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# Exempt Organizations Workshop

# Workshop Objectives (first hour)

- Major types of exempt organizations
- Applying for tax-exempt status
- Activities that can jeopardize tax-exempt status
- Unrelated business income (UBI) basics



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# Workshop Objectives (second hour)

- Filing requirements
- Form 990 highlights
- Automatic revocation issues
- Public inspection requirements
- Recent developments
- IRS resources for exempt organizations



# What is an Exempt Organization?

An exempt organization is

A trust, association, or corporation that is described in the Internal Revenue Code as exempt from Federal Income Tax.



# Types of EOs

|                                   |             |   |
|-----------------------------------|-------------|---|
| Charitable                        | § 501(c)(3) | Unified fundraising campaigns, private schools, churches, foundations |
| Civic/<br>Social Welfare          | § 501(c)(4) | Community service organizations                                       |
| Labor/<br>Agricultural            | § 501(c)(5) | Labor unions, county or state agricultural fairs                      |
| Business Leagues/<br>Professional | § 501(c)(6) | Chambers of commerce, professional organizations                      |
| Social Clubs                      | § 501(c)(7) | Country clubs, swim clubs   |



# Benefits of Exempt Status

Exemption from federal income tax

For 501(c)(3)s (and some others)

- Tax-deductible contributions

For 501(c)(3)s only

- Tax-exempt financing
- Reduced postal rates
- Retirement plans
- State-level benefits



# How to Apply for Tax-Exempt Status

- 501(c)(3)
  - Complete Form 1023 or
  - 1023-EZ, if eligible
- Submit user fee
  - Form 1023: \$600
  - Form 1023-EZ: \$275
- Fees subject to change – verify on [IRS.gov](https://www.irs.gov)



# How to Apply for Tax-Exempt Status

- 501(c)(4)
  - Submit Notice 8976 within 60 days of formation (required)
  - Complete Form 1024-A for recognition of exemption (optional)
- 501(c) “other”
  - Submit Form 1024
- Submit user fee (*subject to change – see IRS.gov*)
  - Form 8976: \$50
  - Forms 1024-A, 1024: \$600





# Two Part Test

To qualify for exemption, an organization must be

Organized

and

Operated

for an exempt purpose



# Organizational Test for 501(c)(3)

Organizing document must

- Limit purpose as stated in 501(c)(3)
- Distribute assets for 501(c)(3) purposes upon dissolution
- Not allow more than an insubstantial amount of non-exempt activity

Examples of organizing documents

- Articles of Incorporation, Trust documents, Articles of Association, Constitution



# Organizing Documents – Examples

- Articles of Incorporation
- Trust document
- LLC Articles of Organization
- Articles of Association
- Constitution



## Meeting the Operational Test – 501(c)(3)

- Activities must further organization's stated exempt purposes
- Limit participation in some activities
- Refrain from participating in some activities

# Foundation Classification – 501(c)(3)

- Private Foundation
- Public charity
  - Activity (church, school, hospital, medical or agricultural research) – 509(a)(1)/170(b)(1)(A)(i), (ii), ~~iii~~ (iii), or (ix)
  - Broad financial support – 509(a)(1)/170(b)(1)(A)(vi)
  - Exempt function revenue (museums, performing arts organizations) – 509(a)(2)
  - Supporting organizations – 509(a)(3)
  - Organizations that test for public safety – 509(a)(4)





# Jeopardizing Exempt Status

- Private benefit / inurement – 501(c)(3), 501(c)(4) and certain others
- Excessive lobbying activities – 501(c)(3)
- Any political campaign intervention – 501(c)(3)
- Failure to meet filing requirements – all subsections
- Unrelated business activities, if a primary purpose – all subsections (“substantial” purpose for 501(c)(3))



# Private Benefit / Inurement

- Organization should serve a “public interest”
- Organization’s “insiders” (disqualified persons) may not benefit excessively (excess benefit transactions)



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# Lobbying

Attempting to influence legislation





# Legislation – defined

Legislation includes action by Congress, state legislatures, local councils or similar governing bodies, with respect to acts, bills, resolutions or similar items (such as legislative confirmation of appointive office). It also includes action by the public in referenda, ballot initiatives, constitutional amendments or similar procedures. It does not include actions by executive, judicial or administrative bodies.



# Lobbying – defined

Attempting to influence legislation includes

- Contacting, or urging the public to contact, members or employees of a legislative body for the purpose of proposing, supporting or opposing legislation, or
- Advocating the adoption or rejection of legislation.



# Measuring Lobbying

Measurement methods for 501(c)(3) organizations

- “Expenditure” test: violation results in excise tax and/or revocation of exemption
- “Substantial Part” test: violation may result in revocation of exemption

“Expenditure” test election (section 501(h)) made on Form 5768; churches and their integrated auxiliaries, and private foundations cannot make this election



# Political Activity by 501(c)(3)s

Direct and indirect candidate support

- Contributions
- Public statements for/against a particular candidate
- Participation in campaigns

All Prohibited



# Permitted Activities

- Organizations leaders may speak for themselves as individuals – make this clear when doing so
- Organizations or leaders may speak on public policy issues
- Organizations may sponsor forums/debates
  - Equal opportunity to all candidates
  - No support or opposition indicated
  - No political fundraising



# Revenue Ruling 2007-41

- 21 examples
- Describes permitted activities
- Describes prohibited activities
- Available on IRS.gov (use search box)



# Filing Requirements

- Failure to file required return or notice (Form 990, 990-EZ, 990-PF or 990-N) for three consecutive years results in loss of exemption
- Organization must re-apply, pay appropriate user fees, may need to meet additional requirements.



# Unrelated Business Income

- Trade or business activity
- Regularly carried on
- Not substantially related to organization's exempt purpose
- Disallowed transportation fringe benefits (new section 512(a)(7))





# Examples of UBI Activity

- Advertising
- Gaming
- Sale of merchandise and publications
- Management or other similar services



# Activities Deemed Not Unrelated

- Activities conducted by volunteers
- Convenience
- Sale of donated merchandise
- Distribution of low cost articles
- Convention or trade show
- Sponsorship
- Bingo



# UBI Exclusions

- Interest and dividends
- Royalty income
- Rental income
- Gains and losses from sale of property



# Fundraising by EOs

- Code doesn't restrict type/amount of fundraising
- Evaluate fundraising effort
  - Does it meet UBI definition?
  - Does UBI exception apply?
- Report, pay any tax due
- Make sure activity doesn't become “substantial”

*Resource:* Publication 598 - Tax on Unrelated Business Income of Exempt Organizations



# UBI – Form 990-T

- Required for gross UBI \$1,000 or greater
- Separate unrelated trades or business must report separately (new section 512(a)(6))
- In addition to Form 990 requirement
- Due 15<sup>th</sup> day of 5<sup>th</sup> month after tax year ends
- Return must be filed even if no tax due



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# BREAK





# Annual Information Returns and Notices

Filing annual Form 990-series return or notice

- Meets IRS requirement
- Provides public accountability

Accurate, timely completion helps maintain exemption



# Who is Required to File?

Most 501(c) organizations are required to file  
Exceptions – churches and conventions or  
associations of churches





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# Which Form 990?

Private foundations - Form 990-PF

Most small Organizations – Form 990-N

Medium-size organizations

Form 990-EZ

Large organizations

Form 990



# Which Form 990?

| All organizations   | May file Form 990   |
|---|---------------------|
| Gross receipts below \$200,000 and total assets below \$500,000 | May file 990-EZ     |
| Gross receipts normally $\leq$ \$50,000*                        | May file Form 990-N |

*\*509(a)(3) supporting organizations cannot file Form 990-N*

*Note: All private foundations (any size) file Form 990-PF*



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# When To File?

Forms 990, 990-EZ, and 990-PF are due

- 15th day of the 5th month after the organization's accounting period ends
- Request extension with Form 8868 on or before the due date

File Form 990-N (e-Postcard) any time during year following tax year



# When to Begin Filing

File for every fiscal period after formation or incorporation

|  |   |   |   |
|--|---|---|---|
| <p>Form <b>990</b></p> <p>Department of the Treasury<br/>Internal Revenue Service</p>  | <p>Form <b>990-EZ</b></p> <p>Department of the Treasury<br/>Internal Revenue Service</p>  | <p align="center"><b>Short Form</b></p> <p align="center"><b>Return of Organization Exempt From Income Tax</b></p> <p align="center">Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations)</p> <p align="center">▶ Do not enter social security numbers on this form as it may be made public.</p> <p align="center">▶ Go to <a href="http://www.irs.gov/Form990EZ">www.irs.gov/Form990EZ</a> for instructions and the latest information.</p> | <p>OMB No. 1545-115</p> <p align="center"><b>2018</b></p> <p align="center"><b>Open to Public Inspection</b></p>  |
| <p><b>A For the 2018 calendar year</b></p> <p><b>B Check if applicable:</b></p> <p><input type="checkbox"/> Address change</p> <p><input type="checkbox"/> Name change</p> <p><input type="checkbox"/> Initial return</p> <p><input type="checkbox"/> Final return/terminated</p> <p><input type="checkbox"/> Amended return</p> <p><input type="checkbox"/> Application pending</p> | <p><b>A For the 2018 calendar year, or tax year beginning</b> _____, 2018, and ending _____, 20</p> <p><b>B Check if applicable:</b></p> <p><input type="checkbox"/> Address change</p> <p><input type="checkbox"/> Name change</p> <p><input type="checkbox"/> Initial return</p> <p><input type="checkbox"/> Final return/terminated</p> <p><input type="checkbox"/> Amended return</p> <p><input type="checkbox"/> Application pending</p> | <p><b>C Name of organization</b> ?</p> <p>Number and street (or P.O. box, if mail is not delivered to street address) ? Room/suite</p> <p>City or town, state or province, country, and ZIP or foreign postal code</p>  | <p><b>D Employer identification number</b></p> <p><b>E Telephone number</b></p> <p><b>F Group Exemption Number</b> ▶ ?</p> <p><b>H(b) Are all subordinates included?</b> <input type="checkbox"/> Yes <input type="checkbox"/> No</p> |



# Electronic Filing

- Required for non-PF
  - With assets of \$10M or more at tax-year end
  - Filing 250 or more returns of any type
- Required for PF
  - Of any asset size
  - Filing 250 or more returns of any type

*Form 990-N is electronic only*



# Incorrect, Incomplete Returns

- IRS sends back incorrect, incomplete returns
- Follow instructions in letter
- Include “reasonable cause” explanation for errors
- Send corrected return, reasonable cause statement, copy of letter within 10 days to avoid penalties
- Return not filed until IRS accepts it



# Late Returns

- Penalty is \$20 per day, each day return is late
- Maximum of \$10,000 or 5% of organization's gross receipts (the lesser)
- If annual gross receipts  $>$  \$1,000,000 – late filing penalty is \$100 per day to a maximum of \$50,000



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# Form 990 – Purpose

Form 990 allows an EO to show

- Organized/operated as a tax-exempt entity
- Tax-compliant
- Furthers its stated mission
- Well governed and managed





# Form 990 Core, Schedules, Instructions

Core Return – twelve parts

Sixteen Possible Schedules

- File only those applicable
- Most filers submit only a few

Instructions

- Sequencing list
- Glossary
- Appendices
- Compensation table



# Automatic Revocation Issues

- Automatic revocation looks back to date of formation
- File for every period after formation to avoid inadvertent auto-revocation
- If it happens, Revenue Procedure 2014-11 is guide
- Rev. Proc. Section 4 – streamlined, retroactive for small organizations
  - 1st time auto-revocation AND
  - Eligible for 990-N or 990-EZ for the 3 failed years AND
  - Within 15 months
- Form 1023-EZ is available to 501(c)(3) organizations



# Public Inspection

## Information Subject to Inspection

- Annual Information Returns (Forms 990, 990-EZ, and 990-PF) – most recent three years
- Application for Exemption (Forms 1023, 1024, 1024-A)
- All schedules, attachments & supporting documents
- Forms 990-T for 501(c)(3) organizations



# Public Inspection

## Information NOT Subject to Inspection

- Identification of contributors by name. Provide amount and nature of contributions. (PFs and certain political organizations must provide names.)
- Information approved for withholding in original application

Method, Time and Place – must be “reasonable”

Furnishing Copies – not required if information is “widely available”



# Recent Developments

- Obtaining EIN for new organization requires SSN of responsible party (News Release IR 2019-58)
- Group exemptions:
  - IRS no longer mails lists of parent and subsidiary accounts to central organizations
  - Central organization must continue to provide updates within 90 days of the close of its tax year
- Rev. Proc. 2019-22 updates Rev. Proc. 75-50 to add a third method for providing notice of nondiscrimination policy



# Recent Developments

- New exemption application not required for
  - Change in location
  - Change from unincorporated to incorporated
  - *See Rev. Proc. 2018-15 for details*
- New Form 1024-A for 501(c)(4) exemption
  - Form 8976 “notice” still required
- Changes to Form 1023-EZ
  - New text box for mission, activities
  - New clarifying questions



# Tax Cuts and Jobs Act

## Provisions affecting exempt organizations

- Excise tax on certain compensation – see Notice 2019-09 and final regulations issued 4/9/2019
- Tax on the net investment income of certain private colleges and universities – see Notice 2018-55 and final regulations issued 4/9/2019
- Treatment of separate unrelated trades or businesses – See Notice 2018-67
- Unrelated business taxable income attributable to transportation fringe benefit expenses – see Notices 2018-99 and 2018-100



# Tax Exempt Organization Search

Search for:

- Organizations eligible to receive tax-deductible charitable contributions
- Automatically revoked organizations
- IRS determination letters (dated on/after 1/1/2014)
- Form 990-series returns (filed 1/2018 and later)
- Form 990-N (e-Postcard) filers



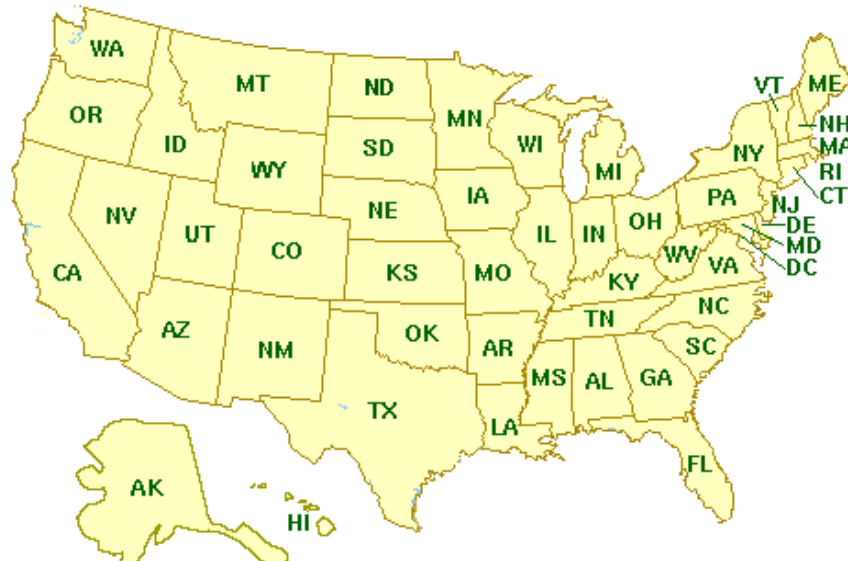


# Business Master File - EOs

## Exempt Organizations Business Master File Extracts

Updated data posting date: 05/13/2019 Record Count is 1,711,358

### CSV Files by State





# Business Master File - EOs

|    | A         | B  |               | V                | W       | X         | Y          | Z           | AA      |
|----|-----------|--|---------------|------------------|---------|-----------|------------|-------------|---------|
| 1  | EIN       | NAME   | FILING_REQ_CD | PF_FILING_REQ_CD | ACCT_PD | ASSET_AMT | INCOME_AMT | REVENUE_AMT | NTEE_CD |
| 2  | 111648051 | GREATER LINCOLN OBEDIENCE CLUB INC                   | 1             |                  | 12      | 45934     | 103150     | 103150      | T21     |
| 3  | 113648727 | GUARDIANS INCORPORATED                               | 0             | 1                | 12      | 11525     | 10341      |             |         |
| 4  | 113654410 | LA LECHE LEAGUE INTERNATIONAL INC                    | 2             | 0                | 3       | 0         | 0          | 0           | T20     |
| 5  | 113660156 | MEMORIAL COMMUNITY HOSPITAL FOUNDATION CORPORATION   | 1             | 0                | 12      | 1566870   | 120413     | 118134      | N66     |
| 6  | 113663353 | COALITION OF HISTORICAL TREKKERS                     | 2             | 0                | 12      | 0         | 0          | 0           |         |
| 7  | 113669999 | MOSAIC   | 1             | 0                | 6       | 110613492 | 231195953  | 230654779   | B99     |
| 8  | 113695991 | DREAMS OF EAGLES                                     | 2             | 0                | 12      | 0         | 0          | 0           | B82     |
| 9  | 113697033 | OCIA RESEARCH AND EDUCATION INC                      | 2             | 0                | 12      | 0         | 0          | 0           | B82     |
| 10 | 113699950 | MARY MADELINE PROJECT                                | 2             | 0                | 12      | 0         | 0          | 0           | D20     |
| 11 | 113725077 | SOCCC INC  | 2             | 0                | 12      | 0         | 0          | 0           | B90     |
| 12 | 113731196 | DUNDEE ELEMENTARY SCHOOL ALUMNI ASSOCIATION          | 2             | 0                | 12      | 0         | 0          | 0           | B11     |
| 13 | 113742894 | IMMANUEL TRINITY AFFORDABLE INC                      | 1             | 0                | 6       | 12409230  | 1057102    | 1057102     | B94     |
| 14 | 113753035 | UNITED STATES BOWLING CONGRESS INC                   | 2             | 0                | 7       | 0         | 0          | 0           |         |
| 15 | 113753800 | NEBRASKA 4-H FOUNDATION                              | 2             | 0                | 12      | 0         | 0          | 0           | X20     |
| 16 | 113768868 | SERVANTS OF THE HEART OF THE FATHER INC              | 6             | 0                | 12      | 73492     | 34215      | 34215       |         |
| 17 | 113775917 | UNITED STATES BOWLING CONGRESS INC                   | 2             | 0                | 7       | 0         | 0          | 0           | N40     |
| 18 | 113784602 | NEBRASKA GRAZING LAND COALITION                      | 1             | 0                | 12      | 43314     | 149973     | 149973      |         |
| 19 | 113785164 | LEMOYNE SENIOR CENTER                                | 1             | 0                | 9       | 220374    | 70033      | 70033       |         |
| 20 | 113788955 | METROPOLITAN AREA CONTINUUM OF CARE FOR THE HOMELESS | 1             | 0                | 12      | 249749    | 182943     | 182943      |         |
| 21 | 113799134 | NEBRASKA 4-H FOUNDATION                              | 2             | 0                | 12      | 0         | 0          | 0           | B94     |
| 22 | 113821255 | ARAJUNO FOUNDATION INC                               | 2             | 0                | 12      | 0         | 0          | 0           | N50Z    |
| 23 | 113827943 | BOYS SCOUT TROOP 474                                 | 2             | 0                | 12      | 0         | 0          | 0           | A200    |
| 24 | 116593078 | LOVING INVESTMENTS FOR ETERNITY INC                  | 0             | 1                | 9       | 27655     | 14         |             |         |
| 25 | 133773961 | THE AMERICAN COLLEGE OF FAMILY TRIAL LAWYERS INC     | 1             | 0                | 6       | 397196    | 239042     | 239042      | A23     |



# EO Update – free e-newsletter

The screenshot shows the IRS website's navigation menu with options like Filing, Payments, Refunds, Credits & Deductions, News & Events, Forms & Pubs, and Help & Feedback. A search bar is visible in the top right. The main content area features a sidebar with categories such as Charitable Organizations, Churches & Religious Organizations, Political Organizations, Private Foundations, Other Non-Profits, and Contributors. The main article is titled 'Exempt Organizations Update' and includes a 'Subscribe' link and a link to an 'archive'. A recent edition from May 17, 2016, is highlighted, with a sub-heading 'Some Form 990-N Electronic Filing System (e-Postcard) users may see error messages'. The article text explains that the Form 990-N online filing system moved from Urban Institute to IRS.gov in February and provides a list of steps for users experiencing site errors.



# For More Information

[IRS.gov/charities](https://www.irs.gov/charities)

Customer Account Services (toll-free)  
877-829-5500

Publication 557, Tax Exempt Status for Your Organization

Internal Revenue Service

TE/GE Customer Account Services

P.O. Box 2508, Cincinnati, OH 45201