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Frequently Asked Questions About Tax-Exempt Organizations

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Summary

This report answers frequently asked questions about tax-exempt organizations. It provides basic answers and refers to sources of additional information that might be useful. The report focuses on the types of organizations described in Internal Revenue Code (IRC) Section 501(c), with the main emphasis on Section 501(c)(3) charitable organizations.

One set of questions addresses some of the primary characteristics of tax-exempt organizations, including whether they may participate in lobbying and election-related activities, and defines the terms “tax-exempt,” “nonprofit (not-for-profit),” and “private foundation.”

Another group of questions provides general information on how to form a tax-exempt organization, what information must be disclosed to the IRS and the public, and how an organization might lose its tax-exempt status.

The report ends with questions intended to help the reader find resources that provide information on specific organizations and additional information on tax-exempt organizations in general.

This report summarizes information with respect to tax-exempt organizations. It should not be relied on for specific tax advice. Such advice should be sought directly from the IRS or qualified tax professionals.

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1. What is a tax-exempt organization?

The term “tax-exempt organization” generally refers to an organization that is exempt from federal income taxes under the Internal Revenue Code (IRC). Although the IRC describes more than 30 types of organizations that qualify for exemption, the type that people often mean when using the term “tax-exempt organization” is found in Section 501(c)(3). That section describes entities

organized and operated exclusively for religious, charitable, scientific, testing for public safety, 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....

Other types of organizations that qualify for tax-exempt status include social welfare organizations, labor unions, trade associations, social clubs, veterans’ organizations, and fraternal organizations. A list of the types of tax-exempt organizations appears at the end of this report (**Table A-1**).

2. What is a nonprofit (not-for-profit) organization?

The term “tax-exempt organization” is often used interchangeably with the term “nonprofit organization.” This can be misleading depending on the context. The term “tax-exempt organization” generally refers to an organization that meets the criteria in federal law (the IRC) to be exempt from federal income taxes. The term “nonprofit organization” can be used to mean a corporation that is not intended to be a profit-making corporation and is organized as such under state law. The status and privileges of the entity are determined under state law. The requirements vary by state but usually take into account the fact that nonprofit corporations typically do not have shareholders or the same business motives as for-profit corporations.

A nonprofit corporation is not automatically a tax-exempt organization. Because the qualifications for nonprofit status vary among states, it is possible for the term “nonprofit organization” to be broader than, narrower than, or identical to the term “tax-exempt organization.” For a nonprofit organization to be exempt from federal income taxes, it must meet the statutory requirements found in the IRC and, in some cases, file an application with the IRS.

3. What are the differences between Section 501(c)(3) and Section 501(c)(4) organizations?

Section 501(c) describes many types of organizations that qualify for tax-exempt status. When an organization applies for exemption or files an annual return with the IRS, it must tell the IRS under which paragraph of Section 501(c) it qualifies. In general, this is not difficult to determine because most paragraphs describe discrete categories—for example, Section 501(c)(8) describes fraternal societies and Section 501(c)(14) describes credit unions. However, Sections 501(c)(3)

and 501(c)(4) describe organizations with some overlapping characteristics in that both types can operate for charitable purposes.¹

Despite these similarities, Section 501(c)(3) and Section 501(c)(4) organizations differ in two significant ways. First, Section 501(c)(3) organizations are eligible to receive tax-deductible charitable contributions, while Section 501(c)(4) organizations generally are not. When a contribution is deductible, the donor may subtract it from his or her income when calculating federal income tax liability, subject to restrictions found in Section 170. (See Question 6.) This is an important benefit for the organization because it may encourage donors to contribute to the organization in order to lower their taxable income and to make larger contributions since the after-tax cost of each contribution is reduced.² The second difference is that Section 501(c)(3) organizations are substantially limited in their ability to lobby and are prohibited from engaging in campaign activity; Section 501(c)(4) organizations are not so limited. (See Questions 7 and 8.)

These two differences are important when an organization is choosing whether to be a Section 501(c)(3) or Section 501(c)(4) organization. If the group's agenda depends on influencing public opinion or the legislative process, it may be appropriate to form as a Section 501(c)(4) organization. Otherwise, it will usually make more sense to be a Section 501(c)(3) organization in order to have the advantage of tax-deductible contributions.

4. Can an organization be related to another organization?

While an organization must identify itself as one type of Section 501(c) organization, it may be linked with another Section 501(c) organization under certain circumstances. For example, it is common to see a group that wants to lobby as well as conduct charitable activities set up both a Section 501(c)(4) organization and a Section 501(c)(3) organization. Another common example is

¹ IRC §501(c)(3) reads:

Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, 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, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not 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.

IRC §501(c)(4) reads:

(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

The IRS recognizes that an organization qualifying under Section 501(c)(4) may also meet the criteria to qualify under Section 501(c)(3). See 26 C.F.R. §1.501(c)(4)-1(a)(2)(i).

² For a policy discussion of the charitable contribution deduction, see CRS Report RL34608, *Tax Issues Relating to Charitable Contributions and Organizations*, by (name redacted) and (name redacted).

for a Section 501(c)(6) trade association, such as the American Bar Association or American Medical Association, to have a similarly named foundation that conducts charitable activities. In addition, a Section 501(c) organization may be linked with another type of tax-exempt organization, such as a Section 527 political organization. (See Question 8.) In all of these situations, the organizations must be legally separate entities, and their activities and funds must be kept separate.

5. What is a private foundation?

A Section 501(c)(3) organization is either a public charity or private foundation. Public charities have broad public support and tend to provide charitable services directly to the intended beneficiaries. Private foundations often are tightly controlled, receive significant portions of their funds from a small number of donors or a single source, and make grants to other organizations rather than directly carry out charitable activities. Because these factors create the potential for self-dealing or abuse of position by the small group controlling the entity, private foundations are more closely regulated than public charities. As such, private foundations are subject to penalty taxes for doing things such as failing to distribute a certain amount of their income each year; making investments that jeopardize their charitable purpose; having excess business holdings; and failing to maintain expenditure responsibility over certain grants.³ Section 501(c)(3) organizations are presumed to be private foundations and, if they want to be treated as a public charity, must tell the IRS how they qualify for public charity status based on the support and control tests found in IRC Section 509.

6. When are donations tax deductible as charitable contributions or dues?

Charitable Contributions

Under Section 170, contributions made for charitable purposes are tax deductible when made to qualifying Section 501(c)(3) organizations, governmental units, veterans' organizations, fraternal organizations, and cemetery companies. The IRS determines whether a Section 501(c)(3) organization is eligible to receive tax-deductible contributions at the time it considers the organization's application for exempt status. A donor can check to see whether an organization is eligible to receive tax-deductible charitable contributions using the "Exempt Organizations Select Check" search engine on the IRS website.⁴

Charitable contributions that otherwise meet the requirements of Section 170 are not deductible if the organization provides goods or services in exchange for the contribution. However, if the contribution exceeds the fair market value of the goods or services provided, then the excess may be deductible. When an organization receives more than \$75 in exchange for goods or services, it must inform the donor of the amount of the contribution, if any, that is tax-deductible.⁵

³ IRC §§4940-4946.

⁴ Available at <http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check>.

⁵ IRC §6115.

Even if a contribution is deductible, individual taxpayers may not be able to deduct the entire contribution. For example, only individuals who itemize deductions may deduct their charitable contributions,⁶ and Section 170 may restrict the amount of the deduction depending on the size and nature of the contribution. In addition, taxpayers must comply with certain substantiation requirements, including that (1) a written acknowledgment be obtained from the organization for any contribution that exceeds \$250 in value and (2) any cash donation be substantiated by a bank record or written communication from the organization showing its name and the date and amount of the contribution.

When a contribution to a tax-exempt organization is not deductible, the organization must generally notify the potential contributor of that fact at the time of solicitation.⁷ An organization that fails to provide the notification faces a fine of \$1,000 for each day the failure occurs, with an annual cap of \$10,000.⁸ The fines are higher and the cap is eliminated for organizations that intentionally disregard the notification requirement.

Dues

Dues to some tax-exempt organizations, such as Section 501(c)(5) labor unions and Section 501(c)(6) trade associations, may be deductible as business expenses under IRC Section 162. If an organization conducts lobbying or political activities, Section 162(e) disallows a deduction for the portion of dues that represents lobbying or political expenditures.⁹ In general, an organization must notify its members of the amount that is nondeductible or be subject to a proxy tax on its lobbying or political expenditures.¹⁰ Furthermore, individuals face additional restrictions in being able to deduct their dues. For example, only individuals who itemize deductions and have significant business expenses (i.e., exceeding 2% of adjusted gross income) may deduct the dues.

7. Can tax-exempt organizations lobby?

Under the IRC, some types of tax-exempt organizations are restricted in the amount of lobbying they may do and the rest may conduct unlimited lobbying.¹¹

Section 501(c)(3) organizations are the primary example of entities that are limited in the amount of lobbying they may do: “no substantial part” of their activities can be lobbying.¹² The IRC does not define “no substantial part.” In interpreting the term, courts have looked at the amount of

⁶ For an economic analysis related to individuals who do not itemize deductions, see CRS Report RL31108, *Economic Analysis of the Charitable Contribution Deduction for Non-Itemizers*, by (name redacted).

⁷ IRC §6113.

⁸ IRC §6710.

⁹ For more information, see CRS Report R42381, *Deductibility of Corporate Campaign Expenditures*, by (name redacted).

¹⁰ IRC §6033(e).

¹¹ For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by (name redacted).

¹² IRC §501(c)(3). Section 501(c)(29) organizations are similarly limited. Some organizations appear to be generally prohibited from lobbying—those described in Sections 501(c)(2), (c)(17), (c)(18), (c)(21), (c)(22), (c)(24), and (c)(25). Most of these are trusts that must use their income exclusively for the purposes for which they are established.

expenditures or time spent on lobbying,¹³ or examined the lobbying in the broad context of the organization's purpose and activities.¹⁴ Because the "no substantial part" standard is indefinite, Section 501(c)(3) organizations, with the exception of churches and related organizations, may elect to have their lobbying activities measured by a numerical limit found in IRC Section 4911.¹⁵ Most organizations do not make this election. A Section 501(c)(3) organization that conducts substantial lobbying may lose its exempt status and face possible excise taxes under Sections 4911 and 4912. Notably, private foundations (discussed in Question 5) are taxed under IRC Section 4945 on any lobbying expenditures made during the year, regardless of whether such activities are substantial.

Most other types of tax-exempt organizations are not subject to any tax law limits on the amount of lobbying that can be done.¹⁶ These include Section 501(c)(4) social welfare organizations, Section 501(c)(5) labor unions, and Section 501(c)(6) trade associations. A tax-exempt organization's lobbying may affect the amount that its contributors would otherwise be able to deduct as dues (See Question 6.)

Although Section 501(c)(4) organizations may lobby under the tax laws, Section 18 of the Lobbying Disclosure Act of 1995 (P.L. 104-65) prohibits them from receiving federal grants, loans, or other awards if they engage in lobbying activities.¹⁷ This prohibition applies even if the lobbying is conducted with the organization's own funds. The Lobbying Disclosure Act also imposes registration and disclosure requirements on organizations with paid lobbyists whose lobbying activities exceed time and monetary limits.

8. Can tax-exempt organizations participate in election activities?

Some tax-exempt organizations are prohibited from participating in political campaign activity.¹⁸ For example, Section 501(c)(3) organizations are prohibited from participating in "any political campaign on behalf of (or in opposition to) any candidate for public office."¹⁹ This means Section 501(c)(3) organizations can lose their tax-exempt status for engaging in activity that is

¹³ See *Seasongood v. Comm'r*, 227 F.2d 907 (6th Cir. 1955) (where the court found that an organization whose lobbying was about 5% of its activities was not engaged in a substantial amount of lobbying); *League of Women Voters v. United States*, 180 F. Supp. 379 (Ct. Cl. 1960) (where the court looked at the amount of hours the organization spent on legislative activities); *Haswell v. United States*, 205 Ct. Cl. 421 (Ct. Cl. 1975) (where the court found the fact that between 19% and 20.5% of the organization's expenditures were for lobbying was evidence that the organization violated the "no substantial part" rule).

¹⁴ See *Christian Echoes Nat'l Ministry, Inc. v. United States*, 470 F.2d 849 (10th Cir. 1972); *Kuper v. Commissioner*, 332 F.2d 562 (3rd Cir. 1964); *Dulles v. Johnson*, 273 F.2d 362 (2nd Cir. 1959); *Krohn v. United States*, 246 F. Supp. 341 (D. Colo. 1965).

¹⁵ IRC §501(h).

¹⁶ See footnote 12 for exceptions.

¹⁷ For more information, see CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by (name redacted).

¹⁸ For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by (name redacted).

¹⁹ IRC §501(c)(3). Other entities not allowed to engage in campaign activity are those described in Sections 501(c)(2), (c)(17), (c)(18), (c)(21), (c)(22), (c)(24), (c)(25), and (c)(29). Most of these are trusts that must use their income exclusively for the purposes for which they are established.

specifically linked to election periods and supports or opposes particular candidates. Section 501(c)(3) organizations may, however, participate in activities that might be described as political in nature, so long as they are not campaign intervention. Permissible activities include—so long as no candidate is endorsed or opposed—conducting public forums, publishing candidate responses to a questionnaire on a variety of subjects, issue advertising, nonpartisan public opinion polling, and nonpartisan voter registration drives.²⁰ Although these non-campaign political activities are not prohibited, they may be subject to tax under IRC Sections 527, 4945, and 4955, or treated as lobbying activities. (See Question 7.)

The IRC generally allows most other types of Section 501(c) organizations²¹ to engage in campaign activity so long as it (and any other non-exempt purpose activities) is not the organization's primary activity. Thus, for example, Section 501(c)(4) social welfare organizations, Section 501(c)(5) labor unions, and Section 501(c)(6) trade associations may conduct a limited amount of campaign activity under the IRC. It is important to note that while the IRC may allow these organizations to participate in such activities, the organizations must still comply with applicable election laws.²² For example, organizations may be required to report certain election spending to the Federal Election Commission.²³

Even though some Section 501(c) organizations may engage in campaign activity, they are subject to tax under Section 527(f) if they make an expenditure for influencing the selection, nomination, election, or appointment of an individual to public office or certain related activities. The tax is imposed at the highest corporate rate on the lesser of the expenditures or the organization's net investment income. Thus, for organizations with little or no net investment income or those making low-cost expenditures, the tax is of minimal import. For others, however, it might serve as a disincentive to directly engage in the activities, in which case the group might choose to set up a separate segregated fund to conduct them.²⁴

Finally, one type of tax-exempt organization—Section 527 political organizations—is expected to primarily engage in electioneering and similar activities. Although considered tax-exempt organizations, Section 527 organizations are subject to special tax rules that exempt income used for political activities from tax and tax other types of income (e.g., investment income).²⁵

9. How do you set up a tax-exempt organization?

For many tax-exempt organizations, the first step is to incorporate the organization. Incorporation is not required for federal tax-exempt status, but organizations incorporate for a variety of reasons, including to receive limited personal liability for their members. Formation of the organization is achieved under state law and requirements vary by state. An organization will

²⁰ See also CRS Report R42684, *Political Ads: Issue Advocacy or Campaign Activity Under the Tax Code?*, by (name redacted).

²¹ See footnote 19 for exceptions.

²² See, e.g., CRS Report R40183, *501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws*, by (name redacted) and (name redacted).

²³ See *id.*

²⁴ IRC §527(f)(3).

²⁵ For more information, see CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by (name redacted).

likely need to register with the appropriate Secretary of State²⁶ to reserve that organization's name and to enable the group to solicit charitable contributions, do business, and own property in the state. If the organization incorporates, it will also usually have to file articles of incorporation that include the organization's purposes and the names of its incorporators.

Whether or not the organization incorporates, it may need to file for recognition of tax-exempt status from the IRS depending on its tax status. If the organization will be a Section 501(c)(3) organization, it is generally required to file an application for tax-exempt status with the IRS.²⁷ Some organizations that qualify for Section 501(c)(3) status, including organizations with gross receipts of normally not more than \$5,000 and churches, are excused from the filing requirement. Organizations seeking Section 501(c)(3) status file IRS Form 1023. Notably, in 2014, the IRS released a simplified application form (Form 1023-EZ) for Section 501(c)(3) groups that meet certain size and other requirements (e.g., the organization must expect that its annual gross receipts will not annually exceed \$50,000 for the current and next two years). An organization filing the Form 1023 or Form 1023-EZ must pay a fee, as described below. It must also obtain an employer identification number (IRS Form SS-4), even if it does not have any employees.

Other types of Section 501(c) organizations are generally not required to file an application for tax-exempt status, although they may choose to do so.²⁸ If they so choose, these groups would file an application using the IRS Form 1024.

Organizations filing for recognition of tax-exempt status must pay a filing fee with IRS Form 8718 (*User Fee for Exempt Organization Determination Letter Request*). For an organization filing for exemption under Section 501 that has had annual gross receipts averaging \$10,000 or less during the past four years, or for a new organization that anticipates gross receipts averaging \$10,000 or less during the next four years, the application fee is \$400. The application fee is \$850 for a Section 501(c) organization with more than an average of \$10,000 in gross receipts for the prior four years, as well as for a new Section 501(c) organization anticipating gross receipts in excess of an average of more than \$10,000 in gross receipts for the coming four years.

If the IRS does not act on the application of a Section 501(c)(3) organization within 270 days, the organization may seek a declaratory judgment in federal court regarding its status.²⁹ This provision does not apply to other types of Section 501(c) entities.

²⁶ The National Association of State Charity Officials website provides links to state offices that regulate charitable solicitations at <http://www.nasconet.org/>. The site includes the unified registration form for charities seeking to solicit in multiple states.

²⁷ All IRS forms and instructions mentioned in this report are available on the IRS website at <http://www.irs.gov>. Additionally, IRS Publication 557, *Tax-Exempt Status for Your Organization*, contains helpful information and is also available on the agency's website.

²⁸ Besides §501(c)(3) organizations, the only other types of §501(c) organizations that must file an application for tax-exempt status are §501(c)(9) voluntary employees' benefits trusts (VEBAs) and §501(c)(17) supplement unemployment compensation benefits trusts. See IRC §505(c).

²⁹ IRC §7428 (also providing similar relief for §521 cooperatives).

10. How does an organization lose its tax-exempt status?

In general, once an organization has tax-exempt status, it can continue as a tax-exempt organization unless there is a material change in its character, purposes, or methods of operation. The IRS may revoke an organization's exempt status because it violates the law (e.g., if a Section 501(c)(3) organization engages in prohibited campaign activity) or because of changes in the law or regulations or for other good cause. Furthermore, the IRS can suspend the tax-exempt status of an organization that is (1) designated a terrorist organization by executive order or under authority found in the Immigration and Nationality Act, the International Emergency Economic Powers Act, or the United Nations Participation Act or (2) designated by executive order as supporting terrorism or engaging in terrorist activity.³⁰ With the exception of organizations whose status is suspended due to terrorism issues, organizations may ask for court review of any IRS attempt to revoke their exempt status.

An individual who believes that an organization should lose its exempt status may file a complaint with the IRS using Form 13909 *Tax-Exempt Organization Complaint (Referral) Form*. The complaint may cause the IRS to review the propriety of the organization's exempt status, but the IRS cannot reveal whether it has followed up on a particular complaint because of confidentiality rules.³¹

It does not appear possible to bring a legal suit to challenge the IRS's granting of an exemption to an organization. Although prior to 1976, third parties had been successful in bringing suits to challenge IRS policies in administering the tax laws,³² the Supreme Court in 1976 severely limited this practice by requiring plaintiffs to show a direct personal injury that is likely to be redressed by a favorable decision in the case.³³ Subsequently in the 1989 case *United States Catholic Conference v. Baker*,³⁴ the Second Circuit Court of Appeals reviewed the standing of various parties to force the IRS to examine the tax-exempt status of the Catholic Church because of its political activities and concluded that it would be a very rare case when a third party would have standing to bring such a suit.

11. What tax records do organizations have to prepare?

Under Section 6033, most tax-exempt organizations are required to file an annual information return (Form 990 or Form 990-EZ) that discloses information related to income, expenses, assets,

³⁰ IRC §501(p).

³¹ IRC §6103.

³² See e.g., *Green v. Kennedy*, 309 F.Supp. 1127 (D.D.C. 1970) (where a class action was brought to force the IRS to stop granting exempt status to racially discriminatory private schools) and its subsequent history found at 398 U.S. 956 (1970), 330 F.Supp. 1150 (D.D.C. 1971), culminating in a summary affirmance, *Coit v. Green*, 404 U.S. 997 (1971)).

³³ *Simon v. Eastern Kentucky Welfare Rights Organization*, 426 U.S. 26 (1976).

³⁴ *United States Catholic Conference v. Baker*, 885 F.2d 1020 (2nd Cir. 1989).

and officers and employees.³⁵ The Form has several schedules that ask for information on such things as the organization's substantial donors (Schedule B); campaign and lobbying activities (Schedule C); and related organizations (Schedule R). The penalty for failure to file the return is \$20 per day for each day the failure continues, which is increased to \$100 per day if the organization has annual gross receipts exceeding \$1 million in any year.³⁶

Organizations with gross receipts that are normally less than \$50,000 must file the Form 990-N with the IRS (unless they choose to file the Form 990 or 990-EZ). The Form 990-N is also known as the e-Postcard. It asks for the organization's basic contact information and must be filed electronically. An organization that fails to file the Form 990-N for three consecutive years will have its tax-exempt status revoked.³⁷

Tax-exempt organizations are sometimes subject to tax, in which case they must file a tax return. For example, an organization that conducts business activities unrelated to its exempt purpose must file a Form 990-T. Any exempt organization with political organization taxable income will need to file a Form 1120-POL, and one that has been assessed a penalty tax must file Form 4720. Furthermore, exempt organizations must generally pay the same employment taxes as for-profit employers. Thus, if they have employees, exempt organizations usually must file the employment tax returns for income tax withholding and Social Security and Medicare taxes (Form 941), income reporting (W-2, W-3, Form 1099), and unemployment taxes (Form 940). Exempt organizations are subject to the same penalties as other taxpayers for failing to file a tax return or pay their taxes, including failing to make estimated tax payments and failing to properly handle and deposit employment taxes.³⁸

Finally, some organizations are subject to additional requirements. For example, under Section 527(j), political organizations must file periodic reports to the IRS that disclose contributions and expenditures (Form 8872) unless they are political committees for purposes of federal election law or otherwise qualify for an exception.³⁹

12. Are tax-exempt organizations required to disclose information to the public?

Under the IRC, the application for exempt status and the annual information return (Form 990) are open to public inspection.⁴⁰ In addition, Section 501(c)(3) organizations must disclose their unrelated business income tax returns (Form 990-T).

³⁵ Some organizations do not have to file any information return, such as churches and certain church-related organizations. IRC §6033(a)(3).

³⁶ IRC §6652(c)(1)(A). The maximum penalty is the lesser of \$10,000 or 5% of the organization's gross receipts. For organizations exceeding \$1 million in gross receipts, the maximum penalty is \$50,000.

³⁷ IRC §6033(j).

³⁸ For more information, see IRS Publication 15, *Circular E, Employer's Tax Guide*.

³⁹ For more information on §527 reporting requirements, see CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by (name redacted).

⁴⁰ IRC §6104(d). If an organization is denied exempt status, its application for exemption is not open to public inspection.

This requirement has two parts: the organization must allow the public to inspect the documents and must provide copies upon request. For inspection purposes, the information must be made available during normal business hours at the organization's principal office and any district office with more than three employees. With respect to providing copies, requests for copies of the documents may be made in writing or in person. The organization must furnish copies immediately if the request is made in person and within 30 days for written requests. The organization is permitted to charge a reasonable fee for reproduction and mailing costs. An organization is not required to provide individual copies if either (1) the organization makes these documents widely available on the internet⁴¹ or (2) the requests are part of a harassment campaign and compliance is not in the public interest.⁴²

Certain information does not have to be disclosed. Organizations are generally not required to disclose the names and addresses of any contributors. Furthermore, the IRS is permitted to create exceptions to public disclosure of information relating to trade secrets, patents, processes, styles of work, or apparatus, if public disclosure would adversely affect the organization or if the information would adversely affect the national defense.

If an organization refuses to provide a copy of its returns, the requestor may file Form 13909 *Tax-Exempt Organization Complaint (Referral) Form* with the IRS. If an organization fails to provide the return, the IRS may assess statutory penalties under IRC Section 6652.

Any return or application that must be disclosed to the public by the organization must also be made publicly available by the IRS.⁴³ The information may be obtained from the IRS by using Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization*. In addition, the IRS has some information submitted by Section 527 political organizations on its website.

The organizations listed under Question 13 also provide information on various tax-exempt organizations. In particular, GuideStar [www.guidestar.org] may have copies of the organization's recent Form 990s on its website.

13. Are there organizations that evaluate charities or report on their activities?

The following are examples of organizations that report on the activities of charities. The information comes from the organizations' websites.

⁴¹ IRC §6104(d)(4); *see also* 26 C.F.R. 301.6104(d)-2, which states that a tax-exempt organization can make its annual information return "widely available" by posting the document on an Internet page established and maintained by the organization or by having the document posted, as part of a database of similar documents of other tax-exempt organizations, on an Internet page established and maintained by another entity. This regulation also states what criteria must be met for a document to be considered widely available (e.g., the website must inform readers that the document is available and how it can be downloaded, the document must be an exact reproduction and be accessible without special hardware or software).

⁴² *See* 26 C.F.R. 301.610(d)-3 for discussion of what constitutes harassment.

⁴³ IRC §§6104(a), 6110.

CharityWatch

<http://www.charitywatch.org>

Charity Watch (formerly the American Institute of Philanthropy) is a nonprofit charity watchdog and information service that provides ratings, opinions, and other information on the financial and managerial practices of selected charities. Access to the reports is not free, but the website does list charities that have received the highest grades.

BBB Wise Giving Alliance

<http://www.give.org>

The BBB Wise Giving Alliance collects information and prepares reports on several hundred national charitable organizations. The Alliance does not recommend or rate charities, but serves to report information on the organization's background, staff and governance, financial status and fund raising practices. The report will also state whether the charity meets the Alliance's standards for charitable solicitations. These reports are available on the Alliance's website.

GuideStar

<http://www.guidestar.org>

The GuideStar website contains information on more than 1 million organizations. Notably, the site contains the annual returns (Form 990) for many organizations. Access to recent Form 990s and certain other information is free (although registration is required); more in-depth information is available for a membership fee.

14. What resources provide information on general issues involving tax-exempt organizations?

The following organizations provide further information on general topics related to tax-exempt organizations, including management, accountability, and fund-raising practices.

Independent Sector

<http://www.independentsector.org>

The Independent Sector is a coalition of charitable organizations and others interested in the nonprofit sector. A prime focus of the group is to help nonprofit organizations implement effective accountability and ethical standards, and the group's website includes various standards and models to address these issues. The group also provides information on public policy issues of interest to nonprofit organizations and conducts and publishes research on various aspects of charitable giving and volunteering in the United States.

Federal Trade Commission

<http://www.consumer.ftc.gov>

The Federal Trade Commission (FTC) website offers information to consumers, businesses, and nonprofit organizations about how to guard against charity fraud. The site provides numerous FTC articles highlighting common scam practices and offering advice on safe methods to donate, as well as ways to determine if a charitable organization is legitimate, such as a Charity Checklist, available at <http://www.consumer.ftc.gov/articles/0074-giving-charity>.

Society for Nonprofit Organizations

<http://www.snpo.org>

The Society for Nonprofit Organizations (SNPO) is an organization whose purpose is to provide a forum for the exchange of information on nonprofit organizations, offering services to directors, board members, volunteers, and anyone interested in nonprofit organizations operations. It offers professional support services and referral services to members and maintains an information center of books, periodicals, and tapes.

Appendix.

A list of the type of entities found in IRC Chapter 1, Subchapter F (“Exempt Organizations”) is provided in **Table A-1**.

Table A-1. Exempt Organizations (IRC Chapter 1, Subchapter F)

Type	Examples
501(c)(1)	Corporations organized by Act of Congress; including Federal Credit Unions, Resolution Trust Corporation and Resolution Funding Corporation
501(c)(2)	Title-holding corporations
501(c)(3)	Religious, educational, charitable, scientific, literary, testing for public safety, fostering national or international amateur sports competition, prevention of cruelty to children or animals
501(c)(4)	Civic leagues, social welfare organizations, local associations of employees dedicated to charitable, educational, or recreational purposes
501(c)(5)	Labor unions, agricultural and horticultural organizations
501(c)(6)	Trade associations, chambers of commerce, professional football leagues
501(c)(7)	Social and recreational clubs
501(c)(8)	Fraternal benefit societies and associations
501(c)(9)	VEBAs (Voluntary employees’ beneficiary associations providing the payment of certain employee benefits)
501(c)(10)	Domestic fraternal societies whose net earnings are devoted to religious, charitable, scientific, literary, educational, and fraternal purposes, which do not provide benefits to members
501(c)(11)	Teachers’ retirement fund associations
501(c)(12)	Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone, electric, or water companies
501(c)(13)	Cemetery companies
501(c)(14)	Credit unions
501(c)(15)	Small mutual insurance companies
501(c)(16)	Cooperatives to finance crop operations
501(c)(17)	Supplemental unemployment benefit trusts
501(c)(18)	Pre-June 25, 1959 employee funded pension trust
501(c)(19)	Veterans’ groups
501(c)(20)	Deleted (was formerly group legal service organizations)
501(c)(21)	Black lung benefit trusts
501(c)(22)	Multi-employer pension plan trusts
501(c)(23)	Veterans organization established before 1880
501(c)(24)	ERISA trusts for certain terminated plans
501(c)(25)	Multi-parent real property title-holding companies
501(c)(26)	State-sponsored organizations providing health coverage to high risk individuals
501(c)(27)	State-sponsored workers’ compensation reinsurance organization

Type	Examples
501(c)(28)	National Railroad Retirement Investment Trust
501(c)(29)	CO-OP health insurance issuers
501(d)	Religious and apostolic organizations with common or communal treasury
501(e)	Cooperative hospital service organizations
501(f)	Cooperative educational investment organizations
501(k)	Child care organizations
501(n)	Charitable risk pools
521	Farmers' cooperatives
526	Shipowners' protection and indemnity associations
527	Political organizations
528	Homeowners' associations
529	Qualified tuition programs
529A	Qualified ABLÉ programs
530	Coverdell education savings accounts

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