

# Instructions for Form 1028

## (Revised April 1991)

### Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code

(Section references are to the Internal Revenue Code unless otherwise noted.)

## Make sure your application is complete. Please remember. . .

1. Complete all parts of the application.
2. Show your employer identification number:
  - a. If you have one, put it on line 1b.
  - b. If you don't have an employer identification number, enclose a completed **Form SS-4** (see the Specific Instructions for Part I, line 1b).
3. Enclose financial statements (see the Specific Instructions for Part IV):
  - a. Current year (must include period up to within 60 days of the month the application is filed) and 3 preceding years.
  - b. Detailed breakdown of receipts and expenditures—no lump sums.
4. Include a conformed copy of the complete organizing instrument.
  - a. Organizing instrument means:
    1. Articles of Incorporation
      - (a) Signed by the incorporators and
      - (b) Signed by an appropriate government official, or
    2. Constitution or articles of association (signed).
  - b. You must also include a copy of the bylaws.
  - c. A conformed copy is one that agrees with the original and all amendments to it.
5. Enclose **Form 8718** and appropriate user fee (see **General Instruction F**).
6. Have the application signed by one of the following:
  - a. An officer,
  - b. A director, or
  - c. A person having power of attorney (submit the power of attorney too).
7. Give us the name and phone number of someone we can call during normal business hours if we need additional information.

fruitgrowers, or persons with similar occupations that is organized and operated on a cooperative basis.

**B. Filing of Application.**—File the completed application, together with all information required, as indicated in these instructions. As soon as possible after the Internal Revenue Service receives the complete application, you will be advised of the Commissioner's determination and of the annual returns that you are to file in the future.

If the principal place of business or office of the organization is in one of the districts or locations shown

Send your application to the District Director for the Key District listed below

Albany, Augusta, Boston, Brooklyn, Buffalo, Burlington, Hartford, Manhattan, Portsmouth, Providence

Internal Revenue Service  
EP/EO Division  
P.O. Box 1680, GPO  
Brooklyn, NY 11202

Baltimore, District of Columbia, Newark, Philadelphia, Pittsburgh, Richmond, Wilmington, any U.S. possession or foreign country

Internal Revenue Service  
EP/EO Division  
P.O. Box 17010  
Baltimore, MD 21203

Cincinnati, Cleveland, Detroit, Indianapolis, Louisville,

Internal Revenue Service  
EP/EO Division  
P.O. Box 3159  
Cincinnati, OH 45201

Albuquerque, Austin, Cheyenne, Dallas, Denver, Houston, Oklahoma City, Phoenix, Salt Lake City, Wichita

Internal Revenue Service  
EP/EO Division  
Mail Code 4950 DAL  
1100 Commerce Street  
Dallas, TX 75242

Atlanta, Birmingham, Columbia, Ft. Lauderdale, Greensboro, Jackson, Jacksonville, Little Rock, Nashville, New Orleans

Internal Revenue Service  
EP/EO Division  
P.O. Box 941  
Atlanta, GA 30370

Anchorage, Las Vegas, Boise, Honolulu, Portland, Laguna Niguel, Los Angeles, San Jose, Seattle

Internal Revenue Service  
EO Application Receiving  
Room 5127, P.O. Box 486  
Los Angeles, CA  
90053-0486

Sacramento, San Francisco

Internal Revenue Service  
EO Application Receiving  
Stop SF 4446  
P.O. Box 36001  
San Francisco, CA 94102

Aberdeen, Chicago, Des Moines, Fargo, Helena, Milwaukee, Omaha, St. Louis, St. Paul, Springfield

Internal Revenue Service  
EP/EO Division  
230 S. Dearborn DPN 20-5  
Chicago, IL 60604

**C. Power of Attorney.**—If an agent or attorney will represent the organization, you must file a power of attorney, specifically authorizing the representative to act in person or by correspondence.

**D. Attachments.**—Every attachment should state that it relates to Form 1028

### General Instructions

**Keep a copy of the completed application form in your permanent records.**

**Paperwork Reduction Act Notice.**—We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want to be recognized as tax exempt by IRS, you are required to give us this information. We need it to determine whether you qualify for tax-exempt status under section 521.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

- Recordkeeping** . . . 44 hrs., 14 min.  
**Learning about the law or the form** . . . . 1 hr., 32 min.  
**Preparing the form** . . . 4 hrs., 11 min.

### Copying, assembling, and sending the form to IRS . . . 32 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0058), Washington, DC 20503. **DO NOT** send the form to either of these offices. Instead, see the instructions below for information on where to file.

**A. Who May Use This Form.**—Form 1028 may be used by a farmers' cooperative association to apply for recognition of exempt status under section 521. A farmers' cooperative, as defined in section 521, is an association of farmers,

and show the date completed and the organization's name, address, and employer identification number. (See the instruction for line 1b of Part I below.)

In addition to the required documents and statements, you may file any additional information citing court decisions, rulings, opinions, etc., that may help to speed the processing of your application.

**E. Annual Return.**—An organization that is recognized as exempt from income tax under section 521 must file an annual return on **Form 990-C**, Farmers' Cooperative Association Income Tax Return.

An organization will not be considered exempt, even though it operates within the provisions of section 521 and Subchapter T, unless it files this application or has previously received a ruling recognizing its exemption under section 521 of the Internal Revenue Code of 1986 or corresponding provisions of prior law.

**F. User Fees for Exempt Organization Ruling and Determination Requests.**—The Internal Revenue Service is required to collect a fee from any organization seeking an IRS determination of its exempt status as an organization described in section 521. A fee also applies to any exempt organization's request for a private letter ruling.

The nonrefundable fee must be submitted with the application or ruling request. Otherwise, the request will be returned without any action being taken on it.

The fees are shown in **Form 8718**, User Fee for Exempt Organization Determination Letter Request, that is used to transmit both the appropriate fee and the application or ruling request.

## Specific Instructions

### Part I.—Identification

**Line 1a. Organization's Name.**—Enter the organization's name as it appears in its organizing documents, including amendments. If the organization will be operated under another name, show that name in parentheses.

**Line 1b. Employer Identification Number.**—If the organization does not have an employer identification number, enter "none" and attach a completed **Form SS-4**, Application for Employer Identification Number, to **Form 1028**. If, however, the organization has applied for a number and it has not been received, attach a statement giving the date of the application and office to which it was sent.

### Part II.—Type of Entity and Organizational Documents

One of the basic requirements for exemption is that the organization be "organized" for one or more exempt purposes. If the organization does not have an organizing instrument, it will not qualify for exempt status.

None of the documents submitted in support of this application, including organizational documents, will be returned.

Instead of the originals, submit "conformed" copies of these documents. A "conformed" copy is one that agrees with the original document and all of its amendments. If the copies are not signed, they must be accompanied by a declaration signed by an officer authorized to sign for the organization, certifying that they are complete and accurate copies of the original documents.

Chemically or photographically reproduced copies of articles of incorporation showing the certification of an appropriate government official need not be accompanied by a declaration.

### Part III.—Activities and Operational Information

**Lines 17 through 19.**—The information requested on lines 17 through 19 must be completed for the current year and each of the 3 immediately preceding years (or for the time the organization has existed if less than 4 years). The requested information for the current year must cover the period beginning on the first day of your organization's established annual accounting period and ending on any day which is within 60 days of the date of the application. If the date of the application is less than 60 days after the first day of the current accounting period, no information is required for the current year. Requested information is required for the 3 preceding years regardless of the current year requirement. Please note that if no information is required for the current year, the preceding year's information period can end on any day which is within 60 days of the date of the application.

**Definitions.**—The term "producer" means an individual or corporation engaged in farming as a business receiving income based on farm production rather than fixed compensation. For example, a corporation leases its land to a tenant farmer who agrees to pay a rental fee based on a percentage of the farm crops produced. Both the landowner and the tenant farmer qualify as producers.

"Current and active" producers are patrons of a cooperative who market more than 50% of their products or purchase more than 50% of their supplies and equipment through the cooperative during the cooperative's tax year.

### Part IV.—Financial Data

The statement of receipts and expenditures and the balance sheet must be completed for the current year and each of the 3 immediately preceding years (or for the time the organization has existed if less than 4 years). We may request financial data for more than 4 years if circumstances warrant. All financial information for the current year must cover the period beginning on the first day of your organization's established annual accounting period and ending on

any day which is within 60 days of the date of the application. If the date of the application is less than 60 days after the first day of the current accounting period, no financial information is required for the current year. Financial information is required for the 3 preceding years regardless of the current year requirements. Please note that if no financial information is required for the current year, the preceding year's financial information can end on any day which is within 60 days of the date of the application.

You may reproduce page 4 of the form and complete the financial data for each required year. Attach the financial data for all required years to your application.

The statements should be consistent with the method of accounting the organization uses in maintaining its books and records.

**Line 3b. Cost of Goods Sold.**—Include per-unit retain allocations paid to patrons in money, qualified written notices of allocation, or other property (except nonqualified per-unit retain certificates) and the amount paid to patrons in money or other property (except per-unit retain certificates) to redeem nonqualified per-unit retain certificates. (See sections 1382 and 1388.)

**Line 15. Other Expenditures.**—In the attached schedule for other expenditures, include a breakdown for nonpatronage distributions paid as dividends on capital stock and nonpatronage distributions made on a patronage basis. This breakdown should include only distributions of earnings derived from business done for the United States Government or any of its agencies or from sources other than patronage, but only to the extent such amounts are paid in the same manner provided for patronage dividends below. The term "income from sources other than patronage" means incidental income derived from sources not directly related to the marketing, purchasing or service activities of the cooperative association. For example, income derived from the lease of premises, from investment in securities, or from the sale or exchange of capital assets constitutes income from sources other than patronage.

Also include in the schedule the total amount of per-unit retain allocations other than those reflected in cost of sales on line 3b and the total amount of written notices of allocation other than those reflected on line 16. (See sections 1382 and 1388.)

**Line 16. Patronage Dividends.**—In the attached schedule, show the amount of patronage dividends paid to patrons in money, qualified written notices of allocation, or other property (except non-qualified written notices of allocation) and the amount paid to patrons in money or other property (except written notices of allocation) to redeem nonqualified written notices of allocation. (See sections 1382 and 1388 and the related regulations.)