Congressional Research Service

Frequently Asked Questions About Tax-Exempt Organizations

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January 30, 2007

Congressional Research Service
7-5700
www.crs.gov
96-264

CRS Report for Congress
Prepared for Members and Committees of Congress

Summary

This report answers frequently asked questions about tax-exempt organizations. It focuses on the types of organizations described in Internal Revenue Code (IRC) § 501(c), with the main emphasis on IRC § 501(c)(3) charitable organizations. One set of questions addresses some of the primary characteristics of tax-exempt organizations, including whether they may participate in lobbying and election-related activities, and defines the terms "tax-exempt," "nonprofit (not-for-profit)," and "private foundation." Another group of questions provides general information on how to form a tax-exempt organization, what information must be disclosed to the IRS and the public, and how an organization might lose its tax-exempt status. The report ends with questions intended to help the reader find resources that provide information on specific organizations and additional information on tax-exempt organizations in general. Although this report summarizes such information with respect to tax-exempt organizations, it should not be relied on for specific tax advice—such advice should be sought directly from the IRS or qualified tax professionals.

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1. What Is a Tax-Exempt Organization?

A tax-exempt organization is an organization that is exempt from federal income taxes under the Internal Revenue Code (IRC). To become exempt, an organization must meet the IRC's requirements and usually must file an application with the Internal Revenue Service (IRS). Although the Code describes more than 30 types of organizations that qualify for exemption, the type of organization that people often mean when using the term "tax-exempt organization" is described in IRC § 501(c)(3):

> Corporations ... organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals....

Other types of organizations that qualify for tax-exempt status include social welfare organizations, labor unions, trade associations, social clubs, veterans' organizations, and fraternal organizations. A list of the types of tax-exempt organizations appears at the end of this report.

2. What Is a Nonprofit (Not-for-Profit) Organization?

The term "tax-exempt organization" is often used interchangeably with the term "nonprofit organization." This can be misleading. A tax-exempt organization meets the criteria in federal law (the IRC) to be exempt from federal income taxes, whereas the status and privileges of a nonprofit organization are determined under state law. The term "nonprofit organization" generally means a corporation that is not intended to be a profit-making corporation. The requirements vary by state but usually take into account the fact that nonprofit corporations typically do not have shareholders or the same business motives as for-profit corporations.

A nonprofit corporation is not automatically a tax-exempt organization. Because the qualifications for nonprofit status vary among states, it is possible for the term "nonprofit organization" to be broader than, narrower than, or identical to the term "tax-exempt organization." For a nonprofit organization to be exempt from federal income taxes, it must meet the statutory requirements found in the IRC and usually must file an application with the IRS.

3. What Are the Differences Between IRC §§ 501(c)(3) and 501(c)(4) Organizations?

IRC § 501(c) describes many types of organizations that qualify for tax-exempt status. When an organization applies for exemption, it must tell the IRS under which paragraph of IRC § 501(c) it qualifies. In general, this is not difficult to determine because most paragraphs describe discrete categories; for example, § 501(c)(5) describes agricultural organizations, § 501(c)(8) describes fraternal societies, and § 501(c)(14) describes credit unions. However, IRC §§ 501(c)(3) and 501(c)(4) describe organizations with some overlapping characteristics.[1] Specifically, both IRC §

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[1] IRC § 501(c)(3) reads:

> Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to

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501(c)(3) charitable organizations and IRC § 501(c)(4) social welfare organizations operate for charitable purposes and are restricted so that none of the organization's earnings may benefit a private shareholder or individual.

Despite these similarities, IRC §§ 501(c)(3) and 501(c)(4) organizations differ in two significant ways. First, IRC § 501(c)(3) organizations are eligible to receive tax-deductible charitable contributions, while IRC § 501(c)(4) organizations are not. When a contribution is deductible, the donor may deduct the amount of the contribution from income, subject to the restrictions in IRC § 170. (See Question 5.) This is an important benefit for the organization because it encourages donors to contribute in order to lower their taxable income and to make larger contributions since the after-tax cost of each contribution is reduced. The second difference is that IRC § 501(c)(3) organizations are substantially limited in their ability to lobby and are prohibited from engaging in political campaigns; IRC § 501(c)(4) organizations are not so limited. (See Questions 6 and 7.)

These two differences are important when an organization is choosing whether to apply for tax-exempt status as an IRC § 501(c)(3) or IRC § 501(c)(4) organization. If the organization's agenda depends on influencing public opinion or the legislative process, it may be appropriate to form as an IRC § 501(c)(4) organization. For other organizations, it will usually make more sense to be an IRC § 501(c)(3) organization in order to have the advantage of tax-deductible contributions.

Finally, although an organization must identify itself as one type of IRC § 501(c) organization, it may be linked with another IRC § 501(c) organization under certain circumstances. For example, an IRC § 501(c)(3) organization may be linked with an IRC § 501(c)(4) social welfare organization or IRC § 501(c)(6) trade association. It is common to see a group that wants to lobby as well as conduct charitable activities set up both an IRC § 501(c)(4) organization and an IRC § 501(c)(3) organization. It is also not unusual for a trade association, such as the American Bar Association or the American Medical Association, to have a similarly named charitable foundation that conducts charitable activities. In these situations, the organizations must be legally separate entities and their activities and funds must be kept separate. In addition, an IRC § 501(c) organization may be linked with another type of tax-exempt organization, such as an IRC § 527 political organization. (See Question 7.)

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> foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC § 501(c)(4) reads:

> (A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.
>
> (B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

The IRS recognizes that an organization qualifying under § 501(c)(4) may also meet the criteria to qualify under § 501(c)(3). *See* Treas. Reg. § 1.501(c)(4)-1(a)(2)(i).

4. What Is a Private Foundation?

All IRC § 501(c)(3) organizations are either a public charity or private foundation. Public charities have broad public support and tend to provide charitable services directly to the intended beneficiaries. Private foundations often are tightly controlled, receive significant portions of their funds from a small number of donors or a single source, and make grants to other organizations rather than directly carry out charitable activities. Because these factors create the potential for self-dealing or abuse of position by the small group controlling the organization, private foundations are more closely regulated than public charities. Private foundations are subject to penalty taxes for doing things such as failing to distribute a certain amount of their income each year, making investments that jeopardize their charitable purpose, having excess business holdings, and failing to maintain expenditure responsibility over certain grants.[2] IRC § 501(c)(3) organizations are presumed to be private foundations and must tell the IRS how they qualify for public charity status based on the support and control tests found in IRC § 509.

5. Are Contributions to an Organization Tax-Deductible?

A contribution to a tax-exempt organization may only be deducted under two circumstances: (1) it is a donation that qualifies as a charitable contribution under IRC § 170 or (2) it is dues that qualify as business expenses under IRC § 162.

Charitable Contributions

Under IRC § 170, contributions made for charitable purposes are tax deductible when made to qualifying IRC § 501(c)(3) organizations, governmental units, veterans' organizations, fraternal organizations, and cemetery companies. The IRS determines whether an IRC § 501(c)(3) organization is eligible to receive tax-deductible contributions at the time it considers the organization's application for exempt status. A list of the organizations eligible to receive deductible contributions is found in IRS Publication 78, *Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986.* This publication is available on the IRS website at http://www.irs.gov.

Charitable contributions that otherwise meet the requirements of IRC § 170 are not deductible if the organization provides goods or services in exchange for the contribution. If the contribution exceeds the fair market value of the goods or services provided, then the excess may be deductible. When an organization receives more than $75 in exchange for goods or services, IRC § 6115 requires the organization inform the donor of the amount of the contribution, if any, that is tax-deductible.

Even if a contribution is deductible, individual taxpayers may not be able to deduct the entire contribution. For example, only donors who itemize deductions may deduct their charitable contributions,[3] and IRC § 170 may restrict the amount of the deduction depending on the size and

[2] *See* IRC §§ 4940-4946.

[3] Legislation was introduced in prior Congresses that would have allowed taxpayers who do not itemize deductions to deduct a portion of their charitable contributions. For example, a provision was included in the Care Act of 2005 (S. 1780, 109th Congress), the More Act (S. 6, 109th Congress), the Charitable Giving Act of 2005 (H.R. 3908, 109th Congress), and the Senate-passed versions of the Tax Relief Act of 2005 (H.R. 4297 and S. 2020, 109th Congress). In the 110th Congress, a narrower provision has been introduced. The Volunteer Emergency Responder Fair Mileage Act (continued...)

nature of the contribution. In addition, taxpayers must comply with certain substantiation requirements, including obtaining a written acknowledgment from the organization for any contribution that exceeds $250 in value. The Pension Protection Act of 2006 (P.L. 109-280) imposes a new requirement that any cash donation be substantiated by a bank record or written communication from the organization showing its name and the date and amount of the contribution.

When a charitable contribution to a tax-exempt organization is not deductible, IRC § 6113 generally requires the organization notify the potential contributor of that fact at the time of solicitation. Thus, for example, IRC § 501(c)(4) organizations must inform potential contributors that contributions may not be deducted. Under IRC § 6710, an organization that fails to provide the notification faces a fine of $1,000 for each day the failure occurs, with an annual cap of $10,000. The fines are higher and the cap is eliminated for organizations that intentionally disregard the notification requirement.

Dues

Dues to some tax-exempt organizations, such as IRC § 501(c)(5) labor unions and IRC § 501(c)(6) trade associations, may be deductible as business expenses under IRC § 162. Individuals face restrictions in being able to claim the deduction. For example, only donors who itemize deductions may deduct the dues, and an individual must have significant business expenses (i.e., exceeding 2% of adjusted gross income) to be able to claim the deduction. In addition, if an organization conducts lobbying activities, IRC § 162(e) disallows a deduction for the portion of dues that represents lobbying expenditures. IRC § 6033(e) generally requires that an organization notify its members of the amount that is nondeductible or be subject to a proxy tax on its lobbying expenditures

6. Can Tax-Exempt Organizations Lobby?

Under the Internal Revenue Code, some types of tax-exempt organizations are prohibited from lobbying, others are restricted in the amount of lobbying they may do, and the rest may conduct unlimited lobbying.[4] Among the organizations prohibited from lobbying are those described in IRC §§ 501(c)(2), (c)(17), (c)(18), (c)(21), (c)(22), (c)(24), and (c)(25). Most of these are trusts that must use their income exclusively for the purposes for which they are established.

For IRC § 501(c)(3) organizations, "no substantial part" of their activities can be lobbying. The definition of "no substantial part" is unclear. Some courts have looked at the amount of expenditures or time spent on lobbying,[5] whereas others have rejected this approach and instead

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of 2007 (H.R. 606) would, among other things, provide an above-the-line charitable deduction for individuals who allow their automobiles to be used by qualified volunteer fire departments.

[4] For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika Lunder.

[5] *See* Seasongood v. Comm'r, 227 F.2d 907 (6th Cir. 1955) (where the court found that an organization whose lobbying was about 5% of its activities was not engaged in a substantial amount of lobbying); League of Women Voters v. United States, 180 F. Supp. 379 (Ct. Cl. 1960) (where the court looked at the amount of hours the organization spent on legislative activities); Haswell v. United States, 205 Ct. Cl. 421 (Ct. Cl. 1975) (where the court found the fact that between 19% and 20.5% of the organization's expenditures were for lobbying was evidence that the organization (continued...)

examined the lobbying in the broad context of the organization's purpose and activities.[6] Because the "no substantial part" standard is indefinite, IRC § 501(c)(3) organizations, with the exception of churches and related organizations, may elect under IRC § 501(h) to have their lobbying activities measured by a numerical limit found in IRC § 4911. Most organizations do not make this election. An IRC § 501(c)(3) organization that conducts substantial lobbying may lose its exempt status and face possible excise taxes under IRC §§ 4911 and 4912. In addition, IRC § 501(c)(3) organizations that are private foundations are taxed under IRC § 4945 on any lobbying expenditures made during the year, regardless of whether such activities are substantial.

The other types of tax-exempt organizations are not subject to any tax law limits on the amount of lobbying that can be done, so long as the lobbying is related to their tax-exempt purpose. These include IRC § 501(c)(4) social welfare organizations, IRC § 501(c)(5) labor unions, and IRC § 501(c)(6) trade associations. A tax-exempt organization's lobbying may affect the amount that its contributors would otherwise be able to deduct as dues. (See Question 5.)

Although IRC § 501(c)(4) organizations may lobby under the tax laws, section 18 of the Lobbying Disclosure Act of 1995 (P.L. 104-65) prohibits them from receiving federal grants, loans, or other awards if they engage in lobbying activities. This prohibition applies even if the lobbying is conducted with the organization's own funds. The Lobbying Disclosure Act also imposes registration and disclosure requirements on organizations with paid lobbyists whose lobbying activities exceed time and monetary limits. For more information, see CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by Jack Maskell.

7. Can Tax-Exempt Organizations Participate in Election Activities?

Some tax-exempt organizations are prohibited from participating in political campaign activity, while others may participate so long as it is consistent with their exempt purposes.[7] The organizations that may not engage in political campaign activity include those described in IRC §§ 501(c)(2), (c)(17), (c)(18), (c)(21), (c)(22), (c)(24), and (c)(25). Most of these are trusts that must use their income exclusively for the purposes for which they are established.

In addition, IRC § 501(c)(3) organizations are prohibited from participating in, or intervening in, "any political campaign on behalf of (or in opposition to) any candidate for public office." Thus, IRC § 501(c)(3) organizations can lose their tax-exempt status for engaging in activity that is specifically linked to election periods and supports or opposes particular candidates. IRC § 501(c)(3) organizations may, however, participate in political activities that are not "campaign activities." Permissible activities under the tax laws, so long as no candidate is endorsed or opposed, include conducting public forums, publishing candidate responses to a questionnaire on a variety of subjects, issue advertising, nonpartisan public opinion polling, and non-partisan voter registration drives. Although these non-campaign political activities are not prohibited, they may

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violated the "no substantial part" rule).

[6] *See* Christian Echoes Nat'l Ministry, Inc. v. Untied States, 470 F.2d 849 (10th Cir. 1972); Kuper v. Commissioner, 332 F.2d 562 (3rd Cir. 1964); Dulles v. Johnson, 273 F.2d 362 (2nd Cir. 1959); Krohn v. United States, 246 F. Supp. 341 (D. Colo. 1965).

[7] For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika Lunder.

be subject to tax under IRC §§ 527, 4945, or 4955 or regulated or taxed as lobbing activities. (See Question 6.)

The IRC generally allows the other types of IRC § 501(c) organizations to engage in election-related activities so long as such activities are consistent with the organization's exempt purpose and are not the organization's primary activities. The activities may be subject to tax under IRC § 527(f). It is important to note that while the IRC may allow these organizations to participate in such activities, the organizations must still comply with applicable election laws. For example, election laws ban corporations and labor unions from making any contribution or expenditure in connection with federal elections,[8] and these rules apply to tax-exempt and/or nonprofit corporations. In addition, tax-exempt organizations are generally subject to the requirements in the Bipartisan Campaign Reform Act of 2002 (P.L. 107-155) relating to the disclosure of "electioneering communications" and the prohibition on incorporated entities and labor unions using general treasury funds to finance them.[9]

One way that corporations and labor unions participate in election campaigns without violating federal election laws is by setting up political action committees (PACs). PACs are creatures of federal election law, but they are subject to the special tax rules for "political organizations" in IRC § 527.[10] Other IRC § 501(c) organizations may also set up an IRC § 527 organization to avoid the tax under IRC § 527(f) on their election activities.[11] In general, IRC § 527 political organizations are expected to raise money for, and to try to influence, the selection, nomination, election or appointment of candidates for public office. Although considered tax-exempt organizations, IRC § 527 organizations are subject to special tax rules that exempt income used for political activities from tax and that tax other types of income, such as that from investments.

8. How Do You Set Up a Tax-Exempt Organization?

For many tax-exempt organizations, the first step is to incorporate the organization. Incorporation is not required for tax-exempt status from the IRS, but organizations incorporate for a variety of reasons, including to receive limited personal liability for members of the organization. Formation of the organization is achieved under state law and requirements vary by state. An organization will likely need to register with the appropriate Secretary of State to reserve that organization's name and to enable the group to solicit charitable contributions,[12] do business, and own property in the state. If the organization incorporates, it will also usually have to file articles of incorporation that include the organization's purposes and names of incorporators. Some states do not have special nonprofit corporation status and the organization will be incorporated under regular corporation laws.

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[8] 2 USC § 441b.

[9] Electioneering communications are broadcast, cable, or satellite advertisements that refer to a clearly-identified federal candidate within 60 days of a general election or 30 days of a primary election and, if a House or Senate election, are targeted to the relevant electorate. 2 USC § 434(f)(3)(A)(i).

[10] For more information on IRC § 527 organizations, see CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by Erika Lunder.

[11] Any IRC § 501(c) organization that is prohibited from participating in political activities, such as IRC § 501(c)(3) organizations, may not use an IRC § 527 organization to get around that prohibition.

[12] The National Association of State Charity Officials website provides links to state offices that regulate charitable solicitations at http://www.nasconet.org/. The site includes the unified registration form for charities seeking to solicit in multiple states.

Whether or not the organization incorporates, it will generally need to file for recognition of tax-exempt status from the IRS.[13] Some organizations that qualify for IRC § 501(c)(3) status, including churches and small organizations, are exempt from the filing requirement. IRS Publication 557, *Tax-Exempt Status for Your Organization*, provides a detailed explanation of the procedures and forms for establishing tax-exempt status. Organizations seeking exemption under IRC § 501(c)(3) file IRS Form 1023, whereas other organizations file IRS Form 1024. The exemption application must usually include a statement of the organization's activities, a copy of its articles of incorporation and bylaws, and current financial statements. The organization must also obtain an employer identification number (IRS Form SS-4), even if it does not have any employees. IRS Publication 557 and the applicable forms are available on the IRS website at http://www.irs.gov.

In addition, organizations filing for recognition of tax-exempt status must also pay a filing fee with IRS Form 8718 (*User Fee for Exempt Organization Determination Letter Request*). For exemption applications postmarked on or after July 1, 2006, the fees for exemption applications are as follows. For an organization filing for exemption under IRC § 501 that has had annual gross receipts averaging $10,000 or less during the past four years, or for a new organization that anticipates gross receipts averaging $10,000 or less during the next four years, the application fee is $300. The application fee is $750 for an IRC § 501(c) organization with more than an average of $10,000 in gross receipts for the prior four years, as well as for a new IRC § 501(c) organization anticipating more than an average of more than $10,000 in gross receipts for the coming four years.

An organization that is applying for exempt status under IRC §§ 501(c)(3), (c)(9), (17) or (20) should file its application within 27 months of its formation to ensure that the recognition of exempt status dates back to the organization's formation. If the application is filed after that time, the general rule is that the determination will date back only to the date of the application. For other types of tax-exempt organizations, the recognition of exempt status will date back to the date of the organization's formation so long as the organization's activities and purposes are the same as those at the time recognition was granted. If the organization is required to alter its activities or substantially amend its charter to qualify for exempt status, then the recognition of exempt status will be effective as of a date determined by the IRS.

9. How Does an Organization Lose Its Tax-Exempt Status?

In general, once an organization has tax-exempt status, it can continue as a tax-exempt organization unless there is a material change in its character, purposes, or methods of operation. Organizations are required to report any material changes to the IRS. An IRC § 501(c)(3) organization can lose its tax-exempt status for excessive lobbying or engaging in political campaign activities, or if its principal purpose becomes operating a for-profit business. Furthermore, the IRS may revoke an organization's exempt status because of changes in the law or regulations or for other good causes. In 2004, the IRS was given the authority to suspend the tax-exempt status of or the application for such status by any organization that is (1) designated a terrorist organization by executive order or under authority found in the Immigration and Nationality Act, the International Emergency Economic Powers Act, or the United Nations Participation Act or (2) designated by executive order as supporting terrorism or engaging in

[13] For an overview of the application process for IRC § 501(c)(3) organizations, see CRS Report RS21892, *Application Process for Seeking Section 501(c)(3) Tax-Exempt Status*, by Erika Lunder.

terrorist activity.[14] With the exception of organizations whose status is suspended due to terrorism issues, organizations may ask for court review of any IRS attempt to revoke their exempt status.

An individual who believes that an organization should lose its exempt status may contact the IRS at Exempt Organizations Examination Division, 1100 Commerce Street, ATTN: T:EO:E, Dallas, TX 75242. The complaint should contain all relevant facts concerning the alleged violation of tax law. The complaint may cause the IRS to review the propriety of the organization's exempt status, but the IRS cannot reveal whether it has followed up on a particular complaint because of confidentiality rules.

It is not possible to bring a legal suit to challenge the IRS's granting of an exemption to an organization. Although third parties had been successful in bringing suits to challenge IRS policies in administering the tax laws,[15] the Supreme Court severely limited this practice by requiring plaintiffs to show a direct personal injury that is likely to be redressed by a favorable decision in the case.[16] In *United States Catholic Conference v. Baker*,[17] the Second Circuit Court of Appeals reviewed the standing of various parties to force the IRS to examine the tax-exempt status of the Catholic Church because of its political activities and concluded that it would be a very rare case when a third party would have standing to bring such a suit.

10. What Tax Records Do Tax-Exempt Organizations Have To Prepare?

Under IRC § 6033, most tax-exempt organizations are required to file an annual information return (Form 990 series) that discloses such information as income, receipts, expenses and disbursements, a balance sheet of assets, liabilities and net worth, and the names and compensation of managers and highly compensated employees. Some organizations are required to report their aggregate political and lobbying expenditures. In addition, organizations must report their substantial donors, which are generally donors that have contributed more than $5,000 during the year. The penalty for failure to file the required information return is found in IRC § 6652(c)(1)(A). It is $20 per day for each day the failure continues. If the organization has annual gross receipts exceeding $1 million in any year, then the daily penalty is $100 per day. The maximum penalty is the lesser of $10,000 or 5% of the organization's gross receipts. For organizations exceeding $1 million in gross receipts, the maximum penalty is $50,000.

Not all organizations have to file an information return. For example, churches, certain church-related organizations, and organizations with gross receipts that are normally less than $25,000 do not have to file an annual return. There are other exceptions contained in IRC § 6033(a)(3).

Sometimes, tax-exempt organizations are subject to tax and must then file a tax return. For example, an exempt organization that conducts business activities unrelated to their exempt purpose must file a Form 990-T. Any exempt organization with political organization taxable

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[14] IRC § 501(p), enacted by P.L. 108-121.

[15] *See e.g.*, Green v. Kennedy, 309 F.Supp. 1127 (D.D.C. 1970) (where a class action was brought to force the IRS to stop granting exempt status to racially discriminatory private schools) and its subsequent history found at 398 U.S. 956 (1970), 330 F.Supp. 1150 (D.D.C. 1971), culminating in a summary affirmance, Coit v. Green, 404 U.S. 997 (1971)).

[16] Simon v. Eastern Kentucky Welfare Rights Organization, 426 U.S. 26 (1976).

[17] United States Catholic Conference v. Baker, 885 F.2d 1020 (2nd Cir. 1989).

income will need to file a Form 1120-POL, and one that has been assessed a penalty tax must file Form 4720. Furthermore, exempt organizations must generally pay the same employment taxes as for-profit employers. Thus, if they have employees, exempt organizations usually must file the employment tax returns for income tax withholding and social security and medicare taxes (Form 941), income reporting (W-2, W-3, Form 1099), and unemployment taxes (Form 940). Exempt organizations are subject to the same penalties as other taxpayers for failing to file a tax return or pay their taxes, including failing to make estimated tax payments and failing to properly handle and deposit employment taxes. For more information, see IRS Publication 15, *Circular E, Employer's Tax Guide*, which is available on the IRS website at http://www.irs.gov.

Finally, some organizations are subject to additional requirements. For example, under IRC § 527(j), political organizations must, with several exceptions, file periodic reports to the IRS that disclose contributions and expenditures (Form 8872). If an IRC § 527 organization fails to file a timely or accurate form, it is subject to a penalty that equals the highest corporate tax rate multiplied by the amount of contributions and/or expenditures to which the failure relates.

11. Are Tax-Exempt Organizations Required to Disclose Information to the Public?

Under IRC § 6104(d), the application for exempt status and the annual information return (Form 990) of a tax-exempt organization are open to public inspection.[18] In addition, the Pension Protection Act of 2006 (P.L. 109-280) added a requirement that IRC § 501(c)(3) organizations also disclose their unrelated business tax returns (Form 990-T).

This requirement has two parts: the organization must allow the public to inspect the documents and must provide copies upon request. For inspection purposes, the information must be made available during normal business hours at the organization's principal office and any district office with more than three employees. With respect to providing copies, requests for copies of the documents may be made in writing or in person. The organization must furnish copies immediately if the request is made in person and within 30 days for written requests. The organization is permitted to charge a reasonable fee for reproduction and mailing costs. An organization is not required to provide individual copies if either (1) the organization makes these documents widely available on the internet[19] or (2) the requests are part of a harassment campaign and compliance is not in the public interest.[20]

Certain information does not have to be disclosed. Organizations are generally not required to disclose the names and addresses of any contributors. Furthermore, the IRS is permitted to create exceptions to public disclosure of information relating to trade secrets, patents, processes, styles

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[18] If an organization is denied exempt status, its application for exemption is not open to public inspection.

[19] 26 U.S.C. 6104(d)(4); *see also* 26 C.F.R. 301.6104(d)-2, which states that a tax-exempt organization can make its annual information return "widely available" by posting the document on a World Wide Web page established and maintained by the organization or by having the document posted, as part of a database of similar documents of other tax-exempt organizations, on a World Wide Web page established and maintained by another entity. This regulation also states what criteria must be met for a document to be considered widely available (e.g., the website must inform readers that the document is available and how it can be downloaded, the document must be an exact reproduction and be accessible without special hardware or software).

[20] *See* 26 C.F.R. 301.610(d)-3 for discussion of what constitutes harassment.

of work, or apparatus, if public disclosure would adversely affect the organization or if the information would adversely affect the national defense.

If an organization refuses to provide a copy of its returns, the IRS suggests that the requestor write to the IRS EO Classification, Mail Code 4910, 1100 Commerce Street, Dallas, TX, 75242. The requestor should be prepared to provide the name and address of the organization. The IRS will contact the organization and arrange a time during which the return may be inspected. If the organization fails to provide the return, the IRS may assess statutory penalties under IRC § 6652.

Any return or application that must be disclosed to the public by the organization must also be made publicly available by the IRS. The information may be obtained from the IRS by using Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization.* In addition, the IRS has some information submitted by IRC § 527 political organizations on its website at http://www.irs.gov.

The organizations listed under Question 12 also provide information on various tax-exempt organizations. In particular, GuideStar may have copies of the organization's recent Form 990 on its website.

12. Are There Organizations That Evaluate Charities or Report on Their Activities?

The following are examples of organizations that report on the activities of charities. The information comes from the organizations' websites.

American Institute of Philanthropy

3450 Lake Shore Drive, Suite 2802E

P.O. Box 578460

Chicago, IL 60657

Phone: (773) 529-2300

Internet: http://www.charitywatch.org

The American Institute of Philanthropy (AIP) is a nonprofit charity watchdog and information service that provides ratings, opinions, and other information on the financial and managerial practices of selected charities. It publishes the *Charity Rating Guide*, which gives a letter grade rating and other statistics on the financial performance of about 500 major American charities in 36 different categories, including Environment, Cancer, Crime Prevention, Child Protection, Senior Citizens, and more. The *Guide* provides information on the percentage of funds each charity spends on its charitable purpose, its cost to raise $100, whether it holds massive asset reserves, and an overall grade from "A+ to F." The *Guide* is not free, but the website does list the charities that are included in the *Guide* and those that have received the highest grades.

BBB Wise Giving Alliance

4200 Wilson Boulevard, Suite 800

Arlington, VA 22203-1804

Phone: (703) 276-0100

Internet: http://www.give.org

The BBB Wise Giving Alliance was formed in 2001 with the merger of the Council of Better Business Bureaus' Philanthropic Advisory Service and the National Charities Information Bureau. The Alliance collects information and prepares reports on several hundred national charitable organizations. The Alliance does not recommend or rate charities, but serves to report information on the organization's background, staff and governance, financial status and fund raising practices. The report will also state whether the charity meets the Alliance's standards for charitable solicitations. These reports are available on the Alliance's comprehensive website or upon request. The Alliance also publishes the quarterly *BBB Wise Giving Guide* for its donors.

GuideStar

4801 Courthouse Street, Suite 220

Williamsburg, VA 23188

Phone: (757) 229-4631

Internet: http://www.guidestar.org

The GuideStar website, produced by Philanthropic Research, Inc., contains information on more than 1 million nonprofit organizations. The information can be searched by a variety of fields (e.g., organization name, state, category, or income level). The site provides information on the organization's address, finances, employee and volunteer levels, and general activities; more in-depth information is available for a membership fee. For some organizations, the site contains a wealth of information, including the annual returns (Form 990).

13. What Resources Provide Information on General Issues Involving Tax-Exempt Organizations?

The following organization and books may provide further information on general topics related to tax-exempt organizations, including management, accountability, and fund-raising practices.

Independent Sector

1200 Eighteenth Street, NW, Suite 200

Washington, D.C. 20036

Phone: 202-467-6100

Internet: http://www.independentsector.org

The Independent Sector is a coalition of charitable organizations and others interested in the nonprofit sector. A prime focus of the group is to help nonprofit organizations implement effective accountability and ethical standards, and the group's website includes various standards and models to address these issues. The group also provides information on public policy issues of interest to nonprofit organizations and conducts and publishes research on various aspects of charitable giving and volunteering in the United States.

Federal Trade Commission: Consumer Protection

CRC-240

Washington, D.C. 20580

Phone: 1-877-FTC-HELP (382-4357)

Internet: http://www.ftc.gov/bcp/conline/edcams/charityfraud/index.html

The Federal Trade Commission website, particularly the Charity Fraud page, offers information to consumers, businesses, and nonprofit organizations about how to guard against charity fraud. The site provides numerous FTC articles highlighting common scam practices and offering advice on safe methods to donate as well as ways to determine if a charitable organization is legitimate, such as a Charity Checklist, available at http://www.ftc.gov/bcp/conline/pubs/misc/charitycheck.htm. The site instructs consumers on how to file a complaint with the FTC if they feel they have been defrauded by an allegedly nonprofit organization. There is also information for nonprofit organizations regarding acceptable solicitation practices and tips on hiring professional fund-raisers. The site also provides numerous links to other organizations that provide information about nonprofit entities.

The FTC has also undertaken "Operation Phoney Philanthropy," a law enforcement and public education campaign, in conjunction with state charity regulators to stop fraudulent fundraising.[21] "Phone-y" refers to deceptive fundraising calls made to individuals and businesses by telemarketers.[22]

Society for Nonprofit Organizations

5820 Canton Center Road, Suite 165

Canton, MI 48187

Telephone: (734) 451-3582

Internet: http://www.snpo.org

The Society for Nonprofit Organizations (SNPO) is an organization whose purpose is to provide a forum for the exchange of information on nonprofit organizations, offering services to directors, board members, volunteers, and anyone interested in nonprofit organizations operations. It offers professional support services and referral services to members and maintains an information center of books, periodicals, and tapes. SNPO publishes a bimonthly journal, *Nonprofit World:*

[21] FTC and States Unite to Fight Fundraising Fraud, http://www.ftc.gov/opa/2003/05/opp.htm.

[22] "Operation Phoney Philanthropy" Launched to Fight Charity Fraud, http://www.guidestar.org/news/features/phoney_phil.jsp.

The National Nonprofit Leadership and Management Journal, which focuses on the management of nonprofit organizations. SNPO also issues a monthly electronic newsletter, *Nonprofit World Funding Alert*, that details funding opportunities and includes profiles of various foundations. Limited information is available to non-member website visitors.

These recently-published books deal with various aspects of starting and managing nonprofit organizations.

Blazek, Jody. (2004). *Tax planning and compliance for tax-exempt organizations: Forms, checklists, procedures.* Hoboken, N.J.: Wiley.

LC CALL NUMBER: KF6449 .B58 2004

Colombo, J.D., & Hall, M.A. (1995). *The charitable tax exemption*. Boulder: Westview Press.

LC CALL NUMBER: KF6449 .C59 1995

Connors, T.D. (Ed). (2001). *The nonprofit handbook. Management.* (3rd ed.). New York: Wiley.

LC CALL NUMBER: HD62.6 .N662 2001b

Greenfield, J.M. (2001). *The nonprofit handbook. Fund raising*. (3rd ed.). New York: Wiley.

LC CALL NUMBER: HD62.6 .N662 2001

Gross, M.J., Jr., McCarthy, J.H., & Shelmon, N.E. (2005). *Financial and accounting guide for not-for-profit organizations*. (6th ed.). Hoboken, NJ: Wiley.

LC CALL NUMBER: HF5686.N56 G76 2005

Grobman, G.M. (2005). *The nonprofit handbook: Everything you need to know to start up and run your nonprofit organization*. (4th ed.). Harrisburg, PA: White Hat Communications.

LC CALL NUMBER: HD62.6 .G762 2005

Hopkins, B.R. (2003). *The law of tax-exempt organizations*. (8th ed.). Hoboken: NJ: J. Wiley & Sons. (2004 & 2005 Supplements available).

LC CALL NUMBER: KF6449 .H6 2003

Kitrosser, E., & Dropkin, M. (1993). *Tax considerations in non-profit organizations*. New York: American Institute of Certified Public Accountants.

LC CALL NUMBER: KF6449.Z9 K57 1993

Listro, J.P., & RuJoub, M.A. (2001). *Accounting and financial reporting for governmental units and not-for-profit organizations.* (3rd ed.). Dubuque, Iowa: Kendall/Hunt Pub.

LC CALL NUMBER: HF5686.N56 L57 2001

National directory of nonprofit organizations. (1990 -). Rockville, MD: Taft Group. (Published annually).

LC CALL NUMBER: AS29.5.N38

Nonprofit executive's tax desk annual. (2001 -). Gaithersburg, MD: Aspen Publishers, Inc. (Published annually).

LC CALL NUMBER: KF6449 .A15 N66

Whaley, J., & Stratton, J. (Eds.). (2001). *Nonprofit organization management: Forms, checklists & guidelines*. (2nd ed.). Gaithersburg, MD: Aspen Publishers.

LC CALL NUMBER: HD62.6 .N666 2001

Table 1. Types of Tax Exempt Organizations

Type	Examples
501(c)(1)	Corporations organized by Act of Congress; including Federal Credit Unions, Resolution Trust Corporation and Resolution Funding Corporation
501(c)(2)	Title-holding corporations
501(c)(3)	Religious, educational, charitable, scientific, literary, testing for public safety, fostering national or international amateur sports competition, prevention of cruelty to children or animals
501(c)(4)	Civic leagues, social welfare organizations, local associations of employees dedicated to charitable, educational, or recreational purposes
501(c)(5)	Labor unions, agricultural and horticultural organizations
501(c)(6)	Trade associations, chambers of commerce, professional football leagues
501(c)(7)	Social and recreational clubs
501(c)(8)	Fraternal benefit societies and associations
501(c)(9)	VEBAs (Voluntary employees' beneficiary associations providing the payment of certain employee benefits)
501(c)(10)	Domestic fraternal societies whose net earnings are devoted to religious, charitable, scientific, literary, educational, and fraternal purposes, which do not provide benefits to members
501(c)(11)	Teachers' retirement fund associations
501(c)(12)	Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone, electric, or water companies
501(c)(13)	Cemetery companies
501(c)(14)	Credit unions
501(c)(15)	Small mutual insurance companies
501(c)(16)	Cooperatives to finance crop operations
501(c)(17)	Supplemental unemployment benefit trusts
501(c)(18)	Pre-June 25, 1959 employee funded pension trust
501(c)(19)	Veterans' groups
501(c)(20)	Group legal service organizations
501(c)(21)	Black lung benefit trusts

Type	Examples
501(c)(22)	Multi-employer pension plan trusts
501(c)(23)	Veterans organization established before 1880
501(c)(24)	ERISA trusts for certain terminated plans
501(c)(25)	Multi-parent real property title-holding companies
501(c)(26)	State-sponsored organizations providing health coverage to high risk individuals
501(c)(27)	State-sponsored workers' compensation reinsurance organization
501(c)(28)	National Railroad Retirement Investment Trust
501(d)	Religious and apostolic organizations with common or communal treasury
501(e)	Cooperative hospital service organizations
501(f)	Cooperative educational investment organizations
501(k)	Child care organizations
501(n)	Charitable risk pools
521	Farmers' cooperatives
526	Shipowners' protection and indemnity associations
527	Political organizations
528	Homeowners' associations

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