



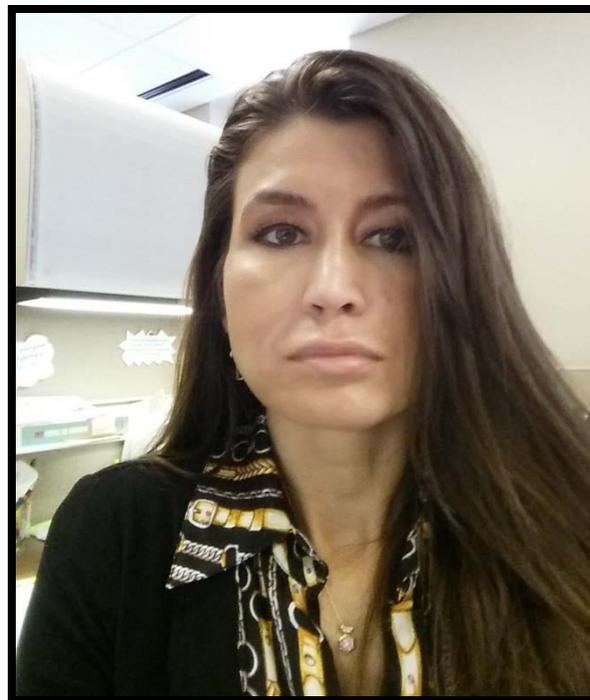
Help for Charities

Exempt Organizations

Presenters



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Agenda

- The main issues a new 501(c)(3) organization needs to know
- The five ways an exempt organization can jeopardize its tax-exempt status:
 1. Private benefit and/or inurement
 2. Lobbying or legislative activities
 3. Intervention in political campaigns
 4. Unrelated Business Income activities
 5. Failure to comply with reporting obligations



Two tests

All 501(c)(3) organizations have to pass two tests:

1. Organizational test
2. Operational test



Private Benefit

- A 501(c)(3) organization is not operated exclusively for exempt purposes if its activities benefit the private interests of any individual or organization more than incidentally.
- This is known as the prohibition on “private benefit.”
- If an exempt organization provides more than incidental private benefit, its exempt status can be revoked.



Inurement

- Section 501(c)(3) of the Internal Revenue Code states that no part of an organization's net earnings may *inure* to the benefit of a private shareholder or individual.
- “Inurement” generally refers to an arrangement where benefits are conferred on insiders.



Disqualified Person

- The term “disqualified person” is sometimes used in certain situations where an exempt organization engages in a transaction with a person who is or was in a position to exercise substantial influence of the organization.



Inurement examples

- Examples of prohibited inurement include: the payment of dividends, the payment of unreasonable compensation to insiders, and the transfer of property to insiders for less than fair market value.
- This does not mean that directors, officers, and employees can't be compensated for their services.
- They can be paid, but any compensation paid for services rendered must be reasonable.



Intermediate Sanction

“Intermediate sanction” is an excise tax on the person receiving the benefit *and* on the organization managers who participated in the transaction, knowing that it provided a prohibited benefit. Intermediate sanctions can be imposed in addition to or instead of revocation.



Excess Benefit

- Any insider who receives an excess benefit must return the excess benefit to the organization and pay excise taxes.
- The insider should file a Form 4720 to report the transaction and pay the excise taxes. In addition, the organization needs to disclose the transaction on its Form 990.
- Organization managers who participate in an excess benefit a transaction, knowing that it is improper, must pay excise taxes as well.



Example

- A public charity gives its president a \$500,000 compensation package.
- Persons in similar jobs in the same geographical area get \$300,000. The president has received an excess benefit of \$200,000.
- In order to correct the situation, the president must return the \$200,000 with interest and must personally pay a 25 percent excise tax on that amount.
- In addition, if the president does not make the organization whole by returning the excess benefit, the IRS will assess a second excise tax against the president equal to 200 percent of the \$200,000---or \$400,000.



Reminder

- Even if the IRS assesses the intermediate sanctions penalties against the insider and the organization's managers, it may still propose revocation of an organization's tax exempt status.
- Whether the IRS seeks only intermediate sanctions, proposes revocation or both, depends on the facts and circumstances of a particular case.



Important Factors

- The size and scope of the activities the organization regularly conducts to further its exempt purposes.
- The IRS will compare these activities before and after the excess benefit transactions occurred.
- The size and scope of the excess benefit transactions in relation to the organization's regular and ongoing activities that further its exempt purpose



Appendix G

- The rules governing these excise taxes are detailed.
- To learn more about the terms “inurement,” “disqualified persons,” and “excess benefit transactions,” review Appendix G in the Instructions for Form 990, *Return of Organization Exempt from Income Tax*.



Prohibited Inurement?

Jane Doe is the founder and president of XYZ Charity, a 501(c)(3) organization. As president, Jane is a voting member of the board of directors.

She and her husband, Jim, also own J&J Advertising, a for-profit company. Jane signs a \$200,000 contract with the company to coordinate the advertising campaign for the charity's annual appeal.

She signs it without bringing it to the charity's Board of Directors for discussion and action. Since Jim knows that there will be no competitive bidding for the contract, he decides that J&J Advertising will bill at a rate of about 120% of the fair market value of the work.

Is this prohibited inurement?



Prohibited Inurement?

Yes!

- If a scenario like this was discovered in an audit of XYZ, the IRS agent most likely would propose “intermediate sanctions” on J&J Advertising.
- Depending upon all the facts and circumstances, the agent also might propose the 10-percent intermediate sanctions on Jane and revocation of XYZ’s tax-exempt status.



Example 2

DEF is a tax-exempt hospital with 250 beds, a busy emergency room, and a full range of medical and surgical specialties. Bob is the CEO of the hospital.

For the most recent calendar year, Bob was paid annual compensation of \$325,000 – which is comparable to the salaries paid to CEOs of other similar-sized health-care organizations.

Bob is provided a BMW sedan not more than three years old for both business and personal use. His personal use of the car is carefully documented.

Does this scenario show private benefit or inurement?



Private Benefit?

No!

- There is no inurement or private benefit in this situation.
- When considered in total, and compared to other top health-care executives, Bob's salary and the personal use of the vehicle are reasonable compensation for his position.
- Additionally, Bob's compensation arrangement was decided on and approved by the hospital board as the board's compensation committee recommended.



Lobbying

- Lobbying means activities intended to influence legislation.
- Legislation includes action by Congress, a state legislature, or a local council, with respect to acts, bills, resolutions, or similar items, including legislative confirmation of appointees.
- It also includes action by the public in referenda, ballot initiatives, constitutional amendments, or similar procedures.



Lobbying?

- Organization Z supports a research project on the use and effects of a pesticide. Z's study leads to the conclusion that the pesticide is extremely harmful.
- The study contains a sufficiently full and fair exposition of the pertinent facts.
- Organization Z makes the study available on its website and describes it in its monthly member newsletter. A bill is pending in the U.S. Senate to ban the use of the pesticide.
- Organization Z's activities, as described, **do not** constitute lobbying.



Substantial Part Test

- The traditional “substantial part” test looks at all of the activities of an organization, including its volunteer time, in determining the amount of its lobbying activities.
- If the total lobbying activities are a substantial part of organization’s activities for the year, its exempt status could be revoked.
- All of the facts and circumstances of a particular situation will be considered in determining whether substantial lobbying has occurred.



Political Activity

- Publication 4221-PC covers this topic on pages 5 through 7.
- Unlike lobbying, all 501(c)(3)s are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign supporting or opposing any candidate for elective public office.
- This means ANY amount of political activity is grounds for loss of tax-exempt status.



Example

- President B is the president of a university. President B writes a column called “My Views” in the monthly newsletter.
- The month before an election, President B writes in his column that “It is my personal opinion that “Candidate U” should be reelected.” For that one newsletter issue, President B pays from his personal funds for the portion of the cost of the newsletter that is attributable to his “My Views” column.
- Did President B improperly intervene?



Campaign Intervention?

- *YES!* President B specifically stated that “Candidate U” should be reelected.
- His comments were not about a public policy issue, but were specifically a partisan endorsement for a candidate for public office.
- This statement constituted participation in a political campaign.
- Even though President B paid part of the cost for producing the newsletter that week, because his endorsement appeared in an official publication of the university, it constitutes campaign intervention by the university.



Example 2

“E” Fund is an organization that educates the public on environmental issues. G is a candidate running for a seat in the state senate.

E Fund’s representative tells the voter about the importance of environmental issues and asks questions about the voter’s views on these issues. If the voter appears to agree with the incumbent’s position, the Fund’s representative ends the call.

If the voter appears to agree with G’s position, the Fund’s representative reminds the voter about the upcoming election, stresses the importance of voting in the election and offers to provide transportation to the polls.

The E Fund *is engaged* in political campaign intervention when it conducts this get-out-the-vote drive, which may be the basis for revocation of exemption.



Substantial vs. Insubstantial

- A 501(c)(3) organization can conduct small, insubstantial amounts of certain types of non-exempt activity without jeopardizing its exempt status.
- Remember – any amount of inurement or political activity can jeopardize your exemption. They are never okay in even small amounts.
- You may wonder what exactly constitutes an activity that is more than insubstantial. The fact is that there is no bright line test.
- An examining agent will always have to consider all of the facts and circumstances in determining whether a non-exempt activity is substantial in relation to all of an organization's activities.



UBI

- One of the most common types of non-exempt activity by an exempt organization is conducting unrelated trade or business.
- Not only might the conduct of such a business activity jeopardize an organization's exempt status, it might also generate taxable income for the organization.
- The rules about when an activity generates unrelated business taxable income and the calculation of the tax are complex.
- Much more detailed information can be found in Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*.



UBI (continued)

Unrelated Business Income is income from:

- A trade or business
- Regularly carried on
- Is not substantially related to the organization's tax-exempt purpose



Common UBI Activities

- The sale of advertising space in weekly bulletins, magazines, journals or on an organization's website.
- The sale of merchandise and publications when those items do not have a substantial relationship to the exempt purpose of an organization.
- Providing management or other similar services.
- Some types of fundraising activities.



UBI example

- An exempt organization organized and operated for the prevention of cruelty to animals might receive UBI by providing pet boarding and grooming services for the general public.
- So long as the pet boarding and grooming services remain an insubstantial part of the organization's activities as a whole, the organization would still be operating for exclusively exempt purposes.
- Only the income from pet boarding and grooming services would be taxable.



Common Exceptions

- Activities conducted by volunteers
- Activities conducted primarily for the convenience of an organization's members, students, patients, employees, or officers
- Selling articles donated to the organization
- Income derived from traditional bingo games



Filing Requirements

- While 501(c)(3) public charities are exempt from Federal income tax and Federal unemployment tax, most of these organizations have information-reporting obligations.
- This reporting is made on Form 990, Form 990-EZ, or Form 990-N.
- Churches and their integrated auxiliaries do not have an annual information filing requirement. But other public charities generally are required to file one of these forms



File Correct Form

- It is critical that exempt organizations file the appropriate form, filled out completely and submitted on time.
- Organizations that are eligible to file Form 990-EZ or Form 990-N may choose to file a full Form 990 return instead.
- These information returns have different due dates than the income tax returns that individuals businesses file.



Important Reminder

- Any tax-exempt organization that fails to file a required annual return for three consecutive years will automatically lose its tax-exempt status.
- And losing tax-exempt status has serious consequences.



IRS Website

The screenshot shows the IRS website homepage with the following elements:

- Header:** IRS logo, navigation links for Subscriptions, Language, and Information For..., a search bar, and an Advanced search option.
- Main Navigation:** A horizontal menu with categories: Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, Help & Resources, and for Tax Pros.
- Featured Services:** Four large buttons with images: "File Your Tax Return", "Get Your Refund Status", "Pay Your Tax Bill", and "IRS.gov En Español".
- Forms and Pubs:** A list of document numbers including 1040, 2290, 1040EZ, 7004, W-4, Tax Table, W-9, Pub 15, 1099-MISC, Pub 17, and a "More ..." link.
- Hot Topics:** A list of current issues including "Notify Us of an Address Change", "Renew or Obtain a PTIN for 2015", "Know Your Rights as a Taxpayer", "Apply for an Employer ID Number", "Affordable Care Act Tax Provisions", and a "More ..." link.
- Tools:** A list of utility links including "Need More Time to Pay Your Taxes?", "Check Status of Your Amended Return", "Find Answers to Your Tax Questions", "Get Transcript of Your Tax Records", "Request an Electronic Filing PIN", and a "More ..." link.
- Filing & Payment:** Logos for "where's my refund?", "freefile", "e-file", and "EFTPS".
- News:** A section with a "News" header and articles such as "Saver's Credit for Retirement Contributions", "2015 PTIN Renewal Period Underway for Tax Pros", "Information on the Affordable Care Act in Spanish", and "ID Theft and Your Tax Return", with a "More ..." link.
- Consumer Alert:** A featured article titled "Consumer Alert: Scam Phone Calls Continue" with a sub-header "Tax Scams/Consumer Alerts". It includes an image of a broken yellow object and a "BEWARE!" sign. The text states: "The IRS has issued several consumer warnings. Don't fall victim to scams." Below it is a Spanish version: "Alerta: Continúa Estafa Telefónica. IRS identifica cinco maneras fáciles de detectar esta estafa."
- Social Media:** A video player for "Tax Scams (ASL)" with social media icons for YouTube, Twitter, Facebook, and the IRS logo.



Life Cycles

Subscriptions Language Information For...Advanced

[Filing](#) [Payments](#) [Refunds](#) [Credits & Deductions](#) [News & Events](#) [Forms & Pubs](#) [Help & Resources](#) [for Tax Pros](#)

[Charitable Organizations](#)

[Churches & Religious Organizations](#)

[Political Organizations](#)

[Private Foundations](#)

[Other Non-Profits](#)

[Contributors](#)

Charities & Non-Profits Topics

- [A-Z Index](#)
- [Search for Charities](#)
- [Calendar of Events](#)
- [Charity and Nonprofit Audits](#)
- [Free e-Newsletter](#)
- [Online Training](#)
- [Life Cycle](#)
- [Taxpayer Bill of Rights](#)
- [Tax Exempt and Government Entities](#)

Life Cycle of an Exempt Organization

Organizations that meet the requirements of Internal Revenue Code section 501(a) are exempt from federal income taxation. In addition, charitable contributions made to some section 501(a) organizations by individuals and corporations are deductible under Code section 170.

This website provides information about points of intersection between organizations and the IRS. The content includes explanatory information, and links to forms that an organization may need to file with the IRS. The materials cover five stages in an organization's life cycle:

- Starting Out:** Creating an organization under state law, acquiring an employer identification number, and identifying the appropriate federal tax classification.
- Applying for Exemption:** Acquiring, completing, and submitting application forms; how the IRS processes applications; and getting help from the IRS during the application process.
- Required Filings:** Annual exempt organization returns, unrelated business income tax filings, and other returns and reports that an organization may have to file.
- Ongoing Compliance:** How an organization can avoid jeopardizing its tax-exempt status, disclosure requirements, employment taxes, and other ongoing compliance issues.
- Significant Events:** Audits, private letter rulings, and termination procedures.

Life Cycle pages are available for the following types of organizations:

- [Charitable organizations](#) (Code section 501(c)(3))
 - [Public charities](#)
 - [Private foundations](#)
- [Social welfare organizations](#) (section 501(c)(4))
- [Agricultural/horticultural organizations](#) (section 501(c)(5))
- [Labor organizations](#) (section 501(c)(5))
- [Business leagues \(trade associations\)](#) (section 501(c)(6))

Page Last Reviewed or Updated: 18-Sep-2014



Select Check

The screenshot shows the IRS website interface. At the top left is the IRS logo. To the right are links for Subscriptions, Language, and Information For... Below these is a search bar with a magnifying glass icon and the word "Search" inside. Further right is a link for "Advanced". A navigation bar contains several menu items: Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, Help & Resources, and for Tax Pros. On the left side, there is a vertical list of categories: Charitable Organizations, Churches & Religious Organizations, Political Organizations (highlighted in red), Private Foundations, Other Non-Profits, and Contributors. The main content area is titled "EO Select Check" and includes a description of the tool, a list of criteria for organizations, and a button to access the tool.

Subscriptions Language Information For...

Search Advanced

Filing Payments Refunds Credits & Deductions News & Events Forms & Pubs Help & Resources for Tax Pros

Charitable Organizations

Churches & Religious Organizations

Political Organizations

Private Foundations

Other Non-Profits

Contributors

EO Select Check

Exempt Organizations Select Check is an on-line search tool that allows users to search for and select an exempt organization and check certain information about its federal tax status and filings. It consolidates three former search sites into one, providing expanded search capability and a more efficient way to search for organizations that:

- Are eligible to receive tax-deductible charitable contributions (**Publication 78 data**). Users may rely on this list in determining deductibility of their contributions (just as they did when Publication 78 was a separate electronic publication rather than part of *Select Check*).
Updated data posting date: 12-8-2014
- Have had their tax-exempt status automatically revoked under the law because they have not filed Form 990 series returns or notices annually as required for three consecutive years (**Auto-Revocation List**).
Updated data posting date: 12-8-2014
- Have filed a Form 990-N (**e-Postcard**) annual electronic notice. (Most small exempt organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, unless they choose instead to file a completed Form 990 or Form 990-EZ.)
Updated data posting date: 12-8-2014

[A tip for organizations and donors about the timing of data updates.](#)

In addition to searching for a particular organization, users may download a complete list of each of the three types of organizations through *Exempt Organizations Select Check*.

Exempt Organizations Select Check Tool >

[Search Tips](#) for *Exempt Organizations Select Check*



Stay Exempt

IRS Stay Exempt
Tax Basics for Exempt Organizations

Home Starting Out Existing Organizations In-depth Topics Resource Library

Accessibility OFF

Welcome to Stay Exempt

an IRS site created especially for 501(c)(3) organizations

How to apply for tax-exempt Status [Starting Out](#)

Maintaining your tax-exempt status [Existing Organizations](#)

Expand your exempt organization knowledge [In-depth Topics](#)

News

Stay Exempt News

- The new Form 1023-EZ, Streamlined Application for Recognition of Exemption, has been released. See www.irs.gov/form1023ez for eligibility details.

RESOURCE LIBRARY SITE MAP PRIVACY ACCESSIBILITY ABOUT US FAQs CONTACT US WEBMASTER GET HELP

StayExempt is a federal government website managed by the US Internal Revenue Service.



Stay Exempt Mini-Courses available



IRS Stay Exempt Tax Basics for Exempt Organizations

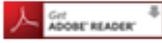
Home | Starting Out | Existing Organizations | In-depth Topics | Resource Library

HOME >> EXISTING ORGANIZATIONS

Existing Organizations: Maintaining your tax-exempt status

Obtaining and maintaining 501(c)(3) tax-exempt status is crucial to the success of charitable organizations. This online training provides you with the tools and knowledge necessary to keep your organization's exempt status intact. These five interactive courses can be taken individually - in any order you choose.

You must have Adobe Flash Player version 10 or later to view the videos. 

You must have Adobe Acrobat Reader version 9 or later to view the PDFs. 

Action	Title	Runtime
 PLAY	Maintaining 501(c)(3) Tax-Exempt Status Published: August 30, 2013 Download Printable PDF Presentation Download Playable PDF Presentation	30:54
 PLAY	Employment Issues Published: August 10, 2014 Tax considerations for your employees Download Printable PDF Presentation Download Playable PDF Presentation	34:52
 VIEW	Form 990 Published: August 07, 2009 The keys to an error-free return Download Printable PDF Presentation	60:00
 PLAY	Required Disclosures Published: August 07, 2009 Discussion of what records must be available to the public. Download Printable PDF Presentation	17:41



Charities & Non-Profits

The screenshot shows the IRS website's 'Charities & Non-Profits' section. At the top, there is a navigation bar with the IRS logo, a search bar, and links for Subscriptions, Language, and Information For... Below this is a secondary navigation bar with tabs for Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, Help & Resources, and for Tax Pros. A large banner image shows a group of people at a 'Nothing But a Good Thing' drive. The main content area is titled 'Charities & Non-Profits' and features a sidebar on the left with categories like Charitable Organizations, Churches & Religious Organizations, Political Organizations, Private Foundations, Other Non-Profits, and Contributors. The main content area lists several topics: 'Tax Information for Charities & Other Non-Profits' (with sub-links for applying for tax exempt status, annual reporting, revocation, EO Select Check, educational products, how to stay exempt, StayExempt.IRS.gov, and about us), and a 'News' section with links to TE/GE FY 15 Program Letter, New Form 1023-EZ, Charting Path Forward - April 24 Update, and Streamlined Option for Some (c)(4)s. A 'How to Stay Exempt' banner is also visible at the bottom right.

Subscriptions Language Information For...
Search Advanced

Filing Payments Refunds Credits & Deductions News & Events Forms & Pubs Help & Resources for Tax Pros

Charities & Non-Profits

Charitable Organizations
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- Free e-Newsletter
- Online Training
- Life Cycle
- Taxpayer Bill of Rights
- Tax Exempt and Government Entities

Tax Information for Charities & Other Non-Profits

Applying for Tax Exempt Status
Information about how to apply for IRS recognition of tax-exempt status.

Annual Reporting & Filing
990-series forms, requirements, and filing tips

Revoked? Reinstated? Learn More
Information about the automatic revocation process and how to be reinstated.

EO Select Check
Search for a tax-exempt's status.

Educational Products, Workshops and Seminars for Exempt Organizations
IRS programs and materials for non-profit organizations.

How to Stay Exempt
Resources for tax-exempt nonprofit organizations.

StayExempt.IRS.gov
Tax basics for exempt organizations

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General information and how to contact us.

News

- TE/GE FY 15 Program Letter
- New Form 1023-EZ
- Charting Path Forward - April 24 Update
- Streamlined Option for Some (c)(4)s

How to Stay Exempt

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