

# Instructions for Form 1023

(Rev. January 2020)

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

Volume 3 of 4



Department of the Treasury  
**Internal Revenue Service**

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**Line 4.** Describe how your governing board and officers are selected, including where (if applicable) this information is in your governing document, bylaws, or other internal rules and regulations.

Type III organizations must also describe how your officers, directors, or trustees maintain a close and continuing relationship with the officers, directors, or trustees of your supported organization(s).

**Line 5. Prohibited control by disqualified person.** You can't be described in section 509(a)(3) if you're directly or indirectly **controlled by disqualified persons.** You are controlled if disqualified persons:

- Can exercise 50% or more of the total voting power of your governing body;
- Have authority to affect significant decisions, such as power over your investment decisions, or power over your charitable disbursement decisions; or

- Can exercise veto power over your actions.

Although control is generally demonstrated where disqualified persons have the authority over your governing body to require you to take an action or refrain from taking an action, indirect control by disqualified persons will also disqualify you as a supporting organization.

See Appendix C for a description of the terms “**disqualified person**,” “**family**,” “**foundation manager**,” and “**business relationship**.”



*Public charities and foundation managers who otherwise are disqualified persons only because they are foundation managers aren't disqualified persons for this purpose.*

**Line 7. Organizational test.** If you answered “No,” you are a Type III supporting organization, you must amend your

**organizing document** to specify your supported organization(s) by name; or you won't meet the organizational test under section 509(a)(3) and need to reconsider your requested public charity classification in Part VII, line 1.

**Line 7a.** If you answered "No," you won't meet the organizational test under section 509(a)(3) unless you amend your organizing document to specify your supported organization(s) by name, purpose, or class, and need to reconsider your requested public charity classification in Part VII, line 1.

**Line 8.** When responding to this question, don't include donors that are section 509(a)(1), (2), or (4) organizations.



*This prohibition on contributions from controlling donors only applies to Type I and Type III supporting organizations.*

**Line 9. Type III responsiveness test.**

Answer “Yes,” if, because of your relationship described in line 3, the supported organization has a significant involvement in your investment policies, making and timing of grants, and directing the use of your income and assets, and explain how your supported organization is involved in these matters.

**Line 10. Type III notification**

**requirement.** A Type III supporting organization must provide the notice described in this question. If you’re a Type III supporting organization, you’ll be required to answer this question annually on your annual information return (Schedule A of Form 990 or 990-EZ).

**Lines 11–13. Type III integral part test.**

An organization seeking classification as a Type III supporting organization must meet an integral part test, which is satisfied by maintaining significant involvement in the

operations of one or more supported organizations and providing support on which the supported organization(s) are dependent. A Type III supporting organization may be functionally integrated (lines 11–12) or non-functionally integrated (lines 13 and 13a–c) depending on the manner in which it meets the integral part test. Functionally integrated Type III supporting organizations are subject to fewer restrictions and requirements than non-functionally integrated Type III supporting organizations.

**Line 11.** Answer “Yes,” if you’re the parent of all your supported organizations because you:

1. Have the power to appoint or elect, directly or indirectly, a majority of the officers, directors, or trustees of each supported organization; and
2. Exercise a substantial degree of direction over the policies, programs, and activities of each supported organization.

For example, N, an organization described in section 501(c)(3), is the parent organization of a healthcare system consisting of two hospitals (Q and R) and an outpatient clinic (S), each of which is described in section 509(a)(1), and a taxable subsidiary (T). N is the sole member of each of Q, R, and S. Under the charter and bylaws of each of Q, R, and S, N appoints all members of the board of directors of each corporation. N engages in the overall coordination and supervision of the healthcare system's exempt subsidiary corporations Q, R, and S in approval of their budgets, strategic planning, marketing, resource allocation, securing tax-exempt bond financing, and community education. N also manages and invests assets that serve as endowments of Q, R, and S.

**Line 12.** Answer "Yes," if you conduct activities that the supported organization would otherwise need to conduct in

furtherance of its exempt purposes and describe the activities that you conduct.

Holding title to and managing assets that are used (or held for use) directly in carrying out the exempt purposes of your supported organization (exempt-use assets) are activities that directly further the exempt purposes of your supported organization. Conversely, with certain exceptions, fundraising, making grants (whether to the supported organization or to third parties), and investing and managing non-exempt-use assets aren't activities that directly further the exempt purposes of the supported organization. See Regulations section 1.509(a)-4(i)(4) (ii) for more information.

**Line 13.** To satisfy the integral part test as a non-functionally integrated supporting organization, you must distribute at least 85% of your annual **net income** or 3.5% of the aggregate **fair market value** of all of your non-exempt-use assets (whichever is

greater) to your supported organization(s). You can use Part V of Schedule A (Form 990 or 990-EZ) to help determine your answer to this question.



*The distributable amount for the first tax year an organization is treated as a non-functionally integrated Type III supporting organization is zero.*

For purposes of this line, “net income” has the same meaning as the term “**adjusted net income.**” In general, “adjusted net income” is the excess of gross income, including gross income from any unrelated trade or business, determined with certain modifications, reduced by total deductions. Gross income doesn’t include gifts, grants, or contributions. See Appendix C.

For purposes of this line, “non-exempt-use assets” are all assets of the supporting organization other than:

1. Assets described in Regulations section 53.4942(a)(2)(c)(2)(i) through (iv), and
2. Exempt-use assets, which are assets that are used (or held for use) directly in carrying out the exempt purposes of your supported organization. See Regulations section 1.509(a)-4(i)(8) for more information.

**Line 13a.** List the total amount you distribute(d) annually to each supported organization. Also, indicate how each amount will vary from year to year.

**Line 13b.** List the total annual income for each supported organization. If you distribute your income to, or for the use of, a particular department or program of an organization, list the annual revenue of the supported department or program.

**Line 13c.** Answer "Yes," if your funds are "**earmarked**" for a particular program or

activity conducted by your supported organization.

## **Schedule E. Effective Date**

The questions in this schedule will help us determine the effective date of exemption if you're either seeking reinstatement after automatic revocation or you're filing this application more than 27 months after the end of the month in which you were legally formed.

### **Specific Line Items**

**Line 1.** Answer "Yes," if your exempt status was automatically revoked under section 6033(j)(1) for failure to file required annual returns or notices for 3 consecutive years and you're applying for reinstatement.

Rev. Proc. 2014-11, 2014-3 I.R.B. 411, at [IRS.gov/irb/2014-03 IRB](https://www.irs.gov/irb/2014-03_IRB) establishes several different procedures for reinstating an organization's exempt status depending upon

its size, the number of times it's been automatically revoked, and the timeliness of filing for reinstatement. Review the revenue procedure to determine which section applies to you.

**Line 1a.** Select the section of Rev. Proc. 2014-11 under which you're applying for reinstatement.

**Section 4.** Select this section if:

You were eligible to file either Form 990-EZ or Form 990-N for each of the 3 consecutive years that you failed to file;

- This is the first time you've been automatically revoked pursuant to section 6033(j)(1); and
- You're submitting this application no later than 15 months after the later of the date of your Revocation Letter or the date on which the IRS posted your name on the Auto-Revocation List at [apps.irs.gov/app/eos/](https://apps.irs.gov/app/eos/).

By selecting this item, you're also attesting that your failure to file wasn't intentional and you've put in place procedures to file required returns or notices in the future.



*If you were classified as a **private foundation** prior to your automatic revocation, you weren't eligible to file either Form 990-EZ or Form 990-N and, therefore, aren't eligible to request reinstatement under Section 4.*



*If your exempt status was automatically revoked more than once, you're not eligible for reinstatement under Section 4; however, you may apply for reinstatement under Section 5, Section 6, or Section 7.*

**Section 5.** Select this section if:

- You're ineligible to file for reinstatement under Section 4, and
- You're submitting this application not later than 15 months after the later of the date

of your Revocation Letter or the date on which the IRS posted your name on the Auto-Revocation List at [apps.irs.gov/app/eos/](https://apps.irs.gov/app/eos/).

By selecting this item, you're also attesting that you filed the required annual returns, your failure to file was not intentional, and you have put in place procedures to file required returns or notices in the future.

Describe how you exercised ordinary business care and prudence in determining and attempting to comply with your filing requirements in at least 1 of the 3 years of revocation. Include a detailed explanation of all the facts and circumstances that led to the failure, the discovery of the failure, and the steps you have taken or will take to avoid or to mitigate future failures to file timely returns or notices.

**Section 6.** Select this section if you are applying for reinstatement of your tax-exempt status more than 15 months from the

later of the date of the Revocation Letter or the date on which the IRS posted your name on the Auto-Revocation List at [apps.irs.gov/app/eos/](https://apps.irs.gov/app/eos/).

By selecting this item, you're also attesting that you filed the required annual returns, your failure to file wasn't intentional, and you have put in place procedures to file required returns or notices in the future.

Describe how you exercised ordinary business care and prudence in determining and attempting to comply with your filing requirements in each of the 3 years of revocation. Include a detailed explanation of all the facts and circumstances that led to the failure, the discovery of the failure, and the steps you have taken or will take to avoid or mitigate future failures to file timely returns or notices.

**Section 7.** Select this section if you're seeking reinstatement with an effective date

of reinstatement of the date of submission of this application.

**Line 2.** Generally, if you didn't file Form 1023 within 27 months of formation, the effective date of your exempt status will be the date you filed Form 1023 (submission date). We may grant requests for an earlier effective date when there's evidence to establish you acted reasonably and in good faith, and the grant of relief won't prejudice the interests of the government.

Select the appropriate box to indicate whether you accept the submission date as the effective date of your exempt status or whether you are requesting an earlier effective date.

**Line 2a.** You may be eligible for consideration for relief from the requirement that you file Form 1023 within 27 months of formation if you can establish that you acted reasonably and in good faith, and that

granting an extension won't prejudice the interests of the government.

Describe in detail your reasons for filing late, how you discovered your failure to file, any reliance on professional advice or advice from the IRS, and any other information you believe will support your request for relief. Also, you may want to provide a comparison of (1) what your aggregate tax liability would be if you had filed this application within the 27-month period with (2) what your aggregate liability would be if you were exempt as of your formation date.

We may consider the following factors.

- You filed Form 1023 before we discovered your failure to file.
- You failed to file because of intervening events beyond your control.
- You exercised reasonable diligence, but you weren't aware of the filing requirements. (The complexity of your

filing and experience in these matters may be taken into consideration.)

- You reasonably relied on written advice from us.
- You reasonably relied on the advice of a qualified tax professional who failed to file or advise you to file Form 1023.

## **Schedule F. Low-Income Housing**

To qualify for tax exemption, **low-income housing** must provide affordable housing for a significant segment of individuals in your **community** with low incomes. Your low-income housing may serve a combination of purposes, such as for poor, frail, and elderly persons. **Specific Line Items**

**Line 1.** The “type” of facility may be an apartment complex, condominium, cooperative, or private residence, etc.

**Line 6.** Answer “Yes,” if you charge daily, weekly, monthly, or annual fees or maintenance charges.

**Line 8.** Government programs include federal, state, or local government programs.

## **Schedule G. Successors to Other Organizations**

You should consider this schedule as a **successor** organization if any of the following situations pertain to you.

- You took or will take over activities previously conducted by another organization.
- You took or will take over 25% or more of the **fair market value** of the net assets of another organization.
- You were established upon the conversion of an organization from **for-profit** to non-profit status.

The other organization is the **predecessor** organization. You should complete this schedule regardless of whether the predecessor (other organization) was exempt or not exempt from federal income tax.

For purposes of this schedule, a “**for-profit**” organization is one in which persons are permitted to have an ownership or partnership interest, such as corporate stock. It includes sole proprietorships, corporations, and other entities that provide for ownership interests.

# **Schedule H. Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures**

Complete this schedule if you provide scholarships, fellowships, grants, loans, or other distributions to individuals for educational purposes. When answering the questions on this schedule, you should demonstrate how these distributions further your exempt purposes.



*If you're a private foundation, you're subject to the rules under section 4945 and may incur an excise tax if you make grants for the purpose described above without seeking advance approval of*

*your grant-making procedures (see Schedule H–Section II).*

Generally, distributions made to individuals may advance educational purposes if selection is made:

- In a non-discriminatory fashion in terms of racial preference;
- Based on need and/or merit; and
- To a charitable class in terms of being available to an open-ended group, rather than to pre-selected individuals.

A scholarship or fellowship is tax free to the recipient only if he or she is a candidate for a degree at an eligible educational institution and uses the scholarship or fellowship to pay qualified education expenses.

Qualified education expenses include tuition and fees; and course-related expenses such as books, supplies, and equipment. Room and board, travel, research, clerical help, and

non-required equipment aren't qualified education expenses. See Pub. 970, Tax Benefits for Education, for additional information.

Selection of individuals using a lottery system generally hasn't been approved by the IRS.

Specific Line Items

## **Section I**

**Line 1.** If you conduct more than one grant program, describe each program separately.

If you make educational loans, describe the terms of the loan (for example, the factors you consider in selecting or approving loan recipients, interest rate, duration, forgiveness provision, etc.). Also, describe whether any financial institutions or other lenders are involved in your program.

Explain how you will publicize your program and whether you publicize to the general public or to another group of possible recipients. Include specific information about

the geographic area in which your program will be publicized and the means you will use, such as through newspaper advertisements, school district announcements, or community groups.

**Line 2.** Organizations that make grants to individuals must maintain adequate records and case histories showing the name and address of each recipient, pursuant Rev. Rul. 56-304, 1956-2 C.B. 306 but don't provide this information as part of your application.

## **Section II**

If you requested public charity classification in Part VII, line 1, don't complete Schedule H – Section II.

**Line 1.** Answer "Yes," if you're a **private foundation** and you're requesting advance approval of your grant-making procedures under section 4945(g). Answer "No," if you're a private foundation but don't wish to request advance approval of your grant-making

procedures under section 4945(g). If you answer “No” the amounts you distribute as educational grants provided to individuals may be considered taxable expenditures under section 4945.

For more information about advance approval of grant-making procedures of a private foundation, go to [IRS.gov/charities-non-profit/private-foundations/advance-approval-of-grant-making-procedures](https://www.irs.gov/charities-non-profit/private-foundations/advance-approval-of-grant-making-procedures).

**Line 1a.** Check the box for section “4945(g)(1)” if your award qualifies as a scholarship or fellowship grant that’s awarded on an objective and nondiscriminatory basis and is used for study at a school (see Schedule B for what is considered a school).

Check the box for “4945(g)(3)” if the purpose of your award is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the

recipient. Include your educational loan program under this section.

You may check more than one box.



*If your award qualifies as a prize or award that is subject to the provisions of section 74(b) and your recipient is selected from the general public, you don't have to request advance approval of your grant-making procedures since a prize or award isn't subject to the advance approval procedure requirements because it isn't a grant for travel, study, or other similar purposes. See Rev. Ruls. 77-380, 1977-2 C.B. 419; 76-460, 1976-2 C.B. 371; and 75-393, 1975-2 C.B. 451.*

**Line 4.** Answer "Yes," if you award scholarships on a preferential basis because you require, as an initial qualification, that the individual be an employee or be **related** to an employee of a particular employer.

**Line 7.** For purposes of this schedule, a program for children of employees of a particular employer includes children and **family** members of employees.

**Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, certain returns and return information of tax exempt organizations and trusts are subject to public disclosure and inspection, as provided by section 6104.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

**Comments and suggestions.** If you have comments concerning the accuracy of this time estimate or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to:

Internal Revenue Service  
Tax Forms and Publications Division  
1111 Constitution Ave. NW, IR-6526  
Washington, DC 20224

# Appendix A: Sample Conflict of Interest Policy

**Note.** This Sample Conflict of Interest Policy is intended to provide an example of a conflict of interest policy for organizations. The sample conflict of interest policy does not prescribe any specific requirements. Therefore, organizations should use a conflict of interest policy that best fits their organization.

**Note.** Items marked *Hospital insert – for hospitals that complete Schedule C* are intended to be adopted by hospitals.

## Article I

### Purpose

The purpose of the conflict of interest policy is to protect this tax-exempt organization's (Organization) interest when it is contemplating entering into a transaction or arrangement that might benefit the private

interest of an officer or director of the Organization or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

## **Article II**

### **Definitions**

- 1. Interested Person** Any director, principal officer, or member of a committee with governing board delegated powers, who has a direct or indirect financial interest, as defined below, is an interested person.

**[Hospital insert – for hospitals that complete Schedule C.** If a person is an interested person with respect to any entity in the health care system of which the organization is a part, he or she is an interested person with

respect to all entities in the health care system.]

**2. Financial Interest** A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

- a.** An ownership or investment interest in any entity with which the Organization has a transaction or arrangement,
- b.** A compensation arrangement with the Organization or with any entity or individual with which the Organization has a transaction or arrangement, or
- c.** A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Organization is

negotiating a transaction or arrangement.

- d.** Compensation includes direct and indirect remuneration as well as gifts or favors that aren't insubstantial. A financial interest isn't necessarily a conflict of interest. Under Article III, Section 2, a person who has a financial interest may have a conflict of interest only if the appropriate governing board or committee decides that a conflict of interest exists.

## **Article III**

### **Procedures**

- 1. Duty to Disclose** In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity

to disclose all material facts to the directors and members of committees with governing board delegated powers considering the proposed transaction or arrangement.

2. **Determining Whether a Conflict of Interest Exists** After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the governing board or committee meeting while the determination of a conflict of interest is discussed and voted upon. The remaining board or committee members shall decide if a conflict of interest exists.

3. **Procedures for Addressing the Conflict of Interest**

- a. An interested person may make a presentation at the governing board or committee meeting, but after the presentation, he/she

shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

- b.** The chairperson of the governing board or committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.
- c.** After exercising due diligence, the governing board or committee shall determine whether the Organization can obtain, with reasonable efforts, a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

- d.** If a more advantageous transaction or arrangement isn't reasonably possible under circumstances not producing a conflict of interest, the governing board or committee shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in the Organization best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, it shall make its decision as to whether to enter into the transaction or arrangement.

#### **4. Violations of the Conflict of Interest Policy**

- a.** If the governing board or committee has reasonable cause to believe a member has failed to

disclose actual or possible conflicts of interest, it shall inform the member of the basis for such belief and afford the member an opportunity to explain the alleged failure to disclose.

- b.** If, after hearing the member's response and after making further investigation as warranted by the circumstances, the governing board or committee determines the member has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

# **Article IV**

## **Records of Proceedings**

The minutes of the governing board and all committees with board delegated powers shall contain:

- a.** The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the governing board's or committee's decision as to whether a conflict of interest in fact existed.
  
- b.** The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or

arrangement, and a record of any votes taken in connection with the proceedings.

## **Article V**

### **Compensation**

- a.** A voting member of the governing board who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.
  
- b.** A voting member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization for services is precluded from voting on matters pertaining to that member's compensation.

- c.** No voting member of the governing board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Organization, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

***[Hospital insert-for hospitals that complete Schedule C*** Physicians who receive compensation from the Organization, whether directly or indirectly or as employees or independent contractors, are precluded from membership on any committee whose jurisdiction includes compensation matters. No physician, either individually or collectively, is prohibited from providing information

to any committee regarding physician compensation.]

## **Article VI**

### **Annual Statements**

Each director, principal officer, and member of a committee with governing board delegated powers shall annually sign a statement which affirms such person:

- a.** Has received a copy of the conflict of interest policy,
- b.** Has read and understands the policy,
- c.** Has agreed to comply with the policy, and
- d.** Understands the Organization is charitable and in order to maintain its federal tax exemption it must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

## **Periodic Reviews**

To ensure the Organization operates in a manner consistent with charitable purposes, and doesn't engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

- a.** Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.
- b.** Whether partnerships, joint ventures, and arrangements with management organizations conform to the Organization's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and don't result in inurement,

impermissible private benefit, or in an excess benefit transaction.

## **Article VIII**

### **Use of Outside Experts**

When conducting the periodic reviews, as provided for in Article VII, the Organization may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

# **Appendix B: States With Statutory Provisions Satisfying the Requirements of Internal Revenue Code Section 508(e)**

The following states have adopted legislation satisfying the requirements of Section 508(e) relating to private foundation governing instruments. Information derived from Revenue Ruling 75-38, 1975-1 C.B. 161.

ALABAMA — except where otherwise provided by a decree of a court of competent jurisdiction or by a provision in the private foundation's governing instrument, which in either case has been entered or made after October 1, 1971, and expressly limits the applicability of state law.

ALASKA — except for such private foundations that expressly provide in their governing

instruments that the applicable sections of Alaska law don't apply to them.

ARKANSAS — except for such private foundations which expressly provide in their governing instruments that the applicable sections of Arkansas law don't apply to them and except in the case of trusts where otherwise provided by decree of a court of competent jurisdiction.

CALIFORNIA — except where otherwise provided by a court of competent jurisdiction.

COLORADO — with respect to trusts that are private foundations except where otherwise provided by a court of competent jurisdiction.

CONNECTICUT — except where otherwise provided by a court of competent jurisdiction.

DELAWARE — except for such private foundations, which expressly provide in their

governing instruments that the applicable sections of Delaware law don't apply to them.

DISTRICT OF COLUMBIA — except for such corporations, which expressly provide in their governing instruments that the applicable sections of District of Columbia law don't apply to them and except in the case of trusts where otherwise provided by a court of competent jurisdiction. (For purposes of this statute, corporations include corporations organized under any Act of Congress applicable to the District of Columbia as well as corporations organized under the laws of the District of Columbia.)

FLORIDA — except for such trusts that file a proper election not to be subject to the applicable provisions of Florida law and for such corporations as to which a court of competent jurisdiction has otherwise determined.

GEORGIA — except for such private foundations that file a proper election not to be subject to such law.

HAWAII — no exceptions.

IDAHO — except for such private foundations that expressly provide in their governing instruments that the applicable sections of Idaho law don't apply to them.

ILLINOIS — except for such corporations that have express provisions to the contrary in their articles of incorporation and except for trusts where it is otherwise provided by a court of competent jurisdiction.

INDIANA — except where otherwise determined by a court of competent jurisdiction with respect to private foundations organized before January 1, 1970.

IOWA — except for such private foundations which expressly provide in their governing instruments that the applicable sections of Iowa law don't apply to them.

KANSAS — except where otherwise provided by a court of competent jurisdiction.

KENTUCKY — except, with respect to corporations in existence on July 1, 1972, to the extent that such a corporation provides to the contrary by amendment to its articles of incorporation adopted after July 1, 1972, and, with respect to trusts in existence on July 1, 1972, where action is properly commenced on or before December 31, 1972, in a court of competent jurisdiction to excuse the trust from compliance with the requirements of section 508(e) of the Code.

LOUISIANA — except for such private foundations that expressly provide in their

governing instruments that the applicable sections of Louisiana law don't apply to them.

MAINE — except where otherwise provided by a court of competent jurisdiction.

MARYLAND — except where otherwise provided by a court of competent jurisdiction.

MASSACHUSETTS — except where otherwise provided by a court of competent jurisdiction.

MICHIGAN — with respect to trusts that are private foundations except for such private foundations which file a notice of inconsistency under Michigan law.

MINNESOTA — except for private foundations that have been held by a court of competent jurisdiction not to be affected by such state statute.

MISSISSIPPI — except where otherwise provided by a court of competent jurisdiction.

MISSOURI — except for private foundations that have been held by a court of competent jurisdiction not to be affected by such state statute.

MONTANA — except in the case of trusts where otherwise provided by court decree entered after March 28, 1974, and except in the case of a corporation that has an express provision to the contrary in its articles of incorporation.

NEBRASKA — except for such trusts that effectively elect to be excluded from the applicable sections of Nebraska law, for such corporations which have governing instruments expressly providing to the contrary, and except as a court of competent

jurisdiction has otherwise determined in any given case.

NEVADA — no exceptions.

NEW HAMPSHIRE — except where it is otherwise provided by a court of competent jurisdiction.

NEW JERSEY — except for such private foundations that expressly provide in their governing instruments that the applicable sections of New Jersey law don't apply to them.

NEW YORK — except where such law conflicts with any mandatory direction of an instrument by which assets were transferred prior to June 1, 1971, and such conflicting direction hasn't been removed legally.

NORTH CAROLINA — except for such private foundations which expressly provide in their

governing instruments that the applicable sections of North Carolina law don't apply to them and except for trusts that have their governing instruments reformed by a decree of the Superior Court of North Carolina.

NORTH DAKOTA — with respect to trusts that are private foundations except where otherwise provided by a court of competent jurisdiction.

OHIO — except in the case of trusts where it is provided otherwise by a court of competent jurisdiction and except in the case of corporations in existence on September 17, 1971, which expressly adopt contrary provisions in their governing instruments after September 17, 1971.

OKLAHOMA — except for such private foundations that file a proper election not to be subject to such law.

OREGON — no exceptions.

PENNSYLVANIA — except where otherwise provided by a court of competent jurisdiction.

RHODE ISLAND — except where otherwise provided by a court of competent jurisdiction.

SOUTH CAROLINA — except for private foundations that expressly provide in their governing instruments that the applicable sections of South Carolina law don't apply to them.

SOUTH DAKOTA — except where otherwise provided by a court of competent jurisdiction.

TENNESSEE — except where otherwise provided by a court of competent jurisdiction.

TEXAS — except for such private foundations that a proper election not to be subject to such law.

UTAH — with respect to trusts that are private foundations except where otherwise provided by a court of competent jurisdiction.

VERMONT — except where otherwise provided by a court of competent jurisdiction.

VIRGINIA — except for private foundations whose governing instruments contain express provisions to the contrary or that have filed a proper election not to be subject to such law.

WASHINGTON — except for such private foundations that expressly provide in their governing instruments that the applicable sections of Washington law don't apply to them.

WEST VIRGINIA — with respect to trusts that are private foundations except for such trusts which provide in their governing instruments

that the applicable sections of West Virginia law don't apply to them.

WISCONSIN — except as may otherwise be provided by decree of a court of competent jurisdiction.

WYOMING — except where otherwise provided by a court of competent jurisdiction.

# Appendix C: Glossary of Terms

**Adjusted net income (for Schedule D)** Adjusted net income includes: gross income from any unrelated trade or business; gross income from functionally related businesses; interest payments received on loans; amounts received or accrued as repayments of amounts taken as qualifying distributions for any tax year; amounts received or accrued from the sale or other disposition of property to the extent acquisition of the property was treated as a qualifying distribution for any tax year; any amounts set aside for a specific project to

the extent the full set-aside was not necessary for the project; interest on government obligations normally excluded under section 103; net

short-term capital gains on sale or other disposition of property; and income received from an estate if the estate is considered terminated for income tax purposes because of a prolonged administration period.

It doesn't include: gifts, grants, and contributions received; long-term capital gains or losses; net section 1231 gains; capital gain dividends; the excess of fair market value over adjusted

basis of property distributed to the U.S. or a possession or political subdivision, a state or its political subdivision, a charitable trust, or corporation for public purposes; or income received from an estate during the administration period.

In computing adjusted net income, deduct the following: ordinary and necessary expenses paid or incurred for the production or collection of gross income, or for the management, conservation, or collection of gross income (includes operating expenses such as compensation of officers, employee wages and salaries, interest, rent, and taxes); straight-line

depreciation and depletion (not percentage depletion); and expenses and interest paid or incurred to carry tax-exempt obligations. Don't deduct net short-term capital losses for the year in which they occur (these losses cannot be carried back or carried over to earlier or later tax years); the excess of expenses for property used for exempt purposes over the income received from the property; charitable contributions made by you; net operating losses; and special deductions for corporations.

**Arm's length** A transaction between parties having adverse (or opposing) interests where none of the

participants are in a position to exercise substantial influence over the transaction because of business or family relationship(s) with more than one of the parties.

**Authorized representative** An individual eligible to practice before the IRS who holds a power of attorney (Form 2848 or other similar documents) that authorizes him or her to represent the organizations in tax matters, including the application for tax-exempt status.

**Bingo** A game of chance played with cards that are generally printed with 5 rows of 5 squares each, on which participants place markers to form a

pre-selected pattern to win the game. Bingo is gambling.

**Business relationship**

Employment and contractual relationships, and common ownership of a business where any officers, directors, or trustees, individually or together, possess more than a 35% ownership interest in common. Ownership means voting power in a corporation, profits interest in a partnership, or beneficial interest in a trust.

**Bylaws**

The internal rules and regulations of an organization.

**Certification of filing**

Evidence that, on a specific date, articles of incorporation (for a corporation) or articles

of organization (for a limited liability company) were accepted for filing by appropriate state authority resulting in the creation of a state-law entity.

**Community** The local or regional geographic area to be served by an organization.

**Compensation** All forms of income from working, including salary or wages; deferred compensation; retirement benefits, whether in the form of a qualified or non-qualified employee plan (for example, pensions or annuities); fringe benefits (for example, personal vehicle, meals, lodging, personal and family educational benefits, low

interest-loans, payment of personal travel, entertainment, or other expenses, athletic or country club membership, and personal use of your property); and bonuses.

**Conflict of interest policy** A set of procedures to identify potential conflicts of interest and to reduce the likelihood that persons in a position of authority over an organization may use that authority to receive an inappropriate benefit. A conflict of interest may arise when a person in a position of authority over an organization, such as a director, officer, or manager, may benefit personally from a

decision he or she could make.

**Controlled by disqualified persons**

See the definition of a disqualified person below. A section 509(a)(3) supporting organization, may not be controlled directly or indirectly by disqualified persons (other than the organization's officers, directors or trustees). An organization is controlled by disqualified persons if disqualified persons can exercise 50% or more of the total voting power held by the organization's governing body. For this purpose, controlled includes the authority to affect significant decisions, such as power over

investment decisions, or charitable disbursement decisions, as well as the power to veto such decision. Control may be direct or indirect.

**Corporation**

An entity organized under a federal or state corporation law (including the statutes of a federally recognized Indian tribal or Alaskan native government).

**Develop**

The planning, financing, construction, or provision of similar services involved in the acquisition of real property, such as land or a building.

**Disqualified person**

Any individual or organization that is any of the following relationships.

- a.** A substantial contributor to you (see *Substantial contributor*).
- b.** An officer, director, trustee, or any other individual who has similar powers or responsibilities.
- c.** An individual who owns more than 20% of the total combined voting power of a corporation that is a substantial contributor to you.
- d.** An individual who owns more than 20%

of the profits interest of a partnership that is a substantial contributor to you.

- e.** An individual who owns more than 20% of the beneficial interest of a trust or estate that is a substantial contributor to you.
- f.** A member of the family of any individual described in a, b, c, d, or e above.
- g.** A corporation in which any individuals described in a, b, c, d, e, or f above hold more than 35% of

the total combined voting power.

**h.** A trust or estate in which any individuals described in a, b, c, d, e, or f above hold more than 35% of the beneficial interests.

**i.** A partnership in which any individuals described a, b, c, d, e, or f above hold more than 35% of the profits interest.

## **Earmark**

Donations or other contributions given to an organization on the condition or understanding that they will be used to assist particular individuals or specific identified groups.

**Expenses** Financial burdens or outlays, costs (of doing business), and business outlays chargeable against revenues. For purposes of this form, expenses mean direct and indirect expenses.

**Fair market value** The price at which property, or the right to use property, would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy, sell, or transfer property or the right to use property, and both having reasonable knowledge of relevant facts.

**Family** Includes an individual's spouse, ancestors, children, grandchildren, great-

grandchildren, siblings (whether by whole or half-blood), and the spouses of children, grandchildren, great-grandchildren, and siblings.

**Foreign country**

A country other than the United States, its territories and possessions, and the District of Columbia.

**For-profit**

A business entity whose activities are conducted or maintained to make a profit (for example, revenues greater than expenses) for its private shareholders or owners.

**Foundation manager**

Officers, directors, or trustees, or an individual having powers or

responsibilities similar to those of a foundation's officers, directors, or trustees.

## **Fundraising**

The organized activity of raising funds, whether by volunteers, employees, or paid independent contractors.

## **Gaming**

The term gaming includes activities such as Bingo, Beano, lotteries, pull-tabs, pari-mutuel betting, Calcutta wagering, pickle jars, punch boards, tip boards, tip jars, certain video games, 21, raffles, keno, split-the-pot, and other games of chance.

**Gross investment income**

As defined in section 509, gross investment income means the gross amount of income from interest, dividends, payments with respect to securities loans, rents, and royalties; but not including any such income to the extent included in computing the tax imposed by section 511.

**Gross receipts**

For purposes of *Part VI-A. Statement of Revenues and Expenses*, gross receipts include monies earned from activities related to an organization's charitable or other section 501(c)(3) activities, such as selling admissions or merchandise,

performing services, or furnishing facilities.

## **Hospital**

Hospital or medical care includes the treatment of any physical or mental disability or condition, whether on an inpatient or outpatient basis. A hospital includes the following.

- a.** Hospitals and rehabilitation institutions, outpatient clinics, or community mental health or drug treatment centers if the principal purpose or function is the providing of medical or hospital

care or medical education or research.

- b.** Medical research organizations, if the principal purpose or function is the continuous active conduct of medical research in conjunction with a hospital.

**Influence legislation**

The act of directly contacting or urging the public to contact members of a legislative body for the purpose of proposing, supporting, or opposing legislation. Attempting to influence legislation includes

advocating the adoption or rejection of legislation.

## **Intellectual property**

A type of property (distinct from real or personal property) including the following.

- a.** Patents (for inventions).
- b.** Copyrights (for literary and artistic works such as novels, poems, plays, films, musical works, drawings, paintings, photographs, sculptures, architectural designs, performances, recordings, film, and

radio or television programs).

- b.** Trade names, trademarks, and service marks (for symbols, names, images, and designs).
- c.** Formulas, know-how, and trade secrets.

**Joint venture** A legal agreement in which the parties jointly undertake a transaction for mutual profit. Generally, each person contributes assets and shares risks. Like a partnership, joint ventures can involve any type of business transaction and the “persons” involved can be individuals, groups of

individuals, companies, or corporations.

**Limited liability company** A limited liability company (LLC) is a business entity organized in the United States under state law. Generally, an LLC may be classified for federal income tax purposes as a partnership, corporation, or an entity disregarded as separate from its owner by applying the rules in Regulation section 301.7701-3. However, an LLC that has been determined to be, or claims to be, exempt from taxation under section 501(a) is

treated as having made an election to be classified as a corporation under Regulation section 301.7701-3(c)(1)(v).

**Low-income housing**

Rental or ownership housing provided to persons based on financial need.

**Mailing address**

Address where correspondence is received.

**Manage**

Manage means to direct or administer.

**Medical care**

The treatment of any physical or mental disability or condition, whether on an inpatient or outpatient basis.

**Medical  
research  
organization**

An organization whose principal purpose or function is the continuous active conduct of medical research in conjunction with a hospital.

**Net income  
(for Schedule  
D)**

See Adjusted net income.

**Non-fixed  
payment**

A non-fixed payment means a payment that depends on discretion. For example, a bonus of up to \$100,000 that is based on an evaluation of performance by the governing board is a non-fixed payment because the governing body has discretion over whether the

bonus is paid and the amount of the bonus.

**Organizing document**

The organizing document depends on the form of the organization. For a corporation, the document is the articles of incorporation. For an LLC, the document is the articles of organization. For an unincorporated association, the document is the articles of association or constitution. The organizing document of a trust is the trust agreement.

**Political campaign intervention**

An organization participates in a political campaign, if it promotes or opposes, through political literature, brochures, pamphlets, hosting or participating in

events, etc., the candidacy of an individual for public office. Debates and nonpartisan voter education aren't considered political.

**Predecessor**

An organization whose activities or assets were taken over by another organization.

**Private foundation**

An organization that is exempt under section 501(c)(3) is a private foundation unless it is a church, school, hospital, governmental unit, entity that undertakes testing for public safety, organization that has broad financial support from the general public, or organization that supports one or more other

organizations that are themselves classified as public charities.

**Private operating foundation**

A type of private foundation that makes qualifying distributions directly for the active conduct of its educational, charitable, and religious purposes. "Directly for the active conduct" means that the distributions are used by the foundation itself to carry out the programs for which it is organized and operated. Grants made to assist other organizations or individuals are normally considered indirect.

**Public charity**

An organization that is exempt under section

501(c)(3) is excepted from private foundation status because it is described in section 509(a)(1) (which cross references sections 170(b)(1)(i) through (vi), and (ix)), 509(a) (2), 509(a)(3), or 509(a)(4).

**Reasonable compensation**

Reasonable compensation is the amount that would ordinarily be paid for like services by like organizations under like circumstances as of the date the compensation arrangement is made.

Reasonable compensation is important because excessive benefits in the form of compensation to disqualified persons may result in the imposition of excise taxes

and jeopardize the organization's tax-exempt status.

**Related**

The family or business relationships between persons.

**Relationship**

A relationship may exist between one organization and another in the following situations.

- a.** One organization controls the other through common officers, directors, or trustees, or through authority to approve budgets or expenditures.
- b.** Both organizations were created at

approximately the same time and by the same persons.

- c.** The organizations operate in a coordinated manner with respect to facilities, programs, employees, or other activities.
- d.** d. The same persons exercise substantial influence over both organizations.

**Revenue**

Revenue means gross revenue amounts.

**Revenue Procedure**

An official statement of a procedure published in the IRS Internal Revenue

Bulletin (previously the Cumulative Bulletin) that either affects the rights or duties of taxpayers or other members of the public under the Internal Revenue Code and related statutes, treaties, and regulations or, although not necessarily affecting the rights and duties of the public, should be a matter of public knowledge.

**Revenue  
Ruling**

An official interpretation by the IRS of the Internal Revenue laws and related statutes, treaties, and regulations, that has been published in the IRS Internal Revenue Bulletin (previously the Cumulative Bulletin). Revenue Rulings are issued

only by the Office of Associate Chief Counsel and are published for the information and guidance of taxpayers, IRS officials, and others concerned.

## **School**

A school is an educational organization whose primary function is the presentation of formal instruction and that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. A school may include the following.

- a.** Primary, secondary, preparatory, or high school.
- b.** College or university.
- c.** Trade or technical school.
- d.** Nursery or preschool.
- e.** School that you operate as an activity, such as school that is operated as an activity of a museum, historical society, or church.

**Similarly situated**

Similarly situated organizations means tax-exempt or taxable organizations of a

comparable size, purpose, and resources.

**Substantial contributor**

An individual or organization that contributed more than \$5,000 to an organization from the date it was formed or other date that its exemption would be effective, to the end of the year in which the contributions were received. This total amount contributed must also be more than 2% of all the contributions the organization received. A creator of a trust is treated as a substantial contributor regardless of the amount contributed.