



Exempt Organizations Technical Guide

TG 3-1: Overview, Applications, Exemption Requirements – IRC Section 501(c)(3)

This document is not an official pronouncement of the law or the position of the IRS and cannot be used, cited, or relied upon as such. This guide is current through the revision date. Changes after the revision date may affect the contents of this document and users should consider any subsequent resources to ensure technical accuracy. All references to “Section” in this document refer to the Internal Revenue Code of 1986, as amended, unless specifically noted otherwise. The taxpayer names and addresses shown in examples within this publication are fictitious.

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I. Overview

- (1) Section 501(a) of the Internal Revenue Code of 1986 provides for the tax exemption of certain organizations, including those described in Section 501(c). Many categories of organizations are listed under Section 501(c). Each category has different requirements that must be met for an organization to be described under that category.
- (2) One of the most common types of tax-exempt organizations, due to its ability to receive tax-deductible contributions (as well as other benefits) are those described in Section 501(c)(3).

A. Introduction to Section 501(c)(3)

- (1) Section 501(c)(3) organizations are often referred to collectively as “charities” or “charitable organizations.” However, permitted Section 501(c)(3) purposes include religious, charitable, scientific, testing for public safety, literary, educational, the fostering of national or international amateur sports competition, or the prevention of cruelty to children or animals.

Note: The IRC also describes specific types of organizations that may be treated as charitable under IRC 501(c)(3). See section I.G, Organizational and Operational Test Requirements, in this TG.

- (2) Specific requirements must be met to qualify for tax exemption under Section 501(c)(3). Failure to satisfy any of the requirements results in an organization not qualifying for exempt status when applying for recognition of exemption or can result in the loss of such status once the IRS detects a violation.
- (3) These organizations are eligible to receive tax-deductible contributions unlike most other exempt organizations. They also enjoy other benefits under the IRC, as well as under state or local income, property, sales, use, or other tax provisions.
- (4) Section 501(c)(3) organizations are classified as either public charities or private foundations. In general, the basis for distinguishing between public charities and private foundations is the level of public support an organization receives over time. Also, certain organizations may qualify as public charities as a matter of law. Compared to public charities, private foundations are subject to more restrictions on their activities and are subject to certain excise taxes. Additionally, charitable contribution deductibility is less favorable for private foundations.
- (5) This technical guide discusses Section 501(c)(3) organizations providing an overview of:
 - a. Exemption requirements
 - b. Other considerations (for example, foundation status, employment tax requirements and so forth.)
 - c. Application requirements for exemption

- d. Return filing requirements
- e. Examination techniques
- f. Other resources

B. Background / History

- (1) The 16th Amendment to the U.S. Constitution was ratified on February 3, 1913, allowing for the levying of income tax. Congress then enacted the Revenue Act of 1913, Ch. 16, 38 Stat. 114, on October 3, 1913 (also known as the Underwood Tariff Act). This act established “charitable” as a purpose that is exempt from federal income tax.
- (2) In 1939 the Internal Revenue Code was codified, and organizations pursuing charitable activities were exempt from taxation under Section 101(6). The recodification of the Code in 1954, as the Internal Revenue Code of 1954, redesigned and reordered the code to designate organizations exempt from federal income tax under Section 501(c)(3) where “charitable” remained an exempt purpose.
- (3) The Tax Reform Act of 1969 expanded Section 501(c)(3) law by providing:
 - a. Organizations created after October 9, 1969, won’t be treated as an organization described in Section 501(c)(3) unless they apply for exemption. Exceptions apply See Section 508.
 - b. Organizations described in Section 501(c)(3) are presumed to be private foundations unless they meet one of the exceptions listed in Section 509(a).
 - c. Special private foundation rules.
- (4) Section 501(c)(3) of the Internal Revenue Code of 1986 provides for the exemption of organizations organized and operated exclusively for “charitable” purposes.

C. Citation of Law and Non-Precedential Guidance

- (1) Throughout this Guide, citations of law are provided as guidance on the government’s position on specific activities and actions of the exempt organization.
- (2) While the Internal Revenue Code (IRC) is the primary source of Federal tax law, there are many additional sources. For example, there are both administrative and judicial interpretations as well. Administrative materials include Treasury Regulations, Revenue Rulings, and Revenue Procedures. Federal Courts that interpret Federal tax law include trial courts, appellate courts, and ultimately the Supreme Court.
- (3) Committee reports issued by Congressional committees during the legislative process are useful tools in determining Congressional intent behind certain tax laws and help examiners apply the law properly, particularly with respect to novel issues where the literal language of the IRC is ambiguous, where there is

little to no judicial history, and/or when the Treasury has not drafted regulations. (Note: Agents encountering novel issues in a case where there is little to no law on point should contact Counsel for assistance with the case.)

C.1. Precedential Citation of Law

- (1) When citing law, follow Internal Revenue Manual (IRM) 4.10.7.2 and its subsections for the proper citation of law. For example, citing to the Internal Revenue Code is in IRM 4.10.7.2.1.2, citing the regulations is in IRM 4.10.7.2.3.6, citing rulings and procedures is in IRM 4.10.7.2.6.3 and so forth. (See also IRM 4.70.13.5 on Researching Federal Tax Law.) The following is the order of precedential authorities the IRS follows when reviewing cases.
- (2) **Internal Revenue Code (IRC)** (Title 26 of the United States Code) is the foundation for all tax law. When changes are made to the IRC, the old language is deleted, and new language is inserted. Originally codified in 1939 as the Internal Revenue Code of 1939, it was recodified in 1954 and 1986. It is now referred to as the Internal Revenue Code of 1986. The IRC is divided into subtitles, chapters, subchapters, parts, subparts, sections, subsections, paragraphs, subparagraphs and clauses.
- (3) **Treasury Regulations** assist in interpreting the IRC. The regulations often contain examples and computations that assist in understanding the statutory language. The regulations are issued as proposed, temporary and final. References made to specific regulations throughout this TG are notated as Treas. Reg.
- (4) **Revenue Rulings** provide guidance on the government's position on specific activities and actions of an exempt organization. References made to specific revenue rulings throughout this TG are notated as Rev. Rul. The purpose of revenue rulings and revenue procedures is to promote uniform application of the tax laws. IRS employees must follow revenue rulings and revenue procedures. Taxpayers may rely on them or appeal their position to the Tax Court or other federal court.
- (5) **Revenue Procedures** are IRS pronouncements that deal with procedural aspects of the law. Specific reference to revenue procedures throughout this TG are notated as Rev. Proc.
- (6) Rulings and procedures are published in the **Internal Revenue Bulletin (I.R.B.)** available on www.irs.gov. Note: Rulings and procedures were previously published weekly in a paper version of the I.R.B. and semiannually in the **Cumulative Bulletin (C.B.)**. On March 11, 2013, the IRS announced it would stop printing the paper I.R.B. and eliminated the C.B. after the 2008-2 edition. See Ann. 2013-12.
- (7) **Judicial decisions** comprise an important source of tax law. Judges are reputed to be unbiased individuals who render decisions on questions of fact and/or law. Judges do not always agree. So often, a decision must be made against a background of conflicting judicial authorities.

a. Trial Courts

There are three trial courts for tax adjudication in the United States: the U.S. Tax Court, the U.S. Court of Federal Claims and the U.S. District Courts.

b. Appellate Courts

Decisions can be appealed from the U.S. Tax Court and the U.S. District Courts to the Court of Appeals in the taxpayer's circuit. Appeals from the U.S. Court of Federal Claims are taken to the Court of Appeals for the Federal Circuit. A party who loses at an appellate level may ask the Supreme Court for a writ of certiorari to argue the case.

c. US Supreme Court

Decisions of the U.S. Courts of Appeal, including the Court of Appeals for the Federal Circuit, may be appealed to the United States Supreme Court. The Supreme Court of the United States is the highest court of the land. In general, Supreme Court review is discretionary. The Supreme Court accepts cases which it views as having national importance. Only a limited number of tax cases are heard.

- (8) **Committee Reports** indicate legislative intent to a proposed bill. The Ways and Means Committee in the House of Representatives and the Finance Committee in the Senate are responsible for tax legislation. In cases where the literal language of the IRC is ambiguous, Committee Reports are useful tools in determining Congressional intent behind certain tax laws and help examiners apply the law properly.

C.2. Legal Guidance

- (1) **Treatment of IRS Official Rulings and Procedures:** In *St. David's Health Care System. v. United States*, the 5th Circuit Court of Appeals noted that "the courts generally accord significant weight to the determinations of the IRS in its revenue rulings." 349 F.3d 232, 239 n.9 (5th Cir. 2003); see *Estate of McLendon v. Commissioner*, 135 F.3d 1017, 1023 n.10, 1024 (5th Cir.1998) (stating "revenue rulings are generally given weight as expressing the studied view of the agency whose duty it is to carry out the statute," but are "clearly less binding on the courts than treasury regulations or Code provisions").
- (2) An **IRS Action on Decision (AOD)** - is a formal memorandum prepared by the IRS Office of Chief Counsel that announces the future litigation position the IRS will take with regard to the court decision addressed by the AOD. The IRS's AOD policy on federal court decisions decided in the taxpayers' favor is described in the Chief Counsel Directives Manual CCDM 36.3.1 (03-14-2013), or its successor. The IRS has an acquiescence policy regarding federal court decisions decided in the taxpayers' favor.
- a. Acquiescence (acq.) occurs when the IRS accepts the decision and will follow the ruling in all jurisdictions.

- b. Non-acquiescence (nonacq.) occurs when IRS disagrees with the court decision. The IRS is required to follow the precedent in the circuit where the decision was made but may otherwise hold its own position in all other circuits.
- c. The IRS decision of acquiescence or non-acquiescence is published in the Cumulative Bulletin and IRS agents are bound by the determinations.

C.3. Non-precedential Guidance

- (1) This Technical Guide and other guides will refer to non-precedential guidance. Non-precedential guidance may not be cited as precedent. It does, however, provide the government's position on issues and assists with developing a fact pattern as well as application of the law to the facts of a case for revenue agent reports. The non-precedential guidance presented in this Technical Guide is as follows:
 - a. **Technical advice memorandum (TAM)** is guidance furnished by the Office of Chief Counsel upon the request of an IRS director or an area director, appeals, in response to technical or procedural questions that develop during a proceeding. A request for a TAM generally stems from an examination of a taxpayer's return, a consideration of a taxpayer's claim for a refund or credit, or any other matter involving a specific taxpayer under the jurisdiction of the territory manager or the area director, appeals. A TAM is issued only on closed transactions and provide the interpretation of proper application of tax laws, tax treaties, regulations, revenue rulings or other precedents. The advice rendered represents a final determination of the position of the IRS, but only with respect to the specific issue in the specific case in which the advice is issued. TAMs are generally made public after all information has been removed that could identify the taxpayer whose circumstances triggered a specific memorandum.
 - b. **Private letter ruling (PLR)** is a written statement issued to a taxpayer that interprets and applies tax laws to the taxpayer's specific set of facts. A PLR is issued to establish with certainty the federal tax consequences of a particular transaction before the transaction is consummated or before the taxpayer's return is filed. A PLR is issued in response to a written request submitted by a taxpayer and is binding on the IRS if the taxpayer fully and accurately described the proposed transaction in the request and carries out the transaction as described. A PLR may not be relied on as precedent by other taxpayers or IRS personnel. PLRs are generally made public after all information has been removed that could identify the taxpayer to whom it was issued.
 - c. **General counsel memorandum (GCM)** is a formal legal opinion of the chief counsel responding to inquiries from a National Office function outside of chief counsel or explaining the legal basis for the position taken in a TAM, letter ruling, or revenue ruling. GCMs are generally made public

after all information has been removed that could identify the taxpayer to whom it was issued.

- d. **IRS publications** explain the law in plain language for taxpayers and their advisors. They typically highlight changes in the law, provide examples illustrating Internal Revenue Service positions, and include worksheets. Publications are nonbinding on the Service and do not necessarily cover all positions for a given issue. While a useful source of general information, publications should not be cited to sustain a position. Publications may be found on the published products catalog and may be searched by title, catalog number, product number, or key word search.

D. Relevant Terms

- (1) **Charity or Charitable Organization:** A term commonly used to refer to organizations described in Section 501(c)(3).
- (2) **Cy Pres:** The term “cy pres” comes from French language and means “so near” or “as near as possible.” The cy pres doctrine provides that where the particular purpose of a charitable trust has become impossible, impractical, or illegal to carry out and the trust settlor had a more general charitable intent, a court has the power to direct the trust property to a charitable purpose that falls within the general charitable intent of the settlor. See Restatement of Trusts (Second) 399.
- (3) **Determination Letter:** A letter issued by the IRS recognizing an organization’s exempt status and providing its foundation classification. A determination letter recognizing exemption is issued if an application for exemption and all information received by the IRS establishes that an organization meets the requirements for exemption.
- (4) **Dissolution:** The method by which an organization exempt under Section 501(c)(3) ceases operations and distributes its net assets for one or more exempt purposes to a governmental entity for a public purpose or to another 501(c)(3) organization.
- (5) **Inter-vivos Trust:** A trust created during the lifetime of a grantor which transfers legal title of trust property to a trustee to hold and to manage for a third party in accordance with the intent of the grantor.
- (6) **Operation:** The act or process of operating or functioning.
- (7) **Organization:** A group of persons which form an association or other legal entity to accomplish a particular purpose.
- (8) **Revocation:** The loss of tax-exempt status by an organization initiated by the IRS. **Note:** Automatic revocation, described in Section 6033(j), happens by operation of law rather than actions initiated by the IRS.
- (9) **Tax-Exempt Organization:** An organization described in Section 501(c) or (d) and exempt from taxation (under Title 26 of United States Code).

E. Law / Authority

- (1) Section 170(b)(1)(A)
- (2) Section 501(a)
- (3) Section 501(c)(3)
- (4) Treas. Reg. 1.170A-2.
- (5) Treas. Reg. 1.170A-4A.
- (6) Treas. Reg. 1.501(a)-1
- (7) Treas. Reg. 1.501(c)(3)-1

F. Exemption Requirements

- (1) Organizations must meet all of the following requirements to qualify for exemption under Section 501(c)(3):
 - a. Organized and operated exclusively for Section 501(c)(3) purposes
 - b. None of its earnings may inure to any private shareholder or individual
 - c. No more than an incidental private benefit to private persons
 - d. No substantial part of the organization's activities may attempt to influence legislation (lobbying)
 - e. May not participate or intervene in any political campaign for or against any candidate for public office
 - f. Purposes and activities may not be illegal or violate fundamental public policy
 - g. See Treas. Reg. 1.501(c)(3)-1.

G. Organizational and Operational Test Requirements

- (1) Section 501(c)(3) requires an organization to be both "organized" and "operated" exclusively for one or more Section 501(c)(3) purposes. If the organization fails either the organizational test or the operational test, it isn't exempt. See Treas. Reg. 1.501(c)(3)-1(a)(1).
- (2) The following organizations (described elsewhere within Section 501) are treated as charitable organizations described within Section 501(c)(3) and generally are subject to their own organizational and operational requirements:
 - a. Cooperative hospital service organizations (Section 501(e))
 - b. Cooperative service organizations of operating educational organizations (Section 501(f)).
 - c. Childcare organizations (Section 501(k))
 - d. Charitable risk pools (Section 501(n))
 - e. Credit counseling organizations (Section 501(q)), and
 - f. Hospital organizations (Section 501(r)).

Note: See Technical Guide, TG 3-6: Exempt Purposes – Public Safety, Literary, Amateur Sports, Prevention of Cruelty to Animals, etc. – IRC Section 501(c)(3) (Note: TG 3-6 will be published in the future. For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.)

H. Organizational Test

- (1) The organizational test applies to the organization’s articles of organization, also referred to as the “organizing document.” An organization may be a corporation, trust, or unincorporated association. See section V. A. 8, Entity Types and Dates of Formation of this TG.
- (2) The articles of organization are the written instrument by which an organization is created. See Treas. Reg. 1.501(c)(3)-1(b)(2).
- (3) An organization is organized exclusively for one or more exempt purposes only if its articles of organization:
 - a. Limit the purposes to one or more exempt purposes (“purpose clause”) See Treas. Reg. 1.501(c)(3)-1(b)(1)(i)(a); and
 - b. Don’t expressly empower the organization to engage in activities (other than as an insubstantial part of its activities) that don’t further one or more exempt purposes. See Treas. Reg. 1.501(c)(3)-1(b)(1)(i)(b).
 - c. Dedicate an organization’s assets to an exempt purpose (dissolution provision) either by provision in its articles of organization or by operation of law. See Treas. Reg. 1.501(c)(3)-1(b)(4).
- (4) Placing the provisions in the bylaws isn’t acceptable unless:
 - a. The bylaws are the articles of organization for an unincorporated association. or
 - b. In the case of a corporation, the state law would give effect to such a provision. (Note: This situation is not common, and, in most instances, corporations should have a dissolution clause in the organizing document filed with its state of incorporation, often called Articles of Incorporation.
- (5) Private foundations have additional requirements for the articles of organization imposed by Section 508(e). See section II.B.7. Private Foundations.
- (6) The articles of organization must meet the requirements in both form and language. Defects in the organizing documents can’t be corrected by the organization’s actual operations or by reference to other documents, including Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the IRC, or other statements.
- (7) See Section V. A.8., Entity Types and Dates of Formation, of this TG for information on allowable entity types and characteristics.

H.1. Exempt Purpose

- (1) An organization's exempt purpose must be **stated in its organizing document** to meet the organizational test. See Treas. Reg. 1.501(c)(3)-1(b)(1)(ii).
- (2) The term exempt purpose means any purpose specified in Section 501(c)(3):
 - a. Charitable
 - b. Religious
 - c. Scientific
 - d. Testing for Public Safety
 - e. Literary
 - f. Educational
 - g. Fostering national or international sports competitions
 - h. Prevention of cruelty to children or animals.
- (3) The stated purpose may be **as broad as** the purposes stated in Section 501(c)(3). For example, the purpose can be limited exclusively to one or more purposes as stated in Section 501(c)(3) as follows:

Said organization is organized exclusively for charitable, religious, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code.

- (4) The stated purpose may be more specific than the purposes stated in Section 501(c)(3). The following example is acceptable as a specific purpose since teaching sports to children (under age 18) is considered charitable (develops character, prevents juvenile delinquency):

"The organization will teach lacrosse to youth ages 17 and under."

- (5) The organizing document must state a purpose that **necessarily falls within the purposes** stated in Section 501(c)(3). The following examples don't meet the organizational test as the purposes aren't listed under Section 501(c)(3) and may or may not be conducted for charitable purposes:

"The organization will provide housing to residents of Magnolia County."

"The organization will promote the health of residents of Magnolia County."

- (6) The stated purpose **may not be broader** than the purposes of Section 501(c)(3). For example, the following purpose statement is too broad because bettering mankind may be achieved in many ways, not all of which fall within Section 501(c)(3):

“The organization is organized to better mankind in all ways that are allowed and appropriate under the law.”

- (7) Organizations that are organized for **both exempt and nonexempt** purposes fail to meet the organizational test. The following rulings contain examples of organizing documents which included nonexempt purposes causing the organizations to fail to qualify under Section 501(c)(3):
- a. In Rev. Rul. 69-279, 1969-1 C.B. 152, an irrevocable inter vivos trust was created to pay a fixed percentage of all income earned annually to the settlor during his lifetime (which served private interests) with the remaining balance paid to charity after the settlor’s death.
 - b. In Rev. Rul. 69-256, 1969-1 C.B. 151, a testamentary trust was established to make annual payments to exempt charities and to use a fixed sum from annual income for the care of the testator’s burial lot (which served private interests).
- (8) If the organizing document contains a purpose that doesn’t satisfy the organizational test, but such **purpose is not expressly contrary** to Section 501(c)(3) exempt purposes, the addition of the following type of language to the organizing document will let the organization meet the purpose requirement of the organizational test:

“Notwithstanding other language (or provisions) in the creating document, the purposes will be limited exclusively to exempt purposes within the meaning of IRC 501(c)(3).”

For example, an organizing document providing that an organization is formed to promote philanthropic and eleemosynary purposes wouldn’t satisfy the purpose requirement. But if the organizing document also states that notwithstanding any other provision in this instrument, it won’t further any specified purpose to more than an insubstantial degree other than those described in IRC 501(c)(3), the organization would satisfy the organizational test.

H.2. Express Powers

- (1) The organizational test won’t be met if the organizing document expressly empowers the organization:
- a. To carry on any other activities (unless they are insubstantial) which aren’t in furtherance of one or more exempt purposes. See Treas. Reg. 1.501(c)(3)-1(b)(1)(i)(b).
 - b. To devote more than an insubstantial part of its activities to influence legislation by propaganda or otherwise. See Treas. Reg. 1.501(c)(3)-1(b)(3)(i).

- c. To participate directly or indirectly in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of or in opposition to any candidate for public office. See Treas. Reg. 1.501(c)(3)-1(b)(3)(ii).
- (2) To have objectives and to engage in activities which characterize it as an “action” organization. See Treas. Reg. 1.501(c)(3)-1(b)(3)(iii).
- (3) Providing for a *Section 501(h) election* (where an organization elects to make lobbying and grass roots expenditures that don’t normally exceed the ceiling amounts) in an organization’s articles won’t violate the organizational test. See Treas. Reg. 1.501(c)(3)-1(b)(3)(iii).

H.3. Charitable Class Requirement

- (1) A charitable organization or trust must be set up for the benefit of an indefinite class of individuals. It may not be set up for specific persons.
- (2) A trust or corporation organized and operated for the benefit of specific individuals isn’t charitable. For example:
 - a. A trust to benefit “John Jones” isn’t a charitable trust even though the facts may show that “John Jones” is impoverished. See Pasadena Methodist Foundation and Carrie A. Maxwell, Trust, Pasadena Methodist Foundation v. Commissioner, 2 TCM 905 (1943).
 - b. However, an organization set up with the general charitable purpose of benefitting needy individuals in a particular community is a charitable organization. It may select “John Jones” as a beneficiary.
- (3) An organization may have a purpose to benefit a comparatively small class of beneficiaries provided the class is open and the identities of the individuals to be benefited remain indefinite. See the following rulings:
 - a. Rev. Rul. 56-403, 1956-2 C.B. 307, held that a foundation set up to award scholarships solely to undergraduate members of a designated fraternity could be exempt as a charitable foundation
 - b. Rev. Rul. 67-367, 1967-2 C.B. 188, held that an organization that made scholarship payments to pre-selected, specifically named individuals didn’t qualify for exemption.
 - c. Rev. Rul. 57-449, 1957-2 C.B. 622, held that a trust to pay a certain sum to all the individuals enrolled in a certain school on a particular date was a private trust, and not a charitable trust since the beneficiaries were a group of identifiable individuals.

H.4. Dissolution Provision

- (1) An organization’s assets must be dedicated to an exempt purpose to meet the organizational test.
- (2) Assets will be considered properly dedicated if the articles of organization provide for distribution of assets upon dissolution:

- a. For one or more exempt purposes,
 - b. To the federal government or a state or local government, for a public purpose, or
 - c. To another organization (distributed by a court) to be used in a manner that in the judgment of the court will best carry out the general purposes for which the dissolved organization was organized.
See Treas. Reg. 1.501(c)(3)-1(b)(4).
- (3) The following is an example of a dissolution provision that properly dedicates an organization's assets:
- Upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose.
- (4) The laws of some states provide for the distribution of charitable assets upon dissolution when organizing articles don't have an express dissolution clause. See the following Sections, B.5. Operation of State Law and B.6 Cy Pres Doctrine in this TG.
- (5) An organization's assets aren't properly dedicated if its organizing document provides that its assets will be distributed to its members or shareholders upon dissolution. See Treas. Reg. 1.501(c)(3)-1(b)(4).

H.5. Operation of State Law

- (1) Some state laws govern the distribution of assets upon dissolution when an organizations' governing documents don't have an express dissolution provision. If assets are properly dedicated by operation of state law, the organization's governing documents do not need a dissolution clause.

H.6. The Cy Pres Doctrine

- (1) The term "cy pres" comes from the French language and means "so near" or "as near as possible." The cy pres doctrine is a legal doctrine that provides where the particular purpose of a charitable trust has become impossible, impractical, or illegal to carry out and the trust settlor had a more general charitable intent, a court has the power to direct the trust assets to a charitable purpose that falls within the general charitable intent of the settlor.
- (2) Treas. Reg. 1.501(c)(3)-1(b)(4) provides that an organization is not considered organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization may satisfy this requirement if, by reason of a provision in the organization's articles or by operation of state law, its assets would be distributed upon dissolution for one or more exempt purposes, or to the Federal Government, or to a State or local government, for a public purpose, or would be distributed by a court to another organization to

be used in such manner as in the judgment of the court will best accomplish the general purposes for which the dissolved organization was organized.

- (3) In Rev. Proc. 82-2, 1982-1 C.B. 367, the IRS identified the states and circumstances in which the Service does not require an express dissolution provision in the articles of organization because state law satisfies the requirements of Treas. Reg. 1.501(c)(3)-1(b)(4). Agents and taxpayers are cautioned that the information in Rev. Proc. 82-2 has not been updated and may have been affected by subsequent changes to state law. If it is not clear that current state law satisfies the requirements of Treas. Reg. 1.501(c)(3)-1(b)(4), a dissolution provision should be included in the organizing document. (See example in Section H.4(3), of this TG, above.)

H.7. Private Foundations

- (1) Section 508(e)(1) provides that the governing instrument of a private foundation must:
 - a. Require income distributions for each tax year so as to not subject the foundation to taxes under Section 4942, and
 - b. Prohibit the foundation from engaging in self-dealing under Section 4941(d), from retaining excess business holdings under Section 4943(c), from investing funds in a manner subjecting the foundation to tax under Section 4944, and from making any taxable expenditures under Section 4945(d).
- (2) The governing instrument will meet Section 508(e)(1) requirements if state law requires the foundation to act or refrain from acting so as not to subject the foundation to the taxes imposed by Sections 4941-4945 or treats the governing instrument as requiring this conduct. See Treas. Reg. 1.508-3(d)(1).
- (3) In Rev. Rul. 75-38, 1975-1 C.B. 161, the IRS published a list of states that have adopted legislation satisfying the requirements of Section 508(e). Agents and taxpayers are cautioned that the information in Rev. Rul. 75-38 has not been updated and may have been affected by subsequent changes to state law. If it is not clear that current state law satisfies the requirements of Section 508(e), then the provisions described in Section 508(e) should be added to the private foundation's governing instrument
- (4) Publication 557, Tax-Exempt Status for Your Organization, Chapter 3, Private Foundations and Public Charities, provides sample language that will meet Section 508 requirements.
- (5) Special circumstances and exceptions exist. See Technical Guide, TG 3-20: Introduction to Private Foundations and Special Rules – IRC Section 508.

H.8. Exempt Purposes

- (1) An organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more Section 501(c)(3) purposes. An organization isn't regarded as

operating exclusively for exempt purposes if more than an insubstantial part of its activities doesn't further exempt purposes. See Treas. Reg. 1.501(c)(3)-1(c)(1).

- (2) An organization may be exempt as an organization described in Section 501(c)(3) if it's organized and operated exclusively for one or more of the following exempt purposes:

- a. Religious
- b. Charitable
- c. Scientific
- d. Testing for public safety
- e. Literary
- f. Educational
- g. Foster national or international sports competition
- h. Prevention of cruelty to children or animals.

See Section 501(c)(3) and Treas. Reg. 1.501(c)(3)-1(d)(1).

- (3) There's no legal definition in the IRC for commonly used terms such as "exclusively," "primarily," "substantial" and "insubstantial" which are found throughout the IRC and regulations. For purposes of the operational test, these terms apply to the review of the purposes, activities, time and resources of exempt organizations to determine if they are operating for Section 501(c)(3) purposes. There is no express formula or measurement in the IRC for the operational test. Rather, all facts and circumstances pertaining to the operational test should be considered when making these determinations.
- (4) Courts have provided general guidelines on a case-by-case basis that interpret the commonly used terms in Section 501(c)(3). For example, see *Better Business Bureau of Washington D.C., Inc. v. United States*, 326 U.S. 279 (1945), in which the Supreme Court held that the presence of a single non-exempt purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly exempt purposes.

H.9. Charitable Defined

- (1) Treas. Reg. 1.501(c)(3)-1(d)(2) provides that the term "charitable" for purposes of Section 501(c)(3) is used in its "generally accepted legal sense." Charitable purposes include the purposes listed above in Section C.1. and the following:
- a. Relief of the poor, the distressed, or the underprivileged
 - b. Advancement of religion
 - c. Advancement of education or science
 - d. Erecting or maintaining public buildings, monuments, or works

- e. Lessening the burdens of government
 - f. Promotion of social welfare by organizations engaging in a. through e.
 - g. Lessening neighborhood tensions
 - h. Eliminating prejudice and discrimination
 - i. Defending human and civil rights secured by law
 - j. Combating community deterioration and juvenile delinquency
- (2) See Technical Guide, TG 3-3: Exempt Purposes – Charitable – IRC Section 501(c)(3).

H.10. Religious or Advancement of Religion

- (1) The First Amendment to the United States Constitution provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.” Thus, First Amendment considerations prevent Congress and the Internal Revenue Service from establishing a definition of the term “religion.” See GCM 36993 (1977).
- (2) However, the Supreme Court did interpret the term “religious” in *United States v. Seeger*, 380 U.S. 163 (1965). The Court specifically interpreted the phrase “religious training and belief” as used in the Universal Military Training and Service Act, 50 U.S.C. Section 456(j), in determining an individual’s eligibility for exemption from military service on religious grounds. The Court expressed the following definition: “A sincere and meaningful belief which occupies in the life of its possessor a place parallel to that filled by the God of those admittedly qualifying for the exemption comes within the statutory definition.”
- (3) See TG 3-2: Exempt Purposes – Religious – IRC Section 501(c)(3) for the requirements that must be met by an organization operating for religious purposes or the advancement of religion to qualify as charitable under Section 501(c)(3). **Note:** TG 3-2 will be published in the future. For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.

H.11. Educational Defined

- (1) The term “charitable” includes the advancement of education. Like the term “charitable,” the IRC doesn’t define the term “educational.”
- (2) The term “educational” as used in Section 501(c)(3), relates to:
 - a. The instruction or training of the individual for the purpose of improving or developing his capabilities, or
 - b. The instruction of the public on subjects useful to the individual and beneficial to the community.
See Treas. Reg. 1.501(c)(3)-1(d)(3).
- (3) An organization may be educational even though it advocates a particular position or viewpoint as long as it provides a sufficiently full and fair

presentation of the key facts as to allow an individual or the public to form an independent opinion or conclusion. On the other hand, an organization isn't educational if its principal function is the mere presentation of unsupported opinion. See Treas. Reg. 1.501(c)(3)-1(d)(3)(i)(b).

See Technical Guide, TG 3-5: Exempt Purposes – Educational – IRC Section 501(c)(3). **Note:** TG 3-5 will be published in the future.

H.12. Testing for Public Safety Defined

- (1) The term “testing for public safety” includes the testing of consumer products (such as electrical products) to determine whether they are safe for use by the general public. See Treas. Reg. 1.501(c)(3)-1(d)(4).

Note: For detail, see Technical Guide, TG 3-6: Exempt Purposes – Public Safety, Literary, Amateur Sports, Prevention of Cruelty to Animals, etc. – IRC Section 501(c)(3). TG 3-6 will be published in the future.

H.13. Scientific Defined

- (1) The terms “science” and “scientific” are not defined in the IRC, Regulations or any published rulings. However, Treas. Reg. 1.501(c)(3)-1(d)(5) does provide that a scientific organization:
 - a. Must be organized and operated in the public interest,
 - b. Includes the carrying on of scientific research in the public interest which furthers a scientific purpose, and
 - c. Doesn't include activities of a type ordinarily carried on as incident to commercial or industrial operations.
- (2) For detail see Technical Guide, TG 3-4: Exempt Purposes – Scientific – IRC Section 501(c)(3)

H.14. Serving Public Interests

- (1) An organization isn't operated exclusively for exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals. In other words, if an organization furthers private rather than public interests, it won't meet the operational test.
- (2) For example, an organization may not be operated for the benefit of private shareholders or individuals. See Treas. Reg. 1.501(c)(3)-1(c)(2).
 - a. In *Wendy L. Parker Rehabilitation Foundation, Inc. v. CIR*, T.C. Memo. 1986-348, the court upheld denial of exemption under Section 501(c)(3) based on inurement. The foundation planned to distribute thirty percent of funds for the care of Wendy Parker (daughter and sister of the organizations' directors/officers). As the distribution of funds for the benefit of Wendy Parker assisted the Parker family in providing for her care, the organization was serving the private interests of the individuals who created it.

- (3) Inurement results when an insider (an individual in a relationship with the organization) uses their position to use the organization's income or assets for personal gain.
- (4) Private benefit, a term broader than inurement, includes inurement but also results when a substantial benefit accrues to an independent outsider.
- (5) The burden of proof is on an organization to establish that it isn't organized or operated for the benefit of private interests. Therefore, when applying for exemption, an organization must provide the IRS with documents stating its purposes, rules of operation, and a detailed explanation of its operations. See Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (as updated annually).

II. Adverse Actions and Activities

- (1) Adverse actions and activities will be discussed briefly in the following sections.

A. Inurement

- (1) For inurement to exist, an "insider" must receive financial gain because of their position within the exempt organization. Insiders generally include, but are not limited to the following:
 - a. Trustees
 - b. Board members
 - c. Officers
 - d. Members
 - e. Founders
 - f. Significant donors
 - g. Employees
 - h. Individuals with a close professional working relationship with the exempt organization
- (2) Inurement may exist in many forms. Some examples are:
 - a. Unreasonable compensation
 - b. Payment of excessive rent
 - c. Detained or retained interests
 - d. Receipt (by the exempt organization) of less than fair market values in sales or exchange property
 - e. Unsecured or inadequately secured loans
 - f. Prohibitive benefit from funds
 - g. Exempt organizations providing capital improvements to property owned by its insiders
 - h. Copyrights and royalties benefiting insiders

- i. Interest free and/or unsecured loans to insiders
 - j. Dividends
- (3) An organization won't qualify for exemption under Section 501(c)(3) even if a minimal amount of inurement exists because it serves private rather than public purposes and therefore more than an insubstantial part of its activities aren't in furtherance of an exempt purpose.
 - (4) See Technical Guide, TG 3-8: Disqualifying and Non-Exempt Activities – Inurement and Private Benefit – IRC Section 501(c)(3) and TG 65: Excess Benefit Transactions – IRC Section 4958 (**Note:** TG 3-8 will be published in the future. For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.)

B. Private Benefit

- (1) The terms inurement and private benefit are not interchangeable.
- (2) Private benefit is broader than inurement. All inurement is private benefit but not all private benefit is inurement.
- (3) Treas. Reg. 1.501 (c)(3)-1(d)(1)(ii) states that an organization isn't organized or operated exclusively for exempt purposes unless it serves a public rather than a private interest.
- (4) Private benefit will not preclude exemption if it is incidental to the accomplishment of exempt purposes. However, an activity that primarily serves private interests may jeopardize exempt status if it's carried on to a degree that's more than an insubstantial part of the organization's activities.
- (5) To be incidental, private benefit:
 - a. Must be a necessary by-product of the activity that benefits the public at large and accomplishes exempt purposes. The benefit to the public can't be achieved without necessarily benefitting certain private individuals.
See Rev. Rul. 70-186, 1970-1 CB 128, where the organization's preservation of a lake as a public recreational facility was impossible to accomplish without providing a benefit to certain private property owners.
 - b. Must not be substantial relative to the public benefit the organization provides. This is a facts and circumstances test that requires public benefit from the organization's activities to outweigh any individual benefit.
See Treas. Reg. 1.501(c)(3)-1(d)(1)(iii), Example 2, where the benefit to noncharitable beneficiaries wasn't incidental.
 - c. For details, see Technical Guide, TG 3-8: Disqualifying and Non-Exempt Activities – Inurement and Private Benefit – IRC Section 501(c)(3). (**Note:** TG 3-8 will be published in the future. For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.)

C. Legislative and Lobbying Activity

- (1) An organization won't qualify for exemption under Section 501(c)(3) if a **substantial** part of its activities is attempting to influence legislation (also known as lobbying). A Section 501(c)(3) organization may engage in some lobbying, but too much of this activity will result in a denial of exemption or revocation of tax-exempt status.
- (2) Whether an organization's attempts to influence legislation (lobbying) constitute a "**substantial**" part of its overall activities is based on one of two tests.
 - a. The first test is determined based on all of the pertinent facts and circumstances in each case. Generally, less than five percent of activities and expenditures is considered insubstantial. See *Seasongood v. Comm'r*, 227 F.2d 907 (6th Cir. 1955).
 - b. The second test is based on expenditures only; however, an organization must elect to be covered by this test. See Section 501(h) and Form 5768, *Election/Revocation of Election by an Eligible IRC Section 501(c)(3) Organization to Make Expenditures to Influence Legislation*.
- (3) Treas. Reg. 1.501(c)(3)-1(c)(3)(ii)(b) defines legislation as including action by Congress, by any state legislature, by any local council or similar governing body, or by the public in a referendum, initiative, constitutional amendment, or similar procedure.
- (4) Legislation doesn't include the actions of all legislative type bodies. Treas. Reg. 56.4911-2(d)(3) and (4) provide that legislation doesn't include actions by:
 - a. Executive, judicial or administrative bodies
 - b. School boards
 - c. Housing authorities
 - d. Sewer and water districts
 - e. Zoning boards
 - f. Other similar federal, state, or local special purpose bodies, whether elective or appointive
- (5) Lobbying includes direct communications (direct lobbying) to legislative members and indirect communications (grassroots lobbying) to legislative members through the electorate or general public.
- (6) The term "influencing legislation" is defined as:
 - a. Any attempt to influence legislation through an attempt to affect the opinions of the general public
 - b. Any attempt to influence legislation by communication with a member or employee of a legislative body or with a government official or employee who can participate in formulation of legislation (Section 4911(d)(1)).

- (7) Section 4911(d)(2) describes activities that aren't considered influencing legislation. These include:
- a. Making available the results of nonpartisan analysis, study, or research
 - b. Providing technical advice or assistance to a governmental body, committee, or subdivision in response to its written request
 - c. Making appearances before any legislative body or communications with it regarding a possible decision by the body that might affect the exempt organization
 - d. Communicating with its members regarding legislation or proposed legislation of direct interest to the members
 - e. Communicating with a government official or employee who is not connected with a legislative body.
- (8) An "action organization" can't qualify under Section 501(c)(3). An organization is an "action organization" if:
- a. Its main or primary objective is gained only by legislation or a defeat of proposed legislation, and
 - b. It advocates or campaigns for attainment of its primary objective as distinguished from engaging in nonpartisan analysis, study or research and making those results available to the public.
- a. All facts and circumstances should be considered when making a determination. See Treas. Reg. 1.501(c)(3)-1(c)(3)(iv).
- (9) Section 501(h) permits certain eligible Section 501(c)(3) organizations to elect to make limited expenditures to influence legislation.
- a. Form 5768 must be filed to make an election and revoke an election.
 - b. An electing organization that spends more than the amounts permitted under Section 501(h) is subject to an excise tax under Section 4911.
 - c. Loss of tax-exempt status can occur if lobbying expenditures exceed the permitted amounts by more than 50% over a 4-year period.
- (10) For detail see Technical Guide, TG 3-9: Disqualifying and Non-Exempt Activities – Political and Lobbying Activities – IRC Section 501(c)(3). **Note:** TG 3-9 will be published in the future.

D. Political Activity Prohibited

- (1) Section 501(c)(3) organizations are prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.
- (2) Contributions to political campaigns or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office violate the prohibition against political campaign activity under Section 501(c)(3). Violating this prohibition will result in denial of

exemption or revocation of tax-exempt status and the imposition of certain excise taxes.

- (3) While some activities and disbursements are obviously political in nature, others may seem to be political but are actually educational when conducted in a non-partisan manner. Examples of this include certain voter education activities, presenting public forums, publishing voter education guides, voter registration and get-out-the-vote drives.
- (4) For detail see Technical Guide, TG 3-9: Disqualifying and Non-Exempt Activities – Political and Lobbying Activities – IRC Section 501(c)(3). **Note:** TG 3-9 will be published in the future.

E. Carrying on a Trade or Business

- (1) For purposes of this section, the following terms are defined:
 - a. Trade or business - same meaning as it has in Section 162, and generally includes any activity carried on for the production of income via the sale of goods or performance of services. See Treas. Reg. 1.513-1(b).
 - b. Unrelated trade or business - a trade or business regularly conducted by an exempt organization that is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the performance by such organization of its exempt purpose. See Section 513. This definition applies to any organization subject to the tax imposed by Section 511 on unrelated business income.
- (2) An organization may meet the requirements of Section 501(c)(3) even though it operates a trade or business as a substantial part of its activities, as long as the operation of such trade or business furthers the organization's exempt purpose(s), and the organization isn't organized or operated for the primary purpose of carrying on an unrelated trade or business. See Treas. Reg. 1.501(c)(3)-1(e)(1).
- (3) The purposes toward which an organization's activities are directed, and not the nature of the activities will determine whether an organization is operating a trade or business can meet the requirements of Section 501(c)(3). See *B.S.W. Group, Inc. v. Commissioner*, 70 T.C. 352 (1978).
- (4) Determining whether an activity serves an exempt purpose while carrying on a trade or business requires considering all the facts and circumstances. The following factors are especially important:
 - a. The way the activities are conducted
 - b. The degree the activities are carried on with a "commercial hue"
 - c. Competition with commercial firms
 - d. The existence and amount of annual or accumulated profits
 - e. How the organization sets its prices or fees (are they at or below cost, or at a substantial markup).

See *Living Faith, Inc. v. Commissioner*, 950 F.2d 365 (7th Cir. 1991); *Airlie Foundation v. IRS*, 283 F.Supp.2d 58 (D.D.C., 2003).

- (5) An organization doesn't qualify for exemption if an activity serves a substantial non-exempt purpose. This is true even if the activity may also further an exempt purpose. For example:

In *Schoger Foundation v. Commissioner*, 76 T.C. 380 (1981), a not-for-profit corporation was formed to own and operate a mountain lodge as a religious retreat facility. The lodge made available to its guests' numerous activities-religious, recreational, and social. None of the activities were regularly scheduled or required. The religious activities revolved around individual prayer and contemplation, with optional daily devotions and occasional Sunday services. The recreational and social activities were of the type usually offered at vacation resorts. No records were kept showing participation by guests in any of the activities. The court held that the organization failed to establish that it was operated exclusively for religious or other exempt purposes within the meaning of Section 501(c)(3).

- (6) Unrelated trade or business doesn't include any trade or business:
- a. In which substantially all the work in carrying on such trade or business is performed for the organization without compensation (volunteer labor exception).
 - b. Which is carried on (in the case of an organization described in Section 501(c)(3) or college/university described in IRC 511(a)(2)(B)), by the organization primarily for the convenience of its members, students, patients, officers, or employees (cafeteria, campus bookstore, campus health clinic).
 - c. Which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions (such as thrift stores). See Section 513(a)(1)-(3).
- (7) An organization operated for the primary purpose of carrying on a trade or business shall not be exempt on the ground that all of its profits are payable to an exempt organization. See Section 502, Feeder Organizations.
- (8) For details on this subject, see Technical Guide, TG 48: Unrelated Business Income Tax.

III. Other Considerations

- (1) A number of factors should be considered by organizations applying for tax-exempt status under Section 501(c)(3). Some factors concern the application process. Others are the organization's operational responsibilities should tax-exemption be granted.

A. Foundation Status

- (1) Every organization that qualifies for tax-exempt status under Section 501(c)(3) is further classified as either a public charity or a private foundation.
- (2) A Section 501(c)(3) organization is generally presumed to be a private foundation unless it files a timely notice to the contrary with the IRS. See Section 508(b).
- (3) An organization gives notice by timely filing a properly completed Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the IRC, or if eligible a Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the IRC. Note: A few types of organizations described in Section 501(c)(3) are excepted from the requirement to file an application. See IRC 508(c).
- (4) Section 509(a) defines the term “private foundation” to mean any domestic or foreign organization described in Section 501(c)(3) other than an organization described in Section 509(a)(1), (2), (3), or (4). Thus, if an organization is described in Section 501(c)(3), it is a private foundation (PF) unless it falls into one of four general categories of organizations excluded under Sections 509(a)(1) through (4).
- (5) The following chart lists the categories of organizations excluded from private foundation status and their applicable technical guides:

Foundation Status	Internal Revenue Code	Technical Guide*
Church or convention or association of churches	509(a)(1) & 170(b)(1)(A)(i)	TG 3-23: Foundation Classification – Churches – IRC Sections 509(a)(1) and 170(b)(1)(A)(i)
School	509(a)(1) & 170(b)(1)(A)(ii)	TG 3-24: Foundation Classification – Schools – IRC Sections 509(a)(1) and 170(b)(1)(A)(ii)
Hospital, cooperative hospital service organization or a medical research organization (part of hospital)	509(a)(1) & 170(b)(1)(A)(iii)	TG 3-40: Tax Exemption for Hospitals
Organization operated for the benefit of a college or university- owned or operated by a governmental unit	509(a)(1) & 170(b)(1)(A)(iv)	TG 3-27: Foundation Classification – State/Municipal Colleges, Governmental Units, and Agricultural Research Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), and (ix), and 509(a)(4)
A governmental unit	509(a)(1) and 170(b)(1)(A)(v) Note: EO Determinations does not issue rulings under	TG 3-27: Foundation Classification – State/Municipal Colleges, Governmental Units, and Agricultural Research

Foundation Status	Internal Revenue Code	Technical Guide*
	this section. See Rev. Proc.2024-5, 2024-1 I.R.B. 262, Section 3.01((3)(b), or its successor	Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), and (ix), and 509(a)(4)
Organization receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public	509(a)(1) and 170(b)(1)(A)(vi)	TG 3-26: Foundation Classification – Publicly Supported Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(vi)
Organization receiving not more than one-third of its support gross investment income and more than one-third of its support from gifts, grants, contributions, membership fees, and gross receipts from activities related to its exemption functions	509(a)(2)	TG 3-28: Foundation Classification – Broadly Publicly Supported Organizations – IRC Section 509(a)(2)
Supporting organization	509(a)(3)	<p>TG 3-31: Foundation Classification – Type I Supporting Organizations – IRC Section 509(a)(3)</p> <p>TG 3-32: Foundation Classification – Type II Supporting Organizations – IRC Section 509(a)(3)</p> <p>TG 3-33: Foundation Classification – Type III Supporting Organizations – IRC Section 509(a)(3)</p>
Organization organized and operated exclusively for testing for public safety	509(a)(4)	TG 3-27: Foundation Classification – State/Municipal Colleges, Governmental Units, and Agricultural Research Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), and (ix), and 509(a)(4)
An agricultural research organization directly engaged in the continuous active conduct of agricultural	509(a)(1) and 170(b)(1)(A)(ix)	TG 3-27: Foundation Classification – State/Municipal Colleges, Governmental Units, and Agricultural Research

Foundation Status	Internal Revenue Code	Technical Guide*
research in conjunction with a college or university		Organizations – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), and (ix), and 509(a)(4)

Note: TGs referenced in this table may not yet be published. For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.

- (2) The presumption of Private Foundation status is rebuttable. Even if the timely filing deadline is not met, the organization may subsequently submit a request for a determination letter establishing its status as a public charity. See Rev. Rul. 73-504, 1973-2 C.B. 190.
- (3) Additional resources:
 - a. Treas. Reg. 1.170A-9, Definition of section 170(b)(1)(A) organization
 - b. Treas. Reg. 1.509(a)-1 through 1.509(a)-6
 - c. IRM 7.20.3, Processing Foundation Classification and Miscellaneous Requests.

B. Employment Tax Requirements

- (1) Every employer, including an organization exempt from federal income tax that pays wages to employees is responsible for withholding, depositing, paying, and reporting federal income tax, social security and Medicare (FICA) taxes, and federal unemployment tax (FUTA), unless that employer is specifically excepted by law from those requirements, or if the taxes clearly don't apply.
- (2) See Section V.B.4., Employment Tax Obligations of this TG.

C. Deductibility of Contributions

- (1) Organizations described in Section 501(c)(3), other than testing for public safety organizations, are eligible to receive tax-deductible contributions under Section 170.

C.1. Charitable Contributions – Section 170

- (1) Section 170(c)(2) defines “charitable contribution” as a contribution or gift to or for the use of:
- (2) A corporation, trust, or community chest, fund, or foundation
 - a. Created or organized in the United States or in any possession thereof, or under the law of the United States, any State, the District of Columbia, or any possession of the United States
 - b. Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the

provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals

- c. No part of the net earnings of which inures to the benefit of any private shareholder or individual, and
 - d. Which isn't disqualified for tax exemption under Section 501(c)(3) by reason of attempting to influence legislation, and which doesn't participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.
- (3) A contribution or gift by a corporation to a trust, chest, fund, or foundation shall be deductible only if it's to be used within the U.S. or any of its possessions exclusively for purposes specified in Section 170(c)(2)(B). Rules similar to the rules of Section 501(j) shall apply for purposes of this paragraph.
 - (4) For purposes of Section 170, the term "charitable contribution" also means an amount treated under Section 170(g), amounts paid to maintain certain students as members of taxpayer's household, as paid for the use of an organization described in Section 170(c)(2), (3), or (4).
 - (5) A determination letter or ruling recognizing the exemption of an organization under Section 501(c)(3) should indicate if the organization is eligible to receive deductible charitable contributions. For example, an entity organized outside the U.S., or its territories or possessions isn't described in Section IRC 170(c). Therefore, generally the determination letter for foreign organizations should indicate that charitable contributions are not deductible.
 - (6) Note: A contribution to a foreign organization may be deductible if provided for by a tax treaty. Currently, Canada is the only country with a fully implemented tax treaty with the United States. See United States—Canada Income Tax Convention, 1986-2 C.B. 258 and Notice 99-47, 1999-2 C.B. 391.

C.2. Churches & Section 170 Deductibility

- (1) Churches, like many other charitable organizations, qualify for exemption from federal income tax under Section 501(c)(3) and are generally eligible to receive tax-deductible contributions under Section 170(c)(2).
- (2) Churches, however, are not required to apply for and obtain recognition of tax-exempt status from the IRS. As described below, churches that meet the requirements for Section 501(c)(3) are automatically considered tax-exempt.
- (3) If a church organization wants recognition of exemption from federal income tax and listed in the Pub 78 data as an entity entitled to receive tax deductible contributions, it may file an application for exemption.
- (4) Under Section 508(a), an organization organized after October 9, 1969 (except for organizations noted in Section 508(c)), shall not be treated as described in Section 501(c)(3) unless it has given notice to the Service by filing a properly completed and executed exemption application for recognition of Section 501(c)(3) status. See Treas. Reg. 1.508-1(a)(2)(i).

- (5) Certain organizations exempt under Section 501(c)(3) are excepted from the Section 508(a) notice requirements:
 - a. Churches, their integrated auxiliaries, and conventions or associations of churches
 - b. Organizations that normally have gross receipts not in excess of \$5,000, and are not private foundations
 - c. Subordinate organizations (other than private foundations) covered by a group exemption letter.

C.3. Foreign Organizations & Section 170 Deductibility

- (1) According to Section 170(c)(2), charitable contributions by donors to organizations formed either outside the U.S. or under foreign law are not deductible. Canada has a fully implemented tax treaty with the United States.) United States—Canada Income Tax Convention, 1986-2 C.B. 258 and Notice 99-47, 1999-2 C.B. 391.
- (2) Under certain tax treaties, contributions to foreign organizations may be deductible to a limited extent. Generally, tax treaties limit deductibility to the applicable percentage of the taxpayer's income derived from the treaty-partner.
- (3) A contribution to a charitable organization in a country with a fully implemented tax treaty may be claimed as a charitable deduction to the extent allowed by the treaty, even though the organization hasn't applied for recognition of exemption in the U.S. Canada is currently the only country with a fully implemented tax treaty with the U.S. See Notice 99-47, 1999-2 C.B. 391.
- (4) An organization in a country that has a tax treaty that is not fully implemented through a competent authority agreement can receive deductible contributions to the extent allowed by the particular treaty if it establishes its exempt status with the IRS.
- (5) Contributions to charitable organizations formed in U.S. territories are deductible by donors. See IRC 170(c)(2).
- (6) For more information on foreign tax treaties, see Publication 901 U.S. Tax Treaties and the U.S. Treasury Department's Tax Treaty Documents Page. <https://home.treasury.gov/policy-issues/tax-policy/treaties>

C.4. Contributions to Domestic Organizations with Foreign Activities

- (1) If a domestic organization transmits its funds to a foreign private organization but retains the requisite control and discretion over the funds, it qualifies for recognition of exemption under Section 501(c)(3). Contributions to it will be deductible under Section 170(c)(2). See Example 4 or Example 5 of Rev. Rul. 63-252, 1963-2 C.B. 101 and Rev. Rul. 66-79, 1966-1 C.B. 48.
- (2) However, if a domestic organization, otherwise qualified under Section 501(c)(3), transmits its funds to a private organization not described in Section

501(c)(3) and fails to exercise, or has too little, discretion and control over the use of such funds, the domestic organization forfeits its qualification for exempt status because it can't demonstrate that it's operated exclusively for charitable purposes. The contributions to it aren't deductible.

D. Other Benefits of Tax Exemption

- (1) In addition to exemption from the payment of federal income tax and the general deductibility of charitable contributions, Section 501(c)(3) organizations may enjoy other benefits under the IRC, as well as under state or local income, property, sales, use, or other tax provisions.

D.1. State, Local, Employment and Excise Tax Benefits

- (1) Many state and local jurisdictions accept the IRS's determination for their own exemption requirements or require exemption from federal income tax under Section 501(c)(3) as a prerequisite to granting exemption under state or local provisions.
 - a. To promote efficient enforcement of separate tax laws, Section 6104(c) provides an exception to the general confidentiality provisions of Section 6103. The exception allows the Service to share information with appropriate state officials including in situations where organizations have been denied recognition of exemption under Section 501(c)(3) or have had their exemption under Section 501(c)(3) revoked.
 - b. Some organizations may also enjoy exemption from certain federal excise taxes (for example, telephone excise tax).

D.2. Other Benefits

- (1) Religious, educational, scientific, and philanthropic (charitable) organizations are eligible to mail at preferred postal rates. However, not all Section 501(c)(3) organizations are eligible. Qualifying organizations must apply to the United States Postal Service for consideration of these preferred rates. See USPS, Publication 417, Nonprofit USPS Marketing Mail Eligibility: Nonprofit and Other Qualified Organizations.
- (2) Section 501(c)(3) organizations can offer their employees the benefit of special annuity tax provisions under Section 403(b).
- (3) Section 501(c) organizations can offer their employees qualified Section 457(b) deferred compensation plans. Note: Churches and qualified church-controlled organizations as defined in Section 3121(w)(A) and (B) are not eligible employers. See Treas. Reg. 1.457-2(e).
- (4) Exempt organizations can also maintain qualified Section 401(k) plans and adopt qualified profit-sharing plans under Section 401(a)(27) for their employees.

E. Interaction with Section 4958

- (1) Section 4958 imposes excise taxes on persons engaging in excess benefit transactions with an applicable tax-exempt organization. Those taxes include:
 - a. A tax equal to 25 percent of the excess benefit on a disqualified person who engages in excess benefit transactions with an applicable tax-exempt organization. See Section 4958(a)(1).
 - b. A tax equal to 10 percent of the excess benefit on the participation of any organization manager involved in the excess benefit transaction unless participation is not willful and is due to reasonable cause. See Section 4958(a)(2).
 - c. An additional tax equal to 200 percent on the disqualified person if the excess benefit involved in the transaction at issue is not corrected within the taxable period. See Section 4958(b).
- (2) An “excess benefit transaction” means any transaction in which an:
 - a. Economic benefit is provided by an applicable tax-exempt organization directly or indirectly to or for the use of any disqualified person, and
 - b. The value of the economic benefit provided exceeds the value of the consideration (including the performance of services) received for providing the benefit. See Section 4958(c)(1).
- (3) Section 4958(f)(1) defines disqualified person as:
 - a. Any person who was in a position to exercise substantial influence over the affairs of the organization, at any time during the 5-year period ending on the date of the transaction (look-back period)
 - b. A person involved with a related 509(a)(3) supporting organization
 - c. A person involved in a transaction with a donor advised fund
 - d. A member of a disqualified person’s family
 - e. A 35-percent controlled entity.
- (4) Section 4958 imposes penalties on the offending individuals (disqualified persons, organizational managers) rather than on the exempt organization itself.
- (5) However, Section 4958 need not be the only sanction imposed on an excess benefit transaction. An organization’s exempt status may still be subject to revocation, for instance, if appropriate.

F. Financial Support Provided to Other Organizations

- (1) Many charitable organizations don’t engage in active charitable undertakings themselves. Instead, they assist the work of religious, charitable, educational, or

similar organizations by contributing money to them through grantmaking, indirect support, and support through nonexempt organizations. For example:

- a. Grantmaking organizations are sometimes controlled by corporate and individual taxpayers who use them as channels for their charitable contributions. Some have very large endowments and make grants totaling millions of dollars annually.
See Rev. Rul. 67-149, 1967-1 C.B. 133.
 - b. An organization formed to construct and maintain a building to house member agencies of a community chest may be providing a form of indirect support of charitable activities.
See Rev. Rul. 69-572, 1969-2 C.B. 119.
 - c. Some charitable organizations make distributions to nonexempt organizations. These funds must be used for specific projects that further the purposes of the charitable organization. The charitable organization must retain discretion and control over the use of the funds and maintain records establishing that the funds are used for charitable purposes.
See Rev. Rul. 68-489, 1968-2 C.B. 210.
- (2) Exempt organizations described in Section 501(c) other than those described in Section 501(c)(3), often engage in a limited amount of charitable activities in addition to their program activity. A Section 501(c)(3) may support the non-Section 501(c)(3) charitable activities by providing funding or goods to carry out those charitable activities as long as control and documentation of the use for charitable purposes can be secured. A Section 501(c)(3) organization, however, should be cautious when supporting the charitable activities of non-Section 501(c)(3) organizations as to not jeopardize its own tax-exempt status.

G. Government Instrumentalities

- (1) There is no provision in the IRC that imposes a tax on the income of governmental units. The term “governmental units” refers to the states and their political subdivisions. The income of governmental units isn’t generally subject to federal income taxation. See Section 115.
- (2) The income of a separately organized entity that isn’t an integral part of a state government or a political subdivision is subject to tax unless an exemption or an exclusion applies. These organizations are referred to as “instrumentalities.”
- (3) The term “instrumentality” of a governmental unit doesn’t appear in Section 501. It is, however, referenced in the IRC applying the FICA and FUTA employment taxes under Section 3126.
- (4) In addition to the other requirements for Section 501(c)(3), an instrumentality must satisfy both of the following to qualify under Section 501(c)(3):
 - a. A separate organization requirement
 - b. No sovereign powers requirement, which are police, tax, eminent domain.
See Rev. Rul. 60-384, 1960-2 C.B. 172

G.1. Separate Organization Requirement

- (1) The separate organization requirement is generally met if the entity is incorporated under state non-profit corporation law. A corporation is a legal entity, created under the authority of the laws of a state, which is regarded as having an existence completely separate and apart from that of its creators and constituents.
- (2) A trust is also a separate organization. A trust is defined as:
An arrangement created either by a will or by an inter-vivos declaration where trustees take title to property to protect or conserve it for the beneficiaries under the ordinary rules applied in chancery or probate courts. An arrangement will be treated as a trust if it can be shown that the purpose is to vest in trustees' responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit. See Treas. Reg. 301.7701-4(a).
- (3) Section 7701(a)(3) states that the term "corporation" includes associations. Thus, an association may be considered a corporation for federal tax purposes (as determined under Treas. Reg. 301.7701-3). Any entity that's a "corporation" for federal tax law purposes will be considered separately organized, even if it is not incorporated under state law.
- (4) An organization established pursuant to a state statute, satisfies the organizational requirements of Treas. Reg. 1.501(c)(3)-1(b) by sufficiently describing its operations (stated purposes). See 1996 EO CPE F. State Institutions – Instrumentalities. "[I]f a careful reading of an instrumentality's enabling document clearly shows that it will operate exclusively for exempt purposes, it will be deemed to have met that portion of the organizational test."
- (5) A business entity wholly owned by a State or any political subdivision, or a business entity wholly owned by a foreign government, or any other entity described in Treas. Reg. 1.892-2T is treated as a corporation. See Treas. Reg. 301.7701-2(b)(6).
- (6) Entities considered "separately organized" include colleges and universities, hospitals, housing, or development authorities, public library boards, water or park districts, public school athletic associations, charitable trusts, and organizations created by inter-governmental agreement.

G.2. Powers Other than those Described in Section 501(c)(3)

- (1) An instrumentality that exercises substantial regulatory or enforcement powers in the public interest (such as health, welfare, or safety), won't qualify for exemption.
- (2) Powers of regulation or enforcement are powers which are possessed by governmental agencies such as school boards and boards of health and welfare. These powers are referred to as sovereign powers.

- (3) There are three generally acknowledged sovereign powers:
 - a. Police power
 - b. Power to tax
 - c. Power of eminent domain.
- (4) The presence of either the police power or the power to tax, if substantial, will disqualify a separately organized government entity from exemption under Section 501(c)(3). See Rev. Rul. 60-384, 1960-2 C.B. 172.
- (5) Also, an organization that has investigatory powers which are regulatory, or enforcement powers of the kind referred to in Rev. Rul. 60-384, won't qualify for exemption. See Rev. Rul. 74-14, 1974-1 C.B. 125.
- (6) There is no distinction between the power to recommend or certify a tax rate, the power to determine a tax rate, and the power to levy, assess, or impose a tax. The regulatory or enforcement power lies with the power to collect - **not** the power to certify or levy a tax rate. Thus, if an organization has the power to collect tax, it won't qualify for exemption.
- (7) Organizations without substantial sovereign powers won't be disqualified from exemption since they don't indicate purposes beyond those qualifying as exclusively exempt under Section 501(c)(3). Organizations with insubstantial sovereign powers are not disqualified from exemption. For example, a state university with a police force that regulates traffic, motor vehicles and speed limits on campus, issues citations, imposes fines and arrests persons to detain them until city police arrives, is not disqualified from exemption because its police powers are insubstantial and limited to its campus. See Rev. Rul. 77-165, 1977-1 C.B. 21.
- (8) Although the power of eminent domain is clearly a sovereign power, it is not necessarily a power of regulation or enforcement within the meaning of Rev. Rul. 60-384 and may not disqualify a separately organized government entity from exemption. See Rev. Rul. 67-290, 1967-2 C.B. 183.
- (9) If the power of eminent domain is combined with other powers to give an organization purpose broader than those described in Section 501(c)(3), then the organization doesn't qualify for exemption. For example, if an organization, in addition to condemning property by the power of eminent domain, has the power to conduct investigations, hear testimony and take proof under oath, issue subpoenas, and recommend standards of maintenance and requirements of applicable health and safety ordinances and zoning, it doesn't qualify.

G.3. Dissolution Provisions

- (1) Many instrumentalities have language in their governing instrument providing that upon dissolution, all remaining assets will be distributed to a state or any political subdivision thereof to satisfy Section 115 requirements. This raises a potential problem, as Treas. Reg. Section 1.501(c)(3)-1(b)(4) requires that

upon dissolution assets be distributed to the Federal government, or to a State or local government, for a public purpose.

- (2) However, if the organization has been created by a state statute, local ordinance, or similar enabling vehicle, and there is no indication that upon dissolution the assets will be distributed for private use, then it can be considered to satisfy the dissolution requirements without explicitly including the phrase “for a public purpose,” which would normally be required.

G.4. Section 115 Exclusion

- (1) Section 115(1) states, “gross income does not include income derived from any public utility or the exercise of any essential governmental function and accruing to a State or any political subdivision thereof, or the District of Columbia.”
- (2) Activities that involve exercise of an “essential government function” for Section 115 purposes are generally determined on a case-by-case basis. Some factors to consider whether an activity is considered governmental include the involvement of sovereign powers, the extent of governmental control over the activity, and the extent of governmental financial interest in the activity.
- (3) In order for a government entity to receive a determination of its status as a political subdivision, instrumentality of government, or whether its revenue is excluded under Section 115, it must obtain a letter ruling by following the procedures specified in Revenue Procedure 2024-1, 2024-1 I.R.B. 1 (updated annually). There is a user fee for obtaining a letter ruling.
- (4) The fact that an organization’s income may be excluded under Section 115(1) doesn’t preclude it from also qualifying for exemption under Section 501(c)(3).

H. Native American Tribal Governments

- (1) Before 1983, Native American governments were not treated similarly to state or local governments under the IRC. Although tribal governments weren’t subject to tax (Rev. Rul. 67-284, 1967-2 C.B. 55), the favorable consequences available to private parties entering into transactions with state governments didn’t apply to similar transactions with Native American tribal governments.
- (2) Congress sought to equalize this treatment by enacting Sections 7701(a)(40) and 7871 which provides that for certain specified federal tax purposes, an Indian tribal government shall be treated as a State.

H.1. Terms Defined for Native American Tribal Governments

- (1) Indian tribal government - the governing body of any tribe, band, community, village, or group of Indians, or (if applicable) Alaska Natives, which is determined by the Secretary, after consultation with the Secretary of the Interior, to exercise governmental functions. Section 7701(a)(40)(A).
- (2) Governmental function - not defined under Section 7701(a)(40) or Section 7871, but legislative history shows that Congress considered the term

“governmental function” to be synonymous with the term “sovereign powers.” In addition, Treas. Reg. § 305.7871-1(d) defines the term “essential governmental function” for purposes of section 7871 as a function of a type which is

- a. Eligible for funding under 25 U.S.C. Section 13 (relating to expenditures by the Bureau of Indian Affairs)
 - b. Eligible for grants or contracts under 25 U.S.C. 450(f), (g), and (h), or
 - c. An essential governmental function under section 115
- (3) Political subdivision – not defined under Section 7701(a)(40) or Section 7871, but legislative history indicates that the determination of an entity’s status as a political subdivision of an Indian tribal government is to be based on the same criteria as has traditionally been applied to determine an entity’s status as a political subdivision of a state under Section 103.

For purposes specified in Section 7871(a), a subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary of the Treasury determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government. Section 7871(d).

Treas. Reg. 1.103-1(b) defines a political subdivision as any division of any state or local government unit which is a municipal corporation, or which has been delegated the right to exercise part of the sovereign power of the unit.

H.2. Recognized Tribal Entities and Subdivisions

- (1) Indian tribal entities recognized as Indian tribal governments and subdivisions of Indian tribal governments recognized as political subdivisions aren’t subject to federal income tax on amounts derived from performing their tribal functions. This non-tax treatment is derived from the Service’s long-standing position, set forth in Rev. Rul. 67-284, 1967-2 C.B. 55. Under this revenue ruling an Indian tribal government is not a taxable entity. It won’t qualify for Section 501(c)(3) exemption. It is simply not taxed.
- (2) Rev. Proc. 2008-55, 2008 2 C.B. 768, designates the entities that appear on the current or future lists of federally recognized Indian tribes published annually by the Department of the Interior, Bureau of Indian Affairs, as Indian tribal governments for purposes of section 7701(a)(40). Indian tribal governments are treated as States for certain purposes under section 7871(a).
- (3) Rev. Proc. 84-36, 1984-1 C.B. 510, lists the recognized subdivisions of Indian tribal governments to be treated as political subdivisions of states for specified purposes under the Code for a two-year period. Subsequently, Rev. Proc. 86-17, 1986-1 C.B. 550 deleted the two-year limitation.
- (4) Rev. Proc. 84-37, 1984-1 C.B. 513, as modified by Rev. Proc. 2024-1, 2024-1 I.R.B 1 (updated annually), provides guidance on how a governmental unit of an Indian tribe or a political subdivision of an Indian tribal government not

included among those listed in Revenue Procedures previously published by the IRS can request a determination qualifying it for treatment as a state or a political subdivision of a state as provided under Section 7871.

H.3. Other Indian Tribal Organizations

- (1) The Service has processed applications from a variety of Native American related organizations, including:
 - a. A tribal corporation organized under Section 17 of the Indian Reorganization Act of 1934
 - b. A separately organized entity created under state law by a tribal government
 - c. A separately organized entity created by a tribal government recognized by a particular State but not the Federal government
 - d. A tribal government believed to qualify for treatment as a state or a political subdivision of a state for purposes of Section 7871 and 7701(a)(40).
- (2) A Native American tribal corporation, **organized under Section 17 of the Indian Reorganization Act of 1934**, 25 U.S.C. Section 477 i, is not subject to federal income tax on the income earned in the conduct of commercial business on or off the tribe's reservation. However, a corporation organized by an Indian tribe under **state law** is subject to federal income tax on the income earned in the conduct of commercial business on and off the tribe's reservation. See Rev. Rul. 94-16, 1994-1 C.B. 19
- (3) A Native American tribal corporation, **organized under Section 17 of the Indian Reorganization Act of 1934**, 25 U.S.C. Section 477: or under Section 3 of the Oklahoma Welfare Act
 - a. Doesn't qualify for exemption as described under Section 501(c)(3) but is simply not subject to federal income tax.
 - b. Doesn't owe federal income tax regardless of the location of the business activities that produced the income (either on or off the tribe's reservation). See Rev. Ruls. 94-16, 1994-1 C.B. 19 and 94-65, 1994-2 C.B. 14.
- (4) However, a corporation organized by an Indian tribe under **state law**
 - a. Is subject to federal income tax on any income earned by such corporation, regardless of the location of the business activities that produced the income (either on or off the reservation), is subject to federal income tax. See Rev. Rul. 94-16.
 - b. May qualify for exemption from federal income tax if it conducts charitable and educational activities as a corporation separate from the tribe. Such activities may include tribal history research, cultural activities, and self-help projects for tribe members who are located in areas of economic blight and living on incomes below the poverty level. These charitable and educational activities are often conducted by an organization as part of an

effort to be recognized as an Indian tribe by the federal government. As obtaining tribal recognition usually entails historical documentation, but not political or legislative activity, this activity won't disqualify an organization from obtaining recognition under Section 501(c)(3).

- (5) A separately organized entity created by a tribal government that is recognized by a particular State but not the federal government may qualify for exemption from federal income tax if it otherwise meets the organizational and operational tests of Section 501(c)(3), including the absence of substantial sovereign powers.
- (6) If an application from a tribal entity is denied under Section 501(c)(3), but it appears that the entity will qualify for treatment as an Indian tribal government or as a political subdivision of an Indian tribal government for purposes of Section 7871 and 7701(a)(40), the denial should advise that a formal determination of status may be requested pursuant to Rev. Procs. 84-37, 1984-1 C.B. 513 and 2024-1, 2024-1 I.R.B. 1 (updated annually).

I. Foreign Organizations

- (1) Foreign organizations may seek recognition of exemption under Section 501(c)(3) even if they have no U.S. taxable income. The Service will recognize their exempt status if they meet the same requirements applicable to domestic organizations.
- (2) Foreign organizations that meet the requirements of Section 501(c)(3) may establish exemption from U.S. income tax or establish their charitable status for purposes of the estate and gift taxes or other purposes. However, apart from treaty provisions, contributions to foreign charities are not deductible under Section 170(c).
- (3) Some foreign charitable organizations may be eligible for recognition of exemption based on a specific provision in a tax treaty their country has with the U.S. However, treaties that provide for "reciprocal recognition" generally require that the countries agree in a separate agreement that their exemption standards are comparable, or establish the scope of recognition, before the treaty takes effect.
- (4) Currently, Canada is the only country in which charitable organizations recognized as exempt from income tax by a foreign government are recognized exempt under Section 501(c)(3) without applying to the Service (see United States-Canada Income Tax Convention (Treaty), Article XXI and Notice 99-47, 1999-36 I.R.B. 392). However, Canadian charities are presumed to be private foundations and must request a determination from the IRS if they want to be considered a public charity. Canadian charities can request the public charity classification on Form 8940, Request for miscellaneous determinations.
 - a. One benefit of public charity status is that donors can deduct up to a higher percentage of adjusted gross income when donating to public charities. Generally, deductibility for contributions to public charities is up to 50 percent of the donor's adjusted gross income. For tax years

beginning after December 31, 2017, and before January 1, 2026, the deductibility limit is increased to 60 percent of the taxpayer's contribution (adjusted gross income) base for such year. See Section 170(b)(1)(A) and Section 170(b)(1)(G). Deductibility for private foundations is up to 30 percent of adjusted gross income.

- (5) Unless excepted by provisions of a tax treaty, a foreign organization seeking recognition of exemption under Section 501(c)(3) must file an application on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, in the same manner as a domestic organization.
- (6) Organizations formed under the laws of a foreign country, or with a mailing address in a foreign country are not eligible to file Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (See Instructions for Form 1023-EZ, Eligibility Worksheet).
- (7) Contributions to charitable foreign organizations generally are not deductible in computing U.S. income tax. Under Section 170(c)(2)(A), charitable contributions by donors to organizations formed outside the U.S. and under foreign law aren't deductible. However, under certain tax treaties, contributions to foreign organizations may be deductible to a limited extent. Generally, tax treaties limit deductibility to the applicable percentage of the taxpayer's income derived from the treaty-partner. Currently, Canada is the only country with a fully implemented tax treated with the United States.)
- (8) For more information on foreign tax treaties, see Publication 901, U.S. Tax Treaties and the U.S. Treasury Department's Tax Treaty Documents Page. <https://home.treasury.gov/policy-issues/tax-policy/treaties>

IV. Application for Recognition of Exemption and Return Requirements

- (1) Certain rules and procedures apply to organizations seeking recognition of exemption. The following will explain the procedures to obtain a determination letter recognizing an organization's exemption under Section 501(c)(3).
- (2) Most exempt organizations (including private foundations) must file various returns, forms, or reports at some time during (or following the close of) their fiscal year. Additionally, each organization's state of formation has specific reporting requirements.

A. Application for Recognition of Exemption

- (1) A charitable organization generally won't be treated as tax-exempt unless it applies for recognition of exemption by filing a current application for exemption form.
- (2) Applications for exemption are processed by the Tax Exempt/Government Entities Division, Exempt Organizations (EO), Rulings and Agreements-Determinations. The EO Determinations unit is responsible for reviewing applications.

A.1. Section 508(a) Notice

- (1) Under Section 508(a), an organization organized after October 9, 1969 (except for organizations noted in Section 508(c)), shall not be treated as described in Section 501(c)(3) unless it has given notice to the IRS in the manner prescribed by regulations that it's applying for recognition of Section 501(c)(3) status. This is commonly referred to as the 508(a) notice.
- (2) Notice is given by submitting a properly completed and executed exemption application Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, or if applicable, Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code). Treas. Reg. 1.508-1(a)(2)(i).
- (3) Rev. Rul. 77-114, 1977-1 C.B. 152 provides that the date of notice for purposes of Code section 508(a) (the requirement to file Form 1023) is the date of the U.S. postmark stamped on the cover in which an exemption application is mailed or, if no postmark appears on the cover, the date the application is stamped as received by the Service. Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, or if applicable, Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code) are submitted electronically. Notice is given by submitting a completed electronic application
- (4) The application must be filed within 15 months from the end of the month in which the organization was organized. Treas. Reg. 1.508-1(a)(2)(i). However, an automatic 12-month extension to the 15-month period is provided by Treas. Reg. 301.9100-2(a)(2)(iv).
- (5) If a taxpayer fails to file an application within 27 months (filing requirement of 15 months plus the automatic 12-month extension), Treas. Reg. 301.9100-3 provides rules for requesting an extension of time. A request for relief will be granted the taxpayer if the taxpayer can provide evidence (including required affidavits) that:
 - a. The organization acted reasonably and in good faith to make the application, and
 - b. Granting the relief will not prejudice the government's interests. However, see item 6 below.
- (6) An organization will not be granted relief under Treas. Reg. § 301.9100-3 if either:
 - a. Granting relief would result in the organization's tax-exempt status being automatically revoked under section 6033(j)(1) effective before the application date (without regard to the provisions of section 6033(j)(3)), or
 - b. The period of limitations on assessment under section 6501(a) for any taxable year for which the organization claims tax-exempt status has expired prior to the date of application.

See Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).

- (7) If an organization does not file a timely application, or is not granted relief under Treas. Reg. 301.9100-3, it will not be exempt prior to the time it filed its application. See Section 508(a). Nor will it have other privileges of exemption from federal income tax such as exemption from federal unemployment taxes (FUTA) for the prior period. See Rev. Rul. 76-262, 1976-2 C.B. 310.

Note: The ruling discusses exemption from federal insurance contributions act (FICA) taxes. Beginning January 1, 1984, P. Law 98-21., provides that all 501(c)(3) organizations are subject to FICA.

- (8) An "incomplete" application doesn't constitute notice under Section 508(a). However, an application isn't incomplete merely because it needs to be perfected. A completed application may need additional information before a determination of exempt status may be made. In such cases, the notice requirement of Section 508(a) has been met whether or not the additional information is timely received. However, absence of the following information will cause an application (other than Form 1023-EZ application) to be incomplete:
- a. Copy of the articles of organization
 - b. Copy of the bylaws or internal rules of operation
 - c. Balance sheet for most recently completed tax year (or the most current information available if a full tax year has not been completed.)
 - d. Statement of receipts and expenditures (if in existence less than one year – provide projections for current year and next two years, if in existence more than one year but less than five, provide actual income and expenses for past years and good faith estimates for future years for a total of four years, if in existence for five years or more, provide actual income and expenses for the five most recently completed tax years.
 - e. Any other basic data required by the application or its instructions. See Rev. Proc. 2024-5, 2024-1 I.R.B. 262, updated annually and Instructions to Form 1023.
- (9) An incomplete application will be considered timely filed if the organization supplies the necessary additional information requested by the Service within the additional time period provided for in the request. See Treas. Reg. 1.508-1(a)(2)(ii).
- (10) Procedures for the issuance of determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements, as well as guidance on applicable user fees for requesting determination letters are found in Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).

A.2. Application Forms

- (1) Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the IRC, to apply for exempt status under Section 501(c)(3). A user fee is needed to process the application.
- (2) Some organizations may be eligible to file Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the IRC. To decide eligibility, the Eligibility Worksheet in the Instructions for Form 1023-EZ must be completed prior to completing Form 1023-EZ. See section VIII. Exhibit, A Form 1023-EZ Eligibility Worksheet:
- (3) Both Form 1023 and Form 1023-EZ are available on pay.gov. To file:
 - a. Register for an account on Pay.gov (enter the term "Form 1023" or "Form 1023-EZ" in the search box). More information about Form 1023-EZ and its filing can be found on www.irs.gov/charities-non-profits/applying-for-tax-exempt-status.
 - b. Pay the required user fee through Pay.gov when the application is filed (by credit card or bank account).
- (4) User fees are listed in Rev. Proc. 2024-5, 2024-1 I.R.B. 262 Appendix A (updated annually).

A.3. Application Processing

- (1) The IRS tax specialist reviewing an application may request additional information in writing. If all information received establishes that an organization meets the requirements for exemption, the IRS will issue a determination letter recognizing the organization's exempt status and providing its foundation classification. This is an important document that should be kept in the organization's permanent records.
- (2) While an organization's application is waiting for processing by the IRS, the organization may operate as a tax-exempt organization.
- (3) Most organizations are required to file an annual information return (Form 990, Form 990-EZ or Form 990-PF) or electronic notice (Form 990-N) while their application for exemption is pending. An organization's exempt status can be automatically revoked while its application is pending if it hasn't filed a required return or notice for three consecutive tax periods after its formation date. These returns are subject to public disclosure.
- (4) If an organization has gross unrelated business income of \$1000 or more, it must also file a Form 990-T, Exempt Organization Business Income Tax Return.
- (5) Although donors have no assurance that contributions are tax-deductible for federal income tax purposes until the application is approved, contributions made while an application is pending would qualify if the application is approved. However, if the application is denied, contributions wouldn't qualify.

Moreover, the organization would be liable for filing federal income tax returns unless its income is otherwise excluded from federal taxation.

- (6) The IRS will consider a complete application and will issue a favorable determination letter, an adverse letter denying the exempt status requested in the application or, may close the case without deciding if there is no response to a request for additional information. The IRS will also close a case without a determination if the request is withdrawn.
- (7) See Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, or 4221-PF, Compliance Guide for 501(c)(3) Private Foundations, for more information.

A.4. Adverse Determinations - Appeal Procedures, Administrative Remedies and Judicial Remedies

- (1) A proposed adverse determination letter will be issued to an organization that hasn't provided sufficiently detailed information to establish that it qualifies for exemption or if the information provided establishes that it doesn't qualify for exemption. An organization can appeal a proposed adverse determination letter.

(2) Appeals Procedures:

An organization will be advised of its rights to protest the adverse determination by requesting Independent Office of Appeals (Appeals) consideration. The organization must submit a statement of its views fully explaining its reasoning. The statement must be submitted within 30 days from the date of the proposed adverse determination letter and must state whether the organization wants to protest the proposed determination. For more information about the role of Appeals, see Publication 892, How to Appeal an IRS Decision on Tax-Exempt Status.

- (3) After any requested conference and upon consideration of the organization's appeal (as well as information presented in any conference held), Appeals will generally notify the organization of its decision and issue an appropriate determination letter. An adverse decision can be appealed to the courts. If new information is submitted during Appeals' consideration, the matter may be returned to Rulings and Agreements for further consideration.

(4) Exhaustion of Administrative Remedies:

Section 7428 allows organizations to seek judicial relief from an adverse determination from the IRS. Before seeking relief from the Courts, the organization must first exhaust its administrative remedies. Note: Churches do not have to exhaust administrative remedies before appealing an IRS determination to the Courts. See Section 7611(g).)

- (5) Matters that may be appealed to the Court after administrative remedies are exhausted include:
 - a. The initial and continuing qualification of an organization described in in Section 501(c)(3) which is exempt from tax under Section 501(a)

- b. Initial and continual classification of foundation status under Section 509(a).
 - c. Initial and continual classification as a private operating foundation as defined in Section 4942(j)(3). (Note: Other categories of determinations outside the scope of this TG are covered by the remedies of Section 7428. See Section 7428 for the full list.)
- (6) The following are administrative remedies that should be exhausted before seeking relief from the Court.
- a. Filing of the correct completed application or group exemption request or filing of request for a determination of foundation status
 - b. For a late filed application, requesting relief under Treas. Reg. 301.9100-3 regarding applications for extensions of time for making an election or application for relief from tax
 - c. Timely submission of all additional information requested to perfect an exemption application or request for determination of private foundation status.
 - d. Exhaustion of all administrative appeals available within the IRS.
- (7) The administrative remedies won't be considered completed until the IRS has had a reasonable time to act upon the appeal or protest.

(8) Judicial Remedies:

If the IRS issues an unfavorable determination letter and all the administrative remedies were exhausted, the organization can seek judicial remedies. For example:

- a. If an organization has paid the tax resulting from the adverse determination and met all other statutory prerequisites, it can file suit for a refund in a U.S. District Court or the U.S. Court of Federal Claims.
- b. If an organization elected not to pay the tax deficiency resulting from the adverse determination and met all other statutory prerequisites, it can file suit for a redetermination of the tax deficiencies in the U.S. Tax Court.

For more information, see Publication 556, Examination of Returns, Appeal Rights, and Claims for Refund.

- (9) In certain situations, organizations can file suit for a declaratory judgment in the U.S. District Court for the District of Columbia, the U.S. Court of Federal Claims, or the U.S. Tax Court. This remedy is available if an organization received an adverse notice of final determination, or if the IRS failed to make a timely determination on the initial or continuing qualification or classification as an exempt organization.
- (10) If a suit results in a final determination that an organization is exempt from tax, the IRS will issue a favorable determination letter, provided the organization has filed an application for exemption and submitted a statement

that the underlying facts and applicable law are the same as in the period considered by the court.

(11) Additional Resources:

- a. IRM 7.20.2, Determination Letter Processing of Exempt Organizations
- b. Publication 557, Tax Exempt Status for Your Organization, Chapter 1, Determination Letters and Appeals Procedures.

A.5. Effective Date of Tax-Exemption

- (1) If an organization timely files its application within the required 27-month period (see prior section IV.A.1. Section 508(a) Notice), the effective date of exemption will be the date the organization was formed. See Section IV.A.8. Entity Types and Dates of Formation, following.
- (2) If an organization files its application after the required 27-month period, it may be recognized as exempt only from the date the application was filed., unless relief is requested and granted under Treas. Reg. 301.9100-3. Therefore, the organization will be a taxable organization for federal income tax purposes (and contributions received would not be deductible) for the period before the date the application was filed.

A.6. Organizations Not Required to Apply

- (1) Certain organizations are not required to give Section 508(a) notice by filing a Form 1023 (Treas. Reg. Section 1.508-1(a)(3)):
 - a. Churches, their integrated auxiliaries, and conventions or associations of churches
 - b. Organizations that normally have gross receipts not in excess of \$5,000, and are not private foundations
 - c. Subordinate organizations (other than private foundations) covered by a group exemption letter
 - d. A trust described in Section 4947(a)(1) (solely for purposes of sections 507, 508(d)(1), 508(d)(2)(A) and 508(d)(3), 508(e), 509 and chapter 42)
 - e. Any other class of organization that the Commissioner from time to time excludes from the requirement of filing notice under section 508(a).
- (2) Organizations not required to file notice under Section 508(a) will be exempt under Section 501(c)(3) if it meets the requirements of that section, whether or not it files such notice. While these organizations aren't required to file a Form 1023, they may choose to submit one to receive a determination letter recognizing exemption. A letter of determination is often necessary for Section 501(c)(3) organizations to take advantage of certain benefits (for example, state taxes exemption, applying for grants, discounts, and so forth).
- (3) The regulations provide a formula for what constitutes "gross receipts normally not in excess of \$5,000." Treas. Reg. 1.508-1(a)(3)(ii).

- a. Under that formula, the organization's gross receipts are deemed to be normally less than \$5,000 if its gross receipts don't exceed:
 1. \$7,500 during the **first** taxable year
 2. \$12,000 during the **first two** taxable years
 3. \$15,000 during the **first three** taxable years.
- b. The regulations also provide detailed rules for the notice requirement of organizations that start out within the formula but exceed the "normally not more than \$5,000 test" in a subsequent year.

A.7. Form 8940, Request for Miscellaneous Determination

- (1) Form 8940, Request for Miscellaneous Determination, is used for the following determination letter requests:
 - a. Advance approval of certain set-asides described in Section 4942(g)(2)
 - b. Advance approval of voter registration activities described in Section 4945(f)
 - c. Advance approval of scholarship procedures described in Section 4945(g)
 - d. Exemption from Form 990 filing requirements
 - e. Advance approval that a potential grant or contribution constitutes an "unusual grant"
 - f. Change in Type (or initial determination of Type) of a Section 509(a)(3) organization
 - g. Reclassification of foundation status, including a voluntary request from a public charity for private foundation status
 - h. Termination of private foundation status under Section 507(b)(1)(B) - advance ruling request
 - i. Notice Only –Termination of private foundation status under Section 507(b)(1)(B)
 - j. Termination of private foundation status under Section 507(b)(1)(B) -60-month period ended.
 - k. Voluntary termination of Section 501(c)(3) recognition by a government entity; and
 - l. Canadian registered charities listing on Pub. 78 Data and/or public charity classification
- (2) A request described above must be electronically submitted on Form 8940 (except where otherwise permitted, including when such request is made as part of an application for recognition of exemption), along with:
 - a. All information, documentation, and other materials required by Form 8940 and the instructions

- b. An electronic signature signed by an authorized individual under penalties of perjury
 - c. The appropriate user fee as provided in Appendix A of Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).
 - d. For complete information about the filing requirements and the submission process refer to Form 8940 and the Instructions to Form 8940.
- (3) The following information refers to requests of reclassification of foundation status on Form 8940.
- a. **Initial classification of private foundation status**
All Section 501(c)(3) organizations are classified as private foundations under Section 509(a) unless they qualify as a public charity. The IRS determines an organization's private foundation or public charity status when the organization files its Form 1023/1023-EZ. The foundation status will be included in the organization's determination letter of tax-exempt status.
 - b. **Requests to change from one public charity classification to another public charity classification**
On its Form 990, Return of Organization Exempt from Income Tax Under Section 501(c), 527, or 4947(a)(1) (except private foundations), a public charity indicates the foundation status under which it qualifies as a public charity. Because of changes in its activities or operations, this may differ from the public charity status listed on its original determination letter. Although an organization isn't required to obtain a determination letter to qualify for the new public charity status, in order for IRS records to recognize any change, an organization must obtain a new determination of foundation status by filing Form 8940, pursuant to Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).
 - c. **Requests from public charities for private foundation status**
If a public charity no longer qualifies under one of the paragraphs in Section 509(a)(1)-(4), then it becomes a private foundation, and it must file Form 990-PF, Return of Private Foundation, or IRC 4947(a)(1) Trust Treated as Private Foundation. The organization isn't required to, but may, obtain a determination letter on its new private foundation status. The organization indicates this change in foundation status by filing its Form 990-PF return and following any procedures specified in the form, instructions, or other published guidance. Thereafter, the organization may terminate its private foundation status by giving notice and qualifying as a public charity again under Section 509(a)(1)-(3) during a 60-month termination period. See Section 507(b)(1)(B) and Treas. Reg. 1.507-2(b).
 - d. **Requests from private foundations for public charity status**
An organization that erroneously determined it was a private foundation (for example, by incorrectly classifying an item in its calculation of public support) and wishes to correct the error can request a determination letter

classifying it as a public charity by showing that it continuously met the public support tests during the relevant periods.

e. Requests for private operating foundation status

A private foundation may qualify as an operating foundation under Section 4942(j)(3) without a determination letter, but the IRS won't recognize such status in its records without a determination letter from the IRS. An organization claiming to be an exempt operating foundation under Section 4940(d)(2) must obtain a determination letter from the IRS recognizing such status to be exempt from IRC 4940 tax on net investment income.

- (4) For complete information about filing requirements and the submission process, refer to Form 8940 and instructions.
- (5) See IRM 7.20.3, Processing Foundation Classification and Miscellaneous Requests.

A.8. Entity Types and Dates of Formation

- (1) Section 501(c)(3) covers only corporations, community chests, funds, and foundations. To qualify, the organization must be organized as a corporation, unincorporated association, or trust. Sole proprietorships, partnerships, individuals, or loosely associated groups of individuals won't qualify.
- (2) Corporations are the most common form of organization or entity type. A corporation is an entity whose existence is evidenced by a charter or certificate of incorporation issued by the state under whose laws it was incorporated.
 - a. The date of formation is the date the articles of incorporation are filed with the appropriate State office. See Rev. Rul. 75-290, 1975-2 C.B. 215.
 - b. See *Emerson Institute v. United States*, 356 F.2d 824 (D.C. Cir. 1966) for a case in which the Service successfully challenged a claim of de facto corporate status.
- (3) A trust is an entity included in the terms "fund or foundation" and is an acceptable form of organization or entity type. See *Fifth-Third Union Trust Co. v. Commissioner*, 56 F.2d 767 (6th Cir. 1932).
 - a. The date of formation is generally the date the organizing document is signed (or otherwise adopted) by the relevant parties.
 - b. A trust created by will isn't considered organized before the date of the first distribution of trust corpus to the trustee, or, if earlier, the date the decedent's estate is considered terminated for federal tax purposes. See GCM 38529
- (4) Unincorporated associations require a separate entity be formed from the individuals who created it. See *Trippe v. Commissioner*, 9 T.C.M. (CCH) 622 (1950); *Morey v. Riddell*, 205 F Supp. 918 (S.D. Cal. 1962).
 - a. The date of formation is generally the date the organizing document is signed (or otherwise adopted) by the relevant parties. An association's

constitution or articles of association should be signed by at least two persons.

- b. If an unsigned copy is submitted, but there is evidence the original was signed by two or more persons, the copy will be accepted if accompanied by a declaration signed by an authorized individual. The declaration must attest the copy submitted is a complete and correct copy of the original and that the original was signed by at least two persons. See Rev. Proc. 68-14, 1968-1 C.B. 768.
 - c. If the copy indicates the original wasn't signed, submission of the declaration won't cure the defect. In that case, the application should be returned to the applicant with a request for proof that the organizing document has been adopted. Such a document will be acceptable only if the association can establish that it has operated in a manner clearly showing ratification by two or more persons.
- (5) A Limited Liability Company (LLC) is another entity type that can apply for recognition of exemption under Section 501(c)(3). In addition to completing Form 1023, Notice 2021-56, 2021-45 I.R.B. 716, requires an LLC to submit the following information as part of its completed application:
- a. Submit both the LLC's state-approved articles of organization and its adopted operating agreement. Both the articles of organization and the operating agreement must contain the following:
 - b. Provisions requiring that each member of the LLC be either (i) an organization described in Section 501(c)(3) and exempt from taxation under Section 501(a) or (ii) a governmental unit described in Section 170(c)(1) (or wholly owned instrumentality of such a governmental unit).
 - c. An acceptable contingency plan (such as suspension of its membership rights until a member regains recognition of its Section 501(c)(3) status) in the event that one or more members cease to be Section 501(c)(3) organizations or governmental units (or wholly owned instrumentalities thereof).
 - d. Express charitable purposes and dissolution provisions in compliance with the organizational test. See lines 1 and 2 of Part III, Form 1023. for more information.
 - e. The express Chapter 42 compliance provisions described in Section 508(e)(1) if the LLC is a private foundation. See Part VII, line 1a of the instructions for Form 1023 for more information on these provisions.

NOTE: If an LLC formed under a state LLC law that prohibits the addition of provisions to articles of organization other than certain specific provisions required by the state LLC law, the provisions above may be included only in the operating agreement. An explanation is required if prohibited from including the provisions in the articles of organization under state LLC laws.

- (6) Submit the following representation, signed and dated by an officer, director, trustee or other governing body member (not an authorized representative):

We represent that all provisions in our articles of organization and operating agreement are consistent with applicable state LLC law and are legally enforceable.

- (7) In the interpretation of an organization's articles of organization or association, State law governs the definition of the respective rights, duties, powers, and immunities of the parties. When an organization contends a term has an unusual meaning (different meaning than generally accepted) under State law, clear legal authority should be presented. See Treas. Reg. 1.501(c)(3)-1(b)(5).
- (8) If an organization's organizing document requires only a non-substantive amendment to comply with the organizational test under Section 501(c)(3) (e.g., the addition of a proper dissolution clause) and the organization makes the amendment (either on its own initiative or when requested by the Service), the organization will be regarded as satisfying the organizational test from its date of formation. See Rev. Proc. 2024-5, 2024-1 I.R.B. 262 (updated annually).

A.9. Reorganization

- (1) A domestic Section 501(c) organization that changes its form or place of organization can generally avoid having to file a new exemption application if it meets certain circumstances. See Rev. Proc. 2018-15, 2018-9 I.R.B. 379.
- (2) An organization must report significant changes to its organizational documents on any required Form 990/Form 990-EZ/Form 990-PF filing.
- (3) A private foundation remaining in existence after terminating its private foundation status under Section 507(b)(1)(A) must file a new exemption application, unless specifically excepted by Section 508(c). See Rev. Rul. 74-490, 1974-2 C.B. 171.

A.10. Group Exemption

- (1) Tax-exemption may be obtained on a group basis for subordinate organizations affiliated with and under the general supervision or control of a central organization. A complete description of the requirements for submitting a group exemption application is provided by Rev. Proc. 80-27, 1980-1 C.B. 677.
- (2) Notice 2020-36, Notice Proposing Revenue Procedure Updating Group Exemption Letter Program, contains a proposed revenue procedure that sets forth updated procedures for group exemption.
 - a. Pending publication of the final revenue procedure in the Internal Revenue Bulletin, Rev. Proc. 80-27 continues to apply.
 - b. The IRS won't accept any requests for group exemption letters beginning June 17, 2020, until publication of the final revenue procedure or other guidance.

- (3) For resources and the current status on group exemptions, visit the Group Exemption Resources page on IRS.gov (<https://www.irs.gov/charities-non-profits/group-exemption-resources>).
- (4) See IRM 7.20.3.3.11 (07-19-2018) or its successor for additional information regarding the processing of group ruling requests. Note: The procedures in IRM 7.20.3.3.11 may be impacted by the final revenue procedure contemplated under Notice 2020-36.)

A.11. Additional Resources

- (1) IRM 7.20.2, Determination Letter Processing of Exempt Organizations
- (2) IRM 7.20.9, Processing Form 1023-EZ
- (3) Publication 4220, Applying for 501(c)(3) Tax-Exempt Status

B. Return Filing Requirements

- (1) Generally, an organization that qualifies for exemption under Section 501(c)(3) is required to file an annual return in accordance with Section 6033(a). Annual information returns for most types of organizations include:
 - a. Form 990
 - b. Form 990-EZ
 - c. Form 990-PF, required for all Private Foundations
 - d. Form 990-N (e-Postcard), an annual notice. Small organizations with annual gross receipts less than \$50,000, may be eligible.
- (2) Section 501(c)(3) organizations excepted from annual information return filing requirements include the following:
 - a. A church, an interchurch organization of local units of a church, a convention or association of churches or an integrated auxiliary of a church
 - b. An exclusively religious activity of any religious order
 - c. A Section 501(c) organization (other than a private foundation or a supporting organization described in Section 509(a)(3) that normally has annual gross receipts of \$50,000 or less
 - d. Church-affiliated mission societies if more than half of their activities are conducted in, or are directed at persons in foreign countries
 - e. A State institution, the income of which is excluded from gross income under Section 115(a)
 - f. An organization described in Section 501(c)(1)
 - g. An educational organization (below college level) that is described in section 170(b)(1)(A)(ii), that has a program of a general academic nature, and is affiliated with a church or operated by a religious order

- h. A foreign organization not described in Section 170(c)(2)(A)) or a U.S. possession organization organized or created in a U.S. possession (other than a private foundation or a supporting organization described in section 509(a)(3)) with gross receipts not more than \$50,000 that has no significant activity in the U.S. See Treas. Reg. 1.6033-2(g)(1).
- (3) Section 509(a)(3) supporting organizations must generally file Form 990 series returns and complete and attach Schedule A, annually. The exceptions listed above aren't available to a supporting organization unless it is an integrated auxiliary of a church or an exclusively religious activity of a religious order.
- (4) An organization may request a determination that it isn't required to file an annual exempt organization return when it applies for exemption by providing the information requested by the application form. An organization may also submit a separate request after it receives its initial determination letter on Form 8940, Request for Miscellaneous Determination.
- (5) An organization requesting exemption from filing Form 990 series returns because it's affiliated with one or more churches must comply with:
 - a. Treas. Regs. 1.6033-2(g) and (h)
 - b. Rev. Proc. 91-20, 1991-10 I.R.B. 26
 - c. Rev. Proc. 96-10, 1996-1 C.B. 577
- (6) An organization requesting exemption from filing Form 990 or Form 990-EZ because it is a governmental unit or affiliated with a governmental unit must comply with Rev. Proc. 95-48, 1995-2 C.B. 418.

B.1. Annual Information Returns/Notices

- (1) The annual information return/notice required to be filed by an organization generally depends on its financial activity.
- (2) Effective for tax years beginning after July 1, 2019, the Taxpayer First Act, Pub. L. No. 116-25 Section 3101 amended Section 6033(n) to require organizations exempt from taxation under Section 501(a) to file their annual series Form 990 and Form 990-PF returns electronically. The Act provided certain transitional relief for small exempt organizations filing Form 990-EZ to require electronic filing of this form for tax years ending July 31, 2021, and later. The following table summarizes the forms that an organization should file and electronic filing requirements.

Status	Form to file	Electronic filing requirement
Gross receipts normally \leq \$50,000 Note: Organizations eligible to file the e-Postcard may choose to file a full return	990-N (e-Postcard)	Submitted electronically, there are no paper forms. Access through www.irs.gov

Status	Form to file	Electronic filing requirement
Gross receipts < \$200,000 and Total assets < \$500,000	990-EZ -or- 990	Tax years ending July 31, 2021, and later <hr/> Tax years beginning after July 1, 2019
Gross receipts ≥ \$200,000, or Total assets ≥ \$500,000	990	Tax years beginning after July 1, 2019 (unless covered by exceptions listed in form instructions)
Private foundation regardless of financial status	990-PF	Tax years beginning after July 1, 2019 (unless covered by exceptions listed in form instructions)

- (3) The information returns and notice are due on the 15th day of the 5th month after the end of the organization's fiscal year.
- (4) The due date may be extended for six months, without showing cause, by filing Form 8868, Application for Automatic Extension of Time to File an Exempt Organization Return, before the due date. An organization will only be allowed an extension of 6 months for a return for a tax year.
- (5) The IRS rejects electronically filed returns that are materially incomplete or the wrong return.
- (6) If an organization doesn't file a required return or files late, the IRS may assess penalties. Note: There is no penalty assessment for filing Form 990-N late. See IRMs 4.70.13.12, Penalty Consideration, IRM 4.70.13.12.3 Common Penalties, and IRM 4.70.13.12.3.1, Fraud Penalties.

B.2. Automatic Revocation

- (1) Organizations that fail to file required Forms 990, 990-PF, 990-EZ or 990-N for three consecutive years will automatically lose their tax-exempt status. See Section 6033(j)(1)(B).
- (2) The IRS is required to notify an organization after the organization has failed to file for two consecutive years. This notice is to meet the legislative mandate under Section 3102 of the Taxpayer First Act (Public Law 116-25). See Section 6033(j)(1)(A).
- (3) The IRS issues Notice CP 120C, Second Failure to File an Annual Return or Notice, to organizations as a reminder to avoid failing to file for the third consecutive year.
- (4) Revocation of the organization's tax-exempt status will occur on the filing due date of the third consecutively missed year.

- (5) The IRS issues Notice CP 120A, Revocation Notice for Failure to File an Annual Information Return, to revoked organizations.
- (6) Automatically revoked organizations are updated on the Exempt Organizations Business Master File (EOBMF) to Status 97 on the Integrated Data Retrieval System (IDRS).
- (7) The IRS publishes and maintains a list of revoked organizations. The on-line search tool, Tax Exempt Organization Search (TEOS), will show revocation information for organizations revoked. See section VI. A. Tax Exempt Organizations Search following.

B.3. Reinstatement After Automatic Revocation

- (1) Organizations whose tax-exempt status was automatically revoked because they didn't file required Form 990 series returns or notices for three consecutive years can apply for reinstatement of their tax-exempt status.
- (2) The following four procedures can be used by an organization to apply for reinstatement:
 - a. **Streamlined Retroactive Reinstatement**
Organizations that were eligible to file Form 990-EZ or 990-N (e-Postcard) for the three years that caused their revocation may have their tax-exempt status retroactively reinstated to the date of revocation if they:
 - Haven't previously had their tax-exempt status automatically revoked
 - Complete and submit Form 1023, Form 1023-EZ with the appropriate user fee not later than 15 months after the later of the date of the organization's Revocation Letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website.
 - b. **Retroactive Reinstatement Process** (within 15 months)
Organizations that can't use the Streamlined Retroactive Reinstatement Process (such as those that were required to file Form 990 or Form 990-PF for any of the three years that caused revocation or those that were previously auto-revoked) may have their tax-exempt status retroactively reinstated to the date of revocation if they:
 - Complete and submit Form 1023, Form 1023-EZ with the appropriate user fee not later than 15 months after the later of the date on the organization's revocation letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website.
 - Include with the application a statement establishing that the organization had reasonable cause for its failure to file a required annual return for at least one of the three consecutive years in which it failed to file.

- Include with the application a statement confirming that it has filed required returns for those three years and for any other taxable years after such period and before the post-mark date of the application for which required returns were due and not filed.
 - File properly completed and executed paper annual returns for the three consecutive years that caused the revocation and any following years.
- c. **Retroactive Reinstatement** (after 15 months)
Organizations that apply for reinstatement more than 15 months after the later of the date on the organization's revocation letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website may have their tax-exempt status retroactively reinstated to the date of revocation if they:
- Satisfy all of the requirements described under the Retroactive Reinstatement (within 15 months) procedure.
 - Provide a reasonable cause statement establishing reasonable cause for its failure to file a required annual return or notice for **all three** consecutive years in which it failed to file.
- d. **Post-mark date reinstatement**
Organizations may apply for reinstatement effective from the post-mark date of their application if they:
- Complete and submit the appropriate application
 - Pay the applicable user fee

See Revenue Procedure 2014-11, 2014-3 I.R.B. 411.

B.4. Employment Tax Obligations

- (1) All Section 501(c)(3) organizations that pay wages to employees must withhold, deposit and pay employment tax, including federal income tax withholding and Social Security and Medicare (FICA) taxes.
- (2) An organization should have a Form W-4, Employee's Withholding Allowance Certificate, on file for each employee.
- (3) Employment taxes are reported on Form 941, Employer's Quarterly Federal Tax Return.
- (4) If the IRS has instructed a small employer (one who has withheld employment taxes of \$1,000 or less during the year) to file Form 944, Employer's Annual Federal Tax Return, instead of Form 941, the employer must do so. The employer must file Form 944 even if there is no tax due or if the taxes exceed \$1,000 unless the IRS tells it to file Form 941 (or it is filing a final return). The instructions to Form 944 provide information on how to have the filing requirement changed from Form 944 to Form 941.

- (5) Any person who fails to withhold and pay employment tax may be subject to penalties. See IRM 4.23.9, Employment Tax Penalty, Fraud, and Identity Theft Procedures.
- (6) Generally, Section 501(c)(3) organizations aren't subject to FUTA tax. However, a Section 501(c)(3) organization is subject to FUTA tax when paying wages to employees on behalf of a non-Section 501(c)(3) organization. See Section 3306(c)(8).
- (7) Examples include:
 - a. A Section 501(c)(3) organization paying wages to employees of a related non-Section 501(c)(3) organization
 - b. A Section 501(c)(3) organization. that is a Section 3504 agent paying wages on behalf of a non-Section 501(c)(3) organization
 - c. A Section 501(c)(3) organization that is a common paymaster paying wages on behalf of a non-Section 501(c)(3) organization.
- (8) Payments to independent contractors don't generally require tax-exempt organizations to withhold or pay employment taxes, but they may have information reporting requirements (Form 1099-Misc).
- (9) If a charity incorrectly classifies an employee as an independent contractor, it may be held liable for employment taxes for that worker. See IRM 4.23.5, Technical Guidelines for Employment Tax Issues; and IRM 4.23.6, Classification Settlement Program (CSP).
- (10) The requirements for withholding, depositing, reporting and paying employment taxes are explained in Publication 15, (Circular E), Employer's Tax Guide. For help in determining if workers are employees or independent contractors, see Publication 15-A, Employer's Supplemental Tax Guide. Publication 557 provides information about tax-exempt status and covers the employment tax responsibilities of exempt organizations.
- (11) Although churches are excepted from filing Form 990, they do have employment tax responsibilities. Employees of churches or church-controlled organizations are subject to income tax withholding but may be exempt from FICA taxes. Like other 501(c)(3) organizations, churches are not required to pay FUTA tax. In addition, although ministers generally are common-law employees, they aren't treated as employees for employment tax purposes. These special employment tax rules for members of the clergy and religious workers are explained in Publication 517, Social Security and Other Information for Members of the Clergy and Religious Workers. Churches should also consult Publications 15 and 15-A and Publication 1828, Tax Guide for Churches and Religious Organizations.

B.5. Other Forms and Returns

- (1) An exempt organization may be required to file other forms or notices depending on its activities.

- (2) Some commonly filed forms by tax-exempt organizations include:
- a. Forms W-2 and W-3, Wage and Tax Statement; and Transmittal of Wage and Tax Statements
 - b. Form W-9, Request for Taxpayer Identification Number and Certification
 - c. Form 720, Quarterly Federal Excise Tax Return
 - d. Form 926, Return by a U.S. Transferor of Property to a Foreign Corporation
 - e. Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return
 - f. Form 941, Employer's QUARTERLY Federal Tax Return. Used to report social security, Medicare, and income taxes withheld by an employer and social security and Medicare taxes paid by an employer.
 - g. Form 943, Employer's Annual Federal Tax Return for Agricultural Employees
 - h. Form 944, Employer's ANNUAL Federal Tax Return
 - i. Form 990-T, Exempt Organization Business Income Tax Return. Filed separately for organizations subject to UBIT that have total gross income from all of their unrelated trades or businesses of \$1,000 or more for the tax year.
 - j. Form 990-W, Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations
 - k. Form 1096, Annual Summary and Transmittal of U.S. Information Returns
 - l. Form 1099 series. Information returns to report acquisitions or abandonments of secured property; proceeds from broker and barter exchange transactions; cancellation of debt; dividends and distributions; certain government and state qualified tuition program payments; taxable distributions from cooperatives; interest payments; payments of long-term care and accelerated death benefits; miscellaneous income payments; distributions from an HSA, Archer MSA, or Medicare Advantage MSA; original issue discount; distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc.; and proceeds from real estate transactions. Also, use certain of these returns to report amounts that were received as a nominee on behalf of another person.
 - m. Form 2848, Power of Attorney and Declaration of Representative
 - n. Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code
 - o. Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization to Make Expenditures to Influence Legislation
 - p. Form 8282, Donee Information Return. Required of the donee of charitable deduction property who sells, exchanges, or otherwise disposes of donated property within 3 years after receiving it. The form is also

required of any successor donee who disposes of the charitable deduction property within 3 years after the date that the donor gave the property to the original donee. It doesn't matter who gave the property to the successor donee. It may have been the original donee or another successor donee.

- q. Form 8283, Noncash Charitable Contributions
 - r. Form 8821, Tax Information Authorization
 - s. Form 8868, Application for Automatic Extension of Time to File an Exempt Organization Return
 - t. Form 8940, Request for Miscellaneous Determination
 - u. Form SS-4, Application for Employer Identification Number
- (3) See Form 990 Instructions, Appendix H, or 990-EZ Instructions, Appendix F for additional forms and schedules.

B.6. Public Inspection

- (1) An exempt organization must make available for public inspection its application for tax-exempt status. An application for tax exemption includes the application form, all documents and statements the IRS requires the organization to file with the form, any statement or other supporting document submitted by an organization in support of its application, and any letter or other document issued by the IRS concerning the application. A reasonable fee for copying and mailing costs may be charged. See Section 6104(d)(1).
- (2) IRC 6110 requires the IRS to make redacted versions of its written determinations publicly available, including:
 - a. Determination letters
 - b. Private letter rulings
 - c. Technical advice memoranda and
 - d. Chief Counsel advice
- (3) Publication 557 provides details of public inspection requirements for exemption applications, certain material required to be withheld from public inspection, an exempt organization's obligation to furnish copies to anyone who requests documents, annual information returns and political organization reporting forms.
- (4) See IRM 7.28.4., Public Inspection of Written Determinations Under IRC 6110.

V. Examination Techniques

- (1) Section 501(c)(3) requires an organization to be both "organized" and "operated" exclusively for one or more Section 501(c)(3) purposes. If the organization fails either the organizational test or the operational test, it isn't exempt. See Treas. Reg. 1.501(c)(3)-1(a)(1).

A. Primary Objectives of an Examination

- (1) The primary objectives for the examination of an exempt organization are to determine if:
 - a. The organization is organized and operated in accordance with its exempt purpose(s), thus continuing to be recognized as exempt from federal income taxes.
 - b. The Form 990, Form 990-EZ, Form 990-PF, or Form 5227 is complete, correct, and contains all public information required by Section 6033.
 - c. The exempt organization has properly filed all returns and forms for which it's liable.
 - d. The exempt organization or its related entities are liable for other taxes and if so, the correct amount of tax.
- (2) The core of every exempt organization examination is to examine the following:
 - a. Organizational documents
 - b. Activities
 - c. Financial transactions
- (3) Section 7602 gives examiners the authority to:
 - a. Examine any books, papers, records or other data necessary to complete an examination.
 - b. Take testimony under oath to secure additional needed information.
 - c. Issue summons for information necessary to complete an examination.
 - d. Ask about any offense connected to the administering or enforcing of the Internal Revenue laws.
- (4) Examination procedures are in IRM 4.70, TE/GE Examinations.

B. Conducting the Organizational Test

- (1) The organizational test applies to the organization's articles of organization or comparable governing document.
- (2) Secure and review all organizational documents (original creating document and all subsequent amendments).
- (3) Compare the organizational documents and organizational purposes with Section 501(c)(3) provision requirements to ensure that the organizational documents and the organization's exempt purposes are consistent with Section 501(c)(3).
- (4) Confirm the organizing document:
 - a. Includes an acceptable purpose clause
 - b. Includes a dissolution clause (in most cases)

- c. Includes a powers clause which is **not** too broad.
 - d. See prior section II. Exemption Requirements, B. Organizational Test, for specifics.
- (5) If an organization fails the organizational test, discuss the issue with your group manager. The manager, agent, and Area Counsel, if necessary, will discuss possible remedies.
 - (6) See IRM 4.70.13.3.4.2.1, Governing Instruments, for guidance on procedures regarding an organization's governing instrument.

C. Conducting the Operational Test

- (1) The operational test applies to the organization's activities and how they further exempt purposes.
- (2) Treas. Reg. 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes if it engages primarily in activities which accomplish one or more of such exempt purposes specified in Section 501(c)(3). It further provides that an organization will not be so regarded if more than an insubstantial part of its activities isn't in furtherance of an exempt purpose.
- (3) There's no legal definition in the IRC for commonly used terms such as "exclusively," "primarily," "substantial" and "insubstantial" which are found throughout the IRC and regulations. For purposes of the operational test, these terms apply to the review of the purposes, activities, time and resources of exempt organizations to determine if they are operating for Section 501(c)(3) purposes. There is no express formula or measurement in the IRC for the operational test. Rather, all facts and circumstances pertaining to the operational test should be considered when making these determinations. Often, exemption is determined on the basis of stated purposes and proposed activities.
- (4) Test and measure the activities and operations to determine if the organization is operating primarily in furtherance of the purpose(s) for which it was granted exempt status.
- (5) Examine the sources of income, application of funds, assets and liabilities, to the extent necessary to ensure that the financial transactions are consistent with the exempt purpose activities of the organization.
- (6) For more information see section II. Exemption Requirements, C. Operational Test of this TG.

C.1. Examiner Responsibilities

- (1) Exempt Organizations Revenue Agents follow the TE/GE Examinations Process which is described in the IRM 4.70 series. Some of the IRM references that pertain to EO Examinations are listed below.
 - a. IRM 4.70.11, Administrative Matters

- b. IRM 4.70.12, Planning the Examination
 - c. IRM 4.70.13, Executing the Examination
 - d. IRM 4.70.14, Resolving the Examination
 - e. IRM 4.70.15 Discrepancy Adjustments
 - f. IRM 4.70.16 TE/GE Technical Assistance, Technical Advice Requests and Requests for 7805(b) Relief.
 - g. IRM 4.70.17 Claims and Abatements
 - h. IRM 4.70.19 Church Tax Inquiries and Examinations under IRC 7611
- (2) IRM 4.70.13, Executing the Examination, contains sections relevant to conducting and on-site examination and follow-up procedures. Those sections include:
- a. IRM 4.70.13.3.1 Interviews
 - b. IRM 4.70.13.3.2 Internal Controls
 - c. IRM 4.70.13.2.2 Exempt Organizations and FSL/ET
 - d. IRM 4.70.13.3.3 Tour of Business
 - e. IRM 4.70.13.3.4 Examination of Book and Records
 - f. IRM 4.70.13.3.5 Reconciliation of Books and Records
 - g. IRM 4.70.13.3.6 Failure to Maintain Records
 - h. IRM 4.70.13.6.7 Sampling Techniques
 - i. IRM 4.70.13.3.8, Concluding the Initial Appointment and Additional Requests for Information
 - j. IRM 4.70.13.13 Fraud and Abusive Transaction Procedures
 - k. IRM 4.70.13.14 Discussion of examination Findings/Conclusions
- (3) Examiners and managers are responsible for being familiar with and acting in accordance with taxpayer rights. See Section 7803(a)(3).

C.2. Reviewing and Analyzing Activities and Financial Records

- (1) A Section 501(c)(3) organization's operations must be reviewed and analyzed to determine if it's operating in a manner consistent with its exempt purpose.
- (2) The organization's purposes, activities and financial transactions are the items reviewed and analyzed. Consider the length of time the activity is conducted, the number and type of employees and volunteers used to conduct each activity, the assets used to conduct the activity, the liabilities and expenses incurred in conducting each activity, and the revenue generated or not generated by each activity.
- (3) Group activities into categories, such as,
 - a. Related

- b. Unrelated,
 - c. Permissible, and
 - d. Prohibited.
- (4) Analyze an activity to determine whether it is an exclusive activity, a primary activity, a substantial activity, an insubstantial activity or a de minimis activity.
 - (5) Allocate the financial transactions, assets and liabilities to each activity on the basis of time, space, use, personnel, or any other reasonable method in order to determine the size and extent of an organization's activities.

C.3. Issue Development and Conclusion

- (1) An examiner's responsibilities in developing and concluding issues present in an examination include:
 - a. Fact development
 - b. Rules of evidence
 - c. Special procedures for specific issues
 - d. Concluding an issue
 - e. Research of tax law.
- (2) See IRM 4.70.13.4. Issue Development
- (3) See IRM 4.70.13.5 Researching Federal Tax Law
- (4) See IRM 4.70.13.6 Using Technical Expert Resources

D. Additional Examination Requirements

- (1) During an exam, examiners are responsible for determining if an organization:
 - a. Continues to meet its requirements for exemption and retains its tax-exempt status
 - b. Filed all required tax and information returns
 - c. Merits waiving certain filing checks for certain returns
 - d. Reported information and its tax liability correctly.
- (2) All examinations require the conduct of a filing check, which involves:
 - a. Reviewing the filing of other returns to determine whether the taxpayer is in compliance with all filing requirements
 - b. Determining whether the taxpayer is liable for other federal taxes, potentially leading to referrals
 - c. Securing delinquent returns
 - d. Expansion of the exam if warranted.
- (3) Although by itself not an actual examination, a package audit is a series of additional steps beyond a filing check, generally used in the pre-contact stage

of the examination to evaluate completion and accuracy of a filed return. In a package audit process, the examiner reconciles and analyzes inconsistencies between filed returns or between returns and other documents available prior to reviewing books and records.

- (4) See IRM 4.70.12.3.6, Required Filing Check and 4.70.13.1.2(2), Policy Statement 4-4 (IRM 1.2.1.5.2.)

D.1. Required Filing Checks

- (1) A filing check, the process to verify the filing of a return, is always required for:
- a. Form 990/990-EZ in the case of any Section 501(c) organization or Section 4947(a)(1) trust, not a private foundation and not a black lung benefit trust
 - b. Form 990-N in the case of any Section 501(c) organization other than a private foundation, except those ineligible to file Form 990-N
 - c. Form 5578 in the case of any Section 501(c)(3) organization not filing Form 990/990-EZ that operates, supervises, or controls a private school
 - d. Form 990-PF in the case of any private foundation or Section 4947(a)(1) trust treated as a private foundation
 - e. Form 990-BL in the case of any black lung benefit trust exempt under Section 501(c)(21)
 - f. Form 1065 in the case of any religious or apostolic organization under Section 501(d)
 - g. Form 5227 in the case of any Section 4947(a)(2) split-interest trust
 - h. Form 990-T in the case of any Section 501(c) organization or government-owned college and university
 - i. Form 1120 in the case of any taxable private foundation that is a corporation or unincorporated association
 - j. Form 1041 in the case of any Section 4947 trust, or any taxable private foundation that is a trust
 - k. Form 940, Employer's Annual Federal Unemployment (FUTA) Tax Return (generally, Section 501(c)(3) organizations aren't subject to FUTA tax).
 - l. Form 941, Employer's Quarterly Federal Tax Return
 - m. Form 944, Employer's Annual Federal Tax Return.
 - n. Form 945, Annual Return of withheld Federal Income Tax
 - o. Prior and subsequent year returns for each of the above
- (2) In addition, it should be determined if a taxpayer is required to file Form 4720, Return of Certain Excise Taxes Under Chapters 41 and 42 of the IRC.
- (3) For additional guidance on filing checks see IRM 4.70.12.3.6, Required Filing Check and 4.70.13.1.2(2), Policy Statement 4-4 (IRM 1.2.1.5.2.)

D.2. Package Audit Procedures

- (1) Package audits don't by themselves constitute an examination if the taxpayer's books and records weren't examined. A package audit:
 - a. Is not a requirement
 - b. Is performed at the discretion of the examiner
 - c. Is more time intensive than a filing check and requires a supplemental workpaper
 - d. Helps to evaluate returns for consistency, completion and accuracy in reporting where needed
 - e. Involves reconciling and analyzing between filed returns, or between filed returns and other documents available prior to the examination
 - f. Can involve a comparison between any type of return, not just employment tax returns.
 - g. The conclusion of a package audit is useful in:
 - Identifying additional issues
 - Deciding to expand the scope of the examination
 - Revising examination steps and techniques.
- (2) See IRM 4.70.12.3.6, Required Filing Check and 4.70.13.1.2(2), Policy Statement 4-4 (IRM 1.2.1.5.2.)

VI. Other Resources

A. Tax Exempt Organizations Search

- (1) Tax Exempt Organization Search (TEOS), is an online search tool, which can be used to:
 - a. Find information about an organization's tax-exempt status and filings, and
 - b. Check an organization's eligibility to receive tax-deductible charitable contributions.
- (2) TEOS allows you to search for an organization's tax-exempt status and filings in the following data bases:
 - a. Form 990 Series Returns
 - b. Form 990-N (e-Postcard)
 - c. Pub. 78 Data (list of organizations that can receive tax-deductible contributions)
 - d. Automatic Revocation of Exemption List
 - e. Determination Letters (dated on or after January 1, 2014).

- (3) TEOS is accessed through the IRS.gov website, on the Charities and Nonprofits homepage (www.irs.gov/charities-and-nonprofits).

B. IRS Tax Publications

- (1) The following publications have information to assist Section 501(c)(3) organizations:
- a. Publication 1, Your Rights as a Taxpayer
 - b. Publication 526, Taxable and Nontaxable Income
 - c. Publication 525, Charitable Contributions
 - d. Publication 557, Tax-Exempt Status for Your Organization
 - e. Publication 598, Tax on Unrelated Business Income of Exempt Organizations
 - f. Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status
 - g. Publication 1546, Taxpayer Advocate Service is Your Voice at the IRS
 - h. Publication 1771, Charitable Contributions: Substantiation and Disclosure Requirements
 - i. Publication 1828, Tax Guide for Churches and Religious Organizations
 - j. Publication 4220, Applying for 501(c)(3) Tax-Exempt Status
 - k. Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities
 - l. Publication 4221-PF, Compliance Guide for 501(c)(3) Private Foundations
 - m. Publication 4573, Group Exemptions
 - n. Publication 5248, IRS Form 990-N Electronic Filing System (e-Postcard) User Guide.
 - o. Related Links
- (2) The IRS has created online resources to help tax-exempt organizations.

B.1. IRS.gov

- (1) For tax information, tools, and resources for charities and other tax-exempt organizations, visit www.irs.gov.
- (2) Go to IRS.gov/Forms to view, download, or print all of the forms and publications you may need. You can also download and view popular tax publications and instructions on mobile devices such as an eBook at IRS.gov/eBooks. You can also go to IRS.gov/OrderForms to place an order.

B.2. Stay Exempt

- (1) The IRS has created a site especially for Section 501(c)(3) organizations at www.stayexempt.irs.gov.

- (2) The site has interactive presentations and a resource library to aid organizational leadership in understanding the benefits, limitations and expectations for Section 501(c)(3) organizations in the following areas:
 - a. Starting Out – Applying for tax-exempt status
 - b. Existing Organizations – Maintaining an organization’s exempt status
 - c. In-Depth Topics – Additional mini-courses.
 - d. Resource Library – including frequently asked questions and other resources
- (3) The site has streaming online training as well as PDF versions of the training.

C. Requesting Copies of a Return, Report, Notice, Application or Letter

- (1) Form 4506-A, Request for a Copy of Exempt or Political Organization IRS Form, is used to request copies of an exempt or political organization’s return, report or notice.
 - a. Form 4506-A can be submitted by mail or fax.
 - b. TEOS can be used for copies of Form 990 N, Electronic Notice (e-Postcard), and for direct access to Form 990-series returns received by the IRS in 2017 or later.
 - c. TEOS should be checked prior to the submission of Form 4506-A.
- (2) Form 4506-B, Request for a Copy of Exempt Organization IRS Application or Letter, is used to request copies of an exempt organization’s exemption application or determination letter.
 - a. A completed Form 4506-B can be submitted by e-mail by clicking the “Submit Form” button at the bottom of the form. The submission of the form is not encrypted for security.
 - b. TEOS can be used to directly access copies of determination letters issued to exempt organizations in 2014 or later.

VII. Exhibit

- (1) The following exhibit was referenced previously in this technical guide.

A. Form 1023-EZ Eligibility Worksheet

- (1) The following Form 1023-EZ Eligibility Worksheet is for applicants to use when determining eligibility for Form 1023-EZ as opposed to Form 1023. The worksheet should not be filed with the application. The following worksheet is from the Form 1023-EZ Instructions (Rev. January 2023)

Exhibit Begins on the Next Page

Form 1023-EZ Eligibility Worksheet

(Must be completed prior to completing Form 1023-EZ)

If you answer "Yes" to any of the worksheet questions, you are not eligible to apply for exemption under section 501(c)(3) using Form 1023-EZ. You must apply on Form 1023. If you answer "No" to all of the worksheet questions, you may apply using Form 1023-EZ.

<p>1.</p>	<p>Do you project that your annual gross receipts will exceed \$50,000 in any of the next 3 years?</p> <p>Gross receipts are the total amounts the organization received from all sources during its annual accounting period, without subtracting any costs or expenses. You should consider this year and the next 2 years.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>2.</p>	<p>Have your annual gross receipts exceeded \$50,000 in any of the past 3 years?</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>3.</p>	<p>Do you have total assets the fair market value of which is in excess of \$250,000?</p> <p>Total assets include cash, accounts receivable, inventories, bonds and notes receivable, corporate stocks, loans receivable, other investments, depreciable and depletable assets, land, buildings, equipment, and any other assets.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>4.</p>	<p>Were you formed under the laws of a foreign country (U.S. territories and possessions are not considered foreign countries)?</p> <p>You are formed under the laws of a foreign country if you are not formed under the laws of (1) the United States, its states, territories, or possessions; (2) federally recognized Indian tribal or Alaskan native governments; or (3) the District of Columbia.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>5.</p>	<p>Is your mailing address in a foreign country (U.S. territories and possessions are not considered foreign countries)?</p> <p>Your mailing address is the address where all correspondence will be sent.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>6.</p>	<p>Are you a successor to, or controlled by, an entity suspended under section 501(p) (suspension of tax-exempt status of terrorist organizations)?</p> <p>Section 501(p)(1) suspends the exemption from tax under section 501(a) of any organization described in section 501(p)(2). An organization is described in section 501(p)(2) if the organization is designated or otherwise individually identified (1) under certain provisions of the Immigration and Nationality Act as a terrorist organization or foreign terrorist organization; (2) in or pursuant to an Executive Order which is related to terrorism and issued under the authority of the International Emergency Economic Powers Act or section 5 of the United Nations Participation Act of 1945 for the purpose of imposing on such organization an economic or other sanction; or (3) in or pursuant to an Executive Order issued under the authority of any federal law, if the organization is designated or otherwise individually identified in or pursuant to the Executive Order as supporting or engaging in terrorist activity (as defined in the Immigration and Nationality Act) or supporting terrorism (as defined in the Foreign Relations Authorization Act) and the Executive Order refers to section 501(p)(2).</p> <p>Under section 501(p)(3) of the Code, suspension of an organization's tax exemption begins on the date of the first publication of a designation or identification with respect to the organization, as described above, or the date on which section 501(p) was enacted, whichever is later. This suspension continues until all designations and identifications of the organization are rescinded under the law or Executive Order under which such designation or identification was made.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

7.	<p>Are you organized as an entity other than a corporation, unincorporated association, or trust?</p> <p>Answer "Yes" if you are organized as an LLC under the laws of the state in which you were formed.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
8.	<p>Are you formed as a for-profit entity?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
9.	<p>Are you a successor to a for-profit entity?</p> <p>You are a successor if you have:</p> <ol style="list-style-type: none"> 1. Substantially taken over all of the assets or activities of a for-profit entity; 2. Been converted or merged from a for-profit entity; or 3. Installed the same officers, directors, or trustees as a for-profit entity that no longer exists. 	<input type="checkbox"/> Yes	<input type="checkbox"/> No
10.	<p>Were you previously revoked or are you a successor to a previously revoked organization (other than an organization the tax-exempt status of which was automatically revoked for failure to file a Form 990-series return for 3 consecutive years)?</p> <p>Do not check "Yes" if your previous revocation, or your predecessor's revocation, was an automatic revocation (pursuant to section 6033(j)) for failing to satisfy Form 990-series filing requirements for 3 consecutive years.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
11.	<p>Are you currently recognized as tax exempt under another section of IRC 501(a) or were you previously exempt under another section of IRC 501(a)?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

<p>12.</p>	<p>Are you a church or a convention or association of churches described in section 170(b)(1)(A)(i)?</p> <p>There is no single definition of the word "church" for tax purposes; however, the characteristics generally attributed to churches include:</p> <ul style="list-style-type: none"> • A distinct legal existence, • A recognized creed and form of worship, • A definite and distinct ecclesiastical government, • A formal code of doctrine and discipline, • A distinct religious history, • A membership not associated with any other church or denomination, • Ordained ministers ministering to the congregation, • Ordained ministers selected after completing prescribed courses of study, • A literature of its own, • Established places of worship, • Regular congregations, • Regular religious services, • Sunday schools for the religious instruction of the young, and • Schools for the preparation of ministers. <p>Although it is not necessary that each of the above characteristics be present, a congregation or other religious membership group that meets regularly for religious worship is generally required. A church includes mosques, temples, synagogues, and other forms of religious organizations. For more information, see Pub. 1828.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>13.</p>	<p>Are you a school, college, or university described in section 170(b)(1)(A)(ii)?</p> <p>An organization is a school if it:</p> <ol style="list-style-type: none"> 1. Presents formal instruction as its primary function, 2. Has a regularly scheduled curriculum, 3. Has a regular faculty of qualified teachers, 4. Has a regularly enrolled student body, and 5. Has a place where educational activities are regularly carried on. <p>The term "school" includes primary schools, secondary schools, preparatory schools, high schools, colleges, and universities. It does not include organizations engaged in both educational and non-educational activities, unless the latter are merely incidental to the educational activities.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

<p>14.</p>	<p>Are you a hospital or medical research organization described in section 170(b)(1)(A)(iii) or a hospital organization described in section 501(r)(2)(A)(i)?</p> <p>An organization is a hospital described in section 170(b)(1)(A)(iii) if its principal purpose or function is providing medical or hospital care, or medical education or research. Medical care includes treatment of any physical or mental disability or condition, on an inpatient or outpatient basis. Thus, if an organization is a rehabilitation institution, outpatient clinic, or community mental health or drug treatment center, it is a hospital if its principal function is providing treatment services as described above.</p> <p>A hospital does not include convalescent homes, homes for children or the aged, or institutions whose principal purpose or function is to train handicapped individuals to pursue a vocation.</p> <p>An organization is a medical research organization described in section 170(b)(1)(A)(iii) if its principal purpose or function is the direct, continuous, and active conduct of medical research in conjunction with a hospital. The hospital with which the organization is affiliated must be described in section 501(c)(3), a federal hospital, or an instrumentality of a governmental unit, such as a municipal hospital.</p> <p>An organization is a hospital organization described in section 501(r)(2)(A)(i) if the organization operates a facility which is required by a state to be licensed, registered, or similarly recognized as a hospital.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>15.</p>	<p>Are you an agricultural research organization described in section 170(b)(1)(A)(ix)?</p> <p>An organization is an agricultural research organization described in section 170(b)(1)(A)(ix) if it is an agricultural research organization directly engaged in the continuous active conduct of agricultural research (as defined in section 1404 of the Agricultural Research, Extension, and Teaching Policy Act of 1977) in conjunction with a land grant college or university (as defined in such section) or a non-land grant college of agriculture (as defined in such section), and during the calendar year in which the contribution is made such organization is committed to spend such contribution for such research before January 1 of the fifth calendar year which begins after the date such contribution is made.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

<p>16.</p>	<p>Are you applying for exemption as a cooperative hospital service organization under section 501(e)?</p> <p>A cooperative hospital service organization described in section 501(e) is organized and operated on a cooperative basis to provide its section 501(c)(3) hospital members one or more of the following activities.</p> <ul style="list-style-type: none"> • Data processing. • Purchasing (including purchasing insurance on a group basis). • Warehousing. • Billing and collection (including purchasing patron accounts receivable on a recourse basis). • Food. • Clinical. • Industrial engineering. • Laboratory. • Printing. • Communications. • Record center. • Personnel (including selecting, testing, training, and educating personnel) services. <p>A cooperative hospital service organization must also meet certain other requirements specified in section 501(e).</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>
<p>17.</p>	<p>Are you applying for exemption as a cooperative service organization of operating educational organizations under section 501(f)?</p> <p>An organization is a cooperative service organization of operating educational organizations if it is organized and operated solely to provide investment services to its members. Those members must be organizations described in section 170(b)(1)(A)(ii) or (iv) that are tax exempt under section 501(a) or whose income is excluded from taxation under section 115.</p>	<p><input type="checkbox"/> Yes</p>	<p><input type="checkbox"/> No</p>

18.	Are you applying for exemption as a qualified charitable risk pool under section 501(n)?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	<p>A qualified charitable risk pool is treated as organized and operated exclusively for charitable purposes. Check the appropriate box to indicate whether you are a charitable risk pool. A qualified charitable risk pool is an organization that:</p> <ol style="list-style-type: none"> 1. Is organized and operated only to pool insurable risks of its members (not including risks related to medical malpractice) and to provide information to its members about loss control and risk management, 2. Consists only of members that are section 501(c)(3) organizations exempt from tax under section 501(a), 3. Is organized under state law authorizing this type of risk pooling, 4. Is exempt from state income tax (or will be after qualifying as a section 501(c)(3) organization), 5. Has obtained at least \$1,000,000 in startup capital from nonmember charitable organizations, 6. Is controlled by a board of directors elected by its members, and 7. Is organized under documents requiring that: <ol style="list-style-type: none"> a. Each member be a section 501(c)(3) organization exempt from tax under section 501(a), b. Each member that receives a final determination that it no longer qualifies under section 501(c)(3) notify the pool immediately, and c. Each insurance policy issued by the pool provides that it will not cover events occurring after a final determination described in (b). 		

19.	<p>Are you requesting classification as a supporting organization under section 509(a)(3)?</p> <p>A supporting organization (as defined in section 509(a)(3)) differs from the other types of public charities described in section 509. Instead of describing an organization that conducts a particular kind of activity or that receives financial support from the general public, section 509(a)(3) describes organizations that have established certain relationships in support of public charities described in section 509(a)(1) or 509(a)(2). Thus, an organization can qualify as a supporting organization (and not be classified as a private foundation) even though it may be funded by a single donor, family, or corporation. This kind of funding ordinarily would indicate private foundation status, but a section 509(a)(3) organization has limited purposes and activities, and gives up a significant degree of independence. A supporting organization is an organization that:</p> <ol style="list-style-type: none"> 1. Is organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified organizations as described in section 509(a)(1) or 509(a)(2). These section 509(a)(1) and 509(a)(2) organizations are commonly called publicly supported organizations. 2. Has one of three types of relationships with one or more organizations described in section 509(a)(1) or 509(a)(2). It must be: <ol style="list-style-type: none"> a. Operated, supervised, or controlled by one or more section 509(a)(1) or 509(a)(2) organizations (Type I supporting organization); b. Supervised or controlled in connection with one or more section 509(a)(1) or 509(a)(2) organizations (Type II supporting organization); or c. Operated in connection with one or more section 509(a)(1) or 509(a)(2) organizations (Type III supporting organization). 3. Is not controlled directly or indirectly by disqualified persons (as defined in section 4946) other than foundation managers and other than one or more organizations described in section 509(a)(1) or 509(a)(2). <p>See Pub. 557 for more information.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
20.	<p>Is a substantial purpose of your activities to provide assistance to individuals through credit counseling activities such as budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas?</p> <p>These activities involve the education of the consumer on budgeting, personal finance, financial literacy, mortgage foreclosure assistance, or other consumer credit areas. It may also involve assisting the consumer in consolidating debt and negotiating between debtors and creditors to lower interest rates and waive late and over-limit fees.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
21.	<p>Do you or will you invest 5% or more of your total assets in securities or funds that are not publicly traded?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
22.	<p>Do you participate, or intend to participate, in partnerships (including entities or arrangements treated as partnerships for federal tax purposes) in which you share losses with partners other than section 501(c)(3) organizations?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
23.	<p>Do you sell, or intend to sell carbon credits or carbon offsets?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
24.	<p>Are you a Health Maintenance Organization (HMO)?</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No

25.	<p>Are you an Accountable Care Organization (ACO), or an organization that engages in, or intends to engage in, ACO activities (such as participation in the Medicare Shared Savings Program (MSSP) or in activities unrelated to the MSSP described in Notice 2011-20, 2011-16 I.R.B. 652)?</p> <p>ACOs are entities formed by groups of physicians, hospitals, and other health care service providers and suppliers to manage and coordinate the care provided to patients. For a discussion of tax law issues relating to ACOs, see Notice 2011-20 and FS-2011-11, available at IRS.gov/uac/Tax-Exempt-Organizations-Participating-in-the-Medicare-Shared-Savings-Program-through-Accountable-Care-Organizations.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
26.	<p>Do you maintain or intend to maintain one or more donor advised funds?</p> <p>In general, a donor advised fund is a fund or account that is owned and controlled by the organization but that is separately identified by reference to contributions of a donor or donors and with respect to which a donor (or any person appointed or designated by the donor) has or expects to have advisory privileges concerning the distribution or investment of amounts held in the fund or account by reason of the donor's status as a donor. For additional information, see Pub. 557.</p> <p>Check "No" if you are a governmental unit referred to in section 170(c)(1) or a private foundation referred to in section 509(a).</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
27.	<p>Are you organized and operated exclusively for testing for public safety and requesting a foundation classification under section 509(a)(4)?</p> <p>Generally, these organizations test consumer products to determine their acceptability for use by the general public.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
28.	<p>Are you requesting classification as a private operating foundation?</p> <p>Private foundations lack general public support. What distinguishes a private operating foundation from other private foundations is that it engages directly in the active conduct of charitable, religious, educational, and similar activities (as opposed to indirectly carrying out these activities by providing grants to individuals or other organizations). Private operating foundations are subject to more favorable rules than other private foundations in terms of charitable contribution deductions and attracting grants from private foundations. However, to be classified as a private operating foundation, an organization must meet certain tests. Additional information about private operating foundations is available at IRS.gov/Charities-&-Non-Profits/Private-Foundations/Private-Operating-Foundations.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
29.	<p>Are you applying for reinstatement under section 4 of Rev. Proc. 2014-11, and seeking to change your foundation classification from the classification you had at the time of your revocation?</p> <p>Only organizations that are seeking the same foundation classification that they had at the time of revocation may use Form 1023-EZ to apply for reinstatement under section 4 of Rev. Proc. 2014-11. If you wish to change your foundation classification, you must use the full Form 1023.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No
30.	<p>Are you applying for retroactive reinstatement of exemption under section 5 or 6 of Rev. Proc. 2014-11, after being automatically revoked?</p> <p>Only organizations applying for reinstatement under section 4 or 7 of Rev. Proc. 2014-11 may use Form 1023-EZ. If you are applying for retroactive reinstatement under section 5 or 6 of Rev. Proc. 2014-11, you must submit the full Form 1023 along with the appropriate reasonable cause statement and a statement confirming you have filed the required annual returns as described in the revenue procedure.</p>	<input type="checkbox"/> Yes	<input type="checkbox"/> No