

§10.27 Fees.

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(b) *Contingent fees*—(1) Except as provided in paragraphs (b)(2), (3), (4), and (5) of this section, a practitioner may not charge a contingent fee for services rendered in connection with any matter before the Internal Revenue Service.

(2) A practitioner may charge a contingent fee for services rendered in connection with the Internal Revenue Service's examination of, or challenge to—

(i) An original tax return; or

(ii) An amended return or claim for refund or credit filed before the taxpayer received a written notice of examination of, or a written challenge to, the original tax return; or filed no later than 120 days after the receipt of such written notice or written challenge. The 120 days is computed from the earlier of a written notice of the examination, if any, or a written challenge to the original return.

(3) A practitioner may charge a contingent fee for services rendered in connection with a claim for credit or refund filed solely in connection with the determination of statutory interest or penalties assessed by the Internal Revenue Service.

(4) A practitioner may charge a contingent fee for services rendered in connection with a claim under section 7623 of the Internal Revenue Code.

(5) A practitioner may charge a contingent fee for services rendered in connection with any judicial proceeding arising under the Internal Revenue Code.

(c) * * * For purposes of this section—

(1) *Contingent fee* is any fee that is based, in whole or in part, on whether or not a position taken on a tax return or other filing avoids challenge by the Internal Revenue Service or is sustained either by the Internal Revenue Service or in litigation. A contingent fee includes a fee that is based on a percentage of the refund reported on a return, that is based on a percentage of the taxes saved, or that otherwise depends on the specific tax result attained. A contingent fee also includes any fee arrangement in which the practitioner will reimburse the client for all or a portion of the client's fee in the event that a position taken on a tax return or other filing is challenged by the Internal Revenue Service or is not sustained, whether pursuant to an indemnity agreement, a guaran-

tee, rescission rights, or any other arrangement with a similar effect.

(2) * * *

(d) *Applicability date*. This section is applicable to fee arrangements entered into after March 26, 2008.

(e) *Effective date*. This section is effective on the date that the final regulations are published in the **Federal Register**.

Linda E. Stiff,
*Deputy Commissioner for
Services and Enforcement.*

(Filed by the Office of the Federal Register on July 27, 2009, 8:45 a.m., and published in the issue of the Federal Register for July 28, 2009, 74 F.R. 37183)

Deletions From Cumulative List of Organizations Contributions to Which are Deductible Under Section 170 of the Code

Announcement 2009-61

The Internal Revenue Service has revoked its determination that the organizations listed below qualify as organizations described in sections 501(c)(3) and 170(c)(2) of the Internal Revenue Code of 1986.

Generally, the Service will not disallow deductions for contributions made to a listed organization on or before the date of announcement in the Internal Revenue Bulletin that an organization no longer qualifies. However, the Service is not precluded from disallowing a deduction for any contributions made after an organization ceases to qualify under section 170(c)(2) if the organization has not timely filed a suit for declaratory judgment under section 7428 and if the contributor (1) had knowledge of the revocation of the ruling or determination letter, (2) was aware that such revocation was imminent, or (3) was in part responsible for or was aware of the activities or omissions of the organization that brought about this revocation.

If on the other hand a suit for declaratory judgment has been timely filed, contributions from individuals and organizations described in section 170(c)(2) that are otherwise allowable will continue to be deductible. Protection under section 7428(c) would begin on August 17, 2009, and would end on the date the court first

determines that the organization is not described in section 170(c)(2) as more particularly set forth in section 7428(c)(1). For individual contributors, the maximum deduction protected is \$1,000, with a husband and wife treated as one contributor. This benefit is not extended to any individual, in whole or in part, for the acts or omissions of the organization that were the basis for revocation.

Frank and Nora Harty Center of Staten Island, Inc.
Staten Island, NY
Higgs Carter King, Inc
San Antonio, TX
World Orphanage and Refugee Relief Foundation, Inc.
Ft. Lauderdale, FL
Triple EEE
Long Beach, CA
American Budget Credit Debt Services, Inc.
Spring Valley, NY
Craig Family Foundation
Chicago, Illinois
Aloha Consumer Credit Counseling Service
Kaneohe, HI
Charity Neighborhood Auxiliary
Brooklyn, NY
Lamar Dixon Expo Foundation
Prairieville, LA
Reno & BJ Foundation
Detroit, MI
Reading Enhancement and Development
Tumwater, WA
First Foundation
Petersburg, VA
The Denis B and Mary Elizabeth O'Donnell Foundation
West Orange, NJ
Good Times Foundation
Salt Lake City, UT
Animal Adoption Center of Garland
Garland, TX
Le Tulle Foundation
Bay City, TX
YMCA of Manchester Coffee County
Manchester, TN
The Light Center, Inc.
Columbus, OH
Seventh Regiment Fund, Inc.
New York, NY
Fair Credit Foundation
Los Angeles, CA
Student Loan Fund of Idaho
Fruitland, ID

Positive Alternatives
Salt Lake City, UT
Family Budget Association of America,
Inc.
Washington, DC
Scott Olsen Foundation
Alpine, UT
Helping Other People Excel Faith-Based
Coalition, Inc.
Jackson, MS
Changing Attitudes Counseling Services,
Inc.
Washington, DC
Christian Center for the Performing Arts
— Denver
Lakewood, CO
Advancement of Sound Science Center,
Inc.
Potomac, MD

Procedures for Section 509(a)(3) Supporting Organizations to Change Public Charity Classification

Announcement 2009–62

This announcement provides procedures that a section 509(a)(3) supporting organization may use to request a change in its public charity classification. This announcement supersedes Announcement 2006–93, 2006–2 C.B. 1017.

Background

In the Pension Protection Act of 2006, Pub. L. 109–280 (PPA), Congress enacted a number of changes to the tax law affecting supporting organizations described in section 509(a)(3) of the Internal Revenue Code (Code). In recognition of the fact that organizations classified as supporting organizations under section 509(a)(3) might wish to seek reclassification under sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2) of the Code, the Internal Revenue Service (IRS) issued Announcement 2006–93, 2006–2 C.B. 1017, to provide procedures under which supporting organizations could request a change in public charity classification for reasons related to the changes made by the PPA. The IRS processed status change requests submitted under Announcement 2006–93 on an expedited basis.

On September 9, 2008, the Treasury Department and the IRS issued temporary and proposed regulations to implement the redesign of the Form 990, *Return of Organization Exempt From Income Tax*. 73 Fed. Reg. 52,528. The new regulations provide for the elimination of the advance ruling process and a change in the public support computation period from the four years preceding the tested year to a five year-period that includes the tested year. An organization that meets a public support test for the tested year is a public charity for the tested year and the next succeeding year. The new regulations also made changes to the method of accounting for computing public support. This announcement provides procedures consistent with the new regulations for supporting organizations to request changes in public charity classification. In addition, this announcement provides that the IRS will no longer process classification changes on an expedited basis unless the request otherwise meets the expedite criteria set forth in Revenue Procedure 2009–4, 2009–1 I.R.B. 118.

Procedures for Supporting Organizations to Request Change in Public Charity Classification

Organizations that are seeking to change their public charity classification from a section 509(a)(3) supporting organization to a section 509(a)(1) or (a)(2) organization should submit a written request for a determination as to public charity status pursuant to Revenue Procedure 2009–4, 2009–1 I.R.B. 118.

The request for reclassification must include the following:

1. A subject line or other indicator on the first page of the request in bold, underlined, or all capitals font indicating “REQUEST FOR DETERMINATION AS TO PUBLIC CHARITY STATUS.”
2. A statement requesting reclassification from section 509(a)(3) to another public charity classification under sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2); and
3. Either
 - a. A copy of the organization’s signed Form 990, Parts I through

XI, or Form 990–EZ, Parts I through VI, with the completed Schedule A, Public Charity Status and Public Support, as filed with the Internal Revenue Service for the taxable year immediately preceding the taxable year in which the request is made; or

- b. The organization’s support information for the past five completed tax years, using the organization’s overall method of accounting used to complete the Form 990 or Form 990–EZ for such years. This information may be provided to the Internal Revenue Service on a completed Schedule A, Public Charity Status and Public Support, to the Form 990 or Form 990–EZ (2008 or later year, as appropriate).

Like all requests for a determination, the request must be signed under penalties of perjury by the organization’s officer, director, trustee, or other authorized official. The complete reclassification request should be mailed to:

IRS-TEGE
Attn: Correspondence Unit,
Room 4024
P.O. Box 2508
Cincinnati, OH 45201

If an organization previously submitted a request for reclassification pursuant to Announcement 2006–93 before the issuance of this announcement, that request will still be processed. Organizations will receive a determination letter in response to their request for reclassification indicating whether a change in public charity classification has been made. There is no user fee for this determination letter.

This announcement supersedes Announcement 2006–93, which is revoked.

For further information, contact Melinda Williams at (202) 283–9467 (not a toll-free call).