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Frequently Asked Questions About Tax-Exempt Organizations

Updated August 7, 2026

Congressional Research Service
https://crsreports.congress.gov
96-264

CRS REPORT
Prepared for Members and
Committees of Congress

SUMMARY

96-264

August 7, 2026

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Frequently Asked Questions About Tax-Exempt Organizations

This report answers frequently asked questions about tax-exempt organizations. The report focuses on the types of organizations described in Internal Revenue Code (I.R.C.) § 501(c), with the main emphasis on § 501(c)(3) charitable organizations and § 501(c)(4) social welfare 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," "charity," 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 Internal Revenue Service (IRS) and the public, and how an organization might lose its tax-exempt status.

This report summarizes information with respect to tax-exempt organizations. It should not be relied on for specific tax advice. Such advice may 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 (I.R.C.). Although the I.R.C. describes more than thirty types of organizations that qualify for exemption, the most common type and the type that people often mean when using the term "tax-exempt organization" is found in § 501(c)(3). That section describes entities:

> [O]rganized 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 (see **Table A-1**). The different types of organizations that qualify for tax exemption under the I.R.C. have different requirements to obtain and maintain tax exemption, although some requirements can overlap.[1] An organization may be able to qualify as multiple types of organizations, although it typically must identify which type of organization it is claiming tax exemption as.

2. What is a nonprofit organization?

The term "tax-exempt organization" is often used interchangeably with the term "nonprofit organization."[2] 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 I.R.C.) to be exempt from federal income taxes. (See Question 1.) The term "nonprofit organization" can be used to mean a corporation that is not intended to be a profit-making corporation and is typically organized and governed as such under state law.[3] The status and privileges of nonprofit organizations—including limited liability protection—are generally determined under state law. For example, some states have adopted, either in whole or as modified, the Model Nonprofit Corporation Act, a model legislation developed by the American Bar Association.[4] The requirements of nonprofit organizations can vary by state but usually take into account the fact that nonprofit organizations typically do not have shareholders or the same business motives as for-profit corporations. Nonprofit organizations are generally barred from distributing assets to

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[1] Some types of tax-exempt organizations have subtypes which are subject to particular requirements, regulations, and tax benefits in addition to those generally applicable to that type of organization. For example, "churches" and "hospitals" are subtypes of § 501(c)(3) organizations. For more information about churches, see CRS In Focus IF12520, *What Is a "Church" for Federal Tax Purposes?*, by Milan N. Ball (2025); CRS In Focus IF12509, *Church Tax Benefits*, by Milan N. Ball (2023). For more information about tax-exempt hospitals, see CRS In Focus IF13192, *Nonprofit Hospitals, Tax Benefits, and Charity Care*, by Jane G. Gravelle (2026); CRS Report R48027, *Legal Requirements for Section 501(c)(3) Hospitals*, by Edward C. Liu (2024).

[2] *See, e.g.*, 42 C.F.R. § 486.303(b) (2026) (interpreting the statutory requirement in 42 U.S.C. § 273(b)(1) that an organization be "a nonprofit entity" as requiring it be tax-exempt under I.R.C. § 501).

[3] *See, e.g.*, Nonprofit Corporation Act of 2010, 58 D.C. Reg. 1720 (July 2, 2011) (codified at D.C. Code §§ 29-401.01 to 401.05 (2025)).

[4] William L. Boyd III, *The New Model Nonprofit Corporation Act*, BUSINESS LAW TODAY (Oct. 16, 2023), https://www.americanbar.org/groups/business_law/resources/business-law-today/2023-october/the-new-model-nonprofit-corporation-act.

those who control the organization; rather, the organization's assets must be used to further the nonprofit's purpose.[5]

A nonprofit organization is not necessarily 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 I.R.C. and, in some cases, file an application with the Internal Revenue Service (IRS). Some statutory requirements for tax exemption under the I.R.C. parallel certain requirements of nonprofit organizations found in state law. For example, § 501(c)(3) requires that "no part of the net earnings [of the organization] . . . inures to the benefit of any private shareholder or individual," and the organization must be "organized and operated exclusively" for an enumerated exempt purpose.[6]

3. What is a charity?

The term "charitable organization" is also often used interchangeably with "tax-exempt" and "nonprofit" organizations. This can be misleading depending on the context. Charity is generally a common law concept.[7] The IRS has explained that charity can include the following:[8]

- Relief of the poor and distressed or of the underprivileged
- Advancement of religion
- Advancement of education or science
- Erection or maintenance of public buildings, monuments, or works
- Lessening the burdens of government
- Promotion of social welfare by organizations designed to accomplish any of the above purposes, or to lessen neighborhood tensions, eliminate prejudice and discrimination, defend human and civil rights secured by law, or combat community deterioration and juvenile delinquency

While a "charitable" purpose is one of several exempt purposes under § 501(c)(3), all § 501(c)(3) organizations must operate as a common law charity.[9] Thus, § 501(c)(3) organizations must meet both the statutory requirements for tax exemption under the I.R.C. and the common law standard of charity. The common law standard of charity forbids § 501(c)(3) organizations from having an illegal purpose or a purpose contrary to established public policy.[10]

[5] *See, e.g.*, D.C. Code § 29–410.03 ("Restrictions on dispositions of assets").

[6] These requirements are referred to as the prohibitions on "private inurement" and "private benefit." For more information on these prohibitions, see CRS Report R48873, *The Prohibitions on Private Inurement & Benefit by Tax-Exempt Organizations and Intermediate Sanctions*, by Justin C. Chung (2026).

[7] Bob Jones Univ. v. United States, 461 U.S. 574, 585 (1983).

[8] Treas. Reg. § 1.501(c)(3)-1(d)(2).

[9] *Bob Jones Univ.*, 461 U.S. at 586.

[10] *Id*. at 586, 591. For more information on the illegality and public policy doctrines, see CRS In Focus IF12739, *The Illegality Doctrine and 501(c)(3) Organizations*, by Milan N. Ball (2024); CRS In Focus IF12788, *The Public Policy Doctrine and 501(c)(3) Organizations*, by Milan N. Ball (2024).

4. What are the differences between § 501(c)(3) and § 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 § 501(c) it qualifies. In general, this is not difficult to determine because most paragraphs describe discrete categories—for example, § 501(c)(8) describes fraternal societies and § 501(c)(14) describes credit unions. However, §§ 501(c)(3) and 501(c)(4) describe organizations with some overlapping characteristics in that both types can operate for charitable purposes.[11] Section 501(c)(3) organizations are sometimes referred to as "charitable organizations." Section 501(c)(4) organizations are sometimes referred to as "social welfare organizations."

Despite these similarities, § 501(c)(3) and § 501(c)(4) organizations differ in two significant ways. First, § 501(c)(3) organizations are eligible to receive tax-deductible charitable contributions, while § 501(c)(4) organizations generally are not.[12] 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 § 170. (See Question 7.) 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.[13] The second difference is that § 501(c)(3) organizations are substantially limited in their ability to lobby and are prohibited from engaging in campaign activity; § 501(c)(4) organizations are not so limited. (See Questions 8 and 9.)

These two differences are important when an organization is choosing whether to be a § 501(c)(3) or § 501(c)(4) organization. If the group's agenda depends on influencing public opinion or the legislative process, it may be appropriate to seek tax exemption as a § 501(c)(4) organization.

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[11] I.R.C. § 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.

I.R.C. § 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 § 501(c)(4) may also meet the criteria to qualify under § 501(c)(3). *See* 26 C.F.R. § 1.501(c)(4)-1(a)(2)(i) (2026).

[12] I.R.C. § 170.

[13] For a policy discussion of the charitable contribution deduction, see CRS Report R48789, *Tax Issues Relating to Charitable Contributions and Organizations*, by Jane G. Gravelle, Donald J. Marples, and Brendan McDermott (2026).

Otherwise, it will usually make more sense to be a § 501(c)(3) organization to have the advantage of tax-deductible contributions.

5. Can an organization be related to another organization?

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

Another common example is for a § 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 § 501(c) organization may be linked with another type of tax-exempt organization, such as a § 527 political organization. The sharing of managers and resources between related organizations can jeopardize tax-exemption if it violates restrictions on exemption, for example, if a § 501(c)(4) organization uses a § 501(c)(3) organization's resources to conduct political campaign activity that the latter is prohibited from doing. (See Question 9.)

The I.R.C. and Treasury Regulations recognize and regulate various relationships between tax-exempt organizations. For example, "supporting organizations" are § 501(c)(3) organizations that qualify for public charity status by reason of close ties to another public charity, the "supported organization."[14] (See Question 6.) Parts of the I.R.C. provide for aggregation of activities of related organizations, including supporting and supported organizations.[15] Tax-exempt organizations must disclose related organizations on the IRS Form 990, Schedule R.[16]

6. What is a private foundation?

A § 501(c)(3) organization is either a public charity or a private foundation, distinguished primarily by the level of public involvement in its donations and activities. Public charities have broad public support and tend to provide charitable services directly to the intended beneficiaries.[17] 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 carrying out charitable activities.[18] 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.[19] Private foundations also have more substantial reporting and public disclosure requirements than public

[14] I.R.C. § 509(a)(3)(B).

[15] *See, e.g.*, I.R.C. § 4960(c)(4).

[16] IRS, FORM 990 SCHEDULE R, RELATED ORGANIZATIONS AND UNRELATED PARTNERSHIPS (2024), https://www.irs.gov/pub/irs-pdf/f990sr.pdf [https://perma.cc/LB5K-Q6M5].

[17] I.R.C. § 509; Treas. Reg. § 1.509(a)-3 (as amended in 2020).

[18] I.R.C. § 509; Treas. Reg. § 1.509(a)-3.

[19] I.R.C. §§ 4940–4946.

charities. (See Questions 13 and 14.) Private foundations annually file the IRS Form 990-PF rather than the other versions of the Form 990.[20] Section 501(c)(3) organizations are presumed to be private foundations and, if they want to be treated as a public charity, must generally tell the IRS how they qualify for public charity status based on the support and control tests defined in I.R.C. § 509 and found in Schedule A of the IRS Form 990.[21]

7. When are donations tax-deductible as charitable contributions?

Under I.R.C. § 170, contributions made for charitable purposes are tax-deductible when made to qualifying § 501(c)(3) organizations, governmental units, veterans' organizations, fraternal organizations, and cemetery companies.[22] The IRS determines whether a § 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 "Tax Exempt Organization Search Tool" on the IRS website.[23]

Charitable contributions that otherwise meet the requirements of § 170 are not deductible if the organization provides goods or services in exchange for the contribution (a "quid pro quo contribution"). However, if the contribution exceeds the fair market value of the goods or services provided, then the excess may be deductible.[24] 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.[25]

Even if a contribution is deductible, individual taxpayers may not be able to deduct the entire contribution. Section 170 may restrict the amount of the deduction depending on the size and nature of the contribution.[26] In addition, taxpayers must comply with certain substantiation and record keeping requirements, including (1) for any contribution that exceeds $250 in value, a written acknowledgment obtained from the organization;[27] (2) for any monetary donation, a bank record or written communication from the organization showing its name and the date and amount of the contribution;[28] (3) for noncash contributions over $500, additional information

[20] IRS, FORM 990-PF: RETURN OF PRIVATE FOUNDATION (2025) https://www.irs.gov/pub/irs-pdf/f990pf.pdf [https://perma.cc/SX6X-YEYA] (last visited May 22, 2026).

[21] I.R.C. § 509; Treas. Reg. § 1.509(a)-3); IRS, FORM 990 SCHEDULE A: PUBLIC CHARITY STATUS AND PUBLIC SUPPORT (2025), https://www.irs.gov/pub/irs-pdf/f990sa.pdf [https://perma.cc/2FK3-84CU] (last visited May 22, 2026).

[22] A donor may also be able to take a charitable deduction for contributions to a "donor advised fund." Such contributions are made to a fund, not a specific organization, and the fund sponsor makes grants to active charities as advised by the donor. For more information on donor advised funds, see CRS Report R42595, *An Analysis of Charitable Giving and Donor Advised Funds*, by Molly F. Sherlock and Jane G. Gravelle (2012).

[23] *Tax-Exempt Organization Search Tool*, IRS, https://www.irs.gov/charities-non-profits/search-for-tax-exempt-organizations [https://perma.cc/X4W2-QCST] (last visited May 21, 2026).

[24] UNITED STATES V. AM. BAR ENDOWMENT, 477 U.S. 105, 116–118 (1986).

[25] I.R.C. § 6115.

[26] I.R.C. § 170(b).

[27] I.R.C. § 170(f)(8).

[28] I.R.C. § 170(f)(17).

must be reported on Form 8283;[29] and (4) for noncash contributions over $5,000, a qualified appraisal is generally required.[30]

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.[31] 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.[32] The fines can be higher and the cap is eliminated for organizations that intentionally disregard the notification requirement.[33]

8. Can tax-exempt organizations lobby?

Under the I.R.C., some types of tax-exempt organizations are restricted in the amount of lobbying (i.e., attempting to influence legislation) they may engage in and the rest have no restrictions on their engagement in lobbying activities.[34]

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.[35] The § 501(c)(3) does not define "no substantial part." In interpreting the term, courts have examined the lobbying in the broad context of the organization's purpose and activities by looking at such things as how important lobbying is to the organization's purpose, the amount of time devoted to lobbying compared to other activities, and the extent to which the organization is continuously involved in lobbying.[36] Because the "no substantial part" standard is indefinite, § 501(c)(3) organizations, with the exception of churches and private foundations, may elect to have their lobbying activities measured by a numerical limit found in I.R.C. § 4911.[37] Most organizations do not make this election. A § 501(c)(3) organization that conducts substantial lobbying may lose its exempt status and face possible excise taxes under §§ 527(f),[38] 4911, and 4912. Notably, private foundations (discussed in Question 6) are taxed under I.R.C. § 4945 on

[29] I.R.C. § 170(f)(11)(B); Treas. Reg. § 1.170A-16(c)(2) (as amended in 2024); IRS, FORM 8283: *NONCASH CHARITABLE CONTRIBUTIONS* (2025), https://www.irs.gov/pub/irs-pdf/f8283.pdf [https://perma.cc/ZKC6-VQWV] (last visited May 22, 2026)

[30] I.R.C. § 170(f)(11)(C); Treas. Reg. § 1.170A-16(d)(1).

[31] I.R.C. § 6113.

[32] I.R.C. § 6710.

[33] I.R.C. § 6710(c).

[34] For more information, see CRS Report RL33377, *Tax-Exempt Organizations Under Internal Revenue Code Section 501(c): Political Activity Restrictions*, by Justin C. Chung (2025).

[35] I.R.C. § 501(c)(3).

[36] *See* Christian Echoes Nat'l Ministry, Inc. v. United States, 470 F.2d 849, 855 (10th Cir. 1972); Fund for Study of Econ. Growth & Tax Reform v. IRS, 997 F. Supp. 15, 18 (D.D.C.), *aff'd*, 161 F.3d 755 (D.C. Cir. 1998); Haswell v, United States, 500 F.2d 1133, 1142 (Ct. Cl. 1974); Krohn v. United States, 246 F. Supp. 341, 347–48 (D. Colo. 1965); *see also* I.R.S. Gen. Couns. Mem. 36,148 (Jan. 28, 1975). Courts have found "no substantial part" when lobbying expenditures have been between 5% and 20% of the organization's expenditures. *See, e.g.*, Seasongood v. Comm'r, 227 F.2d 907, 912 (6th Cir. 1955); *Haswell*, 500 F.2d at 1146–47.

[37] I.R.C. § 501(h).

[38] For more information on the operation of the § 527(f) tax, see Question 9.

I.R.C. § 527(f) imposes a tax on "exempt functions," which includes attempting to influence "selection, nomination, . . . or appointment" of an individual to public office. I.R.C. § 527(e)(2). IRS considers lobbying to include attempting to influence Senate confirmation of judicial and executive branch nominations. *See* I.R.S. Notice 88-76, 1988-2 C.B. 392; I.R.S. Gen. Couns. Mem. 39694 (Jan. 22, 1988). "Exempt functions" also includes political campaign activity (see Question 9).

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 explicit limits in the I.R.C. related to the amount of lobbying that can be done. These include § 501(c)(4) social welfare organizations, § 501(c)(5) labor unions, and § 501(c)(6) trade associations. Such organizations can engage in an unlimited amount of lobbying, provided the activity is related to their tax-exempt purpose.[39]

Although § 501(c)(4) organizations may lobby under the tax laws, § 18 of the Lobbying Disclosure Act of 1995 prohibits them from receiving federal grants, loans, or other awards if they engage in lobbying activities.[40] 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.

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

Some tax-exempt organizations are prohibited from participating in political campaign activity.[41] For example, § 501(c)(3) organizations are prohibited from participating in "any political campaign on behalf of (or in opposition to) any candidate for public office."[42] This means § 501(c)(3) organizations can lose their tax-exempt status for engaging in activity that is specifically linked to election periods and supports or opposes particular candidates. Whether an activity constitutes prohibited campaign intervention depends on the facts and circumstances of each case.[43]

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. Although these non-campaign-related, political

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[39] Treas. Reg. § 1.501(c)(4)-1(a)(2)(ii) (as amended in 1990) ("A social welfare organization . . . may qualify under section 501(c)(4) even though it is an *action* [i.e., lobbying] organization . . . if it otherwise qualifies under this section."); Rev. Rul. 2004-6, 2004-1 C.B. 328 (2003) ("Organizations that are exempt from federal income tax under § 501(a) as organizations described in §§ 501(c)(4), 501(c)(5), or 501(c)(6) may, consistent with their exempt purpose, publicly advocate positions on public policy issues. This advocacy may include lobbying for legislation consistent with these positions.").

[40] Pub. L No. 104-65, 109 Stat. 691 (codified as amended at 2 U.S.C. § 1611). For more information about Lobbying Disclosure Act of 1995, see CRS Report R44292, *The Lobbying Disclosure Act at 20: Analysis and Issues for Congress*, by Jacob R. Straus (2015).

[41] For more information, see CRS Report RL33377, *Tax-Exempt Organizations Under Internal Revenue Code Section 501(c): Political Activity Restrictions*, by Justin C. Chung (2025).

[42] I.R.C. § 501(c)(3). This prohibition is sometimes called the "Johnson Amendment" because Senator Lyndon Johnson added the provision as a floor amendment. *See* 100 CONG. REC. 9604 (1954).

Other entities not allowed to engage in campaign activity are those described in § 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.

[43] *See* Rev. Rul. 2007-41, 2007-25 I.R.B. 1421.

activities are not prohibited, they may be subject to tax under I.R.C. §§ 527(f), 4945, and 4955 or treated as lobbying activities. (See Question 8.)

Other types of § 501(c) organizations can 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, § 501(c)(4) social welfare organizations, § 501(c)(5) labor unions, and § 501(c)(6) trade associations may conduct a limited amount of campaign activity under the I.R.C.[44] It is important to note that, while the I.R.C. may allow these organizations to participate in such activities, the organizations must still comply with applicable election laws.[45] For example, organizations may be required to report certain election spending to the Federal Election Commission.[46]

Even though some § 501(c) organizations may engage in campaign activity, they can be subject to tax under § 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 under § 527(f) can be lawfully avoided if the campaign expenditures are made from a separate, segregated fund to receive contributions and make expenditures in a political campaign.[47] The tax is imposed at the highest corporate rate (currently 21%) 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.[48]

Finally, one type of tax-exempt organization—§ 527 political organizations—is expected to primarily engage in electioneering and similar activities. Although considered tax-exempt organizations, § 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).

10. What authority does Congress have to regulate tax-exempt organizations?

The U.S. Constitution empowers Congress "[t]o lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States . . . ."[49] This clause provides Congress broad discretion to tax.[50] Congress's taxing power includes the power to exempt certain categories of entities or activities from taxation and to set restrictions on such exemption.[51]

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[44] *See, e.g.*, Treas. Reg. § 1.501(c)(4)-1(a)(2) (as amended in 1990) ("An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. . . The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office.").

[45] *See, e.g.*, CRS Report R40183, *501(c)(4)s and Campaign Activity: Analysis Under Tax and Campaign Finance Laws*, by L. Paige Whitaker (2013).

[46] *See id.*

[47] I.R.C. § 527(f)(3); Treas. Reg. § 1.527-6(f) (1980).

[48] I.R.C. § 527(f)(3); Treas. Reg. § 1.527-6(f) (1980).

[49] U.S. CONST. art. I, § 8, cl. 1. For more information about Congress's taxing power, see CRS Report R46551, *The Federal Taxing Power: A Primer*, by Milan N. Ball.

[50] *See* Ball, *supra* note 49.

[51] Knowlton v. Moore, 178 U.S. 41, 83–110 (1900); Regan v. Taxation with Representation of Washington, 461 U.S. 540, 544 (1983).

Some restrictions that Congress has placed on tax-exempt organizations have been challenged in courts as a violation of the organization's right to freedom of speech under the First Amendment. Court considerations of the constitutionality of such restrictions can depend on the characterization of the restriction as either conditions of tax exemption or restrictions on free speech.

In 1983, the Supreme Court ruled in *Regan v. Taxation with Representation of Washington* that the I.R.C.'s restrictions on lobbying by § 501(c)(3) organizations (see Question 8) are constitutional and did not violate the organization's right to freedom of speech under the First Amendment.[52] The Court found that Congress had not prevented § 501(c)(3) organizations from speaking, but had chosen not to subsidize lobbying by means of the tax exemption and tax-deductible contributions.[53] The Court characterized tax exemption as a voluntary subsidy that Congress can condition much like a cash grant.[54]

Reporting requirements (see Question 13) for tax-exempt and nonprofit organizations have also been subject to First Amendment challenges. Certain requirements, such as heightened disclosure of donor information at the state level, have been found to implicate First Amendment protections.[55] In 2021, the Supreme Court in *Americans for Prosperity Foundation v. Bonta* struck down a California regulation that required organizations to disclose their substantial donors in order to register as an organization to operate and solicit funds in the state, because the disclosure did not meet "exacting scrutiny" requiring the regulation be "narrowly tailored to the government's asserted interest."[56] Although the Court did not decide on the constitutionality of donor disclosure requirements under the I.R.C., both the Court's decision and an amicus brief filed by the United States briefly distinguish California's requirement for registration from the I.R.C.'s reporting requirements for federal tax exemption.[57] Both the decision and the brief cite to *Regan* as support for Congress's power to set conditions of federal tax-exempt status.

In a pending case, the U.S. Court of Appeals for the Sixth Circuit is considering the constitutionality of the donor reporting requirements for § 501(c)(3) organizations.[58] In that case, the U.S. District Court, citing *Bonta*, applied "exacting scrutiny" to deny cross motions for summary judgment.[59] On interlocutory appeal, the government argued for application of the rational basis standard of review applicable to conditions on government subsidies rather than a higher standard for restrictions on First Amendment activities.[60] The interlocutory appeal is pending as of the writing of this report.

[52] 461 U.S. 540 (1983).

[53] *See id.* at 544.

[54] *See id.*

[55] *See, e.g.*, Ams. for Prosperity Found. v. Bonta, 594 U.S. 595 (2021); Citizens United v. Schneiderman, 882 F.3d 374 (2d Cir. 2018).

[56] *Bonta*, 596 U.S. at 617–18. *See also* CRS Legal Sidebar LSB10621, *Supreme Court Invalidates California Donor Disclosure Rule on First Amendment Grounds*, by Victoria L. Killion (2021).

[57] *Bonta*, 596 U.S. at 617–18; Brief for the United States as Amicus Curiae Supporting Vacatur and Remand at 24, *Bonta*, 594 U.S. 595 (2021) (Nos. 19-251).

[58] Buckeye Inst. v. IRS, No. 25-3170 (6th Cir. argued Apr. 29, 2026).

[59] Buckeye Inst. v. IRS, No. 22-cv-4297, 2023 WL 7412043, at *4 (S.D. Ohio Nov. 9, 2023), *amended*, No. 22-cv-4297, 2024 WL 770872 (S.D. Ohio Feb. 26, 2024)

[60] Opening Brief for the Appellant, *Buckeye*, No. 25-3170 (6th Cir. June 20, 2025).

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

For many tax-exempt organizations, the first step is to incorporate the organization. Formation of the organization is typically achieved under state law and requirements vary by state.[61] An organization will likely need to register with the appropriate Secretary of State to reserve that organization's name and to enable the group to solicit charitable contributions, do business, and own property in the state.[62] To incorporate, the organization will also usually have to file articles of incorporation that include the organization's purposes and the names of its incorporators.[63]

To obtain tax-exempt status, the organization may need to file for recognition of tax-exempt status from the IRS depending on its tax status. If the organization will be a § 501(c)(3) organization, it is generally required to file an application for tax-exempt status with the IRS.[64] Some organizations that qualify for § 501(c)(3) status, including public charities with gross receipts of normally not more than $5,000 and churches, are excused from the filing requirement.[65] Organizations seeking § 501(c)(3) status file IRS Form 1023.[66] Notably, in 2014, the IRS released a simplified application form (Form 1023-EZ) for § 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 (called a "user fee"). It must also obtain an employer identification number (IRS Form SS-4), even if it does not have any employees.

Section 501(c)(4) organizations are generally not required to file an application for tax-exempt status, although they may choose to do so using the IRS Form 1024-A. Section 501(c)(4) organizations are required to notify the IRS of their intent to operate as such an organization within 60 days of formation.[67] Organizations do so with the IRS Form 8976.

If the IRS does not act on the application within 270 days, the organization may seek a declaratory judgment in federal court regarding its status.[68]

[61] Some organizations are federally chartered by acts of Congress. *See, e.g.*, 47 U.S.C. § 396 (establishing the Corporation for Public Broadcasting).

[62] *See, e.g.*, D.C. CODE § 44–1704 (2026). The National Association of State Charity Officials (NASCO) provides links to state offices that regulate charitable solicitations, see *Resources*, NASCO, https://www.nasconet.org/resources [https://perma.cc/54B2-YKCH] (last visited May 22, 2026). The site includes the unified registration form for charities seeking to solicit in multiple states.

[63] *See, e.g.*, D.C. CODE § 29–402.02 (2026); D.C. CODE § 29–102.01 (2026).

[64] All IRS forms and instructions mentioned in this report are available on the IRS website at https://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.

[65] I.R.C. § 508(c)(1); Treas. Reg. § 1.508-1(a)(3) (amended in 2017).

[66] Generally, if the organization files the Form 1023 within twenty-seven months of formation, it will be considered exempt from the date of formation. If the organization files the Form 1023 after twenty-seven months from the date of formation, the effective date of exempt status will generally be the date it filed the Form 1023. Rev. Proc. 2021-5, 2021-1 IRB 250; IRS, INSTRUCTIONS FOR FORM 1023 (2024), https://www.irs.gov/pub/irs-pdf/p4220.pdf [https://perma.cc/DN8T-SGAG]; IRS, PUB. NO. 4220, COMPLIANCE GUIDE FOR 501(C)(3) PUBLIC CHARITIES 4 (2018), https://www.irs.gov/pub/irs-pdf/p4220.pdf [https://perma.cc/Q74X-35MM].

[67] I.R.C. § 506.

[68] I.R.C. § 7428.

12. 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.[69] The IRS may revoke an organization's exempt status because it engages in activities prohibited by the I.R.C. (e.g., if a § 501(c)(3) organization engages in prohibited campaign activity) or because of changes in the law or regulations. The IRS may also revoke an organization's exempt status because the organization violates the law or fundamental public policy.[70] 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.[71] 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.[72]

Revocation of tax-exempt status has two primary consequences. First, the organization becomes a taxable entity and is subject to federal income tax. Second, if the organization had been eligible to receive tax-deductible charitable contributions, loss of tax-exempt status also means loss of eligibility to receive such contributions.

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).* 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.[73]

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,[74] 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.[75] Subsequently in the 1989 case *United States Catholic Conference v. Baker*,[76] 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.

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[69] IRS, PUBLICATION 5551: MAINTAINING SECTION 501(C)(3) TAX-EXEMPT STATUS OVERVIEW (2021) https://www.irs.gov/pub/irs-pdf/p5551.pdf [https://perma.cc/A8HF-J5CS].

[70] For more information, see Ball, *supra* note footnote 10.

[71] I.R.C. § 501(p).

[72] I.R.C. § 7428.

[73] *See generally* I.R.C. § 6103.

[74] *See e.g.*, Green v. Kennedy, 309 F. Supp. 1127 (D.D.C. 1970) (per curiam) (where a class action was brought to force the IRS to stop granting exempt status to racially discriminatory private schools), *appeal dismissed sub nom.,* Cannon v. Green, 398 U.S. 956 (1970) (mem), *and appeal dismissed sub nom.,* Coit v. Green, 400 U.S. 986 (1971) (mem.) (culminating in a summary affirmance).

[75] Simon v. E. Ky. Welfare Rights Org., 426 U.S. 26 (1976).

[76] *In re* U.S. Cath. Conf. v. Baker, 885 F.2d 1020 (2d Cir. 1989).

13. What tax records do organizations have to prepare?

Under I.R.C. § 6033, most tax-exempt organizations are required to file an annual information return (the Form 990 or its variants) that discloses information related to income, expenses, assets, and officers and employees.[77] 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.[78] An organization that fails to file a required annual information return for three consecutive years will automatically have its tax-exempt status revoked.[79]

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.[80] Any exempt organization with political organization taxable income will need to file a Form 1120-POL, and one that has been assessed certain excise taxes 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.[81]

Finally, some organizations are subject to additional requirements. For example, under § 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.[82]

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[77] Some organizations do not have to file any information return, such as churches and certain church-related organizations. I.R.C. § 6033(a)(3).

[78] I.R.C. § 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.

[79] I.R.C. § 6033(j).

[80] The tax on unrelated business income is called the "Unrelated Business Income Tax" (UBIT) and is computed by applying the corporate income tax rate. I.R.C. §§ 511–513.

[81] For more information, see *Publication 15 (2026) (Circular E), Employer's Tax Guide,* IRS, https://www.irs.gov/publications/p15 [https://perma.cc/D243-NT3H] (last visited May 22, 2026).

[82] For more information on § 527 reporting requirements, see *Filing Requirements for Political Organizations*, IRS, https://www.irs.gov/charities-non-profits/political-organizations/filing-requirements-for-political-organizations [https://perma.cc/6DS6-SXUF] (last visited May 21, 2026).

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

Under the I.R.C., the application for exempt status and the annual information returns (Form 990) for the past three years are open to public inspection.[83] In addition, § 501(c)(3) organizations must disclose their unrelated-business-income tax returns (Form 990-T).

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 thirty 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 internet[84] or (2) the requests are part of a harassment campaign and compliance is not in the public interest.[85]

Certain information does not have to be disclosed. Organizations are generally not required to disclose the names and addresses of any contributors.[86] 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.[87]

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 I.R.C. § 6652.

Any return or application that must be disclosed to the public by the organization must also be made publicly available by the IRS.[88] The information may be obtained from the IRS by using Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization.* Returns and applications can also be obtained online through the IRS's Tax-Exempt Organization Search Tool.[89] In addition, the IRS has some information submitted by § 527 political organizations on its website. Nongovernmental websites such as GuideStar [www.guidestar.org] and ProPublica [projects.propublica.org/nonprofits] may also have copies of an organization's recent Forms 990 on their websites.

[83] I.R.C. § 6104(d). If an organization is denied exempt status, its application for exemption is not open to public inspection.

[84] I.R.C. § 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 (e.g., GuideStar or ProPublica). 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).

[85] *See* 26 C.F.R. § 301.610(d)-3 for discussion of what constitutes harassment.

[86] I.R.C. § 6104(b). Private foundations and § 527 political organizations must disclose substantial contributions. *Id.*

[87] I.R.C. § 6104(a)(1)(D).

[88] I.R.C. §§ 6104(a), 6110.

[89] *Tax-Exempt Organization Search Tool*, *supra* note footnote 23.

Appendix.

A list of the type of entities found in I.R.C. Chapter 1, Subchapter F ("Exempt Organizations") is provided in **Table A-1**.

Table A-1. Exempt Organizations (I.R.C. Chapter 1, Subchapter F)

Type	Examples
§ 501(c)(1)	Corporations organized by Act of Congress, including Federal Credit Unions
§ 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
§ 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(j)	Qualified amateur sports organization
§ 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 ABLE programs
§ 530	Coverdell education savings accounts
§ 530A	Trump accounts

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Acknowledgments

Marie B. Morris and Erika K. Lunder authored earlier versions of this report.

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