization*, as well as the *Life Cycles of Sections 501(c)(3), (4), (5) and (6) Organizations and Information for Other Non-profit Organizations* on www.irs.gov/eo. Stay abreast of new EO information, also on this Web site, by signing up for the *EO Update*, a free e-newsletter for tax-exempt organizations and practitioners who represent them. For further assistance, consult a tax adviser.



501(c)(a) What activities may jeopardize an organization's tax-exempt status?

Once a non-profit organization has completed the application process and has established that it is exempt from federal income tax, the organization's officers, directors, trustees and employees still have ongoing responsibilities. They must ensure that the organization maintains its tax-exempt status and meets its ongoing compliance responsibilities.

A tax-exempt organization that does not restrict its participation in certain activities and does not absolutely refrain from others, risks failing the operational requirements for exemption from income tax and jeopardizing its tax-exempt status. The following summarizes certain limitations on the activities of some common types of tax-exempt organizations.

Private Benefit and Inurement

Many types of non-501(c)(3) tax-exempt organizations including social welfare organizations, business leagues and trade associations, social clubs, voluntary employees' beneficiary associations, cemetery companies, and veterans' organizations, among others, are prohibited, by statute, from allowing inurement of net earnings or assets of the organization to benefit any insider. An insider is a person who has a personal or private interest in the activities of the organization such as an officer, director, or a key employee. An example of prohibited inurement would include payment of unreasonable compensation to an insider.

The types of activities that may be considered to constitute prohibited inurement of earnings may differ from one Code section to another depending on the specified exempt purposes of the organization. Accordingly, an activity that will be considered to result in inurement of earnings to a member of a labor organization may not result in inurement of earnings to a member of an agricultural organization or a social welfare organization because the organizations are organized and operated for different exempt purposes. Go to the Life Cycles of 501(c)(4), (5) and (6) organizations at www.irs.gov/eo for further information about the inurement prohibition and providing benefits to members. In any case, inurement may jeopardize an organization's exempt status.

501(c)(4) Social Welfare Organizations

In cases where a 501(c)(4) organization provides an excess economic benefit to a person who is in a position to exercise substantial influence over its affairs, the organization has engaged in an excess benefit transaction (see **Reporting Excess Benefit Transactions** on page 8) that subjects the person to possible excise taxes. Go to the Life Cycle of a 501(c)(4) organization at www.irs.gov/eo for details about inurement, private benefit, and excess benefit transactions.

Political Campaign Activities

Section 501(c)(4), (5) and (6) organizations may engage in political campaign activities on behalf of or in opposition to candidates for public office. Political campaign activities are those that influence or attempt to influence the selection, nomination, election or appointment of an individual to a federal, state, or local public office. In order to retain its tax-exempt status under section 501(c)(4), (5) or (6), an organization must ensure that its political campaign activities do not constitute the organization's primary activity.

When a 501(c)(4), (5) or (6) organization's communication explicitly advocates the election or defeat of an individual to public office, the communication is considered political campaign activity. A tax-exempt organization that makes



expenditures for political campaign activities shall be subject to tax in an amount equal to its net investment income for the year or the aggregate amount expended on political campaign activities during the year, whichever is less.

Sometimes a 501(c)(4), (5) or (6) organization takes positions on public policy issues that divide candidates in an election for public office. In these situations, the organization needs to consider all the facts and circumstances of the communication in order to determine whether the expenditure is directed toward campaign intervention or is merely issue advocacy related to the organization's exempt purpose.

The IRS considers the following factors that tend to show an advocacy communication is political campaign activity when evaluating a communication on a public policy issue:

- The communication identifies a candidate for public office;
- The timing of the communication coincides with an electoral campaign;
- The communication targets voters in a particular election;
- The communication identifies the candidate's position on the public policy issue that is the subject of the communication;
- The position of the candidate on the public policy issue has been raised as distinguishing the candidate from others in the campaign, either in the communication itself or in other public communications; and
- The communication is not part of an ongoing series of substantially similar advocacy communications by the organization on the same issue.

Factors that tend to show that an advocacy communication on a public policy issue is not political campaign activity include the following:

- The absence of any one or more of the factors listed above;
- The communication identifies specific legislation, or a specific event outside the control of the organization, that the organization hopes to influence;
- The timing of the communication coincides with a specific event outside the control of the organization that the organization hopes to influence, such as a legislative vote or other major legislative action (for example, a hearing before a legislative committee on the issue that is the subject of the communication);

- The communication identifies the candidate solely as a government official who is in a position to act on the public policy issue in connection with the specific event (such as a legislator who is eligible to vote on the legislation); and
- The communication identifies the candidate solely in the list of key or principal sponsors of the legislation that is the subject of the communication.

In lieu of using its own funds, a 501(c)(4), (5) or (6) organization may establish a section 527 political organization, called a separate segregated fund, to engage in political campaign activities. Separate segregated funds must give notice to the IRS in order to be tax exempt unless the fund is required to report to the Federal Election Commission as a political committee, it reasonably anticipates that it will always have less than \$25,000 in gross receipts for any taxable year or meets one of the other exceptions. Access www.irs.gov/polorgs for additional information about political organizations.

Legislative Activities

In general, section 501(c)(4), 501(c)(5) or 501(c)(6) tax-exempt organizations may engage in an unlimited amount of lobbying (i.e., attempting to influence legislation), provided that the lobbying is related to the organization's exempt purpose. An organization will be regarded as attempting to influence legislation if it contacts, or urges the public to contact, members or employees of a legislative body for purposes of proposing, supporting or opposing legislation, or if the organization advocates the adoption or rejection of legislation.

There are non-tax related restrictions on lobbying that tax-exempt organizations should be aware of as well. Section 18 of the Lobbying Disclosure Act of 1995, P.L.104-65, prohibits section 501(c)(4) organizations from receiving federal grants, loans, or other awards if they engage in lobbying activities, even if they conduct the lobbying with their own funds.

Review the Life Cycles of 501(c)(4), 501(c)(5) and 501(c)(6) organizations at www.irs.gov/eo for information about the rules prohibiting substantial unrelated lobbying activities as well as the notice and reporting requirements applicable to certain organizations that incur nondeductible lobbying and political expenses.

What federal information returns, tax returns and notices must be filed?

Most tax-exempt organizations have annual information reporting obligations under the Code to ensure that they continue to be recognized as tax-exempt. And, although they are exempt from federal income tax, they may be liable for employment taxes, unrelated business income tax, excise taxes, and certain state and local taxes, which could result in additional filing requirements.

Form 990, Return of Organization Exempt From Income Tax, Form 990-EZ, Short Form Return of Organization Exempt From Income Tax and Form 990-N, Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ

Tax-exempt organizations generally must file either a:

- Form 990, *Return of Organization Exempt From Income Tax*;
- Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*; or
- 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ*.

The type of form or notice required generally is determined by the amount of the exempt organization's gross receipts or total assets.

Filing Thresholds

In 2008, the IRS redesigned Form 990 and adjusted the filing thresholds over a graduated three-year transition period to allow organizations to become familiar with and prepare to use the new form. An organization's requirement to file the redesigned Form 990 is determined by the amount of its gross receipts or total assets. Some tax-exempt organizations began to use the new form in 2009 to report on activities for tax year 2008. Others won't begin until they report on the 2010 tax year in 2011. The filing threshold for Form 990-N will also change in 2010. The charts, above right, explain which Form 990 a tax-exempt organization is required to file in the coming tax years.

Filing Dates

Forms 990, 990-EZ and 990-N must be filed by the 15th day of the fifth month after the end of the organization's annual accounting period. For example, if an organization's tax period ends on December 31, 2010, the form is due May 15, 2011.

2009 Tax Year (Filed in 2010 or 2011)	Form to File
Gross receipts normally ≤ \$25,000	990-N
Gross receipts > \$25,000 and < \$500,000 , and Total assets < \$1.25 million	990-EZ or 990
Gross receipts ≥ \$500,000 , or Total assets ≥ \$1.25 million	990
2010 Tax Year and later (Filed in 2011 and later)	Form to File
Gross receipts normally ≤ \$50,000	990-N
Gross receipts > \$50,000 and < \$200,000 , and Total assets < \$500,000	990-EZ or 990
Gross receipts ≥ \$200,000 , or Total assets ≥ \$500,000	990

The due date for Form 990 and 990-EZ may be extended automatically for three months by filing Form 8868, *Application for Extension of Time To File an Exempt Organization Return*, before the due date. An additional three-month extension may be requested on Form 8868 if the organization shows reasonable cause why the return cannot be filed by the extended due date.

An organization cannot request an extension for filing the Form 990-N; however, there is no penalty for filing it late. See **Filing Penalties and Revocation of Tax-Exempt Status** on page 9.

Form 990 and Form 990-EZ

The Forms 990 and 990-EZ consist of a core form and schedules. Each organization that files the form must complete the entire core form. Form 990 filers will determine which schedules, if any, they must complete by answering the questions in Part IV, *Checklist of Required Schedules*. Form 990-EZ filers may be required to file schedules as well, as noted in the form instructions.

Filing Exceptions

Tax-exempt organizations not required to file Forms 990 or 990-EZ include:

- Certain organizations affiliated with governmental units;
 - Organizations included in a group return;
 - Black Lung Benefit Trusts, which file the Form 990-BL;
 - Farmers Cooperative Associations, which file Form 1120-C;
- and



- Organizations whose annual gross receipts are normally \$25,000 or less (\$50,000 or less for tax years 2010 and later). See **Form 990-N**, below.

If a tax-exempt organization's gross receipts are normally \$25,000 or less (\$50,000 or less for tax years 2010 and later), and the organization elects to file the Form 990 or Form 990-EZ, it must complete the entire return; otherwise, it must file the Form 990-N. An organization that only completes those items of information on the Form 990 or Form 990-EZ that are required to be provided on an electronic Form 990-N will not be deemed to have met its electronic notice requirement.

Reporting Excess Benefit Transactions

If a 501(c)(4) social welfare organization believes it provided an excess benefit to a person who is in a position to exercise substantial influence over the organization's affairs, it must report the transaction on Form 990 or Form 990-EZ. Excess benefit transactions are governed by section 4958 of the Code. Additional information can be found in the Form 990 and Form 990-EZ instructions.

Form 990-N (e-Postcard)

An organization with gross receipts normally \$25,000 or less (increasing to \$50,000 beginning with the 2010 tax year) is not required to file Form 990 (or Form 990-EZ). Instead, the organization is required to electronically submit Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required To File Form 990 or 990-EZ*.

An organization is required to provide the following information on Form 990-N:

- the organization's legal name;
- any other names the organization uses;
- the organization's mailing address;

- the organization's Web site address (if applicable);
- the organization's taxpayer identification number (TIN);
- name and address of a principal officer of the organization;
- the organization's tax year;
- a statement that the organization's annual gross receipts are normally \$25,000 or less (\$50,000 or less beginning with the 2010 tax year); and
- if applicable, a statement that the organization has terminated or is terminating (going out of business).

By submitting the electronic notice on Form 990-N, an organization acknowledges that it is not required to file a Form 990 or 990-EZ because its gross receipts are normally \$25,000 or less (\$50,000 beginning with the 2010 tax year). In order to make this determination, the organization must keep records that enable it to calculate its gross receipts.

Filers may access the user-friendly filing system to file a Form 990-N at www.irs.gov/eo or by going directly to the filing system Web site at <http://epostcard.form990.org>. Read **Filing Penalties and Revocation of Tax-Exempt Status**, below, for consequences for failure to file this annual electronic notice, and www.irs.gov/eo for information about the Form 990-N.

FILING PENALTIES AND REVOCAION OF TAX-EXEMPT STATUS

If a Form 990 or Form 990-EZ is not filed by its due date, the IRS may assess penalties on the organization of \$20 per day until it is filed. This penalty also applies when the filer fails to include required information or to show correct information. The penalty for failure to file a return or a complete return may not exceed the lesser of \$10,000 or 5 percent of the organization's gross receipts. For an organization that has gross receipts of over \$1 million for the year, the penalty is \$100 a day up to a maximum of \$50,000. The IRS may impose penalties on organization managers who do not comply with a written demand that the information be filed. There is no penalty for filing Form 990-N late.

Section 6033(j) of the Code provides that failure to file Form 990, Form 990-EZ, or Form 990-N for three consecutive years results in revocation of tax-exempt status as of the filing due date for the third return. An organization whose exemption is revoked under this section must apply for reinstatement by filing a Form 1024 and paying a user fee, whether or not the organization was originally required to file for exemption. Reinstatement of exemption may be retroactive if the organization shows that the failure to file was for reasonable cause. Information with respect to the implementation of Section 6033(j) is available at www.irs.gov/eo.

e-Filing Requirements

Certain tax-exempt organizations are required to electronically file with the IRS, based on their financial activity.

Tax-exempt organizations with \$10 million or more in total assets and that also file at least 250 returns in a calendar year, (including income, excise, employment tax, and information returns such as Forms W-2 and 1099), are required to electronically file Form 990.

Tax-exempt organizations required to file Form 990-N must do so electronically. There is no paper form.

Other filers may elect to file Form 990 electronically. Click on the "IRS e-file" logo on the IRS Web site to get the facts on e-filing.

Form 990-T, Exempt Organization Business Income Tax Return

Even if a tax-exempt organization is not required to file a Form 990 or Form 990-EZ, it must file a Form 990-T, *Exempt Organization Business Income Tax Return*, if it has \$1,000 or more of gross income from an unrelated trade or business during the year. Gross income is gross receipts minus cost of goods sold. Net income from income-producing activities is taxable if the activities:

- constitute a trade or business;
- are regularly carried on; and
- are not substantially related to the organization's exempt purpose.

Special rules for organizations exempt under sections 501(c)(7), (9), (17), and (19) are described in Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*.

A tax-exempt organization must pay quarterly estimated tax on unrelated business income if it expects its tax for the year to be \$500 or more. Form 990-W, *Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations*, is a worksheet to determine the amount of estimated tax payments required.

Exceptions and Special Rules

Income from certain business activities are excepted from the definition of unrelated business income. Earnings from these sources are not subject to the unrelated business income tax. Exceptions generally include business income from:

- activities, including fundraisers, that are conducted by volunteer workers, or where donated merchandise is sold;
- qualified conventions and trade shows;
- qualified sponsorship payments; and
- qualified bingo games.

Income from investments and certain “passive” activities are usually excluded from the calculation of unrelated business activity. Examples of this type of income include earnings from routine investments such as certificates of deposit, savings accounts, or stock dividends, royalties, certain rents from real property, and certain gains or losses from the sale of property.

Special rules apply to income derived from real estate or other investments purchased with borrowed funds. Such income is called “debt-financed” income. Debt-financed income generally is subject to the unrelated business income tax.

See also Publication 598, *Tax on Unrelated Business Income of Exempt Organizations* for special rules for organizations exempt under sections 501(c)(7), (9), and (17).

Patient Protection and Affordable Care Act (ACA) Small Business Health Care Tax Credit Reported on Form 990-T

For the years 2010 to 2013, many small tax-exempt organizations that provide health insurance coverage to their employees may qualify for a special tax credit. A small tax-exempt employer may be entitled to a maximum credit of 25% of the employer’s health insurance premium expenses. Eligible small tax-exempt employers described in Code section 501(c) may claim the refundable credit by filing a Form 990-T with an attached Form 8941 showing the calculation of the claimed credit. A tax-exempt employer is not eligible to claim the credit unless it is an organization described in Code section 501(c) that is exempt from tax under Code section 501(a). Consult *IRS.gov* for further information.

FORM 990-T FILING PENALTIES

An organization may be subject to interest and penalty charges if it files a late return, fails to pay tax when due, or fails to pay estimated tax, if required.

Proxy Tax Reported on Form 990-T

The Code imposes reporting and notice requirements on certain tax-exempt organizations described in sections 501(c)(4) other than veterans' organizations, 501(c)(5) other than labor organizations, and 501(c)(6) that incur nondeductible lobbying and political expenses. See also **Nondeductible Lobbying and Political Expenditures** on page 24.

Organizations that do not provide notices of amounts of membership dues allocable to nondeductible lobbying and political campaign expenditures are subject to tax (commonly called a proxy tax) under IRC section 6033(e)(2) on the amount of the expenditures. An organization must report the tax on Form 990-T, *Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))*, at line 37. For information on computing the tax, please see the Form 990-T instructions.

To learn about unrelated business income, refer to Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*, Form 990-T instructions, and Form 990-W instructions at www.irs.gov.

Employment Tax Returns

Like other employers, all tax-exempt organizations that pay wages to employees must withhold, deposit, and pay employment tax, including federal income tax withholding and social security and Medicare (FICA) taxes. A tax-exempt organization must withhold federal income and FICA taxes from employee wages and pay FICA on each employee paid more than \$100



in wages during a calendar year. To know how much income tax to withhold, an organization should have a Form W-4, *Employee's Withholding Allowance Certificate*, on file for each employee. Employment taxes are reported on Form 941, *Employer's Quarterly Federal Tax Return*.

If a small employer (one who has withheld employment taxes of \$1,000 or less during the year) has been instructed by IRS to file Form 944, *Employer's Annual Federal Tax Return*, instead of Form 941, the employer must do so. The employer must file Form 944 even if there is no tax due or if the taxes exceed \$1,000 unless IRS tells it to file Form 941 (or it is filing a final return). See the instructions to Form 944 for information on how to have the filing requirement changed from Form 944 to Form 941.

Any organization that fails to withhold and pay employment tax may be subject to penalties. In addition, if an individual responsible for collecting and paying over employment taxes willfully fails to do so, that person may be found personally liable for the trust fund taxes (employees' withholding and their part of the FICA taxes).

Tax-exempt organizations (other than those described in 501(c)(3)) are also liable for tax under the Federal Unemployment Tax Act (FUTA) for each employee whose wages are \$50 or more during a calendar quarter if, during the current or preceding tax year, the organization had one or more employees at any time in each of 20 calendar weeks or the organization paid wages of \$1,500 or more in any calendar quarter.

Tax-exempt organizations do not generally have to withhold or pay employment tax on payments to independent contractors, but they may have information reporting requirements. If an organization incorrectly classifies an employee as an independent contractor, it may be held liable for employment taxes for that worker.

The requirements for withholding, depositing, reporting and paying employment taxes are explained in Publication 15, *Circular E, Employer's Tax Guide*. For help in determining if workers are employees or independent contractors, see Publication 15-A, *Employer's Supplemental Tax Guide*. Publication 557, *Tax-Exempt Status for Your Organization*, covers the employment tax responsibilities of public charities. These IRS publications can be downloaded at www.irs.gov.



Why keep records?

In general, a tax-exempt organization must maintain books and records to show that it complies with tax rules. The organization must be able to document the sources of receipts and expenditures reported on Form 990, *Return of Organization Exempt From Income Tax* or Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, and Form 990-T, *Exempt Organization Business Income Tax Return*. See **Prepare Annual Information and Tax Returns**, right.

If an organization does not keep required records, it may not be able to show that it qualifies for tax-exempt status. Thus, the organization may lose its tax-exempt status. In addition, a tax-exempt organization may not be able to complete its returns accurately and may be subject to penalties described under **Filing Penalties and Revocation of Tax-Exempt Status** on page 9. When good recordkeeping systems are in place, a tax-exempt organization can evaluate the success of its programs, monitor its budget, and prepare its financial statements and returns.

Evaluate Programs

A tax-exempt organization can use records to evaluate the success of its programs and determine whether they are achieving desired results. Good records can also help an organization identify problem areas and determine what changes it may need to make to improve performance.

Monitor Budgetary Results

Without proper financial records, it is difficult for a tax-exempt organization to assess whether the organization has been successful in adhering to budgetary guidelines. The ability to

monitor income and expenses and ensure that the organization is operating within its budget is crucial to successful stewardship of a tax-exempt organization.

Prepare Financial Statements

It is important to maintain sufficient financial information in order to prepare accurate and timely annual financial statements. A tax-exempt organization may need these statements when it is working with banks, creditors, contributors, and funding organizations. Some states require tax-exempt organizations to make audited financial statements publicly available.

Prepare Annual Information and Tax Returns

Records must support income, expenses, and credits reported on Form 990 series and other tax returns. Generally, these are the same records used to evaluate programs and prepare financial statements. Books and records of tax-exempt organizations must be available for inspection by the IRS. If the IRS examines a tax-exempt organization's returns, the organization must have records to explain items reported. Having a complete set of records will speed up the examination.

Identify Sources of Receipts

Tax-exempt organizations may receive money or property from many sources. With thorough recordkeeping, an organization can identify the sources of receipts. Organizations need this information to separate program from non-program receipts, taxable from non-taxable income and to complete appropriate schedules of Form 990.

Substantiate Revenues, Expenses and Deductions for Unrelated Business Income Tax (UBIT) Purposes

A tax-exempt organization may need records to substantiate the amount, if any, of unrelated business taxable income. An organization must appropriately track the financial revenues and expenses subject to UBIT reporting in order to prepare its unrelated business income tax return, Form 990-T, *Exempt Organization Business Income Tax Return*.

In addition to maintaining required records relating to unrelated business taxable income, section 501(c)(9) organizations (VEBAs) must also maintain records indicating the amount contributed by each member and contributing employer, and the amount and type of benefits paid by the organization for each member.

What records should be kept?

Except in a few cases, the law does not require a special kind of record. A tax-exempt organization can choose any recordkeeping system, suited to its activities, that clearly shows the organization's income and expenses. The types of activities a tax-exempt organization conducts determines the type of records that should be kept for federal tax purposes. A tax-exempt organization should set up a recordkeeping system using an accounting method that is appropriate for proper monitoring and reporting of its financial activities for the tax year. If a tax-exempt organization has more than one program, it should ensure that the records appropriately identify the income and expense items that are attributable to each program.

A recordkeeping system should generally include a summary of transactions. This summary is ordinarily written in the tax-exempt organization's books (for example, accounting journals and ledgers). The books must show gross receipts, purchases, expenses (other than purchases), employment taxes, and assets. For most small organizations, the check-book might be the main source for entries in the books while larger organizations would need more sophisticated ledgers and records. A tax-exempt organization must keep documentation that supports entries in the books.

Accounting Periods and Methods

Tax-exempt organizations must keep their financial records based on an annual accounting period, called a tax year, in order to comply with annual reporting requirements.

Accounting Periods — A tax year is usually 12 consecutive months. There are two kinds of tax years.

calendar tax year—This is a period of 12 consecutive months beginning January 1 and ending December 31.

fiscal tax year—This is a period of 12 consecutive months ending on the last day of any month except December.

Accounting Method — An accounting method is a set of rules used to determine when income and expenses are reported. A tax-exempt organization chooses an accounting method when it files its first annual return. There are two basic accounting methods:

cash method—Under the cash method, a tax-exempt organization reports income in the tax year received. It usually deducts expenses in the year paid.

accrual method—Under an accrual method, a tax-exempt organization generally records income in the tax year earned, (i.e., in the tax year in which a pledge is received, even though it may receive payment in a later year.) It records expenses in the tax year incurred, whether or not it pays the expenses that year.

For more information about accounting periods and methods, see Publication 538, *Accounting Periods and Methods*, and the instructions to Form 990 and Form 990-EZ.

Supporting Documents

Organization transactions such as contributions, purchases, sales, and payroll will generate supporting documents. These documents—grant applications and awards, sales slips, paid bills, invoices, receipts, deposit slips, and canceled checks—contain information to be recorded in accounting records. It is important to keep these documents because they support the entries in books and the entries on tax and information returns. Tax-exempt organizations should keep supporting documents organized by year and type of receipt or expense. Also, keep records in a safe place.



RECORDS MANAGEMENT

GROSS RECEIPTS

Gross receipts are the amounts received from all sources, including contributions. A tax-exempt organization should keep supporting documents that show the amounts and sources of its gross receipts. Documents that show gross receipts include: donor correspondence, pledge documents, cash register tapes, bank deposit slips, receipt books, invoices, credit card charge slips, and Forms 1099-MISC, *Miscellaneous Income*.

PURCHASES, INCLUDING ACCOUNTING FOR INVENTORY

Purchases are items bought, including any items resold to customers. If an organization produces items, it must account for any items resold to customers. Thus, for example, the organization must account for the cost of all raw materials or parts purchased for manufacture into finished products. Supporting documents should show the amount paid, and that the amount was for purchases. Documents for purchases include: canceled checks, cash register tape receipts, credit card sales slips, and invoices. These records will help an organization determine the value of its inventory at the end of the year. See Publication 538, *Accounting Periods and Methods*, for general information on methods for valuing inventory.

EXPENSES

Expenses are the costs a tax-exempt organization incurs (other than purchases) to carry on its program. Supporting documents should show the amount paid and the purpose of the expense. Documents for expenses include: canceled checks, cash register tapes, contracts, account statements, credit card sales slips, invoices, and petty-cash slips for small cash payments.

EMPLOYMENT TAX RECORDS

Organizations that have employees must keep records of compensation and specific employment tax records. Information related to independent contractors should also be maintained. See Publication 15, *Circular E, Employer's Tax Guide*, for details.

ASSETS & LIABILITIES

Assets are the property, (such as investments, buildings, and furniture) an organization owns and uses in its activities. Liabilities reflect the financial obligations of the organization. A tax-exempt organization must keep records to verify certain information about its assets and liabilities. Records should show:

- when and how the asset was acquired
- whether any debt was used to acquire the asset
- documents that support mortgages, notes, loans or other forms of debt
- purchase price
- cost of any improvements
- deductions taken for depreciation, if any
- deductions taken for casualty losses, if any, such as losses resulting from fires or storms
- how the asset was used
- when and how the asset was disposed of
- selling price
- expenses of sale

Documents that may show the above information include: purchase and sales invoices, real estate closing statements, canceled checks, and financing documents. If a tax-exempt organization does not have canceled checks, it may be able to show payment with certain financial account statements prepared by financial institutions. These include account statements prepared for the financial institution by a third party. All information, including account statements, must be legible. The following defines acceptable account statements.

IF payment is by:	THEN statement must show:
check	check number, amount, payee's name, and date the check amount was posted to the account by the financial institution
electronic funds transfer	amount transferred, payee's name, and date the transfer was posted to the account by the financial institution
credit card	amount charged, payee's name, and transaction date

How long should records be kept?

Tax-exempt organizations must keep records for federal tax purposes for as long as they may be needed to document evidence of compliance with provisions of the Code. Generally, this means the organization must keep records that support an item of income or deduction on a return until the statute of limitations for that return runs. The statute of limitations has run when the organization can no longer amend its return and the IRS can no longer assess additional tax. Generally, the statute of limitations runs three years after the date the return is due or filed, whichever is later. An organization may be required to retain records longer for other legal purposes, including state or local tax purposes.

Record Retention Periods

Record retention periods vary depending on the types of records and returns.

Permanent Records – Some records should be kept permanently. These include the application for recognition of tax-exempt status, the determination letter recognizing tax-exempt status, and organizing documents, such as articles of incorporation and by-laws, with amendments, as well as board minutes.

Employment Tax Records – If an organization has employees, it must keep employment tax records for at least four years after the date the tax becomes due or is paid, whichever is later.

Records for Non-Tax Purposes – When records are no longer needed for tax purposes, an organization should keep them until they are no longer needed for non-tax purposes. For example, a grantor, insurance company, creditor, or state agency may require that records be kept longer than the IRS requires.

How should changes be reported to the IRS?

Reporting Changes on the Annual Information Return

A tax-exempt organization that is required to file Form 990 or Form 990-EZ must report name, address, structural and operational changes on its annual return. Regardless of whether a tax-exempt organization files an annual information return, it may report these changes to the EO Determinations Office at the mailing address set out in **How to get IRS assistance**

and information at the end of this publication; however, such reporting does not relieve the organization from reporting the changes on its annual return.

Tip: Attach copies of any signed or state certified articles of incorporation, or association, constitution or trust instrument or other organizational document, or the by-laws or other governing document showing changes to your return. If signed or state certified copies of a governing document are not available, an authorized officer may certify that the governing document provided is a complete and accurate copy of the original document.

Determination Letters and Private Letter Ruling Requests

A tax-exempt organization may request a copy of a lost exemption letter or an updated exemption letter that reflects a name or address change from the EO Determinations office. See **How to get IRS assistance and information**, page 26, for the appropriate address for the EO Determinations office.

An organization may request a **determination letter** regarding the effect of certain changes on its tax-exempt status in certain specific situations set out in Revenue Procedure 2009-4, updated annually. However, the IRS will not make any determination regarding any completed transaction.

If a tax-exempt organization is unsure about whether a proposed change in its purposes or activities is consistent with its status as an exempt organization, it may want to request a private letter ruling.

The IRS issues **private letter rulings** on proposed transactions and on completed transactions if the request is submitted before the return is filed for the year in which the transaction was completed. The IRS generally does not issue rulings to tax-exempt organizations on completed transactions. The IRS will issue letter rulings to a tax-exempt organization on matters involving an organization's exempt status, as well as other matters including issues under sections 501 through 514, 4958, 6033, 6104, 6113 and 6115. However, the Service may decline to issue a ruling on certain matters.

Consult www.irs.gov/eo for the appropriate procedures for preparing and submitting requests for private letter rulings, determination letters, a replacement exemption letter or a letter reflecting a new name and address. For general information about reporting changes, you may contact EO customer service at (877) 829-5500.

What disclosures are required?

There are a number of disclosure requirements for tax-exempt organizations. Detailed information on federal tax law disclosure requirements for tax-exempt organizations can be found in Publication 557, *Tax-Exempt Status for Your Organization*, on the IRS Charities and Non-Profits Web site at www.irs.gov/efo. Information about disclosure requirements for 501(c)(3) organizations may be found in Publication 4221-PC, *Compliance Guide for 501(c)(3) Public Charities* and Publication 4221-PF, *Compliance Guide for 501(c)(3) Private Foundations*.

Public Inspection of Exemption Applications and Annual Returns

A tax-exempt organization must make the following documents available for public inspection and copying upon request and without charge (except for a reasonable fee for copying). The IRS also makes these documents available for public inspection and copying. Because certain forms by law must be made publicly available by the IRS and the filer, do not include any personal identifying information, such as social security numbers not required by the IRS, on these forms.

Exemption Application – A non-501(c)(3) tax-exempt organization must make available for public inspection its exemption application, Form 1024, *Application for Recognition of Exemption Under Section 501(a)*, along with each of the following documents:

- all documents submitted with Form 1024;
- all documents the IRS requires the organization to submit in support of its application; and
- the exemption ruling letter issued by the IRS.

Annual Information Return – A tax-exempt organization must disclose its annual information return (Form 990 series) with schedules, attachments, and supporting documents filed with the IRS. The organization may not disclose the names and addresses of contributors listed on Schedule B of Form 990. However, other information on Schedule B is open for public inspection unless it clearly identifies the contributor. Returns need to be available for public inspection for only three years after the due date or filing date of the return (or the filing date of an amended return).

Disclosure Procedures – A tax-exempt organization may place reasonable restrictions on the time, place, and manner

of in-person inspection and copying, and may charge a reasonable fee for providing copies. It can charge no more for the copies than the per page rate the IRS charges for providing copies. See www.irs.gov/foia/index.html for current IRS copying fees. Although the IRS charges no fee for the first 100 pages, the organization can charge a fee for all copies. The organization can also charge the actual postage costs it pays to provide copies. A tax-exempt organization does not have to comply with individual requests for copies if it makes the documents widely available. This can be done by posting the documents on a readily accessible Web site. For details on disclosure rules and procedures for non-501(c)(3) tax-exempt organizations, see the Life Cycles of section 501(c)(4), (5) and (6) organizations and the instructions to Forms 990 and 1024 at www.irs.gov/eo.

All publicly-available information may be obtained from the IRS for a fee by using Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*. An organization may obtain a complete copy of its own application by filing Form 4506, *Request for Copy of Tax Return*.

Sale of Free Government Information

If a tax-exempt organization offers to sell, or solicits money for, goods, information or services that are available free from the federal government, the organization must make an express statement at the time of solicitation about the free service. An organization that intentionally disregards this requirement is subject to a penalty.

Solicitation Notice

Certain tax-exempt organizations that are not eligible to receive tax-deductible contributions must disclose, in any fundraising solicitation, in an express statement (in a conspicuous and easily recognizable format), that contributions to the organization are not deductible for federal income tax purposes. This applies to organizations that are not eligible to receive deductible charitable contributions and are described in sections 501(c), 501(d) and 527. Safe harbors for meeting these requirements are set out in Notice 88-120, 1988-2 C.B. 454.

PENALTIES

Penalties apply to organizations that do not comply with disclosure requirements and to persons responsible for the failure to comply.

This disclosure requirement applies to a fundraising solicitation: if the organization soliciting the funds normally has gross receipts over \$100,000 per year, the solicitation is part of a coordinated fundraising campaign that is soliciting more than ten persons during the year, and the solicitation is made in written or printed form, by television or radio, or by telephone.

Note: If an organization fails to include the required disclosure of the non-deductibility of contributions in fundraising solicitations, a penalty of \$1,000 for each day on which such a failure occurs, up to a maximum annual penalty of \$10,000, may be imposed. No penalty will be imposed if the failure is due to reasonable cause. In cases where the failure to make the required disclosure is due to intentional disregard of the law, the \$10,000 per year limitation does not apply and more severe penalties based on up to 50 percent of the aggregate cost of the solicitations are applicable.

Nondeductible Lobbying and Political Expenditures

A tax-exempt organization must notify anyone paying dues that any portion used for lobbying or political activities is not deductible. An organization must provide the notice if it is one of the following:

- a social welfare organization described in section 501(c)(4) that is not a veterans organization;
- an agricultural or horticultural organization described in section 501(c)(5); or
- a business league, chamber of commerce, real estate board, or other organization described in section 501(c)(6).

Nondeductible lobbying and political expenditures include expenditures paid or incurred in connection with influencing legislation, participating or intervening in any political campaign on behalf of (or in opposition to) any candidate for public office, attempting to influence the general public with respect to elections, legislative matters, or referendums; and any direct communication with a covered executive branch official in an attempt to influence the person's official actions or positions.

If an organization is subject to the reporting and notice requirement it has several options:

- It may provide a notice to its members when they pay dues that contains a reasonable estimate of the amount allocable to lobbying and political expenditures;
- If it does not give notification, it must pay a proxy tax at the highest corporate rate imposed by the Code (currently 35%) on its lobbying and political campaign expenditures up to the amount of dues and similar payments received by the organization during the tax year; or

- If the organization does provide notices to its members but underestimates the actual amount of lobbying and political campaign expenditures, it is subject to the proxy tax on the excess lobbying expenditures paid during the tax year that were not included in the notices. However this tax may be waived if the organization agrees to include the excess lobbying and political campaign expenditures in the following year's notices.

An organization described above does not have to provide the notice if it establishes that substantially all the dues paid to it are not deductible (regardless of whether those dues are used for lobbying or political activities) anyway or if certain other conditions are met.

If an organization elects the proxy tax option, it must report the tax on Form 990-T, as described on page 12, in **Proxy Tax Reported on Form 990-T**.

Charitable Contributions

In general, contributions to 501(c) organizations other than organizations described in section 501(c)(3) of the Code are NOT deductible as charitable contributions for federal income tax purposes. Donations to certain non-501(c)(3) organizations are deductible as charitable contributions.

These include donations to:

- 501(c)(4) fire companies (for public purposes),
- cemetery companies which are not earmarked for the care of a particular lot or crypt,
- fraternal organizations for certain 501(c)(3) purposes, and
- veterans' organizations (if 90% or more of the organizations are war veterans).

In addition, a non-501(c)(3) tax-exempt organization may establish a charitable fund, contributions to which are deductible. However, such a fund itself must meet the requirements of section 501(c)(3) and the related notice requirements of section 508(a).

If the contributions are deductible as charitable contributions, substantiation and disclosure requirements may apply. Read Publication 1771, *Charitable Contributions—Substantiation and Disclosure Requirements*, and Publication 526, *Charitable Contributions*, for details on the federal tax law for organizations that may receive tax-deductible charitable contributions and for taxpayers who make contributions.

How to get IRS assistance and information

The IRS offers help that is accessible either online, via mail by telephone, and 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 through the IRS Exempt Organizations (EO).

EO Web site

www.irs.gov/eo

Highlights:

- *The Life Cycle of an Exempt Organization* describes the compliance obligations of section 501(c)(3), (4), (5) and (6) organizations.
- Information on Other Non-Profits.
- Subscribe to the *EO Update*, an electronic newsletter with information for tax-exempt organizations and tax practitioners who represent them.

Web based training

www.stayexempt.org

Web based training modules:

- Tax Exempt Status
- Unrelated
Business income

- Employment Issues
- Form 990
- Required Disclosures

Mini-Courses on topics of interest

EO Customer Service

(877) 829-5500

EO Determinations Office mailing address

Internal Revenue Service
TE/GE, EO Determinations Office
P.O. Box 2508
Cincinnati, OH 45201

Tax Publications for Exempt Organizations

Get publications via the Internet or 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 463, *Travel, Entertainment, Gift, and Car Expenses*

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

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 1771, *Charitable Contributions – Substantiation and Disclosure Requirements*

Pub 1828, *Tax Guide for Churches and Religious Organizations*

Pub 3833, *Disaster Relief, Providing Assistance Through Charitable Organizations*

Pub 4220, *Applying for 501(c)(3) Tax-Exempt Status*

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

Pub 4302, *A Charity's Guide to Vehicle Donations*

Pub 4303, *A Donor's Guide to Vehicle Donations*

Pub 4573, *Group Exemptions*

Pub 4630, *Exempt Organizations Products and Services Navigator*

Forms for Exempt Organizations

Get forms via the Internet or by calling the IRS at (800) 829-3676.

Form 941, *Employer's Quarterly Federal Tax Return*

Form 944, *Employers Annual 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*
(only available electronically)

Form 990-T, *Exempt Organization Business Income Tax Return*

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

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

Form 1024, *Application for Recognition of Exemption Under Section 501(a)*

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

Form 4506, *Request for Copy of Tax Return*

Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization IRS Form*

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

Form 5578, *Annual Certification of Racial Non-Discrimination 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 8868, *Extension of Time To File an Exempt Organization Return*

General IRS Assistance

Get materials on the latest tax laws, assistance with forms and publications, and filing information.

IRS Web site	www.irs.gov
Federal tax questions	(800) 829-4933
Employment tax questions	(800) 829-4933
Order IRS forms and publications	(800) 829-3676

Tax-Exempt Organization Reference Chart

Code Section	Type of Organization	Type of Activities	Annual Filing Requirement	Contributions Deductible
501(c)(1)	Instrumentalities of the United States	Corporate instrumentalities of the United States organized under an Act of Congress	none	Yes, if for public purposes
501(c)(2)	Title Holding Corporation for Exempt Organizations	Holds title to exempt organization property. Collects and pays income from property to exempt organization	990, 990-EZ, 990-N	No
501(c)(3)	Religious, Educational, Charitable, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations	Activities of nature implied by description of class of organizations	990, 990-EZ, 990-N, 990-PF	Yes, generally (testing for public safety excluded)
501(c)(4)	Civic Leagues, Social Welfare Organizations	Promotion of community welfare; charitable, educational or recreational	990, 990-EZ, 990-N	No, generally
501(c)(5)	Labor, Agricultural and Horticultural Organizations	Educational or instructive, the purpose being to improve conditions of work and improve products or efficiency	990, 990-EZ, 990-N	No
501(c)(6)	Business Leagues, Chambers of Commerce, Real Estate Boards	Improvement of business conditions of one or more lines of business	990, 990-EZ, 990-N	No
501(c)(7)	Social and Recreational Clubs	Pleasure, recreation, social activities	990, 990-EZ, 990-N	No
501(c)(8)	Fraternal Beneficiary Societies, Orders or Associations	Provides for payment of life, sickness, accident or other benefits to members	990, 990-EZ, 990-N	Yes, if for certain (c)(3) purposes

Code Section	Type of Organization	Type of Activities	Annual Filing Requirement	Contributions Deductible
501(c)(9)	Voluntary Employees' Beneficiary Associations (VEBA)	Provides for payment of life, sickness, accident or other benefits to members, dependents or beneficiaries	990, 990-EZ, 990-N	No
501(c)(10)	Domestic Fraternal Societies, Orders or Associations	Lodge devoting its net earnings to charitable, fraternal or other specified purposes. No life, sickness or accident benefits to members	990, 990-EZ, 990-N	Yes, if for certain (c)(3) purposes
501(c)(11)	Teachers' Retirement Funds	Local teachers' association for payment of retirement benefits funded from specific sources	990, 990-EZ, 990-N	No
501(c)(12)	Local Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Electric or Telephone Companies, and Like Organizations	Conducts activities of a mutually beneficial nature similar to those implied by the description of the class of organization	990, 990-EZ, 990-N	No
501(c)(13)	Cemetery Companies	Provides burial and incidental services	990, 990-EZ, 990-N	Yes, generally
501(c)(14)	State Chartered Credit Unions	Operates without profit for mutual benefit of its members	990, 990-EZ, 990-N	No
501(c)(15)	Small Insurance Companies or Associations	Provides insurance to members substantially at cost	990, 990-EZ, 990-N	No
501(c)(16)	Cooperative Organizations to Finance Crop Operations	Finances crop operations in conjunction with activities of a section 521 marketing or purchasing association	990, 990-EZ, 990-N	No

Code Section	Type of Organization	Type of Activities	Annual Filing Requirement	Contributions Deductible
501(c)(17)	Supplemental Unemployment Benefit Trusts	Provides for payment of supplemental unemployment compensation benefits as part of a plan	990, 990-EZ, 990-N	No
501(c)(18)	Employee Funded Pension Trusts (created before 1959)	Payment of pension or retirement benefits under a plan funded only by employees	990, 990-EZ, 990-N	No
501(c)(19)	War Veterans Organizations	Activities implied by nature of organization	990, 990-EZ, 990-N	No, generally
501(c)(21)	Black Lung Benefit Trusts	Irrevocable domestic trust funded by coal mine operators to satisfy their liability for disability or death due to black lung diseases	990-BL	No
501(c)(22)	Withdrawal Liability Payment Fund	Provides funds to meet the liability or employers withdrawing from a multiemployer pension fund	990, 990-EZ, 990-N	No
501(c)(23)	Veterans Organizations (created before 1880)	Provides insurance and other benefits to veterans	990, 990-EZ, 990-N	No, generally
501(c)(25)	Title Holding Corporations or Trusts with Multiple Parents	Holds title and pays over income from real property to 35 or fewer shareholders or beneficiaries	990, 990-EZ, 990-N	No
501(c)(26)	State-Sponsored Organization Providing Health Coverage for High-Risk Individuals	Provides health care coverage to high risk individuals	990, 990-EZ, 990-N	No
501(c)(27)	State-Sponsored Worker's Compensation Reinsurance Organization	Reimburses members for losses under local workers' compensation acts	990, 990-EZ, 990-N	No

Code Section	Type of Organization	Type of Activities	Annual Filing Requirement	Contributions Deductible
501(c)(28)	National Railroad Retirement Investment Trust	Manages and invests the assets of the Railroad Retirement Account	Not determined	No
501(d)	Religious & Apostolic Organizations	Communal religious community	1065	No
501(e)	Cooperative Hospital Service Organizations	Performs specific activities for hospitals on a centralized basis	990, 990-EZ, 990-N	Yes
501(f)	Cooperative Service Organizations of Operating Educational Organizations	Performs collective investment services for educational organizations	990, 990-EZ, 990-N	Yes
501(k)	Child Care Organizations	Provides care for children of working parents. Open to public	990, 990-EZ, 990-N	Yes
501(n)	Charitable Risk Pools	Pools certain insurance risks of 501(c)(3)s	990, 990-EZ, 990-N	Yes
521(a)	Farmers' Cooperative Organizations	Cooperative marketing and purchasing for agricultural procedures	1120-C	No
527	Political Organizations	A party, committee, fund, association, etc., that directly or indirectly accepts contributions or makes expenditures for political campaigns	1120-POL, 990 or 990EZ	No

Note that neither this chart nor this publication is intended to be a comprehensive source of information about the compliance responsibilities of all tax-exempt organizations. Also, an organization exempt under a subsection of Section 501 other than section 501(c)(3) may establish a separate charitable fund, contributions to which are deductible. Such a fund must meet the requirements of section 501(c)(3) and the related notice requirements of section 508(a). See Publication 4220, *Applying for 501(c)(3) Tax-Exempt Status* and Publication 557, *Tax-Exempt Status for Your Organization*.



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