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STUDY OF PRESENT-LAW TAXPAYER CONFIDENTIALITY AND DISCLOSURE PROVISIONS AS REQUIRED BY SECTION 3802 OF THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

VOLUME II: STUDY OF DISCLOSURE PROVISIONS RELATING TO TAX-EXEMPT ORGANIZATIONS

Prepared by the Staff

of the

JOINT COMMITTEE ON TAXATION

January 28, 2000

U.S. Government Printing Office
Washington: 2000

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106th CONGRESS, 2nd SESSION

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INTRODUCTION

Section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998 (the "IRS Reform Act")[2] directs the Joint Committee on Taxation and the Department of the Treasury to undertake separate studies of the present-law disclosure provisions of the Internal Revenue Code, including provisions relating to tax-exempt organizations, and make any legislative and administrative recommendations they deem appropriate. The studies are due by January 22, 2000.

The staff of the Joint Committee on Taxation (the "Joint Committee staff") is publishing its study in three volumes. As set forth in more detail below, Volume I[3] contains the Joint Committee staff study relating to general disclosure provisions, Volume II[4] contains the Joint Committee staff study of disclosure rules relating to tax-exempt organizations, and Volume III,[5] contains reproductions of public comments received by the Joint Committee staff and reports prepared by the General Accounting Office (the "GAO") for the Joint Committee staff in connection with the study.

Volume I contains the following: (1) an executive summary and a discussion of the methodology employed by the Joint Committee staff in conducting the study (Part One); (2) a description of the present-law rules relating to general disclosure provisions, including a discussion of sections 6103 and 6110 of the Internal Revenue Code of 1986 (the "Code"), the Freedom of Information Act, and the Privacy Act (Part Two); (3) a discussion of the policies underlying confidentiality and disclosure of tax returns and return information (Part Three); (4)

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[2] Public Law 105-206, signed by the President on July 22, 1998 (H.R. 2676). For legislative history, see H.R. Rep. No. 105-599 (Conference Report), S. Rep. No. 105-174 (Senate Committee on Finance), and H.R. Rep. No. 105-364, Part 1 (House Committee on Ways and Means).

[3] Volume I may be cited as follows: Joint Committee on Taxation, *Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring And Reform Act of 1998, Volume I: Study of General Disclosure Provisions* (JCS-1-00), January 28, 2000.

[4] Volume II may be cited as follows: Joint Committee on Taxation, *Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring And Reform Act of 1998, Volume II: Study of Disclosure Provisions Relating to Tax-Exempt Organizations* (JCS-1-00), January 28, 2000.

[5] Volume III may be cited as follows: Joint Committee on Taxation, *Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring And Reform Act of 1998, Volume III: Public Comments and General Accounting Office Reports* (JCS-1-00), January 28, 2000.

data and background information regarding the use of tax returns and return information obtained under present-law rules (Part Four); and (5) Joint Committee staff recommendations relating to general disclosure provisions (Part Five). Volume I also contains the following appendices: (1) a description of the legislative history of section 6103 (Appendix A); (2) information provided by the taxpayer in an advanced pricing agreement request (Appendix B); (3) a list of Congressional resolutions authorizing disclosures to nontax writing committees (Appendix C); (4) a summary of public comments received by the Joint Committee staff relating to general disclosure provisions (Appendix D); and (5) a copy of the most recent annual disclosure report provided to the Joint Committee pursuant to section 6103(p)(3)(C) (Appendix E).

Volume II of the study (relating to tax-exempt organizations) contains the following: (1) an executive summary (Part I); (2) a discussion of the methodology employed by the Joint Committee staff in conducting the study (Part II); (3) a description of present law and background information relating to disclosure rules applicable to tax-exempt organizations (Part III); (4) an economic analysis of the benefits of tax-exempt status (Part IV); (5) analysis of issues relating to the disclosure of information regarding tax-exempt organizations (Part V); and (6) Joint Committee staff recommendations to increase disclosure of information relating to tax-exempt organizations (Part IV). Volume II also contains the following appendices: (1) a description of the legislative history for the disclosure provisions applicable to tax-exempt organizations under section 6104 of the Code (Appendix A); (2) copies of IRS Annual Returns for Tax Exempt Organizations (Appendix B); and (3) a summary of public comments received by the Joint Committee staff relating to disclosure provisions regarding tax-exempt organizations (Appendix C).

Volume III contains reproductions of the public comments received by the Joint Committee staff in connection with the study and reproductions of two GAO reports prepared for the study at the request of the Joint Committee staff.

I. EXECUTIVE SUMMARY

A. Introduction

This study was performed pursuant to section 3802 of the IRS Reform Act, which requires the Joint Committee on Taxation (the "Joint Committee") and the Department of the Treasury to conduct separate studies of the scope and use of provisions regarding taxpayer confidentiality and to report the findings of their studies, together with such recommendations as they deem appropriate, to the Congress not later than January 22, 2000. Under the IRS Reform Act, the studies are to examine specific issues relating to taxpayer confidentiality, including whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations described in section 501 of the Code.[6] To satisfy this legislative mandate, the Joint Committee staff undertook an extensive study and review of the laws relating to disclosure of tax returns and return information of tax-exempt organizations, including relevant sections of the Code and the Freedom of Information Act.

To assist in this study, the Joint Committee staff requested data and certain other information from the Internal Revenue Service (the "IRS"), including data regarding tax-exempt organizations. The Joint Committee staff met with and consulted with representatives of various IRS functions. The Joint Committee staff solicited comments from interested parties. The Joint Committee staff reviewed the written comments submitted in response to its requests for comments and met with various interested parties.

In general, the Joint Committee staff study encompasses all organizations exempt from tax under section 501. However, the Joint Committee staff study does not address disclosure rules relating to churches, because the issues relating to churches are unique. In addition, the Joint Committee staff study does not address disclosure rules relating to tax-exempt pension trusts described in section 401(a) and exempt from tax under section 501(a).

B. Overview of Present Law

In general

There are several statutory regimes relevant to determining whether Federal tax returns and return information of tax-exempt organizations may (or must) be disclosed and, if the information is subject to disclosure, the rules applicable to the disclosure. The primary statutory provisions applicable to disclosure of information relating to tax-exempt organizations are (1)

[6] References in this study to section or sec. refer to the Code, unless otherwise indicated.

sections 6103, 6104, and 6110 of the Code; and (2) the Freedom of Information Act.[7] The interrelationship of these provisions is not always clear, and has generated litigation.

The Code

The Code contains three basic provisions that control the disclosure of returns and return information: sections 6103, 6104, and 6110. Section 6103 embodies the policy that returns and return information are confidential, and provides that returns and return information may not be disclosed by the IRS, other Federal employees, State employees, and certain others receiving such information except as provided in section 6103. Section 6103 also contains a number of exceptions to this general rule of nondisclosure which authorize disclosure in particular circumstances. Section 6103 imposes recordkeeping and safeguard requirements to protect the confidentiality of returns and return information. Criminal and civil sanctions apply under the Code to the unauthorized disclosure or inspection of returns and return information.

In order to allow the public to scrutinize the activities of tax-exempt organizations, section 6104 grants an exception to the confidentiality rule of section 6103 for certain categories of tax-exempt organization documents and information. Section 6104 requires the release in unredacted form of approved applications for tax-exempt status, certain related documents, and annual information returns filed by tax-exempt organizations. As a general rule, to the extent section 6104 specifically provides for the disclosure of tax-exempt organization information, other disclosure provisions (section 6103, section 6110, or the Freedom of Information Act) do not apply. If tax-exempt organization information does not come within the scope of section 6104, other disclosure provisions will govern whether the information may be disclosed.

With certain exceptions, section 6110 makes the text of any written determination issued by the IRS (and related background file document) available for public inspection. A written determination is any ruling, determination letter, technical advice memorandum, or Chief Counsel advice. Before making written determinations and background file documents available for public inspection, section 6110 requires the IRS to delete specific categories of information. Section 6110 does not apply to any matter to which section 6104 applies. Treasury regulations have interpreted this restriction to apply to some written determinations and other documents relating to tax-exempt organizations that are not subject to disclosure under section 6104. Thus, some written determinations regarding tax-exempt organization issues are not disclosable under either section 6110 or 6104.

[7] The Privacy Act, which was enacted in 1974 to regulate the collection, use, dissemination, and maintenance of personal information about individuals by Federal agencies, does not apply to persons other than individuals. Therefore, the Privacy Act is inapplicable to tax-exempt organizations.

The Freedom of Information Act

The Freedom of Information Act (the "FOIA"), enacted in 1966, established a statutory right to access government information. While the purpose of section 6103 is to restrict access to returns and return information, the basic purpose of the FOIA is ensure that the public has access to government documents. In general, the FOIA provides that any person has a right of access to Federal agency records, except to the extent that such records (or portions thereof) are protected from disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. This right is enforceable in court.

Returns and return information that cannot be disclosed under section 6103 cannot be disclosed under the FOIA. However, persons seeking access to returns and return information have used the FOIA as an alternative method to attempt to compel disclosure of information arguably protected under section 6103. Cases involving returns and return information and the FOIA have primarily involved the disclosure of IRS guidance and the determination of what qualifies as "return information" under section 6103. FOIA litigation has resulted in the disclosure of IRS documents such as private letter rulings, general counsel memoranda, technical advice memoranda, and field service advice.

C. Policy Issues Relating to Disclosure of Information of Tax-Exempt Organizations

The statutory mandate for this study requires the Joint Committee to determine whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations. Making this determination involves the balancing of sometimes competing policy objectives. This balancing generally involves, on the one hand, the organization's right to privacy and concerns about misuses of information and, on the other hand, the legitimate public interest in information regarding tax-exempt organizations. Also involved is the question of the effect of disclosure on voluntary compliance with the tax laws. Other factors may also be relevant, such as whether disclosure would impose additional burdens on tax-exempt organizations and the effect of disclosure on donors and prospective donors. A similar balancing occurs with respect to determining whether to allow disclosure of returns and return information of taxable persons.

Like individual taxpayers, tax-exempt organizations may assert a right to privacy regarding their activities and interactions with the IRS. However, for some time, different disclosure rules have applied to tax-exempt organizations than to individuals and more recent changes in the law have led to increased levels of public disclosure of returns and return information of tax-exempt organizations. Public disclosure of information regarding tax-exempt organizations enables the public to provide oversight of such organizations and the activities in which they are involved. Disclosure of information regarding tax-exempt organizations also allows the public to determine whether the organizations should be supported--through continued tax benefits and contributions of donors--and whether changes in the laws regarding such organizations are needed.

The public has an interest in information about the tax-exempt sector as a whole, as well as in information regarding specific organizations. The public has an interest in knowing whether tax-exempt organizations are complying with the law, how such organizations are carrying out their exempt purposes, and whether the tax benefits provided to such organizations are accomplishing their purposes and should be continued, modified, or eliminated. Members of the public who wish to donate funds to tax-exempt organizations also need to know whether the deduction will be tax deductible.

D. General Principles Relating to Disclosure of Returns and Return Information of Tax-Exempt Organizations

The public has a legitimate interest in access to information of tax-exempt organizations. This public interest derives from the tax benefits accorded under Federal law to such organizations, as well as the nature and purposes of such organizations. The public has an interest in ensuring that tax-exempt organizations are complying with applicable laws and that the funds of such organizations (whether or not solicited from the general public) are being used for the exempt purposes of the organization.

The Joint Committee staff believes that increased disclosure of information regarding tax-exempt organizations will improve the efficiency of the operation of the tax-exempt sector by: (1) increasing public oversight of tax-exempt organizations; (2) increasing compliance with Federal tax and other applicable laws; (3) promoting the fair application and administration of the Federal tax laws; and (4) advancing the policies underlying the Federal tax rules regarding such organizations, including the encouragement of charitable giving. Thus, the Joint Committee staff believes that the general principle governing disclosure of information regarding tax-exempt organizations is that such information should be disclosed unless there are compelling reasons for nondisclosure that clearly outweigh the public interest in disclosure.

In determining whether particular information regarding tax-exempt organizations should not be disclosed, the public interest in disclosure should be balanced against the reasons for nondisclosure. There may be a variety of factors relevant to this determination. For example, in some cases, returns and return information regarding a tax-exempt organization may involve returns and return information of individuals, such as donors. In such a case, the privacy interests of the individual may outweigh the general public interest in the information. In other cases, disclosure of the information may be inconsistent with the objectives of disclosure. For example, in some circumstances, disclosure of information may be viewed as undermining voluntary compliance. In some cases, the administrative burdens on the organization may be unreasonable given the public benefit to be derived from disclosure. The Joint Committee staff believes that any proposed exceptions to the general principle of disclosure should be evaluated on a case-by-case basis to determine whether the exception is appropriate.

E. Joint Committee Staff Recommendations

Disclosure of IRS materials

- The Joint Committee staff recommends that all written determinations (and background file documents) involving tax-exempt organizations should be publicly disclosed. In general, the Joint Committee staff recommends that such disclosure should be made without redactions.

- The Joint Committee staff recommends that the IRS disclose the results of audits of tax-exempt organizations. In addition, the Joint Committee staff recommends that all closing agreements with tax-exempt organizations should be disclosed. In general, the Joint Committee staff recommends that such disclosures should be made without redaction.

- The Joint Committee staff recommends that applications for exempt status (and supporting documents) should be disclosed when the application is made. In addition, the Joint Committee staff recommends that any action taken on the application should be disclosed.

- The Joint Committee staff recommends that rules similar to the disclosure rules that apply to third party communications under section 6110 should be applied to third party communications relating to written determinations and exemption applications subject to disclosure under section 6104.

- The Joint Committee staff recommends that the taxpayer identification number of tax-exempt organizations should not be subject to disclosure.

Form 990 and related forms

- The Joint Committee staff recommends that the Form 990 and related forms: (1) should be accepted by the IRS for electronic filing for returns filed after 2002; and (2) should be revised to ensure that the forms provide relevant and comprehensible information to the public as well as the IRS.

- The Joint Committee staff recommends that the scope of section 6104 should be expanded to require the disclosure of all Forms 990-T and any returns filed by affiliated organizations of tax-exempt organizations.

- The Joint Committee staff recommends that the scope of section 6104 should be expanded to require the disclosure of the annual return filed by political organizations described in section 527, that section 527 organizations should be required to file an annual return even if they have no taxable income, and that the

annual return for such organizations should be revised to include more information concerning the activities of such organizations.

- The Joint Committee staff recommends that tax-exempt organizations should be required to provide both their legal name and the name under which they do business on the Form 990.

- The Joint Committee staff recommends that the IRS notify taxpayers in instructions and publications that Form 990 is publicly available.

- The Joint Committee staff recommends that the address of the site on the World Wide Web, if any, of a tax-exempt organization should be included on Form 990 and that the IRS be required to publish such addresses.

- The Joint Committee staff recommends that the Form 990 report more information concerning the transfer of funds among various tax-exempt organizations so that the public and the IRS can better assess whether contributions to tax-exempt organizations are being used to fund political activities.

- The Joint Committee staff recommends that tax-exempt entities (other than churches) that are below the filing threshold for the Form 990-EZ should be required to file annually a brief notification of their status with the IRS.

- The Joint Committee staff recommends that private foundations reporting capital gains and losses on Form 990-PF should be permitted to disclose a summary of those capital transactions. A full listing of capital transactions would be required to be filed with the IRS and to be provided to the public upon request.

- The Joint Committee staff recommends that the present-law tax penalty imposed on tax return preparers should be expanded to apply to any omission or misrepresentation on a Form 990 that either was known or reasonably should have been known to the preparer.

- The Joint Committee staff recommends that the present-law tax penalty imposed on tax return preparers should be expanded to apply to willful or reckless misrepresentation or disregard of rules and regulations with respect to Form 990.

Disclosure of returns and return information of tax-exempt organizations to nontax State officials or agencies

- The Joint Committee staff recommends that the IRS should be permitted to disclose to Attorneys General and other nontax State officials or agencies audit

and examination information concerning tax-exempt organizations with respect to whom the State officials have jurisdiction and have made a specific referral of such organization to the IRS prior to a final determination with respect to the denial or revocation of tax exemption. In addition, the Joint Committee staff recommends that the IRS should be permitted to share audit and examination information concerning tax-exempt organizations with nontax State officials and agencies with jurisdiction over the activities of such organizations and who regularly share information with the IRS when the IRS determines that such disclosure may facilitate the resolution of cases.

Lobbying expenditures

- The Joint Committee staff recommends that public charities (both electing and nonelecting charities) should be required to provide a general description of their lobbying activities on Schedule A to Form 990.

- The Joint Committee staff recommends that public charities should be required to disclose expenditures for self-defense lobbying.

- The Joint Committee staff recommends that public charities should be required to disclose expenditures for nonpartisan study, analysis, and research if such study, analysis, or research includes a limited "call to action."

II. STATUTORY MANDATE AND STUDY METHODOLOGY

A. Statutory Mandate for Study

Section 3802 of the IRS Reform Act requires the Joint Committee and the Department of the Treasury to conduct separate studies of the scope and use of provisions regarding taxpayer confidentiality and to report the findings of their separate studies, together with such recommendations as they deem appropriate, to the Congress not later than January 22, 2000.

Under the IRS Reform Act, the studies are to examine: (1) the present protections for taxpayer privacy; (2) any need for third parties to use tax return information; (3) whether greater levels of voluntary compliance may be achieved by allowing the public to know who is legally required to file tax returns, but does not file tax returns; (4) the interrelationship of the taxpayer confidentiality provisions in the Code with such provisions in other Federal law, including section 552a of Title 5 of the United States Code (commonly referred to as the "Freedom of Information Act"); (5) the impact on taxpayer privacy of the sharing of income tax return information for purposes of enforcement of State and local tax laws other than income tax laws, including the impact on taxpayer privacy intended to be protected at the Federal, State, and local levels under the Taxpayer Browsing Protection Act of 1997;[8] and (6) whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations described in section 501 of the Code.

The House and Senate versions of the IRS Reform Act had similar provisions relating to the study.[9] The legislative history to both the House bill and the Senate amendment provide that "a study of the confidentiality provisions will be useful in assisting the Committee in determining whether improvements can be made to these provisions."

Neither the House nor Senate bill contained the requirement that the studies address disclosure of information relating to tax-exempt organizations. This provision was added in conference. There is no legislative history specific to this provision.

The Report of the National Commission on Restructuring the IRS, which formed the basis for many provisions in the IRS Reform Act, contains the following statement regarding access to tax return information:

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[8] Pub. L. No. 105-36.

[9] The House bill required the Joint Committee to conduct a study relating to items (1)-(3) described in the text. H.R. Rep. No. 105-364 (1998). The Senate amendment also required the Treasury Department to conduct a study, and added items (4) and (5). The Senate amendment provided that the studies should examine whether return information should be disclosed to a State unless the State has first notified personally in advance each person with respect to whom information has been requested. This provision was not adopted in conference.

> The Commission heard concerns regarding the scope and use of the provisions regarding taxpayer confidentiality. In light of the complexity of the issue and the need to balance a host of conflicting interests, including taxpayer privacy, the need for third parties to use tax return information, and the ability to achieve greater levels of voluntary compliance by allowing the public to know who does not file tax returns, Congress should study these rules.[10]

B. Joint Committee Staff Methodology for Study

To satisfy its legislative mandate, the Joint Committee staff undertook an extensive study and review of the laws relating to disclosure of returns and return information, including Code sections 6103, 6104, 6110, and related sections, the Freedom of Information Act, and the Taxpayer Browsing Protection Act of 1997.

To assist in its study, the Joint Committee staff requested that the GAO review: (1) which Federal, State, and local agencies receive returns and return information from the IRS; (2) the type of information they receive; (3) how those agencies use returns and return information; (4) what policies and procedures the agencies are required to follow to safeguard returns and return information; (5) how frequently IRS monitors agencies' adherence to the safeguarding requirements; and (6) the results of the IRS most recent monitoring efforts.

The Joint Committee staff also requested that the GAO determine: (1) which State and local governments are operating programs to publicly disclose the names of taxpayers that do not file tax returns or are delinquent in paying the income taxes they owe; (2) the differences, if any, among these programs; and (3) the State and local revenue office officials' views on whether their disclosure programs are improving compliance.

The GAO reviewed IRS data, conducted surveys of Federal and selected State and local agencies receiving taxpayer data, and interviewed State and local revenue office officials. The GAO included the results of its review in two reports prepared for the Joint Committee staff and provided[11] the survey responses to the Joint Committee staff.

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[10] Report of the National Commission on Restructuring the Internal Revenue Service, *A Vision for a New IRS*, 49 (June 25, 1997). The Commission also recommended that media requests to the IRS under the FOIA be given priority for processing and appeals. The Commission recommended that this expedited process mirror the process established by the Department of Justice, which, according to the Commission, provides expedited processing for requests that promote public accountability, particularly when the information sought involves possible questions about the government's integrity which affect public confidence. *Id.*

[11] These reports may be found in Volume III of this study.

At the request of the Joint Committee staff, the IRS Office of Chief Counsel provided summaries of unauthorized disclosure cases in which the Government settled or lost the case for an amount exceeding $25,000. At the request of the Joint Committee staff, the Office of the Treasury Inspector General For Tax Administration ("TIGTA") provided statistics regarding alleged violations of the Taxpayer Browsing Protection Act of 1997.

The Joint Committee staff met with and orally consulted representatives of various IRS functions and TIGTA regarding the operation of sections 6103, 6104, and 6110. Representatives of the private sector and other governmental agencies (both Federal and State) provided the Joint Committee staff with oral comments.

The Joint Committee staff requested data and certain other information from the IRS, including data regarding tax-exempt organizations, information on returns and return information safeguard reviews, and information regarding response time to FOIA requests.

On August 17, 1999, the Joint Committee staff issued a press release asking interested parties to submit written comments and recommendations on issues relevant to the confidentiality of tax returns and return information. Specifically, the Joint Committee staff invited comments with respect to the following matters:

(1) the adequacy of present-law protections governing taxpayer privacy;
(2) the need, if any, for third parties, including those presently authorized under the Code, to use tax return information;
(3) whether greater levels of voluntary compliance can be achieved by allowing the public to know who is legally required to file tax returns but does not do so;
(4) the interrelationship of the taxpayer confidentiality provisions in the Internal Revenue Code with the Freedom of Information Act, the Privacy Act, and section 6110 of the Code;
(5) the impact on taxpayer privacy of sharing returns and return information for the purposes of enforcing State and local tax laws (other than income tax laws), including the impact on taxpayer privacy intended to be protected at the Federal, State, and local levels under the Taxpayer Browsing Protection Act of 1997; and
(6) the extent to which the current disclosure provisions provide taxpayers, exempt organizations, and tax practitioners with sufficient guidance.

The Joint Committee staff also invited comments on disclosure of information relating to tax-exempt organizations described in section 501 of the Code. Specifically, the Joint Committee staff invited comments with respect to the following matters:

(1) whether the public interest would be served by greater disclosure of information with respect to organizations exempt from tax under section 501, and
(2) the extent to which the present-law disclosure provisions relating to such organizations assure accountability of such organizations to the public, the Internal Revenue Service, and other agencies that provide oversight.

Interested parties were requested to submit comments in writing to the Joint Committee on Taxation by October 1, 1999. The Joint Committee staff received written submissions from more than 50 commentators and received more than 10 written submissions relating specifically to tax-exempt organizations.[12] In addition, Joint Committee staff met with representatives of certain of the taxpayer groups and organizations with respect to their written comments.

C. Scope of the Study

In conducting its study, the Joint Committee staff analyzed the present-law disclosure rules regarding tax-exempt organizations to determine whether there are specific issues under present law, such as improvements in the quality of information reported on Form 990, that should be addressed. In addition, the Joint Committee staff undertook a broader analysis of the policies underlying the disclosure rules to determine whether, in general, returns and return information of tax-exempt organizations should be subject to increased disclosure and whether different principles regarding disclosure should apply to such organizations than to other taxpayers.

The Joint Committee staff also addressed the issue of whether the study should relate to all, or only certain types of, tax-exempt organizations. The statutory mandate requires the Joint Committee to study organizations exempt from tax under section 501. There are certain organizations that are exempt from tax under other sections of the Code, such as certain farmer's cooperatives described in section 521. Because the statutory mandate does not address organizations exempt from tax under sections of the Code other than section 501(c), the Joint Committee staff generally did not include such organizations in its study. However, such organizations were included in the study to the extent there is an interrelationship with such organizations and organizations exempt from tax under section 501.

In general, the Joint Committee staff study encompasses all organizations exempt from tax under section 501. There are two exceptions to this rule in the case of organizations that present unique issues.

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[12] The comments relating to the general disclosure provisions are summarized in Appendix D of Volume I. The comments relating to tax-exempt organizations are summarized in Appendix C of this Volume. All comments are reproduced in full in Volume III of this study.

First, the Joint Committee staff study does not address disclosure rules relating to churches. Churches have historically been treated differently than other types of tax-exempt organizations. Under present law, churches generally have not been required to make any disclosures to the IRS or to the public in general.[13] Furthermore, requiring disclosure by churches may raise Constitutional issues regarding the separation of church and state that do not arise with respect to other types of tax-exempt organizations. Because the issues relating to churches are unique, the Joint Committee staff believes these issues would need to be separately studied before any recommendations could be made.

Second, the Joint Committee staff study does not address disclosure rules relating to tax-exempt pension trusts described in section 401(a) and exempt from tax under section 501(a). Such trusts are subject to a comprehensive statutory regime not applicable to tax-exempt organizations generally, including special filing and disclosure requirements. As is the case with churches, these issues would need to be separately studied before any recommendations could be made.

[13] Churches are treated differently than other tax-exempt organizations in other areas, as well. For example, special audit procedures apply to churches under section 7611. The legislative history to these rules notes the "special problems, including problems of separation of church and state and the special relationship of a church to its members that arise when the Internal Revenue Service (or any governmental agency) examines the records of a church." S. Rep. No. 98-169, Vol. I, at 873 (1984).

III. PRESENT LAW AND BACKGROUND RELATING TO TAX-EXEMPT ORGANIZATIONS

A. Summary of Present-Law Rules for Tax-Exempt Organizations

1. Overview of types of tax-exempt organizations

Present-law section 501(c) describes twenty-seven different categories of nonprofit organizations that generally are exempt from Federal income tax under section 501(a).[14] The most commonly known types of tax-exempt organizations are charitable, educational, religious, and other organizations described in section 501(c)(3), which generally are referred to as "charitable organizations." In addition to section 501(c)(3) organizations, certain noncharitable organizations qualify for exemption from Federal income taxation. Like section 501(c)(3) organizations, these other organizations must satisfy specific requirements related to certain defined exempt purposes in order to qualify for tax exemption. The noncharitable organizations described in section 501(c) are:

- instrumentalities of the United States (section 501(c)(1));
- title and real property holding companies (section 501(c)(2));
- social welfare organizations (section 501(c)(4));
- labor, agricultural, or horticultural organizations (section 501(c)(5));
- trade associations (section 501(c)(6));
- social clubs (section 501(c)(7));
- fraternal benefit societies (section 501(c)(8));
- voluntary employees' beneficiary associations (section 501(c)(9));
- domestic fraternal organizations (section 501(c)(10));
- teachers' retirement fund associations (section 501(c)(11));
- benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (section 501(c)(12));
- cemetery companies (section 501(c)(13));
- nonprofit credit unions (section 501(c)(14));
- certain insurance companies or associations (section 501(c)(15));
- crop-financing corporations (section 501(c)(16));
- supplemental unemployment compensation trusts (section 501(c)(17));
- employee-funded pension trusts (section 501(c)(18));
- U.S. armed forces posts or organizations (section 501(c)(19));

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[14] Qualified pension trusts described in section 401(a) are also exempt from tax under section 501(a). Other Code sections provide limited tax-exempt status for other types of organizations, such as certain cooperatives (sec. 521) and political organizations (sec. 527). As described in Part II., above, such organizations generally are not within the scope of this study.

- qualified group legal services plans (section 501(c)(20));[15]
- black lung trusts (section 501(c)(21));
- multiemployer plan trusts (section 501(c)(22));
- armed forces insurance associations (section 501(c)(23));
- trusts described in ERISA[16] section 4049 (section 501(c)(24));
- title-holding corporations or trusts (section 501(c)(25));
- State-sponsored high-risk health insurance pools (section 501(c)(26)); and
- State-sponsored workers' compensation organizations (section 501(c)(27)).

To qualify as a tax-exempt organization described in section 501(c)(3), an organization must be organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, to foster international amateur sports competition, or for the prevention of cruelty to children or animals. No part of the net earnings of such an organization may inure to the benefit of any private shareholder or individual.[17] In addition, no substantial part of the activities of a section 501(c)(3) organization may consist of carrying on propaganda or otherwise attempting to influence legislation, and such an organization may not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

A section 501(c)(3) organization must operate primarily in pursuance of one or more tax exempt purposes constituting the basis of its tax exemption.[18] Failure to do so may result in loss of tax exemption or imposition of excise taxes depending on the type and severity of the violation. In order to qualify for recognition of tax exemption as an organization described in section 501(c)(3) that operates primarily for an exempt purpose, the organization must satisfy the following operational requirements: (1) the organization may not be operated primarily to conduct an unrelated trade or business;[19] (2) the net earnings of the organization may not inure to

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[15] The tax exemption for qualified group legal services plans expired for taxable years beginning after June 30, 1992. Sec. 120(c).

[16] "ERISA" refers to the Employee Retirement Income Security Act of 1974, as amended.

[17] This "private inurement" rule also applies to certain other tax-exempt entities (i.e., sec. 501(c)(4) social welfare organizations and sec. 501(c)(6) trade associations).

[18] Treas. reg. sec. 1.501(c)(3)-1(c)(1).

[19] Treas. reg. sec. 1.501(c)-1(e)(1). Conducting a certain level of unrelated trade or business activity will not jeopardize tax-exempt status; however, too much of such activity will result in loss of tax-exempt status. There are no clear arithmetic standards for determining how much unrelated activity an organization may conduct without jeopardizing its tax-exempt status. Rather, the determination is made based on a series of facts and circumstances determinations.

the benefit of any person in a position to influence the activities of the organization;[20] (3) the organization must operate to provide a public benefit, not a private benefit;[21] (4) the organization may not engage in substantial legislative lobbying;[22] and (5) the organization may not participate or intervene in any political campaign.[23]

In general, section 501(c)(3) organizations are characterized as either private foundations or public charities. Private foundations are organizations that primarily are supported by a small number of contributors and that do not receive substantial support from the public. All other section 501(c)(3) organizations are characterized as public charities. Private foundations are subject to restrictions not applicable to public charities, including: (1) prohibitions on certain transactions with "disqualified persons";[24] (2) minimum annual payout requirements;[25] (3)

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[20] Violations of the "private inurement" prohibition may result in the imposition of excise taxes (commonly referred to as "intermediate sanctions") on certain persons who engage in "excess benefit transactions" with section 501(c)(3) or section 501(c)(4) organizations (other than private foundations), and on organization managers who knowingly approve such transactions. Sec. 4958. In particularly severe cases of private inurement, the IRS may revoke an organization's tax exemption in addition to imposing intermediate sanctions.

[21] Treas. reg. sec. 1.501(c)-1(d)(1)(ii). The regulations provide that "it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests." *Id*. Private benefit is permissible if it constitutes merely an "insubstantial part" of an organization's total activities in light of all the facts and circumstances of a particular case. Excessive private benefit will result in loss of an organization's tax-exempt status.

[22] Treas. reg. sec. 1.501(c)(3)-1(c)(3). Violation of this limitation may subject a section 501(c)(3) organization to excise taxes and/or loss of tax-exempt status. *See* Part VI.E. below.

[23] The political activities prohibition for section 501(c)(3) organizations is absolute. Thus, it is not necessary for such activities to constitute a substantial part of an organization's activities before the organization's tax exemption will be in jeopardy. The Code provides three penalties that may be applied either as alternatives to revocation of tax exemption or in addition to loss of tax-exempt status: an excise tax (sec. 4955), termination assessment of all taxes due (sec. 6852(a)(1)), and an injunction against further political expenditures (sec. 7409).

[24] Disqualified persons include trustees, directors, officers, substantial contributors to the foundation, and certain family members of the above (sec. 4946(a)).

[25] Private foundations are required to pay out each year, for charitable purposes, an amount equal to 5 percent of net investment assets (sec. 4942(d)).

limitations on the ownership of business interests;[26] (4) restrictions on investments;[27] and (5) prohibitions on the expenditure of funds for certain purposes, including lobbying, political activities,[28] grants to individuals (without prior IRS approval), grants to organizations other than public charities unless special procedures are followed, and expenditures for noncharitable purposes.[29] Private foundations also are subject to a tax on their net investment income.[30]

2. Tax-exempt organization data

As of October 31, 1999, there were over 1.3 million organizations exempt from taxation under section 501(a) and described in section 501(c) that had received recognition of their tax-exempt status from the IRS.[31] Somewhat more than half of those organizations, or 776,557, are charitable, educational, religious, and other organizations described in section 501(c)(3).[32] Of the organizations described in section 501(c)(3) as of October 31, 1999, approximately 90 percent are public charities.[33]

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[26] A private foundation generally may not hold more than 20 percent ownership in a business (sec. 4943).

[27] Sec. 4944.

[28] As noted above, public charities also may not engage in political activities. Unlike private foundations, however, they may engage in lobbying so long as it is not a substantial part of the organization's activities.

[29] Sec. 4945.

[30] Sec. 4940.

[31] The source of this data is the IRS Exempt Organizations/Business Master File, Table 3. The data regarding tax-exempt organizations provided in this section and elsewhere in this volume of the study were assembled by the IRS for a variety of purposes. Different data were subject to different levels of quality review by the IRS; consequently, the accuracy of the numbers provided may vary. Unless otherwise noted, the data provided includes only those organizations that have received recognition of their tax-exempt status from the IRS. Thus, the data does not include organizations, such as churches, that are not required to seek recognition of tax-exempt status from the IRS.

[32] *Id.*

[33] *Id.*

Between 1996 and 1999, the total number of organizations described in section 501(c) rose by between 40,900 and 44,000 annually.[34] The number of organizations described in section 501(c)(3) also grew steadily during the same period by roughly 40,000 per year.[35] Table 1, below, shows a breakdown of the number of organizations described in each subparagraph of section 501(c), as of October 31, 1999:

[34] *Id.*

[35] *Id.*

Table 1.--Number of Tax-exempt Organizations by Category

Category of Organization	Number of Organizations
Instrumentalities of the United States (sec. 501(c)(1))	19
Title and real property holding companies (sec. 501(c)(2))	7,032
Charitable organizations (sec. 501(c)(3))	776,557
Social welfare organizations (sec. 501(c)(4))	138,998
Labor, agricultural, or horticultural organizations (sec. 501(c)(5))	63,708
Trade associations (sec. 501(c)(6))	81,489
Social clubs (sec. 501(c)(7))	67,001
Fraternal benefit societies (sec. 501(c)(8))	84,051
Voluntary employees' beneficiary associations (sec. 501(c)(9))	13,848
Domestic fraternal organizations (sec. 501(c)(10))	23,227
Teachers' retirement fund associations (sec. 501(c)(11))	14
Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (sec. 501(c)(12))	6,461
Cemetery companies (sec. 501(c)(13))	9,978
Nonprofit credit unions (sec. 501(c)(14))	4,402
Certain insurance companies or associations (sec. 501(c)(15))	1,298
Crop-financing corporations (501(c)(16))	23
Supplemental unemployment compensation trusts (sec. 501(c)(17))	515
Employee-funded pension trusts (sec. 501(c)(18))	2
U.S. armed forces posts or organizations (sec. 501(c)(19))	35,499
Black lung trusts (sec. 501(c)(21))	28
Multiemployer plan trusts (sec. 501(c)(22))	0
Armed forces insurance associations (sec. 501(c)(23))	2
Trusts described in ERISA section 4049 (sec. 501(c)(24))	1
Title-holding corporations or trusts (sec. 501(c)(25))	1,102
State-sponsored high-risk health insurance pools (sec. 501(c)(26))	8
State-sponsored workers' compensation organizations (sec. 501(c)(27))	5

Source: IRS Exempt Organizations/Business Master File Table 3

As of September 30, 1999, organizations described in section 501(c) had gross receipts of over $880 billion and held over $1.3 trillion in total assets. Table 2 provides the assets, revenue, and contributions of public charities and private foundations for the most recent three years for which data are available.

Table 2.--Assets, Revenue, and Contributions of Public Charities and Private Foundations

	1996	1995	1994
Public Charities			
Assets	$1,293,439,206,000	$1,143,078,681,000	$993,381,198,000
Revenue	704,345,604,000	663,370,552,000	589,074,858,000
Contributions	137,685,626,000	127,742,791,000	110,723,646,000
Private Foundations			
Assets	$260,049,771,000	$218,709,157,000	$190,639,805,000
Revenue	50,099,098,000	32,801,476,000	90,384,567,000
Contributions	21,043,236,000	9,533,980,000	11,953,058,000

Source: IRS Statistics of Income samples of returns posted for tax periods December 1996 - November 1997, December 1995 - November 1996, and December 1994 - November 1995.

3. Federal tax rules applicable to tax-exempt organizations[36]

In general

The Federal income tax benefits available to tax-exempt organizations depend, in part, on the nature of the organization. In general, tax-exempt organizations are not subject to Federal income tax on dues and contributions they receive from their members, or on other income from activities that are substantially related to the purpose of their tax exemption. Tax-exempt organizations generally are not subject to Federal income tax on their investment income, although this rule does not apply to certain organizations (e.g., social clubs described in section 501(c)(7) and political organizations described in section 527), which must pay Federal income tax on their investment income. Contributions to organizations described in section 501(c)(3) generally are tax deductible. Tax-exempt organizations described in section 501(c)(3) also may utilize tax-exempt financing.

[36] In addition to qualifying for favorable tax treatment under Federal law, section 501(c)(3) organizations and certain other organizations may qualify for exemption under State and local taxes. Section 501(c)(3) organizations qualify for preferential postal rates and, in certain cases, are exempt from some Federal excise taxes (e.g., taxes on highway fuels used by section 501(c)(3) school buses).

Unrelated business income tax

Tax-exempt organizations are subject to the unrelated business income tax ("UBIT") on income derived from a trade or business regularly carried on by the organization that is not substantially related to the performance of the organization's tax-exempt functions.[37] The UBIT applies to all organizations that are tax exempt under section 501(a) (other than certain U.S. instrumentalities created and made tax exempt by a specific Act of Congress).[38] Certain income, however, is exempt specifically from the UBIT, such as dividends, interest, royalties, and certain rents, unless derived from debt-financed property or from certain 50-percent controlled subsidiaries.[39] Other exemptions from the UBIT are provided for activities in which substantially all the work is performed by volunteers, for income from the sale of donated goods, and for certain activities carried on for the convenience of members, students, patients, officers, or employees of a charitable organization.[40] In addition, special UBIT provisions exempt from tax certain activities of trade shows and State fairs, income from bingo games, and income from the distribution of certain low-cost items incidental to the solicitation of charitable contributions.[41]

Deductibility of contributions

Contributions to organizations described in section 501(c)(3) generally are deductible as an itemized deduction from Federal income taxes.[42] Such contributions are also generally

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[37] Secs. 511-514. Tax-exempt organizations are taxed on their unrelated business taxable income at the regular corporate tax rates (sec. 511(a)). Charitable and other generally tax-exempt trusts are subject to tax on their unrelated business taxable income under the rates generally applicable to taxable trusts (sec. 511(b)).

[38] Sec. 511(a)(2).

[39] Sec. 512(b). In the case of social clubs (sec. 501(c)(7)) and voluntary employees' beneficiary associations (sec. 501(c)(9)), the UBIT applies to all income of the organization other than certain "exempt function income," such as membership dues and fees. A principal effect of this rule is to subject the investment income of the social club or voluntary employees' beneficiary association to the UBIT, unless such investment income is set aside to be used for an exempt purpose (sec. 512(a)(3)).

[40] Sec. 513(a).

[41] Secs. 513(d), (f), and (h).

[42] Sec. 170. Certain contributions made to war veterans organizations, domestic fraternal societies, and member-owned cemetery companies also are deductible as charitable contributions under section 170.

deductible for estate and gift tax purposes.[43] However, public charities enjoy certain advantages over private foundations regarding the deductibility of contributions.[44] For example, contributions of appreciated capital gain property to a private foundation generally are deductible only to the extent of the donor's cost basis. In contrast, contributions to public charities generally are deductible in an amount equal to the property's fair market value, except for gifts of inventory and other ordinary income property, short-term capital gain property, and tangible personal property, the use of which is unrelated to the donee organizations' exempt purpose.[45]

Total deductible contributions to public charities and private foundations by individuals of cash and appreciated property may not exceed 50 percent of the donor's "contribution base," which is typically the donor's adjusted gross income for a taxable year. To the extent that a taxpayer has not exceeded this 50-percent limitation, contributions of cash to private foundations generally may be deducted up to 30 percent of the donor's contribution base. Deductible gifts of appreciated property (e.g., an art collection that has increased in value) to public charities are limited to 30 percent of the donor's contribution base. Donations of appreciated property to private foundations cannot exceed 20 percent of the donor's contribution base.

Tax-exempt financing

Section 501(c)(3) organizations have access to tax-exempt financing through State or local governments. Interest on State or local government bonds is tax exempt when the proceeds are used to finance activities of those governmental units or the bonds are repaid with governmental funds (e.g., taxes). State and local governments also may act as conduits to provide tax-exempt financing for limited activities conducted and paid for by nongovernmental entities or individuals. One permitted type of such private activity conduit financing is for the exempt activities of section 501(c)(3) organizations. This exception does not include financing for unrelated business activities of such organizations.

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[43] Secs. 2055 and 2522.

[44] Some public charities, such as hospitals and certain educational organizations, are supported primarily by fees or program revenues and only secondarily by contributions from the general public.

[45] A special rule in section 170(e)(5) provides that taxpayers are allowed a deduction equal to the fair market value of certain contributions of appreciated, publicly-traded stock contributed to a private foundation.

4. Recognition of tax-exempt status

In general

Before enactment of the Tax Reform Act of 1969 (the "1969 Act"), organizations seeking recognition of tax exemption under section 501(a) generally were not required to obtain IRS approval of their tax-exempt status. As part of the 1969 Act, Congress required that section 501(c)(3) organizations (with certain exceptions) notify the IRS of their tax-exempt status by filing an application for recognition of tax-exempt status. The IRS recognizes the tax-exempt status of an organization by issuing a determination letter or ruling in response to the organization's notification that it is seeking recognition of exempt status.[46] Certain section 501(c)(3) organizations are not required to seek recognition of tax-exempt status but may elect to do so. These organizations include churches, certain church-related organizations, organizations (other than private foundations) the gross receipts of which in each taxable year are normally not more than $5,000, subordinate organizations (other than private foundations) to another tax-exempt organization that are covered by a group exemption letter, and for certain purposes only, section 4947(a)(1) trusts, which were organized before October 9, 1969.[47]

Section 501(c)(9) voluntary employees' beneficiary associations and section 501(c)(17) employee supplemental unemployment compensation benefit trusts also must apply to the IRS for recognition of tax-exempt status.[48]

Other organizations described in section 501(c) are not subject to the Code's mandatory notice requirements and, therefore, are not required to notify the IRS that they are seeking recognition of their tax-exempt status. Such organizations may voluntarily file exemption applications in order to establish their qualifications for tax exemption with the IRS.[49]

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[46] Internal Revenue Manual 7751, Exempt Organizations Handbook, sec. 111.

[47] Sec. 508(c); Treas. reg. sec. 1.508-1(a)(3). As of September 31, 1999, there were 105,891 churches that had voluntarily filed an exemption application and had been been granted tax-exempt status under section 501(c)(3). The IRS estimates that there are several hundred thousand churches that have not requested determination letters from the IRS. IRS Exempt Organizations/Business Master File, Table 3.

[48] Sec. 505(c).

[49] Internal Revenue Manual 7751, Exempt Organizations Handbook, sec. 111.

Data on exemption applications

Table 3 shows data regarding the total number of applications for tax-exempt status under section 501(c) approved, denied, or not approved by the IRS because of the withdrawal of the application or the failure to furnish required information for fiscal years 1997-1999.

Table 3.--Number of Applications for Tax Exemption Under Section 501(c)

Fiscal Year	Approved	Denied	Failure to Furnish Required Information	Withdrawn
1999	58,138	470	9,184	1,241
1998	56,961	426	12,491	1,297
1997	52,757	299	13,990	1,356

Source: IRS EP/EO Application Control System, Table 4

Application process

Organizations described in section 501(c)(3) file Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code) with the IRS in order to apply for recognition of tax-exempt status.[50] A favorable determination by the IRS will be retroactive to the date that the section 501(c)(3) organization was created if it files a completed Form 1023 within 15 months from the end of the month it was formed.[51] If the organization files no Form 1023 or files a late notice, it will not be treated as tax exempt under section 501(c)(3) for any period prior to the filing of an application for recognition of tax exemption.[52] Contributions to section 501(c)(3) organizations that are subject to the requirement that they must notify the IRS of their tax-exempt status are not deductible from income, gift, or estate tax until the organization receives a determination letter from the IRS.[53]

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[50] A copy of this form is included in Appendix B.

[51] Pursuant to Treas. Reg. sec. 301.9100-2(a)(2)(iv), organizations are allowed an automatic 12-month extension as long as the application for recognition of tax exemption is filed within the extended, i.e., 27-month period. The IRS also may grant an extension beyond the 27-month period if the organization is able to establish that it acted reasonably and in good faith and that granting relief will not prejudice the interests of the government. Treas. Reg. secs. 301.9100-1 and 301.9100-3.

[52] Treas. reg. sec. 1.508-1(a)(1).

[53] Sec. 508(d)(2)(B).

Organizations described in paragraphs of section 501(c) other than section 501(c)(3) generally file Form 1024 (Application for Recognition of Exemption Under Section 501(a)).[54] Because section 501(c) organizations other than those described in sections 501(c)(3), 501(c)(9), and 501(c)(17) are not required to obtain recognition from the IRS of their tax-exempt status, there is no specific time requirement for such organizations to file Form 1024, and such organizations are presumed to be tax-exempt from the date of their formation.

Information required on Forms 1023 and 1024 includes: (1) information about previously filed Federal income tax and exempt organization returns; (2) a statement of receipts and expenditures for the current year and the three preceding years (or for the number of years of the organization's existence, if less than four years); (3) a balance sheet for the current year; (4) a statement of actual and proposed activities; (5) a description of anticipated receipts and contemplated expenditures; (6) a copy of the articles of incorporation, trust document, or other organizational or enabling document; and (7) organization bylaws (if any).

A determination letter issued by the IRS will state that the application for recognition of tax exemption and supporting documents establish that the organization submitting the application meets the requirements of the particular exemption category that it claimed. An organization that has received a favorable tax-exemption determination from the IRS generally may continue to rely on the determination as long as "there are no substantial changes in the organization's character, purposes or methods of operation."[55]

According to the IRS, approximately 70-75 percent of determination letter applications are approved annually. Fewer than one percent of the determination letter applications received are denied tax-exempt status each year. On average, the IRS processes determination letter applications that are merit screened in approximately 37 days, applications that are assigned for Key District Office review in approximately 90 days, and applications that are forwarded to the IRS National Office in 190 days.

Screening for merit closures is a technical screening of determination letter requests by inspecting the applications for the purpose of identifying and quickly approving applications from those types of organizations that have historically high levels of compliance with the Code and regulations. During fiscal year 1995, 19 percent of all applications were closed after merit screening; in fiscal year 1996, 22 percent were so closed.

Pursuant to an IRS Field Directive dated January 21, 1999, if a determination letter application has been pending for 270 days or more, the taxpayer has the right to request a conference with the head of the appropriate division (i.e., the District Director, if the case is in the

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[54] A copy of this form is included in Appendix B.

[55] Treas. reg. sec. 1.501(a)-1(a)(2).

District Office, or the Assistant Commissioner, if the case is in the IRS National Office) to discuss the status of the application.

An organization can request that the IRS expedite a determination letter application. Under the Internal Revenue Manual, requests for expedited treatment must be made in writing and contain a compelling reason why a case should be worked ahead of its normal date order. In general, expedited treatment is granted in the following circumstances: (1) when a grant to the applicant is pending and the failure to secure the grant may have an adverse impact on the organization's ability to continue operations; (2) when the purpose of the newly created organization is to provide disaster relief to victims of emergencies such as flood and hurricane; (3) when there have been undue delays in issuing a determination letter caused by problems within the IRS; and (4) in any other situation where the Division Chief or his or her delegate feels expedited service is warranted.

A ruling or determination letter my be revoked or modified by (1) notice from the IRS to the organization to which the ruling or determination letter was originally issued;[56] (2) enactment of legislation or ratification of a tax treaty; (3) a decision of the United States Supreme Court; (4) issuance of temporary or final Regulations by the Treasury Department; or (5) issuance of a revenue ruling, a revenue procedure, or other statement in the Internal Revenue Bulletin.[57] An organization's tax exemption will not be terminated if it becomes inactive for a time but does not cease being a legal entity under the laws of the State in which it is organized.[58]

Upon revocation or change in the exempt classification of an organization (e.g., from public charity to private foundation status), the IRS publishes an announcement of such revocation or change in the Internal Revenue Bulletin.[59] Contributions made to organizations by

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[56] In fiscal year 1999, the IRS revoked the tax-exempt status of 97 organizations, of which 20 were organizations described in section 501(c)(3). In fiscal year 1998, the IRS also revoked the tax-exempt status of 97 organizations, of which 38 were organizations described in section 501(c)(3). In fiscal year 1997, the IRS revoked the tax-exempt status of 89 organizations, of which 17 were organizations described in section 501(c)(3). IRS Audit Information Management System, Tables 41 and 42.

[57] Rev. Proc. 90-27, 1990-1 C.B. 514; IRS Pub. No. 557 at 4.

[58] An inactive organization, however, is required to file an annual information return unless it is covered by one of the exceptions to the filing requirements described below. IRS Pub. No. 557 at 11.

[59] Rev. Proc. 82-39, 1982-2 C.B. 759.

donors who are unaware of the revocation or change in status will ordinarily be deductible if made on or before the date of publication of the announcement.[60]

5. Annual filing requirements for tax-exempt organizations

Tax-exempt organizations generally are required to file an annual information return with the IRS. An organization that has not received a determination of its tax-exempt status, but that claims tax-exempt status under section 501(a), is subject to the same annual reporting requirements and exceptions as organizations that have received a tax-exemption determination.

Most tax-exempt organizations are required to file annually Form 990 (Return of Organization Exempt From Income Tax).[61] Section 501(c)(3) organizations that are classified as public charities must file Form 990 and an additional form, Schedule A, which requests information specific to section 501(c)(3) organizations. An organization that is required to file Form 990, but that has gross receipts of less than $100,000 during its taxable year, and total assets of less than $250,000 at the end of its taxable year, may file Form 990-EZ instead of Form 990.[62] Private foundations are required to file Form 990-PF rather than Form 990.[63]

On the applicable annual information return, organizations are required to report their gross income, information on their finances, functional expenses, compensation, activities, and other information required by the IRS in order to review the organization's activities and operations during the previous taxable year and to review whether the organization continues to meet the statutory requirements for exemption. Specific examples of the information required by Form 990 include the following:

(1) Statement of program accomplishments (Part III).

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[60] *Id.*

[61] A copy of this form is included in Appendix B. Certain organizations file special forms. For example, black lung trusts described in section 501(c)(21) file form 990-BL.

[62] A copy of this form is included in Appendix B.

[63] Form 990-PF requires, among other things: information about the foundation's gross income for the year; information about expenses attributable to such income; information about disbursements for exempt purposes; information about total contributions and gifts received, and the names of all substantial contributors; names, addresses, and compensation of officers and directors; an itemized statement of securities and other assets held at the close of the year; an itemized statement of all grants made or approved; and information about whether the organization has complied with the restrictions applicable to private foundations (secs. 4941-4945).

(2) Description of the relationship of the organization's activities to the accomplishment of the organization's exempt purposes (Part VIII).

(3) Payments to individuals including the following:

(a) Compensation to officers and directors: Part V requires disclosure of all compensation paid to officers, directors, trustees, and key employees. If any officer, director, trustee, or key employee received aggregate compensation of more than $100,000 from the organization and any related organizations, of which more than $10,000 was provided by a related organization, a schedule must be attached listing the names of each such individual receiving such compensation, the name of each related organization that provided the compensation and the amount each provided. Compensation for these purposes includes not only salary, but also fees, bonuses and severance payments, all forms of deferred compensation, as well as both taxable and non-taxable fringe benefits.

(b) Highly compensated employees: Part I of Schedule A requires disclosure of compensation information on the five most highly paid employees, other than individuals covered above, who receive compensation in excess of $50,000.

(c) Highly compensated contractors: Part II of Schedule A requires disclosure of compensation information on the five most highly paid independent contractors (whether individuals or firms) who receive compensation in excess of $50,000 for professional services.

(d) Insider transactions: Schedule A, Part III, Question 2 requires information relating to whether the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner or principal beneficiary: (i) sale, exchange or leasing of property; (ii) lending of money or other extension of credit; (iii) furnishing of goods, services or facilities; (iv) payment of compensation for payment or reimbursement of expenses of more than $1,000; or (v) transfer of any part of its income or assets.

(e) Grants and allocations: Line 22 of Form 990 requires, in addition to other information, a schedule listing the name of each donee that received a grant or award and, in the case of grants to individuals, the relationship of the donee to an officer, director, trustee, or key employee.

(f) Loans to officers, directors, trustees, and key employees: Line 50 of Form 990 requires a schedule listing each loan or advance made to officers, directors, trustees, or key employees, including the amount of the loan, the balance due, the

repayment terms, the interest rate, the security provided by the borrower and the purpose of the loan.

(4) Disclosure of certain activities including the following:

(a) Expenses of conferences and conventions: Lines 39 and 40 of Form 990 require the disclosure of total expenses incurred by the organization for travel, meals and lodging, and in conducting meetings related to its activities.

(b) Political expenditures: Line 81a of Form 990 requires the disclosure of the amount of expenditures, direct or indirect, intended to influence the selection, election, or appointment of anyone to political office.

(c) Public inspection: Line 83a of Form 990 requires the disclosure of whether the organization complied with the public inspection requirements for returns and exemption applications.

(d) Lobbying activities: Schedule A, Parts VI-A and VI-B requires public charities to quantify their attempts to influence national, state, or local legislation.

Any organization that is subject to UBIT and that has $1,000 or more of gross unrelated business taxable income must file Form 990-T. An organization described in section 501(c) must file Form 1120-POL for any year in which it has net investment income and expends any amount to influence the selection, nomination, election or appointment of any individual to office, unless either the amount of such expenditures or the organization's net investment income does not exceed $100 for the taxable year. Public charities that make the section 501(h) lobbying election and that incur tax for excess lobbying expenditures must also file Form 4720.[64] Tax-exempt organizations generally must file reports and returns applicable to taxable entities with respect to Social Security taxes and (with the exception of section 501(c)(3) organizations) Federal unemployment taxes.

[64] The lobbying rules applicable to public charities and the section 501(h) lobbying election are discussed in Part VI.E., below.

Table 4, below, provides the number of Forms 990, Forms 990-EZ, Forms 990-PF, Forms 4720, and Forms 1120-POL filed in calendar years 1996, 1997, 1998.

Table 4.--Returns Filed for Tax-Exempt Organizations

Returns Filed	1998	1997	1996
Form 990	287,627	320,130[65]	281,864
Form 990-EZ	124,076	124,551	118,271
Form 990-PF	61,185	54,418	52,214
Form 990-T	39,932	39,653	38,356
Form 4720	1,321	1,142	994
Form 1120-POL	5,649	6,006	4,363

Source: IRS Statistics of Income samples of joint returns posted for tax periods December 1996 - November 1997, December 1995 - November 1996, and December 1994 - November 1995.

The requirement of filing an annual information return does not apply to several categories of tax-exempt organizations. Organizations excepted from the filing requirement include: churches, their integrated auxiliaries, and conventions or associations of churches; certain organizations (other than private foundations), the gross receipts of which in each taxable year are normally not more than $25,000; the exclusively religious activities of any religious order; section 501(c)(1) instrumentalities of the United States; section 501(c)(24) trusts described in ERISA section 4049; an interchurch organization of local units of a church; certain mission societies; and certain church-affiliated elementary and high schools.[66]

The IRS conducts examinations annually of selected returns filed by tax-exempt organizations. Table 5, below, provides the number of tax-exempt organization return examinations completed in fiscal years 1997-1999.

[65] The IRS speculates that the increase in Forms 990 recorded as filed in 1997 may have resulted from the centralization of Form 990 processing at the IRS Service Center in Ogden, Ohio.

[66] Sec. 6033(a)(2)(A); Treas. reg. sec. 1.6033-2(a)(2)(i); Treas. reg. sec. 1.6033-2(g)(1).

Table 5.--Number of Tax-Exempt Organization Return Examinations Closed (Excludes Tax-Exempt Bond Returns)

Form	FY 1999	FY 1998	FY 1997
Forms 990-PF, 5227, 1041-A, 1120 (Private Foundations)	209	350	503
Forms 990, 990-EZ (All Other Tax-Exempt Organizations)	4,170	4,145	4,166
Form 1120-POL	75	107	30
Forms 940, 941, 942, 943, 945 (Employment Tax Returns)	2,048	2,845	3,534
Forms 990-T (Unrelated Business Income Tax Returns)	1,198	1,717	1,702
Form 4720 (Certain Excise Taxes Return)	87	50	51
Forms 1040/1120 Adjustments Relating to Exempt Organization Audits	898	925	634

Source: IRS Audit Information Management System, Tables 20.1 and 20.3.

B. Present-Law Disclosure Rules for Tax-Exempt Organizations

1. Introduction

Three Code sections (sections 6103, 6104, and 6110) and the FOIA govern the disclosure of information relating to tax-exempt organizations.[67] Section 6103 provides a general rule that tax returns and return information generally are not subject to public disclosure.[68] Given the

[67] The Privacy Act, which was enacted in 1974 to regulate the collection, use, dissemination, and maintenance of personal information about individuals by Federal agencies, does not apply to persons other than individuals. Therefore, the Privacy Act is inapplicable to tax-exempt organizations.

[68] Sec. 6103(a). A "return" includes any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for, or permitted under the provisions of the Code, which is filed with the IRS. Sec. 6103(b)(1). "Return" also includes any amendment or supplement to the filed return. Sec. 6103(b)(1). "Return information" is defined broadly to include any data received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, or liability (or the amount thereof) of any person for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense under the Code. The term "return information" does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Sec. 6103(b)(2)(A). Section 6103 is discussed in greater detail

broad definitions of returns and return information, much tax-exempt organization information comes within the ambit of section 6103. However, in order to allow the public to scrutinize the activities of tax-exempt organizations, section 6104 grants an exception to the confidentiality rule of section 6103 for certain categories of tax-exempt organization documents and information. As discussed in greater detail below, section 6104 permits the release in unredacted form of approved applications for tax-exempt status, certain related documents, and annual information returns filed by tax-exempt organizations. As a general rule, to the extent section 6104 specifically provides for the disclosure of tax-exempt organization information, other disclosure provisions (sections 6103, 6110, or the FOIA) do not apply.[69] If tax-exempt organization information does not come within the scope of section 6104, other disclosure provisions will govern whether the information may be disclosed.

Section 6110 provides that written determinations by the IRS and related background file documents generally are open to public inspection in redacted form. Section 6110 does not apply to any matter to which section 6104 applies.[70] As discussed more fully below, IRS regulations have interpreted this restriction to apply to some written determinations and other documents relating to tax-exempt organizations that are not subject to disclosure under section 6104. Thus, some written determinations regarding tax-exempt organization issues are not disclosable under either section 6110 or 6104.

The FOIA provides a rule of general disclosure of information by government agencies upon request. Generally, the FOIA provides that any person has a right of access to Federal agency records, except to the extent that such records (or portions thereof) are protected from disclosure by one of nine exemptions or by one of three special law enforcement record exclusions. Most courts have taken the position that section 6103 qualifies as one of the nine statutory exemptions to the FOIA, thus, information that contains returns or return information within the meaning of section 6103 typically cannot be disclosed pursuant to a FOIA request.[71] There has been substantial litigation, however, over whether documents not specifically covered by section 6104 may be obtained either under section 6110 or under the FOIA.[72]

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in Volume I of this study.

[69] Internal Revenue Manual, Disclosure of Official Information Handbook, 1.3.9.1(8).

[70] Sec. 6110(k)(1).

[71] The interaction of section 6103 and the FOIA is discussed in greater detail in Part Two, VI. of Volume I of this study.

[72] The interaction of section 6110 and the FOIA and litigation over the parameters of both statutes is discussed in greater detail in Part Two of Volume I of this study.

2. Section 6104: disclosure of applications for recognition of tax exemption and annual information returns

Disclosure to the public

Under present law, section 501(c) organizations are required to make a copy of their application for recognition of tax-exempt status[73] (and certain related documents) and their annual information return (Form 990 or Form 990-PF) available for inspection by any individual during regular business hours at the organization's principal office or any regional or district office that has three or more employees.[74] Organizations are not required to disclose an application for tax exemption filed by the organization unless the IRS responded favorably to the application.[75] The required disclosure does not include Form 990-T, Exempt Organization Business Income Tax Return, or Form 1120-POL, U.S. Income Tax Return for Certain Political Organizations. In addition, public charities are not required to disclose the names of donors to the organization. Annual information returns must be made available for a three-year period beginning with the due date for the return (including any extension of time for filing).[76]

All tax-exempt organizations (other than private foundations) are required to comply with requests made in person or in writing by individuals who seek a copy of the organization's Form 990 for any of the organization's three most recent taxable years.[77] Upon such a request, the organization is required to supply copies without charge other than a reasonable fee for reproduction and mailing costs. If the request for copies is made in person, then the organization must provide such copies immediately. If the request for copies is made in writing, then copies must be provided within 30 days. Tax-exempt organizations (other than private foundations) also must comply in the same manner with requests made in person or in writing by individuals who

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[73] A court of appeals has held that the section 6104 disclosure requirements do not apply to documents relating to whether a tax-exempt organization is also a private foundation. *Breuhaus v. Internal Revenue Service*, 609 F.2d 80, 82 (2d Cir. 1979). Another court has held that disclosure of information relating to an investigation of a violation of section 501(c)(3) by an organization does not fall within the plain meaning of section 6104(a)(1) and, thus, is not subject to disclosure under section 6104. *Belisle v. Internal Revenue Service*, 462 F. Supp. 460 (W.D. Okla. 1978).

[74] Sec. 6104(d)(1)(A).

[75] Treas. reg. sec. 301.6104(d)-3(b)(3)(iii)(A).

[76] Sec. 6104(d)(2).

[77] Sec. 6104(d)(1)(B). This rule was added to the Code in 1996 by the Taxpayer Bill of Rights 2. It became effective on June 8, 1999, 60 days after the date the Treasury Department published regulations under the new provision.

seek a copy of the organization's application for recognition of tax-exempt status and certain related documents. However, an organization may be relieved of its obligation to provide copies if (1) the organization has made the requested documents widely available by posting them on the Internet, or (2) the Secretary of the Treasury has determined, upon application by the organization, that the request is part of a harassment campaign and that compliance with such request is not in the public interest.[78]

Upon written request to the IRS, members of the general public also are permitted to inspect annual information returns of tax-exempt organizations and applications for recognition of tax-exempt status (and related documents) at the IRS National Office in Washington, D.C. or in the office of any district director.[79] A person making such a written request is notified by the IRS when the material is available for inspection at the IRS National Office, and where notes may be taken of the material open for inspection, photographs taken with the person's own equipment, or copies of such material obtained from the IRS for a fee.[80]

The Secretary may withhold disclosure of certain information described in an organization's application for tax-exempt status if disclosure would: (1) divulge a trade secret, patent, process, style of work, or apparatus of the organization, and the Secretary determines that such disclosure would harm the organization; or (2) harm the national defense.[81] The organization must apply to the Commissioner for a determination that the disclosure would violate one of these

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[78] Sec. 6104(d)(4); Treas. reg. secs. 301.6104(d)-4(b)(2) and 301.6104(d)-5. Section 6104 was amended by the Tax and Trade Relief Extension Act of 1998 to extend to private foundations the same disclosure requirements that are now applicable to all other tax-exempt organizations. Pub. L. No. 105-277, sec. 1004 (1998). Under the new provision, private foundations will be required to comply with requests for copies of the foundation's annual information return for any of the foundation's three most recent taxable years and its application for tax exemption. Section 6104(d)(1). The provision extending the disclosure requirements to private foundations will be effective 60 days after the Treasury Department publishes final regulations in the Federal Register. Final regulations were published on January 13, 2000; thus, the new disclosure provisions will apply to private foundations whose annual information returns are due on or after March 13, 2000. *See* Treas. reg. secs. 301.6104(d)-1,-2,-3.

[79] Treas. reg. secs. 301.6104(a)-6 and 301.6104(b)-1.

[80] *Id.*

[81] Sec. 6104(a)(1)(D). In the case of a pension plan, information may be withheld if it would identify any particular individual covered under the plan. *Id.*

criteria.[82] The organization will be given 15 days to contest an adverse determination before the information is made available for public inspection.[83]

Section 6104(a)(1)(A) provides that "any papers submitted in support of" an application for tax-exempt status must be available for inspection. By regulation, the Treasury Department has limited the definition of supporting documents to papers submitted by the organization.[84] The U.S. Court of Appeals for the District of Columbia Circuit upheld this regulation in *Lehrfeld v. Commissioner*,[85] on the ground that it harmonizes the meanings of two provisions within the general rule that applications for tax exemption are subject to public disclosure.

In *Lehrfeld*, an attorney submitted a request to the IRS for a copy of a particular organization's exemption application and all other documents available to the public under section 6104 and the FOIA. The attorney believed that prominent politicians might have written letters to the IRS to expedite the handling of the organization's application for tax exemption. The IRS released certain materials responsive to the attorney's request, but declined to release other documents on the ground that they fell outside the scope of section 6104 and therefore could not be disclosed under section 6103. According to the court, the documents the attorney sought were return information, and thus not subject to FOIA requests. Further, the court upheld the regulation on the ground that section 6104(a)(1)(A) was not intended to require disclosure of third-party documents.[86] The court found the plain meaning of section 6104(a)(1)(D) does not provide trade secret protection to third parties that submit documents in favor of another entity's tax-exempt status application. If the disclosure requirements applied to third-party documents, then information regarding trade secrets would not be submitted to the IRS by third parties in support of tax-exempt status applications. Therefore, the court held that the regulation is a valid interpretation of section 6104(a)(1)(A).[87]

Disclosure to State officials

With respect to section 501(c)(3) organizations, the IRS is required to notify the attorney general and the principal tax officer of the State in which the principal office of the organization is located and the State in which the organization was incorporated or created, of two types of final

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[82] Treas. reg. sec. 301.6104(a)-5(a)(1).

[83] *Id.*

[84] Treas. reg. sec. 301.6104(a)-1(e).

[85] 132 F.3d 1463 (D.C. Cir. 1998).

[86] *Id.* at 1466.

[87] *Id.*

determinations: (1) the denial or revocation of tax-exempt status; or (2) a deficiency of tax under section 507, or Chapter 41 or 42.[88] Other appropriate officers of any State may request that the IRS provide notification to them of such determinations, either generally or with respect to a particular organization or type of organization.[89] At the request of an appropriate State officer, the IRS must make available for inspection and copying such returns, filed statements, and other records relating to such determinations as are relevant to a determination under State law.[90]

Disclosure to Congressional committees

Any committee of the Congress may inspect exemption applications and any related papers held by the IRS.[91]

3. Section 6110: disclosure of written determinations

Section 6110 provides that the text of any written determination by the IRS and related background file document is open to public inspection.[92] The term "written determination" means

[88] Sec. 6104(c). Treas. reg. sec. 301.6104(c)-1(a). Section 507 imposes tax on certain organizations terminating their status as private foundations. Chapter 41 (secs. 4911 and 4912) imposes taxes on excess lobbying expenditures and disqualified lobbying expenditures by public charities. Chapter 42 (secs. 4940-4963) provides for taxes on private foundations for violations of restrictions on their operations, a tax on certain nonexempt trusts, taxes on certain foreign organizations, taxes on black lung benefit trusts, and taxes on political expenditures by section 501(c)(3) organizations.

[89] Treas. reg. sec. 301.6104(c)-1(a)(2).

[90] Sec 6104(c)(1)(C); Treas. reg. sec. 301.6104(c)-1(b)

[91] Sec. 6104(a)(2).

[92] Sec. 6110(a).

a ruling,[93] determination letter,[94] technical advice memorandum,[95] or Chief Counsel advice.[96] Closing agreements, which are final and conclusive written agreements entered into by the IRS and a taxpayer in order to settle the taxpayer's tax liability with respect to a taxable year, do not constitute written determinations.[97] A background file document includes the request for a written

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[93] A ruling is a written statement issued by the National Office to a taxpayer or his or her authorized representative. Treas. reg. sec. 301.6110-2(d). It generally recites the relevant facts, sets forth the applicable provisions of law, and shows the application of the law to the facts. Treas. reg. sec. 301.6110-2(d). In fiscal year 1999, the IRS issued 943 private letter rulings involving section 501(c) organizations; in fiscal year 1998, the IRS issued 1,059 private letter rulings involving section 501(c) organizations; and in fiscal year 1997, the IRS issued 975 private letter rulings involving section 501(c) organizations. IRS Exempt Organizations Division Inventory Control System.

[94] A district director issues a "determination letter" in response to a written inquiry from an individual or organization that applies principles and precedents previously announced by the IRS National Office to the particular facts involved. Treas. reg. sec. 301.6110-2(e).

[95] A "technical advice memorandum" is a written statement issued by the IRS National Office of the IRS to a district director in connection with the examination of a taxpayer's return or consideration of a taxpayer's claim for refund or credit. Treas. reg. sec. 301.6110-2(f). Generally, a technical advice memorandum states the relevant facts, sets forth the applicable law, and states a legal conclusion. Treas. reg. sec. 301.6110-2(f). In fiscal year 1999, the IRS issued 22 technical advice memoranda involving section 501(c) organizations; in fiscal year 1998, the IRS issued 56 technical advice memoranda involving section 501(c) organizations; and in fiscal year 1997, the IRS issued 69 technical advice memoranda involving section 501(c) organizations. IRS Exempt Organizations Division Inventory Control System.

[96] Sec. 6110(b)(1). Any IRS National Office component of the Office of Chief Counsel can issue Chief Counsel advice. The IRS National Office component issues the advice to IRS field or service center employees, or to regional or district employees of Chief Counsel. Sec. 6110(i)(A)(i). The definition of Chief Counsel advice does not encompass advice issued from one IRS National Office component of the Office of Chief Counsel to another. The advice by definition conveys: (1) a legal interpretation of a revenue provision; (2) the IRS or Chief Counsel position or policy concerning a revenue provision; or (3) a legal interpretation of any law (Federal, State, or foreign) relating to the assessment or collection of liability under a revenue provision. Sec. 6110(i)(A)(ii).

[97] *See* S. Rep. No. 94-938, at 307 (1976). H.R. Rep. No. 94-658, at 316 (1976). In fiscal year 1999, the IRS finalized 78 closing agreements with section 501(c) organizations; in fiscal year 1998, the IRS finalized 72 closing agreements with section 501(c) organizations; and in fiscal year 1997, the IRS finalized 65 closing agreements with section 501(c) organizations. IRS Exempt Organizations Return Inventory and Classification System.

determination, any written material submitted by the taxpayer in support of the request, and any communications between the IRS and other persons in connection with the written determination received before issuance of the written determination.[98]

A background file document is available upon written request to any person requesting a copy of the related written determination.[99] Before releasing any written determination or background file document, the IRS must delete identifying details of the person about whom the written determination pertains and certain other information.[100] With respect to tax-exempt

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[98] Sec. 6110(b)(2). Communications between the IRS and the Department of Justice relating to a pending civil or criminal case are not considered background file documents.

[99] Sec. 6110(e).

[100] Sec. 6110(c) provides the following exemptions from disclosure:

> (1) the names, addresses, and other identifying details of the person to whom the written determination pertains and of any other person, other than a person with respect to whom a notation is made under subsection (d)(1) (relating to third party contacts), identified in the written determination or any background file document;
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> (2) information specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy, and which is in fact properly classified pursuant to such Executive order;
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> (3) information specifically exempted from disclosure by any statute (other than this title) which is applicable to the Internal Revenue Service;
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> (4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
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> (5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
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> (6) information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for use of an agency responsible for the regulation or supervision of financial institutions; and
>
> (7) geological and geophysical information and data, including maps, concerning wells.

organizations, disclosure under section 6110 is limited to letters and rulings unrelated to an organization's tax-exempt status.[101]

While section 6110 makes much IRS guidance public, its application to guidance relating to tax-exempt organizations is quite limited in comparison to guidance for taxable organizations. When section 6110 was enacted in 1976, Congress believed that section 6104 already permitted disclosure of guidance relating to tax-exempt organizations.[102] Thus, section 6110(k)(1) provides, "this section shall not apply to any matter to which section 6104 applies." The regulations under section 6110 clarify which matters are within the ambit of section 6104 and, therefore, are not subject to disclosure under section 6110:

> "[a]ny application filed with the Internal Revenue Service with respect to the qualification or exempt status of an organization . . .; any document issued by the Internal Revenue Service in which the qualification or exempt status of an organization is . . . granted, denied or revoked or the portion of any document in which technical advice with respect thereto is given to a district director; . . . the portion of any document issued by the Internal Revenue Service in which is discussed the effect on the qualification or exempt status of an organization of proposed transactions by such organization; and any document issued by the Internal Revenue Service in which is discussed the qualification or status of a [private foundation or private operating foundation].[103]

In addition, the regulations under section 6104 provide that some determination letters and other documents relating to tax exemption that are not open to public inspection under section 6104(a)(1)(A) are nevertheless "within the ambit" of section 6104 for purposes of the disclosure provisions of section 6110.[104] The regulation explains that the following documents are, therefore, not available for public inspection under either section 6104 or 6110:

(1) unfavorable rulings or determination letters issued in response to applications for tax exemption;
(2) rulings or determination letters revoking or modifying a favorable determination letter;
(3) technical advice memoranda relating to a disapproved application for tax exemption or the revocation or modification of a favorable determination letter;

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[101] Sec. 6110(k)(1); Treas. reg. sec. 301.6110-1(a).

[102] *See* S. Rep. No. 94-938, at 307.

[103] Treas. reg. sec. 301.6110-1(a).

[104] Treas. reg. sec. 301.6104(a)-1(i).

(4) any letter or document filed with or issued by the IRS relating to whether a proposed or accomplished transaction is a prohibited transaction under section 503;
(5) any letter or document filed with or issued by the IRS relating to an organization's status as a private foundation or private operating foundation, unless the letter or document relates to the organization's application for tax exemption; and
(6) any other letter or document filed with or issued by the IRS which, although it relates to an organization's tax exempt status as an organization described in section 501(c), does not relate to that organization's application for tax exemption.[105]

The effect of these limitations is that written determinations relating to exempt status issues are not released, even in redacted form. The IRS does, however, release written determinations issued to tax-exempt organizations that include issues that clearly are not within the ambit of section 6104, such as the application of the unrelated business income tax to a particular proposed transaction.

4. Penalties related to tax-exempt organization disclosure requirements

Penalties for failure to file timely or complete return

A penalty is imposed on a tax-exempt organization that either fails to file a Form 990 in a timely manner or fails to include all required information on a Form 990 of $20 for each day the failure continues (with a maximum penalty with respect to any one return of the lesser of $10,000 or five percent of the organization's gross receipts).[106] Organizations with annual gross receipts exceeding $1 million are subject to a penalty of $100 for each day the failure continues (with a maximum penalty with respect to any one return of $50,000). The IRS may make a written demand on an organization that has failed to file a timely or complete return specifying a date by which the return is to be filed or the information furnished. A penalty is imposed on any person failing to comply with the IRS demand equal to $10 for each day after the expiration of the time specified by the IRS during which the failure continues, subject to a maximum penalty of $5,000, with respect to any one return.[107] No penalty is imposed for failure to file in a timely manner or to include all required information if it is shown that the failure was due to reasonable cause.[108]

Penalties for failure to allow public inspection or provide copies

Penalties are imposed on tax-exempt organizations that fail to allow public inspection or provide copies of certain annual returns or applications for exemption at a level of $20 per day

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[105] *Id.*

[106] Sec. 6652(c)(1)(A).

[107] Sec. 6652(c)(1)(B).

[108] Sec. 6652(c)(3).

(with a maximum of $10,000 with respect to any one return).[109] No penalty is imposed with respect to a failure if it is shown that the failure was due to reasonable cause. In addition, there is a penalty of $5,000 imposed for willful failure to allow public inspections or provide copies.[110]

5. Other Federal tax law disclosure rules applicable to tax-exempt organizations

Disclosure relating to deductibility of solicited funds

Fundraising solicitations, including solicitations for contributions, annual membership dues, or other payments, made by certain tax-exempt organizations must include a statement that payments to those organizations are not deductible as charitable contributions for Federal income tax purposes.[111] The requirement generally applies to organizations described in section 501(c) unless the organization is eligible to receive contributions that are deductible as charitable gifts under section 170(c) (e.g., section 501(c)(3) organizations), or is otherwise excepted from the requirement. Thus, section 501(c)(4) social clubs, section 501(c)(5) labor unions, section 501(c)(6) trade associations, section 501(c)(7) social clubs, section 501(c)(8) and section 501(c)(10) fraternal organizations, and certain other organizations must comply with the nondeductibility disclosure requirement.

Failure to include the required statement may result in a penalty imposed on the organization of $1,000 for each day on which the failure occurred, subject to a maximum penalty on failures by any organization during any calendar year of $10,000. However, the $10,000 maximum penalty does not apply if the failure is due to intentional disregard of the nondeductibility disclosure requirement. In such case, the penalty is $1,000 or 50 percent of the aggregate cost of the solicitations that occurred on such day and with respect to which there was a failure to disclose.

Disclosure relating to information or services that are available free from the government

Organizations described in section 501(c)(3), section 501(c)(4), or section 527(e) that sell information or routine services that could be readily obtained from an agency of the Federal government, either free or for a nominal fee, must include a statement when making an offer or solicitation that the information or service can be so obtained.[112] A penalty of the greater of $1,000 or 50 percent of the aggregate cost of the offers and solicitations that occurred on each day on which such failure to disclose occurred is imposed on the organization if the failure to make the required statement is due to intentional disregard of the disclosure requirement.

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[109] Secs. 6652(c)(1)(C) and 6652(c)(1)(D).

[110] Sec. 6685.

[111] Sec. 6113.

[112] Sec. 6711(a).

IV. ECONOMIC ANALYSIS OF THE BENEFITS OF TAX-EXEMPT STATUS

Tax-exempt organizations constitute a significant component of the U. S. economy. Data reported on Forms 990 and 990-EZ suggest that tax-exempt organizations held assets valued at more than $1.3 trillion and had total revenues greater than $800 billion in 1995.[113] The total revenue of tax-exempt organizations in 1995 exceeded ten percent of U.S. gross domestic product.

All organizations described in section 501(c) of the Code receive tax benefits not available to other entities. The nature and extent of the tax benefits vary depending on the particular type of organization. The income, if any, of organizations described in section 501(c) generally is exempt from income taxes on business income. Organizations described in section 501(c)(3) of the Code may receive two additional tax benefits. First, qualifying 501(c)(3) organizations may receive contributions that are deductible in computing the income tax of the donor and such organizations also may receive bequests that are deductible from the taxable estate of the donor. Second, qualifying 501(c)(3) organizations may use the proceeds of tax-exempt bonds to finance the organization's capital expenditures. Thus, tax-exempt organizations receive a number of Federal tax benefits when compared to taxable entities. This part briefly reviews economic rationales that are offered for these tax benefits and discusses some of the economic effects that result from these benefits.

A. Exemption of "Income" From Business Level Income Taxes

Rationale for tax exemption

Several rationales have been offered for the general rule exempting the "income" of qualified organizations from business level income taxes.[114] Some observe that charitable organizations provide many services in lieu of the provision of the same or similar services that otherwise would have to be provided by government. In this view, because governments are not

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[113] Cecelia Hilgert and Melissa Whitten, *Charities and Other Tax-Exempt Organizations, 1995*, in Internal Revenue Service, Publication 1136, *Statistics of Income Bulletin, Winter 1998-1999*, 18 SOI Bulletin 105 (1999). These data are based upon reporting on Forms 990 and 990-EZ by organizations exempt under Code sections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), 501(c)(7), 501(c)(8), and 501(c)(9). These data generally exclude organizations with gross receipts totaling less than $25,000 and most churches. Many organizations have liabilities as well as assets. The total net worth (assets less liabilities) reported for these organizations exceeded $700 billion in 1995.

[114] As explained in Part III.A.3, above, not all income of tax-exempt organizations is exempt from income taxation, but only that income that arises as part of the organization's exempt purpose. So-called "unrelated business income" is subject to income taxation.

subject to income taxation in the course of providing governmental services, exempting charitable organizations from income tax could be said to provide neutrality in the choice to provide certain services to the public through direct government operation and financing or through the private operation and mixed private and public financing of a tax-exempt organization.

Some have suggested that exemption from income tax may be justified as compensation for the difficulty that tax-exempt organizations have in obtaining capital. In general, the rules governing tax-exempt organizations prohibit such organizations from issuing shares of equity to raise capital. Lenders may be concerned about the risks of an organization whose entire capital is debt financed, and require higher interest rates on loans to tax-exempt organizations. Exemption from income taxation may permit a tax-exempt organization to accumulate internal capital more quickly and thereby compensate for the higher costs of external debt financing.[115]

Others suggest that tax-exempt organizations generally are run with a nonprofit motive. Because the organization is managed so as not to produce income, administrative ease for both the organization and the tax administrator provide a rationale for exemption of the organization from income taxation. Still others suggest that even to the extent that section 501(c)(3) organizations earn income, either portfolio income or active income, exempting the organization's income creates parity with funds from tax-deductible donations. If a third party had earned the income and donated it to the section 501(c)(3) organization, the income generally would be exempt from tax. Thus, they argue, the income should be exempt from income tax if earned directly by the section 501(c)(3) organization.[116]

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[115] *See* Richard Steinberg, *"Unfair" Competition by Nonprofits and Tax Policy,* 44 Nat'l Tax J. 351, 351-364 (1991); and Henry Hansmann, *The Rationale for Exempting Nonprofit Corporations from the Corporate Income Tax,* 91 Yale L.J. 54, 54-100 (1981). However, tax-exempt organizations may be able to raise "equity" capital through donations or membership dues.

[116] Some analysts suggest an alternative reason for granting tax exemption to certain organizations. They argue consumers are at a substantial informational disadvantage relative to the sellers of certain complex goods or services and that informed decisions may be very difficult to make. The informational advantage of the seller may create the possibility that the seller could take advantage of the buyer. In such a circumstance, analysts suggest that if a tax-exempt organization were the seller, because the tax-exempt organization does not have owners to whom profits are paid, the tax-exempt organization may not have the incentive of a for-profit seller to take advantage of the buyer. In this analysis, consumers benefit because the tax-exempt organization helps them overcome the informational disadvantage they otherwise face when purchasing certain complex goods and services. For further discussion of this rationale, see Burton A. Weisbrod, *The Nonprofit Economy* (1988) and Dennis Zimmerman, *Nonprofit Organizations, Social Benefits, and Tax Policy,* 44 Nat'l Tax J. 341, 341-349 (1991).

Economic effects of exemption from income taxation

In one sense, every organization that elects to operate as a tax-exempt organization must believe that it receives some economic benefit from tax-exempt status. Even an organization not eligible to be a section 501(c)(3) organization whose goal is to operate over the long term so as not to earn a profit must perceive some benefit to tax-exempt status, or the organization could organize itself as a taxable business and, because it would not earn any income, generally not be subject to tax. In most cases, tax-exempt status offers tangible benefits even to those entities that strive to produce no taxable income. For example, an organization that successfully operates over the long term so as not to earn a profit may find that it operates at a surplus in some years, while in other years it operates at a deficit. Such surpluses generally may produce a tax liability in the current year, while deficits often must be carried forward. Because of the time value of money, if the organization were subject to the income tax, while its total tax payments over time might equal zero, the present value of tax liabilities could be positive. More generally, the present-law income tax measures income imprecisely. Entities which arguably have earned no economic income may accrue a positive tax liability. Tax-exempt status eliminates the effects of the timing differences and other imperfections of the present-law income tax.

To the extent a tax-exempt organization earns income, either portfolio income or active income, and that income is used to further the exempt purposes of the organization, one could say that the income was "donated" to the exempt purpose. Generally, in the case of a section 501(c)(3) organization, amounts donated to such an organization are excluded from the income of the donor, which for such an organization is equivalent to exempting the organization's income from tax. However, the deductible donations of taxpayers may be subject to limitation as explained in Part III.A.3, above. A taxpayer subject to such a deduction limitation may carry forward the excess amount to subsequent tax years. Because of the time value of money, deferral of part of the deduction for a charitable contribution reduces the present value of the deduction, or alternatively stated, does not completely exempt from tax the income that was donated to the charity. With respect to its own portfolio or active income, however, tax-exempt status permits section 501(c)(3) organizations to gain the economic equivalent of the full value of such deductions, without the limitations that may be imposed on the deductions of individual taxpayers.

Efforts to raise funds for tax-exempt endeavors often lead tax-exempt organizations into the sale of goods or services which also may be offered by private sector enterprises. As explained in Part III.A.3, above, when such sales are related to the exempt purpose of the organization, any income that the sales generate is exempt from Federal income tax. If income is earned from unrelated activity, the income is subject to Federal income tax. Regardless of whether the income is subject to tax, tax-exempt organizations and private-sector enterprises do not compete from the same footing. It is difficult to assess the economic effects of competition between tax-exempt organizations and for-profit enterprises. One analyst concluded:

> Whether a nonprofit expands into markets that are "related" to its exempt purpose or into other, unrelated, areas, the competition with proprietary firms affects nonprofits in important ways. Some are favorable: competition with proprietaries should stimulate efficient production, diversify revenue sources, and perhaps provide a stimulus to greater creativity. But some are unfavorable: becoming a multipurpose organization is likely to pose new administrative and managerial problems and most important, the pressure to perform profitably in the competitive marketplace can divert resources and energy from the organization's principal public-type purposes even while total resources are being expanded. All these possible consequences are speculative; hard evidence does not exist.[117]

The uncertainty inherent in the notion of "related" and "unrelated" activities has led some to suggest that tax exemption might offer an organization a competitive advantage. If the purpose of the tax-exempt organization for engaging in activities which compete with for-profit enterprises is to raise funds to subsidize the organization's exempt purpose, then both the tax-exempt organization and the for-profit enterprise share a common goal: to maximize profits from the endeavor. That is, both the tax-exempt organization and the for-profit enterprise would like the price to be as high as the market will bear, and a for-profit enterprise will be harmed no more by the entrance of the tax-exempt organization into the market than by the entrance of another for-profit enterprise.[118] While the tax-exempt organization earns a greater net return than does the for-profit enterprise by virtue of its tax-exempt status, this extra return is to be devoted to its tax-exempt purpose.[119]

Some believe that tax-exempt organizations may use either the greater net return or, in the case of a section 501(c)(3) organization, the ability to solicit tax-deductible contributions, to charge a price less than the profit-maximizing price in the short run. By using tax-exempt benefits to charge a lower price than for-profit enterprises, the tax-exempt organization may drive for-profit enterprises from the market and subsequently earn monopoly profits. That is, the tax-exempt organization may forgo short term profits which could redound to the organization's exempt purpose in order to earn greater long-term profits for the benefit of the exempt purpose. Aside from the possibility that predatory pricing may violate antitrust statutes, the viability of such a predatory strategy depends upon the conditions of the market place, as high profits usually induce entry by competitors. Competitive entry ultimately forces prices down, implying that the

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[117] Burton A. Weisbrod, *The Nonprofit Economy*, 114 (1988).

[118] Similarly the tax-exempt organization would be harmed no more by the entrance of a for-profit entity into the market than by the entrance of another tax-exempt organization.

[119] The tax-exempt organization often may accrue additional benefits by exemption from State and local income, sales, and property taxes.

potential to earn monopoly profits in the long run may be limited,[120] which in turn would reduce the likelihood of predatory pricing.

Data

The Joint Committee staff does not include among its estimates of tax expenditures any item related to the exemption of tax-exempt organizations from income taxation. The Joint Committee staff has explained this as follows:

> With respect to other nonprofit organizations, such as charities, tax-exempt status is not classified as a tax expenditure because the nonbusiness activities of such organizations generally must predominate and their unrelated business activities are subject to tax. In general, the imputed income derived from nonbusiness activities conducted by individuals or collectively by certain nonprofit organizations is outside the normal income tax base.[121]

It is consistent with this analysis to assert that there is value to the exemption from the income tax for qualified section 501(c) organizations. For example, just as the value of a charitable donation by an individual or taxable corporation can be estimated as the product of the value of the donation and the taxpayer's marginal tax rate, one could estimate the exemption from the corporate level tax for the portfolio earnings of a tax-exempt organization as the product of those earnings and the appropriate corporate marginal income tax rate. The amount of program service revenue earned by tax-exempt organizations or the excess of revenue from all sources over total expenses may give an indication of the magnitude of the benefit from exemption from income taxation.[122]

Table 6, below, reports program service revenue, the excess of total revenue over expenses, and income from investments for certain qualifying organizations that filed Form 990 or Form 990-EZ for 1995. Table 6 also shows these figures in comparison to the total revenues, donations and grants received, and membership dues of those organizations. These data show that

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[120] See, Dennis Zimmerman, *Nonprofit Organizations, Social Benefits, and Tax Policy*, 44 Nat'l Tax J. 341, 343 (1991). Zimmerman notes that "[e]mpirical evidence on voluntary sector failure is somewhat anecdotal.

[121] Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2000-2004* (JCS-13-99), December 22, 1999, 7.

[122] Because income from portfolio investments and program service revenue each comprise one component of a tax-exempt organization's total gross income, it would be inappropriate to consider the excess of total revenue over total expense, or surplus, an indicator of the magnitude of potential benefit from tax exemption that is distinct from measures of income from portfolio investments and program service revenue.

such organizations realized income from investments and from the sale of capital assets in excess of $75 billion in 1995. Alternatively, these data show that in 1995 the excess of total revenue over expenses exceeded $70 billion, so the exemption of such organizations from income taxation may have provided a significant benefit in aggregate.

Table 6.–Total Revenue, Components of Total Revenue, and Excess of Total Revenue Over Expenses for Certain Exempt Organizations Filing Form 990 or Form 990-EZ Calendar Year 1995
($ MILLIONS)

Type of Organi-zations	Total revenue	Program service revenue	Contri-butions, gifts, grants	Member-ship dues	Income from investments [1/]	Net gain from sale of assets	Other [2/]	Excess of total revenue over expenses
501(c)(3)	$663,371	$443,052	$127,743	$6,148	$31,060	$23,014	$32,354	$58,725
501(c)(4)	28,583	21,376	2,498	1,728	1,391	132	1,458	1,124
501(c)(5)	14,120	3,616	466	8,434	790	256	557	1,481
501(c)(6)	20,996	7,790	1,575	9,083	1,160	222	1,166	1,960
501(c)(7)	7,116	1,249	80	4,175	174	20	1,418	212
501(c)(8)	10,600	9,128	93	327	664	57	330	599
501(c)(9)	72,010	63,097	9	2,496	3,109	1,139	2,160	6,403
Total	**$816,796**	**$549,308**	**$132,464**	**$32,391**	**$38,348**	**$24,839**	**$39,444**	**$70,504**

[1/] Income from investments includes interest on savings and temporary cash investments, dividends and interest on securities, gross rents, and other investment income, but excludes gain (or loss) from the sale of securities or other assets.

[2/] Includes net profit from the sales of inventories, net income from special events, and other net revenue.

Source: Cecelia Hilgert and Melissa Whitten, "Charities and Other Tax-Exempt Organizations, 1995," *SOI Bulletin*, 18, Winter 1998-1999, pp. 105-125, and Joint Committee staff calculations.

B. Tax Deductibility of Charitable Donations

Rationale for tax deduction for charitable donations

Tax deductibility of charitable donations reduces the economic cost to the donor of his or her donation and encourages giving. There are a number of different rationales advanced for the deductibility of donations to charitable organizations described in section 501(c)(3). These rationales depend, in part, on differing views about the role of charitable organizations and the benefits they provide to society as a whole. One rationale for the charitable donation tax deduction is that income given to a charity should not be taxed because it does not enrich the giver. Others describe charitable organizations as providing many services at little or no direct cost to taxpayers, which services otherwise would have to be provided by the government at full cost to taxpayers. In this view, the tax deduction for voluntary charitable donations is seen as equivalent to deductions permitted for many State and local taxes. The charitable donation tax deduction could be said to provide neutrality in the choice to provide certain services to the public through direct government operation and financing or through the private operation and mixed private and public financing of a charitable organization.

Some observe that the activities of a number of charitable organizations are public in nature or provide significant spillover benefits to the public at large. For example, some charitable organizations maintain open spaces such as bird refuges. Open space is an example of a public good, that is, a good or service that may be simultaneously enjoyed by all. Other charitable organizations provide benefits that improve the health of specific individuals, such as through the provision of vaccinations, which provide spillover benefits[123] to the populace at large. Economists generally argue that, in the absence of a subsidy, the private market may provide insufficient levels of public goods or goods that create spillover benefits.[124] As discussed below, the tax deduction for charitable donations encourages such donations and thereby acts as a subsidy to the activities of charitable organizations. Accordingly, the philanthropic community and others believe the present-law deductions for the income tax and the estate and gift tax serve a social purpose.

A range of arguments for and against the tax deductibility of charitable donations can be made in assessing deductibility in the context of a theoretically ideal income tax system. Wholly apart from any incentive effect or intent to encourage charitable giving, some argue the gratuitous transfer of funds from an individual to a charity should not be treated as a personal consumption of income that should be subject to tax even under a theoretically pure, broad-based income tax

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[123] Economists usually refer to such spillover benefits as "positive externalities," that is, benefits accrue to the individual who consumes the good and also to other individuals who are "external" to the initial consumption of the good.

[124] *See e.g.*, Richard A. Musgrave and Peggy B. Musgrave, *Public Finance in Theory and Practice* (1984); and Harvey S. Rosen, *Public Finance* (1988).

because the donation does not directly benefit the donor and, therefore, should represent a reduction in the wealth or well-being of the donor. Alternatively, one could view charitable giving as a purely personal expenditure, a deduction for which would be denied under an ideal income tax.[125] The tax deduction for charitable donations sometimes is referred to as a tax expenditure in that it may be considered to be analogous to a direct outlay program which would direct Federal funds to charitable organizations. Applying this analogy, the tax deduction for charitable donations is most similar to those direct spending programs that have no spending limits, and that are available as entitlements to those organizations which meet the statutory criteria established under section 501(c)(3).

Economic effects of tax deductions for charitable donations

As with any tax deduction or credit, the price to the donor of charitable giving that benefits from a tax incentive is reduced by the value of the tax benefit provided. For example, for a taxpayer who itemizes deductions and is in the 31-percent tax bracket, a $100 cash gift to charity reduces the taxpayer's taxable income by $100, and thereby reduces tax liability by $31. As a consequence, the $100 cash gift to charity reduces the taxpayer's after-tax income by only $69. Economists would say that, for this taxpayer, the price of giving $100 cash to charity is $69. With gifts of appreciated property, if a fair market value deduction is allowed (while the accrued appreciation is not included in income), the price of giving $100 worth of appreciated property is as low as $40.40.[126] The price of giving is determined as one minus the taxpayer's marginal tax rate. Alternatively stated, the value of the tax deduction is the amount deducted multiplied by the taxpayer's marginal tax rate. The charitable deduction is worth more the higher the taxpayer's marginal tax rate. Because higher-income taxpayers generally are in higher marginal tax rate brackets and are more likely to itemize deductions, the charitable donation tax deduction generally

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[125] Likewise, the deduction under the estate tax could be said to be consistent with a theory of an estate tax which is intended to tax wealth transferred generally to the succeeding generation, because a charitable bequest removes such wealth from the benefit of the decedent's heirs. Alternatively, one could view the bequest as no different from any other bequest.

[126] This example assumes that the property has a basis of zero and the taxpayer is in the 39.6 percent tax bracket. The "price of giving" is computed as follows: $100 minus $20 (tax avoided from non-recognition of built-in capital gain) minus $39.60 (tax saved from deduction for fair market value). This "price of giving" figure assumes that the taxpayer would sell the appreciated property (and pay tax on the built-in gain) in the same year of the donation if the property was not given to charity. However, a higher "price of giving" would be derived if it is assumed that, had the taxpayer not donated the property, he or she would have retained the asset until death (and obtained a step-up in basis) or obtained benefits of deferral of tax by selling the asset in a later year. A lower price of giving would be calculated if it were assumed that the taxpayer was otherwise in a higher effective marginal tax bracket which might arise due the combined effect of State and Federal income taxes.

is more valuable to higher income taxpayers than to lower income taxpayers who often do not itemize such deductions and who generally are in lower marginal tax brackets.[127]

While factors other than tax benefits also motivate charitable giving, the preponderance of evidence suggests that the charitable donation tax deduction has been a stimulant to charitable giving, at least for higher-income individuals. Economic studies generally have established that charitable giving responds to the price of giving. While the economic literature suggests that individuals alter their giving in response to changes in the price of giving, there is less consensus as to how large are the changes in donations induced by the tax deductibility of charitable donations.[128] Some evidence suggests that higher-income taxpayers are more responsive to the

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[127] The obverse statement is that the tax price is lower the higher the marginal tax rate and that higher income taxpayers generally have a lower tax price of giving than do lower income taxpayers. A taxpayer who does not itemize deductions receives no value from the tax deductibility of charitable donations and the tax price of giving $1.00 is $1.00 of forgone other expenditures.

[128] *See* Charles Clotfelter, *Federal Tax Policy and Charitable Giving* (1985) for a review of the literature. Martin Feldstein and Charles Clotfelter, *Tax Incentives and Charitable Contributions in the United States: A Micro-econometric Analysis*, 5 J. Pub. Econ. 1 (1976) argue that the tax deduction for charitable donations induces charitable giving in amounts exceeding the revenue lost to the government from the tax deduction. More recently, William C. Randolph, *Dynamic Income, Progressive Taxes, and the Timing of Charitable Contributions*, 103 J. Pol. Econ. 709, 709-738 (1995), argues the opposite. Randolph argues that earlier studies inadvertently confused timing effects that may be the result of an individual taxpayer's circumstances in a particular year or the result of changes from one tax regime to another with the permanent effects. Randolph's estimates suggest that on a permanent basis, charitable donations are much less responsive to the tax price than previously believed. Charles T. Clotfelter, *Impact of Tax Reform on Charitable Giving: A 1989 Perspective*, in *Do Taxes Matter?* 203 (Joel Slemrod ed., 1990), points to the surge in giving in 1986 prior to enactment of the Tax Reform Act of 1986 as evidence of the tax-sensitive timing of charitable gifts.

Some analysts have suggested that the charitable estate tax deduction creates a strong incentive to make charitable bequests. A limited number of studies have examined the effects of estate taxes on charitable bequests. Most of these studies have concluded that, after controlling for the size of the estate and other factors, deductibility of charitable bequests encourages taxpayers to make charitable bequests. Recent studies examining this question include David Joulfaian, *Charitable Bequests and Estate Taxes*, 42 Nat'l Tax J. 169, 169-180 (1991); and Gerald Auten and David Joulfaian, *Charitable Contributions and Intergenerational Transfers*, 59 J. Pub. Econ. 55, 55-68 (1996). Each of these studies estimates a tax price elasticity in excess of 1.6 in absolute value. This implies that for each 10-percent reduction in the tax price, with the tax price defined as one minus the marginal tax rate, there is a greater than 16-percent increase in the dollar value of charitable bequests. Such a finding implies that charities receive a greater

incentives provided by the tax deduction. Hence, charities whose patrons are predominantly higher-income (e.g., universities and hospitals) might see more tax-induced charitable donations than charities whose patrons are not predominantly higher income persons, such as religious organizations.[129]

If taxpayers do respond to the incentive effect of the tax deduction for charitable donations, then the charitable sector would become larger because it receives more donations that it would in the absence of the preferential tax treatment. Depending upon the magnitude of the additional or induced donations, the increase in the size of the charitable sector may be less than, equal to, or greater than the tax revenue forgone. If the increase in donations to the charitable sector induced by the tax deduction exceeds the revenue lost to the government, then the tax deduction could be said to be an efficient means of providing public support to such charitable functions.[130]

Data

Between 1984 and 1997, total individual donations, including charitable bequests, to charities grew from $60.50 billion to $135.58 billion, while corporate donations declined from $8.20 billion to $5.92 billion. See Table 7, below.

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dollar value of bequests than the Treasury loses in forgone tax revenue. Not all studies find such responsiveness of charitable bequests to the marginal estate tax rate. Thomas Barthold and Robert Plotnick, *Estate Taxation and Other Determinants of Charitable Bequests*, 37 Nat'l Tax J. 225, 225-237 (1984), estimated that marginal estate tax rates had no effect on charitable bequests.

[129] See, Charles Clotfelter, *Impact of Tax Reform on Charitable Giving: A 1989 Perspective, in Do Taxes Matter?* 203 (Joel Slemrod ed., 1990).

[130] In the economics literature, the notion of elasticity is used as a measure of taxpayer response to a change in the "tax price" or value of the tax deduction. An elasticity greater than one in absolute value (that is, a value smaller than negative one or a value greater than positive one) implies that recipients of charitable donations receive more in increased funding than the government loses in forgone revenue. *See* Charles Clotfelter, *Federal Tax Policy and Charitable Giving* (1985).

Table 7.–Individual and Corporate Charitable Donations, 1984-1997

(Billions of Dollars)

	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Individual Donations														
Itemized deductions claimed for charitable donations	42.12	47.96	53.82	49.62	50.95	55.46	57.24	60.58	63.84	68.35	70.54	74.99	86.16	95.82
Total individual donations	56.46	57.39	67.09	64.53	69.98	79.45	81.04	84.27	87.70	92.00	92.52	95.36	107.65	122.95
Charitable bequests claimed on estate tax return	n.a.	n.a.	3.57	3.98	4.82	4.93	5.53	6.25	6.79	7.29	9.34	8.70	10.21	14.27
Charitable bequests received	4.04	4.77	5.70	6.58	6.57	6.97	7.64	7.78	8.15	8.54	10.01	10.73	11.48	12.63
Total individual donations and charitable bequests received	60.50	62.16	72.79	71.11	76.55	86.42	88.68	92.05	95.85	100.54	102.53	106.09	119.13	135.58
Corporate donations														
Deductions claimed for charitable donations	4.06	4.47	5.18	4.98	4.89	4.89	4.75	4.76	5.52	6.31	7.10	7.43	7.82	8.42
Total corporate donations	4.13	4.63	5.03	5.21	5.34	5.46	5.46	5.25	5.91	6.47	6.98	7.32	7.51	8.20

Source: Individual itemized deductions, charitable bequests claimed on estate tax return, and corporate deductions taken from Internal Revenue Service *Statistics of Income* data. *Statistics of Income* data for 1997 are preliminary. *Statistics of Income* data for charitable bequests claimed on estate tax return relate to returns filed during the calendar year. Total individual donations, charitable bequests, total individual donations and charitable bequests received, and total corporate donations taken from *Giving USA, 1999*. Data do not include donations from trusts. All tabulations prepared by staff of the Joint Committee on Taxation.

Individual donations claimed as itemized deductions on individual tax returns have grown in every year, excepting from 1986 to 1987.[131] Charitable bequests showed the most rapid growth over the period and corporate donations the slowest growth. For each line in Table 7, the measure of charitable donations has grown more rapidly than the rate of inflation over this period.[132] However, this real, inflation-adjusted, growth did not occur evenly over the period. Between 1984 and 1990, the real growth in individual donations claimed as itemized deductions was more modest than was real growth since 1990. The value of charitable donations from corporations declined in real terms between 1984 and 1991.

The Joint Committee staff estimates that, for 1999, 32.5 million taxpayers will claim more than $97 billion in charitable donation tax deductions. See Table 8, below.

[131] Most analysts attribute the high level of donations in 1986 followed by the lower level of donations in 1987 to the anticipation and enactment of the Tax Reform Act of 1986 which lowered expected future marginal tax rates for many taxpayers, thereby increasing the expected price of future donations. In addition, certain other modifications to charitable tax deductions as part of the individual alternative minimum tax may have altered the timing of some donations to charities.

[132] The price level, as measured by changes in the consumer price index ("CPI"), increased by 54.4 percent over the period 1984 through 1997.

Table 8.--Tax Returns Claiming an Itemized Deduction For a Charitable Donation
(1999 Projections)

Income category [1]	Number of tax returns (thousands)	Dollars claimed (millions)
Less than $10,000	108	$51
$10,000 to $20,000	941	894
$20,000 to $30,000	2,138	2,769
$30,000 to $40,000	3,271	4,189
$40,000 to 50,000	3,922	5,876
$50,000 to $75,000	8,221	17,738
$75,000 to $100,000	5,735	14,382
$100,000 to $200,000	5,353	19,302
$200,000 and over	1,758	32,020
TOTAL	32,447	$97,221

Source: Staff of the Joint Committee on Taxation, December 1999.
NOTE: Details may not add to totals due to rounding.

[1] The income concept used to place tax returns into income categories is adjusted gross income ("AGI") plus: employer contributions for health plans; employer contributions for the purchase of life insurance; employer share of payroll taxes; workers compensation; tax-exempt interest; excluded income of U.S. citizens living abroad; nontaxable Social Security benefits; insurance value of Medicare benefits; and alternative minimum tax preference items.

One measure of the magnitude of economic benefit to the donor that the deductibility of charitable donations provides is an estimate of the tax expenditure related to such deductions. A tax expenditure is measured by the difference between tax liability under present law and the tax liability that would result from a recomputation of tax without benefit of the tax expenditure provision.[133] Table 9, below, provides the Joint Committee staff estimates of tax expenditures related to charitable deductions to educational organizations, health organizations, and other charitable organizations. The Joint Committee staff estimates the annual value of the tax expenditure relating to charitable donations to educational organizations by individuals to be approximately $4.0 billion annually, to health organizations to be approximately $3.0 billion annually, and to all other charitable organizations to be over $21.0 billion annually.

[133] Taxpayer behavior is assumed to remain unchanged for tax expenditure estimate purposes. For a discussion of the concept of "tax expenditures," *see* Joint Committee on Taxation, *Estimates of Federal Tax Expenditures for Fiscal Years 2000-2004* (JCS-13-99), December 22, 1999.

Table 9.–Estimates of Federal Tax Expenditures Related to Charitable Deductions, 2000-2004
(Billions of Dollars)

	Corporations					Individuals					Total 2000-04
	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004	
Deduction for charitable contributions to educational institutions	0.9	1.0	1.0	1.1	1.2	3.9	4.3	4.6	4.9	5.2	28.2
Deduction for charitable contributions to health organizations	0.8	0.8	0.9	1.0	1.1	2.7	2.9	3.1	3.4	3.6	20.4
Deduction for charitable contributions other than for education or health	1.5	1.6	1.8	1.9	2.1	21.4	23.1	24.8	26.6	28.4	133.1

Source: Staff of the Joint Committee on Taxation, December 1999.

C. Implicit Subsidies to Capital Financing for Section 501(c)(3) Organizations: Tax-Exempt Bonds

Rationales for permitting section 501(c)(3) organizations access to tax-exempt financing

Access to tax-exempt financing permits section 501(c)(3) organizations to borrow funds at interest rates less than would otherwise prevail. As noted above, many describe charitable organizations as providing services that otherwise would have to be provided by State or local governments. Because State and local governments may use tax-exempt financing, providing access to tax-exempt financing to section 501(c)(3) organizations creates parity in the cost of provision of a service by such organizations and State and local governments. As a result, the choice between the provision of a service through a section 501(c)(3) organization or a State or local government is not biased by a perceived cost advantage of a government compared to private provision by a section 501(c)(3) organization.

Others have suggested that financial institutions and markets may incorrectly perceive the risks of lending to section 501(c)(3) organizations. They suggest that the implicit Federal subsidy created by the use of tax-exempt financing lowers financing costs for qualifying section 501(c)(3) organizations to more appropriate levels. Alternatively, they posit that because the activities of charitable organizations provide significant spillover benefits to the public at large, it is appropriate to subsidize the cost of providing these beneficial services and that it is appropriate to encourage the provision of activities that create such spillover benefits.

Economic effects of the access to tax-exempt bond financing

Interest on State or local government bonds is tax-exempt when the proceeds are used to finance activities of those governmental units or when the bonds are repaid with governmental funds (e.g., taxes). States and local governments also may act as conduits to provide tax-exempt financing for limited activities conducted and paid for by private businesses or individuals ("private activity bonds"). One permitted type of such private activity conduit financing is for the exempt activities of section 501(c)(3) organizations ("qualified 501(c)(3) bonds"). This exception does not include financing for unrelated business activities of such organizations. Issuance of qualified 501(c)(3) bonds is not subject to the annual State volume limitations that apply to issuance of most private activity bonds.

The ability to finance capital and operating costs with tax-exempt bonds may substantially reduce the cost of debt financing to section 501(c)(3) organizations. To illustrate, assume the interest rate on taxable debt is 10 percent. If an investor in the 36-percent marginal income tax bracket purchased a taxable debt instrument, his after-tax rate of return would be the 10-percent interest less a tax of 36 percent on the interest received for a net return of 6.4 percent. If, as an alternative, this investor could purchase a tax-exempt bond, all other things such as credit worthiness being equal, the investor would earn a better after-tax return by accepting any yield

greater than 6.4 percent.[134] In the market, the yield spread between a tax-exempt bond and a comparable taxable bond is determined by the marginal buyer of the bonds; in today's market, these yield spreads are generally less than 28 percent.[135] Because the yield spread arises from forgone tax revenue, economists say that tax-exempt financing creates an implicit Federal subsidy to the issuer. However, with many investors in different tax brackets, the loss of Federal receipts is greater than the reduction in the tax-exempt issuers' interest saving.[136] The difference accrues to investors in tax brackets higher than those that would be implied by the yield spread between taxable and tax-exempt bonds. Nevertheless, as a consequence of the ability to use tax-exempt financing, a section 501(c)(3) organization generally can borrow at more favorable interest rates than individuals or other entities.

Data

Available evidence suggests that the greatest use of tax-exempt bond financing by section 501(c)(3) organizations is related to educational and health facilities. Table 10, below, provides estimates of the tax expenditure related to the use of tax-exempt bond financing of educational and health facilities by section 501(c)(3) organizations. The table presents estimates that the value of the tax expenditure related to such tax-exempt bond financing exceeds $1.0 billion annually for both educational facilities and health facilities.

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[134] More generally, if the investor's marginal tax rate is *t* and the taxable bond yields *r*, the investor is indifferent between a tax-exempt yield, r_e, and *(1-t)r*.

[135] For example, while not comparable in security, market trading recently priced 30-year U.S. Treasuries to have a yield to maturity of 6.637 percent. Prices for an index of long-term tax-exempt bonds have produced a yield to maturity of approximately 6.00 percent. *See* 331 *The Bond Buyer* 29 (January 6, 2000). Applying the equality of $r_e = (1-t)r$ from footnote 132, and ignoring differences in risk or other non-tax characteristics of the securities, the early January yield spread implies that an investor with a marginal tax rate of 9.6 percent would be indifferent between the Treasury bond and the average high-yield tax-exempt bond. The yield to maturity on 10-year U.S. Treasuries was 6.605 percent, while prices on an index of tax-exempt bonds with 10-year maturities produced an average yield of 5.20 percent, implying investors with a marginal tax rate of 21.3 percent would be indifferent between the Treasury bond and the tax-exempt bond.

[136] The Federal income tax has graduated marginal tax rates. Thus, $100 of interest income forgone to a taxpayer in the 31-percent bracket costs the Federal government $31, while the same amount of interest income forgone to a taxpayer in the 28-percent bracket costs the Federal government $28. If a taxpayer in the 28-percent bracket finds it profitable to hold a tax-exempt security, a taxpayer in the 31-percent bracket will find it even more profitable. This conclusion implies that the Federal government will lose more in revenue than the tax-exempt issuer gains in reduced interest payments.

Table 10.–Estimates of Tax Expenditures Related to Tax-Exempt Bond Financing by Certain 501(c)(3) Organizations, 2000-2004

(Billions of Dollars)

	Corporations					Individuals					Total 2000-04
	2000	2001	2002	2003	2004	2000	2001	2002	2003	2004	
Exclusion of interest on State and local government bonds issued on behalf of private nonprofit educational facilities	0.2	0.2	0.2	0.2	0.2	0.5	0.5	0.5	0.5	0.5	3.7
Exclusion of interest on State and local government bonds issued on behalf of private nonprofit hospital facilities	0.3	0.3	0.3	0.3	0.3	0.8	0.8	0.9	0.9	0.9	5.9

Source: Staff of the Joint Committee on Taxation, December 1999.

V. ANALYSIS OF ISSUES RELATING TO THE DISCLOSURE OF INFORMATION WITH RESPECT TO TAX-EXEMPT ORGANIZATIONS

A. Discussion of Issues Relating to Disclosure of Information Regarding Tax-Exempt Organizations

Introduction

The statutory mandate for this study requires the Joint Committee to determine whether the public interest would be served by greater disclosure of information relating to tax-exempt organizations. Making this determination involves the balancing of sometimes competing policy objectives. This balancing generally involves, on the one hand, the organization's right to privacy and concerns about misuses of information and, on the other hand, the legitimate public interest in information regarding tax-exempt organizations. Also involved is the question of the effect of disclosure on voluntary compliance with the tax laws. Other factors may be relevant, such as whether disclosure would impose additional burdens on tax-exempt organizations and the effect of disclosure on donors and prospective donors. A similar balancing occurs with respect to determining whether to allow disclosure of returns and return information of taxable persons.

Organizations' right to privacy and the public interest in disclosure

In the case of taxable persons, the balancing of issues regarding disclosure has resulted in a general presumption against disclosure; that is, disclosure of returns and return information is not permitted unless the disclosure is specifically authorized. The general presumption against disclosure of returns and return information stems primarily from taxpayers' right to privacy.[137] Exceptions to the general rule of nondisclosure are provided only in limited, specific circumstances where the need for the information is found to outweigh the taxpayer's privacy interest. Even in those cases when disclosure is permitted, the disclosure is not public disclosure; return information (such as written determinations involving a taxpayer) is made public only in redacted form so that the taxpayer involved cannot be identified.[138]

Like taxable persons, tax-exempt organizations may assert a right to privacy regarding their activities and interactions with the IRS. However, for some time, different disclosure rules have applied to tax-exempt organizations than to taxable persons and more recent changes in the law have led to increased levels of public disclosure of returns and return information of tax-

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[137] For a discussion of the policy issues regarding section 6103, see Part Three of Volume I of this study.

[138] Section 6103(k)(2) provides for the public disclosure of accepted offers in compromise. The IRS makes summaries of accepted offers in compromise available for public inspection at IRS district offices. It is the understanding of the Joint Committee staff that such information is rarely requested.

exempt organizations. The present-law rules requiring disclosure of returns and return information relating to tax-exempt organizations reflect a determination that, because such organizations are supported by the public, both through the tax benefits associated with tax-exempt status and, in some cases, direct contributions,[139] such organizations have a different expectation of privacy than taxable persons and the public has a strong interest in information regarding such organizations.[140]

The significance of the benefits of tax-exempt status, and the public's right to information that accompanies such benefits, has been described as follows:

> [T]he proposed amendment requires annual reports from each and every foundation, to the end that those foundations will act in the public interest, and also so that interested parties, the general public, the Internal Revenue Service, congress and the committees concerned will have accurate information...
>
> [T]ax exemption is a high privilege. I believe the operation of a tax exempt foundation is a public trust; and starting from the premise, I believe that all the business, all the transactions, all the receipts, all the investments, all the grants and contributions made by the foundation to individuals or to institutions, are of public concern.[141]

The recognition of the public's right to information also has precedent in other areas. For example, Federal securities laws require publicly-traded companies to disclose considerable information regarding their activities and financial positions. These disclosure rules recognize that the public has a right to such information because the public invests in such companies. Similarly, the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), requires disclosure of information regarding pension plans. Federal election laws require

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[139] See the discussion in Part III., above, for an analysis of the theory and economic benefit of tax-exempt status.

[140] Underlying the disclosure rules for tax-exempt organizations may also be a belief that entities' right to privacy is not as compelling as that of individuals. The Privacy Act reflects this view--its protections apply only to individuals. Another possible rationale for disclosure of information relating to tax-exempt organizations is that, to the extent that tax-exempt organizations are viewed as providing services that otherwise would be provided by the Government, their operations should be open to the public as are the operations of the Government.

[141] Statement of Senator Carl T. Curtis, Cong. Rec. S15646 (Daily Ed. December 4, 1969). This statement was made regarding private foundations; however, the rationale applies equally to all tax-exempt organizations.

disclosure of campaign financing information.[142] In each of these cases, the public interest or right to information has been found to outweigh the rights of individuals or organizations to privacy.

As in other cases in which public disclosure is required, public disclosure of information regarding tax-exempt organizations enables the public to provide oversight of such organizations and the activities in which they are involved. Disclosure of information regarding tax-exempt organizations also allows the public to determine whether the organizations should be supported-either through continued tax benefits or contributions of donors-and whether changes in the laws regarding such organizations are needed.

Specific types of information in which the public has an interest

The public has an interest in information about the tax-exempt sector as a whole, as well as in information regarding specific organizations. The public has an interest in knowing whether tax-exempt organizations are complying with the law, how such organizations are carrying out their exempt purposes, and whether the tax benefits provided to such organizations are accomplishing their purposes and should be continued, modified, or eliminated. Members of the public who wish to donate funds to tax-exempt organizations also need to know whether the donation will be tax deductible.

While some of the information in which the public has an interest is relevant to determining whether a tax-exempt organization satisfies applicable legal requirements, the information required by members of the public, including potential and current donors, may go beyond the minimum required to determine compliance with the law.

The information of interest to the public, particularly donors, includes the following:

- the identity of the organization;[143]
- the charitable purpose or purposes of the organization and whether the organization operates in a manner consistent with its stated purposes;
- the specific means by which the organization accomplishes its purposes;
- whether the organization is (and has been) in compliance with applicable laws;
- the identities and backgrounds of those responsible for major decision-making within the organization;
- whether the organization's officers, directors or other principals have engaged in improper transactions with the organization (or other nonprofit organizations);

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[142] The disclosures required under the Federal securities and Federal election laws are described in Part B., below.

[143] Many tax-exempt organizations have similar names or do business under a name other than the organization's legal name, and some donors may believe they have made a contribution to one organization when it fact it was made to another with a similar name.

- whether the organization has any tax-exempt or taxable affiliates and, if so, the nature of such affiliates and information regarding transactions between the organization and such affiliates ;
- the fund raising practices and policies of the organization;
- whether the organization shares donor information with other organizations;
- detailed financial information regarding the organization, including sources and uses of funds; and
- how much of the donation will be used to support the efforts in which the donor is interested (e.g., will a significant portion be retained by professional fund raisers).

Effect of public disclosure of returns and return information of tax-exempt organizations

The public disclosure of returns and return information of tax-exempt organizations assists the public in providing oversight of tax-exempt organizations. There are a variety of benefits typically associated with this oversight, including increased compliance with the law by tax-exempt organizations and more informed giving by donors.

Effect of public disclosure on compliance

While disclosure of returns and return information with respect to taxable persons has generally been believed to compromise voluntary compliance,[144] public oversight of tax-exempt organizations generally is viewed as increasing compliance with Federal and State laws.[145] Increased compliance may result from a number of factors. Tax-exempt organizations may make greater efforts to comply with the law knowing that their activities will be subject to public scrutiny and that a "clean" public record will assist in the solicitation of donations. Public disclosure may also increase detection of violations of the law, and the fear of detection may spur greater compliance with the law by some who would not otherwise comply. Public disclosure may also increase compliance by making more information regarding the law available to tax-exempt organizations.

Providing increased disclosure of IRS materials and rulings information may lead to fairer application of the Federal tax laws by enabling taxpayers and others to determine if the IRS is applying the law in a consistent manner. This, in turn, may also increase voluntary compliance;

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[144] See discussion in Part Three of Volume I of this study.

[145] See, e.g., Robert C. DeGaudenzi, *Tax-Exempt Public Charities: Increasing Accountability and Compliance,* 36 Cath. U. L. Rev. 203, 221 (1995)(increasing amount and quality of information available to the general public is "an essential element" in improving compliance); *Subcommittee on Oversight of the Committee on Ways and Means, U.S. House of Representatives, Report on Reforms to Improve the Tax Rules Governing Public Charities,* WMCP 103-26, 103d Cong., 2nd Sess., at 19 (1994) ("[p]ublic oversight of charities is critical to ensuring charities' overall compliance with the tax laws").

organizations (and taxpayers generally) may be more willing to comply with the law if they perceive that the system as a whole is fair.

Not all agree that increased public disclosure will lead to increased compliance. Some argue that increased disclosure will not result in an increase in the quality and quantity of information received. It has been suggested that tax-exempt organizations may attempt to manipulate publicly available information so that the public perceives the information in a more favorable way, and that persons who misuse tax-exempt organization funds will actively conceal information. Some argue that organizations may be reluctant to bring violations of the law to the attention of the IRS or work with the IRS to correct a problem if they know that the violation will be made public.

In response to such arguments, it has been noted that there may be ways to address such issues. For example, the disclosure rules could be modified to reduce the flexibility regarding characterization of expenses, thus reducing opportunities for manipulation. Penalties for violations of the law could be tailored to provide an incentive for organizations to detect and report violations to the IRS. Disclosure could be limited to only certain violations, such as violations relating to tax-exempt status. On the other hand, some argue that the public has an interest in all violations, and that they all should be disclosed.

Effect of public disclosure on charitable giving

Recently there have been a number of well-publicized cases involving misuse of charitable funds.[146] While such misuses are not typical of the operations of tax-exempt organizations generally, it has been noted that such scandals undermine the public faith in the tax-exempt sector as a whole and that public faith in tax-exempt organizations is key to maintaining the viability of such organizations, both with respect to their tax-exempt status as well as their ability to attract donors.[147] Increased public disclosure of information regarding tax-exempt organizations may help to increase confidence in the tax-exempt sector in a number of ways. For example, as discussed above, increased disclosure may reduce the incidence of improper transactions. Increased public disclosure may also help remove any taint from scandals by making the public aware that most organizations are operated in an appropriate manner. An open book policy regarding the operations of tax-exempt organizations may also help to create the impression that such organizations have nothing to fear from disclosure and may even welcome it.

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[146] See, e.g., DeGaudenzi, *supra,* at 203-206.

[147] See, e.g., Consuelo Lauda Kertz, *Executive Compensation Dilemmas in Tax-Exempt Organizations: Reasonableness, Comparability, and Disclosure,* 71 Tul. L. Rev. 819, 858-59 (1997) ("Accountability for financial performance and charitable program outcomes are important aspects of keeping the public trust, and that accountability is enhanced by disclosure.")

On the other hand, some tax-exempt organizations have expressed the concern that the disclosure of some information, such as transactions that may involve self dealing, will deter donors. Some counter that such a result may be appropriate and that donors and the public generally have a right to information regarding the proper and improper uses of funds by tax-exempt organizations. Without such information, donors may not be able to make the best decisions about which organizations to support.

Discussion of factors to be taken into account in developing disclosure rules

In developing specific rules regarding disclosure of returns and return information regarding tax-exempt organizations, a number of factors should be taken into account and balanced against the public interest in information. Some of these factors are discussed below.

Costs of disclosure

In determining what disclosure is appropriate, the direct costs of disclosure should be taken into account. In some cases the cost of disclosure may fall on the organization (and its donors or other funding sources) and in some cases the cost may fall on the IRS (i.e., taxpayers generally). Direct costs that may be incurred in complying with disclosure requirements include the cost of compiling information, storing information, and responding to requests for information. In the case of large organizations, the costs of disclosure may not be a significant portion of the overall budget of the organization. However, in the case of smaller organizations, disclosure costs may impose a significant burden. In determining whether to require disclosure and, if so, whether the disclosure should be made by the organization or the IRS, factors to take into account include whether it would be less costly for the IRS or the organization to make the disclosure, whether there are ways to reduce the cost of disclosure (e.g., through the use of electronic means), and whether the cost of the disclosure is appropriate relative to the public benefit of the disclosure.

Benefits of disclosure

Disclosure rules must be developed with a view toward ensuring that the information required to be made available will be responsive to the needs giving rise to the disclosure. More information is not necessarily better; rather, information needs to be tailored to those who will use it. For example, some have commented that the current Form 990, while containing valuable information, may also be confusing, particularly to members of the general public. Any proposals relating to disclosure should be examined to determine whether they will in fact serve the purposes for which disclosure is made.

The IRS as the repository of information regarding tax-exempt organizations

Another issue that arises with respect to disclosure of information relating to tax-exempt organizations is whether the IRS should be the repository for all information in which the public has an interest. The IRS needs information in order to determine whether a tax-exempt organization is complying with the Federal tax laws, both as to the initial determination of tax-exempt status and the operation of the organization. It has been recognized that the role of the IRS with respect to tax-exempt organizations is different than the usual role of the IRS. In the case of taxable persons, the IRS is concerned with determining whether the proper amount of tax is paid. Given the nature of the law regarding tax-exempt organizations, the role of the IRS is broader than determining whether any tax is due and should be paid.

This differing role was recognized in 1974, when as part of the reforms contained in the ERISA, the Congress statutorily created the Office of Employee Plans and Exempt Organizations ("EP/EO") under the direction of an Assistant Commissioner.[148] EP/EO was created to oversee deferred compensation plans and organizations exempt from tax under section 501(a).

In general, EP/EO was established in response to concerns about the level of IRS resources devoted to oversight of employee plans and tax-exempt organizations. The legislative history to the provision establishing EP/EO states that, with respect to administration of laws relating to employee plans and tax-exempt organizations, "the natural tendency is for the Service to emphasize those areas that produce revenue rather than those areas primarily concerned with maintaining the integrity and carrying out the purposes of exemption provisions."[149]

As part of the general provisions relating to the reorganization of the IRS, the IRS Reform Act eliminated the statutory requirement that a separate EP/EO office be created. The legislative history to the IRS Reform Act makes it clear, however, that the Congress continued to recognize the special role of the IRS with respect to tax-exempt organizations. The Senate Committee report on the IRS Reform Act states that it was intended that the IRS create a comparable structure to EP/EO administratively "to ensure that adequate resources within the IRS are devoted to oversight of the tax-exempt sector."[150] The Report further states: "given the magnitude of the sectors EP/EO is charged with regulating, as well as the unique nature of its mandate, an adequately funded EP/EO is extremely important to the efficient and fair administration of the Federal tax system. Accordingly, financial resources for EP/EO should not be constrained on the

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[148] Former Code sec. 7802(a).

[149] S. Rep. No. 93-383, 108 (1973). See also, H.R. Rep. No. 93-807, 104 (1974).

[150] S. Rep. No. 105-174, 20 (1998).

basis that EP/EO is a 'non-core' function; rather, EP/EO, like all functions of the IRS, should be funded so as to promote the efficient and fair administration of the Federal tax system."[151]

Despite the broader role of the IRS with respect to tax-exempt organizations, the primary need of the IRS for information is to determine whether an organization is complying with the Federal tax laws. While this information is useful to the general public, others, such as donors, may require additional information.[152] The issue is whether it is appropriate to require that information not strictly relevant to enforcing the tax laws be included on Federal tax forms.

Requiring information regarding tax-exempt organizations on their Federal tax form helps to provide some consistency, may make information more accessible, and may reduce the burdens on organizations by reducing the need to respond to further requests for information at the State level. For example, many States impose financial disclosure requirements on tax-exempt entities. In most cases, these requirements can be complied with by filing IRS Form 990 with the State.[153] However, if the Federal Government does not collect information desired by most States, it is likely that many organizations would be required to file additional information. Providing this information in a single place and format may also make it easier for organizations to respond to requests for information. On the other hand, the IRS may have less interest in enforcing information gathering requirements that are not relevant for its needs. Lack of enforcement may compromise the quality of information provided. On the other hand, enforcement efforts with respect to information of limited interest to the IRS may be an inefficient use of IRS resources.

It may be appropriate in some cases for information to come from sources other than tax filings. There are currently other means by which those with an interest in information regarding tax-exempt organizations can obtain it. For example, State laws may impose their own requirements, and law enforcement officials have other means to legally compel organizations to provide information. In addition, there are private groups that evaluate tax-exempt organizations, and because of the benefits of receiving a positive evaluation, many organizations voluntarily

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[151] *Id.* As part of the IRS reorganization, the previous responsibilities of EP/EO have now been transferred to the newly designated Tax Exempt/Government Entities Division.

[152] Others may also have an interest in information regarding tax-exempt entities. For example, as described more fully below in Part VI.D., State Attorneys General (or other State law enforcement officers) have an interest in information that will enable them to enforce State charities laws. The Congress has an oversight responsibility regarding the Federal tax laws applicable to charities, both with respect to compliance with the law by such entities and enforcement of the law by the IRS. The Congress also has a need for information in order to set and evaluate policy objectives and to determine whether existing laws are fulfilling the purposes for which they were enacted.

[153] Nearly all States that require annual financial reporting accept Form 990, although some require supplements.

comply with requests for information from such groups. In addition, private organizations may be helpful in compiling and summarizing information regarding tax-exempt organizations.

Application of disclosure rules to different types of tax-exempt organizations

Some have commented that different disclosure rules may be appropriate for different types of tax-exempt organizations. Present law defines many different types of tax-exempt organizations. The rules applicable to these organizations vary, and it has been suggested that public interest in information regarding certain types of organizations is different than the public interest in other types of organizations. For example, the public interest in information regarding organizations that do not solicit funds from the general public may be less than in organizations that do. Determining whether different rules would be appropriate for different types of organizations would involve an analysis of the various types of organizations in order to determine whether the differences are in fact sufficient to merit a different policy regarding disclosure.

B. Other Instances in Which the Federal Government Plays a Role in Serving Public Interest by Requiring Disclosure of Information

1. Federal securities laws

Transactions involving the sale and purchase of securities are subject to regulation under Federal law and State law. The primary Federal securities laws are the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act"). The Securities Act generally prohibits (1) the offer and sale of a security that is not registered with the Securities and Exchange Commission (the "SEC"), and (2) fraudulent or deceptive practices in the offer or sale of a security.[154] The Exchange Act contains a variety of provisions applicable to issued and outstanding securities.

The first administrative release under the Securities Act, issued on the date the Securities Act was signed by President Franklin D. Roosevelt, indicates that the primary purpose of the first Federal securities law was disclosure:

> The basic policy of the act is that of informing investors of the facts concerning securities to be offered for sale in interstate and foreign commerce and providing protection against fraud and misrepresentation. It will be the aim and purpose of the [SEC] under the authority of the act to prevent further exploitation of the public by the sale of fraudulent and worthless securities through misrepresentation, to place adequate and true information before investors, and to protect honest enterprise seeking capital by honest representations against the competition afforded by securities offered through crooked promotion and misrepresentation. . . .
>
> . . . the Commission intends to administer the act so as to give purchasers of securities full and accurate information and at the same time interfere as little as possible with the legitimate financing of legitimate business. The Commission is fully aware of the magnitude and importance of the responsibility imposed upon it by this act . . . .
>
> The public should thoroughly understand that the Commission is not authorized to pass in any sense upon the value or soundness of any security. Its sole function is to see that full and accurate information as to the security is made available to purchasers and the public, and that no fraud is practiced in connection with the sale of the security. Speculative securities may still be offered and the public is as free to buy them as ever. The Commission's duty is to see that the security is truthfully

[154] The Securities Act designated the Federal Trade Commission as the agency responsible for the securities regulation. The Exchange Act established the SEC and transferred to the SEC responsibility for administration of the Federal securities laws.

> presented to prospective purchasers. The fact that a description of the security and of the concern issuing the security is filed with the Commission is in no sense and must not be regarded as an endorsement or approval of the security or the concern by the Commission.[155]

The Securities Act typically requires a company that intends to issue securities to prepare and file with the SEC a registration statement containing information that relates to both the company and the securities offering. The registration statement consists of two parts. Part I of the registration statement is referred to as the "prospectus," which the company must give to each person to whom the company offers the securities. Part II of the registration statement contains detailed information and exhibits that the SEC makes available for inspection by the public. If a company's securities are purchased by more than a specified number of shareholders and the value of the company's assets exceed a specified amount, the company also must register under the Exchange Act and must file with the SEC periodic reports that contain many of the same disclosures required in a registration statement filed under the Securities Act. As a result of this overlap, the SEC has adopted a disclosure system that integrates the disclosures required under the Securities Act and the Exchange Act. The primary disclosure requirements under this integrated disclosure system are:

- Descriptions of the development and operation of the business, certain legal proceedings other than routine litigation incidental to business, and the company's publicly-traded common equity, including the number of shareholders, the high and low prices, and the frequency and amount of any cash dividends and a detailed description of the securities being offered.

- A table of financial data that highlights significant financial trends in the business for the five most recent years of operation (and any additional years to ensure that the information provided is not misleading), and management's discussion and analysis of information that is available to the company without undue effort or expense and that does not clearly appear in the company's financial statements, including material events and uncertainties known to management that would cause reported financial information not to be necessarily indicative of future operating results or of future financial condition.

- If an independent accountant has resigned or was dismissed in the past two fiscal years, the circumstances of the accountant's dismissal or decision to leave, whether financial statements were modified from the version recommended by the accountant, and any information relating to the inaccuracy of financial statements or laxness in financial controls necessary to make an audit statement accurate.

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[155] Securities Act Release No. 1 (1933).

- Biographical information (including any legal proceedings that have occurred in the past five years that are material to ability or integrity) on directors, executive officers, promoters and control persons, description of executive compensation, including all compensation awarded to the chief executive officer and the four most highly compensated executive officers in addition to the chief executive officer for the last three fiscal years, a stock performance graph comparing the company's stock performance to specified indices, and a report from the compensation committee of the company's board of directors on its philosophy for setting executive compensation.

- Name, address, and number of shares and percentage of securities owned with respect to beneficial owners who hold more than five percent of any class of voting securities, the aggregate security ownership of management, ownership by directors, the chief executive officer and the four most highly paid executives, and any arrangements for change of control known to the company, including takeover defense measures.

- Descriptions of certain relationships, transactions, and proposed transactions involving the company and a direct or indirect material interest of a director or executive officer of the company, a nominee for director, a five-percent beneficial owner or any immediate family member of the foregoing, and description of failure to timely report as required any transactions involving company insiders.

- A summary of material information contained in a prospectus and risk factors that make the offering of the company's securities speculative or risky.

- A general description of how the proceeds of the offering of the company's securities will be used and, under certain circumstances, a description of the reasons for the offering price, a comparison of the contribution from the public offering and the cash contribution of officers and other affiliates for securities acquired in the past five years, and if securities registered for the public offering will be offered by existing stockholders, the relationship between the stockholder and the company in the past three fiscal years, the amount of securities of the class offered that are owned by the stockholder before the public offering, and the amount of the security that will be owned by the stockholder after the public offering.

- Information concerning roles and interests of underwriters, legal counsel, promoters, and experts with respect to the public offering, a description of indemnification of officers, directors and controlling persons of the registrant against liability under the Securities Act, a statement disclosing the SEC's position on the unenforceability of such indemnification, and a description of the type and scope of indemnification any statute, or the company's charter or by-laws, of any director or officer from liability while acting in such capacity.

- A detailed list of all estimated expenses related to the public offering of the securities which includes state and Federal taxes as well as printing and other fees associated with the offering.

- Exhibits consisting of various contracts, agreements and governing instruments, generally including underwriting agreements, acquisition agreements, articles of incorporation and bylaws, opinions of counsel and material contracts.[156]

In 1993, the SEC began to require electronic filing of most required disclosure documents through its Electronic Data Gathering, Analysis, and Retrieval (EDGAR) system. EDGAR performs automated collection, validation, indexing, acceptance, and forwarding of submissions by companies and others who are required by law to file forms with the SEC. The primary purpose of EDGAR is to increase the efficiency and fairness of the securities market for the benefit of investors, corporations, and the economy by accelerating the receipt, acceptance, dissemination, and analysis of time-sensitive corporate information filed with the SEC. EDGAR filings are posted to the SEC site on the World Wide Web within twenty-four hours after the date of filing.[157]

2. Federal election laws

Attempts to establish comprehensive campaign finance reform began after the 1896 presidential election in response to stories of corporations financing candidates' campaigns in hopes of influencing subsequent legislation. The Tillman Act, enacted in 1907, prohibited corporations and national banks from contributing money to Federal campaigns. The Congress passed the first Federal campaign disclosure legislation three years later. Although this legislation originally applied only to House elections, the Congress amended the law in 1911 to expand its scope to Senate elections and to set spending limits for all Congressional candidates. The Federal Corrupt Practices Act of 1925 (the "1925 Act") strengthened the disclosure requirements and increased the expenditure limits applicable to general election activity.[158]

The Federal laws requiring public disclosure of campaign finances were intended to deter abuse and to educate the electorate. Because none of these laws created an institutional

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[156] 17 CFR Part 229, Standard Instructions for Filing Forms Under Securities Act of 1933, Securities Exchange Act of 1934 and Energy Policy and Conservation Act of 1975 (Regulation S-K).

[157] *See* Securities and Exchange Commission, *Important Information About EDGAR* (last updated June 28, 1999), <http://www.sec.gov/edaux/wedgar/htm>.

[158] Federal Election Commission, Twenty Year Report 4 (1995).

framework to administer the campaign finance provisions effectively and were otherwise flawed, the disclosure provisions were largely ignored.[159]

The Federal Election Campaign Act of 1971 ("FECA") fundamentally changed the Federal campaign finance laws.[160] Among other things, FECA required full reporting of campaign contributions and expenditures. But like the earlier laws, FECA did not provide for one independent enforcement body. In the wake of documented campaign abuses in the 1972 presidential election, comprehensive amendments to FECA in 1974 resulted in the establishment of the Federal Election Commission (the "FEC"), an independent agency to assume the administrative functions under FECA and to serve as a clearinghouse for information on the administration of elections.[161] In its ruling on a lawsuit filed by Senator James L. Buckley of New York and former Senator Eugene McCarthy to challenge the constitutionality of key provisions of the 1974 amendments to FECA, the Supreme Court ruled that some of the FECA expenditure limits and the method of appointing FEC commissioners were unconstitutional but upheld the FECA disclosure and recordkeeping requirements.[162]

In response to the Supreme Court's decision in *Buckley v. Valeo*, the Congress amended FECA in 1976 to repeal most of the expenditure limits and revise the provisions for the appointment of FEC Commissioners.[163] Additional amendments to FECA in 1979 simplified the reporting requirements.[164]

FECA requires each treasurer of a political committee to sign and file reports of receipts and disbursements. During any calendar year in which there is a regularly scheduled election or nomination for election, a political committee that is the principal campaign committee of a congressional candidate is required to file a pre-election report, a post-election report, and additional quarterly reports. In any other calendar year, a congressional candidate's committee is required to file semi-annual reports.[165] During any calendar year in which a general election is held, the principal campaign committee of a presidential candidate generally is required to file

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[159] For example, candidates could avoid the disclosure requirements altogether because a candidate who claimed to have no knowledge of spending on his behalf was not liable under the 1925 Act. *Id.*

[160] Pub. L. No. 92-225.

[161] Pub. L. No. 93-443.

[162] *Buckley v. Valeo*, 424 U.S. 1 (1976).

[163] Pub. L. No. 94-283.

[164] Pub. L. No. 96-187.

[165] 2 U.S.C.S. 434(a)(2).

monthly reports if the committee receives contributions aggregating $100,000 or more or makes expenditures aggregating $100,000 or more, or anticipates receiving such contributions or making such expenditures. If a presidential candidate's principal campaign committee is not required to file monthly reports due to the level of actual or anticipated contributions and expenditures, the committee generally must file the same pre-election, post-election, and quarterly reports required for congressional candidates. In a calendar year in which a general election is not held, a presidential candidate's committee is required to file either monthly reports or quarterly reports.[166] Political committees other than authorized committees of a congressional or presidential candidate are required to file either monthly reports or pre-election, post-election, and quarterly reports.[167]

The items that each report must disclose include the following:

- The total amount of all receipts and the total amount of all receipts in each of several categories, including contributions, transfers, and loans from committees, individuals, the candidate, and political party committees.

- The identification of contributors, transferors, and recipients of disbursements of more than $200.

- The total amount of all disbursements, and all disbursements in several categories, including expenditures made to meet candidate or committee operating expenses, transfers to other committees authorized by the same candidate, and loans and repayment of loans.

- The amount and nature of outstanding debts and obligations owed by or to such political committee; and where such debts and obligations are settled for less than their reported amount or value, a statement as to the circumstances and conditions under which such debts or obligations were extinguished and the consideration therefor.[168]

In addition to reports by political committees, FECA requires every person other than a political committee who makes independent expenditures in an aggregate amount or value in excess of $250 during a calendar year to file a statement that contains (1) the identity of the contributor, the date and the amount of all contributions received by such person, (2) the identity of the recipient of the independent expenditure, the date, amount, and purpose of the expenditure, and an indication of whether the independent expenditure is in support of, or in opposition to, the candidate involved, (3) a certification whether or not such independent expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate or any

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[166] 2 U.S.C.S. 434(a)(3).

[167] 2 U.S.C.S. 434(a)(4).

[168] 2 U.S.C.S. 434(b).

authorized committee or agent of such candidate, and (4) the identification of each person who made a contribution in excess of $200 to the person filing such statement which was made for the purpose of furthering an independent expenditure. Any independent expenditure aggregating $1,000 or more made after the 20th day, but more than 24 hours before any election must be reported within 24 hours after such independent expenditure is made. The statement concerning such an expenditure must contain the identity of the recipient of the independent expenditure, the date, amount, and purpose of the expenditure, and an indication of whether the independent expenditure is in support of, or in opposition to, the candidate involved. FECA requires the FEC to prepare indices that set forth, on a candidate-by-candidate basis, all independent expenditures separately made by or for each candidate and to periodically publishing such indices on a timely pre-election basis.[169]

Since 1979, the FECA amendments and election reform measures adopted by the Congress have been limited in scope. The most significant developments in election reform have been judicial and administrative, especially as a result of FEC attempts to implement and enforce the applicable laws. As the agency responsible for administration and enforcement of FECA, the FEC provides disclosure of the campaign finance information it gathers pursuant to the FECA reporting and recordkeeping requirements. In a report commemorating its 20th anniversary, the FEC provided the following description of its disclosure responsibility:

> Disclosing the sources and amounts of funds used to finance Federal elections is perhaps the most important of the FEC's duties. In fact, it would be virtually impossible for the Commission to effectively fulfill any of its other responsibilities without disclosure. The Commission could not, for example, enforce the law without knowledge of each committee's receipts and disbursements. Disclosure also helps citizens evaluate the candidates running for Federal office and it enables them, along with the agency, to monitor committee compliance with the election law. Given these facts, the Commission has devoted substantial resources to providing effective access to campaign finance data .[170]

Since it was established in 1974, the FEC has disclosed campaign finance data and provided information on the election law to both the general public and regulated committees and persons in order to create an educated electorate and promote compliance with the campaign finance law. Both the FEC's public disclosure program and educational outreach efforts promote compliance by facilitating public scrutiny of campaign finance records and by fostering understanding of the law.[171]

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[169] 2 U.S.C.S. 434(c).

[170] Federal Election Commission, Twenty Year Report 4 (1995).

[171] Federal Election Commission, Annual Report 1998, p. 7.

When a committee files its report with the FEC, the Public Records Office ensures that a copy is available for public inspection within 48 hours. Simultaneously, the FEC's data staff begins to enter the information disclosed in the report into the FEC computer database. The amount of information disclosed has grown dramatically over the years. By December 1994, more than 12 million pages of information were available for public review. In the Public Records Office, citizens may inspect microfilm and paper copies of committee reports, as well as the FEC's computer database and more than 25 different computer indexes that make the data more accessible. For example, the "G Index" lists individuals who have given more than $200 to a committee during an election cycle. The "K Index" and the "L Index" offer broader "bank statement" views of receipts and disbursements for PACs, parties and candidates.[172]

In recent years, computers have enhanced the disclosure process. FEC currently uses computer technology in virtually every aspect of the disclosure process, from electronic filing to distributing information over the Internet. In January 1997, the FEC established the first phase of an interim electronic filing program that allowed committees to file reports via computer disk. In 1998, the FEC launched the second phase of the program, permitting filers to submit reports to the FEC by modem and via the Internet.[173]

The FEC creates digital images of all reports filed with the FEC by scanning the documents. The public may view these digital images in the FEC's Public Records Office or on the FEC's Internet web site. In addition to the digital imaging system, the FEC codes and enters information from campaign finance reports into the FEC's disclosure database, which contains data from 1977 to the present. Information is coded so that committees are identified consistently throughout the database.[174]

In recent years, the FEC has significantly enhanced the availability of campaign finance data through its web site. One enhancement is a new query system that allows visitors to access the name and contribution amount of any individual who contributed $200 or more to a Federal political committee during the 1997-1998 election cycle. In addition, the query system allows users to access lists of PACs or party committees that contributed to specific candidates and to view lists of candidates to whom selected PACs and parties contributed. The system, which is updated daily, also allows users to access digitized copies of the actual reports filed by House candidates, PACs and party committees. The Public Records Office continues to make available microfilmed copies of all campaign finance reports, paper copies of reports from Congressional candidates and FEC documents such as press releases, audit reports, closed enforcement cases and agenda documents. The FEC also continues to offer on-line computer access to the disclosure database to more than 1,000 subscribers to the thirteen-year-old Direct Access Program for a

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[172] Federal Election Commission, Twenty Year Report 4 (1995).

[173] Federal Election Commission, Annual Report 1998, p. 7.

[174] *Id*.

small fee. Subscribers include journalists, political scientists, campaign workers and other interested citizens.[175]

[175] *Id.*

VI. JOINT COMMITTEE STAFF RECOMMENDATIONS TO INCREASE DISCLOSURE OF INFORMATION RELATING TO TAX-EXEMPT ORGANIZATIONS

A. General Principles Relating to Disclosure of Returns and Return Information of Tax-Exempt Organizations

The Joint Committee staff believes that certain general principles should apply to disclosure of returns and return information relating to tax-exempt organizations. These general principles are described in this section. The Joint Committee staff applied these principles in developing its specific recommendations regarding modifications to the disclosure rules. These general principles also provide a framework for evaluating other proposals relating to disclosure rules for tax-exempt organizations.

The Joint Committee staff believes that, in general, the public has a legitimate interest in having access to all returns and return information regarding tax-exempt organizations. The Joint Committee staff also recognizes that there are legitimate concerns regarding the public disclosure of some information. In determining whether particular types of information should be subject to public disclosure, the public interest in disclosure should be balanced against the reasons for not disclosing the information. The Joint Committee staff believes that disclosure of information regarding tax-exempt organizations is appropriate unless there are compelling reasons for nondisclosure that clearly outweigh the public interest in disclosure. The Joint Committee staff believes that, in order to help ensure the quality of information provided to the public regarding tax-exempt organizations, modifications to the present-law disclosure rules should be adopted only after interested parties have had opportunity to comment.

The Joint Committee staff believes that the public has a legitimate interest in access to information of tax-exempt organizations. This public interest derives from the tax benefits accorded under Federal law to such organizations, as well as the nature and purposes of such organizations. The public has an interest in ensuring that tax-exempt organizations are complying with applicable laws and that the funds of such organizations (whether or not solicited from the general public) are being used for the exempt purposes of the organization. The Joint Committee staff believes that increased disclosure of information regarding tax-exempt organizations will improve the efficiency of the operation of the tax-exempt sector by: (1) increasing public oversight of tax-exempt organizations; (2) increasing compliance with Federal tax (and other applicable) laws; (3) promoting the fair application and administration of the Federal tax laws; and (4) advancing the policies underlying the Federal tax rules regarding such organizations, including the encouragement of charitable giving. Thus, the Joint Committee staff believes that the general principle governing disclosure of information regarding tax-exempt organizations is

that such information should be disclosed unless there are compelling reasons for nondisclosure that clearly outweigh the public interest in disclosure.

In determining whether particular information regarding tax-exempt organizations should not be disclosed, the public interest in disclosure should be balanced against the reasons for nondisclosure. There may be a variety of factors relevant to this determination. For example, in some cases, information regarding a tax-exempt organization may involve return information of individuals, such as donors. In such a case, the privacy interests of the individual may outweigh the general public interest in the information. In other cases, disclosure of the information may be inconsistent with the objectives of disclosure. For example, in some circumstances, disclosure of information may be viewed as undermining voluntary compliance. In some cases, the administrative burdens on the organization may be unreasonable given the public benefit to be derived from disclosure. The Joint Committee staff believes that any proposed exceptions to the general principle of disclosure should be evaluated on a case-by-case basis to determine whether the exception is appropriate.

For example, the Joint Committee staff is not recommending disclosure of identity of specific donors (beyond those circumstances in which it is required under present law). The Joint Committee staff believes that donors have legitimate privacy concerns, and that disclosure of donor identity may reduce charitable giving. Such information generally is not relevant in determining whether the organization is complying with the law,[176] or in determining whether the organization is accomplishing its exempt purposes. Thus, the Joint Committee staff believes that the reasons for nondisclosure clearly outweigh any public interest in disclosure of such information.

The Joint Committee staff recommendations generally are applicable to all tax-exempt organizations described in section 501(c). However, it may be appropriate to consider whether such recommendations should apply only to a subset of such organizations, such as section 501(c)(3) organizations. Because the nature of the tax benefits conferred on an organization varies depending on the paragraph of section 501(c) in which the organization is described, it is appropriate to consider whether the need for information relating to an organization should also vary depending on the paragraph of section 501(c) under which the organization qualifies for tax-exempt status.

The benefits of disclosure can be achieved only if the information disclosed is relevant to those interested in the information, is understandable, is readily available, and is current. The Joint Committee staff believes that the quality of information provided to the general public regarding tax-exempt organizations will be enhanced if interested parties have an opportunity for input. In addition, input from interested parties, including tax-exempt organizations, is important

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[176] There are exceptions to this general rule. For example, disclosure of donors is required under present law with respect to private foundations.

in ensuring that the disclosure requirements do not impose undue burdens on tax-exempt organizations relative to the benefits obtained from disclosure.

In developing modifications to the present-law disclosure rules, a variety of factors should be taken into account. These include:

- the public interest served by disclosure of the information and the countervailing reasons for nondisclosure;
- whether the information is relevant to determining compliance with the law;
- whether disclosure of the information will increase or reduce voluntary compliance;
- whether and how disclosure of the information will modify the behavior of tax-exempt organizations and those associated with such organizations, including donors;
- privacy concerns of the organization and others;
- the costs involved in complying with disclosure requirements and whether the costs are reasonable given the benefit to be derived from disclosure of the information;
- whether the information should be disclosed by the IRS or the organization;
- whether the Federal tax laws should be used to collect the information;
- whether the information will be understandable to those with an interest in the information; and
- the extent to which the information is subject to misuse.

B. Disclosure of IRS Materials

1. Disclosure of written determinations

The Joint Committee staff recommends that all written determinations (and background file documents) involving tax-exempt organizations should be publicly disclosed. In general, the Joint Committee staff recommends that such disclosure be made without redactions.

The Joint Committee staff believes that present law creates an unintended and inappropriate result with respect to the release of written determinations relating to tax-exempt organizations. Although section 6104 is intended to provide for increased disclosure regarding tax-exempt organizations, present law results in the anomaly that, in some cases, there is greater disclosure of written determinations regarding taxable persons under section 6110 than there is of written determinations relating to tax-exempt organizations.[177] The Joint Committee staff recommends that this anomaly be corrected and that all written determinations (and background file documents) involving tax-exempt organizations be available to the public. The definition of written determination would be expanded to include all written legal interpretations that affect a member of the public and are issued by the IRS or the IRS Office of the Chief Counsel.[178]

In general, disclosure of written determinations enables the public to obtain guidance as to the views of the IRS on particular issues and to determine whether the IRS is applying the law in a fair and consistent manner. In the case of tax-exempt organizations, disclosure of returns and return information serves an additional purpose--aiding in the public oversight of such organizations. In order for returns and return information to assist in such oversight, the information must be unredacted. Thus, in general, the Joint Committee staff recommends that written determinations relating to tax-exempt organizations should be publicly disclosed without redaction.[179] However, the Joint Committee staff also recognizes that certain exceptions to this general rule may be appropriate. The exemptions from disclosure contained in section 6110(c) (other than the provision that exempts identifying information of the tax-exempt organization)

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[177] See the discussion in Part III.B.3., above.

[178] This definition is the same definition that the Joint Committee staff recommends applying to written determinations generally under section 6110. See Part Five, I.D., in Volume I of this study.

[179] Disclosure of rulings relating to the tax-exempt status of an organization may be described as an extension of the application process, so that such rulings, like rulings relating to tax-exempt status, should be disclosed.

provide a guide as to the type of information that it may be appropriate to redact.[180] The Joint Committee staff recommends that procedures similar to those under section 6110(f) apply with respect to the redaction process.

In general, the Joint Committee staff recommends that disclosure of written determinations pursuant to this recommendation should be made at the time provided under section 6110.[181] As one exception to this general rule, the Joint Committee staff recommends that written determinations issued during the audit and examination process should be subject to special rules in order to avoid disruption of the audit process. For example, if a technical advice memorandum is requested with respect to an issue under audit, public disclosure of that memorandum in unredacted form affects the willingness of the IRS or the organization to resolve the issue and may prolong the audit. Thus, the Joint Committee staff recommends that written determinations relating to exempt organizations issued before the conclusion of the administrative examination process[182] should be disclosed as provided under section 6110 (i.e., redacted). Once the examination process is completed, the Joint Committee staff recommends that such rulings should be disclosed publicly in unredacted form.

2. Disclosure of audit results and closing agreements

The Joint Committee staff recommends that the IRS disclose the results of audits of tax-exempt organizations. In addition, the Joint Committee staff recommends that all closing agreements with tax-exempt organizations should be disclosed. In general, the Joint Committee staff recommends that such disclosures should be made without redaction.

Present law does not provide for the disclosure of information relating to the audit of a tax-exempt organization. Similarly, closing agreements (whether or not the result of an audit) are generally not subject to disclosure; however, in some cases, the IRS has required that a closing

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[180] These exemptions are for: (1) identifying details of the person to whom the written determination pertains and of other persons; (2) certain information relating to the national defense or foreign policy; (3) information exempted from disclosure by a statute other than the Code that is applicable to the IRS; (4) trade secret information; (5) information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; (6) certain reports prepared by, on behalf of, or for the use of an agency responsible for the regulations or supervision of financial institutions; and (7) geological and geophysical information.

[181] The recommendation would not modify the timing of disclosure of documents made under section 6104 under present law.

[182] The phrase "conclusion of the administrative examination process" is used here to mean the end of the administrative process relating to an audit, up to the expiration of the time given the taxpayer for any right to administrative appeal.

agreement be made public as part of the agreement.[183] Information regarding the outcome of an audit would assist the public in determining whether the organization is in compliance with the law and how the organization is using funds. Closing agreements not only contain information regarding the past conduct of an organization, but also typically set forth requirements governing the future conduct of an organization in order to make sure that the organization remains in compliance with the law. Because such information is not disclosable under present law (unless disclosure is agreed to as part of a closing agreement), the public is denied access to key information regarding the activities of tax-exempt organizations and the IRS actions with respect to those activities. In order to enable the public to have access to such information, the Joint Committee staff recommends that the IRS disclose the documents reflecting the results of an audit at the conclusion of the administrative examination process (i.e., after the audit is closed and the time for filing an administrative appeal has expired).[184] Similarly, the Joint Committee staff recommends that closing agreements should be disclosed (regardless of whether the agreement arose as a result of an audit).[185] Such information would generally be unredacted; redactions would be made only as provided under the recommendations relating to disclosure of written determinations.[186]

Some commentators have expressed the view that disclosure of closing agreements will deter tax-exempt organizations from voluntarily coming to the IRS regarding possible or actual violations of the law. Similarly, it is argued that some tax-exempt organizations may be unwilling

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[183] In the case of tax-exempt organizations, the IRS has required disclosure of two closing agreements, one in 1994 relating to Hermann Hospital and the recently-approved closing agreement regarding the Estate of Bernice Bishop (the "Bishop Estate"). In the latter case, the agreement was required to be made available to the public at the Bishop Estate's office and on its site on the World Wide Web. Public comments by IRS officials indicate that the IRS viewed the disclosure of these closing agreements as a way to provide guidance to tax-exempt organizations regarding transactions which may be subject to sanctions.

[184] If a taxpayer chooses to litigate, then information regarding the audit will become public as part of the litigation process.

[185] It is intended that the disclosure include any documents referred to in the agreement.

[186] The Joint Committee staff believes that public disclosure of closing agreements with tax-exempt organizations will assist in the public oversight of such organizations. In general, the Joint Committee staff does not believe that closing agreements are an effective means to provide guidance to taxpayers regarding the law. Such agreements are negotiated, and may not represent the IRS view of the law. Further, because such agreements may be fact specific and may not contain all relevant information, they may be misleading if relied upon by others. For these reasons, the Joint Committee staff does not include in its general disclosure recommendations in Volume I of this study a recommendation that closing agreements not involving tax-exempt organizations be disclosed.

to enter into a closing agreement or otherwise settle an audit with the IRS if the organization knows that the information will become public. It is also argued that publication of such information will lengthen the audit process, as both sides will negotiate with a view toward what information will ultimately be made public.

The Joint Committee staff does not believe that these concerns outweigh the public's interest in disclosure. As discussed in greater detail in Part V., above, because of the tax benefits provided to tax-exempt organizations and the nature of such organizations, their activities and operations are subject to public scrutiny. This scrutiny extends to possibly negative activities as well as positive achievements of the organization. For example, if a tax-exempt organization has engaged in activities that result in an adjustment on audit or if a tax-exempt organization enters into a closing agreement requiring a change in its operations in order to retain tax-exempt status, the public has a right to know such information.

The Joint Committee staff does not believe that requiring disclosure of such information will unduly impede the settlement process. There are a variety of reasons why both the IRS and a tax-exempt organization may wish to settle a matter that are independent of whether the activity will be disclosed. These include the costs of litigation, as well as the likelihood of ultimate success on the merits. Further, if a tax-exempt organization chooses not to settle a matter, the only option will be litigation, which also will result in public disclosure. With respect to the effect of disclosure on voluntary compliance, the Joint Committee staff notes that it would be inconsistent with an organization's exempt purposes and fiduciary responsibilities to continue to engage in activity that violates the law. Thus, tax-exempt organizations should continue to have an interest in voluntary compliance and correction of inappropriate activity regardless of whether such activity is disclosed publicly.

3. Disclosure of applications for tax-exempt status

The Joint Committee staff recommends that applications for tax-exempt status (and supporting documents) should be disclosed when the application is made. In addition, the Joint Committee staff recommends that any action taken on the application be disclosed.

Under present law, applications for recognition of tax-exempt status (and supporting documents) are subject to disclosure only after the organization is determined, on the basis of the application, to be exempt from tax for any taxable year. If the organization is determined to be exempt for any year, such information is not withheld from disclosure on the ground that the organization is determined not to be exempt for any other taxable year.[187]

While most applications for tax-exempt status are acted upon promptly, processing times vary and, in some cases, may span years. While an application for tax-exempt status is pending,

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[187] Treas. reg. sec. 301.6104(a)-1(a), (c).

an organization may be in operation and the public may believe the organization is tax exempt and, in the case of purported section 501(c)(3) organizations, incorrectly assume that donations to the organization are tax deductible. However, during this time, present law limits the information available. The application for exemption contains information of interest to the public regarding the exempt purposes of the organization. In the case of an organization that is already exempt but that is changing its operations, a new application for exemption will similarly provide guidance as to what the new purposes of the organization will be. Thus, the Joint Committee staff recommends that applications for tax-exempt status (and supporting documents) should be disclosed while pending, and not only after a favorable determination is made. The Joint Committee staff also recommends that any action taken with respect to the application, e.g., denial or withdrawal of the application, should be disclosed.

4. Disclosure of third-party communications

The Joint Committee staff recommends that rules similar to the disclosure rules that apply to third-party communications under section 6110 should be applied to third-party communications relating to written determinations and exemption applications subject to disclosure under section 6104.

Section 6104 provides generally that applications for exemption and supporting documents are subject to public disclosure. IRS regulations provide that supporting documents do not include documents submitted by persons other than the organization.[188] Thus, third-party communications regarding exemption applications are not disclosable under section 6104.

In contrast, section 6110 provides that communications (written or otherwise) between the IRS and persons outside the IRS in connection with a written determination are generally subject to disclosure.[189] If the IRS receives a communication regarding a written determination before the issuance of the determination, the IRS is required to indicate on the written determination open to public inspection the category of the person making the communication and the date of the communication.[190]

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[188] Treas. reg. sec. 301.6104-(a)(1)(e). These regulations have been upheld in court. *Lehrfeld v. Commissioner,* 132 F.2d 1463 (D.C. Cir. 1998).

[189] Sec. 6110(b). Communications between the Department of Justice and the IRS relating to a pending civil or criminal case are not subject to disclosure.

[190] Sec. 6110(d). Treasury regulations provide the following as examples of categories of persons: Congressional, Department of Commerce, Department of Treasury, trade association, White House, and educational institution. Treas. reg. sec. 301.6110-4(a). Section 6110 also provides that, in cases in which third-party communications have been received, disclosure of the identity of the person to whom the written determination was made can be compelled if there is evidence that impropriety occurred by or on behalf of such person. Sec. 6110(d)(2).

Present law results in an anomaly in that there is greater disclosure of third-party communications with respect to written determinations pertaining to taxable persons under section 6110 than with respect to tax-exempt organizations under section 6104. The Joint Committee staff believes that this discrepancy should be eliminated, and that rules similar to the rules regarding disclosure of third-party communications under section 6110 should apply under section 6104.[191] These rules would apply to all third party communications in connection with exemption requests and other written determinations involving tax-exempt organizations. The same rules regarding redactions would apply as recommended with respect to disclosure of written determinations, audit results, and closing agreements.

5. Confidentiality of taxpayer identification number

The Joint Committee staff recommends that the taxpayer identification number of tax-exempt organizations should not be subject to disclosure.

The taxpayer identification number ("TIN") of tax-exempt organizations is (like that of individual and other taxpayers) subject to misuse and is not necessary in order for the public to identify an organization. While the TIN of a tax-exempt organization is disclosed under present law because it is included on the Form 990, the Joint Committee staff believes that the potential for misuse may be increased given the additional disclosures recommended in this study. Thus, the Joint Committee staff recommends that the TIN of a tax-exempt organization not be disclosed (on the Form 990 or any other document required to be disclosed).

[191] The proposal would not affect the extent to which third-party communications may be disclosable under the FOIA.

C. Recommendations Regarding Form 990 and Related Forms

1. Background

As discussed in Part III.A.,5., above, tax-exempt organizations generally are required to file an annual information return, Form 990, "Return of Organization Exempt From Income Tax," with the IRS.[192] Form 990 is the most important and most universal source of public information about the finances and activities of tax-exempt organizations. Over the years, the amount of information requested on the Form 990 has increased, as have the penalties for failure to file and accurately complete the returns.

For many years, the Form 990 was used almost exclusively by the IRS. Over the last 20 years, the Form 990 has evolved into the primary disclosure form for both the IRS and State charity officials. Prior to the 1980s, most States required that a separate report be filed with State charity offices responsible for monitoring the activities of tax-exempt organizations within their jurisdictions. In the early 1980s, representatives of the Treasury Department, the IRS, and representatives from groups representing State attorneys general and other State charity officials began to work together to develop uniform charitable reporting requirements so that the Form 990 could be used by both Federal and State reporting purposes.[193] Most States that require annual financial reporting now accept the Form 990 as the basic annual report, although some require supplementary information be filed as well. This effort to develop uniform reporting requirements has been well-received, particularly by those tax-exempt organizations that solicit funds in many States and that previously had to prepare and file multiple forms.

Form 990 now serves multiple purposes and provides information to others in addition to the IRS and State charity officials. Those who use Form 990 include: donors and potential donors, the public, the press, researchers, so-called "watchdog" organizations that scrutinize the activities of tax-exempt organizations, and the tax-exempt sector itself.[194] In order to meet the needs of those interested in tax-exempt organizations, relevant information must be readily accessible in a timely manner, and in a form that is readily understandable.

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[192] Private foundations, which are a subcategory of section 501(c)(3) charitable organizations, file a somewhat different annual information return with the IRS, Form 990-PF, "Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation." The objective of both Form 990 and Form 990-PF is the same: to provide the IRS and other interested parties that use the form with information about the finances and activities of tax-exempt organizations.

[193] Peter Swords, *The Form 990 as an Accountability Tool for 501(c)(3) Nonprofits*, 51 Tax Law. 571, 577 (1998).

[194] *Id*. at 441.

Recent changes in the law have been designed to make Form 990 more readily available. In the past, a tax-exempt organization was required to make a copy of Form 990 available for public inspection only if someone visited its offices. In 1996, the Taxpayer Bill of Rights 2 added a requirement that any tax-exempt organization (other than a private foundation) that files a Form 990 is required to comply with requests made in writing or in person from individuals seeking a copy of the organization's Form 990 (for the three most recent taxable years) or application for tax-exempt status and supporting documents. If the request is made in person, the copies must be provided "immediately." If the request is made in writing, the copies must be provided within 30 days. Copies must be provided without charge other than a reasonable fee for any reproduction and mailing costs. Organizations may comply with this requirement by making copies "widely available."[195] Because these rules went into effect in June 1999, the extent to which they are effective in providing easier access to Forms 990 and exemption applications is not fully known. However, early responses indicate that disclosure has been advanced. For example, many Form 990's are now being posted on the World Wide Web.

In general, comments received by the Joint Committee staff indicate that the current Form 990 provides considerable relevant information regarding the activities of tax-exempt organizations. However, some have commented that the Form may not be understandable to the general public and may not include all information in which the public has an interest. As discussed in Part V., above, the information needs of persons other than the IRS may not in all cases correspond with the information needs of the IRS. For example, donors and potential donors may be interested in information regarding how well an organization accomplishes its exempt purposes that may not be relevant to whether the organization is complying with the Federal tax laws. While Form 990 provides significant amounts of information, there may be additional information not contained in the current form that is relevant to the public in order to oversee the tax-exempt sector, and there may be ways to provide the information on Form 990 that will better facilitate its use by the general public as well as the IRS.

In addition, under present law, certain returns filed by tax-exempt organizations (e.g., Form 990-T (Exempt Organization Business Income Tax Return), Form 1120 (U.S. Corporation Income Tax Return) filed with respect to subsidiaries, and Form 1120-POL (U.S. Income Tax Return for Certain Political Organizations) are not required to be disclosed. As a result, the public may be getting an incomplete picture of the activities of tax-exempt organizations.

In keeping with the general principle that information regarding tax-exempt organizations should be publicly available, the Joint Committee staff believes that the quality and quantity of information provided on the Form 990 (and related Forms) can be improved so that the public interest in disclosure can be better served.

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[195] In 1998, these expanded disclosure rules were extended to private foundation annual returns and applications for exemption. Final regulations on the new provisions were issued on January 13, 2000, and will apply to private foundations whose annual information returns are due on or after March 13, 2000. *See* Treas. reg. secs. 301.6104(d)-1,-2,-3.

2. Recommendations

a. Acceleration of electronic filing and general revisions to Form 990

The Joint Committee staff recommends that the Form 990 and related forms: (1) should be accepted by the IRS for electronic filing for returns filed after 2002; and (2) should be revised to ensure that the forms provide relevant and comprehensible information to the public as well as the IRS.[196]

Tax-exempt organizations should be permitted to file the Form 990 electronically as soon as possible.[197] Accelerating the acceptance of electronic filing will promote the goal of greater public disclosure. Electronic filing of Form 990 will facilitate the posting of the forms on the IRS site on the World Wide Web, which will make more information available more quickly to the general public. A number of people and groups commented to the Joint Committee staff that electronic access to Forms 990 is key to meaningful public disclosure.

Accelerating availability of electronic filing will have other benefits as well. For example, some States that use the Form 990 to satisfy State-law reporting requirements are starting to require electronic filing of the form with the State. In the absence of a Federal program of electronic filing, tax-exempt organizations could be subject to a variety of different electronic filing regimes, which could be both inefficient and burdensome on those tax-exempt organizations required to file in multiple States. In addition, many tax-exempt organizations currently prepare all or most of their Form 990 on a computer; additional tax-exempt organizations are expected to begin to do so in the next few years. It is inefficient for both the tax-exempt organizations and the IRS for these forms to be prepared electronically and a copy be mailed to the IRS, which in turn enters data from these forms into its computers. Also, this current process may more easily lead to transcription errors, which can be avoided by electronic filing.

As part of the process of preparing for electronic filing, Form 990 will need to be reviewed and changes to the form will of necessity occur. The Joint Committee staff recommends that the IRS also review and revise the form as appropriate with a view to ensuring that it is useful and understandable to the general public, as well as the IRS. That is, the form should reflect the different role it plays compared to other tax forms.

There are a number of constituencies interested in the content of most tax forms: the IRS (as recipient of the completed form); the taxpayers who must fill out the forms; and other parties (such as States) that may make use of some or all of the information on the form (as permitted by the Code). With respect to the Form 990, however, there is an additional constituency: the

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[196] Specific recommendations of the Joint Committee staff regarding Form 990 follow.

[197] The IRS currently projects that it will be able to accept electronic filing of Form 990 in fiscal year 2007.

general public. Accordingly, these forms must be designed with the general public (in their role as overseers of the tax-exempt sector) in mind. The IRS may need a different perspective when designing the Form 990 than it does when designing tax forms that are not publicly disclosed. The Joint Committee staff recommends that the IRS review the Form 990 and all related forms from the perspective of ultimate public disclosure, so that the information is presented in a way that is useful not only to the IRS but also to the public. The Joint Committee staff believes that this can best be accomplished if the IRS consults with other parties who also are interested in facilitating comprehensive and comprehensible disclosure. In addition, the Joint Committee staff recommends that the IRS consult with State officials who use Form 990 as a substitute for a specialized State form.

The recommendation that the IRS review and revise the form as appropriate with a view to ensuring that it is useful and understandable to the general public, as well as the IRS, means that the IRS should consider suggestions to accomplish these purposes that have been made by interested observers. For example, some have suggested that the form might be more understandable if it were accompanied by a short summary containing the information that may be of greatest interest to the public. Others have suggested that Part III of the Form 990, Statement of Program Service Accomplishments, should be revised to elicit more comprehensive evaluations of the organization's accomplishments. The IRS should consider comments such as these that have already been made, as well as solicit new comments, as part of its process of reviewing and revising the form.

The Joint Committee staff does not recommend that the filing threshold for the Form 990-EZ should be increased. Under present law, organizations can file the Form 990-EZ if the organization's gross receipts are more than $25,000 but less than $100,000, and the organization has total assets of less than $250,000 at the end of its taxable year. The cap of $100,000 of gross receipts was set in 1989, when the Form 990-EZ was introduced. Several commentators suggested that, since it has been a number of years since this filing cap was established, it is now appropriate to raise the cap. There are a number of competing concerns that must be considered in evaluating this proposal. The Joint Committee staff considered carefully both the costs of raising the cap as well as the benefits of raising the cap. The most significant cost of raising the cap would be the loss of detailed information that is currently disclosed by organizations filing the full Form 990 but that would not be disclosed by those same organizations if they are permitted to file the more abbreviated Form 990-EZ. This loss of information could be important to the IRS, the States, or to the general public. This loss would violate the general policy recommendation of the Joint Committee staff that there should be broad disclosure of information relating to tax-exempt organizations. On the other hand, a benefit from raising the cap could be a reduction in the overall administrative burdens on both the tax-exempt organizations that would become eligible to file the Form 990-EZ and on the IRS (in that it would have less information to process). The Joint Committee staff believes that the loss of detailed information with respect to tax-exempt organizations that would become eligible to file the Form 990-EZ outweighs the benefit from potential reductions in administrative burdens.

The Joint Committee staff does not recommend raising the threshold below which no return at all need be filed. Several commentators suggested that increasing the no-filing threshold would eliminate the burden of filing these forms on tax-exempt organizations. The Joint Committee staff believes that eliminating entirely the filing of tax returns by these organizations would violate the general policy recommendation that there should be broad disclosure of information relating to tax-exempt organizations. Eliminating the burden of filing on tax-exempt organizations that are currently required to file the Form 990-EZ does not outweigh this general policy recommendation. There is value to both the IRS and to the general public of continuing the requirement that tax-exempt organizations with gross receipts above $25,000 continue to file the Form 990-EZ.

b. Disclosure of Forms 990-T and annual returns filed by affiliated organizations

The Joint Committee staff recommends that the scope of section 6104 should be expanded to require the disclosure of all Forms 990-T and any forms (including Forms 1120 and 1065) filed by affiliated organizations of tax-exempt organizations.

This recommendation flows from the general policy recommendation of the Joint Committee staff that there should be broad disclosure of information relating to tax-exempt organizations. Disclosure of the taxable activities of tax-exempt organizations will facilitate comprehensive oversight by the public of the full range of activities by tax-exempt organizations. More specifically, disclosure regarding taxable entities that are affiliated with tax-exempt organizations would be beneficial in clarifying the relationship between the two types of organizations. Tax-exempt organizations may have a variety of reasons for having relationships with affiliated taxable organizations. In some instances, the relationship between the taxable and the tax-exempt organizations may be clear within both organizations as well as to the public. In other instances, the relationship may not be clear. The disclosure of Forms 990-T and Forms 1120[198] (or other returns) filed by affiliated organizations of tax-exempt entities will make these relationships clear as well as provide a complete picture of the entire range of activities conducted by both the tax-exempt organization and its taxable affiliates. There may be several alternative means of implementing this recommendation. For example, it may be possible to fold the information required by the Form 990-T into the Form 990 and eliminate the Form 990-T. Alternatively, the Form 990-T could be revised to accommodate public disclosure. If this alternative is pursued, one necessary revision would be to ensure that information exempt from disclosure under section 6104 (such as trade secrets) is not reported on the Form 990-T.

[198] Under present law, tax-exempt organizations with taxable affiliates may structure the relationship between the organizations so that the taxable affiliate reports to the IRS on either a Form 990-T or on a Form 1120 (the general corporate income tax return).

c. Disclosure and revision of Form 1120–POL

The Joint Committee staff recommends that the scope of section 6104 should be expanded to require the disclosure of the annual return filed by political organizations described in section 527.

The Joint Committee staff also recommends that section 527 organizations should be required to file an annual return even if such organizations do not have taxable income and that the annual return be revised to include more information concerning the activities of such organizations.

Tax-exempt organizations described in section 501(c), other than those described in section 501(c)(3), generally are permitted to engaged in limited political campaign activities, as long as such activities are not the primary activities of the organization.

Organizations whose primary purpose is to directly or indirectly accept contributions and make expenditures to influence or attempt to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or the election of Presidential or Vice-Presidential electors are eligible for a limited tax-exempt status under section 527 (e.g., as a PAC). Section 527 exempts from taxation certain exempt function income (i.e., contributions, dues, proceeds from political fundraisers or the sale of campaign materials, and proceeds from bingo games) to the extent such income is segregated for use only for an exempt function of the political organization. However, a political organization's investment income and any nonexempt function income (e.g., income from events that are not political in nature), minus expenses directly connected with the production of such income, is subject to tax at the highest corporate income tax rate (i.e., 35 percent).

Even though a section 501(c) organization (other than a section 501(c)(3) organization) may engage in limited political campaign activity, such activities nonetheless will result in the organization being subject to tax under section 527(f) on the lesser of its investment income or the amount expended on political activities. However, such an organization may establish a separate segregated fund, which may be treated as a separate organization under section 527(f)(3). In that case, the expenditures and investment income of the separate segregated fund will not be attributed to the sponsoring organization.

Non-section 501(c)(3) organizations are required to provide annual information disclosure to members (sometimes referred to as "flow-through information disclosure") estimating the portion of such members' dues allocable to political campaign activities, as well as any lobbying activities. Such disclosure is not required for an organization that: (1) incurs only a *de minimis* amount (i.e., $2,000 or less) of in-house political campaign and lobbying expenditures during the taxable year; (2) elects to pay a 35-percent proxy tax on its political campaign and lobbying expenditures incurred during the taxable year rather than providing flow-through information disclosure to its members; or (3) establishes pursuant to Treasury Department rules that

substantially all of its dues monies are paid by members not entitled to deduct such dues in computing their taxable income.

A non-section 501(c)(3) organization also is required to file Form 1120-POL (U.S. Income Tax Return for Certain Political Organizations) if the organization's political expenditures and net investment income both exceed $100 for the year. If a non-section 501(c)(3) organization establishes and maintains a section 527(f)(3) separate segregated fund, the fund is required to file Form 1120-POL. Section 527 political organizations are not required to apply for tax-exempt status and are not required to file Form 990. If the section 527 political organization has taxable income, it is required to file Form 1120-POL; similarly, if the political organization does not have taxable income, the Form 1120-POL is not required to be filed. The Form 1120-POL is not publicly disclosable under present law.

Furthermore, although some section 527 political organizations are subject to disclosure requirements under the Federal Election Campaign Act of 1971, other such organizations are outside the reach of the disclosure requirements under the Federal elections laws.[199]

Although section 527 political organizations are accorded less favorable tax treatment than organizations described in section 501(c), section 527 political organizations nonetheless receive favorable tax treatment because they are required to pay tax only on their investment income. Some would contend that, because these organizations generally are not-for-profit organizations (i.e., the purpose of the organization is not to make a profit, but rather to serve as a conduit for the receipt of contributions to fund a political campaign), the tax treatment of such organizations is not favorable and merely recognizes the reality of the arrangement. However, the fact that a section 527 political organization is not required to pay tax on political campaign contributions in excess of expenses does provide a tax benefit that is not available to a fully taxable entity.[200]

The Joint Committee staff believes that it is appropriate to require section 527 political organizations to disclose information relating to their activities to the public under the rules of section 6104. The Joint Committee staff believes that the special status accorded to section 527 political organizations under present law justifies this disclosure. The Joint Committee staff believes it is in the public's interest to receive information concerning the activities of such organizations, particularly because the Federal election law disclosure requirements do not apply to some section 527 political organizations.

This recommendation is consistent with the recommendation that all tax returns relating to tax-exempt organizations should be disclosable. In addition, the Form 1120-POL of a separate segregated fund should be disclosable by the tax-exempt organization establishing the fund.

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[199] *See* Frances R. Hill, *Probing the Limits of Section 527 to Design a New Campaign Finance Vehicle*, Tax Notes, January 17, 2000, at 387.

[200] See Part IV., above, for a discussion of the benefits of tax-exempt status.

The Joint Committee staff also recommends that section 527 political organizations should be required to file an annual return even if the organizations do not have taxable income and that the annual return should be expanded to include more information regarding the activities of the organization. For example, the form could include general categories for sources of funds received. The Joint Committee staff believes that this information would be of interest to the public and would not unduly burden such organizations.

d. Disclosure of name under which organization does business

The Joint Committee staff recommends that tax-exempt organizations should be required to provide both their legal name and the name under which they do business on the Form 990.

Some tax-exempt organizations do business and solicit contributions under a name that is different from the organization's legal name. This can cause confusion to individuals and others seeking information about the organization. Accordingly, the Joint Committee staff recommends that, if an organization does business under a name different from its legal name, both names be disclosed on the Form 990. In addition, the IRS should publish both names it receives on any Form 990 in IRS Publication 78.[201]

e. IRS notification regarding availability of Form 990

The Joint Committee staff recommends that the IRS notify taxpayers in instructions and publications that Form 990 is publicly available.

The information provided on Forms 990 is useful to the public only if the public is aware that the form is publicly available. Currently, there are a number of ways members of the public can become aware of the availability of Forms 990. For example, those who work in or with the tax-exempt sector and large donors are likely to be aware of the form and the fact that it is publicly available. State charities officials and organizations that endeavor to educate the public about charities, charitable giving, and avoiding fraud provide information regarding Forms 990 and how to obtain them. The Joint Committee staff believes that the availability of Forms 990 would be increased by requiring the IRS to educate the public regarding the availability of the form. Thus, the Joint Committee recommends that the IRS should be required to notify the public that the form is publicly available. This notification could be provided in the instructions to Schedule A of the Form 1040 as part of the instructions relating to charitable contributions. It

[201] IRS Publication 78, Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986. Publication 78 is updated and reissued annually. Additions are published in cumulative quarterly supplements. Publication 78 is also available electronically at the IRS' World Wide Web site.

also could be provided in general publications, such as Publication 17,[202] and publications more specifically relating to charitable contributions, such as Publication 526.[203]

f. Disclosure of World Wide Web site address

The Joint Committee staff recommends that the World Wide Web site, if any, of a tax-exempt organization should be included on Form 990 and that the IRS should be required to publish such addresses.

One method of increasing public access to information regarding tax-exempt organizations is to facilitate the ability of the public to locate the World Wide Web sites of tax-exempt organizations. One way to do this is to require that the World Wide Web site, if any, of the tax-exempt organization be provided as part of the address of the organization on the Form 990. Thus, the World Wide Web site of the organization would be made readily accessible to anyone examining the organization's Form 990. Another way to facilitate the ability of the public to locate the World Wide Web sites of tax-exempt organizations is for the IRS to publish the World Wide Web sites it receives on Form 990 in IRS Publication 78.[204]

g. Affiliated organizations

The Joint Committee staff recommends that the Form 990 report more information concerning the transfer of funds among various organizations so that the public and the IRS can better assess whether contributions to tax-exempt organizations are being used to fund political activities.

The fact that certain section 501(c) organizations (such as section 501(c)(4) social welfare organizations) may engage in limited political campaign activities means that such organizations can establish and support a section 527 political organization. Under some circumstances, a section 501(c)(3) organization may be affiliated with a section 501(c)(4) organization, which in turn is affiliated with a section 527 political organization (a "conduit arrangement").

The Joint Committee staff believes that the IRS and the public have a strong interest in monitoring the extent to which tax-exempt organizations are engaged in or helping to finance political campaign activities. Thus, the Joint Committee staff believes that the Form 990 should be revised to require tax-exempt organizations to identify clearly conduit arrangements in which funds are being transferred among section 501(c)(3), 501(c)(4), and 527 organizations. The

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[202] IRS Publication 17, Your Federal Income Tax (updated annually).

[203] IRS Publication 526, Charitable Contributions (March 1998).

[204] IRS Publication 78, Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986.

information currently reported on the Form 990 requires disclosure only of transfers to affiliated organizations and permits tax-exempt organizations to establish complex arrangements that may be used to circumvent the present-law restrictions on political campaign activities. More complete disclosure of the types of relationships and transfers taking place among various tax-exempt organizations will help the IRS and the public understand how contributions to tax-exempt organizations are being used.

h. Notification requirement for entities not currently required to file

The Joint Committee staff recommends that tax-exempt entities (other than churches) that are below the filing threshold for the Form 990-EZ should be required to file annually a brief notification of their status with the IRS.

Under present law, an organization whose annual gross receipts are normally $25,000 or less is generally not required to file a Form 990 or a Form 990-EZ with the IRS. The lack of a filing requirement makes it difficult for the IRS or the public to obtain even basic information regarding an organization, such as the organization's current address or whether it has terminated its existence. Accordingly, the Joint Committee staff recommends that tax-exempt organizations (other than churches) that are below the filing threshold for the Form 990-EZ should be required to file annually a notification of their status with the IRS. The notification would include the organization's legal name, the name under which it does business, its mailing address, its web site address (if any), its taxpayer identification number, and the name and address of a principal officer. If the organization terminates its existence, a similar termination status report would be required at that point. All filings pursuant to this provision would be publicly released, as are the Forms 990 and 990-EZ.

In developing this recommendation, the Joint Committee staff considered whether the threshold for filing Form 990-EZ should be lowered. Lowering the threshold would enable the public to obtain more information regarding tax-exempt organizations. However, as indicated above, the public's interest in information must in some cases be balanced with other factors. In this case, there is concern that imposing additional requirements on tax-exempt organizations not currently required to file any information with the IRS would unduly burden the organization. The Joint Committee staff recommendation reflects both the needs of the public and the IRS in obtaining basic information regarding an on going tax-exempt organization and concerns of the organization that it not be unduly burdened.

i. Modification to capital gains and losses reporting on Form 990-PF

The Joint Committee staff recommends that private foundations reporting capital gains and losses on Form 990-PF should be permitted to disclose a summary of those capital transactions. A full listing of the transactions would be required to be filed with the IRS and to be provided to the public upon request.

Under present law, private foundations with capital transactions must report each transaction on Form 990-PF, as filed with the IRS and as released to the public.[205] For some of these entities, the listing of these transactions can involve hundreds of pages. Disclosure of such voluminous information does not necessarily benefit the public, and may in fact reduce the level of meaningful disclosure by obscuring other important information. Accordingly, the Joint Committee staff recommends that the version of the 990-PF that is automatically released to the public pursuant to section 6104 include a summary page of all capital transactions. The detailed list would still be required to be provided to the IRS and to members of the public who explicitly request the detailed information and pay the customary copying fees.

j. Preparer penalties

The Joint Committee staff recommends that the present-law tax penalty imposed on tax return preparers should be expanded to apply to any omission or misrepresentation on a Form 990 that either was known or reasonably should have been known to the preparer.

The Joint Committee staff recommends that the present-law tax penalty imposed on tax return preparers should be expanded to apply to willful or reckless misrepresentation or disregard of rules and regulations with respect to Form 990.

Under present law,[206] return preparers are subject to a penalty of $250 with respect to any return if a portion of an understatement of tax liability is due to a position for which there was not a realistic possibility of success on the merits, the preparer knew or reasonably should have known of the position, and the position was not disclosed or was frivolous. In addition, present law[207]

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[205] Different reporting rules apply to tax-exempt organizations required to file Form 990 and Form 990-EZ. With respect to publicly traded securities, these organizations are required to provide "lump sum figures in place of ...detailed reporting...". 1998 Form 990 Instructions for lines 8a through 8d (page 16).

[206] Sec. 6694(a).

[207] Sec. 6694(b).

imposes a penalty on return preparers of $1,000 with respect to a tax return if a portion of an understatement of tax liability is due to a willful attempt to understate liability or to reckless or intentional disregard of rules or regulations. While these penalties technically apply to Forms 990, in practice they have little effect, because in general no understatement of tax is involved in the filing of a Form 990.

Preparer penalties are designed to provide an incentive to the preparer to ensure the accuracy of the return. One of the concerns raised with current filings of Form 990 is lack of accuracy. Imposing meaningful preparer penalties with respect to Form 990 will help to increase the accuracy of Form 990 filings.

Accordingly, the Joint Committee staff recommends that the present-law return preparer penalty should be expanded (with modifications) to apply to any omission or misrepresentation on a Form 990[208] that either was known or reasonably should have been known to the preparer, other than minor, inadvertent omissions. The penalty would apply to the preparer without regard to the requirement of present law that there be an understatement, provided that the other conditions for imposition of the penalty are met. The Joint Committee staff also recommends that the amount of the penalty should be increased from $250 to the greater of $250 or 50 percent of the return preparer's fee. This is to create parity between this new penalty and the Joint Committee staff's recommendation with respect to the general return preparer's penalty contained in the Joint Committee staff's study of penalties and interest.[209]

In addition, the Joint Committee staff recommends that the present-law return preparer penalty for willful or reckless acts should be expanded (with modifications) to apply to willful or reckless misrepresentation or disregard of rules and regulations with respect to Form 990.[210] The penalty would apply to the preparer without regard to the requirement of present law that there be an understatement, provided that the other conditions for imposition of the penalty are met. The Joint Committee staff recommends that the amount of the penalty should be increased from $1,000 to the greater of $1,000 or 100 percent of the return preparer's fee. This is to create parity between this new penalty and the Joint Committee staff's recommendation with respect to the

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[208] This is to include all forms in the 990 series, including the Form 990-EZ and Form 990-PF, as well as Form 1120-POL.

[209] Joint Committee on Taxation, *Study of Present-Law Penalty and Interest Provisions as Required by Section 3801 of the Internal Revenue Service Restructuring and Reform Act of 1998 (including Provisions Relating to Corporate Tax Shelters)* (JCS-3-99), July 22, 1999, at 159.

[210] This is to include all forms in the 990 series, including the Form 990-EZ and Form 990-PF, as well as Form 1120-POL.

general return preparer's penalty contained in the Joint Committee staff's study of penalties and interest.[211]

D. Expand Disclosure of Returns and return information of Tax-Exempt Organizations to Nontax State Officials or Agencies

The Joint Committee staff recommends that the IRS should be permitted to disclose to Attorneys General and other nontax State officials or agencies audit and examination information concerning tax-exempt organizations with respect to whom the State officials have jurisdiction and have made a specific referral of such organization to the IRS prior to a final determination with respect to the denial or revocation of tax exemption. In addition, the Joint Committee staff recommends that the IRS should be permitted to share audit and examination information concerning tax-exempt organizations with nontax State officials and agencies with jurisdiction over the activities of such organizations and who regularly share information with the IRS when the IRS determines that such disclosure may facilitate the resolution of cases.

Background and present law

State officials have considerable responsibility and authority with respect to nonprofit or charitable organizations. State tax officials generally have the responsibility of ensuring that such organizations are in compliance with State tax laws regarding such organizations. The interest of such State officials is similar to the interest of the IRS in enforcing the Federal tax laws.

In addition, States have a variety of nontax laws that govern nonprofit organizations and their fund raisers. Some of these laws may be similar to the Federal tax rules relating to tax-exempt organizations, but often go beyond tax requirements.[212] Such laws typically include laws regarding registration, disclosure, fiduciary duties of organization officers, directors, and others, the prohibition of specific types of self-dealing transactions, fraud, use of solicited funds and other assets of charitable organizations, and fund raising. Such nontax laws are enforced by the State charity official, typically the State Attorney General. State charity officials are often charged not only with enforcing specific laws regarding charitable organizations, but generally with protecting the public interest with respect to such organizations.[213] Activities of State charity officials may

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[211] *Id.*

[212] For a discussion of some possible differences between the interests of the IRS and State charities officials in tax-exempt organizations, *see* Peter Swords, *The Form 990 as an Accountability Tool for 501(c)(3) Nonprofits*, 51 Tax Law. 571, 575-76.

[213] Individuals do not have standing to sue with respect to many activities of tax-exempt organizations, even if such activities contravene State or Federal laws. Thus, the role of

include investigations of charitable organizations, their principals, and fund raisers for compliance with State laws, the initiation of legal actions, and the overseeing of nonprofit activities generally (including business transactions such as mergers, conversions from or to nonprofit status, and acquisitions). The sanctions that may be invoked by State charity officials include loss of nonprofit or tax-exempt status, revocation of the organization's charter, civil and criminal penalties, and equitable remedies.

In order to help protect individuals against fraudulent activities or unscrupulous practices, many State charity officials make substantial information regarding nonprofit organizations available to the general public. Such information may include specific information about locally-based charities and national charities that operate within the State, as well as general consumer protection information, such as how to deal with fund raisers (e.g., telemarketers) and what information to request from nonprofit organizations. Many State Attorney General offices have sites on the World Wide Web that contain such information, as well as links to other sites that provide additional information regarding specific charities and general information on charitable giving.

Many State charity officials also make information regarding State laws readily available to tax-exempt organizations and those interested in such organizations in order to facilitate compliance with the laws by tax-exempt organizations and those associated with such organizations.

Present law recognizes that nontax State officials have a need for returns and return information regarding tax-exempt organizations by providing for disclosure of certain information. Section 6104(c) requires the IRS to notify the appropriate State Attorney General, State tax officer, or other State officials charged with overseeing section 501(c)(3) organizations, of determinations made by the IRS with respect to the denial or revocation of tax exemption under section 501(c)(3). The applicable Treasury regulations provide that, for purposes of section

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protecting the public's interest falls to the State Attorney General or other State official with responsibility for enforcing State laws with respect to charities. The National Association of Attorneys General describes the role of Attorneys General as "counselors to state government agencies and legislatures, and as representatives of the public interest." The publications of State Attorneys General also reflect this view. For example, the California State Attorney General describes the role of that office with respect to charities as follows: "The California Attorney General acts as the legal overseer of charities that do business in the state. The Attorney General has the duty of protecting the interests of all public beneficiaries of charities within his jurisdiction." *See*, <http://caag.state.ca.us/charities>. Similarly, the Pennsylvania Attorney General describes his office's role with regarding to charitable organizations as "protect[ing] the public's interest in all property committed to charitable purposes." *See* <http://www.attorneygeneral.gov/ppd>.

6104(c), a determination means a final determination, and that a determination is not final until all administrative review with respect to such determination has been completed.[214]

In 1975, then IRS Assistant Commissioner (EP/EO) Alvin D. Lurie described the "inextricably entwined" regulatory powers of the IRS and State officials with respect to tax-exempt organizations as follows:

> The Internal Revenue Service makes tax exemption determinations, and monitors compliance with them. However, when a violation is discovered, the ability to invoke the jurisdiction of any equity court, with its broad and adaptable powers, is uniquely the province of the states. Only in certain limited circumstances can the Service take all of the steps necessary fully to protect the public. . . . The state's role . . . is to bring about "correction." The state alone can do this through the exercise of state equity powers. . . . Assuming that the violations warrant revocation of exemption in the public charity case, the Service has virtually no authority under existing law to effect a correction of the situation. Either we can determine not to revoke the exemption, thereby presumably being unable to inform the state attorney general about a situation calling for his action; or, in some cases no less unacceptably, we can compound an already difficult situation by revoking the exemption and imposing ordinary income taxes against the charitable assets, and giving notice of this action to the state attorney general.[215]

Discussion

The present-law rules regarding disclosure of information to nontax State officials have been criticized as not providing sufficient information to enable such officials to carry out their duties. For example, because a final determination by the IRS concerning the denial or revocation of tax-exempt status may not be made for a number of years, a tax-exempt organization may have exhausted its assets through illicit transactions or disposed of assets or changed its operations in a way which can no longer be corrected by the time the IRS is permitted to provide notice to the appropriate State officials.[216] Furthermore, the IRS is not permitted to provide any notice when an

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[214] Treas. reg. sec. 301.6104(c)-1(c).

[215] *New Developments in Tax-Exempt Institutions* (Kenneth H. Liles, ed.), The Journal of Taxation, July 1975, at 58-59.

[216] James B. Lyon, The Supervision of Charities in the United States by the State Attorneys General (and Other State Agencies) and the Internal Revenue Service, N.Y.U. 24th Conference on Tax Planning for 501(c)(3) Organizations, at 5.04 (Relationship Between the States Attorneys General and the Internal Revenue Service).

organization withdraws an application for tax exemption prior to an IRS determination because such a withdrawal is not considered to be a final determination.[217]

State officials frequently make referrals to the IRS concerning the questionable operations of tax-exempt organizations as detected by the State officials.[218] The inability of the IRS to provide any information or feedback to State officials with respect to these referrals or to make referrals to nontax State officials results in a nonreciprocal flow of information between State officials and the IRS, as well as frustration on the part of the IRS and State officials.[219] On several occasions, the National Association of Attorneys General has adopted resolutions in favor of legislation that would "relax provisions of section 6103 of the Internal Revenue Code to permit the sharing of audit and examination information and records for section 501(c)(3) and 501(c)(4) organizations with state agencies with jurisdiction over the activities of those organizations" and "encourage cooperation between the IRS and state regulators by permitting immediate and ongoing feedback when a state agency makes a referral."[220]

The Joint Committee staff recommends that the IRS should be permitted, prior to a final determination to deny or revoke tax-exempt status, to disclose to State Attorneys General and other nontax State officials or agencies audit and examination information concerning tax-exempt organizations with respect to whom the State officials have jurisdiction if such State officials have specifically referred the tax-exempt organization to the IRS. In addition, the Joint Committee staff recommends that the IRS should be permitted, either upon request or on its own initiative, to share audit and examination information concerning tax-exempt organizations with nontax State officials and agencies with jurisdiction over the activities of such organizations when the IRS determines that such disclosure may facilitate the resolution of cases and the State has regularly shared information with the IRS regarding potential issues arising with respect to organizations within the State. The Joint Committee staff believes that these recommendations would: (1) enhance the combined efforts of the Federal and State governments to protect the public by promoting the continued flow of information from State officials to the IRS; (2) improve the ability of State officials to monitor compliance with nontax State laws affecting tax-exempt organizations and to enforce and pursue correction of violations of such laws; and (3) facilitate the participation of both the IRS and State officials in the resolution of cases involving significant charitable and fiduciary violations by making more complete information available in earlier

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[217] Internal Revenue Service Disclosure of Official Information Handbook, Chapter 1.3.33.4.1, page 33-7. Implementation of another recommendation of this Study would expand the scope of information that the IRS may disclose to State officials and the public to include withdrawals of applications for tax exemption.

[218] Lyon, *supra*.

[219] *Id*.

[220] *Id*.

phases of such cases to both State officials and the IRS. In order to ensure that the information provided to State officials is used for appropriate purposes, the Joint Committee staff recommends that additional information provided to such officials should be subject to the confidentiality and nondisclosure restrictions applicable to State officials under section 6103.

E. LOBBYING EXPENDITURES

The Joint Committee staff recommends that public charities (both electing and non-electing charities) should be required to provide a general description of their lobbying activities on Schedule A to Form 990.

The Joint Committee staff recommends that public charities should be required to disclose expenditures for self-defense lobbying.

The Joint Committee staff recommends that public charities should be required to disclose expenditures for nonpartisan study, analysis, and research if such study, analysis, or research includes a limited "call to action."

1. Background and present law

In general

An organization does not qualify for tax-exempt status as a charitable organization described in section 501(c)(3) unless "no substantial part" of its activities constitutes "carrying on propaganda, or otherwise attempting, to influence legislation" (commonly referred to as "lobbying").[221] Thus, public charities may engage in limited lobbying activities, provided that such activities are not substantial, without losing their tax-exempt status and generally without being subject to tax.[222] For purposes of determining whether lobbying activities are a substantial part of a public charity's overall functions, a public charity may choose between two standards, the "substantial part" test or the "expenditure" test.[223]

The substantial part test derives from the statutory language quoted above and uses a facts and circumstances approach to measure the permissible level of lobbying activities. Because there is no statutory or regulatory guidance clarifying this standard, it is not clear whether the determination is based on the organization's activities, its expenditures, or both. If public charities exceed the substantial part standard, they risk losing their tax exemption.

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[221] Sec. 501(c)(3).

[222] In contrast, private foundations are subject to the restriction that lobbying activities, even if insubstantial, may result in the foundation being subject to penalty excise taxes.

[223] Secs. 501(c)(3), 501(h), and 4911.

The expenditure test sets specific dollar limits, calculated as a percentage of a charity's total exempt purpose expenditures, on the amount a charity may spend to influence legislation.[224] A charity wishing to be subject to the expenditure test must affirmatively elect to do so (the "section 501(h) election");[225] charities that do not file an election are subject to the substantial part test. Organizations that do not make the section 501(h) election are referred to below as non-electing public charities.

"Substantial part" test

Definition of lobbying

There is no statutory definition under section 501(c)(3) of "propaganda, or otherwise attempting, to influence legislation." However, Treasury regulations provide that an organization is not entitled to tax-exempt status under section 501(c)(3) due to its lobbying activities if a substantial part of the organization's activities is: (1) contacting, or urging the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation; or (2) advocating the adoption or rejection of legislation.[226] Thus, attempts to influence legislation under section 501(c)(3) include directly contacting members of a legislative body (and their staffs) to propose, support, or oppose legislation (so-called "direct lobbying"), and also include urging the public to contact legislative bodies, or otherwise attempting to influence public opinion, with respect to legislation (so-called "grass roots lobbying").

For purposes of section 501(c)(3), the term "legislation" includes action by the Congress, any State legislature, any local council or similar governing body, or the public in a referendum, initiative, constitutional amendment, or similar procedure.[227] "Action" by the Congress or a State legislature or local council refers to introduction, amendment, enactment, defeat, or repeal of Acts, bills, resolutions, or similar items.[228]

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[224] Secs. 401(h) and 4911.

[225] As of September 31, 1999, 7,221 organizations had elected to be subject to the expenditure test.

[226] Treas. reg. sec. 1.501(c)(3)-1(c)(3)(ii).

[227] Treas. reg. sec. 1.501(c)(3)-1(c)(3)(ii).

[228] *See* Sec. 4911(e)(3).

Exceptions for non-electing public charities

Although the regulations under section 501(c)(3) do not contain any exceptions for activities that are not considered to be lobbying, the private foundation rules under section 4945 describe four exceptions that are generally considered applicable to public charities as well.[229]

Nonpartisan analysis, study, or research.--Lobbying does not include the conduct of nonpartisan analysis, study, or research, as long as the dissemination of such analysis does not advocate the adoption of legislation to implement its findings. "Nonpartisan analysis, study, or research" is defined as "an independent exposition of a particular subject matter."[230] The analysis may conclude that legislation is appropriate to achieve a particular objective if it contains a "sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion."[231]

The results of nonpartisan analysis, study, or research must be made available to "the general public or a segment or members thereof or to governmental bodies, officials, or employees."[232] Such results may be distributed by "any suitable means, including oral or written presentations" provided that the communications are not limited to or directed toward those interested in only one side of a particular issue.[233] Examples of suitable means of distribution include "reprints of speeches, articles, and reports; presentation of information through conferences, meetings, and discussion; and dissemination to the news media, including radio, television, and newspapers, and to other public forums."[234]

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[229] Although there is no precedential ruling from the IRS applying the section 4945 exceptions to lobbying for private foundations to nonelecting public charities, the IRS has stated that the section 4945 definitions and exceptions apply to section 501(c)(3) because of a statement in the legislative history that section 4945 intended no change to the substantive law of lobbying other than the substantial part rule. GCM 34289 (May 8, 1970). *See Haswell v.United States*, 500 F.2d 1133, 1141-44 (Ct. Cl.), cert. denied, 419 U.S. 1107 (1974) (using the section 4945 regulations to clarify the section 501(c)(3) lobbying provisions); *see also* Judith E. Kindell & John F. Reilly, *Lobbying Issues, in Continuing Professional Education Exempt Organizations Technical Instruction Program for FY 1997* 277 n.20 (1996).

[230] Treas. reg. sec. 53.4945-2(d)(1)(ii).

[231] *Id.*

[232] Treas. reg. sec. 53.4945-2(d)(1)(i).

[233] Treas. reg. sec. 53.4945-2(d)(1)(iv).

[234] *Id.*

Examinations of broad social, economic, and similar problems.--Discussions of broad social or public policy issues that do not advocate a specific legislative proposal generally do not constitute attempts to influence legislation for purposes of section 501(c)(3). Specifically, lobbying communications do not include "public discussion, or communications with members of legislative bodies or governmental employees, the general subject of which is also the subject of legislation before a legislative body, so long as such discussion does not address itself to the merits of a specific legislative proposal and so long as such discussion does not directly encourage recipients to take actions with respect to legislation."[235]

Requests for technical advice or assistance.--Lobbying does not include the provision of technical advice to a governmental body or committee in response to a written request.[236] Likewise, responding to a governmental request for testimony is not treated as a lobbying activity. A request from an individual committee member or a subset of members will not fall within this exception.[237] The offering of opinions or recommendations ordinarily will qualify under this exception only if such opinions or recommendations are specifically requested by the governmental body or committee or are directly related to the materials requested.[238]

Self-defense communications.--There is an exception for direct lobbying with respect to proposed legislation that might affect a charity's existence, powers and duties, tax-exempt status, or the deductibility of contributions (so-called "self-defense lobbying").[239] Within these specific areas, an organization may communicate with legislators or their staff and may initiate legislation. However, this exception does not cover proposed legislation involving public policy issues that may be of importance to an organization in carrying out future charitable programs.

Application of substantial part test

For charities that do not elect the expenditure test (discussed below), there is no bright-line, mechanical rule for determining whether lobbying activities constitute "no substantial part" of the organization's overall activities. Rather, the particular facts and circumstances surrounding all activities of the organization (including, staff and volunteer time, expenditures, and significance of the activities to the organization) must be examined. In particular, an arithmetical

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[235] Treas. reg. sec. 53.4945-2(d)(4).

[236] Treas. reg. sec. 53.4945-2(d)(2); Rev. Rul. 70-449, 1970-2 C.B.111.

[237] Treas. reg. sec. 53.4945-2(d)(2).

[238] Treas. reg. sec. 53.4945-2(d)(2)(ii).

[239] Treas. reg. sec. 53.4945-2(d)(3).

percentage test (e.g., looking only at the percentage of the budget, or employee's time spent on lobbying), while relevant, has been held not determinative.[240]

Expenditure test

In general

As an alternative to the substantial part test, the expenditure test permits certain public charities to elect to be governed by specific expenditure limitations on their lobbying activities.[241] The test establishes two expenditure limits: one restricts the total amount of lobbying expenditures the public charity can make, the other restricts grass roots lobbying expenditures as a subset of total lobbying expenditures. A public charity's total lobbying expenditures for a year are the sum of its expenditures for direct lobbying and its expenditures for grass roots lobbying.

For a public charity electing to be subject to the expenditure test, the allowable amount of lobbying expenditures that can be made for any tax year is determined under a sliding-scale formula. Specifically, the allowable amount of total lobbying expenditures is limited to the sum of (1) 20 percent of the first $500,000 of the organization's exempt purpose expenditures for the year, (2) 15 percent of the next $500,000 of such expenditures, (3) 10 percent of the third $500,000 of such expenditures, and (4) 5 percent of any additional such expenditures.[242] In no event, however, can the allowable amount of lobbying for a charity electing the expenditure test exceed $1 million for any year.[243] For this purpose, "exempt purpose expenditures" are defined as expenditures to accomplish the organization's exempt purposes, including properly allocable salary payments, overhead, an allowance for depreciation on a straight-line basis, and all lobbying expenditures, but not including fundraising costs and certain capital expenditures. Grass roots

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[240] *See Haswell v. United States*, 500 F.2d 1133 (Ct. Cl. 1974); (holding that an organization's lobbying activities were substantial when roughly 16-20 percent of its expenditures were for lobbying and the organization's lobbying activities were in other respects an important part of its mission); *Christian Echoes National Ministry, Inc. v. United States*, 470 F.2d 849 (10th Cir. 1972) (rejecting a percentage test in favor of weighing an organization's lobbying activities in light of the organization's overall purposes and activities); *Seasongood v. Commissioner*, 227 F.2d 907 (6th Cir. 1955) (deciding that lobbying that accounted for less than 5 percent of an organization's activities is not substantial).

[241] Secs. 501(h) and 4911. Public charities eligible to make the section 501(h) election include educational institutions, hospitals, and organizations receiving a certain proportion of support from the general public, but not churches and certain church-related entities (secs. 501(h)(4)-(5)).

[242] Sec. 4911(c)(2); Treas. reg. sec. 56.4911-1(c)(1).

[243] Sec. 4911(c)(2).

lobbying is subject to a separate limitation, equal to 25 percent of the overall permissible lobbying amount.[244] In order to prevent organizations from avoiding the dollar limitations of the expenditure test by dividing themselves into technically separate but related entities, certain affiliated organizations under common control are treated as one organization for purpose of applying the arithmetical tests.[245]

Definition of lobbying

For purposes of the expenditure test, lobbying expenditures are defined as "expenditures for the purpose of influencing legislation (as defined in section 4911(d))." Section 4911(d), in turn, defines the term "influencing legislation" as:

> (A) any attempt to influence any legislation[246] through an attempt to affect the opinions of the general public or any segment thereof [i.e., "grass roots lobbying communications"], and
>
> (B) any attempt to influence any legislation through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation [i.e., "direct lobbying communications"].[247]

With respect to communications with legislators and government officials, Treasury regulations provide a two-part test for determining if such a communication by an organization making the section 501(h) election constitutes a "direct lobbying communication." Under this two-part test, a communication with a legislator or employee of a legislative body, or with any government official or employee who may participate in the formulation of legislation (provided that the principal purpose of the communication is to influence legislation), will be treated as a

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[244] Sec. 4911(c)(4).

[245] Treas. reg. sec. 56.4911-7.

[246] "Legislation" includes action by legislative bodies but does not include action by "executive, judicial, or administrative bodies." Treas. reg. sec. 56.4911-2(d)(3). The term "administrative bodies" includes school boards, housing authorities, sewer and water districts, zoning boards, and other similar Federal, State, or local special purpose bodies, whether elective or appointive. Treas. reg. sec. 56.4911-2(d)(4).

[247] Lobbying with respect to a referendum or ballot initiative subject to a vote by the general public (unless it comes within the nonpartisan analysis exception) is considered "direct lobbying," based on the rationale that, in this context, members of the general public are functioning as legislators. *See* Treas. reg. sec. 56.4911-2(b)(1)(iii).

"direct lobbying communication" under section 4911 *only if* the communication *both* (1) refers to "specific legislation" (meaning legislation that has already been introduced in a legislative body or a specific legislative proposal that the organization either supports or opposes), *and* (2) reflects a view on such legislation.

With respect to communications with the general public, Treasury regulations provide a three-part test for determining whether such a communication by an organization electing the expenditure test constitutes a "grass roots lobbying communication." Under this three-part test, a communication with the general public will be treated as a "grass roots lobbying communication" only if the communication: (1) refers to specific legislation; (2) reflects a view on such legislation; and (3) encourages the recipient to take action with respect to the legislation (referred to as a "call to action" requirement) in at least one of four specifically enumerated ways.[248]

Exceptions for electing public charities

The Code and regulations governing the expenditure test incorporate the same exceptions to the definition of lobbying discussed above with respect to the substantial part test and add an additional exception for certain communications between a charity and its members. The regulations also clarify the exception for non-partisan analysis, research or study and the exception for examinations of broad social, economic, and similar problems exception.

Nonpartisan study, analysis, and research.--Treasury regulations provide that nonpartisan analysis that reflects a view on specific legislation is not within the expenditure test exception if the communication "directly encourages" the recipient to take action--meaning that the communication expressly states that the recipient should contact a legislative or government official or employee, includes the address, telephone number or similar information of a such official or employee, or includes a petition tear-off postcard, or similar material for the recipient to send to such an official or employee. However, nonpartisan analysis within the exception is allowed to include a limited (or implicit) "call to action" that specifically identifies one or more legislators who will vote on the legislation as (1) opposing the organization's views with respect to the legislation, (2) being undecided with respect to the legislation, (3) being the recipient's representative in the legislature, or (4) being a member of the legislative committee or subcommittee that will consider the legislation.[249]

An organization may choose any suitable means, including oral or written presentations or disseminations to the news media, to distribute its nonpartisan analysis or research.[250] However,

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[248] Treas. reg. sec. 56.4911-2(b)(2)(ii).

[249] Treas. reg. secs. 56.4911-2(b)(2)(iii) and 56.4911-2(c)(1)(vi).

[250] Sec. 4911(d)(2)(A).

communications may not be limited to, or be directed toward, persons who are interested solely in one side of a particular issue.[251]

Examinations of broad social, economic, and similar problems.--Treasury regulations provide that "[e]xaminations and discussions of broad social, economic, and similar problems are neither direct lobbying communications under section 56.4911-2(b)(1) nor grass roots lobbying communications under section 56.4911-2(b)(2) even if the problems are of the type with which government would be expected to deal ultimately.[252] Consequently, lobbying communications do not include public discussion, or communications with members of legislative bodies or governmental employees, the general subject of which is also the subject of legislation before a legislative body, so long as such discussion does not address itself to the merits of a specific legislative proposal and so long as such discussion does not directly encourage recipients to take action with respect to legislation.

Membership communications.--Certain communications between an electing public charity and its members that would be treated as grassroots communications if they were directed to nonmembers will not treated as lobbying if directed solely to members.[253] For purposes of this rule, a member is someone who provides more than a nominal amount of time or money to the organization.[254] A communication to a member that refers to and reflects a view on specific legislation will not be treated as a lobbying communication if: (1) the communication is directed only to members of the organization; (2) the specific legislation is of direct interest to the organization and its members; (3) the communication does not directly encourage the member to engage in direct lobbying; and (4) the communication does not directly encourage the member to engage in grassroots lobbying.[255] Expenditures for a communication that satisfies (1), (2), and (4),

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[251] Treas. reg. sec. 56.4911-2(c)(1).

[252] Treas. reg. sec. 56.4911-2(c)(2).

[253] Sec. 4911(d)(3); Treas. reg. sec. 56.4911-5.

[254] Treas. reg. sec. 56.4911-5(f)(1).

[255] Treas. reg. sec. 56.4911-5(b).

but not (3) are treated as direct lobbying.[256] Expenditures for a communication that satisfies (1), (2), and (3), but not (4) are treated as grassroots lobbying.[257]

There is also a self-defense communication exception for communications with members. If a communication by a public charity directly encourages members to engage in direct lobbying activities that would meet the definition of self-defense lobbying if conducted by the organization, that membership communication will not be treated as direct lobbying by the organization.[258]

Lobbying expense allocations

In addition to defining direct and grass roots lobbying communications and the five statutory exceptions, Treasury regulations provide detailed guidance for allocating particular expenditures to lobbying communications. In general, public charities electing the expenditure test are required to treat as lobbying expenditures all direct costs of producing the communication, as well as an allocable share of overhead costs.[259] In addition, rules are provided for so-called "mixed purpose" expenditures and for allocating costs when non-lobbying materials (e.g., nonpartisan analysis) subsequently are used by an organization as part of a grass roots lobbying campaign.

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[256] Treas. reg. sec. 56.4911-5(c). A communication "directly encourages" a member to engage in direct lobbying if it incorporates any of the following: (1) it urges the recipient to contact a legislator, a legislator's staff, or other government employee who participates in the formulation of legislation for the principal purpose of influencing legislation; (2) it states the address, telephone number, or similar information for a legislator or employee of a legislative body; or (3) it provides a petition or tear-off postcard for the principal purpose of influencing legislation. Treas. reg. sec. 56.4911-5(f)(6)(i)(A).

[257] Treas. reg. sec. 56.4911-5(d). A communication "directly encourages" a member to engage in grassroots lobbying if it incorporates any of the following: (1) it states that the recipient should encourage any nonmember to contact a legislator, a legislator's staff, or other government employee who participates in the formulation of legislation for the principal purpose of influencing legislation; (2) it states that the recipient should provide to any nonmember the address, telephone number, or similar information for a legislator or employee of a legislative body; or (3) it provides (or requests that the member provide) a petition or tear-off postcard to use to ask any nonmember to communicate views to a legislator, a legislator's staff, or other government employee who participates in the formulation of legislation for the principal purpose of influencing legislation. Treas. reg. sec. 56.4911-5(f)(6)(ii).

[258] Treas. reg. sec. 56.4911-5(f)(6)(B).

[259] Treas. reg. sec. 56.4911-3(a)(1).

Penalties applicable to public charities

If an electing public charity exceeds either the limit on total lobbying expenditures or on grassroots lobbying expenditures for a particular year, it is subject to a 25-percent excise tax on the excess amounts. The charity's exemption will not be in jeopardy, however, unless either limit is exceeded by more than 50 percent, calculated using an average of lobbying expenditures over the four most recent years.

For nonelecting public charities, excessive lobbying activities result in loss of tax-exempt status. In addition, in 1987, section 4912 was enacted to provide for the imposition of penalty excise taxes due to improper lobbying expenditures made by a nonelecting public charity (other than a church). However, the section 4912 excise taxes may be imposed only if the charity ceases to qualify for tax-exempt status under section 501(c)(3) due to its substantial lobbying activities. Section 4912 imposes on such a disqualified organization an excise tax equal to five percent of the amount of lobbying expenditures incurred during the year in which the organization has ceased to qualify under section 501(c)(3) due to making lobbying expenditures. Organization managers who, without reasonable cause, agree to make lobbying expenditures knowing that they are likely to result in revocation of the organization's tax-exempt status under section 501(c)(3) also are subject to an excise tax equal to five percent of such lobbying expenditures.

There is no present-law rule preventing an organization that loses its tax-exempt status under section 501(c)(3) because it engages in substantial lobbying (or normally exceeds the lobbying expenditure limits) from applying for restoration of its section 501(c)(3) status in a subsequent taxable year, at which time the organization will again be subject to the lobbying limitation. However, section 504(a)(2)(A) provides that a charitable organization (other than a church) that loses its tax-exempt status under section 501(c)(3) because of excessive lobbying activities may not attempt to thereafter escape the lobbying limitation by being treated as a tax-exempt social welfare organization under section 501(c)(4).

Lobbying by nonsection 501(c)(3) organizations

Section 501(c) organizations other than charities described in section 501(c)(3) are not subject to any specific provision that restricts their lobbying activities. In general, the only limit imposed by the Code is that the lobbying activities must be germane to the accomplishment of the organization's exempt purposes. For some organizations, such as social welfare organizations or business leagues, lobbying may be the organization's primary, or even sole, activity.

Associations that receive tax-deductible dues.--As a result of the Omnibus Budget Reconciliation Act of 1993, tax-exempt trade associations and certain other tax-exempt organizations (but not charities described in section 501(c)(3)) generally are required to provide annual information disclosure to members (sometimes referred to as "flow-through information disclosure") estimating the portion of their dues allocable to lobbying activities as defined under section 162(e)(1). The purpose of this rule is to prevent taxpayers from avoiding section 162(e)

(which disallows trade or business expense deductions for political campaign and lobbying expenditures) by paying otherwise deductible dues to a trade association or other tax-exempt entity which, in turn, makes political campaign or lobbying expenditures on behalf of its dues-paying members. Accordingly, section 162(e)(3) specifically provides that no trade or business expense deduction is allowed for the portion of dues paid to a tax-exempt organization which the organization notifies the taxpayer under section 6033(e) is allocable to political campaign or lobbying expenditures made by the organization.

Flow-through information disclosure is not required for an organization that (1) incurs only a de minimis amount (i.e., $2,000 or less) of in-house political campaign and lobbying expenditures during the taxable year; (2) elects to pay a 35-percent proxy tax on its political campaign and lobbying expenditures incurred during the taxable year rather than provide flow-through information disclosure to its members; or (3) establishes pursuant to Treasury Department rules that substantially all of its dues monies are paid by members not entitled to deduct such dues in computing their taxable income (sec. 6033(e)).

Disclosure of lobbying expenses

For Federal tax purposes, public charities are required to disclose their lobbying expenditures on Schedule A of Form 990 (a copy of Schedule A is attached as Appendix B), and to maintain records that will enable them to calculate and report these expenditures. Public charities electing the expenditure test report their expenditures on two charts. The first table requires the organization to list the amounts spent on grassroots lobbying, on direct lobbying, and on the organization's exempt purposes. The table requires this information both for the electing public charity and for its affiliated group, if the charity is part of one. The second table requires the organization to fill in its lobbying expenditures for the four most recent years in order to determine whether, on average, the organization has exceeded the lobbying expenditure limits during that period. Schedule A does not provide any information on the issues the organization lobbied nor does it require disclosure of whether the organization engaged in activities that come within one of the statutory exceptions to lobbying. Expenditures for activities that come within one of the exceptions to the definition of lobbying will be disclosed elsewhere on the return, although they are unlikely to be identified specifically by activity. For example, nonpartisan study, analysis, or research projects typically will be disclosed as part of a charity's educational activities in Part III of Form 990, which requires disclosure of program service expenses for each of the charity's exempt purpose accomplishments.

Nonelecting public charities complete a different table on Schedule A requesting information about whether the organization attempted to influence national, state or local legislation through the use of: volunteers; paid staff or management; media advertisements; mailings to members, legislators, or the public; publications, or published or broadcast statements; grants to other organizations for lobbying purposes; direct contact with legislators, their staffs, government officials, or a legislative body; or rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means. If the organization used any of the above methods of

lobbying, it must disclose the amount spent on the lobbying activity and provide a detailed description of its lobbying activities. According to the instructions for Schedule A of Form 990, the detailed description should include all lobbying activities, whether expenses are incurred or not. Thus, lobbing activities carried out by unreimbursed volunteers must be disclosed. As is the case for electing public charities, there is no requirement that a nonelecting public charity disclose on Schedule A activities or amounts spent on activities that are defined as an exception to the definition of lobbying; however, expenditures for such activities will be disclosed elsewhere on the return, although they are unlikely to be identified specifically by activity.

Lobbying Disclosure Act of 1995

The Lobbying Disclosure Act of 1995 (the "LDA") requires persons, including tax-exempt organizations, that engage in certain lobbying activities to register with the Secretary of the Senate and the Clerk of the House of Representatives.[260] The LDA also requires persons that register to report lobbying expenditures semiannually. Organizations that register employees who lobby on the organization's behalf have the option of reporting their lobbying expenses under the LDA using either the LDA definitions of lobbying activities or the definitions under the applicable Internal Revenue Code provisions: section 4911 (the lobbying expenditure test, discussed above) and section 162(e) (denying a federal tax deduction for certain lobbying expenses of businesses and requiring tax-exempt associations to disclose the association's lobbying expenses to members).

A recent report by the GAO reviewed the impact that differences in the definitions (LDA, section 4911, and section 162(e)) have on registration and reporting under the LDA.[261] The report concluded that the LDA definition of lobbying differs significantly from the definitions of lobbying under sections 4911 and 162(e). These differences can affect whether an organization is required to register under the LDA and, if it must register, what information the organization is required to report under the LDA. The GAO identified several options, including harmonizing the different definitions of lobbying activities, that might help to ensure that the public disclosure purposes of the LDA are realized. Because analysis of the options proposed by the GAO would require substantial review of the various legislative purposes for enacting the LDA (which is not a Federal tax statute), section 4911, and section 162(e), as well as the different objectives underlying each provision's definition of lobbying activities, the Joint Committee staff determined that review of the GAO options for modifying the disclosure provisions of the LDA was not within the scope of this study.

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[260] Pub. L. No. 104-65 (1995).

[261] General Accounting Office, *Federal Lobbying: Differences in Lobbying Definitions and Their Impact* (GAO/GGD-99-38) (April 1999).

2. Discussion

Disclosure of lobbying activities

On the current Schedule A to Form 990, electing public charities are required to disclose their lobbying expenditures on two tables. Schedule A to Form 990 does not require an electing charity to provide any description of its lobbying activities; thus, someone reviewing Schedule A is unable to ascertain what legislation the organization lobbied for or against or the manner in which the organization engaged in lobbying activities (other than whether the organization engaged in grassroots or direct lobbying). Schedule A requires nonelecting public charities to state the lobbying methods used, i.e., whether they attempted to influence legislation using: volunteers; paid staff; media advertisements; mailings to members, legislators, or the public; publications; direct contact with legislators; or any other means. If an organization used any of the listed methods of lobbying, it must disclose the amount spent on the lobbying activity and provide a detailed description of its lobbying activities. The organization is not, however, required to disclose what legislation it lobbied for or against.

The Joint Committee staff recognizes that the information currently requested on Schedule A is designed to provide the IRS with sufficient information to make an initial determination of whether an organization's lobbying activities were reasonable for purposes of the lobbying limitation on organizations described in section 501(c)(3) (that is, whether the activities crossed the "no substantial part" threshold). However, Schedule A is used by many people, including donors and potential donors, to learn about an organization's activities. Furthermore, the Joint Committee staff believes that the public has a significant interest in understanding and monitoring the lobbying activities of a public charity in order to ensure that such activities promote rather than detract from the organization's other exempt activities. Consequently, the Joint Committee staff believes that the Schedule A would be more helpful to the public if it required both electing and nonelecting public charities to provide a detailed description of the legislation addressed in their lobbying efforts and the manner in which organizations engaged in lobbying activities.

Self-defense lobbying

Under present law, self-defense lobbying (lobbying with respect to proposed legislation that might affect the organization's existence, powers and duties, tax-exempt status, or the deductibility of contributions) is an exception to the definition of lobbying. The Joint Committee staff believes that the fact that self-defense lobbying is an exception to the definition of lobbying for purposes of determining whether lobbying is a substantial part of a public charity's activities is unrelated to the question of whether the public should have access to information about what amount of a charity's resources were devoted to such activities. The Joint Committee staff believes that the exception for self-defense lobbying permits organizations to expend a potentially unlimited amount on activities that, but for the exception, constitute direct lobbying, without being required to disclose the expenditures specifically allocable to those activities. Under these circumstances, disclosure of amounts attributable to self-defense lobbying on Schedule A to Form

990 is appropriate in order to ensure that the public and the IRS have a complete understanding of the organization's activities and expenditures.

In addition, the Joint Committee staff believes that electing public charities should be required to disclose amounts spent on membership communications that encourage members to engage in direct lobbying activities that would meet the definition of self-defense lobbying if conducted by the organization.

Nonpartisan study, analysis, and research

Under present law, electing public charities may engage in nonpartisan analysis activities that include a limited "call to action," meaning that the analysis may specifically identify one or more legislators who will vote on legislation as (1) opposing the organization's views with respect to the legislation, (2) being undecided with respect to the legislation, (3) being the recipient's representative in the legislature, or (4) being a member of the legislative committee or subcommittee that will consider the legislation. The Joint Committee staff believes that such activities constitute a form of advocacy of which the public should be aware. Under these circumstances, the expenditures attributable to such activities should be disclosed on Schedule A to Form 990, in order to provide the public with a more complete understanding of a public charity's activities and expenditures. As previously noted above, the mere fact that certain expenditures do not meet the technical definition of lobbying for certain purposes under the Code does not eliminate the public interest in access to information concerning such expenditures. Disclosure of these expenditures would provide the public with additional information as to the usage of a tax-exempt organization's resources and the relevance of such expenditures in accomplishing the purposes for which tax-exempt status is granted.

APPENDICES

APPENDIX A: LEGISLATIVE HISTORY OF SECTION 6104

Three Internal Revenue Code sections (sections 6103, 6104, and 6110) and the Freedom of Information Act (the "FOIA") govern disclosure of information relating to tax-exempt organizations. Under present law, section 6103 provides that tax returns and return information are confidential and may not be disclosed publicly, except as otherwise provided in the Code.[262] Given the breadth of the definitions of "tax returns" and "tax return information," much tax-exempt organization information comes within the ambit of section 6103. However, section 6104, which preceded enactment of section 6103, requires public disclosure of certain categories of tax-exempt organization documents and information. Thus, as a general rule, to the extent that section 6104 specifically provides for the disclosure of tax-exempt organization information, other disclosure provisions (sections 6103, 6110 or the FOIA) do not apply.[263]

This appendix sets forth the evolution of section 6104. A thorough description of the legislative history of section 6103 is provided in Volume I of this study.

Introduction

Prior to the end of the nineteenth century, Federal revenues were derived primarily from import duties and excise taxes, which did not affect charitable organizations. State governments played the principal role in formulating government policy with respect to charitable entities. Charitable, educational, and religious organizations traditionally were accorded exemption from property taxation and, to some extent, from other forms of taxation.

Early Federal income tax statutes, which were in force briefly during and after the Civil War, applied only to certain specified classes of businesses (e.g., railroads, canal companies, banks); thus, no exemption provisions were needed to exclude charitable and similar entities from such taxes. The first Federal tax on the income and profits of corporations generally (the Tariff

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[262] Sec. 6103(a). A "return" includes any tax or information return, declaration of estimated tax, or claim for refund required by, or provided for, or permitted under the provisions of Title 26, which is filed with the IRS. Sec. 6103(b)(1). "Return" also includes any amendment or supplement to the filed return. Sec. 6103(b)(1). "Return information" is defined broadly to include any data received by, recorded by, prepared by, furnished to, or collected by the Secretary with respect to a return or with respect to the determination of the existence, or possible existence, or liability (or the amount thereof) of any person under this title for any tax, penalty, interest, fine, forfeiture, or other imposition, or offense. The term "return information" does not include data in a form which cannot be associated with, or otherwise identify, directly or indirectly, a particular taxpayer. Sec. 6103(b)(2)(A).

[263] Internal Revenue Manual, Disclosure of Official Information Handbook, 1.3.9.1(8).

Act of 1894) provided a specific exemption for charitable, religious, and educational organizations:

> nothing herein contained shall apply to. . . corporations, companies, or associations organized and conducted solely for charitable, religious or educational purposes, . . . nor to the stocks, shares, funds, or securities held by any fiduciary or trustee for charitable, religious, or educational purposes . . . .[264]

A similar exemption has appeared in every subsequent Federal income tax law.

The charitable donation tax deduction for the individual income tax was enacted in 1917 on the theory that the deduction would stimulate donations and thus help charities.[265] The deduction was limited to 15 percent of adjusted gross income. An estate tax deduction for bequests to charity was added in 1918.[266] Other Federal tax provisions favoring charitable organizations have been enacted since, including exemption from gift taxes and the corporate donation tax deduction.[267]

Beginning in 1950, the development of Federal tax policy regarding charitable organizations entered a new phase. For the first time, statutory rules were enacted to deal with business activities of certain charitable entities and with certain areas of abuse, including self-dealing, imprudent investments, and unreasonable accumulations of income. The Congress also began to expand reporting requirements applicable to tax-exempt organizations and to require increased public availability of information relating to tax-exempt organizations in order to enable the public to scrutinize the activities of certain tax-exempt organizations. The Congress intended that such organizations be subject to a certain degree of public accountability in view of their privileged tax status.

Early filing and disclosure requirements for tax-exempt organizations

Organizations exempt from tax

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[264] Tariff Act of 1894, ch. 349, sec. 32, 28 Stat. 553.

[265] Act of Oct. 3, 1917, Pub. L. No. 65-50, ch. 63, tit. XII, sec. 1201(2), 40 Stat. 300.

[266] Revenue Act of 1918, Pub. L. No. 65-254, ch. 18, tit. IV, sec. 403(a)(3), 40 Stat. 1057 (1919).

[267] Revenue Act of 1924, Pub. L. No. 68-176, tit. III, part II, sec. 321(a)(2) (1924) (gift tax deduction); Revenue Act of 1935, Pub. L. No. 74-407, ch. 829, sec. 102(c), 49 Stat. 1016 (1935) (corporate income tax deduction). The 1924 gift tax deduction was repealed in 1926, but was reenacted in 1932. Revenue Act of 1932, Pub. L. No. 72-154, sec. 505(a)(2).

Section 101 of the Internal Revenue Code of 1939 (the "1939 Code") provided tax-exempt status to a variety of organizations, including labor, agricultural and horticultural organizations, fraternal beneficiary societies, credit unions, cemetery companies, business leagues, chambers of commerce, social clubs, benevolent life insurance associations, mutual insurance companies other than life or marine, cooperative farmers' associations, title holding corporations, instrumentalities of the United States organized by Act of Congress, voluntary employees' beneficiary associations, teachers' retirement fund associations, and religious or apostolic associations or corporations. In addition, section 101(6) of the 1939 Code provided tax-exempt status to:

> corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the earnings of which inures to the benefit of any private shareholder or individual, and no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation.

The section 101(6) exemption was very similar to present-law section 501(c)(3), although it did not prohibit political activities.

Revenue Act of 1943

The initial requirement that certain tax-exempt organizations file annual information returns was added to the 1939 Code by the Revenue Act of 1943.[268] The primary purpose of the 1943 provision was to provide Congress with sufficient information to determine the need for legislative restrictions on charitable organizations.[269] Pursuant to the Revenue Act of 1943, section 54(f) of the 1939 Code provided that annual returns (which were called "Form 990" then, as they are now) were to be filed by organizations exempt under section 101, but excluded many organizations exempt under section 101(6), including religious organizations and certain organizations affiliated with religious organizations, schools, and charitable organizations and organizations for the prevention of cruelty to children or animals if such organizations received government grants or was primarily supported by contributions from the general public. Fraternal

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[268] Revenue Act of 1943, Pub. L. No. 78-235, ch. 63, sec. 117, 58 Stat. 21, 36-37.

[269] H.R. Rep. No. 78-841, at 24-25 (1943). Of particular concern was the involvement of tax-exempt organizations in commercial activities. At the time, the Federal tax system followed a "destination of income" test, under which an active business could enjoy tax exemption so long as the profits were dedicated to charitable purposes. *See Trinidad v. Sagrada Orden de Predicadores*, 263 U.S. 578 (1924); *Roche's Beach, Inc. v. Commissioner*, 96 F.2d 776 (2d Cir. 1938). By the early 1940's, however, this approach had become increasingly controversial. The legislative history of the Revenue Act of 1943 explains that requiring certain tax-exempt organizations to file returns was the first step toward "closing this existing loophole and requiring the payment of tax, and the protection of legitimate companies against this unfair competitive situation." H.R. Rep. No. 78-871, at 24.

beneficiary societies and instrumentalities of the United States organized by Act of Congress were also excepted from the filing requirement. Organizations formed for scientific or literary purposes and organizations that were supported by a limited number of donors (generally referred to as "private foundations"), as well as other organizations that were exempt under section 101 were required to file annual returns.

For those organizations required to file Form 990, such returns were subject to the same disclosure rules applicable to all taxpayers at the time. Returns were treated as public records; however, only those authorized by order of the President had access to returns.[270]

Two years after the 1943 enactment of the information return requirements, the Treasury Department submitted a detailed report of the activities and resources of nonprofit corporations.[271] The report concluded that further studies were needed to decide whether the exemption provisions were a "loophole for tax evasion and avoidance."[272]

Revenue Act of 1950

The need for reform of the rules relating to tax-exempt organizations was noted by President Truman in his 1950 message to Congress regarding his tax program. He stated: "[t]here are also instances where the exemption accorded charitable trust funds has been used as a cloak for speculative business ventures, and the funds intended for charitable purposes, buttressed by tax exemption, have been used to acquire or retain control over a wide variety of industrial enterprises."[273] Following President Truman's message, the House Committee on Ways and Means conducted extensive hearings in 1950 on various abuses involving tax-exempt organizations. The hearings focused on the application of the unrelated business income tax and on abuses by private foundations. Several witnesses supported the expansion of reporting and disclosure requirements by tax-exempt organizations. Although the House ultimately did not adopt additional reporting and disclosure requirements at that time, the Senate did, and additional reporting and disclosure provisions were included in the Revenue Act of 1950 (the "1950 Act").[274]

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[270] *See* sec. 55(a)(1) (1939).

[271] *Tax Exempt Organizations, Preliminary Report to the Joint Committee on Internal Revenue Taxation*, prepared by the staffs of the Joint Committee, the Treasury, and the IRS pursuant to sec. 5011 of the 1939 Code, December 15, 1945.

[272] *Id*. at preface.

[273] Message from the President, January 23, 1950.

[274] Revenue Act of 1950, Pub. L. No. 81-814 (1950). S. Rep. No. 81-2375, 125 (1950).

The 1950 Act adopted rules to address abusive transactions and also added section 153 to the 1939 Code providing that organizations already required to file an annual information return under section 54(f), as well as trusts claiming charitable deductions, were to report more extensive financial information than had previously been required, including gross income, expenses, disbursements, accumulated income within the year, accumulated income as of the beginning of the year, disbursements from principal in the current and prior years for exempt purpose activities, and a balance sheet.[275] The 1950 Act also added the first disclosure requirement specifically for tax-exempt organizations by providing that Form 990 was open for public inspection by submitting a written request to the IRS.[276]

The 1950 Act did not, however, expand the category of organizations that were required to file Form 990. Consequently, the rules designed to prevent abuses, expand reporting, and require disclosure were not extended to religious organizations, schools, and publicly supported organizations, but only to organizations formed for scientific or literary purposes, organizations that were supported by a limited number of donors, and other organizations that were exempt under section 101. The reasons for this pattern of coverage were summarized in the Report of the Senate Finance Committee: "The organizations excluded from the application of these provisions are in general what might be called 'public' organizations and because of this characteristic are not believed likely to become involved in any of these prohibited transactions."[277]

Technical Amendments Act of 1958

The disclosure rules applicable to tax-exempt organizations were expanded by the Revenue Act of 1958 (the "1958 Act"), which added to section 6104 the requirement that applications for tax exemption and supporting documents for all organizations exempt under section 501(a) and described in section 501(c) be made available for public inspection at the IRS National Office of the IRS and, in the case of applications filed subsequent to the 1958 amendments, at the appropriate IRS field service office.[278] Anything in applications for tax exemption which would reveal trade secrets or information or which could adversely affect national defense would be withheld from public inspection. The legislative history provides the following rationale for public disclosure of exemption applications: "[the] committee believes that making these applications available to the public will provide substantial additional aid to the

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[275] Pub. L. No. 81-814, sec. 341 (1950).

[276] *Id*. (This provision, sec. 153(c) of the 1939 Code, was the earliest version of section 6104). Section 153(c) was codified as section 6104(a) of the 1954 Code without amendment. Pub. L. No. 83-591, (1954).

[277] S. Rep. No. 81-2375, at 38 (1950).

[278] Pub. L. No. 85-866, sec. 75. This requirement also was extended to organizations described in section 501(d), which includes certain religious and apostolic organizations.

Internal Revenue Service in determining whether organizations are actually operating in the manner in which they have stated in their applications for exemption."[279]

The 1958 Act added two additional reporting and disclosure requirements: (1) applications and supporting data must be made available to Congressional committees in the same manner as tax returns; and (2) charitable organizations that are required to file Form 990 must report their total contributions.[280]

Expansion of filing and disclosure requirements to all tax-exempt organizations

Although concern about abuse of charitable foundations had been part of the impetus for the reforms implemented by the 1950 Act, the restrictions on such entities that emerged from the 1950 Act were fairly modest. During the 1950's and 1960's, the number of "family foundations" (charitable organizations supported by a limited number of donors, also referred to as "private foundations") expanded rapidly, and these organizations attracted much attention from the press as useful vehicles for tax avoidance and personal benefit. In the 1960's, Treasury issued a report on private foundations,[281] the House Select Small Business Committee held hearings from 1962-1969, and there were lengthy hearings held by the tax-writing committees on the Tax Reform Act of 1969, which proposed numerous restrictions on private foundations activities and operations. These activities had demonstrated specific instances where prior law had been inadequate to prevent the use of foundations for controlling business enterprises and benefitting substantial contributors and the expense of charitable programs.

Tax Reform Act of 1969

Pursuant to the Tax Reform Act of 1969 (the "1969 Act"), the Congress enacted a series of rules designed to ensure that Federal income tax incentives would be available only to private foundations whose assets and income are devoted to charitable, and not private, purposes. While private foundations were the focus of the legislation and the Congress enacted specific filing

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[279] H.R. Rep. No. 85-262, at 41-42 (1957).

[280] Pub. L. No. 85-866, sec. 75 (codified at secs. 6104(a) and 6033(b)(8) of the 1954 Code).

[281] Treasury submitted its report on private foundations to the Congress in early 1965, and the Senate Finance Committee published it shortly thereafter. Staff of Senate Comm. on Finance, 89th Cong., Treasury Department Report on Private Foundations (Comm. Print 1965).

requirements for foundations,[282] the Congress also took steps to broaden considerably the filing and disclosure requirements applicable to all tax-exempt organizations.

The 1969 Act required all tax-exempt organizations to file annual information returns, except churches, their integrated auxiliaries (e.g., church-affiliated religious schools and church youth, mens', and womens' groups), associations or conventions of churches, religious orders with respect to their exclusively religious activities, organizations that normally have gross receipts of $5,000 or less and which were, at the time of the 1969 Act, exempt from filing, and organizations exempted from the filing requirement by the Secretary of the Treasury.[283] The 1969 Act also provided that returns filed by tax-exempt organizations are required to be provided to appropriate State officials, and that annual information returns filed by private foundations were required to be made available at the foundation's office for at least 180 days and the foundation was required to publicize their availability.[284] Private foundations that willfully failed to comply with the requirement to permit public inspection of their Forms 990 could be subject to a penalty of $1,000 with respect to each failure to comply with the publication and inspection requirements. The 1969 Act also added a provision that names and addresses of contributors to tax-exempt organizations other than private foundations were not to be disclosed to the public.

The legislative history explains the need for the expanded filing and disclosure requirements of the 1969 Act:

> The present information return requirements are essentially the same as those provided by the 1950 amendments to the charitable organization provisions of the code. The primary purpose of these requirements is to provide the Internal Revenue Service with the information needed to enforce the tax laws. The House and the Finance Committee concluded that the experience of the past two decades indicates that more information is needed on a more current basis for more organizations and that this information should be made more readily available to the public, including State officials.[285]

Improving the accessibility of Forms 990 and exemption applications

Omnibus Budget Reconciliation Act of 1987

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[282] The 1969 Act imposed two new filing requirements specifically affecting private foundations: (1) reporting of liability for private foundation excise taxes under chapter 42, and (2) a foundation manager's report under section 6056.

[283] Tax Reform Act of 1969, Pub. L. No. 91-172, sec. 101(a) (1969).

[284] *Id.*

[285] S. Rep. No. 91-552, at 52 (1969).

The Omnibus Budget Reconciliation Act of 1987 ("OBRA 1987") eliminated the requirement that members of the public who were interested in reviewing or obtaining a copy of the annual information return (other than a private foundation) or an exemption application (in the case of all tax-exempt organizations) had to submit a request to the IRS.[286] Specifically, OBRA 1987 added to section 6104 a requirement that organizations described in section 501(c) (other than private foundations) to make copies of their three most recent Forms 990 available for public inspection at the organization's principal office and certain regional or district offices during regular business hours.[287] The legislation also required all organizations described in section 501(c), including private foundations, to make copies of their applications for recognition of exemption, documents submitted in support of the application, and any determination letter or other document issued by the IRS with respect to the application available for public inspection at the organization's principal office and certain regional or district offices during regular business hours. An organization was not required, however, to distribute copies of these documents to the general public.

OBRA 1987 also enacted penalties for failure to comply with the public disclosure requirements. Tax-exempt organizations that fail to make their annual returns and applications for exemption available for public inspection are subject to a penalty of $10 for each day the failure continues, with a maximum penalty with respect to any one return not to exceed $5,000, and without limitation with respect to any one application. In addition, a penalty for willfully failing to make an annual return or application available for public inspection of $1,000 per return or application was enacted.[288]

The legislative history provides the following rationale for the expanded disclosure requirements:

> The committee found that the present-law procedure under which the public can obtain copies of the exemption application and annual information returns of tax-exempt organizations through requests to the Internal Revenue Service has not proved effective. For example, the present-law disclosure procedure does not result in full and timely public disclosure of the activities of charitable organizations, as needed to facilitate accountability of such organizations to the public from whom they solicit tax-deductible funds. . . . In the case of charitable organizations, the committee believes that increased availability of information will help assure that the double tax benefits of deductibility of contributions and exemption from income tax are limited to organizations whose assets are devoted exclusively to charitable purposes, as required by the tax law. Also, because most

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[286] Omnibus Budget Reconciliation Act of 1987, Pub. L. No. 100-203, sec. 10702.

[287] *Id*. This requirement also was extended to organizations described in section 501(d).

[288] These penalties were increased in 1996 by the Taxpayer Bill of Rights 2.

such charities regularly solicit contributions or receive other support from the public, the public should have ready access to current information about the activities of these organizations. . . .[289]

Taxpayer Bill of Rights 2

In 1996, the Taxpayer Bill of Rights 2 ("TBOR2") added the present-law requirement that any tax-exempt organization (other than a private foundation) that files a Form 990 is required to comply with requests for copies of the organization's Form 990 for the three most recent taxable years or application for tax-exempt status and supporting documents.[290] The request may be made in person or in writing. If the request is made in person, the copies must be provided immediately. If the request is made in writing, the copies must be provided within 30 days. Copies must be provided without charge other than a reasonable fee for any reproduction and mailing costs. Organizations may comply with this requirement by making copies "widely available." The legislative history of the provision explained that the new provisions were designed to enhance the oversight and public accountability of tax-exempt organizations by providing increased public access to documents filed by such organizations with the IRS.[291]

TBOR2 also increased the penalties imposed on tax-exempt organizations that fail to allow public inspection or provide copies of certain annual returns or applications for exemption to $20 per day (with a maximum of $10,000).[292] In addition, TBOR2 increased the penalty for willful failure to allow public inspections or provide copies to $5,000.[293]

1998 Tax and Trade Relief Extension Act

The 1998 Tax and Trade Relief Extension Act (the "1998 Act") extended the expanded disclosure requirements of TBOR2 to private foundations. Thus, private foundations also will be required to comply with requests for copies of the foundation's annual information return for any of the foundation's three most recent taxable years and its application for tax exemption and

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[289] H.R. Rep. No. 100-391, at 1612 (1987).

[290] Taxpayer Bill of Rights 2, Pub. L. No. 104-168, sec. 131 (1996) (codifed at sec. 6104(e)(1)).

[291] H.R. Rep. No. 104-506, at 55 (1996).

[292] Taxpayer Bill of Rights 2, Pub. L. No. 104-168, sec. 1314 (1996) (codified at secs. 6652(c)(1)(C) and 6652(c)(1)(D)).

[293] Sec. 6685.

supporting documents.[294] The 1998 Act also repealed the publication requirements of section 6104(d), which required a private foundation to publicize the availability of its most recent annual return for inspection. The provision extending the disclosure requirements to private foundations will be effective 60 days after the Treasury Department publishes final regulations in the Federal Register. Final regulations were published on Jan. 13, 2000; thus, the new disclosure provisions will apply to private foundations whose annual information returns are due on or after March 13, 2000.[295]

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[294] 1998 Tax and Trade Relief Extension Act, Pub. L. No. 105-277, sec. 1004(b) (codified at sec. 6104(d)(1)).

[295] *See* Treas. reg. secs. 301.6104(d)-1,-2,-3.

APPENDIX B: IRS ANNUAL RETURNS FOR TAX-EXEMPT ORGANIZATIONS

Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code)

Form 1024 (Application for Recognition of Exemption Under Section 501(a))

Form 990 (Return of Organization Exempt From Income Tax)

Form 990 - Schedule A (Organization Exempt Under Section 501(c)(3))

Form 990-EZ (Return of Organization Exempt From Income Tax)

Form 990-PF (Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation)

Form 990-T (Exempt Organization Business Income Tax Return (and proxy tax under section 6033(e))

Form 1120-POL (U.S. Income Tax Return for Certain Political Organizations)

Form **1023**
(Rev. September 1998)
Department of the Treasury
Internal Revenue Service

Application for Recognition of Exemption
Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0056

Note: *If exempt status is approved, this application will be open for public inspection.*

Read the instructions for each Part carefully.

A User Fee must be attached to this application.

If the required information and appropriate documents are not submitted along with Form 8718 (with payment of the appropriate user fee), the application may be returned to you.

Complete the Procedural Checklist on page 8 of the instructions.

Part I Identification of Applicant

1a Full name of organization (as shown in organizing document)

2 Employer identification number (EIN)
(If none, see page 3 of the **Specific Instructions.**)

1b c/o Name (if applicable)

3 Name and telephone number of person to be contacted if additional information is needed

( )

1c Address (number and street) | Room/Suite

1d City, town, or post office, state, and ZIP + 4. If you have a foreign address, see **Specific Instructions** for Part I, page 3.

4 Month the annual accounting period ends

5 Date incorporated or formed

1e Web site address

6 Check here if applying under section:
a ☐ 501(e) **b** ☐ 501(f) **c** ☐ 501(k) **d** ☐ 501(n)

7 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? . . . . . ☐ **Yes** ☐ **No**
If "Yes," attach an explanation.

8 Is the organization required to file Form 990 (or Form 990-EZ)? . . . . . ☐ **N/A** ☐ **Yes** ☐ **No**
If "No," attach an explanation (see page 3 of the **Specific Instructions**).

9 Has the organization filed Federal income tax returns or exempt organization information returns? . . ☐ **Yes** ☐ **No**
If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.

10 Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See **Specific Instructions** for Part I, Line 10, on page 3.) See also Pub. 557 for examples of organizational documents.)

a ☐ Corporation— Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also include a copy of the bylaws.

b ☐ Trust— Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.

c ☐ Association— Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence the organization was formed by adoption of the document by more than one person; also include a copy of the bylaws.

If the organization is a corporation or an unincorporated association that has not yet adopted bylaws, check here ▶ ☐

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please Sign Here ▶

(Signature) (Type or print name and title or authority of signer) (Date)

Part II Activities and Operational Information

1 Provide a detailed narrative description of all the activities of the organization—past, present, and planned. **Do not merely refer to or repeat the language in the organizational document.** List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: **(a)** a detailed description of the activity including its purpose and how each acitivity furthers your exempt purpose; **(b)** when the activity was or will be initiated; and **(c)** where and by whom the activity will be conducted.

2 What are or will be the organization's sources of financial support? List in order of size.

3 Describe the organization's fundraising program, both actual and planned, and explain to what extent it has been put into effect. Include details of fundraising activities such as selective mailings, formation of fundraising committees, use of volunteers or professional fundraisers, etc. Attach representative copies of solicitations for financial support.

Part II **Activities and Operational Information** *(Continued)*

4 Give the following information about the organization's governing body:

a Names, addresses, and titles of officers, directors, trustees, etc.	**b** Annual compensation

c Do any of the above persons serve as members of the governing body by reason of being public officials or being appointed by public officials? . . . . . ☐ **Yes** ☐ **No**
If "Yes," name those persons and explain the basis of their selection or appointment.

d Are any members of the organization's governing body "disqualified persons" with respect to the organization (other than by reason of being a member of the governing body) or do any of the members have either a business or family relationship with "disqualified persons"? (See **Specific Instructions** for Part II, Line 4d, on page 3.) . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain.

5 Does the organization control or is it controlled by any other organization? . . . . . ☐ **Yes** ☐ **No**

Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors? . . . . ☐ **Yes** ☐ **No**
If either of these questions is answered "Yes," explain.

6 Does or will the organization directly or indirectly engage in any of the following transactions with any political organization or other exempt organization (other than a 501(c)(3) organization): **(a)** grants; **(b)** purchases or sales of assets; **(c)** rental of facilities or equipment; **(d)** loans or loan guarantees; **(e)** reimbursement arrangements; **(f)** performance of services, membership, or fundraising solicitations; or **(g)** sharing of facilities, equipment, mailing lists or other assets, or paid employees? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain fully and identify the other organizations involved.

7 Is the organization financially accountable to any other organization? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain and identify the other organization. Include details concerning accountability or attach copies of reports if any have been submitted.

Part II **Activities and Operational Information** *(Continued)*

8 What assets does the organization have that are used in the performance of its exempt function? (Do not include property producing investment income.) If any assets are not fully operational, explain their status, what additional steps remain to be completed, and when such final steps will be taken. If none, indicate "N/A."

9 Will the organization be the beneficiary of tax-exempt bond financing within the next 2 years? . . . ☐ **Yes** ☐ **No**

10a Will any of the organization's facilities or operations be managed by another organization or individual under a contractual agreement? . . . ☐ **Yes** ☐ **No**

b Is the organization a party to any leases? . . . ☐ **Yes** ☐ **No**

If either of these questions is answered "Yes," attach a copy of the contracts and explain the relationship between the applicant and the other parties.

11 Is the organization a membership organization? . . . ☐ **Yes** ☐ **No**

If "Yes," complete the following:

a Describe the organization's membership requirements and attach a schedule of membership fees and dues.

b Describe the organization's present and proposed efforts to attract members and attach a copy of any descriptive literature or promotional material used for this purpose.

c What benefits do (or will) the members receive in exchange for their payment of dues?

12a If the organization provides benefits, services, or products, are the recipients required, or will they be required, to pay for them? . . . ☐ **N/A** ☐ **Yes** ☐ **No**

If "Yes," explain how the charges are determined and attach a copy of the current fee schedule.

b Does or will the organization limit its benefits, services, or products to specific individuals or classes of individuals? . . . ☐ **N/A** ☐ **Yes** ☐ **No**

If "Yes," explain how the recipients or beneficiaries are or will be selected.

13 Does or will the organization attempt to influence legislation? . . . ☐ **Yes** ☐ **No**

If "Yes," explain. Also, give an estimate of the percentage of the organization's time and funds that it devotes or plans to devote to this activity.

14 Does or will the organization intervene in any way in political campaigns, including the publication or distribution of statements? . . . ☐ **Yes** ☐ **No**

If "Yes," explain fully.

Part III Technical Requirements

1 Are you filing Form 1023 within 15 months from the end of the month in which your organization was created or formed? . . . . . ☐ **Yes** ☐ **No**
If you answer "Yes," do not answer questions on lines 2 through 6 below.

2 If one of the exceptions to the 15-month filing requirement shown below applies, check the appropriate box and proceed to question 7.

Exceptions—You are not required to file an exemption application within 15 months if the organization:

☐ **a** Is a church, interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church. See **Specific Instructions,** Line 2a, on page 4;

☐ **b** Is not a private foundation and normally has gross receipts of not more than $5,000 in each tax year; or

☐ **c** Is a subordinate organization covered by a group exemption letter, but only if the parent or supervisory organization timely submitted a notice covering the subordinate.

3 If the organization does not meet any of the exceptions on line 2 above, are you filing Form 1023 within 27 months from the end of the month in which the organization was created or formed? . . . . . ☐ **Yes** ☐ **No**

If "Yes," your organization qualifies under Regulation section 301.9100-2, for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 4 through 6.

If "No," answer question 4.

4 If you answer "No" to question 3, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3? . . . . . ☐ **Yes** ☐ **No**

If "Yes," give the reasons for not filing this application within the 27-month period described in question 3. See **Specific Instructions,** Part III, Line 4, before completing this item. Do not answer questions 5 and 6.

If "No," answer questions 5 and 6.

5 If you answer "No" to question 4, your organization's qualification as a section 501(c)(3) organization can be recognized only from the date this application is filed. Therefore, do you want us to consider the application as a request for recognition of exemption as a section 501(c)(3) organization from the date the application is received and not retroactively to the date the organization was created or formed? . ☐ **Yes** ☐ **No**

6 If you answer "Yes" to question 5 above and wish to request recognition of section 501(c)(4) status for the period beginning with the date the organization was formed and ending with the date the Form 1023 application was received (the effective date of the organization's section 501(c)(3) status), check here ► ☐ and attach a completed page 1 of Form 1024 to this application.

Part III **Technical Requirements** *(Continued)*

7 Is the organization a private foundation?
- ☐ **Yes** (Answer question 8.)
- ☐ **No** (Answer question 9 and proceed as instructed.)

8 If you answer "Yes" to question 7, does the organization claim to be a private operating foundation?
- ☐ **Yes** (Complete Schedule E.)
- ☐ **No**

After answering question 8 on this line, go to line 14 on page 7.

9 If you answer "No" to question 7, indicate the public charity classification the organization is requesting by checking the box below that most appropriately applies:

THE ORGANIZATION IS NOT A PRIVATE FOUNDATION BECAUSE IT QUALIFIES:

a ☐	As a church or a convention or association of churches (CHURCHES MUST COMPLETE SCHEDULE A.)	Sections 509(a)(1) and 170(b)(1)(A)(i)
b ☐	As a school (MUST COMPLETE SCHEDULE B.)	Sections 509(a)(1) and 170(b)(1)(A)(ii)
c ☐	As a hospital or a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (These organizations, except for hospital service organizations, MUST COMPLETE SCHEDULE C.)	Sections 509(a)(1) and 170(b)(1)(A)(iii)
d ☐	As a governmental unit described in section 170(c)(1).	Sections 509(a)(1) and 170(b)(1)(A)(v)
e ☐	As being operated solely for the benefit of, or in connection with, one or more of the organizations described in **a** through **d, g, h,** or **i** (MUST COMPLETE SCHEDULE D.)	Section 509(a)(3)
f ☐	As being organized and operated exclusively for testing for public safety.	Section 509(a)(4)
g ☐	As being operated for the benefit of a college or university that is owned or operated by a governmental unit.	Sections 509(a)(1) and 170(b)(1)(A)(iv)
h ☐	As receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.	Sections 509(a)(1) and 170(b)(1)(A)(vi)
i ☐	As normally receiving not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).	Section 509(a)(2)
j ☐	The organization is a publicly supported organization but is not sure whether it meets the public support test of **h** or **i.** The organization would like the IRS to decide the proper classification.	Sections 509(a)(1) and 170(b)(1)(A)(vi) or Section 509(a)(2)

If you checked one of the boxes a through f in question 9, go to question 14. If you checked box g in question 9, go to questions 11 and 12. If you checked box h, i, or j, in question 9, go to question 10.

Part III **Technical Requirements** *(Continued)*

10 If you checked box **h, i,** or **j** in question 9, has the organization completed a tax year of at least 8 months?

☐ **Yes—**Indicate whether you are requesting:

☐ A definitive ruling. (Answer questions 11 through 14.)

☐ An advance ruling. (Answer questions 11 and 14 and attach two Forms 872-C completed and signed.)

☐ **No—You must request an advance ruling by completing and signing two Forms 872-C and attaching them to the Form 1023.**

11 If the organization received any unusual grants during any of the tax years shown in Part IV-A, **Statement of Revenue and Expenses,** attach a list for each year showing the name of the contributor; the date and the amount of the grant; and a brief description of the nature of the grant.

12 If you are requesting a definitive ruling under section 170(b)(1)(A)(iv) or (vi), check here ► ☐ and:

a Enter 2% of line 8, column (e), Total, of Part IV-A . . . . . _____

b Attach a list showing the name and amount contributed by each person (other than a governmental unit or "publicly supported" organization) whose total gifts, grants, contributions, etc., were more than the amount entered on line **12a** above.

13 If you are requesting a definitive ruling under section 509(a)(2), check here ► ☐ and:

a For each of the years included on lines 1, 2, and 9 of Part IV-A, attach a list showing the name of and amount received from each "disqualified person." (For a definition of "disqualified person," see **Specific Instructions,** Part II, Line 4d, on page 3.)

b For each of the years included on line 9 of Part IV-A, attach a list showing the name of and amount received from each payer (other than a "disqualified person") whose payments to the organization were more than $5,000. For this purpose, "payer" includes, but is not limited to, any organization described in sections 170(b)(1)(A)(i) through (vi) and any governmental agency or bureau.

14 Indicate if your organization is one of the following. If so, complete the required schedule. (Submit only those schedules that apply to your organization. **Do not submit blank schedules.**)	**Yes**	**No**	**If "Yes," complete Schedule:**
Is the organization a church?			A
Is the organization, or any part of it, a school?			B
Is the organization, or any part of it, a hospital or medical research organization?			C
Is the organization a section 509(a)(3) supporting organization?			D
Is the organization a private operating foundation?			E
Is the organization, or any part of it, a home for the aged or handicapped?			F
Is the organization, or any part of it, a child care organization?			G
Does the organization provide or administer any scholarship benefits, student aid, etc.?			H
Has the organization taken over, or will it take over, the facilities of a "for profit" institution?			I

Part IV Financial Data

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. **If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.**

A. Statement of Revenue and Expenses

		Current tax year	3 prior tax years or proposed budget for 2 years			
		(a) From ..... to	**(b)**	**(c)**	**(d)**	**(e) TOTAL**
Revenue	**1** Gifts, grants, and contributions received (not including unusual grants—see page 6 of the instructions)					
	2 Membership fees received					
	3 Gross investment income (see instructions for definition)					
	4 Net income from organization's unrelated business activities not included on line 3					
	5 Tax revenues levied for and either paid to or spent on behalf of the organization					
	6 Value of services or facilities furnished by a governmental unit to the organization without charge (not including the value of services or facilities generally furnished the public without charge)					
	7 Other income (not including gain or loss from sale of capital assets) (attach schedule)					
	8 **Total** (add lines 1 through 7)					
	9 Gross receipts from admissions, sales of merchandise or services, or furnishing of facilities in any activity that is not an unrelated business within the meaning of section 513. Include related cost of sales on line 22					
	10 **Total** (add lines 8 and 9)					
	11 Gain or loss from sale of capital assets (attach schedule)					
	12 Unusual grants					
	13 **Total** revenue (add lines 10 through 12)					
Expenses	**14** Fundraising expenses					
	15 Contributions, gifts, grants, and similar amounts paid (attach schedule)					
	16 Disbursements to or for benefit of members (attach schedule)					
	17 Compensation of officers, directors, and trustees (attach schedule)					
	18 Other salaries and wages					
	19 Interest					
	20 Occupancy (rent, utilities, etc.)					
	21 Depreciation and depletion					
	22 Other (attach schedule)					
	23 **Total** expenses (add lines 14 through 22)					
	24 Excess of revenue over expenses (line 13 minus line 23)					

Part IV **Financial Data** *(Continued)*

B. Balance Sheet (at the end of the period shown)		Current tax year Date
Assets		
1 Cash	**1**	
2 Accounts receivable, net	**2**	
3 Inventories	**3**	
4 Bonds and notes receivable (attach schedule)	**4**	
5 Corporate stocks (attach schedule)	**5**	
6 Mortgage loans (attach schedule)	**6**	
7 Other investments (attach schedule)	**7**	
8 Depreciable and depletable assets (attach schedule)	**8**	
9 Land	**9**	
10 Other assets (attach schedule)	**10**	
11 **Total assets** (add lines 1 through 10)	**11**	
Liabilities		
12 Accounts payable	**12**	
13 Contributions, gifts, grants, etc., payable	**13**	
14 Mortgages and notes payable (attach schedule)	**14**	
15 Other liabilities (attach schedule)	**15**	
16 **Total liabilities** (add lines 12 through 15)	**16**	
Fund Balances or Net Assets		
17 Total fund balances or net assets	**17**	
18 **Total liabilities and fund balances or net assets** (add line 16 and line 17)	**18**	

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation ▶ ☐

Schedule A. Churches

1 Provide a brief history of the development of the organization, including the reasons for its formation.

2 Does the organization have a written creed or statement of faith? . . . ☐ **Yes** ☐ **No**

If "Yes," attach a copy.

3 Does the organization require prospective members to renounce other religious beliefs or their membership in other churches or religious orders to become members? . . . . . ☐ **Yes** ☐ **No**

4 Does the organization have a formal code of doctrine and discipline for its members? . . . . . ☐ **Yes** ☐ **No**

If "Yes," describe.

5 Describe the form of worship and attach a schedule of worship services.

6 Are the services open to the public? . . . . . ☐ **Yes** ☐ **No**

If "Yes," describe how the organization publicizes its services and explain the criteria for admittance.

7 Explain how the organization attracts new members.

8 **(a)** How many active members are currently enrolled in the church?

(b) What is the average attendance at the worship services?

9 In addition to worship services, what other religious services (such as baptisms, weddings, funerals, etc.) does the organization conduct?

Schedule A. Churches *(Continued)*

10 Does the organization have a school for the religious instruction of the young? . . . . . ☐ **Yes** ☐ **No**

11 Were the current deacons, minister, and/or pastor formally ordained after a prescribed course of study? . . . . . ☐ **Yes** ☐ **No**

12 Describe the organization's religious hierarchy or ecclesiastical government.

13 Does the organization have an established place of worship? . . . . . ☐ **Yes** ☐ **No**

If "Yes," provide the name and address of the owner or lessor of the property and the address and a description of the facility.

If the organization has no regular place of worship, state where the services are held and how the site is selected.

14 Does (or will) the organization license or otherwise ordain ministers (or their equivalent) or issue church charters? . . . . . ☐ **Yes** ☐ **No**

If "Yes," describe in detail the requirements and qualifications needed to be so licensed, ordained, or chartered.

15 Did the organization pay a fee for a church charter? . . . . . ☐ **Yes** ☐ **No**

If "Yes," state the name and address of the organization to which the fee was paid, attach a copy of the charter, and describe the circumstances surrounding the chartering.

16 Show how many hours a week the minister/pastor and officers each devote to church work and the amount of compensation paid to each of them. If the minister or pastor is otherwise employed, indicate by whom employed, the nature of the employment, and the hours devoted to that employment.

Schedule A. Churches *(Continued)*

17 Will any funds or property of the organization be used by any officer, director, employee, minister, or pastor for his or her personal needs or convenience? ☐ **Yes** ☐ **No**

If "Yes," describe the nature and circumstances of such use.

18 List any officers, directors, or trustees related by blood or marriage.

19 Give the name of anyone who has assigned income to the organization or made substantial contributions of money or other property. Specify the amounts involved.

Instructions

Although a church, its integrated auxiliaries, or a convention or association of churches is not required to file Form 1023 to be exempt from Federal income tax or to receive tax-deductible contributions, such an organization may find it advantageous to obtain recognition of exemption. In this event, you should submit information showing that your organization is a church, synagogue, association or convention of churches, religious order or religious organization that is an integral part of a church, and that it is carrying out the functions of a church.

In determining whether an admittedly religious organization is also a church, the IRS does not accept any and every assertion that such an organization is a church. Because beliefs and practices vary so widely, there is no single definition of the word "church" for tax purposes. The IRS considers the facts and circumstances of each organization applying for church status.

The IRS maintains two basic guidelines in determining that an organization meets the religious purposes test:

1. That the particular religious beliefs of the organization are truly and sincerely held, and

2. That the practices and rituals associated with the organization's religious beliefs or creed are not illegal or contrary to clearly defined public policy.

In order for the IRS to properly evaluate your organization's activities and religious purposes, it is important that all questions in Schedule A be answered.

The information submitted with Schedule A will be a determining factor in granting the "church" status requested by your organization. In completing the schedule, consider the following points:

1. The organization's activities in furtherance of its beliefs must be exclusively religious, and

2. An organization will not qualify for exemption if it has a substantial nonexempt purpose of serving the private interests of its founder or the founder's family.

Schedule B. Schools, Colleges, and Universities

1 Does, or will, the organization normally have: **(a)** a regularly scheduled curriculum, **(b)** a regular faculty of qualified teachers, **(c)** a regularly enrolled student body, and **(d)** facilities where its educational activities are regularly carried on? . . . . . ☐ **Yes** ☐ **No**
If "No," do not complete the rest of Schedule B.

2 Is the organization an instrumentality of a state or political subdivision of a state? . . . . . ☐ **Yes** ☐ **No**
If "Yes," document this in Part II and do not complete items 3 through 10 of Schedule B. (See instructions on the back of Schedule B.)

3 Does or will the organization (or any department or division within it) discriminate in any way on the basis of race with respect to:

a Admissions? . . . . . ☐ **Yes** ☐ **No**
b Use of facilities or exercise of student privileges? . . . . . ☐ **Yes** ☐ **No**
c Faculty or administrative staff? . . . . . ☐ **Yes** ☐ **No**
d Scholarship or loan programs? . . . . . ☐ **Yes** ☐ **No**
If "Yes" for any of the above, explain.

4 Does the organization include a statement in its charter, bylaws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy as to students? . . . . ☐ **Yes** ☐ **No**

Attach whatever corporate resolutions or other official statements the organization has made on this subject.

5a Has the organization made its racially nondiscriminatory policies known in a manner that brings the policies to the attention of all segments of the general community that it serves? . . . . . ☐ **Yes** ☐ **No**

If "Yes," describe how these policies have been publicized and how often relevant notices or announcements have been made. If no newspaper or broadcast media notices have been used, explain.

b If applicable, attach clippings of any relevant newspaper notices or advertising, or copies of tapes or scripts used for media broadcasts. Also attach copies of brochures and catalogs dealing with student admissions, programs, and scholarships, as well as representative copies of all written advertising used as a means of informing prospective students of the organization's programs.

6 Attach a numerical schedule showing the racial composition, as of the current academic year, and projected to the extent feasible for the next academic year, of: **(a)** the student body, and **(b)** the faculty and administrative staff.

7 Attach a list showing the amount of any scholarship and loan funds awarded to students enrolled and the racial composition of the students who have received the awards.

8a Attach a list of the organization's incorporators, founders, board members, and donors of land or buildings, whether individuals or organizations.

b State whether any of the organizations listed in **8a** have as an objective the maintenance of segregated public or private school education, and, if so, whether any of the individuals listed in **8a** are officers or active members of such organizations.

9a Enter the public school district and county in which the organization is located.

b Was the organization formed or substantially expanded at the time of public school desegregation in the above district or county? . . . . . ☐ **Yes** ☐ **No**

10 Has the organization ever been determined by a state or Federal administrative agency or judicial body to be racially discriminatory? . . . . . ☐ **Yes** ☐ **No**

If "Yes," attach a detailed explanation identifying the parties to the suit, the forum in which the case was heard, the cause of action, the holding in the case, and the citations (if any) for the case. Also describe in detail what changes in the organization's operation, if any, have occurred since then.

For more information, see back of Schedule B.

Instructions

A “school” is an organization that has the primary function of presenting formal instruction, normally maintains a regular faculty and curriculum, normally has a regularly enrolled student body, and has a place where its educational activities are carried on.

The term generally corresponds to the definition of an “educational organization” in section 170(b)(1)(A)(ii). Thus, the term includes primary, secondary, preparatory and high schools, and colleges and universities. The term does not include organizations engaged in both educational and noneducational activities unless the latter are merely incidental to the educational activities. A school for handicapped children is included within the term, but an organization merely providing handicapped children with custodial care is not.

For purposes of Schedule B, “Sunday schools” that are conducted by a church are not included in the term “schools,” but separately organized schools (such as parochial schools, universities, and similar institutions) are included in the term.

A private school that otherwise meets the requirements of section 501(c)(3) as an educational institution will not qualify for exemption under section 501(a) unless it has a racially nondiscriminatory policy as to students.

This policy means that the school admits students of any race to all the rights, privileges, programs, and activities generally accorded or made available to students at that school and that the school does not discriminate on the basis of race in the administration of its educational policies, admissions policies, scholarship and loan programs, and athletic or other school-administered programs.

The IRS considers discrimination on the basis of race to include discrimination on the basis of color and national or ethnic origin. A policy of a school that favors racial minority groups in admissions, facilities, programs, and financial assistance will not constitute discrimination on the basis of race when the purpose and effect is to promote the establishment and maintenance of that school’s racially nondiscriminatory policy as to students.

See Rev. Proc. 75-50, 1975-2 C.B. 587, for guidelines and recordkeeping requirements for determining whether private schools that are applying for recognition of exemption have racially nondiscriminatory policies as to students.

Line 2

An instrumentality of a state or political subdivision of a state may qualify under section 501(c)(3) if it is organized as a separate entity from the governmental unit that created it and if it otherwise meets the organizational and operational tests of section 501(c)(3). See Rev. Rul. 60-384, 1960-2 C.B. 172. Any such organization that is a school is not a private school and, therefore, is not subject to the provisions of Rev. Proc. 75-50.

Schools that incorrectly answer “Yes” to line 2 will be contacted to furnish the information called for by lines 3 through 10 in order to establish that they meet the requirements for exemption. To prevent delay in the processing of your application, be sure to answer line 2 correctly and complete lines 3 through 10, if applicable.

Schedule C. Hospitals and Medical Research Organizations

☐ Check here if claiming to be a hospital; complete the questions in Section I of this schedule; and write "N/A" in Section II.
☐ Check here if claiming to be a medical research organization operated in conjunction with a hospital; complete the questions in Section II of this schedule; and write "N/A" in Section I.

Section I Hospitals

1a How many doctors are on the hospital's courtesy staff? . . . . . _____

b Are all the doctors in the community eligible for staff privileges? . . . . . ☐ **Yes** ☐ **No**
If "No," give the reasons why and explain how the courtesy staff is selected.

2a Does the hospital maintain a full-time emergency room? . . . . . ☐ **Yes** ☐ **No**

b What is the hospital's policy on administering emergency services to persons without apparent means to pay?

c Does the hospital have any arrangements with police, fire, and voluntary ambulance services for the delivery or admission of emergency cases? . . . . . ☐ **Yes** ☐ **No**
Explain.

3a Does or will the hospital require a deposit from persons covered by Medicare or Medicaid in its admission practices? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain.

b Does the same deposit requirement, if any, apply to all other patients? . . . . . ☐ **Yes** ☐ **No**
If "No," explain.

4 Does or will the hospital provide for a portion of its services and facilities to be used for charity patients? ☐ **Yes** ☐ **No**
Explain the policy regarding charity cases. Include data on the hospital's past experience in admitting charity patients and arrangements it may have with municipal or government agencies for absorbing the cost of such care.

5 Does or will the hospital carry on a formal program of medical training and research? . . . . . ☐ **Yes** ☐ **No**
If "Yes," describe.

6 Does the hospital provide office space to physicians carrying on a medical practice? . . . . . ☐ **Yes** ☐ **No**
If "Yes," attach a list setting forth the name of each physician, the amount of space provided, the annual rent, the expiration date of the current lease and whether the terms of the lease represent fair market value.

Section II Medical Research Organizations

1 Name the hospitals with which the organization has a relationship and describe the relationship.

2 Attach a schedule describing the organization's present and proposed (indicate which) medical research activities; show the nature of the activities, and the amount of money that has been or will be spent in carrying them out. (Making grants to other organizations is not direct conduct of medical research.)

3 Attach a statement of assets showing their fair market value and the portion of the assets directly devoted to medical research.

For more information, see back of Schedule C.

Additional Information

Hospitals

To be entitled to status as a "hospital," an organization must have, as its principal purpose or function, the providing of medical or hospital care or medical education or research. "Medical care" includes the treatment of any physical or mental disability or condition, the cost of which may be taken as a deduction under section 213, whether the treatment is performed on an inpatient or outpatient basis. Thus, a rehabilitation institution, outpatient clinic, or community mental health or drug treatment center may be a hospital if its principal function is providing the above-described services.

On the other hand, a convalescent home or a home for children or the aged is not a hospital. Similarly, an institution whose principal purpose or function is to train handicapped individuals to pursue some vocation is not a hospital. Moreover, a medical education or medical research institution is not a hospital, unless it is also actively engaged in providing medical or hospital care to patients on its premises or in its facilities on an inpatient or outpatient basis.

Cooperative Hospital Service Organizations

Cooperative hospital service organizations (section 501(e)) should not complete Schedule C.

Medical Research Organizations

To qualify as a medical research organization, the principal function of the organization must be the direct, continuous, and active conduct of medical research in conjunction with a hospital that is described in section 501(c)(3), a Federal hospital, or an instrumentality of a governmental unit referred to in section 170(c)(1).

For purposes of section 170(b)(1)(A)(iii) only, the organization must be set up to use the funds it receives in the active conduct of medical research by January 1 of the fifth calendar year after receipt. The arrangement it has with donors to assure use of the funds within the 5-year period must be legally enforceable.

As used here, "medical research" means investigations, experiments, and studies to discover, develop, or verify knowledge relating to the causes, diagnosis, treatment, prevention, or control of human physical or mental diseases and impairments.

For further information, see Regulations section 1.170A-9(c)(2).

Schedule D. Section 509(a)(3) Supporting Organizations

1a Organizations supported by the applicant organization: Name and address of supported organization	**b** Has the supported organization received a ruling or determination letter that it is not a private foundation by reason of section 509(a)(1) or (2)?	
	☐ **Yes**	☐ **No**
	☐ **Yes**	☐ **No**
	☐ **Yes**	☐ **No**
	☐ **Yes**	☐ **No**
	☐ **Yes**	☐ **No**

c If "No" for any of the organizations listed in **1a,** explain.

2 Does the supported organization have tax-exempt status under section 501(c)(4), 501(c)(5), or 501(c)(6)? ☐ **Yes** ☐ **No**
If "Yes," attach: **(a)** a copy of its ruling or determination letter, and **(b)** an analysis of its revenue for the current year and the preceding 3 years. (Provide the financial data using the formats in Part IV-A (lines 1–13) and Part III (lines 11, 12, and 13).)

3 Does your organization's governing document indicate that the majority of its governing board is elected or appointed by the supported organizations? . . . . . ☐ **Yes** ☐ **No**
If "Yes," skip to line 9.
If "No," you must answer the questions on lines 4 through 9.

4 Does your organization's governing document indicate the common supervision or control that it and the supported organizations share? . . . . . ☐ **Yes** ☐ **No**
If "Yes," give the article and paragraph numbers. If "No," explain.

5 To what extent do the supported organizations have a significant voice in your organization's investment policies, in the making and timing of grants, and in otherwise directing the use of your organization's income or assets?

6 Does the mentioning of the supported organizations in your organization's governing instrument make it a trust that the supported organizations can enforce under state law and compel to make an accounting? ☐ **Yes** ☐ **No**
If "Yes," explain.

7a What percentage of your organization's income does it pay to each supported organization?

b What is the total annual income of each supported organization?

c How much does your organization contribute annually to each supported organization?

For more information, see back of Schedule D.

Schedule D. Section 509(a)(3) Supporting Organizations *(Continued)*

8 To what extent does your organization conduct activities that would otherwise be carried on by the supported organizations? Explain why these activities would otherwise be carried on by the supported organizations.

9 Is the applicant organization controlled directly or indirectly by one or more "disqualified persons" (other than one who is a disqualified person solely because he or she is a manager) or by an organization that is not described in section 509(a)(1) or (2)? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain.

Instructions

For an explanation of the types of organizations defined in section 509(a)(3) as being excluded from the definition of a private foundation, see Pub. 557, Chapter 3.

Line 1

List each organization that is supported by your organization and indicate in item **1b** if the supported organization has received a letter recognizing exempt status as a section 501(c)(3) public charity as defined in section 509(a)(1) or 509(a)(2). If you answer "No" in **1b** to any of the listed organizations, please explain in **1c.**

Line 3

Your organization's governing document may be articles of incorporation, articles of association, constitution, trust indenture, or trust agreement.

Line 9

For a definition of a "disqualified person," see **Specific Instructions,** Part II, Line 4d, on page 3 of the application's instructions.

Schedule E. Private Operating Foundations

	Income Test		Most recent tax year
1a	Adjusted net income, as defined in Regulations section 53.4942(a)-2(d)	**1a**	
b	Minimum investment return, as defined in Regulations section 53.4942(a)-2(c)	**1b**	
2	Qualifying distributions:		
a	Amounts (including administrative expenses) paid directly for the active conduct of the activities for which organized and operated under section 501(c)(3) (attach schedule)	**2a**	
b	Amounts paid to acquire assets to be used (or held for use) directly in carrying out purposes described in section 170(c)(1) or 170(c)(2)(B) (attach schedule)	**2b**	
c	Amounts set aside for specific projects that are for purposes described in section 170(c)(1) or 170(c)(2)(B) (attach schedule)	**2c**	
d	**Total** qualifying distributions (add lines 2a, b, and c)	**2d**	
3	Percentages:		
a	Percentage of qualifying distributions to adjusted net income (divide line 2d by line 1a)	**3a**	%
b	Percentage of qualifying distributions to minimum investment return (divide line 2d by line 1b). (Percentage must be at least 85% for 3a or 3b)	**3b**	%
	Assets Test		
4	Value of organization's assets used in activities that directly carry out the exempt purposes. Do not include assets held merely for investment or production of income (attach schedule)	**4**	
5	Value of any stock of a corporation that is controlled by applicant organization and carries out its exempt purposes (attach statement describing corporation)	**5**	
6	Value of all qualifying assets (add lines 4 and 5)	**6**	
7	Value of applicant organization's total assets	**7**	
8	Percentage of qualifying assets to total assets (divide line 6 by line 7—percentage must exceed 65%)	**8**	%
	Endowment Test		
9	Value of assets not used (or held for use) directly in carrying out exempt purposes:		
a	Monthly average of investment securities at fair market value	**9a**	
b	Monthly average of cash balances	**9b**	
c	Fair market value of all other investment property (attach schedule)	**9c**	
d	**Total** (add lines 9a, b, and c)	**9d**	
10	Acquisition indebtedness related to line 9 items (attach schedule)	**10**	
11	Balance (subtract line 10 from line 9d)	**11**	
12	Multiply line 11 by 3⅓% (⅔ of the percentage for the minimum investment return computation under section 4942(e)). Line 2d above must equal or exceed the result of this computation	**12**	
	Support Test		
13	Applicant organization's support as defined in section 509(d)	**13**	
14	Gross investment income as defined in section 509(e)	**14**	
15	Support for purposes of section 4942(j)(3)(B)(iii) (subtract line 14 from line 13)	**15**	
16	Support received from the general public, five or more exempt organizations, or a combination of these sources (attach schedule)	**16**	
17	For persons (other than exempt organizations) contributing more than 1% of line 15, enter the total amounts that are more than 1% of line 15	**17**	
18	Subtract line 17 from line 16	**18**	
19	Percentage of total support (divide line 18 by line 15—must be at least 85%)	**19**	%
20	Does line 16 include support from an exempt organization that is more than 25% of the amount of line 15?	☐ **Yes** ☐ **No**	

21 Newly created organizations with less than 1 year's experience: Attach a statement explaining how the organization is planning to satisfy the requirements of section 4942(j)(3) for the income test and one of the supplemental tests during its first year's operation. Include a description of plans and arrangements, press clippings, public announcements, solicitations for funds, etc.

22 Does the amount entered on line 2a above include any grants that the applicant organization made? ☐ **Yes** ☐ **No**
If "Yes," attach a statement explaining how those grants satisfy the criteria for "significant involvement" grants described in section 53.4942(b)-1(b)(2) of the regulations.

For more information, see back of Schedule E.

Instructions

If the organization claims to be an operating foundation described in section 4942(j)(3) and—

a. Bases its claim to private operating foundation status on normal and regular operations over a period of years; or

b. Is newly created, set up as a private operating foundation, and has at least 1 year's experience;

provide the information under the **income test and under one of the three supplemental tests** (assets, endowment, or support). If the organization does not have at least 1 year's experience, provide the information called for on line 21. If the organization's private operating foundation status depends on its normal and regular operations as described in **a** above, attach a schedule similar to Schedule E showing the data in tabular form for the 3 years preceding the most recent tax year. (See Regulations section 53.4942(b)-1 for additional information before completing the "Income Test" section of this schedule.) Organizations claiming section 4942(j)(5) status must satisfy the income test and the endowment test.

A "private operating foundation" described in section 4942(j)(3) is a private foundation that spends substantially all of the smaller of its adjusted net income (as defined below) or its minimum investment return directly for the active conduct of the activities constituting the purpose or function for which it is organized and operated. The foundation must satisfy the income test under section 4942(j)(3)(A), as modified by Regulations section 53.4942(b)-1, and one of the following three supplemental tests: **(1)** the assets test under section 4942(j)(3)(B)(i); **(2)** the endowment test under section 4942(j)(3)(B)(ii); or **(3)** the support test under section 4942(j)(3)(B)(iii).

Certain long-term care facilities described in section 4942(j)(5) are treated as private operating foundations for purposes of section 4942 only.

"Adjusted net income" is the excess of gross income determined with the income modifications described below for the tax year over the sum of deductions determined with the deduction modifications described below. Items of gross income from any unrelated trade or business and the deductions directly connected with the unrelated trade or business are taken into account in computing the organization's adjusted net income.

Income Modifications

The following are income modifications (adjustments to gross income):

1. Section 103 (relating to interest on certain governmental obligations) does not apply. Thus, interest that otherwise would have been excluded should be included in gross income.

2. Except as provided in **3** below, capital gains and losses are taken into account only to the extent of the net short-term gain. Long-term gains and losses are disregarded.

3. The gross amount received from the sale or disposition of certain property should be included in gross income to the extent that the acquisition of the property constituted a qualifying distribution under section 4942(g)(1)(B).

4. Repayments of prior qualifying distributions (as defined in section 4942(g)(1)(A)) constitute items of gross income.

5. Any amount set aside under section 4942(g)(2) that is "not necessary for the purposes for which it was set aside" constitutes an item of gross income.

Deduction Modifications

The following are deduction modifications (adjustments to deductions):

1. Expenses for the general operation of the organization according to its charitable purposes (as contrasted with expenses for the production or collection of income and management, conservation, or maintenance of income-producing property) should not be taken as deductions. If only a portion of the property is used for production of income subject to section 4942 and the remainder is used for general charitable purposes, the expenses connected with that property should be divided according to those purposes. Only expenses related to the income-producing portion should be taken as deductions.

2. Charitable contributions, deductible under section 170 or 642(c), should not be taken into account as deductions for adjusted net income.

3. The net operating loss deduction prescribed under section 172 should not be taken into account as a deduction for adjusted net income.

4. The special deductions for corporations (such as the dividends-received deduction) allowed under sections 241 through 249 should not be taken into account as deductions for adjusted net income.

5. Depreciation and depletion should be determined in the same manner as under section 4940(c)(3)(B).

Section 265 (relating to the expenses and interest connected with tax-exempt income) should not be taken into account.

You may find it easier to figure adjusted net income by completing column (c), Part 1, Form 990-PF, according to the instructions for that form.

An organization that has been held to be a private operating foundation will continue to be such an organization only if it meets the income test and either the assets, endowment, or support test in later years. See Regulations section 53.4942(b) for additional information. No additional request for ruling will be necessary or appropriate for an organization to maintain its status as a private operating foundation. However, data related to the above tests must be submitted with the organization's annual information return, Form 990-PF.

Schedule F. Homes for the Aged or Handicapped

1 What are the requirements for admission to residency? Explain fully and attach promotional literature and application forms.

2 Does or will the home charge an entrance or founder's fee? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain and specify the amount charged.

3 What periodic fees or maintenance charges are or will be required of its residents?

4a What established policy does the home have concerning residents who become unable to pay their regular charges?

b What arrangements does the home have or will it make with local and Federal welfare units, sponsoring organizations, or others to absorb all or part of the cost of maintaining those residents?

5 What arrangements does or will the home have to provide for the health needs of its residents?

6 In what way are the home's residential facilities designed to meet some combination of the physical, emotional, recreational, social, religious, and similar needs of the aged or handicapped?

7 Provide a description of the home's facilities and specify both the residential capacity of the home and the current number of residents.

8 Attach a sample copy of the contract or agreement the organization makes with or requires of its residents.

For more information, see back of Schedule F.

Instructions

Line 1

Provide the criteria for admission to the home and submit brochures, pamphlets, or other printed material used to inform the public about the home's admissions policy.

Line 2

Indicate whether the fee charged is an entrance fee or a monthly charge, etc. Also, if the fee is an entrance fee, is it payable in a lump sum or on an installment basis?

Line 4

Indicate the organization's policy regarding residents who are unable to pay. Also, indicate whether the organization is subsidized for all or part of the cost of maintaining those residents who are unable to pay.

Line 5

Indicate whether the organization provides health care to the residents, either directly or indirectly, through some continuing arrangement with other organizations, facilities, or health personnel. If no health care is provided, indicate "N/A."

Schedule G. Child Care Organizations

1 Is the organization's primary activity the providing of care for children away from their homes? . . . . . ☐ **Yes** ☐ **No**

2 How many children is the organization authorized to care for by the state (or local governmental unit), and what was the average attendance during the past 6 months, or the number of months the organization has been in existence if less than 6 months?

3 How many children are currently cared for by the organization?

4 Is substantially all (at least 85%) of the care provided for the purpose of enabling parents to be gainfully employed or to seek employment? . . . ☐ **Yes** ☐ **No**

5 Are the services provided available to the general public? . . . . . ☐ **Yes** ☐ **No**

If "No," explain.

6 Indicate the category, or categories, of parents whose children are eligible for the child care services (check as many as apply):

- ☐ low-income parents
- ☐ any working parents (or parents looking for work)
- ☐ anyone with the ability to pay
- ☐ other (explain)

Instructions

Line 5

If your organization's services are not available to the general public, indicate the particular group or groups that may utilize the services.

REMINDER—If this organization claims to operate a school, then it must also fill out Schedule B.

Schedule H. Organizations Providing Scholarship Benefits, Student Aid, etc., to Individuals

1a Describe the nature and the amount of the scholarship benefit, student aid, etc., including the terms and conditions governing its use, whether a gift or a loan, and how the availability of the scholarship is publicized. If the organization has established or will establish several categories of scholarship benefits, identify each kind of benefit and explain how the organization determines the recipients for each category. Attach a sample copy of any application the organization requires individuals to complete to be considered for scholarship grants, loans, or similar benefits. (Private foundations that make grants for travel, study, or other similar purposes are required to obtain advance approval of scholarship procedures. See Regulations sections 53.4945-4(c) and (d).)

b If you want this application considered as a request for approval of grant procedures in the event we determine that the organization is a private foundation, check here . . . . . ► ☐

c If you checked the box in **1b** above, check the box(es) for which you wish the organization to be considered.

☐ 4945(g)(1) ☐ 4945(g)(2) ☐ 4945(g)(3)

2 What limitations or restrictions are there on the class of individuals who are eligible recipients? Specifically explain whether there are, or will be, any restrictions or limitations in the selection procedures based upon race or the employment status of the prospective recipient or any relative of the prospective recipient. Also indicate the approximate number of eligible individuals.

3 Indicate the number of grants the organization anticipates making annually . . . . . ►

4 If the organization bases its selections in any way on the employment status of the applicant or any relative of the applicant, indicate whether there is or has been any direct or indirect relationship between the members of the selection committee and the employer. Also indicate whether relatives of the members of the selection committee are possible recipients or have been recipients.

5 Describe any procedures the organization has for supervising grants (such as obtaining reports or transcripts) that it awards and any procedures it has for taking action if the terms of the grant are violated.

For more information, see back of Schedule H.

Additional Information

Private foundations that make grants to individuals for travel, study, or other similar purposes are required to obtain advance approval of their grant procedures from the IRS. Such grants that are awarded under selection procedures that have not been approved by the IRS are subject to a 10% excise tax under section 4945. (See Regulations sections 53.4945-4(c) and (d).)

If you are requesting advance approval of the organization's grant procedures, the following sections apply to line **1c:**

4945(g)(1)— The grant constitutes a scholarship or fellowship grant that meets the provisions of section 117(a) prior to its amendment by the Tax Reform Act of 1986 and is to be used for study at an educational organization (school) described in section 170(b)(1)(A)(ii).

4945(g)(2)— The grant constitutes a prize or award that is subject to the provisions of section 74(b), if the recipient of such a prize or award is selected from the general public.

4945(g)(3)— The purpose of the grant is to achieve a specific objective, produce a report or other similar product, or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill, or talent of the grantee.

Schedule I. Successors to "For Profit" Institutions

1 What was the name of the predecessor organization and the nature of its activities?

2 Who were the owners or principal stockholders of the predecessor organization? (If more space is needed, attach schedule.)

Name and address	Share or interest

3 Describe the business or family relationship between the owners or principal stockholders and principal employees of the predecessor organization and the officers, directors, and principal employees of the applicant organization.

4a Attach a copy of the agreement of sale or other contract that sets forth the terms and conditions of sale of the predecessor organization or of its assets to the applicant organization.

b Attach an appraisal by an independent qualified expert showing the fair market value at the time of sale of the facilities or property interest sold.

5 Has any property or equipment formerly used by the predecessor organization been rented to the applicant organization or will any such property be rented? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain and attach copies of all leases and contracts.

6 Is the organization leasing or will it lease or otherwise make available any space or equipment to the owners, principal stockholders, or principal employees of the predecessor organization? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain and attach a list of these tenants and a copy of the lease for each such tenant.

7 Were any new operating policies initiated as a result of the transfer of assets from a profit-making organization to a nonprofit organization? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain.

Additional Information

A "for profit" institution for purposes of Schedule I includes any organization in which a person may have a proprietary or partnership interest, hold corporate stock, or otherwise exercise an ownership interest. The institution need not have operated for the purpose of making a profit.

Form **1024**
(Rev. September 1998)
Department of the Treasury
Internal Revenue Service

Application for Recognition of Exemption Under Section 501(a)

OMB No. 1545-0057

If exempt status is approved, this application will be open for public inspection.

Read the instructions for each Part carefully. **A User Fee must be attached to this application.**
If the required information and appropriate documents are not submitted along with Form 8718 (with payment of the appropriate user fee), the application may be returned to the organization.
Complete the Procedural Checklist on page 6 of the instructions.

Part I. Identification of Applicant (Must be completed by all applicants; also complete appropriate schedule.)
Submit only the schedule that applies to your organization. Do not submit blank schedules.

Check the appropriate box below to indicate the section under which the organization is applying:

- **a** ☐ Section 501(c)(2)—Title holding corporations (Schedule A, page 7)
- **b** ☐ Section 501(c)(4)—Civic leagues, social welfare organizations (including certain war veterans' organizations), or local associations of employees (Schedule B, page 8)
- **c** ☐ Section 501(c)(5)—Labor, agricultural, or horticultural organizations (Schedule C, page 9)
- **d** ☐ Section 501(c)(6)—Business leagues, chambers of commerce, etc. (Schedule C, page 9)
- **e** ☐ Section 501(c)(7)—Social clubs (Schedule D, page 11)
- **f** ☐ Section 501(c)(8)—Fraternal beneficiary societies, etc., providing life, sick, accident, or other benefits to members (Schedule E, page 13)
- **g** ☐ Section 501(c)(9)—Voluntary employees' beneficiary associations (Parts I through IV and Schedule F, page 14)
- **h** ☐ Section 501(c)(10)—Domestic fraternal societies, orders, etc., not providing life, sick, accident, or other benefits (Schedule E, page 13)
- **i** ☐ Section 501(c)(12)—Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (Schedule G, page 15)
- **j** ☐ Section 501(c)(13)—Cemeteries, crematoria, and like corporations (Schedule H, page 16)
- **k** ☐ Section 501(c)(15)—Mutual insurance companies or associations, other than life or marine (Schedule I, page 17)
- **l** ☐ Section 501(c)(17)—Trusts providing for the payment of supplemental unemployment compensation benefits (Parts I through IV and Schedule J, page 18)
- **m** ☐ Section 501(c)(19)—A post, organization, auxiliary unit, etc., of past or present members of the Armed Forces of the United States (Schedule K, page 19)
- **n** ☐ Section 501(c)(25)—Title holding corporations or trusts (Schedule A, page 7)

1a Full name of organization (as shown in organizing document)		**2** Employer identification number (EIN) (if none, see **Specific Instructions** on page 2)
1b c/o Name (if applicable)		**3** Name and telephone number of person to be contacted if additional information is needed
1c Address (number and street)	Room/Suite	
1d City, town or post office, state, and ZIP + 4 If you have a foreign address, see **Specific Instructions** for Part I, page 2.		( )
1e Web site address	**4** Month the annual accounting period ends	**5** Date incorporated or formed

6 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? ☐ **Yes** ☐ **No**
If "Yes," attach an explanation.

7 Has the organization filed Federal income tax returns or exempt organization information returns? . . . . . ☐ **Yes** ☐ **No**
If "Yes," state the form numbers, years filed, and Internal Revenue office where filed.

8 Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING.

- **a** ☐ Corporation— Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also attach a copy of the bylaws.
- **b** ☐ Trust— Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.
- **c** ☐ Association— Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence that the organization was formed by adoption of the document by more than one person. Also include a copy of the bylaws.

If this is a corporation or an unincorporated association that has not yet adopted bylaws, check here . . . . . ► ☐

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization, and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

PLEASE SIGN HERE ►

(Signature)	(Type or print name and title or authority of signer)	(Date)

For Paperwork Reduction Act Notice, see page 5 of the instructions.

Part II. Activities and Operational Information (Must be completed by all applicants)

1 Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: **(a)** a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; **(b)** when the activity was or will be initiated; and **(c)** where and by whom the activity will be conducted.

2 List the organization's present and future sources of financial support, beginning with the largest source first.

Part II. Activities and Operational Information (continued)

3 Give the following information about the organization's governing body:

a Names, addresses, and titles of officers, directors, trustees, etc.	**b** Annual compensation

4 If the organization is the outgrowth or continuation of any form of predecessor, state the name of each predecessor, the period during which it was in existence, and the reasons for its termination. Submit copies of all papers by which any transfer of assets was effected.

5 If the applicant organization is now, or plans to be, connected in any way with any other organization, describe the other organization and explain the relationship (e.g., financial support on a continuing basis; shared facilities or employees; same officers, directors, or trustees).

6 If the organization has capital stock issued and outstanding, state: **(1)** class or classes of the stock; **(2)** number and par value of the shares; **(3)** consideration for which they were issued; and **(4)** if any dividends have been paid or whether your organization's creating instrument authorizes dividend payments on any class of capital stock.

7 State the qualifications necessary for membership in the organization; the classes of membership (with the number of members in each class); and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Attach sample copies of all types of membership certificates issued.

8 Explain how your organization's assets will be distributed on dissolution.

Part II. Activities and Operational Information (continued)

9 Has the organization made or does it plan to make any distribution of its property or surplus funds to shareholders or members? . . . . . ☐ Yes ☐ No

If "Yes," state the full details, including: **(1)** amounts or value; **(2)** source of funds or property distributed or to be distributed; and **(3)** basis of, and authority for, distribution or planned distribution.

10 Does, or will, any part of your organization's receipts represent payments for services performed or to be performed? . ☐ Yes ☐ No

If "Yes," state in detail the amount received and the character of the services performed or to be performed.

11 Has the organization made, or does it plan to make, any payments to members or shareholders for services performed or to be performed? . . . . . ☐ Yes ☐ No

If "Yes," state in detail the amount paid, the character of the services, and to whom the payments have been, or will be, made.

12 Does the organization have any arrangement to provide insurance for members, their dependents, or others (including provisions for the payment of sick or death benefits, pensions, or annuities)? . . . . . ☐ Yes ☐ No

If "Yes," describe and explain the arrangement's eligibility rules and attach a sample copy of each plan document and each type of policy issued.

13 Is the organization under the supervisory jurisdiction of any public regulatory body, such as a social welfare agency, etc.? . . . . . ☐ Yes ☐ No

If "Yes," submit copies of all administrative opinions or court decisions regarding this supervision, as well as copies of applications or requests for the opinions or decisions.

14 Does the organization now lease or does it plan to lease any property? . . . . . ☐ Yes ☐ No

If "Yes," explain in detail. Include the amount of rent, a description of the property, and any relationship between the applicant organization and the other party. Also, attach a copy of any rental or lease agreement. (If the organization is a party, as a lessor, to multiple leases of rental real property under similar lease agreements, please attach a single representative copy of the leases.)

15 Has the organization spent or does it plan to spend any money attempting to influence the selection, nomination, election, or appointment of any person to any Federal, state, or local public office or to an office in a political organization? . . ☐ Yes ☐ No

If "Yes," explain in detail and list the amounts spent or to be spent in each case.

16 Does the organization publish pamphlets, brochures, newsletters, journals, or similar printed material? . . . . . ☐ Yes ☐ No

If "Yes," attach a recent copy of each.

Part III. Financial Data (Must be completed by all applicants)

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. ***If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.***

A. Statement of Revenue and Expenses

		(a) Current Tax Year	3 Prior Tax Years or Proposed Budget for Next 2 Years			
	Revenue	From _____ To	(b) _____	(c) _____	(d) _____	(e) Total
1	Gross dues and assessments of members					
2	Gross contributions, gifts, etc.					
3	Gross amounts derived from activities related to the organization's exempt purpose (attach schedule) (Include related cost of sales on line 9.)					
4	Gross amounts from unrelated business activities (attach schedule)					
5	Gain from sale of assets, excluding inventory items (attach schedule)					
6	Investment income (see page 3 of the instructions)					
7	Other revenue (attach schedule)					
8	Total revenue (add lines 1 through 7)					
	Expenses					
9	Expenses attributable to activities related to the organization's exempt purposes					
10	Expenses attributable to unrelated business activities					
11	Contributions, gifts, grants, and similar amounts paid (attach schedule)					
12	Disbursements to or for the benefit of members (attach schedule)					
13	Compensation of officers, directors, and trustees (attach schedule)					
14	Other salaries and wages					
15	Interest					
16	Occupancy					
17	Depreciation and depletion					
18	Other expenses (attach schedule)					
19	Total expenses (add lines 9 through 18)					
20	Excess of revenue over expenses (line 8 minus line 19)					

B. Balance Sheet (at the end of the period shown)

		Current Tax Year as of _____
	Assets	
1	Cash	1
2	Accounts receivable, net	2
3	Inventories	3
4	Bonds and notes receivable (attach schedule)	4
5	Corporate stocks (attach schedule)	5
6	Mortgage loans (attach schedule)	6
7	Other investments (attach schedule)	7
8	Depreciable and depletable assets (attach schedule)	8
9	Land	9
10	Other assets (attach schedule)	10
11	**Total assets**	11
	Liabilities	
12	Accounts payable	12
13	Contributions, gifts, grants, etc., payable	13
14	Mortgages and notes payable (attach schedule)	14
15	Other liabilities (attach schedule)	15
16	**Total liabilities**	16
	Fund Balances or Net Assets	
17	Total fund balances or net assets	17
18	**Total liabilities and fund balances or net assets** (add line 16 and line 17)	18

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation. ► ☐

Part IV. Notice Requirements (Sections 501(c)(9) and 501(c)(17) Organizations Only)

1 Section 501(c)(9) and 501(c)(17) organizations:

Are you filing Form 1024 within 15 months from the end of the month in which the organization was created or formed as required by section 505(c)? . . . . . ☐ **Yes** ☐ **No**

If "Yes," skip the rest of this Part.

If "No," answer question 2.

2 If you answer "No" to question 1, are you filing Form 1024 within 27 months from the end of the month in which the organization was created or formed? . . . . . ☐ **Yes** ☐ **No**

If "Yes," your organization qualifies under Regulation section 301.9100-2 for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 3 and 4.

If "No," answer question 3.

3 If you answer "No" to question 2, does the organization wish to request an extension of time to apply under the "reasonable action and good faith" and the "no prejudice to the interest of the government" requirements of Regulations section 301.9100-3? . . . . . ☐ **Yes** ☐ **No**

If "Yes," give the reasons for not filing this application within the 27-month period described in question 2. See Specific Instructions, Part IV, Line 3, page 4, before completing this item. Do not answer question 4.

If "No," answer question 4.

4 If you answer "No" to question 3, your organization's qualification as a section 501(c)(9) or 501(c)(17) organization can be recognized only from the date this application is filed. Therefore, does the organization want us to consider its application as a request for recognition of exemption as a section 501(c)(9) or 501(c)(17) organization from the date the application is received and not retroactively to the date the organization was created or formed? . . . . . ☐ **Yes** ☐ **No**

Schedule A Organizations described in section 501(c)(2) or 501(c)(25) (Title holding corporations or trusts)

1 State the complete name, address, and EIN of each organization for which title to property is held and the number and type of the applicant organization's stock held by each organization.

2 If the annual excess of revenue over expenses has not been or will not be turned over to the organization for which title to property is held, state the purpose for which the excess is or will be retained by the title holding organization.

3 In the case of a corporation described in section 501(c)(2), state the purpose of the organization for which title to property is held (as shown in its governing instrument) and the Code sections under which it is classified as exempt from tax. If the organization has received a determination or ruling letter recognizing it as exempt from taxation, please attach a copy of the letter.

4 In the case of a corporation or trust described in section 501(c)(25), state the basis whereby each shareholder is described in section 501(c)(25)(C). For each organization described that has received a determination or ruling letter recognizing that organization as exempt from taxation, please attach a copy of the letter.

5 With respect to the activities of the organization.

a Is any rent received attributable to personal property leased with real property? . . . . . ☐ **Yes** ☐ **No**

If "Yes," what percentage of the total rent, as reported on the financial statements in Part III, is attributable to personal property?

b Will the organization receive income which is incidentally derived from the holding of real property, such as income from operation of a parking lot or from vending machines? . . . . . ☐ **Yes** ☐ **No**

If "Yes," what percentage of the organization's gross income, as reported on the financial statements in Part III, is incidentally derived from the holding of real property?

c Will the organization receive income other than rent from real property or personal property leased with real property or income which is incidentally derived from the holding of real property? . . . . . ☐ **Yes** ☐ **No**

If "Yes," describe the source of the income.

Instructions

Line 1.—Provide the requested information on each organization for which the applicant organization holds title to property. Also indicate the number and types of shares of the applicant organization's stock that are held by each.

Line 2.—For purposes of this question, "excess of revenue over expenses" is all of the organization's income for a particular tax year less operating expenses.

Line 3.—Give the exempt purpose of each organization that is the basis for its exempt status and the Internal Revenue Code section that describes the organization (as shown in its IRS determination letter).

Line 4.—Indicate if the shareholder is one of the following:

1. A qualified pension, profit-sharing, or stock bonus plan that meets the requirements of the Code;

2. A government plan;

3. An organization described in section 501(c)(3); or

4. An organization described in section 501(c)(25).

Schedule B Organizations Described in Section 501(c)(4) (Civic leagues, social welfare organizations (including posts, councils, etc., of veterans' organizations not qualifying or applying for exemption under section 501(c)(19)) or local associations of employees.)

1 Has the Internal Revenue Service previously issued a ruling or determination letter recognizing the applicant organization (or any predecessor organization listed in question 4, Part II of the application) to be exempt under section 501(c)(3) and later revoked that recognition of exemption on the basis that the applicant organization (or its predecessor) was carrying on propaganda or otherwise attempting to influence legislation or on the basis that it engaged in political activity? . . ☐ **Yes** ☐ **No**

If "Yes," indicate the earliest tax year for which recognition of exemption under section 501(c)(3) was revoked and the IRS district office that issued the revocation.

2 Does the organization perform or plan to perform (for members, shareholders, or others) services, such as maintaining the common areas of a condominium; buying food or other items on a cooperative basis; or providing recreational facilities or transportation services, job placement, or other similar undertakings?. . . . . ☐ **Yes** ☐ **No**

If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part II of the application (pages 2, 3, and 4), enter the page and item number here.)

3 If the organization is claiming exemption as a homeowners' association, is access to any property or facilities it owns or maintains restricted in any way? . . . . . ☐ **Yes** ☐ **No**

If "Yes," explain.

4 If the organization is claiming exemption as a local association of employees, state the name and address of each employer whose employees are eligible for membership in the association. If employees of more than one plant or office of the same employer are eligible for membership, give the address of each plant or office.

Schedule C Organizations described in section 501(c)(5) (Labor, agricultural, including fishermen's organizations, or horticultural organizations) or section 501(c)(6) (business leagues, chambers of commerce, etc.)

1 Describe any services the organization performs for members or others. (If the description of the services is contained in Part II of the application, enter the page and item number here.)

2 Fishermen's organizations only.—What kinds of aquatic resources (not including mineral) are cultivated or harvested by those eligible for membership in the organization?

3 Labor organizations only.—Is the organization organized under the terms of a collective bargaining agreement? . . ☐ **Yes** ☐ **No**

If "Yes," attach a copy of the latest agreement.

Schedule D Organizations described in section 501(c)(7) (Social clubs)

1 Has the organization entered or does it plan to enter into any contract or agreement for the management or operation of its property and/or activities, such as restaurants, pro shops, lodges, etc.? . . . . . ☐ **Yes** ☐ **No**

If "Yes," attach a copy of the contract or agreement. If one has not yet been drawn up, please explain the organization's plans.

2 Does the organization seek or plan to seek public patronage of its facilities or activities by advertisement or otherwise? ☐ **Yes** ☐ **No**
If "Yes," attach sample copies of the advertisements or other requests.
If the organization plans to seek public patronage, please explain the plans.

3a Are nonmembers, other than guests of members, permitted or will they be permitted to use the club facilities or participate in or attend any functions or activities conducted by the organization? . . . . . ☐ **Yes** ☐ **No**
If "Yes," describe the functions or activities in which there has been or will be nonmember participation or admittance. (Submit a copy of the house rules, if any.)

b State the amount of nonmember income included in Part III of the application, lines 3 and 4, column (a) . . . . . _____

c Enter the percent of gross receipts from nonmembers for the use of club facilities . . . . . _____ %

d Enter the percent of gross receipts received from investment income and nonmember use of the club's facilities . . _____ %

4a Does the organization's charter, bylaws, other governing instrument, or any written policy statement of the organization contain any provision that provides for discrimination against any person on the basis of race, color, or religion? . . ☐ **Yes** ☐ **No**

b If "Yes," state whether or not its provision will be kept.

c If the organization has such a provision that will be repealed, deleted, or otherwise stricken from its requirements, state when this will be done. . . . . _____

d If the organization formerly had such a requirement and it no longer applies, give the date it ceased to apply . . . _____

e If the organization restricts its membership to members of a particular religion, check here and attach the explanation specified in the instructions . . . . . ☐

See reverse side for instructions

Instructions

Line 1.—Answer "Yes," if any of the organization's property or activities will be managed by another organization or company.

Lines 3b, c, and d.—Enter the figures for the current year. On an attached schedule, furnish the same information for each of the prior tax years for which you completed Part III of the application.

Line 4e.—If the organization restricts its membership to members of a particular religion, the organization must be:

1. An auxiliary of a fraternal beneficiary society that:

a. Is described in section 501(c)(8) and exempt from tax under section 501(a), and

b. Limits its membership to members of a particular religion; or

2. A club that, in good faith, limits its membership to the members of a particular religion in order to further the teachings or principles of that religion and not to exclude individuals of a particular race or color.

If you checked **4e,** your explanation must show how the organization meets one of these two requirements.

Schedule E Organizations described in section 501(c)(8) or 501(c)(10) (Fraternal societies, orders, or associations)

1	Is the organization a college fraternity or sorority, or chapter of a college fraternity or sorority? . . . . . If "Yes," read the instructions for Line 1, below, before completing this schedule.	☐ **Yes**	☐ **No**
2	Does or will your organization operate under the lodge system?	☐ **Yes**	☐ **No**
	If "No," does or will it operate for the exclusive benefit of the members of an organization operating under the lodge system?	☐ **Yes**	☐ **No**
3	Is the organization a subordinate or local lodge, etc.? . . . . . If "Yes," attach a certificate signed by the secretary of the parent organization, under the seal of the organization, certifying that the subordinate lodge is a duly constituted body operating under the jurisdiction of the parent body.	☐ **Yes**	☐ **No**
4	Is the organization a parent or grand lodge? . . . . . If "Yes," attach a schedule for each subordinate lodge in active operation showing: (a) its name and address; (b) the number of members in it; and (c) how often it holds periodic meetings.	☐ **Yes**	☐ **No**

Instructions

Line 1.—To the extent that they qualify for exemption from Federal income tax, college fraternities and sororities generally qualify as organizations described in section 501(c)(7). Therefore, if the organization is a college fraternity or sorority, refer to the discussion of section 501(c)(7) organizations in Pub. 557. If section 501(c)(7) appears to apply to your organization, complete Schedule D instead of this schedule.

Line 2.—Operating under the lodge system means carrying on activities under a form of organization that is composed of local branches, chartered by a parent organization, largely self-governing, and called lodges, chapters, or the like.

Schedule F Organizations described in section 501(c)(9) (Voluntary employees' beneficiary associations)

1 Describe the benefits available to members. Include copies of any plan documents that describe such benefits and the terms and conditions of eligibility for each benefit.

2 Are any employees or classes of employees entitled to benefits to which other employees or classes of employees are not entitled? . . . . . ☐ **Yes** ☐ **No**
If "Yes," explain.

3 Give the following information for each plan as of the last day of the most recent plan year and enter that date here. If there is more than one plan, attach a separate schedule . . . . . / / (mo.) (day) (yr.)

a Total number of persons covered by the plan who are highly compensated individuals (See instructions below.) . . .

b Number of other employees covered by the plan . . . . . .

c Number of employees not covered by the plan . . . . . .

d Total number employed* . . . . . .

* Should equal the total of **a, b,** and **c—**if not, explain any difference. Describe the eligibility requirements that prevent those employees not covered by the plan from participating.

4 State the number of persons, if any, other than employees and their dependents (e.g., the proprietor of a business whose employees are members of the association) who are entitled to receive benefits . . . . . ▶

Instructions

Line 3a.—A "highly compensated individual" is one who:

(a) Owned 5% or more of the employer at any time during the current year or the preceding year.

(b) Received more than $80,000 (adjusted for inflation) in compensation from the employer for the preceding year, and

(c) Was among the top 20% of employees by compensation for the preceding year. However, the employer can choose not to have **(c)** apply.

Schedule G Organizations described in section 501(c)(12) (Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations)

1 Attach a schedule in columnar form for each tax year for which the organization is claiming exempt status. On each schedule:

a Show the total gross income received from members or shareholders.

b List, by source, the total amounts of gross income received from other sources.

2 If the organization is claiming exemption as a local benevolent insurance association, state:

a The counties from which members are accepted or will be accepted.

b Whether stipulated premiums are or will be charged in advance, or whether losses are or will be paid solely through assessments.

3 If the organization is claiming exemption as a "like organization," explain how it is similar to a mutual ditch or irrigation company, or a mutual or cooperative telephone company.

4 Are the rights and interests of members in the organization's annual savings determined in proportion to their business with it? . . . . . ☐ **Yes** ☐ **No**

If "Yes," does the organization keep the records necessary to determine at any time each member's rights and interests in such savings, including assets acquired with the savings? . . . . . ☐ **Yes** ☐ **No**

5 If the organization is a mutual or cooperative telephone company and has contracts with other systems for long-distance telephone services, attach copies of the contracts.

Instructions

Mutual or cooperative electric or telephone companies should show income received from qualified pole rentals separately. Mutual or cooperative telephone companies should also show separately the gross amount of income received from nonmember telephone companies for performing services that involve their members and the gross amount of income received from the sale of display advertising in a directory furnished to their members.

Do not net amounts due or paid to other sources against amounts due or received from those sources.

Schedule H Organizations described in section 501(c)(13) (Cemeteries, crematoria, and like corporations)

1 Attach the following documents:

a Complete copy of sales contracts or other documents, including any "debt" certificates, involved in acquiring cemetery or crematorium property.

b Complete copy of any contract your organization has that designates an agent to sell its cemetery lots.

c A copy of the appraisal (obtained from a disinterested and qualified party) of the cemetery property as of the date acquired.

2 Does your organization have, or does it plan to have, a perpetual care fund? . . . . . ☐ **Yes** ☐ **No**

If "Yes," attach a copy of the fund agreement and explain the nature of the fund (cash, securities, unsold land, etc.)

3 If your organization is claiming exemption as a perpetual care fund for an organization described in section 501(c)(13), has the cemetery organization, for which funds are held, established exemption under that section? . . . . . ☐ **Yes** ☐ **No**

If "No," explain.

Schedule I Organizations described in section 501(c)(15) (Small insurance companies or associations)

1 Is the organization a member of a controlled group of corporations as defined in section 831(b)(2)(B)(ii)? (Disregard section 1563(b)(2)(B) in determining whether the organization is a member of a controlled group.) . . . . . ☐ **Yes** ☐ **No**

If "Yes," include on lines 2 through 5 the total amount received by the organization and all other members of the controlled group.

If "No," include on lines 2 through 5 only the amounts that relate to the applicant organization.

	(a) Current Year	3 Prior Tax Years		
	From _____ **To**	**(b)** ---------	**(c)** --------	**(d)** ---------
2 Direct written premiums				
3 Reinsurance assumed				
4 Reinsurance ceded				
5 Net written premiums ((line 2 plus line 3) minus line 4)				

6 If you entered an amount on line 3 or line 4, attach a copy of the reinsurance agreements the organization has entered into.

Instructions

Line 1.—Answer "Yes," if the organization would be considered a member of a controlled group of corporations if it were not exempt from tax under section 501(a). In applying section 1563(a), use a "more than 50%" stock ownership test to determine whether the applicant or any other corporation is a member of a controlled group.

Line 2.— In addition to other direct written premiums, include on line 2 the full amount of any prepaid or advance premium in the year the prepayment is received. For example, if a $5,000 premium for a 3-year policy was received in the current year, include the full $5,000 amount in the Current Year column.

Schedule J Organizations described in section 501(c)(17) (Trusts providing for the payment of supplemental unemployment compensation benefits)

1 If benefits are provided for individual proprietors, partners, or self-employed persons under the plan, explain in detail.

2 If the plan provides other benefits in addition to the supplemental unemployment compensation benefits, explain in detail and state whether the other benefits are subordinate to the unemployment benefits.

3 Give the following information as of the last day of the most recent plan year and enter that date here . . . . . .

a Total number of employees covered by the plan who are shareholders, officers, self-employed persons, or highly compensated (See Schedule F instructions for line 3a on page 14.) . . . . . .

b Number of other employees covered by the plan . . . . . .

c Number of employees not covered by the plan . . . . . .

d Total number employed*. . . . . .

* Should equal the total of **a, b,** and **c**—if not, explain the difference. Describe the eligibility requirements that prevent those employees not covered by the plan from participating.

4 At any time after December 31, 1959, did any of the following persons engage in any of the transactions listed below with the trust: the creator of the trust or a contributor to the trust; a brother or sister (whole or half blood), a spouse, an ancestor, or a lineal descendant of such a creator or contributor; or a corporation controlled directly or indirectly by such a creator or contributor?

Note: *If you know that the organization will be, or is considering being, a party to any of the transactions (or activities) listed below, check the "Planned" box. Give a detailed explanation of any "Yes" or "Planned" answer in the space below.*

a	Borrow any part of the trust's income or corpus?	☐ **Yes**	☐ **No**	☐ **Planned**
b	Receive any compensation for personal services?	☐ **Yes**	☐ **No**	☐ **Planned**
c	Obtain any part of the trust's services?	☐ **Yes**	☐ **No**	☐ **Planned**
d	Purchase any securities or other properties from the trust?	☐ **Yes**	☐ **No**	☐ **Planned**
e	Sell any securities or other property to the trust?	☐ **Yes**	☐ **No**	☐ **Planned**
f	Receive any of the trust's income or corpus in any other transaction?	☐ **Yes**	☐ **No**	☐ **Planned**

5 Attach a copy of the Supplemental Unemployment Benefit Plan and related agreements.

Schedule K Organizations described in section 501(c)(19)—A post or organization of past or present members of the Armed Forces of the United States, auxiliary units or societies for such a post or organization, and trusts or foundations formed for the benefit of such posts or organizations.

1 *To be completed by a post or organization of past or present members of the Armed Forces of the United States.*

a Total membership of the post or organization . . . . . _____

b Number of members who are present or former members of the U.S. Armed Forces . . . . . _____

c Number of members who are cadets (include students in college or university ROTC programs or at armed services academies only), or spouses, widows, or widowers of cadets or past or present members of the U.S. Armed Forces . _____

d Does the organization have a membership category other than the ones set out above? . . . . . ☐ **Yes** ☐ **No**

If "Yes," please explain in full. Enter number of members in this category . . . . . _____

e If you wish to apply for a determination that contributions to your organization are deductible by donors, enter the number of members from line 1b who are war veterans, as defined below. . . . . _____

A war veteran is a person who served in the Armed Forces of the United States during the following periods of war: April 21, 1898, through July 4, 1902; April 6, 1917, through November 11, 1918; December 7, 1941, through December 31, 1946; June 27, 1950, through January 31, 1955; and August 5, 1964, through May 7, 1975.

2 *To be completed by an auxiliary unit or society of a post or organization of past or present members of the Armed Forces of the United States.*

a Is the organization affiliated with and organized according to the bylaws and regulations formulated by such an exempt post or organization? . . . . . ☐ **Yes** ☐ **No**
If "Yes," submit a copy of such bylaws or regulations.

b How many members does your organization have? . . . . . _____

c How many are themselves past or present members of the Armed Forces of the United States, or are their spouses, or persons related to them within two degrees of blood relationship? (Grandparents, brothers, sisters, and grandchildren are the most distant relationships allowable.) . . . . . _____

d Are all of the members themselves members of a post or organization, past or present members of the Armed Forces of the United States, spouses of members of such a post or organization, or related to members of such a post or organization within two degrees of blood relationship? . . . . . ☐ **Yes** ☐ **No**

3 *To be completed by a trust or foundation organized for the benefit of an exempt post or organization of past or present members of the Armed Forces of the United States.*

a Will the corpus or income be used solely for the funding of such an exempt organization (including necessary related expenses)? . . . . . ☐ **Yes** ☐ **No**
If "No," please explain.

b If the trust or foundation is formed for charitable purposes, does the organizational document contain a proper dissolution provision as described in section 1.501(c)(3)-1(b)(4) of the Income Tax Regulations? . . . . . ☐ **Yes** ☐ **No**

Form **990**

Department of the Treasury
Internal Revenue Service

Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

Note: *The organization may have to use a copy of this return to satisfy state reporting requirements.*

OMB No. 1545-0047

1999

This Form is Open to Public Inspection

A For the 1999 calendar year, OR tax year period beginning , 1999, and ending ,

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for state reporting)

Please use IRS label or print or type. See Specific Instructions.

C Name of organization

Number and street (or P.O. box if mail is not delivered to street address) | Room/suite

City or town, state or country, and ZIP+4

D Employer identification number

E Telephone number

F Check ► ☐ if exemption application is pending

G Type of organization—►☐ Exempt under section 501(c)( ) ◄ (insert number) OR ► ☐ section 4947(a)(1) nonexempt charitable trust

Note: ***Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).***

H(a) Is this a group return filed for affiliates? ☐ Yes ☐ No

(b) If "Yes," enter the number of affiliates for which this return is filed: ►

(c) Is this a separate return filed by an organization covered by a group ruling? ☐ Yes ☐ No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) ►

J Accounting method: ☐ Cash ☐ Accrual ☐ Other (specify) ►

K Check here ► ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. **Some states require a complete return.**

Note: *Form 990-EZ may be used by organizations with gross receipts less than $100,000 and total assets less than $250,000 at end of year.*

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 15.)

Revenue	1	Contributions, gifts, grants, and similar amounts received:		
	a	Direct public support	1a	
	b	Indirect public support	1b	
	c	Government contributions (grants)	1c	
	d	**Total** (add lines 1a through 1c) (attach schedule of contributors) (cash $ _____ noncash $ _____)	1d	
	2	Program service revenue including government fees and contracts (from Part VII, line 93)	2	
	3	Membership dues and assessments	3	
	4	Interest on savings and temporary cash investments	4	
	5	Dividends and interest from securities	5	
	6a	Gross rents	6a	
	b	Less: rental expenses	6b	
	c	Net rental income or (loss) (subtract line 6b from line 6a)	6c	
	7	Other investment income (describe ►)	7	
	8a	Gross amount from sales of assets other than inventory — (A) Securities / (B) Other	8a	
	b	Less: cost or other basis and sales expenses	8b	
	c	Gain or (loss) (attach schedule)	8c	
	d	Net gain or (loss) (combine line 8c, columns (A) and (B))	8d	
	9	Special events and activities (attach schedule)		
	a	Gross revenue (not including $ _____ of contributions reported on line 1a)	9a	
	b	Less: direct expenses other than fundraising expenses	9b	
	c	Net income or (loss) from special events (subtract line 9b from line 9a)	9c	
	10a	Gross sales of inventory, less returns and allowances	10a	
	b	Less: cost of goods sold	10b	
	c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)	10c	
	11	Other revenue (from Part VII, line 103)	11	
	12	**Total revenue** (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)	12	
Expenses	13	Program services (from line 44, column (B))	13	
	14	Management and general (from line 44, column (C))	14	
	15	Fundraising (from line 44, column (D))	15	
	16	Payments to affiliates (attach schedule)	16	
	17	**Total expenses** (add lines 16 and 44, column (A))	17	
Net Assets	18	Excess or (deficit) for the year (subtract line 17 from line 12)	18	
	19	Net assets or fund balances at beginning of year (from line 73, column (A))	19	
	20	Other changes in net assets or fund balances (attach explanation)	20	
	21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)	21	

Part II Statement of Functional Expenses All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 19.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (attach schedule) (cash $ _____ noncash $ _____)	22				
23 Specific assistance to individuals (attach schedule)	23				
24 Benefits paid to or for members (attach schedule)	24				
25 Compensation of officers, directors, etc.	25				
26 Other salaries and wages	26				
27 Pension plan contributions	27				
28 Other employee benefits	28				
29 Payroll taxes	29				
30 Professional fundraising fees	30				
31 Accounting fees	31				
32 Legal fees	32				
33 Supplies	33				
34 Telephone	34				
35 Postage and shipping	35				
36 Occupancy	36				
37 Equipment rental and maintenance	37				
38 Printing and publications	38				
39 Travel	39				
40 Conferences, conventions, and meetings	40				
41 Interest	41				
42 Depreciation, depletion, etc. (attach schedule)	42				
43 Other expenses (itemize): **a**	43a				
b	43b				
c	43c				
d	43d				
e	43e				
44 **Total functional expenses** (add lines 22 through 43). ***Organizations completing columns (B)-(D), carry these totals to lines 13–15***	44				

Reporting of Joint Costs. Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation? . . . . . ► ☐ Yes ☐ No

If "Yes," enter **(i)** the aggregate amount of these joint costs $_____; **(ii)** the amount allocated to Program services $_____; **(iii)** the amount allocated to Management and general $; and **(iv)** the amount allocated to Fundraising $

Part III Statement of Program Service Accomplishments (See Specific Instructions on page 22.)

What is the organization's primary exempt purpose? ►

All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

Program Service Expenses (Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts; but optional for others.)

a (Grants and allocations $)

b (Grants and allocations $)

c (Grants and allocations $)

d (Grants and allocations $)

e Other program services (attach schedule) (Grants and allocations $)

f Total of Program Service Expenses (should equal line 44, column (B), Program services) . . . . . ►

Part IV **Balance Sheets** (See Specific Instructions on page 22.)

	Note: *Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.*		(A) Beginning of year		(B) End of year
Assets	**45** Cash—non-interest-bearing			**45**	
	46 Savings and temporary cash investments			**46**	
	47a Accounts receivable	**47a**			
	b Less: allowance for doubtful accounts	**47b**		**47c**	
	48a Pledges receivable	**48a**			
	b Less: allowance for doubtful accounts	**48b**		**48c**	
	49 Grants receivable			**49**	
	50 Receivables from officers, directors, trustees, and key employees (attach schedule)			**50**	
	51a Other notes and loans receivable (attach schedule)	**51a**			
	b Less: allowance for doubtful accounts	**51b**		**51c**	
	52 Inventories for sale or use			**52**	
	53 Prepaid expenses and deferred charges			**53**	
	54 Investments—securities (attach schedule)			**54**	
	55a Investments—land, buildings, and equipment: basis	**55a**			
	b Less: accumulated depreciation (attach schedule)	**55b**		**55c**	
	56 Investments—other (attach schedule)			**56**	
	57a Land, buildings, and equipment: basis	**57a**			
	b Less: accumulated depreciation (attach schedule)	**57b**		**57c**	
	58 Other assets (describe ► _____)			**58**	
	59 **Total assets** (add lines 45 through 58) (must equal line 74)			**59**	
Liabilities	**60** Accounts payable and accrued expenses			**60**	
	61 Grants payable			**61**	
	62 Deferred revenue			**62**	
	63 Loans from officers, directors, trustees, and key employees (attach schedule)			**63**	
	64a Tax-exempt bond liabilities (attach schedule)			**64a**	
	b Mortgages and other notes payable (attach schedule)			**64b**	
	65 Other liabilities (describe ► _____)			**65**	
	66 **Total liabilities** (add lines 60 through 65)			**66**	
Net Assets or Fund Balances	**Organizations that follow SFAS 117, check here** ► ☐ and complete lines 67 through 69 and lines 73 and 74.				
	67 Unrestricted			**67**	
	68 Temporarily restricted			**68**	
	69 Permanently restricted			**69**	
	Organizations that do not follow SFAS 117, check here ► ☐ and complete lines 70 through 74.				
	70 Capital stock, trust principal, or current funds			**70**	
	71 Paid-in or capital surplus, or land, building, and equipment fund			**71**	
	72 Retained earnings, endowment, accumulated income, or other funds			**72**	
	73 **Total net assets or fund balances** (add lines 67 through 69 OR lines 70 through 72; column (A) must equal line 19 and column (B) must equal line 21)			**73**	
	74 **Total liabilities and net assets / fund balances** (add lines 66 and 73)			**74**	

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

Part IV-A **Reconciliation of Revenue per Audited Financial Statements with Revenue per Return** (See Specific Instructions, page 24.)

a	Total revenue, gains, and other support per audited financial statements . . ▶	**a**	
b	Amounts included on line **a** but not on line 12, Form 990:		
(1)	Net unrealized gains on investments . . $		
(2)	Donated services and use of facilities $		
(3)	Recoveries of prior year grants . . . $		
(4)	Other (specify): ---------- ---------- $		
	Add amounts on lines **(1)** through **(4)** ▶	**b**	
c	Line **a** minus line **b**. . . . . ▶	**c**	
d	Amounts included on line 12, Form 990 but not on line **a:**		
(1)	Investment expenses not included on line 6b, Form 990 . . . $		
(2)	Other (specify): ---------- ---------- $		
	Add amounts on lines **(1)** and **(2)** ▶	**d**	
e	Total revenue per line 12, Form 990 (line **c** plus line **d**) . . . . . ▶	**e**	

Part IV-B **Reconciliation of Expenses per Audited Financial Statements with Expenses per Return**

a	Total expenses and losses per audited financial statements . . ▶	**a**	
b	Amounts included on line **a** but not on line 17, Form 990:		
(1)	Donated services and use of facilities $		
(2)	Prior year adjustments reported on line 20, Form 990 . . . . $		
(3)	Losses reported on line 20, Form 990 . $		
(4)	Other (specify): ---------- ---------- $		
	Add amounts on lines **(1)** through **(4)** ▶	**b**	
c	Line **a** minus line **b** . . . . . ▶	**c**	
d	Amounts included on line 17, Form 990 but not on line **a:**		
(1)	Investment expenses not included on line 6b, Form 990. . . $		
(2)	Other (specify): ---------- ---------- $		
	Add amounts on lines **(1)** and **(2)** ▶	**d**	
e	Total expenses per line 17, Form 990 (line **c** plus line **d**) . . . . . ▶	**e**	

Part V **List of Officers, Directors, Trustees, and Key Employees** (List each one even if not compensated; see Specific Instructions on page 24.)

(A) Name and address	**(B)** Title and average hours per week devoted to position	**(C)** Compensation **(If not paid, enter -0-.)**	**(D)** Contributions to employee benefit plans & deferred compensation	**(E)** Expense account and other allowances

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than $100,000 from your organization and all related organizations, of which more than $10,000 was provided by the related organizations? ▶ ☐ **Yes** ☐ **No**

If "Yes," attach schedule—see Specific Instructions on page 25.

Part VI Other Information (See Specific Instructions on page 25.)

			Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	76		
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes.	77		
78a	Did the organization have unrelated business gross income of $1,000 or more during the year covered by this return?	78a		
b	If "Yes," has it filed a tax return on **Form 990-T** for this year?	78b		
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement	79		
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?	80a		
b	If "Yes," enter the name of the organization ► ..... and check whether it is ☐ exempt **OR** ☐ nonexempt.			
81a	Enter the amount of political expenditures, direct or indirect, as described in the instructions for line 81. **81a**			
b	Did the organization file **Form 1120-POL** for this year?	81b		
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a		
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part III.) **82b**			
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a		
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b		
84a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a		
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b		
85	*501(c)(4), (5), or (6) organizations.* **a** Were substantially all dues nondeductible by members?	85a		
b	Did the organization make only in-house lobbying expenditures of $2,000 or less?	85b		
	If "Yes" was answered to either 85a or 85b, **do not** complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.			
c	Dues, assessments, and similar amounts from members **85c**			
d	Section 162(e) lobbying and political expenditures **85d**			
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices **85e**			
f	Taxable amount of lobbying and political expenditures (line 85d less 85e) **85f**			
g	Does the organization elect to pay the section 6033(e) tax on the amount in 85f?	85g		
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h		
86	*501(c)(7) orgs.* Enter: **a** Initiation fees and capital contributions included on line 12 **86a**			
b	Gross receipts, included on line 12, for public use of club facilities **86b**			
87	*501(c)(12) orgs.* Enter: **a** Gross income from members or shareholders **87a**			
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.) **87b**			
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX	88		
89a	*501(c)(3) organizations.* Enter: Amount of tax imposed on the organization during the year under: section 4911 ► _____ ; section 4912 ► _____ ; section 4955 ► _____			
b	*501(c)(3) and 501(c)(4) orgs.* Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction.	89b		
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958 ► _____			
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization ► _____			
90a	List the states with which a copy of this return is filed ►			
b	Number of employees employed in the pay period that includes March 12, 1999 (See inst.) **90b**			
91	The books are in care of ► ..... Telephone no. ► ( ) ..... Located at ► ..... ZIP + 4 ►			
92	*Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of* ***Form 1041***—Check here ► ☐ and enter the amount of tax-exempt interest received or accrued during the tax year ► **92**			

Part VII Analysis of Income-Producing Activities (See Specific Instructions on page 29.)

Enter gross amounts unless otherwise indicated.	Unrelated business income		Excluded by section 512, 513, or 514		(E) Related or exempt function income
	(A) Business code	(B) Amount	(C) Exclusion code	(D) Amount	
93 Program service revenue:					
a					
b					
c					
d					
e					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments					
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate:					
a debt-financed property					
b not debt-financed property					
98 Net rental income or (loss) from personal property					
99 Other investment income					
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events					
102 Gross profit or (loss) from sales of inventory					
103 Other revenue: **a**					
b					
c					
d					
e					
104 Subtotal (add columns (B), (D), and (E))					

105 Total (add line 104, columns (B), (D), and (E)) ▶

Note: *Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I.*

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See Specific Instructions on page 30.)

Line No. ▼	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See Specific Instructions on page 30.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
	%			
	%			
	%			
	%			

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge. (**Important:** See General Instruction U, on page 14.)

▶ Signature of officer | Date | ▶ Type or print name and title.

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ▶ ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed) and address ▶		EIN ▶	
		ZIP + 4 ▶	

SCHEDULE A (Form 990)

Department of the Treasury
Internal Revenue Service

Organization Exempt Under Section 501(c)(3)

(Except Private Foundation) and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust

Supplementary Information—(See separate instructions.)

► **MUST be completed by the above organizations and attached to their Form 990 or 990-EZ**

OMB No. 1545-0047

1999

Name of the organization

Employer identification number

Part I Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees

(See page 1 of the instructions. List each one. If there are none, enter "None.")

(a) Name and address of each employee paid more than $50,000	**(b)** Title and average hours per week devoted to position	**(c)** Compensation	**(d)** Contributions to employee benefit plans & deferred compensation	**(e)** Expense account and other allowances
Total number of other employees paid over $50,000 . . . . . ►				

Part II Compensation of the Five Highest Paid Independent Contractors for Professional Services

(See page 1 of the instructions. List each one (whether individuals or firms). If there are none, enter "None.")

(a) Name and address of each independent contractor paid more than $50,000	**(b)** Type of service	**(c)** Compensation
Total number of others receiving over $50,000 for professional services . . . . . ►		

Part III Statements About Activities

			Yes	No
1	During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum?	1		
	If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ► $ _____ Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.			
2	During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:			
a	Sale, exchange, or leasing of property?	2a		
b	Lending of money or other extension of credit?	2b		
c	Furnishing of goods, services, or facilities?	2c		
d	Payment of compensation (or payment or reimbursement of expenses if more than $1,000)?	2d		
e	Transfer of any part of its income or assets? If the answer to any question is "Yes," attach a detailed statement explaining the transactions.	2e		
3	Does the organization make grants for scholarships, fellowships, student loans, etc.?	3		
4a	Do you have a section 403(b) annuity plan for your employees?	4a		
b	Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See page 2 of the instructions.)			

Part IV Reason for Non-Private Foundation Status (See pages 2 through 4 of the instructions.)

The organization is not a private foundation because it is: (Please check only **ONE** applicable box.)

- **5** ☐ A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- **6** ☐ A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 4.)
- **7** ☐ A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- **8** ☐ A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
- **9** ☐ A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). **Enter the hospital's name, city, and state** ► _____
- **10** ☐ An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the **Support Schedule** in Part IV-A.)
- **11a** ☐ An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the **Support Schedule** in Part IV-A.)
- **11b** ☐ A community trust. Section 170(b)(1)(A)(vi). (Also complete the **Support Schedule** in Part IV-A.)
- **12** ☐ An organization that normally receives: **(1) more than 33⅓%** of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions—subject to certain exceptions, and **(2) no more than 33⅓%** of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the **Support Schedule** in Part IV-A.)
- **13** ☐ An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: **(1)** lines 5 through 12 above; or **(2)** section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 4 of the instructions.)

(a) Name(s) of supported organization(s)	**(b)** Line number from above

- **14** ☐ An organization organized and operated to test for public safety. Section 509(a)(4). (See page 4 of the instructions.)

Part IV-A Support Schedule (Complete only if you checked a box on line 10, 11, or 12.) ***Use cash method of accounting.***
Note: *You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.*

Calendar year (or fiscal year beginning in) ►	(a) 1998	(b) 1997	(c) 1996	(d) 1995	(e) Total
15 Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.)					
16 Membership fees received					
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose					
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975					
19 Net income from unrelated business activities not included in line 18					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge					
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets					
23 Total of lines 15 through 22					
24 Line 23 minus line 17					
25 Enter 1% of line 23					

26	**Organizations described on lines 10 or 11:** **a** Enter 2% of amount in column (e), line 24 ►	**26a**	
b	Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1995 through 1998 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts ►	**26b**	
c	Total support for section 509(a)(1) test: Enter line 24, column (e) ►	**26c**	
d	Add: Amounts from column (e) for lines: 18 _____ 19 _____ 22 _____ 26b _____ ►	**26d**	
e	Public support (line 26c minus line 26d total) ►	**26e**	
f	**Public support percentage (line 26e (numerator) divided by line 26c (denominator))** ►	**26f**	%

27 **Organizations described on line 12:** **a** For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," attach a list to show the name of, and total amounts received in each year from, each "disqualified person." Enter the sum of such amounts for each year:

(1998) ..... (1997) ..... (1996) ..... (1995) .....

b For any amount included in line 17 that was received from a nondisqualified person, attach a list to show the name of, and amount received for each year, that was more than the **larger** of **(1)** the amount on line 25 for the year or **(2)** $5,000. (Include in the list organizations described in lines 5 through 11, as well as individuals.) After computing the difference between the amount received and the larger amount described in **(1)** or **(2),** enter the sum of these differences (the excess amounts) for each year:

(1998) ..... (1997) ..... (1996) ..... (1995) .....

c	Add: Amounts from column (e) for lines: 15 _____ 16 _____ 17 _____ 20 _____ 21 _____ ►	**27c**	
d	Add: Line 27a total _____ and line 27b total _____ ►	**27d**	
e	Public support (line 27c total minus line 27d total) ►	**27e**	
f	Total support for section 509(a)(2) test: Enter amount on line 23, column (e) ► **27f**		
g	**Public support percentage (line 27e (numerator) divided by line 27f (denominator))** ►	**27g**	%
h	**Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))** ►	**27h**	%

28 **Unusual Grants:** For an organization described in line 10, 11, or 12 that received any unusual grants during 1995 through 1998, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See page 4 of the instructions.)

Part V **Private School Questionnaire** (See page 4 of the instructions.)
(To be completed ONLY by schools that checked the box on line 6 in Part IV)

			Yes	No
29	Does the organization have a racially nondiscriminatory policy toward students by statement in its charter, bylaws, other governing instrument, or in a resolution of its governing body?	29		
30	Does the organization include a statement of its racially nondiscriminatory policy toward students in all its brochures, catalogues, and other written communications with the public dealing with student admissions, programs, and scholarships?	30		
31	Has the organization publicized its racially nondiscriminatory policy through newspaper or broadcast media during the period of solicitation for students, or during the registration period if it has no solicitation program, in a way that makes the policy known to all parts of the general community it serves?	31		
	If "Yes," please describe; if "No," please explain. (If you need more space, attach a separate statement.)			
32	Does the organization maintain the following:			
a	Records indicating the racial composition of the student body, faculty, and administrative staff?	32a		
b	Records documenting that scholarships and other financial assistance are awarded on a racially nondiscriminatory basis?	32b		
c	Copies of all catalogues, brochures, announcements, and other written communications to the public dealing with student admissions, programs, and scholarships?	32c		
d	Copies of all material used by the organization or on its behalf to solicit contributions?	32d		
	If you answered "No" to any of the above, please explain. (If you need more space, attach a separate statement.)			
33	Does the organization discriminate by race in any way with respect to:			
a	Students' rights or privileges?	33a		
b	Admissions policies?	33b		
c	Employment of faculty or administrative staff?	33c		
d	Scholarships or other financial assistance?	33d		
e	Educational policies?	33e		
f	Use of facilities?	33f		
g	Athletic programs?	33g		
h	Other extracurricular activities?	33h		
	If you answered "Yes" to any of the above, please explain. (If you need more space, attach a separate statement.)			
34a	Does the organization receive any financial aid or assistance from a governmental agency?	34a		
b	Has the organization's right to such aid ever been revoked or suspended?	34b		
	If you answered "Yes" to either 34a or b, please explain using an attached statement.			
35	Does the organization certify that it has complied with the applicable requirements of sections 4.01 through 4.05 of Rev. Proc. 75-50, 1975-2 C.B. 587, covering racial nondiscrimination? If "No," attach an explanation	35		

Part VI-A Lobbying Expenditures by Electing Public Charities (See page 6 of the instructions.)

(To be completed **ONLY** by an eligible organization that filed Form 5768)

Check here ► **a** ☐ if the organization belongs to an affiliated group.

Check here ► **b** ☐ if you checked **"a"** above and "limited control" provisions apply.

Limits on Lobbying Expenditures (The term "expenditures" means amounts paid or incurred.)		(a) Affiliated group totals	(b) To be completed for ALL electing organizations
36 Total lobbying expenditures to influence public opinion (grassroots lobbying)	**36**		
37 Total lobbying expenditures to influence a legislative body (direct lobbying)	**37**		
38 Total lobbying expenditures (add lines 36 and 37)	**38**		
39 Other exempt purpose expenditures	**39**		
40 Total exempt purpose expenditures (add lines 38 and 39)	**40**		
41 Lobbying nontaxable amount. Enter the amount from the following table—			
If the amount on line 40 is— / **The lobbying nontaxable amount is—**			
Not over $500,000 — 20% of the amount on line 40.			
Over $500,000 but not over $1,000,000 — $100,000 plus 15% of the excess over $500,000			
Over $1,000,000 but not over $1,500,000 — $175,000 plus 10% of the excess over $1,000,000	**41**		
Over $1,500,000 but not over $17,000,000 — $225,000 plus 5% of the excess over $1,500,000			
Over $17,000,000 — $1,000,000			
42 Grassroots nontaxable amount (enter 25% of line 41)	**42**		
43 Subtract line 42 from line 36. Enter -0- if line 42 is more than line 36	**43**		
44 Subtract line 41 from line 38. Enter -0- if line 41 is more than line 38	**44**		
Caution: *If there is an amount on either line 43 or line 44, you must file Form 4720.*			

4-Year Averaging Period Under Section 501(h)

(Some organizations that made a section 501(h) election do not have to complete all of the five columns below. See the instructions for lines 45 through 50 on page 7 of the instructions.)

	Lobbying Expenditures During 4-Year Averaging Period				
Calendar year (or fiscal year beginning in) ►	**(a)** 1999	**(b)** 1998	**(c)** 1997	**(d)** 1996	**(e)** Total
45 Lobbying nontaxable amount					
46 Lobbying ceiling amount (150% of line 45(e))					
47 Total lobbying expenditures					
48 Grassroots nontaxable amount					
49 Grassroots ceiling amount (150% of line 48(e))					
50 Grassroots lobbying expenditures					

Part VI-B Lobbying Activity by Nonelecting Public Charities

(For reporting only by organizations that did not complete Part VI-A) (See page 8 of the instructions.)

During the year, did the organization attempt to influence national, state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum, through the use of:	Yes	No	Amount
a Volunteers			
b Paid staff or management (Include compensation in expenses reported on lines **c** through **h.**)			
c Media advertisements			
d Mailings to members, legislators, or the public			
e Publications, or published or broadcast statements			
f Grants to other organizations for lobbying purposes			
g Direct contact with legislators, their staffs, government officials, or a legislative body			
h Rallies, demonstrations, seminars, conventions, speeches, lectures, or any other means			
i Total lobbying expenditures (add lines **c** through **h**)			

If "Yes" to any of the above, also attach a statement giving a detailed description of the lobbying activities.

Part VII Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations (See page 8 of the instructions.)

51 Did the reporting organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?

		Yes	No
a Transfers from the reporting organization to a noncharitable exempt organization of:			
(i) Cash	51a(i)		
(ii) Other assets	a(ii)		
b Other transactions:			
(i) Sales or exchanges of assets with a noncharitable exempt organization	b(i)		
(ii) Purchases of assets from a noncharitable exempt organization	b(ii)		
(iii) Rental of facilities, equipment, or other assets	b(iii)		
(iv) Reimbursement arrangements	b(iv)		
(v) Loans or loan guarantees	b(v)		
(vi) Performance of services or membership or fundraising solicitations	b(vi)		
c Sharing of facilities, equipment, mailing lists, other assets, or paid employees	c		

d If the answer to any of the above is "Yes," complete the following schedule. Column (b) should always show the fair market value of the goods, other assets, or services given by the reporting organization. If the organization received less than fair market value in any transaction or sharing arrangement, show in column (d) the value of the goods, other assets, or services received:

(a) Line no.	(b) Amount involved	(c) Name of noncharitable exempt organization	(d) Description of transfers, transactions, and sharing arrangements

52a Is the organization directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ► ☐ **Yes** ☐ **No**

b If "Yes," complete the following schedule:

(a) Name of organization	(b) Type of organization	(c) Description of relationship

Form **990-EZ**

Department of the Treasury
Internal Revenue Service

Short Form
Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

► For organizations with gross receipts less than $100,000 and total assets less than $250,000 at the end of the year.

► *The organization may have to use a copy of this return to satisfy state reporting requirements.*

OMB No. 1545-1150

1999

This Form is Open to Public Inspection

A For the 1999 calendar year, OR tax year beginning , 1999, and ending ,

B Check if:
- ☐ Change of address
- ☐ Initial return
- ☐ Final return
- ☐ Amended return (required also for state reporting)

Please use IRS label or print or type. See Specific Instructions.

C Name of organization

Number and street (or P.O. box, if mail is not delivered to street address) | Room/suite

City or town, state or country, and ZIP + 4

D Employer identification number

E Telephone number

F Check ► ☐ if exemption application is pending

H Enter four-digit group exemption number (GEN)

G Accounting method: ☐ Cash ☐ Accrual ☐ Other (specify) ►

I Type of organization— ► ☐ Exempt under section 501(c)( ) ◄ (insert number) OR ► ☐ section 4947(a)(1) nonexempt charitable trust

Note: ***Section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).***

J Check ► ☐ if the organization's gross receipts are normally not more than $25,000. The organization need not file a return with the IRS; but if the organization received a Form 990 Package in the mail, the organization should file a return without financial data. **Some states require a complete return.**

K Enter the organization's 1999 gross receipts **(add back lines 5b, 6b, and 7b, to line 9)** . . . . . ► $

If $100,000 or more, the organization must file Form 990 instead of Form 990-EZ.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 32.)

Revenue	1	Contributions, gifts, grants, and similar amounts received (attach schedule of contributors)		1
	2	Program service revenue including government fees and contracts		2
	3	Membership dues and assessments		3
	4	Investment income		4
	5a	Gross amount from sale of assets other than inventory	5a	
	b	Less: cost or other basis and sales expenses	5b	
	c	Gain or (loss) from sale of assets other than inventory (line 5a less line 5b) (attach schedule)		5c
	6	Special events and activities (attach schedule):		
	a	Gross revenue (not including $ _____ of contributions reported on line 1)	6a	
	b	Less: direct expenses other than fundraising expenses	6b	
	c	Net income or (loss) from special events and activities (line 6a less line 6b)		6c
	7a	Gross sales of inventory, less returns and allowances	7a	
	b	Less: cost of goods sold	7b	
	c	Gross profit or (loss) from sales of inventory (line 7a less line 7b)		7c
	8	Other revenue (describe ► _____)		8
	9	**Total revenue** (add lines 1, 2, 3, 4, 5c, 6c, 7c, and 8) ►		9
Expenses	10	Grants and similar amounts paid (attach schedule)		10
	11	Benefits paid to or for members		11
	12	Salaries, other compensation, and employee benefits		12
	13	Professional fees and other payments to independent contractors		13
	14	Occupancy, rent, utilities, and maintenance		14
	15	Printing, publications, postage, and shipping		15
	16	Other expenses (describe ► _____)		16
	17	**Total expenses** (add lines 10 through 16) ►		17
Net Assets	18	Excess or (deficit) for the year (line 9 less line 17)		18
	19	Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)		19
	20	Other changes in net assets or fund balances (attach explanation)		20
	21	Net assets or fund balances at end of year (combine lines 18 through 20) ►		21

Part II Balance Sheets—If Total assets on line 25, column (B) are $250,000 or more, file Form 990 instead of Form 990-EZ.

(See Specific Instructions on page 36.)

		(A) Beginning of year		(B) End of year
22	Cash, savings, and investments		22	
23	Land and buildings		23	
24	Other assets (describe ► _____)		24	
25	**Total assets**		25	
26	**Total liabilities** (describe ► _____)		26	
27	**Net assets or fund balances** (line 27 of column (B) must agree with line 21)		27	

Part III Statement of Program Service Accomplishments (See Specific Instructions on page 36.)

What is the organization's primary exempt purpose? _____

Describe what was achieved in carrying out the organization's exempt purposes. In a clear and concise manner, describe the services provided, the number of persons benefited, or other relevant information for each program title.

	Expenses (Required for 501(c)(3) and (4) organizations and 4947(a)(1) trusts; optional for others.)	
28 _____ (Grants $ _____)	**28a**	
29 _____ (Grants $ _____)	**29a**	
30 _____ (Grants $ _____)	**30a**	
31 Other program services (attach schedule) . . . . . (Grants $ _____)	**31a**	
32 Total program service expenses (add lines 28a through 31a) . . . . . ▶	**32**	

Part IV List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated. See Specific Instructions on page 36.)

(A) Name and address	**(B)** Title and average hours per week devoted to position	**(C)** Compensation **(If not paid, enter -0-.)**	**(D)** Contributions to employee benefit plans & deferred compensation	**(E)** Expense account and other allowances

Part V Other Information (See Specific Instructions on page 37.)

		Yes	No
33	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity . .		
34	Were any changes made to the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes.		
35	*If the organization had income from business activities, such as those reported on lines 2, 6, and 7 (among others), but NOT reported on Form 990-T, attach a statement explaining your reason for not reporting the income on Form 990-T.*		
a	Did the organization have unrelated business gross income of $1,000 or more or 6033(e) notice, reporting, and proxy tax requirements?		
b	If "Yes," has it filed a tax return on **Form 990-T** for this year?		
36	Was there a liquidation, dissolution, termination, or substantial contraction during the year? (If "Yes," attach a statement.)		
37a	Enter amount of political expenditures, direct or indirect, as described in the instructions. ▶ **37a**		
b	Did the organization file **Form 1120-POL** for this year?		
38a	Did the organization borrow from, or make any loans to, any officer, director, trustee, or key employee OR were any such loans made in a prior year and still unpaid at the start of the period covered by this return?		
b	If "Yes," attach the schedule specified in the line 38 instructions and enter the amount involved. **38b**		
39	*501(c)(7) organizations.* Enter: **a** Initiation fees and capital contributions included on line 9 **39a**		
b	Gross receipts, included on line 9, for public use of club facilities **39b**		
40a	*501(c)(3) organizations.* Enter: Amount of tax imposed on the organization during the year under: section 4911 ▶ _____ ; section 4912 ▶ _____ ; section 4955 ▶ _____		
b	*501(c)(3) and (4) organizations.* Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach an explanation.		
c	Amount of tax imposed on organization managers or disqualified persons during the year under 4912, 4955, and 4958 ▶ _____		
d	Enter: Amount of tax on line 40c, above, reimbursed by the organization . . . . . ▶ _____		
41	List the states with which a copy of this return is filed. ▶ _____		
42	The books are in care of ▶ _____ Telephone no. ▶ (____) _____ Located at ▶ _____ ZIP + 4 ▶ _____		
43	*Section 4947(a)(1) nonexempt charitable trusts filing Form 990-EZ in lieu of* ***Form 1041*****—**Check here ▶ ☐ and enter the amount of tax-exempt interest received or accrued during the tax year . . . ▶ **43**		

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge. (**Important:** See General Instruction U, page 14.)

Signature of officer _____ Date _____ Type or print name and title. _____

Paid Preparer's Use Only

Preparer's signature ▶		Check if self-employed ▶ ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed) and address ▶		EIN ▶	
		ZIP + 4 ▶	

Form **990-PF**

Department of the Treasury
Internal Revenue Service

Return of Private Foundation
or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation

Note: *The organization may be able to use a copy of this return to satisfy state reporting requirements.*

OMB No. 1545-0052

1999

For calendar year 1999, or tax year beginning , 1999, and ending

Use the IRS label. Otherwise, please print or type. See Specific Instructions.

Name of organization

Number and street (or P.O. box number if mail is not delivered to street address) | Room/suite

City or town, state, and ZIP + 4

A Employer identification number

B Telephone number (see page 9 of the instructions) ( )

C If exemption application is pending, check here ▶ ☐

D 1. Foreign organizations, check here . ▶ ☐

2. Organizations meeting the 85% test, check here and attach computation . ▶ ☐

E If private foundation status was terminated under section 507(b)(1)(A), check here . ▶ ☐

F If the foundation is in a 60-month termination under section 507(b)(1)(B), check here . ▶ ☐

G If address changed, check here . . ▶ ☐

H Check type of organization: ☐ Section 501(c)(3) exempt private foundation ☐ Section 4947(a)(1) nonexempt charitable trust ☐ Other taxable private foundation

I Fair market value of all assets at end of year *(from Part II, col. (c), line 16)* ▶ $

J Accounting method: ☐ Cash ☐ Accrual ☐ Other (specify) .....
(Part I, column (d) must be on cash basis.)

Part I **Analysis of Revenue and Expenses** *(The total of amounts in columns (b), (c), and (d) may not necessarily equal the amounts in column (a) (see page 9 of the instructions).)*

		(a) Revenue and expenses per books	(b) Net investment income	(c) Adjusted net income	(d) Disbursements for charitable purposes (cash basis only)
Revenue	1 Contributions, gifts, grants, etc., received (attach schedule)				
	2 Contributions from split-interest trusts				
	3 Interest on savings and temporary cash investments				
	4 Dividends and interest from securities				
	5a Gross rents				
	b (Net rental income or (loss) _____)				
	6 Net gain or (loss) from sale of assets not on line 10				
	7 Capital gain net income (from Part IV, line 2)				
	8 Net short-term capital gain				
	9 Income modifications				
	10a Gross sales less returns and allowances				
	b Less: Cost of goods sold				
	c Gross profit or (loss) (attach schedule)				
	11 Other income (attach schedule)				
	12 **Total.** Add lines 1 through 11				
Operating and Administrative Expenses	13 Compensation of officers, directors, trustees, etc.				
	14 Other employee salaries and wages				
	15 Pension plans, employee benefits				
	16a Legal fees (attach schedule)				
	b Accounting fees (attach schedule)				
	c Other professional fees (attach schedule)				
	17 Interest				
	18 Taxes (attach schedule) (see page 12 of the instructions)				
	19 Depreciation (attach schedule) and depletion				
	20 Occupancy				
	21 Travel, conferences, and meetings				
	22 Printing and publications				
	23 Other expenses (attach schedule)				
	24 **Total operating and administrative expenses.** Add lines 13 through 23				
	25 Contributions, gifts, grants paid				
	26 **Total expenses and disbursements.** Add lines 24 and 25				
	27 **Subtract line 26 from line 12:**				
	a **Excess of revenue over expenses and disbursements**				
	b **Net investment income** (if negative, enter -0-)				
	c **Adjusted net income** (if negative, enter -0-)				

Part II Balance Sheets Attached schedules and amounts in the description column should be for end-of-year amounts only. (See instructions.)

		Beginning of year	End of year	
		(a) Book Value	**(b)** Book Value	**(c)** Fair Market Value
Assets	**1** Cash—non-interest-bearing			
	2 Savings and temporary cash investments			
	3 Accounts receivable ►			
	Less: allowance for doubtful accounts ►			
	4 Pledges receivable ►			
	Less: allowance for doubtful accounts ►			
	5 Grants receivable			
	6 Receivables due from officers, directors, trustees, and other disqualified persons (attach schedule) (see page 14 of the instructions)			
	7 Other notes and loans receivable (attach schedule) ►			
	Less: allowance for doubtful accounts ►			
	8 Inventories for sale or use			
	9 Prepaid expenses and deferred charges			
	10a Investments-U.S. and state government obligations (attach schedule)			
	b Investments—corporate stock (attach schedule)			
	c Investments—corporate bonds (attach schedule)			
	11 Investments-land, buildings, and equipment: basis ►			
	Less: accumulated depreciation (attach schedule) ►			
	12 Investments—mortgage loans			
	13 Investments—other (attach schedule)			
	14 Land, buildings, and equipment: basis ►			
	Less: accumulated depreciation (attach schedule) ►			
	15 Other assets (describe ►)			
	16 **Total assets** (to be completed by all filers—see page 15 of the instructions. Also, see page 1, item I)			
Liabilities	**17** Accounts payable and accrued expenses			
	18 Grants payable			
	19 Deferred revenue			
	20 Loans from officers, directors, trustees, and other disqualified persons			
	21 Mortgages and other notes payable (attach schedule)			
	22 Other liabilities (describe ►)			
	23 **Total liabilities** (add lines 17 through 22)			
Net Assets or Fund Balances	**Organizations that follow SFAS 117, check here ► ☐ and complete lines 24 through 26 and lines 30 and 31.**			
	24 Unrestricted			
	25 Temporarily restricted			
	26 Permanently restricted			
	Organizations that do not follow SFAS 117, check here ► ☐ and complete lines 27 through 31.			
	27 Capital stock, trust principal, or current funds			
	28 Paid-in or capital surplus, or land, bldg., and equipment fund			
	29 Retained earnings, accumulated income, endowment, or other funds			
	30 **Total net assets or fund balances** (see page 16 of the instructions)			
	31 **Total liabilities and net assets/fund balances** (see page 16 of the instructions)			

Part III Analysis of Changes in Net Assets or Fund Balances

1 Total net assets or fund balances at beginning of year—Part II, column (a), line 30 (must agree with end-of-year figure reported on prior year's return)	**1**	
2 Enter amount from Part I, line 27a	**2**	
3 Other increases not included in line 2 (itemize) ►	**3**	
4 Add lines 1, 2, and 3	**4**	
5 Decreases not included in line 2 (itemize) ►	**5**	
6 Total net assets or fund balances at end of year (line 4 minus line 5)—Part II, column (b), line 30	**6**	

Part IV Capital Gains and Losses for Tax on Investment Income

	(a) List and describe the kind(s) of property sold (e.g., real estate, 2-story brick warehouse; or common stock, 200 shs. MLC Co.)	(b) How acquired P—Purchase D—Donation	(c) Date acquired (mo., day, yr.)	(d) Date sold (mo., day, yr.)
1a				
b				
c				
d				
e				

	(e) Gross sales price	(f) Depreciation allowed (or allowable)	(g) Cost or other basis plus expense of sale	(h) Gain or (loss) (e) plus (f) minus (g)
a				
b				
c				
d				
e				

Complete only for assets showing gain in column (h) and owned by the foundation on 12/31/69

	(i) F.M.V. as of 12/31/69	(j) Adjusted basis as of 12/31/69	(k) Excess of col. (i) over col. (j), if any	(l) Gains (Col. (h) gain minus col. (k), but not less than -0-) **or** Losses (from col.(h))
a				
b				
c				
d				
e				

2	Capital gain net income or (net capital loss). { If gain, also enter in Part I, line 7 / If (loss), enter -0- in Part I, line 7 }	2	
3	Net short-term capital gain or (loss) as defined in sections 1222(5) and (6): If gain, also enter in Part I, line 8, column (c) (see pages 11 and 16 of the instructions). If (loss), enter -0- in Part I, line 8	3	

Part V Qualification Under Section 4940(e) for Reduced Tax on Net Investment Income

(For optional use by domestic private foundations subject to the section 4940(a) tax on net investment income.)

If section 4940(d)(2) applies, leave this part blank.

Was the organization liable for the section 4942 tax on the distributable amount of any year in the base period? ☐ Yes ☐ No
If "Yes," the organization does not qualify under section 4940(e). Do not complete this part.

1 Enter the appropriate amount in each column for each year; see page 16 of the instructions before making any entries.

(a) Base period years Calendar year (or tax year beginning in)	(b) Adjusted qualifying distributions	(c) Net value of noncharitable-use assets	(d) Distribution ratio (col. (b) divided by col. (c))
1998			
1997			
1996			
1995			
1994			

2	**Total** of line 1, column (d)	2	
3	Average distribution ratio for the 5-year base period—divide the total on line 2 by 5, or by the number of years the foundation has been in existence if less than 5 years	3	
4	Enter the net value of noncharitable-use assets for 1999 from Part X, line 5	4	
5	Multiply line 4 by line 3	5	
6	Enter 1% of net investment income (1% of Part I, line 27b)	6	
7	Add lines 5 and 6	7	
8	Enter qualifying distributions from Part XII, line 4	8	

If line 8 is equal to or greater than line 7, check the box in Part VI, line 1b, and complete that part using a 1% tax rate. See the Part VI instructions on page 16.

Part VI Excise Tax Based on Investment Income (Section 4940(a), 4940(b), 4940(e), or 4948—see page 16 of the instructions)

1a	Exempt operating foundations described in section 4940(d)(2), check here ▶ ☐ and enter "N/A" on line 1. Date of ruling letter: ..... **(attach copy of ruling letter if necessary- see instructions)**		
b	Domestic organizations that meet the section 4940(e) requirements in Part V, check here ▶ ☐ and enter 1% of Part I, line 27b	1	
c	All other domestic organizations enter 2% of line 27b. Exempt foreign organizations enter 4% of Part I, line 12, col. (b)		
2	Tax under section 511 (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)	2	
3	Add lines 1 and 2	3	
4	Subtitle A (income) tax (domestic section 4947(a)(1) trusts and taxable foundations only. Others enter -0-)	4	
5	**Tax based on investment income.** Subtract line 4 from line 3. If zero or less, enter -0-	5	
6	Credits/Payments:		
a	1999 estimated tax payments and 1998 overpayment credited to 1999 — 6a		
b	Exempt foreign organizations—tax withheld at source — 6b		
c	Tax paid with application for extension of time to file (Form 2758) — 6c		
d	Backup withholding erroneously withheld — 6d		
7	Total credits and payments. Add lines 6a through 6d	7	
8	Enter any **PENALTY** for underpayment of estimated tax. Check here ☐ if Form 2220 is attached	8	
9	**TAX DUE.** If the total of lines 5 and 8 is more than line 7, enter **AMOUNT OWED** ▶	9	
10	**OVERPAYMENT.** If line 7 is more than the total of lines 5 and 8, enter the **AMOUNT OVERPAID** ▶	10	
11	Enter the amount of line 10 to be: **Credited to 2000 estimated tax** ▶ **Refunded** ▶	11	

Part VII-A Statements Regarding Activities

			Yes	No
1a	During the tax year, did the organization attempt to influence any national, state, or local legislation or did it participate or intervene in any political campaign?	1a		
b	Did it spend more than $100 during the year (either directly or indirectly) for political purposes (see page 17 of the instructions for definition)?	1b		
	*If the answer is "Yes" to **1a** or **1b,** attach a detailed description of the activities and copies of any materials published or distributed by the organization in connection with the activities.*			
c	Did the organization file **Form 1120-POL** for this year?	1c		
d	Enter the amount (if any) of tax on political expenditures (section 4955) imposed during the year: **(1)** On the organization. ▶ $ _____ **(2)** On organization managers. ▶ $ _____			
e	Enter the reimbursement (if any) paid by the organization during the year for political expenditure tax imposed on organization managers. ▶ $ _____			
2	Has the organization engaged in any activities that have not previously been reported to the IRS? *If "Yes," attach a detailed description of the activities.*	2		
3	Has the organization made any changes, not previously reported to the IRS, in its governing instrument, articles of incorporation, or bylaws, or other similar instruments? *If "Yes," attach a conformed copy of the changes*	3		
4a	Did the organization have unrelated business gross income of $1,000 or more during the year?	4a		
b	If "Yes," has it filed a tax return on **Form 990-T** for this year?	4b		
5	Was there a liquidation, termination, dissolution, or substantial contraction during the year? *If "Yes," attach the statement required by General Instruction T.*	5		
6	Are the requirements of section 508(e) (relating to sections 4941 through 4945) satisfied either: • By language in the governing instrument; or • By state legislation that effectively amends the governing instrument so that no mandatory directions that conflict with the state law remain in the governing instrument?	6		
7	Did the organization have at least $5,000 in assets at any time during the year? *If "Yes," complete Part II, col. (c), and Part XV.*	7		
8a	Enter the states to which the foundation reports or with which it is registered (see page 18 of the instructions) ▶			
b	If the answer is "Yes" to line 7, has the organization furnished a copy of Form 990-PF to the Attorney General (or designate) of each state as required by General Instruction G? *If "No," attach explanation*	8b		
9	Is the organization claiming status as a private operating foundation within the meaning of section 4942(j)(3) or 4942(j)(5) for calendar year 1999 or the taxable year beginning in 1999 (see instructions for Part XIV on page 23)? *If "Yes," complete Part XIV*	9		
10	Did any persons become substantial contributors during the tax year? *If "Yes," attach a schedule listing their names and addresses.*	10		
11a	Did anyone request to see either the organization's annual return or its exemption application (or both)?	11a		
b	If "Yes," did the organization comply pursuant to the instructions? (See General Instruction Q.)	11b		

12 The books are in care of ▶ ..... Telephone no. ▶ .....
Located at ▶ ..... ZIP+4 ▶ .....

13 Section 4947(a)(1) nonexempt charitable trusts filing Form 990-PF in lieu of **Form 1041**—Check here ▶ ☐ and enter the amount of tax-exempt interest received or accrued during the year ▶ **13**

Part VII-B Statements Regarding Activities for Which Form 4720 May Be Required

File Form 4720 if any item is checked in the "Yes" column, unless an exception applies.

		Yes	No
1	Self-dealing (section 4941):		
a	During the year did the organization (either directly or indirectly):		
	(1) Engage in the sale or exchange, or leasing of property with a disqualified person? ☐ Yes ☐ No		
	(2) Borrow money from, lend money to, or otherwise extend credit to (or accept it from) a disqualified person? ☐ Yes ☐ No		
	(3) Furnish goods, services, or facilities to (or accept them from) a disqualified person? ☐ Yes ☐ No		
	(4) Pay compensation to, or pay or reimburse the expenses of, a disqualified person? ☐ Yes ☐ No		
	(5) Transfer any income or assets to a disqualified person (or make any of either available for the benefit or use of a disqualified person)? ☐ Yes ☐ No		
	(6) Agree to pay money or property to a government official? (**Exception.** Check "No" if the organization agreed to make a grant to or to employ the official for a period after termination of government service, if terminating within 90 days.) ☐ Yes ☐ No		
b	If any answer is "Yes" to 1a(1)–(6), did ANY of the acts fail to qualify under the exceptions described in Regulations section 53.4941(d)-3 or in a current notice regarding disaster assistance (see page 18 of the instructions)? **1b**		
	Organizations relying on a current notice regarding disaster assistance check here ▶ ☐		
c	Did the organization engage in a prior year in any of the acts described in 1a, other than excepted acts, that were not corrected before the first day of the tax year beginning in 1999? **1c**		
2	Taxes on failure to distribute income (section 4942) (does not apply for years the organization was a private operating foundation defined in section 4942(j)(3) or 4942(j)(5)):		
a	At the end of tax year 1999, did the organization have any undistributed income (lines 6d and 6e, Part XIII) for tax year(s) beginning before 1999? ☐ Yes ☐ No		
	If "Yes," list the years ▶ 19 ____ , 19 ____ , 19 ____ , 19 ____		
b	Are there any years listed in 2a for which the organization is **NOT** applying the provisions of section 4942(a)(2) (relating to incorrect valuation of assets) to the year's undistributed income? (If applying section 4942(a)(2) to ALL years listed, answer "No" and attach statement—see page 18 of the instructions.) **2b**		
c	If the provisions of section 4942(a)(2) are being applied to ANY of the years listed in 2a, list the years here. ▶ 19 ____ , 19 ____ , 19 ____ , 19 ____		
3	Taxes on excess business holdings (section 4943):		
a	Did the organization hold more than a 2% direct or indirect interest in any business enterprise at any time during the year? ☐ Yes ☐ No		
b	If "Yes," did it have excess business holdings in 1999 as a result of **(1)** any purchase by the organization or disqualified persons after May 26, 1969; **(2)** the lapse of the 5-year period (or longer period approved by the Commissioner under section 4943(c)(7)) to dispose of holdings acquired by gift or bequest; or **(3)** the lapse of the 10-, 15-, or 20-year first phase holding period? *(Use Schedule C, Form 4720, to determine if the organization had excess business holdings in 1999.)* **3b**		
4	Taxes on investments that jeopardize charitable purposes (section 4944):		
a	Did the organization invest during the year any amount in a manner that would jeopardize its charitable purposes? **4a**		
b	Did the organization make any investment in a prior year (but after December 31, 1969) that could jeopardize its charitable purpose that had not been removed from jeopardy before the first day of the tax year beginning in 1999? **4b**		
5	Taxes on taxable expenditures (section 4945) and political expenditures (section 4955):		
a	During the year did the organization pay or incur any amount to:		
	(1) Carry on propaganda, or otherwise attempt to influence legislation (section 4945(e))? ☐ Yes ☐ No		
	(2) Influence the outcome of any specific public election (see section 4955); or to carry on, directly or indirectly, any voter registration drive? ☐ Yes ☐ No		
	(3) Provide a grant to an individual for travel, study, or other similar purposes? ☐ Yes ☐ No		
	(4) Provide a grant to an organization other than a charitable, etc., organization described in section 509(a)(1), (2), or (3), or section 4940(d)(2)? ☐ Yes ☐ No		
	(5) Provide for any purpose other than religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals? ☐ Yes ☐ No		
b	If any answer is "Yes" to 5a(1)–(5), did ANY of the transactions fail to qualify under the exceptions described in Regulations section 53.4945 or in a current notice regarding disaster assistance (see page 19 of the instructions)? **5b**		
	Organizations relying on a current notice regarding disaster assistance check here ▶ ☐		
c	If the answer is "Yes" to question 5a(4), does the organization claim exemption from the tax because it maintained expenditure responsibility for the grant? ☐ Yes ☐ No		
	If "Yes," attach the statement required by Regulations section 53.4945-5(d).		

Part VIII Information About Officers, Directors, Trustees, Foundation Managers, Highly Paid Employees, and Contractors

1 List all officers, directors, trustees, foundation managers and their compensation (see page 19 of the instructions):

(a) Name and address	(b) Title, and average hours per week devoted to position	(c) Compensation (If not paid, enter -0-)	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances

2 Compensation of five highest-paid employees (other than those included on line 1—see page 19 of the instructions). If none, enter "NONE."

(a) Name and address of each employee paid more than $50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans and deferred compensation	(e) Expense account, other allowances

Total number of other employees paid over $50,000 . . . . . ▶

3 Five highest-paid independent contractors for professional services—(see page 19 of the instructions). If none, enter "NONE."

(a) Name and address of each person paid more than $50,000	(b) Type of service	(c) Compensation

Total number of others receiving over $50,000 for professional services . . . . . ▶

Part IX-A Summary of Direct Charitable Activities

List the foundation's four largest direct charitable activities during the tax year. Include relevant statistical information such as the number of organizations and other beneficiaries served, conferences convened, research papers produced, etc.	Expenses
1	
2	
3	
4	

Part IX-B Summary of Program-Related Investments (see page 20 of the instructions)

Describe any program-related investments made by the foundation during the tax year.	Amount
1	
2	
3	

Part X Minimum Investment Return (All domestic foundations must complete this part. Foreign foundations, see page 20 of the instructions.)

1	Fair market value of assets not used (or held for use) directly in carrying out charitable, etc., purposes:		
a	Average monthly fair market value of securities	1a	
b	Average of monthly cash balances	1b	
c	Fair market value of all other assets (see page 21 of the instructions)	1c	
d	**Total** (add lines 1a, b, and c)	1d	
e	Reduction claimed for blockage or other factors reported on lines 1a and 1c (attach detailed explanation) — 1e		
2	Acquisition indebtedness applicable to line 1 assets	2	
3	Subtract line 2 from line 1d	3	
4	Cash deemed held for charitable activities. Enter 1½% of line 3 (for greater amount, see page 21 of the instructions)	4	
5	**Net value of noncharitable-use assets.** Subtract line 4 from line 3. Enter here and on Part V, line 4	5	
6	**Minimum investment return.** Enter 5% of line 5	6	

Part XI Distributable Amount (see page 21 of the instructions) (Section 4942(j)(3) and (j)(5) private operating foundations and certain foreign organizations check here ▶ ☐ and do not complete this part.)

1	Minimum investment return from Part X, line 6	1	
2a	Tax on investment income for 1999 from Part VI, line 5 — 2a		
b	Income tax for 1999. (This does not include the tax from Part VI.) — 2b		
c	Add lines 2a and 2b	2c	
3	Distributable amount before adjustments. Subtract line 2c from line 1	3	
4a	Recoveries of amounts treated as qualifying distributions — 4a		
b	Income distributions from section 4947(a)(2) trusts — 4b		
c	Add lines 4a and 4b	4c	
5	Add lines 3 and 4c	5	
6	Deduction from distributable amount (see page 22 of the instructions)	6	
7	**Distributable amount** as adjusted. Subtract line 6 from line 5. Enter here and on Part XIII, line 1	7	

Part XII Qualifying Distributions (see page 22 of the instructions)

1	Amounts paid (including administrative expenses) to accomplish charitable, etc., purposes:		
a	Expenses, contributions, gifts, etc.—total from Part I, column (d), line 26	1a	
b	Program-related investments—total of lines 1-3 of Part IX-B	1b	
2	Amounts paid to acquire assets used (or held for use) directly in carrying out charitable, etc., purposes	2	
3	Amounts set aside for specific charitable projects that satisfy the:		
a	Suitability test (prior IRS approval required)	3a	
b	Cash distribution test (attach the required schedule)	3b	
4	**Qualifying distributions.** Add lines 1a through 3b. Enter here and on Part V, line 8, and Part XIII, line 4	4	
5	Organizations that qualify under section 4940(e) for the reduced rate of tax on net investment income. Enter 1% of Part I, line 27b (see page 22 of the instructions)	5	
6	**Adjusted qualifying distributions.** Subtract line 5 from line 4	6	

Note: *The amount on line 6 will be used in Part V, column (b), in subsequent years when calculating whether the foundation qualifies for the section 4940(e) reduction of tax in those years.*

Part XIII Undistributed Income (see page 22 of the instructions)

	(a) Corpus	(b) Years prior to 1998	(c) 1998	(d) 1999
1 Distributable amount for 1999 from Part XI, line 7				
2 Undistributed income, if any, as of the end of 1998:				
a Enter amount for 1998 only				
b Total for prior years: 19___,19___,19___				
3 Excess distributions carryover, if any, to 1999:				
a From 1994				
b From 1995				
c From 1996				
d From 1997				
e From 1998				
f **Total** of lines 3a through e				
4 Qualifying distributions for 1999 from Part XII, line 4: ▶ $ _____				
a Applied to 1998, but not more than line 2a				
b Applied to undistributed income of prior years (Election required—see page 23 of the instructions)				
c Treated as distributions out of corpus (Election required—see page 23 of the instructions)				
d Applied to 1999 distributable amount				
e Remaining amount distributed out of corpus				
5 Excess distributions carryover applied to 1999 *(If an amount appears in column (d), the same amount must be shown in column (a).)*				
6 **Enter the net total of each column as indicated below:**				
a Corpus. Add lines 3f, 4c, and 4e. Subtract line 5				
b Prior years' undistributed income. Subtract line 4b from line 2b				
c Enter the amount of prior years' undistributed income for which a notice of deficiency has been issued, or on which the section 4942(a) tax has been previously assessed				
d Subtract line 6c from line 6b. Taxable amount—see page 23 of the instructions				
e Undistributed income for 1998. Subtract line 4a from line 2a. Taxable amount—see page 23 of the instructions				
f Undistributed income for 1999. Subtract lines 4d and 5 from line 1. This amount must be distributed in 2000				
7 Amounts treated as distributions out of corpus to satisfy requirements imposed by section 170(b)(1)(E) or 4942(g)(3) (see page 23 of the instructions)				
8 Excess distributions carryover from 1994 not applied on line 5 or line 7 (see page 23 of the instructions)				
9 **Excess distributions carryover to 2000.** Subtract lines 7 and 8 from line 6a				
10 Analysis of line 9:				
a Excess from 1995				
b Excess from 1996				
c Excess from 1997				
d Excess from 1998				
e Excess from 1999				

Part XIV Private Operating Foundations (see page 24 of the instructions and Part VII-A, question 9)

1a If the foundation has received a ruling or determination letter that it is a private operating foundation, and the ruling is effective for 1999, enter the date of the ruling . . . . ▶

b Check box to indicate whether the organization is a private operating foundation described in section ☐ 4942(j)(3) or ☐ 4942(j)(5)

	Tax year	Prior 3 years			
	(a) 1999	**(b)** 1998	**(c)** 1997	**(d)** 1996	**(e) Total**
2a Enter the lesser of the adjusted net income from Part I or the minimum investment return from Part X for each year listed					
b 85% of line 2a					
c Qualifying distributions from Part XII, line 4 for each year listed					
d Amounts included in line 2c not used directly for active conduct of exempt activities					
e Qualifying distributions made directly for active conduct of exempt activities. Subtract line 2d from line 2c					
3 Complete 3a, b, or c for the alternative test relied upon: **a** "Assets" alternative test—enter: **(1)** Value of all assets					
(2) Value of assets qualifying under section 4942(j)(3)(B)(i)					
b "Endowment" alternative test— Enter ⅔ of minimum investment return shown in Part X, line 6 for each year listed					
c "Support" alternative test—enter: **(1)** Total support other than gross investment income (interest, dividends, rents, payments on securities loans (section 512(a)(5)), or royalties)					
(2) Support from general public and 5 or more exempt organizations as provided in section 4942(j)(3)(B)(iii)					
(3) Largest amount of support from an exempt organization					
(4) Gross investment income					

Part XV Supplementary Information (Complete this part only if the organization had $5,000 or more in assets at any time during the year—see page 24 of the instructions.)

1 Information Regarding Foundation Managers:

a List any managers of the foundation who have contributed more than 2% of the total contributions received by the foundation before the close of any tax year (but only if they have contributed more than $5,000). (See section 507(d)(2).)

b List any managers of the foundation who own 10% or more of the stock of a corporation (or an equally large portion of the ownership of a partnership or other entity) of which the foundation has a 10% or greater interest.

2 Information Regarding Contribution, Grant, Gift, Loan, Scholarship, etc., Programs:

Check here ▶ ☐ if the organization only makes contributions to preselected charitable organizations and does not accept unsolicited requests for funds. If the organization makes gifts, grants, etc. (see page 24 of the instructions) to individuals or organizations under other conditions, complete items 2a, b, c, and d.

a The name, address, and telephone number of the person to whom applications should be addressed:

b The form in which applications should be submitted and information and materials they should include:

c Any submission deadlines:

d Any restrictions or limitations on awards, such as by geographical areas, charitable fields, kinds of institutions, or other factors:

Part XV Supplementary Information (continued)

3 Grants and Contributions Paid During the Year or Approved for Future Payment

Recipient Name and address (home or business)	If recipient is an individual, show any relationship to any foundation manager or substantial contributor	Foundation status of recipient	Purpose of grant or contribution	Amount
a *Paid during the year*				
Total . . . . . ▶ **3a**				
b *Approved for future payment*				
Total . . . . . ▶ **3b**				

Part XVI-A Analysis of Income-Producing Activities

Enter gross amounts unless otherwise indicated.	Unrelated business income		Excluded by section 512, 513, or 514		(e)
	(a) Business code	(b) Amount	(c) Exclusion code	(d) Amount	Related or exempt function income (See page 24 of the instructions.)
1 Program service revenue:					
a					
b					
c					
d					
e					
f					
g Fees and contracts from government agencies					
2 Membership dues and assessments					
3 Interest on savings and temporary cash investments					
4 Dividends and interest from securities					
5 Net rental income or (loss) from real estate:					
a Debt-financed property					
b Not debt-financed property					
6 Net rental income or (loss) from personal property					
7 Other investment income					
8 Gain or (loss) from sales of assets other than inventory					
9 Net income or (loss) from special events					
10 Gross profit or (loss) from sales of inventory					
11 Other revenue: **a**					
b					
c					
d					
e					
12 Subtotal. Add columns (b), (d), and (e)					
13 Total. Add line 12, columns (b), (d), and (e) ▶ **13**					

(See worksheet in line 13 instructions on page 25 to verify calculations.)

Part XVI-B Relationship of Activities to the Accomplishment of Exempt Purposes

Line No. ▼	Explain below how each activity for which income is reported in column (e) of Part XVI-A contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes). (See page 25 of the instructions.)

Part XVII Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

		Yes	No
1	Did the organization directly or indirectly engage in any of the following with any other organization described in section 501(c) of the Code (other than section 501(c)(3) organizations) or in section 527, relating to political organizations?		
a	Transfers from the reporting organization to a noncharitable exempt organization of:		
	(1) Cash	1a(1)	
	(2) Other assets	1a(2)	
b	Other Transactions:		
	(1) Sales of assets to a noncharitable exempt organization	1b(1)	
	(2) Purchases of assets from a noncharitable exempt organization	1b(2)	
	(3) Rental of facilities, equipment, or other assets	1b(3)	
	(4) Reimbursement arrangements	1b(4)	
	(5) Loans or loan guarantees	1b(5)	
	(6) Performance of services or membership or fundraising solicitations	1b(6)	
c	Sharing of facilities, equipment, mailing lists, other assets, or paid employees	1c	

d If the answer to any of the above is "Yes," complete the following schedule. Column **(b)** should always show the fair market value of the goods, other assets, or services given by the reporting organization. If the organization received less than fair market value in any transaction or sharing arrangement, show in column **(d)** the value of the goods, other assets, or services received.

(a) Line no.	**(b)** Amount involved	**(c)** Name of noncharitable exempt organization	**(d)** Description of transfers, transactions, and sharing arrangements

2a Is the organization directly or indirectly affiliated with, or related to, one or more tax-exempt organizations described in section 501(c) of the Code (other than section 501(c)(3)) or in section 527? ☐ Yes ☐ No

b If "Yes," complete the following schedule.

(a) Name of organization	**(b)** Type of organization	**(c)** Description of relationship

Part XVIII Public Inspection (see page 26 of the instructions and General Instruction Q)

1 Enter the date the notice of availability of the annual return appeared in a newspaper ►

2 Enter the name of the newspaper ►

3 Check here ► ☐ to indicate that you have attached a copy of the newspaper notice required by the instructions on page 26. (If the notice is not attached, the return will be considered incomplete.)

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer or fiduciary) is based on all information of which preparer has any knowledge.

► Signature of officer or trustee | Date | ► Title

Paid Preparer's Use Only

Preparer's signature ►	Date	Check if self-employed ► ☐	Preparer's SSN or PTIN
Firm's name (or yours if self-employed) and address ►		EIN ►	
		ZIP+4 ►	

Form **990-T**

Department of the Treasury
Internal Revenue Service

Exempt Organization Business Income Tax Return
(and proxy tax under section 6033(e))

For calendar year 1999 or other tax year beginning ---------- **, and ending** ----------

► **See separate instructions.**

OMB No. 1545-0687

1999

A ☐ Check box if address changed	**Please Print or Type** Name of organization	**D Employer identification number** (Employees' trust, see instructions for Block D on page 6.)
B Exempt under section ☐ 501( )( ) ☐ 408(e) ☐ 220(e) ☐ 408A ☐ 530(a) ☐ 529(a)	Number, street, and room or suite no. (If a P.O. box, see page 6 of instructions.)	**E NEW unrelated bus. activity codes** (See instructions for Block E on page 6.)
C Book value of all assets at end of year	City or town, state, and ZIP code	

F Group exemption number (see instructions for Block F on page 6) ►

G Check organization type ► ☐ 501(c) corporation ☐ 501(c) trust ☐ 401(a) trust ☐ Other trust

H Describe the organization's primary unrelated business activity. ►

I During the tax year, was the corporation a subsidiary in an affiliated group or a parent-subsidiary controlled group? . . ► ☐ Yes ☐ No
If "Yes," enter the name and identifying number of the parent corporation. ►

J The books are in care of ► Telephone number ► ( )

Part I Unrelated Trade or Business Income

			(A) Income	(B) Expenses	(C) Net
1a	Gross receipts or sales				
b	Less returns and allowances	**c** Balance ► **1c**			
2	Cost of goods sold (Schedule A, line 7)	**2**			
3	Gross profit (subtract line 2 from line 1c)	**3**			
4a	Capital gain net income (attach Schedule D)	**4a**			
b	Net gain (loss) (Form 4797, Part II, line 18) (attach Form 4797)	**4b**			
c	Capital loss deduction for trusts	**4c**			
5	Income (loss) from partnerships and S corporations (attach statement)	**5**			
6	Rent income (Schedule C)	**6**			
7	Unrelated debt-financed income (Schedule E)	**7**			
8	Interest, annuities, royalties, and rents from controlled organizations (see page 8 of instructions)	**8**			
9	Investment income of a section 501(c)(7), (9), or (17) organization (Schedule G)	**9**			
10	Exploited exempt activity income (Schedule I)	**10**			
11	Advertising income (Schedule J)	**11**			
12	Other income (see page 8 of the instructions—attach schedule)	**12**			
13	**TOTAL** (combine lines 3 through 12)	**13**			

Part II Deductions Not Taken Elsewhere (See page 9 of the instructions for limitations on deductions.)
(Except for contributions, deductions must be directly connected with the unrelated business income.)

14	Compensation of officers, directors, and trustees (Schedule K)	**14**	
15	Salaries and wages	**15**	
16	Repairs and maintenance	**16**	
17	Bad debts	**17**	
18	Interest (attach schedule)	**18**	
19	Taxes and licenses	**19**	
20	Charitable contributions (see page 10 of the instructions for limitation rules)	**20**	
21	Depreciation (attach Form 4562) **21**		
22	Less depreciation claimed on Schedule A and elsewhere on return **22a**	**22b**	
23	Depletion	**23**	
24	Contributions to deferred compensation plans	**24**	
25	Employee benefit programs	**25**	
26	Excess exempt expenses (Schedule I)	**26**	
27	Excess readership costs (Schedule J)	**27**	
28	Other deductions (attach schedule)	**28**	
29	**Total deductions** (add lines 14 through 28)	**29**	
30	Unrelated business taxable income before net operating loss deduction (subtract line 29 from line 13)	**30**	
31	Net operating loss deduction	**31**	
32	Unrelated business taxable income before specific deduction (subtract line 31 from line 30)	**32**	
33	Specific deduction (Generally $1,000, but see line 33 instructions for exceptions)	**33**	
34	**Unrelated business taxable income** (subtract line 33 from line 32). If line 33 is greater than line 32, enter the smaller of zero or line 32	**34**	

Part III Tax Computation

35	**Organizations Taxable as Corporations** (see instructions for tax computation on page 12). Controlled group members (sections 1561 and 1563)—check here ☐. **See instructions** and:			
a	Enter your share of the $50,000, $25,000, and $9,925,000 taxable income brackets (in that order): (1) $ (2) $ (3) $			
b	Enter organization's share of: (1) additional 5% tax (not more than $11,750) $			
	(2) additional 3% tax (not more than $100,000) $			
c	Income tax on the amount on line 34 ▶		35c	
36	**Trusts Taxable at Trust Rates** (see instructions for tax computation on page 12) Income tax on the amount on line 34 from: ☐ Tax rate schedule or ☐ Schedule D (Form 1041) ▶		36	
37	**Proxy tax** (see page 12 of the instructions) ▶		37	
38	**Total** (add line 37 to line 35c or 36, whichever applies)		38	

Part IV Tax and Payments

39a	Foreign tax credit (corporations attach Form 1118; trusts attach Form 1116)	39a		
b	Other credits. (see page 13 of the instructions)	39b		
c	General business credit—Check if from: ☐ Form 3800 or ☐ Form (specify) ▶	39c		
d	Credit for prior year minimum tax (attach Form 8801 or 8827)	39d		
e	**Total credits** (add lines 39a through 39d)		39e	
40	Subtract line 39e from line 38		40	
41	Recapture taxes. Check if from: ☐ Form 4255 ☐ Form 8611		41	
42	Alternative minimum tax		42	
43	**Total tax** (add lines 40, 41, and 42)		43	
44	**Payments: a** 1998 overpayment credited to 1999	44a		
b	1999 estimated tax payments	44b		
c	Tax deposited with Form 7004 or Form 2758	44c		
d	Foreign organizations—Tax paid or withheld at source (see instructions)	44d		
e	Backup withholding (see instructions)	44e		
f	Other credits and payments (see instructions)	44f		
45	**Total payments** (add lines 44a through 44f)		45	
46	Estimated tax penalty (see page 3 of the instructions). Check ▶ ☐ if Form 2220 is attached		46	
47	**Tax due—**If line 45 is less than the total of lines 43 and 46, enter amount owed ▶		47	
48	**Overpayment—**If line 45 is larger than the total of lines 43 and 46, enter amount overpaid ▶		48	
49	Enter the amount of line 48 you want: **Credited to 2000 estimated tax** ▶ **Refunded** ▶		49	

Part V Statements Regarding Certain Activities and Other Information (See instructions on page 14.)

		Yes	No
1	At any time during the 1999 calendar year, did the organization have an interest in or a signature or other authority over a financial account in a foreign country (such as a bank account, securities account, or other financial account)?		
	If "Yes," the organization may have to file Form TD F 90-22.1. If "Yes," enter the name of the foreign country here ▶		
2	During the tax year, did the organization receive a distribution from, or was it the grantor of, or transferor to, a foreign trust?		
	If "Yes," see page 14 of the instructions for other forms the organization may have to file.		
3	Enter the amount of tax-exempt interest received or accrued during the tax year ▶ $		

SCHEDULE A—COST OF GOODS SOLD (See instructions on page 15.)

Method of inventory valuation (specify) ▶

1	Inventory at beginning of year	1		6	Inventory at end of year	6	
2	Purchases	2		7	**Cost of goods sold.** Subtract line 6 from line 5. (Enter here and on line 2, Part I.)	7	
3	Cost of labor	3					
4a	Additional section 263A costs (attach schedule)	4a		8	Do the rules of section 263A (with respect to property produced or acquired for resale) apply to the organization?	Yes	No
b	Other costs (attach schedule)	4b					
5	**Total—**Add lines 1 through 4b	5					

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer or fiduciary | Date | Title

Paid Preparer's Use Only

Preparer's signature | Date | Check if self-employed ▶ ☐ | Preparer's SSN or PTIN

Firm's name (or yours, if self-employed) and address | EIN ▶ | ZIP code ▶

SCHEDULE C—RENT INCOME (FROM REAL PROPERTY AND PERSONAL PROPERTY LEASED WITH REAL PROPERTY)

(See instructions on page 15.)

1 Description of property

(1)
(2)
(3)
(4)

2 Rent received or accrued		**3** Deductions directly connected with the income in columns 2(a) and 2(b) (attach schedule)
(a) From personal property (if the percentage of rent for personal property is more than 10% but not more than 50%)	**(b)** From real and personal property (if the percentage of rent for personal property exceeds 50% or if the rent is based on profit or income)	
(1)		
(2)		
(3)		
(4)		
Total	Total	

Total income (Add totals of columns 2(a) and 2(b). Enter here and on line 6, column (A), Part I, page 1.) . . ►

Total deductions. Enter here and on line 6, column (B), Part I, page 1 . . ►

SCHEDULE E—UNRELATED DEBT-FINANCED INCOME (See instructions on page 15.)

1 Description of debt-financed property	**2** Gross income from or allocable to debt-financed property	**3** Deductions directly connected with or allocable to debt-financed property	
		(a) Straight line depreciation (attach schedule)	**(b)** Other deductions (attach schedule)
(1)			
(2)			
(3)			
(4)			

4 Amount of average acquisition debt on or allocable to debt-financed property (attach schedule)	**5** Average adjusted basis of or allocable to debt-financed property (attach schedule)	**6** Column 4 divided by column 5	**7** Gross income reportable (column 2 × column 6)	**8** Allocable deductions (column 6 × total of columns 3(a) and 3(b))
(1)		%		
(2)		%		
(3)		%		
(4)		%		
			Enter here and on line 7, column (A), Part I, page 1.	Enter here and on line 7, column (B), Part I, page 1.

Totals . . . . . ►

Total dividends-received deductions included in column 8 . . . . . ►

SCHEDULE F—INTEREST, ANNUITIES, ROYALTIES, AND RENTS FROM CONTROLLED ORGANIZATIONS

(See instructions on page 16.)

1 Name and address of controlled organization(s)	**2** Gross income from controlled organization(s)	**3** Deductions of controlling organization directly connected with column 2 income (attach schedule)	**4** Exempt controlled organizations		
			(a) Unrelated business taxable income	**(b)** Taxable income computed as though not exempt under sec. 501(a), or the amount in col. (a), whichever is larger	**(c)** column (a) divided by column (b)
(1)					%
(2)					%
(3)					%
(4)					%

5 Nonexempt controlled organizations			**6** Gross income reportable (column 2 × column 4(c) or column 5(c))	**7** Allowable deductions (column 3 × column 4(c) or column 5(c))
(a) Excess taxable income	**(b)** Taxable income, or amount in column (a), whichever is larger	**(c)** Column (a) divided by column (b)		
(1)		%		
(2)		%		
(3)		%		
(4)		%		
			Enter here and include on line 8, column (A), Part I, page 1.	Enter here and include on line 8, column (B), Part I, page 1.

Totals . . . . . ►

SCHEDULE G—INVESTMENT INCOME OF A SECTION 501(c)(7), (9), OR (17) ORGANIZATION

(See instructions on page 17.)

1 Description of income	2 Amount of income	3 Deductions directly connected (attach schedule)	4 Set-asides (attach schedule)	5 Total deductions and set-asides (col. 3 plus col. 4)
(1)				
(2)				
(3)				
(4)				
Totals ▶	Enter here and on line 9, column (A), Part I, page 1.			Enter here and on line 9, column (B), Part I, page 1.

SCHEDULE I—EXPLOITED EXEMPT ACTIVITY INCOME, OTHER THAN ADVERTISING INCOME

(See instructions on page 17.)

1 Description of exploited activity	2 Gross unrelated business income from trade or business	3 Expenses directly connected with production of unrelated business income	4 Net income (loss) from unrelated trade or business (column 2 minus column 3). If a gain, compute cols. 5 through 7.	5 Gross income from activity that is not unrelated business income	6 Expenses attributable to column 5	7 Excess exempt expenses (column 6 minus column 5, but not more than column 4).
(1)						
(2)						
(3)						
(4)						
Column totals ▶	Enter here and on line 10, col. (A), Part I, page 1.	Enter here and on line 10, col. (B), Part I, page 1.				Enter here and on line 26, Part II, page 1.

SCHEDULE J—ADVERTISING INCOME (See instructions on page 18.)

Part I Income From Periodicals Reported on a Consolidated Basis

1 Name of periodical	2 Gross advertising income	3 Direct advertising costs	4 Advertising gain or (loss) (col. 2 minus col. 3). If a gain, compute cols. 5 through 7.	5 Circulation income	6 Readership costs	7 Excess readership costs (column 6 minus column 5, but not more than column 4).
(1)						
(2)						
(3)						
(4)						
Column totals (carry to Part II, line (5)) ▶						

Part II Income From Periodicals Reported on a Separate Basis (For each periodical listed in Part II, fill in columns 2 through 7 on a line-by-line basis.)

(1)						
(2)						
(3)						
(4)						
(5) **Totals from Part I**						
Column totals, Part II ▶	Enter here and on line 11, col. (A), Part I, page 1.	Enter here and on line 11, col. (B), Part I, page 1.				Enter here and on line 27, Part II, page 1.

SCHEDULE K—COMPENSATION OF OFFICERS, DIRECTORS, AND TRUSTEES (See instructions on page 18.)

1 Name	2 Title	3 Percent of time devoted to business	4 Compensation attributable to unrelated business
		%	
		%	
		%	
		%	
Total—Enter here and on line 14, Part II, page 1 ▶			

Form **1120-POL**
Department of the Treasury
Internal Revenue Service

U.S. Income Tax Return for Certain Political Organizations

OMB No. 1545-0129

1999

For calendar year 1999 or other tax year beginning , 1999, and ending , .

Note: If you are a section 501(c) organization or a separate segregated fund described in section 527(f)(3), check here . . . . ▶ ☐

Please print or type

Name of organization

Employer identification number

Number, street, and room or suite no. (If a P.O. box, see page 3 of instructions.)

Candidates for U.S. Congress Only
If this is a principal campaign committee, and it is the ONLY political committee, check here. . . . . ☐
If this is a principal campaign committee, but is NOT the only political committee, check here and attach a copy of designation (See instructions on page 2.) . . ☐

City or town, state, and ZIP code

Check if: (1) ☐ Final return (2) ☐ Change of address (3) ☐ Amended return

Income	1	Dividends (attach schedule)	1	
	2	Interest	2	
	3	Gross rents	3	
	4	Gross royalties	4	
	5	Capital gain net income (attach Schedule D (Form 1120))	5	
	6	Net gain or (loss) from Form 4797, Part II, line 18 (attach Form 4797)	6	
	7	Other income and nonexempt function expenditures (see instructions)	7	
	8	**Total income.** Add lines 1 through 7.	8	
Deductions	9	Salaries and wages	9	
	10	Repairs and maintenance	10	
	11	Rents	11	
	12	Taxes and licenses	12	
	13	Interest	13	
	14	Depreciation (attach Form 4562)	14	
	15	Other deductions (attach schedule)	15	
	16	**Total deductions.** Add lines 9 through 15	16	
	17	Taxable income before specific deduction of $100 (see instructions.) Section 501(c) organizations show:		
	a	Amount of net investment income ▶		
	b	Aggregate amount expended for an exempt function (attach schedule) ▶	17c	
	18	Specific deduction of $100 (not allowed for newsletter funds defined under section 527(g))	18	
Tax	19	**Taxable income.** Subtract line 18 from line 17c (If line 19 is zero or less, do not file Form 1120-POL.)	19	
	20	**Income tax** (see instructions)	20	
	21	**Tax credits** (Attach all applicable forms.) (see instructions)	21	
	22	Total tax. Subtract line 21 from line 20	22	
	23	Payments: **a** Tax deposited with Form 7004 — 23a		
		b Credit for tax paid on undistributed capital gains (attach Form 2439) — 23b		
		c Credit for Federal tax on fuels (attach Form 4136) — 23c		
		d Total. Add lines 23a through 23c	23d	
	24	**Tax due.** Subtract line 23d from line 22. See instructions on page 3 for depository method of payment	24	
	25	**Overpayment.** Subtract line 22 from line 23d	25	

Additional Information

1 At any time during the 1999 calendar year, did the organization have an interest in or a signature or other authority over a financial account (such as a bank account, securities account, or other financial account) in a foreign country? (See instructions.) ☐ **Yes** ☐ **No**
If "Yes," enter the name of the foreign country ▶

2 During the tax year, did the organization receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? . . . . . ☐ **Yes** ☐ **No**
If "Yes," the organization may have to file Form 3520.

3 Enter the amount of tax-exempt interest received or accrued during the tax year . . ▶ $

4 Date organization formed ▶

5a The books are in care of ▶ **b** Enter name of candidate ▶

c The books are located at ▶ **d** Telephone No. ▶

Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer — Date — ▶ Title

Paid Preparer's Use Only

Preparer's signature ▶ | Date | Check if self-employed ▶ ☐ | Preparer's SSN or PTIN

Firm's name (or yours, if self-employed) and address ▶ | EIN ▶ | ZIP code ▶

APPENDIX C: SUMMARY OF COMMENTS RECEIVED BY THE JOINT COMMITTEE STAFF IN CONNECTION WITH ITS STUDY OF DISCLOSURE OF INFORMATION RELATING TO TAX-EXEMPT ORGANIZATIONS

In general

The Joint Committee staff received a number of responses to a request for comments on the issues of: (1) confidentiality of returns and return information; and (2) increased disclosure of information with respect to tax-exempt organizations described in Code section 501. The Joint Committee on Taxation Press Release 99-03, released on August 17, 1999, solicited comments from interested parties on these issues and requested comments on particular issues. Regarding the disclosure of information with respect to tax-exempt organizations described in section 501, the press release specifically solicited comments on: (1) whether the public interest would be served by greater disclosure of information with respect to such organizations; and (2) the extent to which the present-law tax-exempt disclosure provisions assure accountability of tax-exempt organizations to the public, the IRS, and other agencies that provide oversight.

The comments relating to increased disclosure of information with respect to tax-exempt organizations can be divided into three categories.[296] The first category is comprised of letters from State Attorneys General requesting earlier disclosure of information from the IRS than allowed under present law. The second category of comments relates to the information included on the Form 990 and its uses. The third category relates to the disclosure of closing agreements and written determinations.

State Attorney General requests for information regarding section 501(c)(3) organizations

The State Attorney General or another State official ordinarily is charged with the administration, enforcement and supervision of charities and charitable trusts within that State.[297] This person is referred to as a State charity official. Under present-law rules, the IRS is permitted to disclose information to State charity officials determinations with respect to denial or revocations of exemption under section 501(c)(3).[298] Treasury regulations provides for disclosure of such information only after a final determination is made by the IRS.[299]

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[296] Comments relating generally to confidentiality of returns and return information are summarized in Part Six of Volume I of this study.

[297] See the discussion in Part III. B. and Part IV., D., above.

[298] Sec. 6104(c).

[299] Treas. reg. sec. 301-6104(c)-1(c).

The Attorneys General of the States of New Hampshire, New York, and Texas separately requested that the IRS be permitted to disclose pertinent information from ongoing IRS investigations of section 501(c)(3) organizations rather than waiting until the completion of the IRS investigations. They argued that the delayed disclosure required under present law results in a duplication of effort between the IRS and the State Attorney General in cases of contemporaneous Federal and State investigations. A second argument in favor of earlier disclosure by the IRS was that more timely identification of suspect organizations or practices will allow faster intervention by the State charity official. The present-law delay, the Attorneys General argue, allows misuse of charitable funds to continue longer than need be and may even result in the exhaustion or depletion of the assets of the organization. This delay also allows some organizations to continue to solicit donations which they misrepresent as being tax deductible. For these reasons, the Attorneys General requested a change in the disclosure rules with respect to tax-exempt organizations described in section 501(c)(3) of the Code, to accelerate the sharing of such information by the IRS with the States. The comments of the Section of Taxation of the American Bar Association (the "ABA Tax Section") also supported earlier disclosure to the State Attorneys General.

Form 990 and its uses

The Evergreen State Society strongly urged more information sharing between the IRS and State and local jurisdictions. The Evergreen State Society believes that greater cooperation will result in improved regulation and supervision of the tax-exempt sector. The ABA Tax Section also encouraged the Secretary of the Treasury to investigate whether the current levels and forms of disclosure may be modified "to assure the desired accountability, especially with respect to the general public." The ABA Tax Section suggested that consideration be given to the provision of information in addition to or in lieu of present-law information returns. Similarly, a private citizen suggested that steps be taken to improve compliance in the filing of Forms 990 and 990T and to expand the types of information disclosed (e.g., adding the disclosure of detailed information on any government grants received by the organization on its Form 990).

In contrast, the Council on Foundations, the Independent Sector, the American Society of Association Executives, and the National Club Association expressed the view that present-law reporting is sometimes overbroad and is often duplicative, and is unnecessary to the policy goals served by reporting generally. The American Society of Association Executives and the National Club Association highlighted the present-law disclosure of organization salary and benefit information as an example illustrating when the public policy goal of better oversight of tax-exempt organizations is outweighed by the privacy concerns of these employees. The American Society of Association Executives and the National Club Association also cited the negative effect of such disclosure on retaining employees. Some suggestions from these four organizations included streamlining the present-law forms, the addition of a summary section, acceleration of electronic filing of tax-exempt organization returns, and the elimination of reporting on certain information that is not necessary to any relevant public policy purpose.

Disclosure of exempt organization closing agreements and written determinations memoranda

The ABA Tax Section and the law firm of Patton Boggs LLP recommended expanding the disclosure rules applicable to certain tax-exempt organizations. Under present law, disclosure is required for documents relating to the application for tax-exempt status, and annual information returns for tax-exempt organizations. Section 6110 provides that written determinations by the IRS (including private letter rulings and technical advice memoranda) generally are open to public inspection in redacted form. However, section 6110 has been interpreted in IRS regulations to prohibit the disclosure of some written determinations and other documents relating to tax-exempt organizations that are not subject to disclosure under section 6104. The ABA Tax Section and Patton Boggs LLP argued that public disclosure of these additional documents would improve taxpayer and practitioner understanding of the IRS' interpretation and underlying rationale of important issues relating to such organizations.[300]

The law firms of Gardner, Carton and Douglas and McDermott, Will and Emory argued against public disclosure rules applicable to tax-exempt organizations with respect to closing agreements. These firms asserted that mandatory public disclosure of these additional documents would reduce the willingness of tax-exempt organizations to settle audits. Further, they argued that such organizations may rather delay any resolution of these tax issues until such time as they maybe uncovered in an IRS audit. Gardner, Carton and Douglas and McDermott, Will and Emery concluded that expanding mandatory disclosure to closing agreements rather than improving tax administration and compliance by tax-exempt organizations, would seriously impair the ability of the IRS to conclude audits or resolve other issues efficiently and expeditiously.

[300] The ABA Tax Section did not take a position with respect to closing agreements, stating that there were arguments both for and against disclosure.