

Publication 557

Tax-Exempt Status for Your Organization

(Rev. January 2025)

For use in preparing

2025 Returns

Volume 6 of 8



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However, a Type III supporting organization's articles may:

1. Permit a publicly supported organization that is designated by class or purpose rather than by name to be substituted for the publicly supported organization or organizations designated by name in the articles, but only if the substitution is conditioned upon the occurrence of an event that is beyond the control of the supporting organization, such as loss of exemption, substantial failure or abandonment of operations, or dissolution of the organization or organizations designated in the articles,
2. Permit the supporting organization to operate for the benefit of an organization that isn't a publicly supported organization,

but only if the supporting organization is currently operating for the benefit of a publicly supported organization and the possibility of its operating for the benefit of other than a publicly supported organization is remote, or

3. Permit the supporting organization to vary the amount of its support between different designated organizations, as long as it meets the requirements of the integral-part test (discussed later) with respect to at least one beneficiary organization.

If the remote possibility referred to in (2) comes to pass and the supporting organization thereafter operates for the benefit of an organization that isn't a publicly supported organization, it will no longer qualify under section 509(a)(3).

Operational test. The operational rules described earlier for Type I and Type II supporting organizations apply as well to Type III supporting organizations (see *Operational test - permissible beneficiaries*, and *Operational test - permissible activities*, earlier). In addition, a Type III supporting organization must operate in a manner consistent with the requirements of the responsiveness test and the integral-part test, discussed later

Responsiveness test. A Type III supporting organization must be responsive to the needs or demands of its supported organization(s). To meet this test, the supported organizations must (1) elect one or more officers, directors, or trustees; (2) have one or more officers, directors, or trustees of the supported organization(s) serving simultaneously as officers, directors, or trustees of the supporting organization; or (3) maintain a close and continuous working relationship

with the officers, directors, or trustees of the supporting organization. In addition, as a result of this representation or close working relationship, the supported organization(s) must have a significant voice in the investment policies of the supporting organization, the timing of grants and the manner of making them, the selection of recipients, and generally the use of the income or assets of the supporting organization.

Notification requirement. In each tax year, the Type III supporting organization must notify each supported organization of its support and provide a copy of the supporting organization's most recently filed Form 990 or 990-EZ and copies of any amendments to its articles, bylaws, or other governing documents.

Integral part test - functionally integrated. A Type III supporting organization may satisfy the integral part test as functionally-integrated in one of three ways:

1. Engaging in activities substantially all of which directly further the exempt purposes of its supported organization(s) and which, but for the supporting organization's involvement, the supported organization would normally engage in;
2. Being the parent of, appointing a majority of the directors or trustees of, and exercising a substantial degree of direction over the policies, programs, and activities of its supported organizations; or
3. Supporting a governmental entity.

Direct furtherance activities. For purposes of the test in item (1), activities “directly further” a supported organization's exempt purposes only if conducted by the supporting organization itself. Direct furtherance activities include holding title to and managing exempt-use assets, but not fundraising or investing and managing non-exempt-use assets. Grantmaking may qualify as direct furtherance activities if the requirements of Regulations section 1.509(a)-4(i)(4)(ii)(D) are met.

Integral-part test - non-functionally integrated. A Type III supporting organization that doesn't satisfy the integral part test as functionally-integrated will still qualify as a Type III non-functionally integrated supporting organization if it satisfies a distribution requirement and an attentiveness requirement.

Alternatively, certain trusts established before November 20, 1970 may qualify if they meet the requirements of Regulations section 1.509(a)-4(i)(5)(i)(9).

Distribution requirement. A Type III non-functionally integrated supporting organization must distribute a certain amount annually to or for the benefit of its supported organization(s). That amount is equal to the greater of 85% of the organization's adjusted net income and 3.5% of the fair market value of the organization's non-exempt-use assets (with certain adjustments). See Regulations section 1.509(a)-4(i)(5) and (8) for more information regarding the distribution requirement and valuation of non-exempt-use assets. See Regulations section 1.509(a)-4(i)(6) for more information regarding what distributions or expenditures count towards the distribution requirement.

Attentiveness requirement. Each year, a Type III non-functionally integrated supporting organization must distribute one-third or more of the amount that it must distribute that year to one or more supported organizations that are attentive to the operations of the supporting organization and to which the supporting organization is responsive. A supported organization is “attentive” for these purposes if the amount received by the supported organization from the supporting organization:

1. Equals at least 10% of the supported organization's total support for the year in question;
2. was necessary to avoid interruption of a particular function or activity of the supported organization; or
3. was, based on all facts and circumstances (including evidence of actual attentiveness), a sufficient part

of the supported organization's total support to ensure attentiveness.

Supporting other than section 501(c)(3) organizations. An organization operated in conjunction with a social welfare organization, labor or agricultural organization, business league, chamber of commerce, or other organization described in section 501(c)(4), 501(c)(5), or 501(c)(6) may qualify as a supporting organization under section 509(a)(3) and therefore not be classified as a private foundation if both the following conditions are met.

1. The supporting organization meets all the requirements previously specified (the organizational tests, the operational test, and one of the relationship tests and not be controlled by disqualified persons).
2. The section 501(c)(4), 501(c)(5), or 501(c)(6) organization would be described in section 509(a)(2) if it was

a charitable organization described in section 501(c)(3). This provision allows separate charitable funds of certain noncharitable organizations to be described in section 509(a)(3) if the noncharitable organizations receive their support and otherwise operate in the manner specified by section 509(a)(2).

Special rules of attribution. To determine whether an organization meets the not-more-than-one-third support test in section 509(a)(2), amounts received by the organization from an organization that seeks to be a section 509(a)(3) organization because of its support of the organization are deemed gross investment income (rather than gifts or contributions) to the extent they are gross investment income of the distributing organization.

(This rule also applies to amounts received from a charitable trust, corporation, fund, association, or similar organization that is required by its governing instrument or otherwise to distribute, or that normally does distribute, at least 25% of its adjusted net income to the organization, and whose distribution normally comprises at least 5% of its adjusted net income.) All income that is gross investment income of the distributing organization will be considered distributed first by that organization. If the supporting organization makes distributions to more than one organization, the amount of gross investment income considered distributed will be prorated among the distributees.

Also, treat amounts paid by an organization to provide goods, services, or facilities for the direct benefit of an organization seeking section 509(a)(2) status (rather than for the direct benefit of the general public) in the same manner as amounts received by the

latter organization. These amounts will be treated as gross investment income to the extent they are gross investment income of the organization spending the amounts. An organization seeking section 509(a)(2) status must file a separate statement with its annual information return, Form 990 or 990-EZ, listing all amounts received from supporting organizations.

Relationships created for avoidance purposes. If a relationship between an organization seeking section 509(a)(3) status and an organization seeking section 509(a)(2) status is established or used to avoid classification as a private foundation with respect to either organization, then the character and amount of support received by the section 509(a)(3) organization will be attributed to the section 509(a)(2) organization for purposes of determining whether the latter meets the support tests under section 509(a)(2).

If this type of relationship is established or used between an organization seeking 509(a)(3) status and two or more organizations seeking 509(a)(2) status, the amount and character of support received by the former organization will be prorated among the latter organizations.

In determining whether a relationship exists between an organization seeking 509(a)(3) status (supporting organization) and one or more organizations seeking 509(a)(2) status (beneficiary organizations) for the purpose of avoiding private foundation status, all pertinent facts and circumstances will be taken into account. The following facts may be used as evidence that such a relationship wasn't established or availed of to avoid classification as a private foundation.

1. The supporting organization is operated to support or benefit several specified beneficiary organizations.

2. The beneficiary organization has a substantial number of dues-paying members who have an effective voice in the management of both the supporting and the beneficiary organizations.
3. The beneficiary organization is composed of several membership organizations, each of which has a substantial number of members, and the membership organizations have an effective voice in the management of the supporting and beneficiary organizations.
4. The beneficiary organization receives a substantial amount of support from the general public, public charities, or governmental grants.
5. The supporting organization uses its funds to carry on a meaningful program of activities to support or benefit the beneficiary organization

and, if the supporting organization were a private foundation, this use would be sufficient to avoid the imposition of the tax on failure to distribute income.

6. The operations of the beneficiary and supporting organizations are managed by different persons, and each organization performs a different function.
7. The supporting organization isn't able to exercise substantial control or influence over the beneficiary organization because the beneficiary organization receives support or holds assets that are disproportionately large in comparison with the support received or assets held by the supporting organization.

Effect on section 509(a)(3)

organizations. If a beneficiary organization fails to meet either of the support tests of section 509(a)(2) due to these provisions, and the beneficiary organization is one for whose support the organization seeking section 509(a)(3) status is operated, then the supporting organization won't be considered to be operated exclusively to support or benefit one or more section 509(a)(1) or 509(a)(2) organizations and therefore wouldn't qualify for section 509(a)(3) status.

Request change in public charity

classification. A section 501(c)(3) tax-exempt organization seeking to change its public charity classification from a section 509(a)(3) supporting organization to a section 509(a)(1) or 509(a)(2) organization must file Form 8940, *Request for Miscellaneous Determination*.

See the Instructions for Form 8940 for more information regarding supporting material and applicable user fees.

For more information about applying for section 501(c)(3) status see [Life Cycle of a Private Foundation](#) at IRS.gov.

Classification under section 509(a). If an organization is described in section 509(a)(1), and is also described in either Section 509(a)(2) or Section 509(a)(3), it will be treated as a section 509(a)(1) organization. The organization should file Form 8940, *Request for Miscellaneous Determination*, if it wishes to receive a letter showing a change in classification.

Reliance by grantors and contributors.

Once an organization has received a ruling or determination letter classifying it as an organization described in Section 509(a)(1), Section 509(a)(2), or Section 509(a)(3), the treatment of grants and contributions and the status of grantors and contributors to the

organization will generally not be affected by reason of a later revocation by the IRS of the organization's classification until the date on which notice of change of status is made to the public (generally by publication in the Internal Revenue Bulletin) or another applicable date, if any, specified in the public notice. In appropriate cases, however, the treatment of grants and contributions and the status of grantors and contributors to an organization described in Section 509(a)(1), Section 509(a)(2), or Section 509(a)(3) may be affected pending verification of the continued classification of the organization. Notice to this effect will be made in a public announcement by the IRS. In these cases, the effect of grants and contributions made after the date of the announcement will depend on the statutory qualification of the organization as an organization described in Section 509(a)(1), Section 509(a)(2), or Section 509(a)(3).



The preceding paragraph shall not apply if the grantor or contributor:

- 1. Had knowledge of the revocation of the ruling or determination letter classifying the organization as an organization described in section 509(a)(1), 509(a)(2), or 509(a)(3); or*
- 2. Was in part responsible for, or was aware of, the act, the failure to act, or the substantial and material change on the part of the organization that gave rise to the revocation.*

Interim guidance for supporting organizations and grantors. Notice 2014-4 provides further interim guidance for section 509(a)(3) supporting organizations and their grantors about the application of certain requirements enacted as part of the Pension Protection Act of 2006. The notice provides transitional rules for Type III supporting organizations that want to qualify as

“functionally integrated” because they support governmental entities. The notice also provides additional interim guidance for private foundations and sponsoring organizations that maintain donor-advised funds on the procedures to be followed in determining whether a potential grantee is a Type I, Type II or functionally integrated Type III supporting organization. See [Notice 2014-4](#), 2014-2 I.R.B. 274 (extended as described in the preamble to the 2015 final regulations regarding the distribution requirement for non-functionally integrated Type III supporting organizations (T.D. 9746)).

Section 509(a)(4) Organizations

Section 509(a)(4) excludes from classification as private foundations those organizations that qualify under section 501(c)(3) as organized and operated for the purpose of testing products for public safety.

Generally, these organizations test consumer products to determine their acceptability for use by the general public.

Loss of Qualification as Public Charity

If your organization ceases to qualify as a public charity under section 509(a)(1)-(4), it becomes a private foundation. The organization must file Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Trust Treated as a Private Foundation* to satisfy its filing obligation. The organization can no longer file Form 990, 990-EZ, or 990-N. A private foundation retains that status unless or until it terminates its private foundation status under section 507.

Private Operating Foundations

Private foundations are divided into two categories - nonoperating private foundations and private operating foundations.

Nonoperating foundations generally accomplish their charitable purpose by making grants to other charities. Operating foundations make qualifying distributions directly for the active conduct of their educational, charitable, and religious purposes.

Most of the restrictions and requirements that apply to private foundations also apply to private operating foundations. However, there are advantages to being classified as a private operating foundation. For example, a private operating foundation (as compared to a private foundation) can be the recipient of grants from a private foundation without having to distribute the funds received currently within 1 year, and the funds nevertheless may be treated as qualifying distributions by the donating private foundation; charitable contributions to a private operating foundation qualify for a higher charitable deduction limit on the

donor's tax return; and the excise tax on net investment income doesn't apply to an exempt operating foundation (a private operating foundation that meets certain additional requirements - see Exempt operating foundations, later).

A private operating foundation is any private foundation that meets the assets test, the support test, or the endowment test, and makes qualifying distributions directly, for the active conduct of its activities for which it was organized, of substantially all (85% or more) of the lesser of its:

1. Adjusted net income, or
2. Minimum investment return.

Assets test. A private foundation will meet the assets test if substantially more than half (65% or more) of its assets are:

1. Devoted directly to the active conduct of its exempt activity, to a functionally

related business, or to a combination of the two;

2. Stock of a corporation that is controlled by the foundation (by ownership of at least 80% of the total voting power of all classes of stock entitled to vote and at least 80% of the total shares of all other classes of stock) and substantially all (at least 85%) the assets of which are devoted as provided above; or
3. Any combination of (1) and (2).

This test is intended to apply to organizations such as museums and libraries.

Support test. A private foundation will meet the support test if:

1. Substantially all (at least 85%) of its support (other than gross investment income) is normally received from the general public and five or more unrelated exempt organizations,

2. Not more than 25% of its support (other than gross investment income) is normally received from any one exempt organization, and
3. Not more than 50% of its support is normally received from gross investment income.

This test is intended to apply to special-purpose foundations, such as learned societies and associations of libraries.

Endowment test. A foundation will meet the endowment test if it normally makes qualifying distributions directly for the active conduct of its exempt function of at least two-thirds of its minimum investment return.

The minimum investment return for any private foundation for any tax year is 5% of the excess of the total fair market value of all assets of the foundation (other than those used directly in the active conduct of its exempt purpose)

over the amount of indebtedness incurred to acquire those assets.

In determining whether the amount of qualifying distributions is at least two-thirds of the organization's minimum investment return, the organization isn't required to trace the source of the expenditures to determine whether they were derived from investment income or from contributions.

This test is intended to apply to organizations such as research organizations that actively conduct charitable activities but whose personal services are so great in relationship to charitable assets that the cost of those services can't be met out of small endowments.

Exempt operating foundations. The excise tax on net investment income doesn't apply to an exempt operating foundation. An exempt operating foundation for the tax year is any private foundation that:

1. Is an operating foundation, as described previously;
2. Has been publicly supported for at least 10 tax years or was an operating foundation on January 1, 1983, or for its last tax year ending before January 1, 1983;
3. Has a governing body that, at all times during the tax year, is broadly representative of the general public and consists of individuals no more than 25% of whom are disqualified individuals; and
4. Doesn't have any officer, at any time during the tax year, who is a disqualified individual.

The foundation must obtain a determination letter from the IRS recognizing this special status (see *Existing organization*, later).

New organization. If you are applying for recognition of exemption as an organization described in section 501(c)(3) and you wish to establish that your organization is a private operating foundation, you should complete Part VII of your exemption application (Form 1023).

Existing organization. If you are an existing organization seeking reclassification as a private operating foundation or as an exempt operating foundation, you must file Form 8940, *Request for Miscellaneous Determination*.

Lobbying Expenditures

In general, if a substantial part of the activities of your organization consists of carrying on propaganda or otherwise attempting to influence legislation, your organization will not qualify for exemption under section 501(c)(3).

However, a public charity (other than a church, an integrated auxiliary of a church or of a convention or association of churches, or a member of an affiliated group of organizations that includes a church, etc.) may elect instead an expenditure test under section 501(h) as an alternative to measure its lobbying activity. Under the Section 501(h) test, the lobbying limit is defined in terms of expenditures for influencing legislation instead of whether lobbying is a substantial part of the organization's activities. Private foundations can't make this election.

Making the election. Use Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation, to make the election. The form must be signed and postmarked within the first tax year to which it applies.

If the form is used to revoke the election, it must be signed and postmarked before the first day of the tax year to which it applies.

Eligible section 501(c)(3) organizations that have made the election to be subject to the limits on lobbying expenditures must use Part II-A of Schedule C (Form 990) to figure these limits.

Attempting to influence legislation.

Attempting to influence legislation, for this purpose, means:

1. Any attempt to influence any legislation through an effort to affect the opinions of the general public or any segment thereof (grass roots lobbying), and
2. Any attempt to influence any legislation through communication with any member or employee of a legislative body or with any

government official or employee who may participate in the formulation of legislation (direct lobbying).

However, the term attempting to influence legislation doesn't include the following activities.

1. Making available the results of nonpartisan analysis, study, or research.
2. Examining and discussing broad social, economic, and similar problems.
3. Providing technical advice or assistance (where the advice would otherwise constitute the influencing of legislation) to a governmental body or to a committee or other subdivision thereof in response to a written request by that body or subdivision.
4. Appearing before, or communicating with, any legislative body about a possible decision of that body that

might affect the existence of the organization, its powers and duties, its tax-exempt status, or the deduction of contributions to the organization.

5. Communicating with a government official or employee, other than:
 - a. A communication with a member or employee of a legislative body (when the communication would otherwise constitute the influencing of legislation), or
 - b. A communication with the principal purpose of influencing legislation.

Also excluded are communications between an organization and its bona fide members about legislation or proposed legislation of direct interest to the organization and the members, unless these communications directly encourage the members to attempt to

influence legislation or directly encourage the members to urge nonmembers to attempt to influence legislation, as explained earlier.

Lobbying expenditures limits. If a public charity makes the election under section 501(h) to be subject to the lobbying expenditures limits rules (instead of the substantial part of activities test), it won't lose its tax-exempt status under section 501(c)(3), unless it normally makes:

- Lobbying expenditures that are more than 150% of the lobbying nontaxable amount for the organization for each tax year, or
- Grass roots expenditures that are more than 150% of the grass roots nontaxable amount for the organization for each tax year.

See *Tax on excess expenditures to influence legislation*, later, in this section.

Lobbying expenditures. These are any expenditures that are made for the purpose of attempting to influence legislation, as discussed earlier under *Attempting to influence legislation.*

Grass roots expenditures. This term refers only to those lobbying expenditures that are made to influence legislation by attempting to affect the opinions of the general public or any segment thereof.

Lobbying nontaxable amount. The lobbying nontaxable amount for any organization for any tax year is the lesser of \$1,000,000 or:

1. 20% of the exempt purpose expenditures if the exempt purpose expenditures aren't over \$500,000,
2. \$100,000 plus 15% of the excess of the exempt purpose expenditures over \$500,000 if the exempt purpose

expenditures are over \$500,000 but not over \$1,000,000,

3. \$175,000 plus 10% of the excess of the exempt purpose expenditures over \$1,000,000 if the exempt purpose expenditures are over \$1,000,000 but not over \$1,500,000, or
4. \$225,000 plus 5% of the excess of the exempt purpose expenditures over \$1,500,000 if the exempt purpose expenditures are over \$1,500,000.

The term exempt purpose expenditures means the total of the amounts paid or incurred (including depreciation and amortization, but not capital expenditures) by an organization for the tax year to accomplish its exempt purposes. In addition, it includes:

1. Administrative expenses paid or incurred for the organization's exempt purposes, and

2. Amounts paid or incurred for the purpose of influencing legislation, whether or not the legislation promotes the organization's exempt purposes.

Exempt purpose expenditures don't include amounts paid or incurred to or for:

1. A separate fundraising unit of the organization, or
2. One or more other organizations, if the amounts are paid or incurred primarily for fundraising.

Grass roots nontaxable amount. The grass roots nontaxable amount for any organization for any tax year is 25% of the lobbying nontaxable amount for the organization for that tax year.

Years for which election is effective. Once an organization elects to come under these provisions, the election will be in effect for all

tax years that end after the date of the election and begin before the organization revokes this election.

Note. These elective provisions for lobbying activities by public charities don't apply to a church, an integrated auxiliary of a church or of a convention or association of churches, or a member of an affiliated group of organizations that includes a church, etc., or a private foundation. Moreover, these provisions won't apply to any organization for which an election isn't in effect.

Expenditures of affiliated organizations.

If two or more section 501(c)(3) organizations are members of an affiliated group of organizations and at least one of these organizations has made the election regarding the treatment of certain lobbying expenditures, then the determination as to whether excess lobbying expenditures has been made and the determination as to whether the expenditure limits,

described earlier, has been exceeded by more than 150% will be made as though the affiliated group is one organization.

If the group has excess lobbying expenditures, each organization for which the election is effective for the year will be treated as an organization that has excess lobbying expenditures in an amount that equals the organization's proportionate share of the group's excess lobbying expenditures. Further, if the expenditure limits described in this section are exceeded by more than 150%, each organization for which the election is effective for that year will lose its tax-exempt status under section 501(c)(3).

Two organizations will be considered members of an affiliated group of organizations if:

1. The governing instrument of one of the organizations requires it to be bound by decisions of the other organization on legislative issues, or

2. The governing board of one of the organizations includes persons who:
 - a. Are specifically designated representatives of the other organization or are members of the governing board, officers, or paid executive staff members of the other organization; and
 - b. Have enough voting power to cause or prevent action on legislative issues by the controlled organization by combining their votes.

Tax on excess expenditures to influence legislation. If an election for a tax year is in effect for an organization and that organization exceeds the lobbying expenditures limits, an excise tax of 25% of the excess lobbying expenditures for the tax year will be imposed. Excess lobbying expenditures for a tax year, in this case, means the greater of:

1. The amount by which the lobbying expenditures made by the organization during the tax year are more than the lobbying nontaxable amount for the organization for that tax year, or
2. The amount by which the grass roots expenditures made by the organization during the tax year are more than the grass roots nontaxable amount for the organization for that tax year.

Eligible organizations that have made the election to be subject to the limits on lobbying expenditures and that owe the tax on excess lobbying expenditures (as computed in Part II-A of Schedule C (Form 990)) must file Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code, to report and pay the tax.

Organization that no longer qualifies. An organization that no longer qualifies for exemption under section 501(c)(3) because of substantial lobbying activities won't at any

time thereafter be treated as an organization described in section 501(c)(4). This provision, however, doesn't apply to certain organizations (churches, etc.) that can't make the election discussed earlier.

Tax on disqualifying lobbying

expenditures. The law imposes a tax on certain organizations if they no longer qualify under section 501(c)(3) by reason of having made disqualifying lobbying expenditures. An additional tax may be imposed on the managers of those organizations.

Tax on organization. Organizations that lose their exemption under section 501(c)(3) due to lobbying activities generally will be subject to an excise tax of 5% of the lobbying expenditures. The tax doesn't apply to private foundations. Also, the tax doesn't apply to organizations that have elected the lobbying limits of section 501(h) or to churches or

church-related organizations that can't elect these limits. This tax must be paid by the organization.

Tax on managers. Managers may also be liable for a 5% tax on the lobbying expenditures that result in the disqualification of the organization. For the tax to apply, a manager would have to agree to the expenditures knowing that the expenditures were likely to result in the organization's not being described in section 501(c) (3). No tax will be imposed if the manager's agreement isn't willful and is due to reasonable cause.

Excise taxes on political expenditures.

The law imposes an excise tax on the political expenditures of section 501(c)(3) organizations. A two-tier tax is imposed on both the organizations and the managers of those organizations.

Taxes on organizations. An initial tax of 10% of certain political expenditures is imposed on a charitable organization.

A second tax of 100% of the expenditure is imposed if the political expenditure that resulted in the imposition of the initial (first-tier) tax isn't corrected within a specified period. These taxes must be paid by the organization.

Taxes on managers. An initial tax of $2\frac{1}{2}\%$ of the amount of certain political expenditures (up to \$5,000 for each expenditure) is imposed on a manager of an organization who agrees to such expenditures knowing that they are political expenditures. No tax will be imposed if the manager's agreement wasn't willful and was due to reasonable cause. A second tax of 50% of the expenditures (up to \$10,000 for each expenditure) is imposed on a manager if they refuse to agree to a correction of the expenditures that resulted in the imposition of the initial (first-tier) tax.

For purposes of these taxes, an organization manager is generally an officer, director, trustee, or any employee having authority or responsibility concerning the organization's political expenditures. These taxes must be paid by the manager of the organization.

Political expenditures. Generally, political expenditures that will trigger these taxes are amounts paid or incurred by a section 501(c)(3) organization in any participation or intervention in any political campaign for or against any candidate for public office. Political expenditures include publication or distribution of statements for these purposes. Political expenditures also include certain expenditures by organizations that are formed primarily to promote the candidacy (or prospective candidacy) of an individual for public office and by organizations that are effectively controlled by a candidate and are used primarily to promote that candidate.

Correction of expenditure. A correction of a political expenditure is the recovery, if possible, of all or part of the expenditure and the establishment of safeguards to prevent future political expenditures.

Status after loss of exemption for lobbying or political activities. As explained earlier, an organization can lose its tax-exempt status under section 501(c)(3) because of lobbying activities or participation or intervention in a political campaign on behalf of or in opposition to a candidate for public office. If this happens to an organization, it can't later qualify for exemption under section 501(c)(4).

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Other Section 501(c) Organizations

Introduction

This chapter contains specific information for certain organizations described in section 501(c), other than those organizations that are described in section 501(c)(3). Section 501(c) (3) organizations are covered in chapter 3 of this publication.

The Table of Contents at the beginning of this publication, as well as the Organization Reference Chart, may help you locate at a glance the type of organization discussed in this chapter.

501(c)(4) - Civic Leagues and Social Welfare Organizations

If your organization isn't organized for profit and will be operated primarily to promote social welfare to benefit the community, it may qualify for exemption under section 501(c)(4).

Notice requirement. Every new section 501(c)(4) organization must use Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*, to provide notice to the Internal Revenue Service. The organization must file Form 8976 within 60 days of establishment. Providing notice on Form 8976 is not a determination that the IRS recognizes your organization as exempt under section 501(c)(4).

Optional application for recognition of exemption. Your organization may (but is not required to) file Form 1024-A,

Application for Recognition of Exemption under Section 501(c)(4), to apply for recognition of exemption from federal income tax under section 501(c)(4). The discussion that follows describes the information you must provide when applying. For application procedures, see chapter 1.

To qualify for exemption under section 501(c)(4), no part of the organization's net earnings can inure to the benefit of any private shareholder or individual. If the organization provides an excess benefit to certain persons, an excise tax may be imposed. See *Excise tax on excess benefit transactions*, under *Excess Benefit Transactions* in chapter 5 for more information about this tax.

Examples. Types of organizations that are considered to be social welfare organizations are civic associations and volunteer fire companies.

Nonprofit operation. You must submit evidence that your organization is organized and will be operated on a nonprofit basis. However, such evidence, including the fact that your organization is organized under a state law relating to nonprofit corporations, won't in itself establish a social welfare purpose.

Social welfare. To establish that your organization is operated primarily to promote social welfare, you should submit evidence with your application showing that your organization will operate primarily to further (in some way) the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements).

An organization that restricts the use of its facilities to employees of selected corporations and their guests is primarily benefiting a private group rather than the community.

It therefore doesn't qualify as a section 501(c)(4) organization. Similarly, an organization formed to represent member-tenants of an apartment complex doesn't qualify, since its activities benefit the member-tenants and not all tenants in the community. However, an organization formed to promote the legal rights of all tenants in a particular community may qualify under section 501(c)(4) as a social welfare organization.

Political activity. Promoting social welfare doesn't include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. However, if you submit proof that your organization is organized primarily to promote social welfare, it can obtain exemption even if it participates legally in some political activity on behalf of or in opposition to candidates for public office.

See the discussion in chapter 2 under *Political Organization Income Tax Return*.

Social or recreational activity. If social activities will be the primary purpose of your organization, you shouldn't file an application for exemption as a social welfare organization but you may qualify for exemption as a social club described in section 501(c)(7).

Retirement benefit program. An organization established by its members that has as its primary activity providing supplemental retirement benefits to its members or death benefits to their beneficiaries doesn't qualify as an exempt social welfare organization. It may qualify under another paragraph of section 501(c) depending on all the facts.

However, a nonprofit association that is established, maintained, and funded by a local government to provide the only

retirement benefits to a class of employees may qualify as a social welfare organization under section 501(c) (4).

Tax treatment of donations. Donations to volunteer fire companies are deductible on the donor's federal income tax return, but only if made for exclusively public purposes. However, contributions to civic leagues or other section 501(c) (4) organizations generally aren't deductible as charitable contributions for federal income tax purposes. They may be deductible as trade or business expenses, if ordinary and necessary in the conduct of the taxpayer's business. However, see *Deduction not allowed for dues used for political or legislative activities,* under *501(c) (6) - Business Leagues, etc.* for more information.

For more information on social welfare organizations, see [*Life Cycle of a Social Welfare Organization.*](#)

Specific Organizations

The following information should be contained in the application form and accompanying statements of certain types of civic leagues or social welfare organizations.

Volunteer fire companies. If your organization wishes to obtain exemption as a volunteer fire company or similar organization, you should submit evidence that its members are actively engaged in firefighting and similar disaster assistance, whether it actually owns the firefighting equipment, and whether it provides any assistance for its members, such as death and medical benefits in case of injury to them.

If your organization doesn't have an independent social purpose, such as providing recreational facilities for members, it may be exempt under section 501(c)(3). In this event, your organization should file Form 1023.

Homeowners' associations. A membership organization formed by a real estate developer to own and maintain common green areas, streets, and sidewalks and to enforce covenants to preserve the appearance of the development should show that it is operated for the benefit of all the residents of the community. The term community generally refers to a geographical unit recognizable as a governmental subdivision, unit, or district thereof. Whether a particular association meets the requirement of benefiting a community depends on the facts and circumstances of each case. Even if an area represented by an association isn't a community, the association can still qualify for exemption if its activities benefit a community.

The association should submit evidence that areas such as roadways and park land that it owns and maintains are open to the general public and not just its own members.

It also must show that it doesn't engage in exterior maintenance of private homes.

A homeowners' association that isn't exempt under section 501(c)(4) and that is a condominium management association, a residential real estate management association, or a timeshare association generally can elect, under the provisions of section 528, to receive certain tax benefits that, in effect, permit it to exclude its exempt function income from its gross income.

Other organizations. Other nonprofit organizations that qualify as social welfare organizations include:

- An organization operating an airport that is on land owned by a local government, which supervises the airport's operation, and that serves the general public in an area with no other airport;
- A community association that works to improve public services, housing, and

residential parking; publishes a free community newspaper; sponsors a community sports league, holiday programs, and meetings; and contracts with a private security service to patrol the community;

- A community association devoted to preserving the community's traditions, architecture, and appearance by representing it before the local legislature and administrative agencies in zoning, traffic, and parking matters;
- An organization that tries to encourage industrial development and relieve unemployment in an area by making loans to businesses so they will relocate to the area; and
- An organization that holds an annual festival of regional customs and traditions.

501(c)(5) - Labor, Agricultural, and Horticultural Organizations

If you are a member of an organization that wants to obtain recognition of exemption from federal income tax as a labor, agricultural, or horticultural organization, you should submit an application on Form 1024. You must indicate in your application for exemption and accompanying statements that no part of the organization's net earnings will inure to the benefit of any member. In addition, you should follow the procedure for obtaining recognition of exempt status described in chapter 1. Submit any additional information that may be required, as described in this section.

Tax treatment of donations. Contributions to labor, agricultural, and horticultural organizations aren't deductible as charitable contributions on the donor's federal income tax return.

However, such payments may be deductible as business expenses if they are ordinary and necessary in the conduct of the taxpayer's trade or business. For more information about certain limits affecting the deductibility of these business expenses, see *Deduction not allowed for dues used for political or legislative activities*, under *501(c)(6) - Business Leagues, etc.*

Labor Organizations

A labor organization is an association of workers who have combined to protect and promote the interests of the members by bargaining collectively with their employers to secure better working conditions, wages, and similar benefits.

To show that your organization has the purpose of a labor organization, you should include in your organizing document or accompanying statements (submitted with your exemption application) information establishing that the organization is organized

to better the conditions of workers, improve the grade of their products, and develop a higher degree of efficiency in their respective occupations. In addition, no net earnings of the organization can inure to the benefit of any member.

Composition of membership. While a labor organization is generally composed of employees or representatives of the employees (in the form of collective bargaining agents) and similar employee groups, evidence that an organization's membership consists mainly of workers doesn't in itself indicate an exempt purpose. You must show in your application that your organization has the purposes described in the preceding paragraph. These purposes can be accomplished by a single labor organization acting alone or by several organizations acting together through a separate organization.

Benefits to members. The payment by a labor organization of death, sick, accident, and similar benefits to its individual members with funds contributed by its members, if made under a plan to better the conditions of the members, doesn't preclude exemption as a labor organization. However, an organization doesn't qualify for exemption as a labor organization if its primary activity is to provide a strike fund that is controlled by private individuals who controlled the organization that paid benefits to workers.

For more information on labor organizations, see [*Life Cycle of a Labor Organization*](#).

Agricultural and Horticultural Organizations

Agricultural and horticultural organizations are connected with raising livestock, cultivating land, raising and harvesting crops or aquatic resources, cultivating useful or ornamental plants, and similar pursuits.

For the purpose of these provisions, aquatic resources include only animal or vegetable life, but not mineral resources. The term harvesting, in this case, includes fishing and related pursuits.

Agricultural organizations are often designed to encourage the development of better agricultural and horticultural products through a system of awards, using income from entry fees, gate receipts, and donations to meet the necessary expenses of upkeep and operation. When the activities are directed toward the improvement of marketing or other business conditions in one or more lines of business, rather than the improvement of production techniques or the betterment of the conditions of persons engaged in agriculture, the organization must qualify for exemption as a business league, board of trade, or other organization, as discussed next in the section on 501(c)(6) organizations.

The primary purpose of exempt agricultural and horticultural organizations must be to better the conditions of those engaged in agriculture or horticulture, develop more efficiency in agriculture or horticulture, or improve the products.

The following list contains some examples of activities that show an agricultural or horticultural purpose.

1. Promoting various cooperative agricultural, horticultural, and civic activities among rural residents by a state, farm, or home bureau.
2. Exhibiting livestock, farm products, and other characteristic features of agriculture and horticulture.
3. Testing soil for members and nonmembers of the farm bureau on a cost basis, the results of the tests and other recommendations being

furnished to the community members to educate them in soil treatment.

4. Guarding the purity of a specific breed of livestock.
5. Encouraging improvements in the production of fish on privately owned fish farms.
6. Negotiating with processors for the price to be paid to members for their crops.

For more information on agricultural or horticultural organizations, see [Life Cycle of an Agricultural or Horticultural Organization](#).

501(c)(6) - Business Leagues, etc.

If your organization wants to apply for recognition of exemption from federal income tax as a nonprofit business league, chamber of commerce, real estate board, or board of trade, it should file Form 1024.

For a discussion of the procedure to follow, see chapter 1.

Your organization must indicate in its application form and attached statements that no part of its net earnings will inure to the benefit of any private shareholder or individual and that it isn't organized for profit or organized to engage in an activity ordinarily carried on for profit (even if the business is operated on a cooperative basis or produces only sufficient income to be self-sustaining).

In addition, your organization must be primarily engaged in activities or functions that are the basis for its exemption. It must be primarily supported by membership dues and other income from activities substantially related to its exempt purpose.

A business league, in general, is an association of persons having some common business interest, the purpose of which is to promote that common interest and not to

engage in a regular business of a kind ordinarily carried on for profit. Trade associations and professional associations are considered business leagues.

Chamber of commerce. A chamber of commerce is usually composed of the merchants and traders of a city.

Board of trade. A board of trade often consists of persons engaged in similar lines of business. For example, a nonprofit organization formed to regulate the sale of a specified agricultural commodity to assure equal treatment of producers, warehouse workers, and buyers is a board of trade.

Chambers of commerce and boards of trade usually promote the common economic interests of all the commercial enterprises in a given trade community.

Real estate board. A real estate board consists of members interested in improving the business conditions in the real estate

field. It isn't organized for profit and no part of the net earnings inures to the benefit of any private shareholder or individual.

Professional football leagues. The Internal Revenue Code specifically defines professional football leagues as exempt organizations under section 501(c)(6). They are exempt whether or not they administer a pension fund for football players.

General purpose. You must indicate in the material submitted with your application that your organization will be devoted to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. It must be shown that the conditions of a particular trade or the interests of the community will be advanced. Merely indicating the name of the organization or the object of the local statute under which it is created isn't enough to demonstrate the required general purpose.

Line of business. This term generally refers either to an entire industry or to all components of an industry within a geographic area. It doesn't include a group composed of businesses that market a particular brand within an industry.

Common business interest. A common business interest of all members of the organization must be established by the application documents.

Examples. Activities that would tend to illustrate a common business interest are:

1. Promotion of higher business standards and better business methods and encouragement of uniformity and cooperation by a retail merchants association,
2. Education of the public in the use of credit,
3. Establishment of uniform casualty rates and compilation of statistical

information by an insurance rating bureau operated by casualty insurance companies,

4. Establishment and maintenance of the integrity of a local commercial market,
5. Operation of a trade publication primarily intended to benefit an entire industry, and
6. Encouragement of the use of goods and services of an entire industry (such as a lawyer referral service whose main purpose is to introduce individuals to the use of the legal profession in the hope that they will enter into lawyer-client relationships on a paying basis as a result).

Improvement of business conditions.

Generally, this must be shown to be the purpose of the organization. This isn't established by evidence of particular services

that provide a convenience or economy to individual members in their businesses, such as advertising that

carries the name of members, interest-free loans, assigning exclusive franchise areas, operation of a real estate multiple listing system, or operation of a credit reporting agency.

Stock or commodity exchange. A stock or commodity exchange isn't a business league, chamber of commerce, real estate board, or board of trade and isn't exempt under section 501(c)(6).

Legislative activity. An organization that is exempt under section 501(c)(6) can work for the enactment of laws to advance the common business interests of the organization's members.

Deduction not allowed for dues used for political or legislative activities. A

taxpayer can't deduct the part of dues or other payments to a business league, trade association, labor union, or similar organization that is reported to the taxpayer by the organization as having been used for any of the following activities.

1. Influencing legislation.
2. Participating or intervening in a political campaign for, or against, any candidate for public office.
3. Trying to influence the general public, or part of the general public, with respect to elections, legislative matters, or referendums (also known as grass roots lobbying).
4. Communicating directly with certain executive branch officials to try to influence their official actions or positions.

See *Dues Used for Lobbying or Political Activities* under *Required Disclosures* in chapter 2 for more information.

De minimis exception. In-house expenditures of \$2,000 or less for the year for activities (1) – (4) listed earlier won't prevent a deduction for dues if the dues meet all other tests to be deductible as a business expense.

Grass roots lobbying. A tax-exempt trade association, labor union, or similar organization is considered to be engaging in grass roots lobbying if it contacts prospective members or calls upon its own members to contact their employees and customers for the purpose of urging such persons to communicate with their elected state or Congressional representatives to support the promotion, defeat, or repeal of legislation that is of direct interest to the organization.

Any dues or assessments directly related to such activities aren't deductible by the taxpayer, since the individuals being contacted, who aren't members of the organization, are a segment of the general public.

Tax treatment of donations. Contributions to organizations described in this section aren't deductible as charitable contributions on the donor's federal income tax return. They may be deductible as trade or business expenses if ordinary and necessary in the conduct of the taxpayer's business.

For more information on business leagues, see [*Life Cycle of a Business League \(Trade Association\)*](#) on IRS.gov.

501(c)(7) - Social and Recreation Clubs

If your club is organized for pleasure, recreation, and other similar nonprofitable purposes and substantially all of its activities

are for these purposes, it should file Form 1024 to apply for recognition of exemption from federal income tax.

In applying for recognition of exemption, you should submit the information described in this section. Also see chapter 1 for the procedures to follow.

Typical organizations that should file for recognition of exemption as social clubs include:

- College alumni associations that aren't described in chapter 3 under *Alumni association*;
- College fraternities or sororities operating chapter houses for students;
- Country clubs;
- Amateur hunting, fishing, tennis, swimming, and other sport clubs;
- Dinner clubs that provide a meeting place, library, and dining room for members;

- Hobby clubs;
- Garden clubs; and
- Variety clubs.

Discrimination prohibited. Your organization won't be recognized as tax exempt if its charter, bylaws, or other governing instrument, or any written policy statement provides for discrimination against any person on the basis of race, color, or religion.

However, a club that in good faith limits its membership to the members of a particular religion to further the teachings or principles of that religion and not to exclude individuals of a particular race or color won't be considered as discriminating on the basis of religion. Also, the restriction on religious discrimination doesn't apply to a club that is an auxiliary of a fraternal beneficiary society (discussed later) if that society is described in

section 501(c)(8) and exempt from tax under section 501(a) and limits its membership to the members of a particular religion.

Private benefit prohibited. No part of the organization's net earnings can inure to the benefit of any person having a personal and private interest in the activities of the organization. For purposes of this requirement, it isn't necessary that net earnings be actually distributed. Even undistributed earnings can benefit members. Examples of this include a decrease in membership dues or an increase in the services the club provides to its members without a corresponding increase in dues or other fees paid for club support. However, fixed-fee payments to members who bring new members into the club aren't an inurement of the club's net earnings, if the payments are reasonable compensation for performance of a necessary administrative service.

Purposes. To show that your organization possesses the characteristics of a club within the meaning of the exemption law, you should submit evidence with your application that personal contact, commingling, and fellowship exist among members. You must show that members are bound together by a common objective of pleasure, recreation, and other nonprofitable purposes.

Fellowship need not be present between each member and every other member of a club if it is a material part in the life of the organization. A statewide or nationwide organization that is made up of individual members, but is divided into local groups, satisfies this requirement if fellowship is a material part of the life of each local group.

The term other nonprofitable purposes means other purposes similar to pleasure and recreation.

For example, a club that, in addition to its social activities, has a plan for the payment of sick and death benefits isn't operating exclusively for pleasure, recreation, and other nonprofitable purposes.

Limited membership. The membership in a social club must be limited. To show that your organization has a purpose that would characterize it as a club, you should submit evidence with your application that there are limits on admission to membership consistent with the character of the club.

A social club that issues corporate membership is dealing with the general public in the form of the corporation's employees. Corporate members of a club aren't the kind of members contemplated by the law. Gross receipts from these members would be a factor in determining whether the club qualifies as a social club. See *Gross receipts from nonmembership sources.*, later.

Bona fide individual memberships paid for by a corporation wouldn't have an effect on the gross receipts source.

The fact that a social club may have an associate (nonvoting) class of membership won't be, in and of itself, a cause for nonrecognition of exemption. However, if one membership class pays substantially lower dues and fees than another membership class, although both classes enjoy the same rights and privileges in using the club facilities, there may be an inurement of income to the benefited class, resulting in a denial of the club's exemption.

Support. In general, your club should be supported solely by membership fees, dues, and assessments. However, if otherwise entitled to exemption, your club won't be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Business activities. If your club will engage in business, such as selling real estate, timber, or other products or services, it generally will be denied exemption. However, evidence submitted with your application form that your organization will provide meals, refreshments, or services related to its exempt purposes only to its own members or their dependents or guests won't cause denial of exemption.

Facilities open to public. Evidence that your club's facilities will be open to the general public (persons other than members or their dependents or guests) may cause denial of exemption. This doesn't mean, however, that any dealing with outsiders will automatically deprive a club of exemption.

Gross receipts from nonmembership sources. A section 501(c)(7) organization can receive up to 35% of its gross receipts, including investment income, from sources outside of its membership without losing its

tax-exempt status. Income from nontraditional business activity with members isn't exempt function income, and thus is included as income from sources outside of the membership. Of the 35% gross receipts listed above, up to 15% of the gross receipts can be derived from the use of the club's facilities or services by the general public. If an organization has outside income that is more than these limits, all the facts and circumstances will be taken into account in determining whether the organization qualifies for exempt status.

Gross receipts. Gross receipts, for this purpose, are receipts from the normal and usual (traditionally conducted) activities of the club. These receipts include charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments. Receipts don't include initiation fees and capital contributions.

Unusual amounts of income, such as from the sale of a clubhouse or similar facility, aren't included in gross receipts or in figuring the percentage limits.

Nontraditional activities. Traditional business activities are those that further a social club's exempt purposes. Nontraditional business activities don't further the exempt purposes of a social club even if conducted solely on a membership basis. Nontraditional business activities are prohibited (subject to an insubstantial, trivial, and nonrecurrent test) for businesses conducted with both members and nonmembers. Examples of nontraditional business activities include sale of package liquor, take-out food, and long-term room rental.

Fraternity foundations. If your organization is a foundation formed for the exclusive purpose of acquiring and leasing a chapter house to a local fraternity chapter or sorority chapter maintained at an educational

institution and doesn't engage in any social or recreational activities, it may be a title holding corporation (discussed later under section 501(c)(2) organizations and under section 501(c)(25) organizations) rather than a social club.

Tax treatment of donations. Donations to exempt social and recreation clubs aren't deductible as charitable contributions on the donor's federal income tax return.

501(c)(8) and 501(c)(10) - Fraternal Beneficiary Societies and Domestic Fraternal Societies

This section describes the information to be provided upon application for recognition of exemption by two types of fraternal societies: beneficiary and domestic. The major distinction is that fraternal beneficiary societies provide for the payment of life, sick, accident, or other benefits to their members or their dependents,

while domestic fraternal societies don't provide these benefits but rather devote their earnings to fraternal, religious, charitable, etc., purposes. The procedures to follow in applying for recognition of exemption are described in chapter 1.

If your organization is controlled by a central organization, you should check with your controlling organization to determine whether your unit has been included in a group exemption letter or can be added. If so, your organization need not apply for individual recognition of exemption. For more information, see *Group Exemption Letter* in chapter 1 of this publication.

Tax treatment of donations. Donations by an individual to a domestic fraternal beneficiary society or a domestic fraternal society operating under the lodge system are deductible as charitable contributions only if used exclusively for religious, charitable,

scientific, literary, or educational purposes or for the prevention of cruelty to children or animals.

Fraternal Beneficiary Societies (501(c)(8))

A fraternal beneficiary society, order, or association must file an application for recognition of exemption from federal income tax on Form 1024. The application and accompanying statements should establish that the organization:

1. Is a fraternal organization;
2. Operates under the lodge system or for the exclusive benefit of the members of a fraternal organization itself operating under the lodge system; and
3. Provides for the payment of life, sick, accident, or other benefits to the members of the society, order, or association or their dependents.

Lodge system. Operating under the lodge system means carrying on activities under a form of organization that comprises local branches, chartered by a parent organization and largely self-governing, called lodges, chapters, or the like.

Payment of benefits. It isn't essential that every member be covered by the society's program of sick, accident, or death benefits. An organization can qualify for exemption if most of its members are eligible for benefits, and the benefits are paid from contributions or dues paid by those members.

The benefits must be limited to members and their dependents. If members will have the ability to confer benefits to other than themselves and their dependents, exemption won't be recognized.

Whole-life insurance. Whole-life insurance constitutes a life benefit under section 501(c)(8) even though the policy may contain investment features such as a cash surrender value or a policy loan.

Reinsurance pool. Payments by a fraternal beneficiary society into a state-sponsored reinsurance pool that protects participating insurers against excessive losses on major medical health and accident insurance won't preclude exemption as a fraternal beneficiary society.

Domestic Fraternal Societies (501(c)(10))

A domestic fraternal society, order, or association must file an application for recognition of exemption from federal income tax on Form 1024. The application and accompanying statements should establish that the organization:

1. Is a domestic fraternal organization organized in the United States;
2. Operates under the lodge system;
3. Devotes its net earnings exclusively to religious, charitable, scientific, literary, educational, and fraternal purposes; and
4. Doesn't provide for the payment of life, sick, accident, or other benefits to its members.

The organization can arrange with insurance companies to provide optional insurance to its members without jeopardizing its exempt status.

501(c)(4), 501(c)(9), and 501(c)(17) Employees' Associations

This section describes the information to be provided upon application for recognition of

exemption by the following types of employees' associations:

1. A voluntary employees' beneficiary association (including federal employees' associations) organized to pay life, sick, accident, and similar benefits to members or their dependents, or designated beneficiaries, if no part of the net earnings of the association inures to the benefit of any private shareholder or individual; and
2. A supplemental unemployment benefit trust whose primary purpose is providing for payment of supplemental unemployment benefits.

Both the application form to file and the information to provide are discussed later under the section that describes your employee association. Chapter 1 describes the procedures to follow in applying for exemption.

Tax treatment of donations. Donations to these organizations aren't deductible as charitable contributions on the donor's federal income tax return.

Local Employees' Associations (501(c)(4))

A local association of employees whose membership is limited to employees of a designated person or persons in a particular municipality, and whose income will be devoted exclusively to charitable, educational, or recreational purposes. A local employees' association must apply for recognition of exemption by filing Form 1024-A. The organization must submit evidence that:

1. It is of a purely local character;
2. Its membership is limited to employees of a designated person or persons in a particular locality; and

3. Its net earnings will be devoted exclusively to charitable, educational, or recreational purposes.

A local association of employees that has established a system of paying retirement or death benefits, or both, to its members won't qualify for exemption since the payment of these benefits isn't considered as being for charitable, educational, or recreational purposes. Similarly, a local association of employees that is operated primarily as a cooperative buying service for its members in order to obtain discount prices on merchandise, services, and activities doesn't qualify for exemption.

Voluntary Employees' Beneficiary Associations (501(c)(9))

An application for recognition of exemption as a voluntary employees' beneficiary association must be filed on Form 1024. The material submitted with the application must show that your organization:

1. Is a voluntary association of employees;
2. Will provide for payment of life, sick, accident, or other benefits to members or their dependents or designated beneficiaries and substantially all of its operations are for this purpose; and
3. Won't allow any of its net earnings to inure to the benefit of any private individual or shareholder except in the form of scheduled benefit payments.

To be complete, an application must include a copy of the document (such as the trust instrument) by which the organization was created; a full description of the benefits available to participants and the terms and conditions of eligibility for benefits (usually contained in a plan document); and, if providing benefits pursuant to a collective bargaining agreement, a copy of that agreement.

Note. Under section 4976, the reversion of funds from a section 501(c)(9) organization to the employer who created the beneficiary association may subject the employer to a 100% penalty excise tax on the amount of the reversion.

Notice requirement. An organization won't be considered tax exempt under this section unless the organization gives notice to the IRS that it is applying for recognition of exempt status. The organization gives notice by filing Form 1024. If the notice isn't given by 15 months after the end of the month in which the organization was created, the organization won't be exempt for any period before notice is given. An extension of time for filing the notice can be granted under the same procedures as those described for section 501(c)(3) organizations in chapter 3 under *Application for Recognition of Exemption*.

Membership. Membership of a section 501(c) (9) organization must consist of individuals who are employees and have an employment-related common bond. This common bond can be a common employer (or affiliated employers), coverage under one or more collective bargaining agreements, membership in a labor union, or membership in one or more locals of a national or international labor union.

The membership of an association can include some individuals who aren't employees, provided they have an employment-related bond with the employee-members. For example, the owner of a business whose employees are members of the association can be a member. An association will be considered composed of employees if 90% of its total membership on 1 day of each quarter of its tax year consists of employees.

Employees. Employees include individuals who became entitled to membership because they are or were employees. For example, an individual will qualify as an employee even though the individual is on a leave of absence or has been terminated due to retirement, disability, or layoff.

Generally, membership is voluntary if an affirmative act is required on the part of an employee to become a member. Conversely, membership is involuntary if the designation as a member is due to employee status. However, an association will be considered voluntary if employees are required to be members of the organization as a condition of their employment and they don't incur a detriment (such as a payroll deduction) as a result of their membership. An employer has not imposed involuntary membership on the employee if membership is required as the

result of a collective bargaining agreement or as an incident of membership in a labor organization.

Payment of benefits. The information submitted with your application must show that your organization will pay life, sick, accident, supplemental unemployment, or other similar benefits. The benefits can be provided directly by your association or indirectly by your association through the payments of premiums to an insurance company (or fees to a medical clinic). Benefits can be in the form of medical, clinical, or hospital services, transportation furnished for medical care, or money payments.

Nondiscrimination requirements. An organization that is part of a plan won't be exempt unless the plan meets certain nondiscrimination requirements. However, if the organization is part of a plan that is a collective bargaining agreement that was the subject of good faith bargaining between

employee organizations and employers, the plan need not meet these requirements for the organization to qualify as tax exempt.

A plan meets the nondiscrimination requirements only if both of the following statements are true.

1. Each class of benefits under the plan is provided under a classification of employees that is set forth in the plan and doesn't discriminate in favor of employees who are highly compensated individuals.
2. The benefits provided under each class of benefits don't discriminate in favor of highly compensated individuals.

A life insurance, disability, severance pay, or supplemental unemployment compensation benefit doesn't discriminate in favor of highly compensated individuals merely because the benefits available bear a uniform relationship

to the total compensation, or the basic or regular rate of compensation, of employees covered by the plan.

If a plan provides a benefit for which there is a nondiscrimination provision provided under Chapter 1 of the Internal Revenue Code as a condition of that benefit being excluded from gross income, these nondiscrimination requirements don't apply. The benefit will be considered nondiscriminatory only if it meets the nondiscrimination provision of the applicable Code section. For example, benefits provided under a medical reimbursement plan would meet the nondiscrimination requirements for an association, if the benefits meet the nondiscrimination requirements of section 105(h)(3) and 105(h)(4).

Excluded employees. Certain employees who aren't covered by a plan can be excluded from consideration in applying these requirements.