

Automatic Exemption Revocation for Non-Filing: Frequently Asked Questions

June 9, 2011

1. **What is automatic revocation?**

Automatic revocation occurs when an exempt organization that is required to file an annual return (e.g., Form 990, 990-EZ or 990-PF) or submit an annual electronic notice (Form 990-N or *e-Postcard*) does not do so for three consecutive years. Under the law, the organization automatically loses its federal tax exemption.

2. **What organizations are subject to automatic revocation?**

All exempt organizations required to file an annual return or submit an annual electronic notice are subject to automatic revocation for failure to file for three consecutive years. Exempt organizations not required to file an annual return or notice are not subject to automatic revocation. For a list of organizations (e.g., churches, conventions or associations of churches and integrated auxiliaries of churches) that are not required to file a return or notice, see [Annual Exempt Organization Return: Who Must File](#).

3. **How does my organization know that it has been automatically revoked?**

A list (the Auto-Revocation List) of automatically revoked organizations, updated monthly, is on the [IRS website](#). For each organization, the Auto-Revocation List provides the name, last known address, employer identification number (EIN), subsection of exemption, effective date of revocation, and date the name is published on the Auto-Revocation List.

In addition, the IRS sends a letter to each organization, at its last known address, stating that its exempt status has been automatically revoked because it has not filed a required annual return or notice for three consecutive years.

4. **On what date is automatic revocation effective?**

The effective date of automatic revocation for an organization that does not file a required annual return or notice for three consecutive years is the filing due date of the third year's return. The due date for a return is the 15th day of the fifth month after the end of the organization's taxable year (May 15th for calendar year organizations). However, if the 15th falls on a Saturday, Sunday or legal holiday, the actual due date is the next business day that is not a Saturday, Sunday or legal holiday. Because of system limitations, the effective date of revocation on the Auto-Revocation List is the unadjusted due date, not taking into account Saturday, Sunday or legal holiday dates. Therefore, if the unadjusted due date fell on a Saturday, Sunday or legal holiday, then the actual effective date of revocation is the next business day that is not a Saturday, Sunday or legal holiday. For example, May 15, 2010, fell on a Saturday so the actual due date for returns was May 17, 2010. Therefore, where the list states the effective date of revocation is May 15, 2010, the actual effective date of revocation is May 17, 2010.

5. **Can the IRS “undo” my organization’s automatic revocation?**

No. If an organization does not file required annual returns or notices for three consecutive years, the organization is automatically revoked by operation of law, and not by a determination made by the IRS. To have its tax-exempt status reinstated, the organization must [file an application](#) for exemption. An organization may also request [retroactive reinstatement](#) as part of its application.

6. **May my organization appeal its automatic revocation?**

No, the law provides no appeals process for automatic revocations. To have its tax-exempt status reinstated, the organization must [file an application](#) for exemption. An organization may also request [retroactive reinstatement](#) as part of its application.

7. **What is the effect of automatic revocation on an organization?**

An organization that has lost its tax-exempt status through automatic revocation may be required to file one of the following federal income tax returns and pay any applicable income taxes:

- [Form 1120](#), *U.S. Corporation Income Tax Return*, due by the 15th day of the 3rd month after the end of an organization’s [tax year](#), or
- [Form 1041](#), *U.S. Income Tax Return for Estates and Trusts*, due by the 15th day of the 4th month after the end of an organization’s [tax year](#).

In addition, a section 501(c)(3) charity that loses its tax-exempt status is no longer eligible to receive tax-deductible contributions and will not be identified in the IRS Business Master File extract as eligible to receive tax-deductible contributions or be included in [Publication 78](#), *Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*.

To have its tax-exempt status reinstated, the organization must [file an application](#) for exemption. An organization may also request [retroactive reinstatement](#) as part of its application.

8. **My organization is a private foundation and appears on the Auto-Revocation List. Is the organization still treated as a private foundation? Is the organization required to continue filing Form 990-PF?**

A private foundation listed on the [Auto-Revocation List](#) for failure to file [Form 990-PF](#) for three consecutive years [automatically loses its tax-exempt status](#), but remains classified as a private foundation. A nonexempt private foundation must continue to file Form 990-PF every year, and remains subject to [excise taxes](#). A nonexempt, or taxable, private foundation may also be required to a federal income tax return ([Form 1120](#) or [Form 1041](#)) and [pay any applicable income taxes](#).

A nonexempt private foundation can only terminate its private foundation status under the provisions of section 507 of the Internal Revenue Code. See [Terminating Private Foundation Status](#).

9. **Will automatic revocation affect an organization's status in the states in which it conducts activities or solicits contributions?**

Because the IRS does not enforce and cannot give advice concerning state laws, organizations on the Auto-Revocation List should contact the [appropriate state agencies](#) to determine whether their rights and obligations in any state are affected by automatic revocation. For example, under the laws of some states, organizations on the list of automatically revoked organizations (Auto-Revocation List) may not be entitled to exemptions from real property, sales or other taxes or they may be required to provide state authorities or the public with information concerning their changed federal tax status.

10. **If an organization on the list of automatically revoked organizations (Auto-Revocation List) has documentation that it met its filing requirement for one or more years during the three-year period, what should it do?**

An organization possessing documentation (an IRS receipt for a filed return, for example) that shows it has not failed to file for three consecutive years should call the TE/GE Customer Accounts Services toll-free line at 877-829-5500, or send the documentation directly to the Exempt Organizations Account Unit:

By Mail:

Internal Revenue Service
1973 North Rulon White Blvd
M/S 6552
Ogden, Utah 84404

By Fax:

(801) 620-5555

11. If an organization on the list of automatically revoked organizations (Auto-Revocation List) has a letter from the IRS stating that it does not have an annual filing requirement, what should it do?

An organization with a letter from the IRS stating that it does not have an annual filing requirement should call the TE/GE Customer Accounts Services toll-free line at 877-829-5500, or send a copy of the letter:

By Mail:

IRS – TE/GE
P.O. Box 2508
Cincinnati, OH 45201

By Fax:

(513) 263-4330

12. How do I get my organization's tax-exempt status reinstated if it was automatically revoked?

An organization must apply to have its tax-exempt status reinstated, even if it was not originally required to file an application for exemption. It must:

1. Apply for recognition of tax exemption by filing [Form 1023](#) (if applying under section 501(c)(3)), or [Form 1024](#) or a letter (if applying under a different Code section), regardless of whether the organization was originally required to apply for exemption; and
2. Pay the appropriate user fee [[link to new user fee page](#)].

In addition, write "Automatically Revoked" at the top of your application and on the mailing envelope. This will ensure that your application goes to a specialist trained to handle these applications. An organization may also request [retroactive reinstatement](#) as part of its application.

Small organizations eligible for transition relief will instead want to write "Notice 2011-43" at the top of the application and on the mailing envelope. See Notice 2011-43.

In addition, small organizations eligible for the transition relief in Notice 2011-43 are also eligible for a reduced user fee. See Rev. Proc. 2011-36

13. Do I need to get a new employer identification number (EIN) for my organization to apply for reinstatement of tax-exempt status?

No. You do not need to get a new EIN. Apply using the EIN assigned previously to your organization.

14. Will the IRS expedite my organization’s application for reinstatement of tax-exempt status?

The IRS will not expedite the review of applications of automatically revoked organizations unless an organization seeking expedited review meets the [existing criteria](#) for such treatment.

If you are applying for reinstatement of tax-exempt status, the IRS requests that you write “Automatically Revoked” at the top of your application and on the mailing envelope. This will ensure that your application goes to a specialist trained to handle these applications. Small organizations eligible for transition relief will instead want to write “Notice 2011-43” at the top of the application and on the mailing envelope. See Notice 2011-43.

15. My organization has applied for reinstatement of its tax-exempt status. Am I required to start filing annual returns?

An organization that is eligible to submit an [annual electronic notice](#) (Form 990-N) because its annual receipts are normally \$50,000 or less is not required to submit Form 990-N until after its application for reinstatement of tax-exempt status has been approved. An organization seeking reinstatement of its tax-exempt status that has a filing requirement and is not eligible to file a Form 990-N must file an annual information return (Form 990, Form 990-EZ or Form 990-PF) for each taxable year that ends while the application for reinstatement is pending. The organization should check the “application pending” block on the top of page 1 of the return. For more information about filing requirements while an application for exemption is pending, see [Publication 557](#), *Tax-Exempt Status for Your Organization*.

Certain larger organizations seeking [retroactive reinstatement](#) must submit with their applications for reinstatement all delinquent annual information returns beginning with the first year of the three-year period for which they were automatically revoked. For more information, see Notice 2011-44.

16. If my organization’s tax-exempt status is reinstated, what is the effective date?

If an organization successfully [applies for reinstatement](#), the effective date of its reinstated tax-exempt status usually will be the date the organization filed its application. An organization may [request](#) to have its tax-exempt status reinstated back to the date of automatic revocation.

17. How do I request that my organization’s tax-exempt status be reinstated back to the date of automatic revocation?

To request reinstatement back to the date of automatic revocation, attach a letter to your application for reinstatement explaining why your organization failed to file required returns or notices for three consecutive years. Your request will be granted only if the IRS determines that the organization had [reasonable cause](#) for not filing an annual re-

turn or notice for three consecutive years and approves the organization's exemption application.

Certain larger organizations seeking retroactive reinstatement must submit with their applications for reinstatement all delinquent annual information returns beginning with the three-year period for which they were automatically revoked. For more information, see [Notice 2011-44].

For a limited time, small organizations are eligible for transition relief to satisfy the standard for reasonable cause if they meet the criteria in Notice 2011-43 [link].

18. What is “reasonable cause” for failure to file an annual return or notice?

See [Notice 2011-44](#) [link to text of guidance] for an explanation of “reasonable cause” and information on how to request reinstatement of exemption back to the date of automatic revocation.

For a limited time, small organizations are eligible for transition relief to satisfy the standard for reasonable cause if they meet the criteria in [link to] Notice 2011-43.

19. Will the IRS continue to publish a list of organizations “at risk” of losing tax-exempt status?

No. The IRS published the “at-risk” list in June, 2010 in conjunction with a one-time voluntary compliance program that ended on October 15, 2010.

20. If an organization applied for the one-time voluntary compliance program but did not qualify and is now on the list of automatically revoked organizations (Auto-Revocation List), what can it do?

If an organization wishes to regain its tax-exempt status, it must [file a new application](#) for exemption.

21. Will the IRS publish the names of all automatically revoked section 501(c)(3) organizations in the Internal Revenue Bulletin?

No. The names of organizations will be published only on the list of automatically revoked organizations (Auto-Revocation List), which will be maintained and updated monthly on the IRS website.

Names of 501(c)(3) organizations revoked pursuant to an audit will continue to appear in the Internal Revenue Bulletin.

22. Will a 501(c)(3) organization on the list of automatically revoked organizations (Auto-Revocation List) be eligible to receive tax-deductible charitable contributions?

No. A 501(c)(3) organization that is automatically revoked is not eligible to receive tax-deductible contributions. It will be deleted from Publication 78, *Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, and the IRS Business Master File extract will no longer indicate that the organization is eligible to receive tax-deductible contributions.

Tax deductible contributions may be made to an organization whose tax-exempt status is subsequently reinstated.

23. When are a donor's contributions to an automatically revoked 501(c)(3) organization no longer tax-deductible?

Contributions may be deducted by persons unaware of a change in an organization's status until the IRS publishes an announcement that contributions to the organization are no longer deductible.

Publication of an organization's name on the [list of automatically revoked organizations](#) (Auto-Revocation List) serves as notice to donors and others that the organization is no longer eligible to receive tax-deductible contributions under section 170 and that donors and others may no longer rely on an IRS determination letter dated before the effective date of revocation and may no longer rely on a prior listing in Publication 78 or in the IRS Business Master File extract for purposes of claiming tax-deductible contributions.

Tax deductible contributions may be made to an organization whose tax-exempt status is subsequently reinstated.

24. My organization is a subordinate in a group exemption and has filed all of its returns. My parent/central organization was automatically revoked for failing to file for three-years. Does that affect my exemption?

When a parent/central organization is automatically revoked, the group exemption letter ceases to have effect regardless of whether the subordinates filed their own returns or the parent/central organization filed a group return on behalf the subordinates. [The continued effectiveness of a group exemption letter as to a particular subordinate is based on continued qualification of the parent/central organization for exemption.]

Now that the group exemption is no longer in effect, the subordinates may be required to file income tax returns. A subordinate that wishes to be recognized as tax-exempt by the IRS must file an application for exemption.

25. Does my organization have to pay the excise, income or other taxes the IRS assessed before it appeared on the list of automatically revoked organizations (Auto-Revocation List) as automatically revoked?

Yes. Your organization is liable for all income, excise or other taxes and penalties that may have been owed at the time it was automatically revoked. Your organization will also be responsible for any future tax liabilities that accrue as a result of your organization's loss of exemption.

26. Will the IRS assess late filing penalties for the three-years my organization failed to file its return or notice, or for any other earlier year we didn't file?

The IRS has decided not to impose any late filing penalties against organizations on the list of automatically revoked organizations (Auto-Revocation List) for any of the three consecutive years they failed to file, or for any prior periods. Further, an automatically revoked organization does not need to file any Form 990, Form 990-EZ or Form 990-N that was delinquent at the time of automatic revocation. It must, however, comply with all filing requirements after automatic revocation to avoid incurring penalties in the future.

Certain larger organizations seeking retroactive reinstatement, however, must submit with their applications for reinstatement all delinquent annual information returns beginning with the three-year period for which they were automatically revoked. For more information, see [Notice 2011-44].

27. What effect will automatic revocation have on an organization's ability to be the borrower of tax-exempt qualified 501(c)(3) bond proceeds?

The borrower of the proceeds of qualified 501(c)(3) bonds must be a section 501(c)(3) organization. The interest on qualified 501(c)(3) bonds is treated as tax-exempt when two principal requirements are met. 1) The property financed by the bonds must be owned by either an organization exempt under section 501(c)(3) or a state or local government entity. 2) The property financed by the bonds must be used almost exclusively by either organizations exempt under section 501(c)(3) or a state or local government entities. Also, the use by exempt 501(c)(3) organizations must not constitute unrelated business use. After revocation, your organization would not meet the required criteria to be an owner or primary user of the bond-financed property. For additional information, see [Publication 4077](#), *Tax-Exempt Bonds for 501(c)(3) Charitable Organizations*.

Revocation of an organization's section 501(c)(3) status may not have an effect on the organization's ability to borrow proceeds of certain other types of tax-exempt qualified private activity bonds (such as those for qualified residential rental projects) that qualify for tax-exempt treatment by virtue of criteria not dependent on a user's 501(c)(3) status.

28. Could automatic revocation affect the tax exemption for interest on my organization's outstanding tax-exempt bonds?

Yes, it could if the tax-exempt status of the bonds is due to their qualification as qualified 501(c)(3) bonds under section 145 of the Code and the Issuer fails to take an appropriate remediation under sections 1.141-12 and 1.145-2 of the Income Tax Regulations. See TAM 200006049 and TAM 200107020, which indicate that section 7805(b)

relief from retroactive revocation of bonds' tax-exempt status is typically not granted in instances where remedial action is not timely taken. These regulations generally require redemption or defeasance of the bonds associated with the improper ownership or use of the financed property. The redemption must occur within 90 days of the action that resulted in the revocation (in this case, the failure to file the third year's information return). In situations where immediate redemption of the bonds is restricted by the bond agreement, a defeasance of the bonds might be permitted. [Publication 4077](#) contains additional information.

If the regulations do not provide a remedy, the governmental entity that issued the bonds may request a closing agreement addressing the tax status of the bonds under the Tax Exempt Bonds Voluntary Closing Agreement Program ("TEB VCAP"). A closing agreement addressing violation of the qualified ownership and use requirements for qualified 501(c)(3) bonds also will typically require a redemption or defeasance of the non-qualified bonds. Additional information on [TEB VCAP](#) is available in the [Tax Exempt Bond Community](#) pages of IRS.gov.

29. What happens to the eligibility of a section 403(b) retirement plan of an automatically revoked 501(c)(3) organization?

Section 403(b) requires a retirement plan sponsor to be a 501(c)(3) organization or an educational organization. If a 403(b) plan sponsor is automatically revoked, the plan may have an "eligibility failure." See [Correcting Eligibility Failure Caused by Loss of Tax-Exempt Status](#) for information on how the failure may be corrected.