



Exempt Organizations Technical Guide

TG 1 Instrumentalities of the United States, Government Corporations, and Federal Credit Unions - IRC 501(c)(1)

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I. Overview

A. Background / History

- (1) Sections 509(a) and 501(c)(1) provides exemption from federal income tax to certain organizations created by Acts of Congress.
- (2) Prior to The Tax Reform Act of 1984 (part of the Deficit Reduction Act of 1984, Pub. L. 98-369), an organization was exempt under Section 501(c)(1) if it was an instrumentality of the United States that was organized under an Act of Congress and was specifically granted tax exemption in the organizing Act.
- (3) With the passage of the Tax Reform Act of 1984, the grant of tax exemption to an organization in its authorizing legislation was no longer sufficient for Section 501(c)(1) status. Unless an organization was exempt under its organizing Act, as amended and supplemented, before July 18, 1984, it can only qualify for Section 501(c)(1) exemption if the exemption is specifically provided for in Section 501(l) or if exempt from federal income taxes under Title 26 without regard to any provision of law which is not contained in Title 26 and which is not contained in a Revenue Act.

B. Relevant Terms

- (1) **Act of Congress:** A law passed by both the House of Representatives and the Senate, and then signed by the president. Or, if the president vetoes the bill, it can be passed by a two-thirds majority vote by Congress.
- (2) **Federal credit union:** Credit unions created and chartered under the Federal Credit Union Act.
- (3) **Government corporation:** A government agency, created by an Act of Congress, owned and operated by the federal government.
- (4) **Instrumentality:** Instrumentalities can be operated on a federal, state, or local level. An instrumentality is an organization created by or pursuant to statute and operated for public purposes. Generally, an instrumentality performs governmental functions, but does not have the full powers of a government, such as police authority, taxation and eminent domain. This TG deals with federal instrumentalities.

C. Law / Authority

- (1) Section 501(c)(1)
- (2) Section 501(l)

II. Exemption Under Section 501(c)(1)

- (1) Congress may exempt an organization from federal income tax directly through legislation.

A. Instrumentalities of the United States

- (1) Section 501(c)(1) exempts from income tax corporations organized under an Act of Congress. To qualify for exemption under this Section, the corporation must be an instrumentality of the United States. In addition, its exemption must be specifically authorized by Congress.
- (2) State and municipal instrumentalities are not exempt under Section 501(c)(1). See Section 115, Income of States, municipalities, etc., for information on state and municipal instrumentalities.

A.1. Changes Under Tax Reform Act of 1984

- (1) Before the enactment of the Tax Reform Act of 1984 (part of the Deficit Reduction Act of 1984, Pub. L. 98-369), an organization was provided exemption under Section 501(c)(1) if it was an instrumentality of the United States that was organized under an Act of Congress and was specifically granted tax exemption in the organizing Act. Further, the corporation would remain exempt only as long as its exemption was consistent with the supplements and amendments to the original Act.
- (2) With the passage of the Tax Reform Act of 1984, the allowance of tax exemption to an organization in its authorizing legislation was no longer sufficient to qualify for Section 501(c)(1) status. Unless an organization was exempt under its organizing Act, as amended and supplemented, before July 18, 1984, it could only qualify for Section 501(c)(1) exemption if the exemption was specifically provided for in the Code. Section 501(l) was created for the list of these government corporations.
- (3) Thus, on July 18, 1984, all new Section 501(c)(1) organizations must be referred to by name as exempt within Section 501(l). The first such organization to qualify was the Central Liquidity Facility. See sections 1079 and 2813 of the Deficit Reduction Act of 1984, Pub. L. 98-369.

B. Government Corporations

- (1) The Deficit Reduction Act of 1984 added Section 501(l) to list government corporations for which Congress provides Section 501(c)(1) exemption from federal income tax.
- (2) Section 501(c)(1)(B) provides that government corporations listed in Section 501(l) are exempt from federal income tax under Section 501(c)(1).

B.1. Government Corporations Not Listed in Section 501(l)

- (1) For a government corporation created on or after July 18, 1984, to be tax-exempt under 501(c)(1), the organization must be listed in Section 501(l). Thus,

government corporations created before that date are not listed in Section 501(l).

(2) As noted in Section 501(c)(1)(A)(i), Acts of Congress established certain government corporations prior to July 18, 1984. A list of these government corporations follows (listed alphabetically by name, followed by the creating act):

a. **American National Red Cross, commonly known as American Red Cross**

Act to Incorporate the American National Red Cross, Pub. L. 58-4 (1905)

b. **Federal Credit Unions**

Federal Credit Union Act, Pub. L. 73-467 (1934)

c. **Federal Deposit Insurance Corporation**

Banking Act of 1933, Pub. L. 73-66

d. **Federal Home Loan Banks**

Federal Home Loan Bank Act, Pub. L. 72-304 (1932)

e. **Federal Intermediate Credit Banks**

Agricultural Credits Act, Pub. L. 67-503 (1923)

f. **Federal Land Bank Associations, formerly National Farm Loan Associations**

Agricultural Credits Act, Pub. L. 67-503 (1923)

g. **Federal Land Banks**

Federal Farm Loan Act, Pub. L. 64-158 (1916), and Farm Credit Act of 1933, Pub. L. 73-75

h. **Federal National Mortgage Association, commonly known as Fannie Mae**

Federal National Mortgage Association Charter Act, Pub. L. 83-560 (1954)

i. **Federal Reserve Banks**

Federal Reserve Act, Pub. L. 63-43 (1913)

j. **Federal Savings and Loan Insurance Corporation (FSLIC)**

Federal Home Loan Bank Act, Pub. L. 72-304 (1932)

k. **Pension Benefit Guaranty Corporation**

Tax Reform Act of 1976, Pub. L. 94-455

l. **Public Housing Administration**

United States Housing Act of 1937, Pub. L. 75-412

m. United States Capitol Historical Society

Title 36 United States Code 1219, Pub. L. 95-493 (1978)

- (3) Federal Savings and Loan Associations, previously exempt from tax under the Homeowners' Loan Act of 1933, are no longer exempt. Section 313 of the Revenue Act of 1951 (Pub. L. 183) repealed that exemption by amendment of section 5(h) of the 1933 Act, with the result that such associations are no longer exempt, beginning after December 31, 1951.
- (4) While the Revenue Act of 1951 revoked the tax-exempt status of certain banks and building and loan associations beginning after December 31, 1951, Rev. Rul. 133, 1953-2 C.B. 155, clarified this change did not affect the exempt status of national farm loan associations, which were still entitled to exemption under Section 101(15) of the 1939 Code, the predecessor to Section 501(c)(1).
- (5) Rev. Rul. 56-93, 1956-1 C.B. 601, held that a reorganized railroad company that issued all its first mortgage bonds and the majority of its shares of common stock to the Reconstruction Finance Corporation in satisfaction of a debt, but also issued and set aside shares of its common stock for subscription through warrants issued to private creditors, is not exempt from federal income taxes.

B.2. Government Corporations Listed in Section 501(l)

- (1) Section 501(l) lists the following organizations:
 - a. The Central Liquidity Facility established under title III of the Federal Credit Union Act 12 U.S.C. 1795 et seq.
 - b. The Resolution Trust Corporation established under section 21A of the Federal Home Loan Bank Act.
 - c. The Resolution Funding Corporation established under section 21B of the Federal Home Loan Bank Act.
 - d. The Patient-Centered Outcomes Research Institute established under section 1181(b) of the Social Security Act.

C. Federal Credit Unions

- (1) Federal credit unions, organized and operated under the Federal Credit Union Act (as amended), are instrumentalities of the United States exempt under Section 501(c)(1). See Rev. Rul. 89-94, 1989-2 C.B. 233.
- (2) Federal credit unions are included in a group exemption letter issued to the National Credit Union Administration (NCUA), an independent government agency. See Rev. Rul. 89-94, 1989-2 C.B. 233.
- (3) According to Rev. Rul. 89-94, NCUA is excepted from filing either an individual Form 990-series information return for itself or a group information return for its subordinate organizations. However, NCUA does provide an annual report to the Ogden Campus, updating information about its subordinate organizations

covered by its group exemption. Its subordinate organizations include federal credit unions under its supervision.

- (4) If a federal credit union files an application for recognition of exemption, it should be advised that the matter is, or will be, addressed by NCUA in its annual list of changes required by Section 6 of Rev. Proc. 80-27, 1980-26 I.R.B. 49, or its successor.

III. Other Considerations

A. Annual Filing Requirements

- (1) Organizations exempt under Section 501(c)(1) are excepted from filing Form 990-series returns. See Section 6033(a)(3)(C)(vi) and Treas. Reg. 1.6033-2(g)(1)(vi).
- (2) Section 501(c)(1) organizations are required to disclose if they are a party to a prohibited tax shelter transaction described in Section 4965. See Treas. Reg. 1.6033-5 for disclosure requirements.

B. Deductibility of Contributions

- (1) Contributions to Section 501(c)(1) organizations are deductible, if made for exclusively public purposes under Section 170(c)(1).
- (2) Section 501(c)(1) organizations are not required to make disclosures about Solicitation of Nondeductible Contributions. See Section 6113.

C. Resources

- (1) Publication 557, Tax-Exempt Status for Your Organization
- (2) CPE 1985-A, The Deficit Reduction Act of 1984 – Private Foundations and Miscellaneous Provisions, section 15.
- (3) IRS.gov pages:
 - a. What are Government Entities and Their Federal Tax Obligations?
 - b. Annual Exempt Organization Return: Who Must File
 - c. Information for Federal and State Credit Unions Regarding Automatic Revocation of Exemption
 - a. Exempt Organizations Annual Reporting Requirements: Action Required by Federal Credit Union Not Required to File