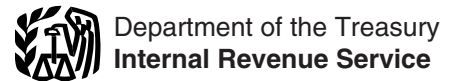


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2008



# Instructions for Form 990-EZ

## Short Form Return of Organization Exempt From Income Tax Under Section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

Section references are to the Internal Revenue Code unless otherwise noted.

<b>Contents</b>	<b>Page</b>
• What's New	
• Purpose of Form	
• Phone Help	
• Email Subscriptions	
• Photographs of Missing Children	
• General Instructions	
<b>A</b> Who Must File	
<b>B</b> Organizations Not Required to File Form 990 or 990-EZ	
<b>C</b> Accounting Periods and Methods	
<b>D</b> When, Where, and How To File	
<b>E</b> Extension of Time To File	
<b>F</b> Amended Return/Final Return	
<b>G</b> Failure-to-File Penalties	
<b>H</b> Requirements for a Properly Completed Form 990-EZ	
<b>I</b> Group Return	
<b>J</b> Requirements for a Properly Completed Form 990	
• Specific Instructions	
Completing the Heading of Form 990-EZ	
Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances	
Part II Balance Sheets	
Part III Statement of Program Service Accomplishments	
Part IV List of Officers, Directors, Trustees, and Key Employees	
Part V Other Information	
Part VI Section 501(c)(3) Organizations Only	
Signature Block	
• Appendix of Special Instructions	
<b>A</b> Exempt Organizations Reference Chart	
<b>B</b> How to Determine Whether an Organization's Gross Receipts Are Normally \$25,000 (or \$5,000) or Less	
<b>C</b> Special Gross Receipts Test for Determining Exempt Status of Section 501(c)(7) and 501(c)(15) Organizations	
<b>D</b> Public Inspection of Returns	
<b>E</b> Section 4958 Excess Benefit Transactions	
<b>F</b> Forms and Publications to File or Use	
<b>G</b> Use of Form 990, or Form 990-EZ, to Satisfy State Reporting Requirements	
• Index	

Schedules or eliminated. Some instructions have been changed in coordination with new Form 990 instructions.

**Filing amounts.** The gross receipts and total assets amounts for Form 990-EZ filers have been raised. Beginning with the 2008 tax year, an organization may file a Form 990-EZ (rather than a Form 990) if it satisfies both the gross receipts and total assets tests set forth in this table.

May file 990-EZ for:	If gross receipts are:	If total assets are:
2008 tax year (filed in 2009)	< \$1 million	< \$2.5 million
2009 tax year (filed in 2010)	< \$500,000	< \$1.25 million
2010 and later tax years	< \$200,000	< \$500,000

**Replacement of Schedule A with new Part VI and schedules.** For 2008, many parts of the 2007 Schedule A have been moved to new Schedules or to the Form 990 core form, which required that corresponding changes be made to Form 990-EZ. For 2008, Part VI of Form 990-EZ was added to maintain reporting of information previously required of organizations that filed a Form 990-EZ and completed Schedule A.

- Line 47 – for determining which 501(c)(3) organizations are required to complete Schedule C Part II regarding lobbying activities (2007 Schedule A, Part VI-A and VI-B)
- Line 48 – for determining which 501(c)(3) schools are required to complete Schedule E regarding private schools (2007 Schedule A, Part V)
- Lines 49a and 49b – added to identify transactions between 501(c)(3) organizations and tax-exempt organizations other than 501(c)(3) organizations (current Schedule A, Part VII). However, 990-EZ filers are no longer required to provide the details of such transactions.
- Line 50 – added to report compensation of the five highest compensated employees other than officers, directors, trustees, and key employees (current Schedule A, Part I); threshold raised from \$50,000 to \$100,000
- Line 51 – added to report compensation of five highest compensated independent contractors (2007 Schedule A, Parts II-A and II-B); threshold raised from \$50,000 to \$100,000

**Replacement of certain attachments with new schedules.** Certain unstructured attachments required in the 2007 Form 990-EZ were replaced with schedules or eliminated.

- Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances
  - Line 5c – eliminated the attached schedule for sales of non-inventory assets
  - Line 6a – replaced attached schedule with Parts II and III of Schedule G when gross revenue from special events and gaming activities exceeds \$15,000
- Part V Other Information
  - Line 36 – replaced attached schedule with Schedule N
  - Line 38a – replaced attached schedule with Schedule L, Part II
  - Line 40b – replaced attached schedule with Schedule L, Part I

### What's New

Unlike Form 990, which has been extensively redesigned for 2008, the 2008 Form 990-EZ is little changed. The dollar thresholds for Form 990-EZ filers have been raised to allow many more organizations to file Form 990-EZ. Several new lines have been added, owing largely to revision of Schedule A. Several unstructured attachments have been replaced by

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### Other changes to lines.

Line 33—rephrased

Lines 44 and 45— added to remind sponsoring organizations of donor advised funds, and certain section 512(b)(13) controlling organizations, that they must file Form 990 instead of Form 990-EZ (see instructions to lines 44 and 45)

Line 46 – for determining which 501(c)(3) organizations are required to complete Schedule C Part I regarding political activities

**Significant changes to instructions.** The Form 990-EZ instructions are no longer combined with the Form 990 instructions, although the General Instructions and Appendix of Special Instructions are nearly the same for both forms.

Several of the General Instructions were moved to the Appendix or eliminated.

Use of other forms as a substitute for Form 990-EZ or Form 990 financial reporting is eliminated.

The instructions clarify that organizations that claim tax-exempt status but have not yet applied for or been recognized as exempt must file Form 990-EZ or Form 990. General Instruction A.

Amended Form 990-EZ returns now require an attachment describing the amendments. See General Instruction F.

The attached schedule for grants now has a \$5,000 threshold per grantee, and no longer requires the names of grantee individuals. See line 10 instruction.

Organizations may choose one of two methods (Option 1 or Option 2) of reporting compensation of their officers, directors, trustees, key employees, and five highest compensated employees. Option 1 is a simplified version of the new 2008 Form 990 method of compensation reporting (for example, an organization filing Form 990-EZ that chooses Option 1 need not complete Schedule J, which may be required for an organization that completes Form 990). Option 1 requires calendar-year compensation reporting and is based on Form W-2 and Form 1099-MISC reporting. Option 2 is essentially the 2007 Form 990-EZ method of compensation reporting. Whichever method the organization selects for 2008 must be used consistently for all officers, directors, trustees, key employees, and five highest compensated employees, and must be consistently applied for all tax years beginning with 2008.

### Purpose of Form

Form 990 and Form 990-EZ are used by tax-exempt organizations, nonexempt charitable trusts, and section 527 political organizations to provide the IRS with the information required by section 6033.

An organization's completed Form 990, or Form 990-EZ, is available for public inspection as required by section 6104. Schedule B, Schedule of Contributors, is open for public inspection for section 527 organizations filing Form 990 or Form 990-EZ. For other organizations that file Form 990 or Form 990-EZ, parts of Schedule B may be open to public inspection. See the *Instructions for Schedule B* for more details.

Some members of the public rely on Form 990, or Form 990-EZ, 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, the return must be complete, accurate, and fully describe the organization's programs and accomplishments.

Use Form 990 or Form 990-EZ to send a required election to the IRS, such as the election to capitalize costs under section 266.

### Caution:

1. For the tax year beginning in 2008, Form 990-EZ is for use by organizations with gross receipts of less than \$1,000,000 and total assets of less than \$2,500,000 at the end of their tax year.

2. Sponsoring organizations of donor advised funds and certain controlling organizations defined in section 512(b)(13) must file Form 990 rather than 990-EZ regardless of the amount of their gross receipts and total assets. See instructions to Form 990-EZ, lines 44 and 45, and General Instruction A, before beginning to complete this form.

3. Form 990-EZ may not be used by a private foundation required to file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation. A section 501(c)(3) or 4947(a)(1) organization should refer to the instructions to Schedule A to determine whether it is a private foundation.

4. Form 990 must be used to file a group return, not Form 990-EZ. See General Instruction A.

### Phone Help

If you have questions and/or need help completing Form 990 or Form 990-EZ, please call 1-877-829-5500. This toll-free telephone service is available Monday through Friday.

### Email Subscription

The IRS has established a new subscription-based email service for tax professionals and representatives of tax-exempt organizations. Subscribers will receive periodic updates from the IRS regarding exempt organization tax law and regulations, available services, and other information. To subscribe, visit [www.irs.gov/eo](http://www.irs.gov/eo).

### Photographs of Missing Children

The Internal Revenue Service is a proud partner with the National Center for Missing and Exploited Children. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

## General Instructions

**Overview of Form 990-EZ.** The Form 990-EZ is an annual information return required to be filed with the IRS by many organizations exempt from income tax under Internal Revenue Code section 501(a), and certain political organizations and nonexempt charitable trusts. Parts I through VI of the form must be completed by all filing organizations, and require reporting on the organization's exempt and other activities, finances, compliance with certain federal tax filings and requirements, and compensation paid to certain persons. Additional schedules are required to be completed depending upon the activities and type of the organization. The entire completed Form 990-EZ filed with the IRS, except for certain contributor information on Schedule B (Schedule of Contributors), is required to be made available to the public by the IRS and the filing organization, and may be required to be filed with state governments to satisfy state reporting requirements.



**Organizations that have total gross income from unrelated trades or businesses of at least \$1,000 also are required to file Form 990-T, Exempt Organization Business Income Tax Return, in addition to any required Form 990, 990-EZ, or 990-N.**

**Helpful Hints.** The following hints may help you more efficiently review these instructions and complete the form:

1. Throughout these instructions, "the organization" and the "filing organization" both refer to the organization filing the Form 990-EZ.

2. The examples appearing throughout the Form 990-EZ Instructions are illustrative only and for the purpose of completing this Form, and are not all-inclusive.

3. Instructions to the Form 990-EZ Schedules are published separately from these instructions.

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**A. Who Must File**

Most organizations exempt from income tax under Internal Revenue Code section 501(a) must file an annual information return (Form 990 or Form 990-EZ) or an annual electronic notice (Form 990-N), depending upon the organization’s gross receipts and total assets.

For tax years beginning in 2008, if an organization has gross receipts less than \$1,000,000 and total assets at the end of the year less than \$2,500,000, it may choose to file Form 990-EZ, *Short Form Return of Organization Exempt From Income Tax*, instead of Form 990. See the instructions below for more information. But see the special rules described below regarding *controlling organizations* under *section 512(b)(13)* and *sponsoring organizations of donor advised funds*.

For 2008, Form 990 (not 990-EZ or 990-N) must be filed by an organization exempt from income tax under Internal Revenue Code section 501(a) (including an organization that has not yet applied for recognition of exemption) if it has either gross receipts greater than or equal to \$1,000,000 or total assets greater than or equal to \$2,500,000 at the end of the tax year. This includes the following:

- organizations described in section 501(c)(3) (other than private foundations)
- organizations described in other 501(c) subsections (other than black lung benefit trusts)

**Gross receipts** are the total amounts the organization received from all sources during its annual accounting period, without subtracting any costs or expenses. See Appendix B for a discussion of gross receipts. Total assets is the amount reported by the organization on its balance sheet (Form 990-EZ, Part II, line 25, column (B)) as of the end of the year, without reduction for liabilities.

For purposes of Form 990 or Form 990-EZ reporting, the term “section 501(c)(3)” includes organizations exempt under sections 501(e) and (f) (cooperative service organizations), 501(k) (child care organizations), and 501(n) (charitable risk pools). In addition, any organization described in one of these sections is also subject to section 4958 if it obtains a determination letter from the IRS stating that it is described in section 501(c)(3).

**Form 990-N.** If an organization normally has *gross receipts* of \$25,000 or less, it must file Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ* (with exceptions described below for certain section 509(a)(3) *supporting organizations* and for certain organizations described in General Instruction B). See Appendix B.

**Electronic filing.** Organizations may file Form 990-EZ electronically. See *General Instruction D* for who must file electronically.

**TIP** The Form 990 (including its schedules) has been substantially redesigned for 2008 and later tax years. The IRS has provided transitional relief to small and mid-size organizations, allowing many to file Form 990-EZ for 2008 and 2009 instead of Form 990, and providing them time to become familiar with the new Form 990 and its requirements. The following schedule sets forth the modified amounts for filing Form 990-EZ (instead of Form 990) during this transition period:

May file 990-EZ for:	If gross receipts are:	And if total assets are:
2008 Form (generally filed in 2009)	< \$1,000,000	< \$2,500,000
2009 Form (generally filed in 2010)	< \$500,000	< \$1,250,000
2010 and later Forms	< \$200,000	< \$500,000

**Foreign and U.S. Possession organizations.** Foreign organizations and U.S. Possession organizations as well as domestic organizations described above must file Form 990 or

990-EZ unless specifically excepted under General Instruction B. Report amounts in U.S. dollars, and state what conversion rate the organization uses. Combine amounts from within and outside the U.S., and report the total for each item. All information must be written in English.

**Sponsoring organizations of donor advised funds.**

*Sponsoring organizations of donor advised funds*, if required to file an annual information return for the year, must file Form 990 and not Form 990-EZ. See line 44 and the related instructions.

**Controlling organizations described in section 512(b)(13).**

A controlling organization of one or more controlled entities, as described in section 512(b)(13), must file Form 990 and not Form 990-EZ if it is required to file an annual information return for the year and if there was any transfer of funds between the controlling organization and any controlled entity during the year. See line 45 and the related instructions.

**Section 509(a)(3) supporting organizations.** A section 509(a)(3) supporting organization must file Form 990 or 990-EZ, even if its gross receipts are normally \$25,000 or less, unless it qualifies as one of the following:

1. an integrated auxiliary of a church;
2. the exclusively religious activities of a religious order;
3. a religious organization whose gross receipts are normally not more than \$5,000;
4. an organization whose gross receipts are normally not more than \$5,000 that supports a 501(c)(3) religious organization; or
5. a charitable organization supported partly by funds contributed by United States, State, or local governmental units, or primarily by contributions of the general public, whose gross receipts are normally not more than \$5,000

If the organization is described in 3, 4, or 5, then it must file Form 990-N unless it voluntarily files Form 990 or Form 990-EZ.

**Section 501(c)(7) and 501(c)(15) organizations.** A section 501(c)(7) or 501(c)(15) organization applies the same gross receipts test as other organizations to determine whether it must file the Form 990 or Form 990-EZ, but uses a different definition of gross receipts to determine whether it qualifies as tax-exempt for the tax year. See Appendix C for more information.

**Section 527 political organizations.** Tax-exempt political organizations must file Form 990 or Form 990-EZ unless excepted under General Instruction B. A qualified state or local political organization must file Form 990 or Form 990-EZ only if it has gross receipts of \$100,000 or more. Political organizations are not required to file Form 990-N.

**Section 4947(a)(1) non-exempt charitable trusts.** A non-exempt charitable trust described under section 4947(a)(1) of the Code (if it is not treated as a private foundation) is required to file Form 990 or Form 990-EZ unless excepted under General Instruction B. Such a trust is treated like an exempt 501(c)(3) organization for purposes of completing the form; all references to a 501(c)(3) organization shall include a section 4947(a)(1) trust (for instance, such a trust must complete Schedule A, Public Charity Status and Public Support), unless otherwise specified. If such a trust does not have any taxable income under Subtitle A of the Code, it can file Form 990 or Form 990-EZ to meet its section 6012 filing requirement and does not have to file Form 1041, *U.S. Income Tax Return for Estates and Trusts*.

**Group returns.** A group return filed by the central or parent organization on behalf of the subordinates in a group exemption must be filed using Form 990, not Form 990-EZ.

**Returns when exempt status not established.** An organization is required to file Form 990 or 990-EZ in accordance with these instructions if the organization claims exempt status under section 501(a) but has not yet established such exempt status by filing Form 1023 or 1024 and receiving an IRS letter recognizing exempt status. In such case the organization must check the “application pending” checkbox in Item B of the Form 990 or 990-EZ Header (whether or not a Form 1023 or 1024 has yet been filed) to indicate that the Form

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990 or 990-EZ is being filed in the belief that the organization is exempt under section 501(a), but that the IRS has not yet recognized such exemption.

## B. Organizations Not Required to File Form 990 or 990-EZ

For tax years beginning in 2008, an organization does not have to file Form 990 or 990-EZ even if it has at least \$1,000,000 of gross receipts or \$2,500,000 of total assets if it is described below (except for section 509(a)(3) supporting organizations—the filing exceptions for supporting organizations are described above). See General Instruction A (above) for determining whether the organization may file Form 990-EZ instead of Form 990. An organization described in 2, 10, 11, or 13 below is required to file Form 990-N unless it voluntarily files Form 990, 990-EZ, or 990-BL.

### Certain religious organizations

1. A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church as described in Regulations section 1.6033-2(h) (such as a men's or women's organization, religious school, mission society, or youth group).

2. A church-affiliated organization that is exclusively engaged in managing funds or maintaining retirement programs and is described in Rev. Proc. 96-10, 1996-1 C.B. 577.

3. A school below college level affiliated with a church or operated by a religious order, as described in Regulations section 1.6033-2(g)(1)(vii).

4. A mission society sponsored by, or affiliated with, one or more churches or church denominations, if more than half of the society's activities are conducted in, or directed at, persons in foreign countries.

5. An exclusively religious activity of any religious order described in Rev. Proc. 91-20.

### Certain governmental organizations

6. A state institution whose income is excluded from gross income under section 115.

7. A governmental unit or affiliate of a governmental unit described in Rev. Proc. 95-48, 1995-2 C.B. 418.

8. An organization described in section 501(c)(1). A section 501(c)(1) organization is a corporation organized under an act of Congress that is an instrumentality of the United States, and exempt from federal income taxes.

### Certain political organizations

9. A political organization that is:

- A state or local committee of a political party;
- A political committee of a state or local candidate;
- A caucus or association of state or local officials; or
- Required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act).

### Certain organizations with limited gross receipts

10. An organization whose gross receipts are normally \$25,000 or less. To determine what an organization's gross receipts "normally" are, see Appendix B.

11. A foreign organization, including organizations located in U.S. Possessions, whose gross receipts from sources within the U.S. are normally \$25,000 or less. To determine what an organization's gross receipts "normally" are, see Appendix B.

### Certain organizations that file different kinds of annual information returns

12. A private foundation (including a private operating foundation) exempt under section 501(c)(3) and described in section 509(a). Use Form 990-PF, *Return of Private Foundation*. Use Form 990-PF also for a taxable private foundation, a section 4947(a)(1) nonexempt charitable trust treated as a private foundation, and a private foundation terminating its status by becoming a public charity under section 507(b)(1)(B) (for tax years within its 60-month termination period; if the organization successfully terminates, then it files Form 990 or 990-EZ in its final year of termination).

13. A black lung benefit trust described in section 501(c)(21). Use Form 990-BL, *Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons*,

14. A religious or apostolic organization described in section 501(d). Use Form 1065, *U.S. Return of Partnership Income*.

15. A stock bonus, pension, or profit-sharing trust that qualifies under section 401. Use Form 5500, *Annual Return/Report of Employee Benefit Plan*.



A public charity described in section 170(b)(1)(A)(iv) or (vi) or 509(a)(2) that is not within an advance ruling period should first complete Part II or III of Schedule A (Public Charity Status and Public Support) to ensure that it continues to qualify as a public charity for the tax year. If it fails to qualify as a public charity, then it must file Form 990-PF rather than Form 990-EZ.

## C. Accounting Periods and Methods



See IRS Publication 538, *Accounting Periods and Methods*, about reporting changes to accounting periods and methods.

### ACCOUNTING PERIODS

**Calendar year.** Use the 2008 Form 990-EZ to report on the 2008 calendar year accounting period. A calendar year accounting period begins on January 1 and ends on December 31.

**Fiscal year.** If the organization has established a fiscal year accounting period, use the 2008 Form 990-EZ to report on the organization's fiscal year that began in 2008 and ended 12 months later. A fiscal year accounting period should normally coincide with the natural operating cycle of the organization. Be certain to indicate in the heading of Form 990-EZ the date the organization's fiscal year began in 2008 and the date the fiscal year ended in 2009.

**Short period.** A short accounting period is a period of less than 12 months, which exists when an organization first commences operations, changes its accounting period, or terminates. If the organization's short year ended prior to December 31, 2008 (not on or after December 31, 2008), it may use the 2007 Form 990-EZ or Form 990 to file for such short year.

**Accounting period change.** If the organization changes its accounting period, it must file a Form 990-EZ for the short period resulting from the change. Write "Change of Accounting Period" at the top of this short-period return.

If the organization previously changed its accounting period within the 10-calendar-year period that includes the beginning of the short period, and it had a Form 990-EZ filing requirement at any time during that 10-year period, it must also attach a Form 1128 to the short-period return. See Rev. Proc. 85-58, 1985-2 C.B. 740.

### ACCOUNTING METHODS

Unless instructed otherwise, the organization should generally use the same accounting method on the return to report revenue and expenses that it regularly uses to keep its books and records. To be acceptable for Form 990-EZ reporting purposes, however, the method of accounting must clearly reflect income.

**Accounting method change.** Generally, the organization must file Form 3115 to change its accounting method. An exception applies where a 501(c) organization changes its accounting method to comply with SFAS 116, *Accounting for Contributions Received and Contributions Made*. See Notice 96-30, 1996-1 C.B. 378. An organization that makes a change in accounting method, regardless of whether it files Form 3115, and that has audited financial statements, must report any adjustment required by Internal Revenue Code section 481(a) on Form 990-EZ line 20 (other changes in net assets or fund balances) as a net asset adjustment made during the tax year. The organization must attach an explanation of the change and net asset adjustment. The adjustment must be identified as the

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effect of changing to the method provided in SFAS 116. The beginning of year statement of financial position (balance sheet) should not be restated to reflect any prior period adjustments.

**State reporting.** Most states that accept Form 990-EZ in place of their own forms require that all amounts be reported based on the accrual method of accounting. If the organization prepares Form 990-EZ for state reporting purposes, it may file an identical return with the IRS even though the return does not agree with the books of account, unless the way one or more items are reported on the state return conflicts with the instructions for preparing Form 990-EZ for filing with the IRS.

**Example 1.** The organization maintains its books on the cash receipts and disbursements method of accounting but prepares a Form 990-EZ return for the state based on the accrual method. It could use that return for reporting to the IRS.

**Example 2.** A state reporting requirement requires the organization to report certain revenue, expense, or balance sheet items differently from the way it normally accounts for them on its books. A Form 990-EZ prepared for that state is acceptable for the IRS reporting purposes if the state reporting requirement does not conflict with the Form 990-EZ instructions.

An organization should keep a reconciliation of any differences between its books of account and the Form 990-EZ that is filed.

## D. When, Where, and How to File

File Form 990-EZ by the 15<sup>th</sup> day of the 5<sup>th</sup> month after the organization's accounting period ends (May 15 for a calendar-year filer). If the regular due date falls on a Saturday, Sunday, or legal holiday, file on the next business day. A business day is any day that is not a Saturday, Sunday, or legal holiday.

If the organization is liquidated, dissolved, or terminated, file the return by the 15<sup>th</sup> day of the 5<sup>th</sup> month after liquidation, dissolution, or termination.

If the return is not filed by the due date (including any extension granted), attach a statement giving the reasons for not filing on time.

Send the return to the:

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201-0027

**Foreign and U.S. possession organizations.** If the organization's principal business, office, or agency is located in a foreign country or U.S. possession, send the return to the:

Internal Revenue Service Center  
P.O. Box 409101  
Ogden, UT 84409

**Private delivery services.** The organization can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax return payments. These private delivery services include only the following:

- DHL Express (DHL): DHL "Same Day" Service, DHL Next Day 10:30 AM, DHL Next Day 12:00 PM, DHL Next Day 3:00 PM, and DHL 2<sup>nd</sup> Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2<sup>nd</sup> Day Air, UPS 2<sup>nd</sup> Day Air AM, UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

**Electronic filing.** The organization can file Form 990-EZ or Form 990 and related forms, schedules, and attachments electronically. However, if an organization files at least 250 returns of any type during the calendar year and has total assets of \$10 million or more at the end of the tax year, it must file Form 990 electronically (and not Form 990-EZ). "Returns"

for this purpose include information returns (for example, Forms W-2, Forms 1099), income tax returns, employment tax returns (including quarterly Forms 941), and excise tax returns.

If an organization is required to file a return electronically but does not, the organization is considered not to have filed its return, even if a paper return is submitted. See Regulations section 301.6033-4 for more information.

For additional information on the electronic filing requirement, visit [www.irs.gov/efile](http://www.irs.gov/efile).

The IRS may waive the requirements to file electronically in cases of undue hardship. For information on filing a waiver, see Notice 2005-88, 2005-48 I.R.B. 1060.

## E. Extension of Time to File

Use Form 8868 to request an automatic 3-month extension of time to file. Use Form 8868 also to apply for an additional (not automatic) 3-month extension if the original 3 months was not enough time. To obtain this additional extension of time to file, the organization must show reasonable cause for the additional time requested. See the Instructions for Form 8868.

## F. Amended Return/Final Return

To change the organization's return for any year, file a new return including any required schedules. Use the version of Form 990-EZ applicable to the year being amended. The amended return must provide all the information called for by the form and instructions, not just the new or corrected information. Check the *Amended Return* box in the heading of the return. Also, state in an attachment which parts and schedules of the Form 990-EZ were amended and describe the amendments.

The organization may file an amended return at any time to change or add to the information reported on a previously filed return for the same period. It must make the amended return available for inspection for 3 years from the date of filing or 3 years from the date the original return was due, whichever is later.

Use Form 4506 to obtain a copy of a previously filed return. See [www.irs.gov](http://www.irs.gov) for information on getting blank tax forms.

If the return is a final return, see the *Specific Instructions* for Form 990-EZ line 36 and Schedule N, Liquidation, Termination, Dissolution or Significant Disposition of Assets, for further details.

**Amended returns and state filing considerations.** State law may require that the organization send a copy of an amended Form 990-EZ return (or information provided to the IRS supplementing the return) to the state with which it filed a copy of Form 990-EZ originally to meet that state's filing requirement. A State may require an organization to file an amended Form 990-EZ to satisfy State reporting requirements, even if the original return was accepted by the IRS.

## G. Failure-to-File Penalties

**Against the organization.** Under section 6652(c)(1)(A), a penalty of \$20 a day, not to exceed the smaller of \$10,000 or 5% of the gross receipts of the organization for the year, may be charged when a return is filed late, unless the organization can show that the late filing was due to reasonable cause. Organizations with annual gross receipts exceeding \$1 million are subject to a penalty of \$100 for each day failure continues (with a maximum penalty with respect to any one return of \$50,000). The penalty begins on the due date for filing the Form 990-EZ.

Tax exempt organizations which are required to file electronically but do not are deemed to have failed to file the return. This is true even if a paper return is submitted.

The penalty may also be charged if the organization files an incomplete return, such as by failing to complete a required line item or a required part of a schedule. To avoid penalties and having to supply missing information later:

1. complete all applicable line items;

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2. unless instructed to skip a line, answer each question on the return;
3. make an entry (including a zero when appropriate) on all lines requiring an amount or other information to be reported; and
4. provide required explanations as instructed.

Also, this penalty may be imposed if the organization's return contains incorrect information. For example, an organization that reports contributions net of related fundraising expenses may be subject to this penalty.

Use of a paid preparer does not relieve the organization of its responsibility to file a complete return.

**Against Responsible Person(s).** If the organization does not file a complete return or does not furnish correct information, the IRS will send the organization a letter that includes a fixed time to fulfill these requirements. After that period expires, the person failing to comply will be charged a penalty of \$10 a day. The maximum penalty on all persons for failures with respect to any one return shall not exceed \$5,000.

There are also penalties (fines and imprisonment) for willfully not filing returns and for filing fraudulent returns and statements with the IRS (sections 7203, 7206, and 7207). States may impose additional penalties for failure to meet their separate filing requirements.

## J. Requirements for a Properly Completed Form 990

All organizations must complete Parts I through VI of the Form 990-EZ, and any required schedules and attachments.

**Public inspection.** In general, all information the organization reports on or with its Form 990-EZ, including schedules and attachments, will be available for public inspection. Note, however, the special rules for Schedule B (Schedule of Contributors), a required schedule for certain organizations that file Form 990-EZ. Make sure the forms and schedules are clear enough to photocopy legibly. For more information on public inspection requirements, see Appendix D and Publication 557.

**Signature.** A Form 990-EZ is not complete without a proper signature. For details, see the instructions to the Signature Block.

**Recordkeeping.** The organization's records should be kept for as long as they may be needed for the administration of any provision of the Internal Revenue Code. Usually, records that support an item of income, deduction, or credit must be kept for a minimum of 3 years from the date the return is due or filed, whichever is later. Keep records that verify the organization's basis in property for as long as they are needed to figure the basis of the original or replacement property. Applicable law and an organization's policies may require that the organization retain records longer than 3 years.

The organization should also keep copies of any returns it has filed. They help in preparing future returns and in making computations when filing an amended return.

**Rounding off to whole dollars.** The organization must round off cents to whole dollars on the returns and schedules, unless otherwise noted for particular questions. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If the organization has to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

**Completing all lines.** Make an entry (including a zero when appropriate) on all lines requiring an amount or other information to be reported. Do not leave any applicable lines blank, unless expressly instructed to skip that line. If answering a line is predicated on a "Yes" answer to the preceding line, and if the organization's answer to the preceding line was "No," then leave the "If Yes" line blank.

In general, answers may be explained or supplemented in an attachment if the allotted space in the form or other schedule

is insufficient, or if a "Yes" or "No" answer is required but the organization wishes to explain its answer.

**Reporting proper amounts.** Some lines may request information reported on other forms filed by the organization. If the organization is aware that the amount actually reported on the other form is incorrect, it must report on Form 990-EZ the information that should have been reported on the other form (in addition to filing an amended form with the proper amount).

**Inclusion of activities and items of disregarded entities and joint ventures.** An organization must report in its Form 990-EZ all of the revenues, expenses, assets, liabilities, and net assets or funds of a disregarded entity of which it is the sole member, and must report in its Form 990-EZ its share of all such items of a joint venture or other investment or arrangement taxed as a partnership. This includes passive investments. In addition, the organization generally must report the activities of a disregarded entity or a joint venture in the appropriate parts of schedules of the Form 990-EZ.

**List of required schedules and attachments.** An organization may be required to file one or more of Schedules A, B, C, E, G, L, or N, or various other attachments as described in the form or instructions. The following is a list of the Form 990-EZ schedules that the organization may have to complete:

- Schedule A, *Public Charity Status and Public Support*. See Heading and Part V instructions.
- Schedule B, *Schedule of Contributors*. See Heading Item H instructions.
- Schedule C, *Political Campaign and Lobbying Activities*, Part I. See line 46 instructions.
- Schedule C, *Political Campaign and Lobbying Activities*, Part II. See line 47 instructions.
- Schedule E, *Schools*. See line 48 instructions.
- Schedule G, *Supplemental Information Regarding Fundraising or Gaming Activities*, Parts II and III. See line 6 instructions.
- Schedule L, *Transactions with Interested Persons*, Part I. See line 40b instructions.
- Schedule L, *Transactions with Interested Persons*, Part II. See line 38 instructions.
- Schedule N, *Liquidation, Termination, Dissolution or Significant Disposition of Assets*, Parts I and II (substantial contraction). See line 36 instructions.

The following is a list of required attachments to Form 990-EZ (not including required schedules listed above):

1. Form 1128 for change of accounting period. See General Instruction C.
2. Reasons for late filing. See General Instruction D.
3. Description of amendments in amended return. See General Instruction F.
4. Name change amendment to organizing document. See Heading Item B instructions.
5. Additional a.k.a. names. See Heading Item C instructions.
6. Explanation of why an organization that reports more than \$15,000 in Part I, line 6a is not required to complete Schedule G. See Part I, line 6 instructions.
7. Schedule of grants made. See Part I, line 10 instructions.
8. Explanation of other changes in net assets or fund balances. See Part I, line 20 instructions.
9. Schedule listing other program services. See Part III, line 31 and Part III instructions.
10. Statement regarding personal benefit contracts. See Part VI instructions.
11. Description of activities not previously reported. See Part V, line 33 instructions.
12. Conformed copy of changes to organizing or governing document. See Part V, line 34 instructions.
13. Reasons for not reporting income from business activities on Form 990-T. See line 35 instructions.
14. Request and determination letter regarding termination of exempt status. See Schedule N instructions.

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15. Articles of merger or dissolution, resolutions, and plans of liquidation or merger. See Schedule N instructions.

**Assembling Form 990-EZ, schedules, and attachments.** Before filing the Form 990-EZ, assemble the package of form, schedules, and attachments in the following order:

1. core form with all parts completed (Parts I-V, Part VI by 501(c)(3) organizations, Signature Block)
2. Schedules A, B, C, E, G, L, and/or N, completed as applicable, filed in alphabetical order
3. attachments, completed as applicable (including attachments to explain or supplement answers because the allotted space in the form is insufficient), filed in sequential order.

Do not attach materials not authorized in the instructions.

## Specific Instructions for Form 990-EZ

### Completing the Heading of Form 990-EZ

The instructions that follow are keyed to items in the heading for Form 990-EZ.

#### Item A. Accounting period

File the 2008 return for calendar year 2008 and fiscal years that began in 2008 and ended in 2009. For a fiscal year return, fill in the tax year space at the top of page 1. See *General Instruction C* for additional information about accounting periods.

#### Item B. Checkboxes

**Address change, name change, and initial return.** Check the appropriate box if the organization changed its address or legal name (not its "doing business as" name) since it filed its previous return, or if this is the first time the organization is filing either a Form 990 or a Form 990-EZ.

If the organization has changed its name, attach the following documents:

IF the organization is:	THEN attach:
A corporation	Amendments to the articles of incorporation with proof of filing with the state of incorporation.
A trust	Amendments to the trust agreements signed by the trustee.
An association	Amendments to the articles of association, constitution, bylaws, or other organizing document, with the signatures of at least two officers/members.

**Termination.** Check this box if the organization has terminated its existence or ceased to be a section 501(a) or section 527 organization and is filing its final return as an exempt organization or 4947(a)(1) trust. See the instructions for line 36 that discuss liquidations, dissolutions, terminations, or substantial contractions. An organization that checks this box must also attach Schedule N, Liquidation, Termination, Dissolution or Significant Disposition of Assets.

**Amended Return.** Check this box if the organization previously filed a return with the IRS for the same tax year and is now filing another return for the same tax year to amend the previously filed return. Attach a statement explaining which Parts, Schedules, or attachments of the Form 990-EZ were amended and describe the amendments. See *General Instruction F* for more information.

**Application pending.** Check this box if the organization has not yet filed either a Form 1023 or Form 1024 with the IRS, or has filed one and is awaiting a response. If this box is checked, the organization must complete all parts of the Form 990-EZ and any required schedules.

#### Item C. Name and address

Enter the organization's legal name in the "Name of organization" box. If the organization operates under a name different from its legal name, identify its alternate name, after the legal name, by writing "a.k.a." (also known as) and the alternate name of the organization. If multiple a.k.a. names will not fit in the box, list them in an attachment. However, if the organization has changed its legal name, follow the instructions for *Name change in Item B— Checkboxes*.

Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the organization has a P.O. box, show the box number instead of the street address.

If the organization receives its mail in care of a third party (such as an accountant or an attorney), enter on the street address line C/O followed by the third party's name and street address or P.O. box.

For foreign addresses, enter information in the following order: city, province or state, and the name of the country. Follow the foreign country's practice in placing the postal code in the address. Please do not abbreviate the country name.

If a change of address occurs after the return is filed, use Form 8822 to notify the IRS of the new address.

#### Item D. Employer identification number (EIN)

Use the employer identification number (EIN) provided to the organization for filing its Form 990-EZ and federal tax returns. The organization must have only one EIN. If the organization has more than one EIN and has not been advised which to use, notify the:

Department of the Treasury  
Internal Revenue Service Center  
Ogden, UT 84201-0027

State what EINs the organization has, the name and address to which each number was assigned, and the address of the organization's principal office. The IRS will advise the organization which number to use.

**TIP** A subordinate organization in a group exemption that is filing an individual Form 990-EZ return must use its own EIN, not that of the central organization or of the group return.

**TIP** A section 501(c)(9) voluntary employees' beneficiary association must use its own EIN and not the EIN of its sponsor.

#### Item E. Telephone number

Enter a telephone number of the organization that members of the public and government personnel may use during normal business hours to obtain information about the organization's finances and activities. If the organization does not have a telephone number, enter the telephone number of an organization official who can provide such information.

#### Item F. Group Exemption Number

Enter the four-digit group exemption number if the organization is included in a group exemption. The group exemption number (GEN) is a number assigned by the IRS to the central/parent organization of a group that has a group ruling. Contact the central/parent organization to ascertain the GEN assigned.

**CAUTION** If the organization is covered by a group exemption letter as a subordinate organization, the organization should file Form 990-EZ only if the organization is not included in a group return filed by the central/parent organization.

**CAUTION** The central/parent organization of a group ruling cannot file a group return with Form 990-EZ but must use Form 990.

**Section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts.** Such organizations must complete and attach Schedule A (Form 990 or 990-EZ), *Public Charity Status and Public Support*.

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**Item G. Accounting Method**

Indicate the method of accounting used in preparing this return. See *General Instruction C*.

**Item H. Schedule B**

Whether or not the organization enters any amount on line 1 of Form 990-EZ, the organization must either check the box in item H or attach Schedule B. Failure to either check the box in item H or file Schedule B will result in a determination that the return is incomplete. See the Instructions for Schedule B for more information.

**TIP** For purposes of Schedule B, contributors include individuals, fiduciaries, partnerships, corporations, associations, trusts, and exempt organizations. For organizations described in section 170(b)(1)(A)(iv) or (vi) or 509(a)(2), contributors also include governmental units.

**Guidelines for Meeting the Requirements of Schedule B**

**Section 501(c)(3) Organization Meeting the 1/3 Support Test of 170(b)(1)(A)**

<b>If</b>	A section 501(c)(3) organization that met the 33-and-1/3% support test of the regulations under 509(a)(1)/ 170(b)(1)(A) did not receive a contribution of the greater of \$5,000 or 2% of the amount on line 1 of Form 990-EZ from any one contributor,*
<b>Then</b>	The organization should check the box in item H to certify that it is not required to attach Schedule B.
<b>Otherwise</b>	Complete and attach Schedule B.

**Section 501(c)(7), (8), or (10) Organizations**

<b>If</b>	A section 501(c)(7), (8), or (10) organization did not receive any contribution or bequest for use exclusively for religious, charitable, scientific, literary, or educational purposes, or the prevention of cruelty to children or animals (and did not receive any noncharitable contributions of \$5,000 or more as described below under General Rule),
<b>Then</b>	The organization should check the box in item H to certify that it is not required to attach Schedule B.
<b>Otherwise</b>	Complete and attach Schedule B.

**All Other Form 990-EZ Organizations (General Rule)**

<b>If</b>	The organization did not receive a contribution of \$5,000 or more from any one contributor* (reportable on line 1 of the Form 990-EZ),
<b>Then</b>	The organization should check the box in item H to certify that it is not required to attach Schedule B.
<b>Otherwise</b>	Complete and attach Schedule B.

\* Total a contributor's gifts of \$1,000 or more to determine if a contributor gave \$5,000 or more. Do not include smaller gifts.

**Item I—Website**

Enter the organization's website address. If the organization does not maintain a website, enter "N/A" (not applicable).

**Item J— Organization Type**

Check the applicable box to show the organization's type of tax status. If the organization is exempt under section 501(c), check the 501(c) box and insert the appropriate subsection number within the parentheses (for example, "3" for a 501(c)(3) organization). See the chart in Appendix A, Exempt Organization Reference Chart. The term section 501(c)(3)

includes organizations exempt under sections 501(e), (f), (k), and (n).

**Item K—Gross Receipts of \$25,000 or Less**

Check this box if the organization is not a section 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000 but the organization chooses to file Form 990-EZ. If the organization chooses to file Form 990-EZ, be sure to file a complete return. See *Appendix B* for a discussion of gross receipts and *General Instruction H* for a discussion of a complete return.

**CAUTION** Section 501(c)(7) and 501(c)(15) organizations use different definitions of gross receipts to determine whether they qualify for tax exemption for the year. See the definition of gross receipts for 501(c)(7) and 501(c)(15) exemption purposes under Appendix C. Do not use the section 501(c)(7) or 501(c)(15) definition of gross receipts to determine whether the organization's gross receipts are normally \$25,000 or less.

**Item L—Determining Gross Receipts**

Add lines 5b, 6b, and 7b to line 9 to determine gross receipts. See Appendix B and Appendix C for discussion of gross receipts.

For 2008 tax years, only those organizations with gross receipts of less than \$1,000,000 and total assets of less than \$2,500,000 at the end of the year can use the Form 990-EZ. If the organization does not meet these requirements, it must file Form 990, unless excepted under General Instruction B.

**CAUTION** Do not use the definition of gross receipts for section 501(c)(7) or 501(c)(15) exemption purposes (discussed in Appendix C) to determine the amount to enter here.

**Part I—Revenue, Expenses, and Changes in Net Assets or Fund Balances**

All organizations filing Form 990-EZ with the IRS or any state must complete Part I. Some states that accept Form 990-EZ in place of their own forms may require additional information. See *Appendix G*.

**Revenue: Line 1. Contributions, Gifts, Grants, and Similar Amounts Received**

**A. What is included on line 1**

- Report amounts received as voluntary contributions; for example, payments, or the part of any payment, for which the payer (donor) does not receive full retail value (fair market value) from the recipient (donee) organization. Contributions are reported on line 1 regardless of whether they are deductible by the contributor.
- Enter the gross amounts of contributions, gifts, grants, and bequests that the organization received from individuals, trusts, corporations, estates, affiliates, foundations, public charities, and other exempt organizations, or raised by an outside professional fundraiser.
- Report the value of noncash contributions at the time of the donation. For example, report the gross value of a donated car as of the time the car was received as a donation.
- Report all related expenses on lines 12 through 16. Show on line 13 professional fundraising fees relating to the gross amounts of contributions collected in the charity's name by fundraisers.

Reporting line 1 in accordance with SFAS 116, Accounting for Contributions Received and Contributions Made, is acceptable but not required by the IRS. However, state law may require it. An organization that receives a grant to be paid in future years should, according to SFAS 116, report the grant's present value on line 1. Accruals of present value increments to the unpaid grant should also be reported on line 1 in future years.

**A1. Contributions can arise from special events when an excess payment is received for items offered.** Fundraising activities relate to soliciting and receiving contributions.



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However, special fundraising activities such as dinners, door-to-door sales of merchandise, carnivals, and bingo games can produce both contributions and revenue. Report as a contribution, both on line 1 and on line 6a (within the parentheses), any amount received through such a special event that is greater than the fair market value (retail value) of the merchandise or services furnished by the organization to the contributor.

This situation usually occurs when organizations seek support from the public through solicitation programs that are in part special events or activities and are in part solicitations for contributions. The primary purpose of such solicitations is to receive contributions and not to sell the merchandise at its retail value even though this might produce a profit.

**Example.** An organization announces that anyone who contributes at least \$40 to the organization can choose to receive a book worth \$16 retail value. A person who gives \$40, and who chooses the book, is really purchasing the book for \$16 and also making a contribution of \$24. The contribution of \$24, which is the difference between the buyer's payment and the \$16 retail value of the book, would be reported on line 1 and again on line 6a (within the parentheses). The revenue received (\$16 retail value of the book) would be reported in the right-hand column on line 6a. Any expenses directly relating to the sale of the book would be reported on line 6b. Any fundraising expenses relating to the contribution of \$24 would be reported on lines 12 through 16.

If a contributor gives more than \$40, that person would be making a larger contribution, the difference between the book's retail value of \$16 and the amount actually given. Rev. Rul. 67-246, 1967-2 C.B. 104, explains this principle in detail. See also the instructions for line 6 and Pub. 526, *Charitable Contributions*.



*At the time of any solicitation or payment, organizations that are eligible to receive tax-deductible contributions should advise patrons of the amount deductible for federal tax purposes. See Pub. 1771, Charitable Contributions - Substantiation and Disclosure Requirements.*

**A2. Contributions can arise from special events when items of only nominal or insubstantial value are given or offered.** If an organization offers goods or services of only nominal or insubstantial value through a special event, or distributes free, unordered, low-cost items to patrons, report the entire amount received for such benefits as a contribution on line 1. See also line 6, instruction B1 regarding nominal or insubstantial value. Report all related expenses on lines 12 through 16.

Benefits have a nominal or insubstantial value if the organization informs patrons how much of their payment is a deductible contribution, and either:

1. The fair market value of all of the benefits received in connection with the payment is not more than 2% of the payment or \$91, whichever is less, or
2. The payment is \$45.50 or more and the only benefits received in connection with the payment are token items (bookmarks, calendars, key chains, mugs, posters, T-shirts, etc.) bearing the organization's name or logo. The cost to the organization (as opposed to fair market value) of all benefits received by a donor must, in the aggregate, be \$9.10 or less.

**A3. Contributions in the form of membership dues.** Include on line 1 membership dues and assessments to the extent they are contributions and not payments for benefits received. (See line 3, instruction C1.)

**A4. Grants equivalent to contributions.** Grants made to encourage an organization receiving the grant to carry on programs or activities that further the grant recipient's exempt purposes are grants that are equivalent to contributions. Report them on line 1. The grantor may specify which of the recipient's activities the grant may be used for, such as an adoption program or a disaster relief project.

A grant is still equivalent to a contribution if the grant recipient performs a service, or produces a work product, that

benefits the grantor incidentally (but see line 1, instruction B1, below).

**A5. Contributions or grants from governmental units.** A grant or other payment from a governmental unit is treated as a grant equivalent to a contribution if its primary purpose is to enable the recipient to provide a service to, or maintain a facility for, the direct benefit of the public rather than to serve the direct and immediate needs of the grantor (even if the public pays part of the expense of providing the service or facility). (See also line 2, instruction D below.)

The following are examples of governmental grants and other payments that are treated as contributions and reported on line 1:

- Payments by a governmental unit for the construction or maintenance of library or museum facilities open to the public.
- Payments by a governmental unit to nursing homes to provide health care to their residents (but see treatment of Medicare, Medicaid, and other third-party reimbursements on behalf of specific individuals under the line 2 instructions below).
- Payments by a governmental unit to child placement or child guidance organizations under government programs to better serve children in the community.

The following examples illustrate the distinction between government payments reportable on lines 1 and 2:

- A payment by a governmental agency to a medical clinic to provide vaccinations to the general public is a contribution reported on line 1. A payment by a governmental agency to a medical clinic to provide vaccinations to employees of the agency is program service revenue reported on line 2.
- A payment by a governmental agency to an organization to provide job training and placement for disabled individuals is a contribution reported on line 1. A payment by a governmental agency to the same organization to operate the agency's internal mail delivery system is program service revenue reported on line 2.

**A6. Contributions received through other fundraising organizations.** Contributions received indirectly from the public through solicitation campaigns conducted by federated fundraising agencies (such as United Way) are included on line 1.

**A7. Contributions received from associated organizations.** Include on line 1 amounts contributed by other organizations closely associated with the reporting organization. This includes contributions received from a parent organization, subordinate, or another organization having the same parent.

**A8. Contributions from a commercial co-venture.** Include amounts contributed by a commercial co-venture on line 1. These contributions are amounts received by the organization for allowing an outside organization (donor) or individual to use the recipient organization's name in a sales promotion campaign, such as where the outside organization agrees to contribute 2% of all sales proceeds to the organization.

## B. What is not included on line 1

**B1. Grants that are payments for services are not contributions.** A grant is a payment for services, and not a contribution, when the terms of the grant provide the grantor with a specific service, facility, or product, rather than providing a benefit to the general public or that part of the public served by the grant recipient. The recipient organization would report such a grant as income on line 2 (program service revenue).

**B2. Donations of services or of use of property.** Do not include the value of services donated to the organization, or of the free use of property (such as equipment or facilities), as contributions on line 1. However, for the optional reporting of such amounts, see the instruction for donated services in Part III.

Any unreimbursed expenses of officers, employees, or volunteers do not belong on the Form 990-EZ. See the explanations of charitable contributions and employee business

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expenses in Pub. 526, *Charitable Contributions*, and Pub. 463, *Travel, Entertainment, Gift, and Car Expenses*, respectively.

**B3. Section 501(c)(9), (17), and (18) organizations.**

These organizations provide participants with life, sickness, accident, welfare and unemployment insurance, pension(s), or similar benefits, or a combination of these benefits. When such an organization receives payments from participants, or their employers, to provide these benefits, report the payments on line 2 as program service revenue, rather than on line 1 as contributions.

**C. How to value noncash contributions.** Report noncash contributions on line 1 at fair market (retail) value. If fair market value cannot be readily determined, use an appraised or estimated value. See also the instructions for Part II of Schedule B.

**D. Schedule of contributors.** Attach Schedule B if required. See the *Specific Instructions for Completing the Heading of Form 990-EZ*, Item H.



*Section 501(c)(3) organizations must compute the amount of contributions according to the above instructions in preparing the support schedule in Part II or III of Schedule A (Form 990 or 990-EZ), Public Charity Status and Public Support.*

**Line 2—Program Service Revenue Including Government Fees and Contracts**

Enter the total program service revenue (exempt function income). Program services are primarily those that form the basis of an organization's exemption from tax.

**A. Examples.** A clinic would include on line 2 all of its charges for medical services (whether to be paid directly by the patients or through Medicare, Medicaid, or other third-party reimbursement), laboratory fees, and related charges for services.

Program service revenue also includes tuition received by a school; revenue from admissions to a concert or other performing arts event or to a museum; royalties received as author of an educational publication distributed by a commercial publisher; payments received by a section 501(c)(9) organization from participants or employers of participants for health and welfare benefits coverage; and registration fees received in connection with a meeting or convention.

**B. Program-related investment income.** Program service revenue also includes income from program-related investments. These investments are made primarily to accomplish an exempt purpose of the investing organization rather than to produce income. Examples of program-related investments are scholarship loans and low-interest loans to charitable organizations, indigents, or victims of a disaster. See also the instructions for line 4.

Rental income received from an exempt function is another example of program-related investment income, such as below-market rents from housing leased to low-income persons. When an organization rents to an unaffiliated exempt organization at less than fair rental value for the purpose of aiding that tenant's exempt function, the reporting organization should report such rental income as program service revenue on line 2. For purposes of this return, report all rental income from an affiliated organization on line 2.

**C. Unrelated trade or business activities.** Unrelated trade or business activities (not including any special events or activities) that generate fees for services may also be program service activities. A social club, for example, should report as program service revenue the fees it charges both members and nonmembers for the use of its tennis courts and golf course.

**D. Government fees and contracts.** Program service revenue includes income earned by the organization for providing a government agency with a service, facility, or product that benefited that government agency directly rather than benefiting the public as a whole. See line 1, instruction A5, for reporting guidelines when payments are received from a

government agency for providing a service, facility, or product for the primary benefit of the general public.

**Line 3—Membership Dues and Assessments**

Enter members' and affiliates' dues and assessments that are not contributions.

**A. What is included on line 3**

**A1. Dues and assessments received that compare reasonably with the benefits of membership.** When the organization receives dues and assessments the value of which compare reasonably with the value of benefits provided to members (whether or not the membership benefits are used by the members), report such dues and assessments on line 3.

**A2. Organizations that generally match dues and benefits.** Organizations described in section 501(c)(5), (6), or (7) generally provide benefits with a reasonable relationship to dues, although benefits to members may be indirect.

**B. Examples of membership benefits.** These include subscriptions to publications; newsletters (other than one about the organization's activities only); free or reduced-rate admissions to events sponsored by the organization; use of the organization's facilities; and discounts on articles or services that both members and nonmembers can buy. In figuring the value of membership benefits, disregard such intangible benefits as the right to attend meetings, vote, or hold office in the organization, and the distinction of being a member of the organization.

**C. What is not included on line 3**

**C1. Dues or assessments received that exceed the value of available membership benefits.** Dues received by an organization, to the extent they exceed the monetary value of the membership benefits available to the dues payer, are a contribution that should be reported on line 1.

**C2. Dues received primarily for the organization's support.** If a member pays dues primarily to support the organization's activities, and not to obtain benefits of more than nominal or insubstantial monetary value, those dues are a contribution to the organization includible on line 1.

**Example.** M is an organization whose primary purpose is to support the local symphony orchestra. Members have the privilege of purchasing subscriptions to the symphony's annual concert series before they go on sale to the general public, but must pay the same price as any other member of the public. They also are entitled to attend a number of rehearsals each season without charge. Under these circumstances, M's receipts from members are contributions reported on line 1.

**Line 4—Investment Income**

**A. What is included on line 4**

**A1. Interest on savings and temporary cash investments.** Include the amount of interest received from interest-bearing checking accounts, savings, and temporary cash investments, such as money market funds, commercial paper, certificates of deposit, and U.S. Treasury bills or other governmental obligations that mature in less than one year. So-called dividends or earnings received from mutual savings banks, money market funds, etc., are actually interest and should be included on this line.

**A2. Dividends and interest from securities.** Include dividends from equity securities (stocks), and interest income from debt securities and notes and loans receivable, other than program-related investments. Include amounts received from payments on securities loans, as defined in section 512(a)(5).

**A3. Gross rents.** Include gross rental income received during the year from investment property (other than program-related investments reported on line 2).

**A4. Other investment income.** Include, for example, royalties received by the organization from licensing the ongoing use of its property to others (other than royalties generated in the conduct of the organization's exempt function, such as royalties received from a publisher for an educational

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work authored by the organization). Typically, royalties are received for the use of intellectual property, such as copyrights, patents, and trademarks. Royalties also include payments to the owner of property for the right to exploit natural resources on the property, such as oil, natural gas, or minerals.

#### B. What is not included on line 4

**B1. Capital gains dividends and unrealized gains and losses.** Do not include on this line any capital gains dividends. They are reported on line 5. Also do not include unrealized gains and losses on investments carried at market value. See the instructions for line 20.

**B2. Exempt function revenue (program service).** Do not include on line 4 amounts that represent income from an exempt function (program service). Report these amounts on line 2 as program service revenue. Report expenses related to this income on lines 12 through 16.

**Exempt function rental income.** An organization whose exempt purpose is to provide low-rental housing to persons with low income receives exempt function income from such rentals. An organization receives exempt function income if it rents or sublets rental space to a tenant whose activities are related to the reporting organization's exempt purpose. Exempt function income also arises when an organization rents to an unaffiliated exempt organization at less than fair rental value for the purpose of helping that unaffiliated organization carry out its exempt purpose. Report rental income received in these instances on line 2 and not on line 4. Only for purposes of completing this return, treat income from renting property to affiliated exempt organizations as exempt function income and include such income on line 2 as program service revenue.

**Other program-related investments.** Investment income from program-related investments should be reported on line 2. See the line 2 instructions for a discussion of program-related investments. Gains or losses from the sale of program-related investment assets are reported on line 5.

#### Lines 5a through 5c—Gains (or Losses) From Sale of Assets Other Than Inventory

##### A. What is included on line 5

Report on line 5a all sales of securities and sales of all other types of investments (such as real estate, royalty interests, or partnership interests) as well as sales of all other non-inventory assets (such as program-related investments and fixed assets used by the organization in its related and unrelated activities). Also report capital gains dividends, the organization's share of capital gains and losses from a partnership, and capital gains distributions from trusts.

Total the cost or other basis (less depreciation) and selling expenses and enter the result on line 5b. On line 5c, enter the net gain or loss.

For reporting sales of securities on Form 990-EZ, the organization may use the more convenient way to figure the organization's gain or loss from sales of securities by subtracting from the sales price the average-cost basis of the particular security sold. However, the average-cost basis is not used to figure the gain or loss from sales of securities reportable on Form 990-T.

##### B. What is not included on line 5

Do not include on line 5 any unrealized gains or losses on securities that are carried in the books of account at market value. See the instructions for line 20.

##### C. Books and records

The organization should maintain books and records to substantiate information regarding any securities or other assets sold for which market quotations were not published or were not otherwise readily available. The recorded information should include:

- A description of the asset,
- Date acquired,
- Whether acquired by donation or purchase,
- Date sold and to whom sold,

- Gross sales price,
- Cost, other basis, or if donated, value at time acquired,
- Expense of sale and cost of improvements made after acquisition, and
- Depreciation since acquisition, if depreciable property.

#### Lines 6a through 6c—Special Events and Activities

On the appropriate line, enter the gross revenue, expenses, and net income (or loss) from all special events and activities, such as dinners, dances, carnivals, concerts, sports events, auctions, raffles, bingo games, other gaming activities, and door-to-door sales of merchandise.

*Special events and activities* only incidentally accomplish an exempt purpose. Their sole or primary purpose is to raise funds (that are other than contributions) to finance the organization's exempt activities. They do not include events or activities that substantially further the organization's exempt purpose even if they also raise funds. They do not include activities regularly carried on (except for gaming).

**Example.** An organization formed to promote and preserve folk music and related cultural traditions holds an annual folk music festival featuring concerts, handcraft demonstrations, and similar activities. Because the festival directly furthers the organization's exempt purpose, income from ticket sales should be reported on line 2 as program service revenue.

*Special events and activities* raise funds by offering goods or services that have more than a nominal or insubstantial value (compared to the price charged) for a payment that is more than the direct cost of those goods or services. See line 1 instructions A1 and A2 for a discussion on contributions reportable on line 1 and revenue reportable on line 6.

The fact that tickets, advertising, or solicitation materials refer to a required payment as a donation or contribution does not control how these payments should be reported on Form 990-EZ.

The gross revenue from gaming activities and other special events must be reported in the right-hand column on line 6a without reduction for cash or noncash prizes, cost of goods sold, compensation, fees, or other expenses.

**Gaming.** Check the box for gaming if the organization conducted directly, or through a promoter, any amount of gaming during the year. Report the gross revenue, expenses, and net income (or loss) from all gaming activities, whether or not regularly carried on, in line 6.

*Gaming* includes (but is not limited to): bingo, pull tabs, instant bingo raffles, scratch-offs, charitable gaming tickets, break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven cards, Nevada Club tickets, casino nights, Las Vegas nights, and coin-operated gambling devices. Coin-operated gambling devices include slot machines, electronic video slot or line games, video poker, video blackjack, video keno, video bingo, video pull tab games, etc.

Many games of chance are taxable. Income from bingo games is not subject to the tax on unrelated business income if the games meet the legal definition of bingo. For a game to meet the legal definition of bingo, wagers must be placed, winners must be determined, and prizes or other property must be distributed in the presence of all persons placing wagers in that game.

A wagering game that does not meet the legal definition of bingo does not qualify for the exclusion, regardless of its name. For example, "instant bingo," in which a player buys a pre-packaged bingo card with pull-tabs that the player removes to determine if he or she is a winner, does not qualify. See Publication 598, *Tax on Unrelated Business Income of Exempt Organizations* and Form 990-T.

##### A. What is included on line 6

**A1. Gross revenue/contributions.** When an organization receives payments for goods or services offered through a special event, enter:

1. As gross revenue, on line 6a (in the right-hand column), the retail value of the goods or services,

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2. As a contribution, on both line 1 and line 6a (within the parentheses), any amount received that exceeds the retail value of the goods or services given.

**Example.** At a special event, an organization received \$100 in gross receipts for goods valued at \$40. The organization entered gross revenue of \$40 on line 6a and entered a contribution of \$60 on both line 1 and within the parentheses on line 6a. The contribution was the difference between the gross revenue of \$40 and the gross receipts of \$100.

**A2. Raffles or lotteries.** Report as revenue, on line 6a, any amount received from raffles or lotteries that require payment of a specified minimum amount for each entry, unless the prizes awarded have only nominal or insubstantial value. See line 6, instruction B1 and B2, below.

**A3. Direct expenses.** Report on line 6b only the direct expenses attributable to the goods or services the buyer receives from a special event. If an expense is included on line 6b, do not report it again on line 7b. Report cost of goods related to the sale of inventory on line 7b. Fundraising expenses attributable to contributions reported on lines 1 and 6a (within the parentheses) are reportable on lines 12 through 16.

## B. What is not included on line 6

**B1. Sales or gifts of goods or services of only nominal or insubstantial value.** If the goods or services offered at the special event have only nominal or insubstantial value, include all of the receipts as contributions on line 1 and all of the related expenses on lines 12 through 16. See line 1, instruction A2 for a description of nominal or insubstantial benefits.

**B2. Sweepstakes, raffles, and lotteries.** Report as a contribution, on line 1, the proceeds of solicitation campaigns in which the names of contributors and other respondents (who were not required to make a minimum payment) are entered in a drawing for prizes.

Where a minimum payment is required for each raffle or lottery entry and prizes of only nominal or insubstantial value are awarded, report any amount received as a contribution. Report the related expenses on lines 12 through 16.

**B3. Activities that generate only contributions are not special events.** An activity that generates only contributions, such as a solicitation campaign by mail, is not a special event. Any amount received should be included on line 1 as a contribution. Related expenses are reportable on lines 12 through 16.

## C. Attached Schedule G, Parts II and III

If the organization reports more than \$15,000 in line 6a (not including the contribution amount in the parentheses), then it must complete Part II of Schedule G (Form 990 or 990-EZ), *Supplemental Information Regarding Fundraising or Gaming Activities*, for any special events (other than gaming) with gross receipts greater than \$5,000. (Please note that Schedule G refers to special events other than gaming as "fundraising events.") If the organization reports more than \$15,000 in line 6a (not including the contribution amount in the parentheses) and any part of the amount is gross revenue from gaming, then it must complete Schedule G, Part III to report its gaming activities. If the organization reports more than \$15,000 in line 6a (not including the contribution amount in the parentheses) but is not required to complete either Part II or Part III of Schedule G, then explain this in an attachment. Organizations filing Form 990-EZ are not required to complete Part I of Schedule G. The following examples illustrate these Form 990-EZ reporting rules for Schedule G.

**Example 1.** Organization X receives gross revenue of \$14,000 during the tax year from the sale of pull tabs. Organization X reports \$14,000 in line 6a. Organization X is not required to file Schedule G because its line 6a amount does not exceed \$15,000.

**Example 2.** Organization Y conducted during the tax year its annual fundraising dinner plus monthly bingo nights. Organization Y received \$2,000 in gross revenue (excluding

\$4,000 in contributions) from the dinner and \$14,000 in gross revenue from the bingo nights. Organization Y is directed to Schedule G because it reports \$16,000 on line 6a, which exceeds the \$15,000 threshold for filing Schedule G. Organization Y must report the dinner as a fundraising event in Part II of Schedule G because the gross receipts from the dinner (including contributions) was \$6,000 (in excess of \$5,000). Organization Y must report the \$14,000 in gross revenue from the conduct of bingo games in Part III of Schedule G, even though that amount is less than \$15,000, because the total amount reported on line 6a exceeded \$15,000.

**Example 3.** Organization Z conducted six special events (other than gaming) during the tax year. Each special event generated \$3,000 in gross revenue and \$1,000 in contributions. Organization Z is directed to Schedule G because it reports \$18,000 in line 6a. Organization Z is not required to file Part II of Schedule G, however, as each event had gross receipts of \$4,000, below the \$5,000 threshold for reporting fundraising events in Part II. Because Organization Z had no gross revenue from gaming, it is not required to file Part III of Schedule G. Organization Z should describe the above facts in its attachment explaining that it is not required to file Schedule G even though its line 6a amount exceeds \$15,000.

## Lines 7a through 7c—Gross Sales of Inventory

**Line 7a. Sales of inventory.** Include on line 7a the gross sales (less returns and allowances) of inventory items, whether the sales activity is an exempt function or an unrelated trade or business. Inventory items are goods the organization makes to sell to others, or that it buys for resale. Include all inventory sales except sales of goods at special events, which are reportable on line 6. Do not include on line 7 sales of investments on which the organization expected to profit by appreciation and sale; report sales of these investments on line 5.

**Line 7b. Cost of goods sold.** On line 7b, report the cost of goods sold related to sales of such inventory. The usual items included in cost of goods sold are direct and indirect labor, materials and supplies consumed, freight-in, and a proportion of overhead expenses. Marketing and distribution expenses are not includible in cost of goods sold but are reported on lines 12 through 16.

## Line 8—Other Revenue

Enter the total income from all sources not covered by lines 1 through 7. Examples of types of income includible on line 8 are interest on notes receivable not held as investments or as program-related investments (defined in the line 2 instructions); interest on loans to officers, directors, trustees, key employees, and other employees; and royalties that are not investment income or program service revenue.

## Expenses:

### Line 10—Grants and Similar Amounts Paid

#### A. What is included on line 10

Enter the amount of actual grants and similar amounts paid to individuals and organizations selected by the filing organization. Include scholarship, fellowship, and research grants to individuals.

**A1. Specific assistance to individuals.** Include on this line the amount of payments to, or for the benefit of, particular clients or patients, including assistance by others at the organization's expense.

**A2. Payments, voluntary awards, or grants to affiliates.** Include on line 10 certain types of payments to organizations affiliated with (closely related to) the filing organization. These payments include predetermined quota support and dues payments by local organizations to their state or national organizations.



If the organization uses Form 990-EZ for state reporting purposes, be sure to distinguish between payments to affiliates and awards and grants. See Appendix G.

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## B. What is not included on line 10

**B1. Administrative expenses.** Do not include on this line expenses made in selecting recipients or monitoring compliance with the terms of a grant or award. Enter those expenses on lines 12 through 16.

**B2. Purchases of goods or services from affiliates.** Do not report the cost of goods or services purchased from affiliates on line 10. Report these expenses on lines 12 through 16.

**B3. Membership dues paid to another organization.** Report membership dues that the organization pays to another organization (other than an affiliated organization) for general membership benefits, such as regular services, publications, and materials, on line 16 as *Other expenses*.

## C. Attached schedule

Attach a schedule to itemize grants (and similar amounts) in excess of \$5,000 paid during the organization's tax year to a grantee organization or individual. Show on this schedule:

- Each class of activity,
- The grantee's name and address (for grantee organizations, not grantee individuals),
- The amount given, and
- The relationship of the grantee (in the case of grants to individuals) if the relationship is by blood, marriage, adoption, or employment (including employees' children) to any person or corporation with an interest in the organization, such as a creator, donor, director, trustee, officer, key employee, etc.



*If the individual grantee is related to a grantor or contributor to the organization, then do not provide the name of the grantor or contributor. Instead, identify such persons generically as "grantee" and as "grantor" or "contributor."*

If any affiliate received any payment reported on line 10, then so indicate, and also specify the purpose of the payment.

Classify activities on this schedule in more detail than by using such broad terms as charitable, educational, religious, or scientific. For example, identify payments to affiliates; payments for nursing services; fellowships; and payments for food, shelter, or medical services for indigents or disaster victims.

Colleges, universities, and primary and secondary schools reporting scholarships or other financial assistance may instead attach a statement that (a) groups each type of financial aid provided; (b) indicates the number of individuals who received the aid; and (c) specifies the aggregate dollar amount.

If an organization gives property other than cash and measures an award or grant by the property's fair market value, also show on this schedule:

- A description of the property,
- The book value of the property,
- How the organization determined the book value,
- How the organization determined the fair market value, and
- The date of the gift.

Any difference between a property's fair market value and book value should be recorded in the organization's books of account and on line 20.

### Line 11—Benefits Paid To or For Members

For an organization that gives benefits to members or dependents (such as organizations exempt under section 501(c)(8), (9), or (17)), enter the amounts paid for: (a) death, sickness, hospitalization, or disability benefits; (b) unemployment compensation benefits; and (c) other benefits. Report on line 12, rather than line 11, the cost of employment-related benefits (such as health insurance) that the organization gives its officers and employees.

### Line 12—Salaries, Other Compensation, and Employee Benefits

Enter the total salaries and wages paid to all employees and the fees paid to officers, directors, and trustees. Include the total of the employer's share of the contributions the organization paid to qualified and nonqualified pension plans

and the employer's share of contributions to employee benefit programs (such as insurance, health, and welfare programs) that are not an incidental part of a pension plan.



*Complete Form 5500, Annual Return/Report of Employee Benefit Plan, if the organization is required to file it.*

Also include in the total the amount of federal, state, and local payroll taxes for the year that are imposed on the organization as an employer. This includes the employer's share of social security and Medicare taxes, Federal unemployment tax (FUTA), state unemployment compensation tax, and other state and local payroll taxes. Taxes withheld from employees' salaries and paid over to the various governmental units (such as Federal and state income taxes and the employees' share of social security and Medicare taxes) are part of the employees' salaries included on line 12. Report expenses paid or incurred for employee events such as a picnic or holiday party on this line.

### Line 13—Professional Fees and Other Payments to Independent Contractors

Enter the total amount of legal, accounting, auditing, other professional fees (such as fees for fundraising or investment services) and related expenses charged by outside firms and individuals who are not employees of the organization.

Do not include any penalties, fines, or judgments imposed against the organization as a result of legal proceedings; report and identify those expenses on line 16. Report on line 12 fees paid to directors and trustees. Also report on line 12 compensation to employees that provide fundraising, legal, accounting, or other professional services as part of their employment. Report broker fees/commissions as sales expenses on line 5b.



*In some cases the organization may be required to report payments to an independent contractor on Form 1099-MISC, Miscellaneous Income.*

### Line 14—Occupancy, Rent, Utilities, and Maintenance

Enter the total amount paid or incurred for the use of office space or other facilities, including rent or mortgage interest; heat, light, power, and other utilities; outside janitorial services; real estate taxes and property insurance attributable to rental property; and similar expenses.

These expenses relate to real property actually occupied by the organization, whether as tenant or owner, or used in the conduct of exempt functions (such as low-income rental housing). Report on line 16 expenses relating to real property used for investment purposes. If the organization occupies part of the property and leases a part to others, then expenses must be reasonably allocated between occupancy-related and investment-related expenses, and reported accordingly on lines 14 and 16.

If the organization records depreciation on property it occupies, enter the total for the year. For an explanation of acceptable methods for computing depreciation, see Pub. 946.

Do not subtract from rental expenses reported on line 14 or 16 any rental income received from renting or subletting rented space. See the instructions for lines 2 and 4 to determine whether such income is reportable as exempt function income or investment income. However, report on line 14 or 16 any rental expenses for rental income reported on lines 2 and 4.

### Line 15—Printing, Publications, Postage, and Shipping

Enter the printing and related costs of producing the reporting organization's own newsletters, leaflets, films, and other informational materials on this line. Include the costs of outside mailing services on this line. Also include the cost of any purchased publications as well as postage and shipping costs not reportable on lines 5b, 6b, or 7b. Do not include any expenses, such as salaries, for which a separate line is provided.

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### Line 16—Other Expenses

Report expenses here that are not reportable in lines 10-15. Include here such expenses as penalties, fines, and judgments; unrelated business income taxes; insurance, interest, depreciation, and real estate taxes not reported as occupancy expenses; travel and transportation costs; and expenses for conferences, conventions, and meetings.

Some states that accept Form 990-EZ in satisfaction of their filing requirements may require that certain types of miscellaneous expenses be itemized. See Appendix G.

### Net Assets:

#### Line 18—Excess or (Deficit) for the Year

Enter the difference between lines 9 and 17. If line 17 is more than line 9, enter the difference in parentheses.

#### Line 19—Net Assets or Fund Balances at Beginning of Year

Enter the end-of-year amount from the balance sheet on the prior year's return.

#### Line 20—Other Changes in Net Assets or Fund Balances

Attach a statement explaining any changes in net assets or fund balances between the beginning and end of the organization's tax year that are not accounted for by the amount on line 18. Amounts to report here include adjustments of earlier years' activity; unrealized gains and losses on investments carried at market value; and any difference between fair market value and book value of property given as an award or grant. See *General Instruction C* regarding the reporting of a section 481(a) adjustment to conform to SFAS 116.

## Part II—Balance Sheet

Every organization must complete columns (A) and (B) of Part II of the return and may not submit a substitute balance sheet. Failure to complete Part II may result in penalties for filing an incomplete return. If there is no amount to report in column (A), *Beginning of year*, enter a zero in that column.

Some states require more information. See Appendix G for more information about completing a Form 990-EZ to be filed with any state or local government agency.

### Line 22—Cash, Savings, and Investments

Include all interest and non-interest bearing accounts such as petty cash funds, checking accounts, savings accounts, money market funds, commercial paper, certificates of deposit, U.S. Treasury bills, and other government obligations. Also include the book value of securities held as investments, and all other investment holdings including land and buildings held for investment. Report the income from these investments on line 4.

### Line 23—Land and Buildings

Enter the book value (cost or other basis less accumulated depreciation) of all land and buildings owned by the organization and not held for investment.

### Line 24—Other Assets

Enter the total of other assets along with a description of those assets. Amounts to include here are (among others) accounts receivable, inventories, and prepaid expenses.

### Line 25—Total Assets

Enter the amount of total assets. If the end-of-year total assets entered in column (B) are \$2,500,000 or more, Form 990 must be filed instead of Form 990-EZ.

### Line 26—Total Liabilities

Liabilities include such items as accounts payable, grants payable, mortgages or other loans payable, and deferred revenue (revenue received but not yet earned).

### Line 27—Net Assets or Fund Balances

Subtract line 26 (total liabilities) from line 25 (total assets) to determine net assets. Enter this net asset amount on line 27. The amount entered in column (B) must agree with the net asset or fund balance amount on line 21.

States that accept Form 990-EZ as their basic report form may require a separate statement of changes in net assets. See Appendix G.

## Part III—Statement of Program Service Accomplishments

A program service is a major (usually ongoing) objective of an organization, such as adoptions, recreation for the elderly, rehabilitation, or publication of journals or newsletters.

### Step Action

- 1 State the organization's primary exempt purpose.
- 2 All organizations must describe their exempt purpose achievements for each of their three largest program services (as measured by total expenses incurred). If there were three or fewer of such activities, describe each program service activity.
  - Describe program service accomplishments through measurements such as clients served, days of care, number of sessions or events held, or publications issued.
  - Describe the activity's objective, for both this time period and the longer-term goal, if the output is intangible, such as in a research activity.
  - Give reasonable estimates for any statistical information if exact figures are not readily available. Indicate that this information is estimated.
  - Be clear, concise, and complete in the description. Avoid attaching brochures, newsletters, newspaper articles about the organization, etc.
- 3 **Public interest law firm.** A public interest law firm exempt under section 501(c)(3) or (c)(4) must attach a list of all the cases in litigation or that have been litigated during the year. For each case, describe the matter in dispute and explain how the litigation will benefit the public generally. Also state the fees sought and recovered in each case. See Rev. Proc. 92-59, 1992-2 C.B. 411.
- 4 If part of the total expenses of any program service consists of grants reported on line 10, enter the amount of grants in the space provided and include the grants in the *Expenses* column. If the amount of grants entered includes foreign grants, check the box to the left of the entry space for *Program Services Expenses*.
  - Section 501(c)(3) and (4) organizations, and section 4947(a)(1) nonexempt charitable trusts, must show the amount of grants and allocations to others and must enter the total expenses for each program service reported.
  - For all other organizations, completing the *Program Services Expenses* column (and the *Grants* entry) in Part III is optional.
- 5 Attach a schedule that lists the organization's other program services.
  - The detailed information required for the three largest services is not necessary for this schedule.
  - However, section 501(c)(3) and (4) organizations, and section 4947(a)(1) nonexempt charitable trusts must show the expenses attributable to their program services.
- 6 The organization may report the amount of any donated services, or use of materials, equipment, or facilities it received or utilized in connection with a specific program service.
  - Disclose the applicable amounts of any donated services, etc., on the lines for the narrative description of the appropriate program service.
  - Do not include these amounts in the expense column in Part III.
  - See the instructions for line 1, B2.

## Part IV—List of Officers, Directors, Trustees, and Key Employees

List each person who was an officer, director, trustee, or key employee (defined below) of the organization at any time during the organization's tax year, even if they did not receive any compensation from the organization.

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Beginning in 2008, Form 990-EZ filers have two options for reporting compensation (see the instructions below).

**Officer.** An officer is a person elected or appointed to manage the organization's daily operations, such as a president, vice-president, secretary, or treasurer. The officers of an organization may be determined by reference to its organizing document, bylaws, or resolutions of its governing body, but at a minimum include those officers required by applicable state law.

**Director or Trustee.** A director or trustee is a member of the organization's governing body, but only if the member has voting rights. The governing body is the group of persons authorized under state law to make governance decisions on behalf of the organization and its shareholders or members, if applicable. The governing body is, generally speaking, the board of directors (sometimes referred to as board of trustees) of a corporation or association, or the board of trustees of a trust (sometimes referred to simply as the trustees, or trustee, if only one trustee).

**Key employee.** A key employee is any person having responsibilities or powers similar to those of officers, directors, or trustees. The term includes the chief management and administrative officials of an organization (such as an executive director or chancellor). A chief financial officer and the officer in charge of the administration or program operations are both key employees if they have the authority to control the organization's activities, its finances, or both.

Enter a zero in columns (c), (d), and (e) (leave column (e) blank if Option 1 compensation reporting, described below, is used) if no hours were entered in column (b) and no compensation, contributions, expenses, and other allowances were paid during the year or deferred for payment to a future year.

Show all forms of cash and noncash compensation received by each listed officer, director, etc., whether paid currently or deferred, as described more fully under the Option 1 and Option 2 instructions below.

If the organization pays any other person, such as a management services company, for the services provided by any of the organization's officers, directors, trustees, or key employees, report the compensation and other items in Part IV as if the organization had paid the officers, etc., directly. Also, see Ann. 2001-33, 2001-17 I.R.B. 1137.

A failure to fully complete Part IV can subject both the organization and the individuals responsible for such failure to penalties for filing an incomplete return. See *General Instruction G*. In particular, entering the phrase on Part IV, "Information available upon request," or a similar phrase, is not acceptable.

In addition to the information required in Part IV, the organization may provide an attachment to explain the entire annual compensation package for any person listed in Part IV.

Form 941 must be filed to report income tax withholding and social security and Medicare taxes. The organization must also file Form 940 to report Federal unemployment tax, unless the organization is not subject to these taxes. See Pub. 15 (Circular E) for more information.

**Amounts paid or accrued by certain other organizations treated as paid or accrued by the filing organization.** Treat as paid, accrued, or held directly by the organization any amounts paid or accrued under a deferred compensation plan, or held by a deferred compensation trust, that is established, sponsored, or maintained by the organization.

Treat as paid or accrued directly by the organization any amounts paid or accrued by a common paymaster as defined in Regulations section 3121(s)-1(b) for services performed for the organization.

### Column (A)

Report the name and address of each person who was an officer, director, trustee, or key employee (defined above) at any time during the organization's tax year.

Aid in the processing of the organization's return by grouping together, preferably at the end of the list, those who received no compensation. Be careful not to repeat names.

Use an attachment if there are more than 18 persons to list in Part IV.

Give the preferred address at which officers, directors, etc., want the Internal Revenue Service to contact them, whether home address, business address, or the organization's address listed on page 1 of Form 990-EZ. This information, like the other information in the Form 990-EZ, will be available to the public.

### Column (B)

List each person's title or position with the organization. List all titles or positions if more than one (for instance, President and Director).

In column (B), a numerical estimate of the average hours per week devoted to the position is required for a complete answer. Statements such as "as needed" or "as required," or "40+" are unacceptable.

### Two methods to report compensation in columns (c) – (e).

The organization may report the compensation of officers, directors, trustees, and key employees in accordance with either Option 1 or Option 2. Option 1 is similar to the 2008 Form 990 method of compensation reporting but simplified. Option 2 is essentially the 2007 Form 990-EZ method of compensation reporting. Whichever option is selected for 2008 must be used consistently from year to year, and must be used for all officers, directors, trustees, and key employees (and, for 501(c)(3) organizations, for their five highest compensated employees in Part VI).

**Option 1 (W-2 and 1099-MISC Method).** All compensation reporting under Option 1 is based on the calendar year ending with or within the organization's tax year. For example, if a fiscal-year organization's tax year is the 12-month period ending June 30, 2009, the organization must report compensation for the calendar year ending December 31, 2008.

**Option 1 – column (c).** Report the person's reportable compensation. Reportable compensation consists of:

- For officers and other employees - amounts required to be reported in Box 5 of Form W-2;
- For directors and individual trustees - amounts required to be reported in Box 7 of Form 1099-MISC (plus Box 5 of Form W-2 if also compensated as an officer or employee); and
- For institutional trustees (such as banks or trust companies) - fees for services paid pursuant to a contractual agreement or statutory entitlement.

If the organization did not file a Form 1099-MISC because the amounts paid were below the threshold reporting requirement, then include and report the amount actually paid.



Corporate officers are considered employees for purposes of Form W-2 reporting, unless they perform no services as officers, or perform only minor services and neither receive nor are entitled to receive, directly or indirectly, any compensation. Corporate directors are considered independent contractors, not employees, and director compensation, if any, generally is required to be reported on Form 1099-MISC. See Regulations section 31.3401(c)-1(f).

For certain kinds of employees, such as certain members of the clergy and religious workers who are not subject to social security and Medicare taxes as employees, Box 5 of Form W-2 may be zero or blank. In such case, the amount required to be reported in Box 1 of Form W-2 must be reported as reportable compensation in column (c).

**Option 1 – column (d).** Report the following items of deferred compensation and benefits:

1. Tax-deferred contributions by the employer to a qualified defined-contribution retirement plan;
2. The annual increase in actuarial value of a qualified defined-benefit plan, whether or not funded or vested;
3. The value of health benefits provided by the employer, whether or not qualified, that are not included in reportable compensation. For this purpose, health benefits provided by the

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employer include payments of health benefit plan premiums, medical reimbursement and flexible spending programs, and the value of health coverage (rather than actual benefits paid) provided by an employer's self-insured or self-funded arrangement. Health benefits include dental, optical, drug, and medical equipment benefits. They do not include disability or long-term care insurance premiums or benefits for this purpose;

4. Tax-deferred contributions by the employer and employee to a non-qualified defined contribution plan, whether or not funded, vested, or subject to a substantial risk of forfeiture; and

5. The annual increase in actuarial value of a non-qualified defined benefit plan, whether or not funded, vested, or subject to a substantial risk of forfeiture.

Reasonable estimates may be used if precise cost figures are not readily available to determine column (d) amounts.

**Option 1 – column (e).** Leave column (e) blank.

**Option 2 (Pre-2008 Method).** For purposes of reporting all amounts in columns (b) through (e) in Part IV, fiscal-year organizations may either use their tax year, or the calendar year ending within such tax year. Whichever year is selected (tax year or calendar year) must be used consistently from year to year, and must be used for all officers, directors, trustees, and key employees (and, for 501(c)(3) organizations, for their five highest compensated employees in Part VI).

**Option 2 – column (c).** For each person listed, report salary, fees, bonuses, and severance payments paid. Include current-year payments of amounts reported or reportable as deferred compensation in any prior year.

**Option 2 – column (d).** Include in this column all forms of deferred compensation and future severance payments (whether or not funded; whether or not vested; and whether or not the deferred compensation plan is a qualified plan under section 401(a)). Include also payments to welfare benefit plans on behalf of the officers, etc. Such plans provide benefits such as medical, dental, life insurance, severance pay, disability, etc. Reasonable estimates may be used if precise cost figures are not readily available.

Unless the amounts were reported in column (C), report, as deferred compensation in column (D), salaries and other compensation earned during the period covered by the return, but not yet paid by the date the organization files its return.

**Option 2 – column (e).** Enter both taxable and nontaxable fringe benefits, other than

1. working condition fringe benefits described in section 132(d), including expense reimbursements and allowances under an accountable plan, and
2. *de minimis* fringe benefits described in section 132(e).

Include amounts that the recipients must report as income on their separate income tax returns. Examples include amounts for which the recipient did not account to the organization or allowances that were more than the payee spent on serving the organization. Include payments made under indemnification arrangements, the value of the personal use of housing, automobiles, or other assets owned or leased by the organization (or provided for the organization's use without charge), as well as any other taxable and nontaxable fringe benefits. See Pub. 525, *Taxable and Nontaxable Income*, for more information.

## Part V—Other Information

See the beginning of the Part VI instructions for required statements for certain organizations regarding personal benefit contracts and Schedule A filing.

### Line 33—Change in Activities

Attach a statement to describe any significant activities initiated during the past three years that were not previously reported to the IRS on Form 990-EZ or Form 990. Also describe significant activities that were discontinued.

### Line 34—Changes in Organizing or Governing Documents

Attach a conformed copy of any changes to the articles of incorporation, articles of association, constitution, trust instrument, or other organizing document, or to the bylaws or other governing document.

A *conformed copy* is one that agrees with the original document and all amendments to it. If the copies are not signed, they must be accompanied by a written declaration signed by an officer authorized to sign for the organization, certifying that they are complete and accurate copies of the original documents. Photocopies of articles of incorporation showing the certification of an appropriate state official need not be accompanied by such a declaration. See Rev. Proc. 68-14, 1968-1 C.B. 768, for details. When a number of changes are made, attach a copy of the entire revised organizing instrument or governing document.

However, if the exempt organization changes its legal structure, such as from a trust to a corporation, the new legal entity must file a new exemption application to establish that it qualifies for exemption.

### Line 35—Unrelated Business Income and Lobbying Proxy Tax

#### Unrelated business income

Political organizations described in section 527 are not required to answer this question.

Check "Yes" on line 35a if the organization's total gross income from all of its unrelated trades and businesses is \$1,000 or more for the tax year. Gross income is gross receipts less the cost of goods sold. See Pub. 598, *Tax on Unrelated Business Income of Exempt Organizations*, for a description of unrelated business income, and the Form 990-T Instructions for the Form 990-T filing requirements.

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 the reasons for not reporting the income on Form 990-T.

Neither Form 990-T nor Form 990-EZ is a substitute for the other. Items of income and expense reported on Form 990-T must also be reported on Form 990-EZ (and vice versa) when the organization is required to file both forms.



All tax-exempt organizations must pay estimated taxes with respect to their unrelated business income if they expect their tax liability to be \$500 or more. Use Form 990-W to compute these amounts.

#### Section 6033(e) tax for lobbying expenditures

If the organization checks "No" to line 35a, it is certifying that the organization was not subject to the notice and reporting requirements of section 6033(e) and that the organization had no lobbying and political expenditures potentially subject to the proxy tax.

**Section 6033(e) notice and reporting requirements and proxy tax.** Section 6033(e) requires certain section 501(c)(4), (5), and (6) organizations to tell their members the portion of their membership dues that were allocable to the political or lobbying activities of the organization. If an organization does not give its members this information, then the organization is subject to a proxy tax. The tax is reported on Form 990-T.

If the organization checks "Yes" on line 35a to declare that it had reportable section 6033(e) lobbying and political expenses in the tax year (and potential liability for the proxy tax):

1. Complete Parts III-A and III-B of Schedule C (Form 990 or 990-EZ), *Political Campaign and Lobbying Activities* (see instructions); and
2. Attach this Schedule to Form 990-EZ.

Only the following tax-exempt organizations are subject to the section 6033(e) notice and reporting requirements, and a potential proxy tax:



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- 501(c)(4) social welfare organizations;
- 501(c)(5) agricultural and horticultural organizations; and
- 501(c)(6) organizations.

**If the organization is not tax-exempt under sections 501(c)(4), (5), or (6), check “No” on line 35a, unless it had \$1,000 or more of unrelated business income.**

If the organization meets *Exception 1* or *2* below, it is excluded from the notice, reporting, and proxy tax requirements of section 6033(e), and it should check “No” to line 35a, unless the organization had \$1,000 or more of unrelated business income. See also Rev. Proc. 98-19, 1998-1 C.B. 547.

**Exception 1. Section 6033(e)(3) exception for nondeductible dues.**

1. All organizations exempt from tax under section 501(a), other than section 501(c)(4), (5), and (6) organizations;
2. Local associations of employees’ and veterans’ organizations described in section 501(c)(4), but not section 501(c)(4) social welfare organizations;
3. Labor unions and other labor organizations described in section 501(c)(5), but not section 501(c)(5) agricultural and horticultural organizations;
4. Section 501(c)(4), (5), and (6) organizations that receive more than 90% of their dues from:
  - a. Section 501(c)(3) organizations,
  - b. State or local governments,
  - c. Entities whose income is exempt from tax under section 115, or
  - d. Organizations described in 1 through 3, above;
5. Section 501(c)(4) and (5) organizations that receive more than 90% of their annual dues from:
  - a. Persons,
  - b. Families, or
  - c. Entities
 that each paid annual dues of \$97 or less in 2008 (adjusted annually for inflation). See Rev. Proc. 2007-66;
6. Any organization that receives a private letter ruling from the IRS stating that the organization satisfies the section 6033(e)(3) exception;
7. Any organization that keeps records to substantiate that 90% or more of its members cannot deduct their dues (or similar amounts) as business expenses whether or not any part of their dues are used for lobbying purposes; or
8. Any organization that is not a membership organization.

 **Special rules treat affiliated social welfare organizations, agricultural and horticultural organizations, and business leagues as parts of a single organization for purposes of meeting the nondeductible dues exception. See Rev. Proc. 98-19.**

**Exception 2. Section 6033(e)(1) \$2,000 in-house lobbying exception.** An organization satisfies the \$2,000 in-house lobbying exception if it:

1. Did not receive a waiver for proxy tax owed for the prior year;
2. Did not make any political expenditures or foreign lobbying expenditures during the current tax year; and
3. Incurred lobbying expenses during the current tax year consisting only of in-house direct lobbying expenses totaling \$2,000 or less, but excluding:
  - a. Any allocable overhead expenses, and
  - b. All direct lobbying expenses of any local council regarding legislation of direct interest to the organization or its members.

**Definitions**

**Grassroots lobbying** refers to attempts to influence any segment of the general public regarding legislative matters or referendums.

**Direct lobbying includes attempting to influence:**

- Legislation through communication with legislators and other government officials, and

- The official actions or positions of covered executive branch officials through direct communication.

**Direct lobbying does not include attempting to influence:**

- Any local council on legislation of direct interest to the organization or its members, and
- The general public regarding legislative matters (grassroots lobbying).

**Other lobbying includes:**

- Grassroots lobbying,
- Foreign lobbying,
- Third-party lobbying, and
- Dues paid to another organization that were used to lobby.

**In-house expenditures include:**

- Salaries, and
- Other expenses of the organization’s officials and staff (including amounts paid or incurred for the planning of legislative activities).

**In-house expenditures do not include:**

- Any payments to other taxpayers engaged in lobbying or political activities as a trade or business.
- Any dues paid to another organization that are allocable to lobbying or political activities.

**Line 36—Liquidation, Dissolution, Termination, or Substantial Contraction**

If there was a liquidation, dissolution, termination, or substantial contraction, state “Yes” and complete and attach the applicable parts of Schedule N.

For a complete liquidation, dissolution, termination, or cessation of operations, also check the *Termination* box in the heading of the return.

A *substantial contraction* is a partial liquidation or other major disposition of assets except transfers for full consideration or distributions from current income.

A *major disposition of assets* means one or more dispositions for the tax year that:

1. Amount to more than 25% of the fair market value of the organization’s net assets at the beginning of the tax year; or
2. Are one of a series of related dispositions begun in earlier years that add up to more than 25% of the net assets the organization had at the beginning of the tax year when the first disposition in the series was made. Whether a major disposition of assets took place through a series of related dispositions depends on the facts in each case.



**TIP** An organization filing Form 990-EZ need not complete Part II of Schedule N for a transaction that is not a substantial contraction.

**Line 37—Expenditures for Political Purposes**  
**Political organizations described in section 527 are not required to answer this question.**

A political expenditure is one intended to influence the selection, nomination, election, or appointment of anyone to a federal, state, or local public office, or office in a political organization, or the election of Presidential or Vice Presidential electors. It does not matter whether the attempt succeeds.

An expenditure includes a payment, distribution, loan, advance, deposit, or gift of money, or anything of value. It also includes a contract, promise, or agreement to make an expenditure, whether or not legally enforceable.

**All section 501(c) organizations.** An exempt organization that is not a political organization must file Form 1120-POL if it is treated as having political organization taxable income under section 527(f)(1).

If a section 501(c) organization establishes and maintains a section 527(f)(3) separate segregated fund, it is the fund’s responsibility to file its own Form 1120-POL if the fund meets the Form 1120-POL filing requirements. Do not include the segregated fund’s receipts, expenditures, and balance sheet items on the Form 990-EZ of the section 501(c) organization

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that establishes and maintains the fund. When answering question 37 on its Form 990-EZ, the section 501(c) organization should disregard the political expenses and Form 1120-POL filing requirement of the segregated fund. However, when a section 501(c) organization transfers its own funds to a separate segregated section 527(f)(3) fund for use as political expenses, the 501(c) organization must report the transferred funds as its own political expenses on its Form 990-EZ.

**Section 501(c)(3) organizations.** A section 501(c)(3) organization will lose its tax-exempt status if it engages in political activity.

A section 501(c)(3) organization must pay a section 4955 excise tax for any amount paid or incurred on behalf of, or in opposition to, any candidate for public office. The organization must pay an additional excise tax if it fails to correct the expenditure timely.

A manager of a section 501(c)(3) organization who knowingly agrees to a political expenditure must pay a section 4955 excise tax, unless the agreement is not willful and there is reasonable cause. A manager who does not agree to a correction of the political expenditure may have to pay an additional excise tax.

When an organization promotes a candidate for public office (or is used or controlled by a candidate or prospective candidate), amounts paid or incurred for the following purposes are political expenditures:

- Remuneration to such individual (a candidate or prospective candidate) for speeches or other services;
- Travel expenses of such individual;
- Expenses of conducting polls, surveys, or other studies, or preparing papers or other material for use by such individual;
- Expenses of advertising, publicity, and fundraising for such individual; and
- Any other expense that has the primary effect of promoting public recognition or otherwise primarily accruing to the benefit of such individual.

An organization is effectively controlled by a candidate or prospective candidate only if such individual has a continuing, substantial involvement in the day-to-day operations or management of the organization.

A determination of whether the primary purpose of an organization is promoting the candidacy or prospective candidacy of an individual for public office is made on the basis of all the facts and circumstances. See section 4955 and Regulations section 53.4955.

Use Form 4720 to figure and report these excise taxes.

### Line 38—Loans To or From Officers, Directors, Trustees, and Key Employees

Enter the end-of-year unpaid balance of secured and unsecured loans made to or received from officers, directors, trustees, and key employees (as defined in Part IV above). For example, if the organization borrowed \$1,000 from one officer and loaned \$500 to another, none of which has been repaid, report \$1,500 on line 38b.

For loans outstanding at the end of the year, complete and attach Part II of Schedule L (Form 990 or 990-EZ), *Transactions with Interested Persons*. See the Schedule L instructions.

Report any interest expense paid to an officer, director, trustee, or key employee on line 16 (except for mortgage interest reportable on line 14) and any interest income paid by an officer, director, trustee, or key employee on line 8.

### Line 39—Section 501(c)(7) Organizations

**Gross receipts test.** See Appendix C for discussion of the gross receipts test for purposes of determining exemption under section 501(c)(7). This definition of gross receipts differs from the definition for purposes of Header Item L and determining whether the organization must file Form 990 or Form 990-EZ.

**Line 39a.** Include on line 39a capital contributions, initiation fees, and unusual amounts of income not included in gross receipts.

**Line 39b.** Gross receipts for public use of club facilities are gross receipts (as defined above for 501(c)(7) exemption purposes) derived for the use of the organization's facilities from persons other than members, spouses of members, dependents of members, or guests of members.

**Investment income and Form 990-T.** If the 35% and 15% limits do not affect the club's exempt status, include the income shown on line 39b on the club's Form 990-T. Investment income earned by a section 501(c)(7) organization is not tax-exempt income unless it is set aside for one or more of the following purposes: religious, charitable, scientific, literary, educational purposes, or prevention of cruelty to children or animals.

If the combined amount of an organization's gross investment income and other unrelated business income exceeds \$1,000, it must report the investment income and other unrelated business income on Form 990-T.

**Nondiscrimination policy.** A section 501(c)(7) organization is not exempt from income tax if any written policy statement, including the governing instrument and bylaws, allows discrimination on the basis of race, color, or religion.

However, section 501(i) allows social clubs to retain their exemption under section 501(c)(7) even though their membership is limited (in writing) to members of a particular religion, if the social club:

1. Is an auxiliary of a fraternal beneficiary society exempt under section 501(c)(8), and
2. Limits its membership to the members of a particular religion; or the membership limitation is:
  - a. A good-faith attempt to further the teachings or principles of that religion, and
  - b. Not intended to exclude individuals of a particular race or color.

### Line 40a—Section 501(c)(3) Organizations: Disclosure of Excise Taxes Imposed under Section 4911, 4912, or 4955

Section 501(c)(3) organizations must disclose any excise tax imposed during the year under section 4911 (excess lobbying expenditures), 4912 (disqualifying lobbying expenditures), or, unless abated, 4955 (political expenditures). See sections 4962 and 6033(b).

### Line 40b—Section 501(c)(3) and 501(c)(4) Organizations: Disclosure of Section 4958 Excess Benefit Transactions and Excise Taxes

Sections 6033(b) and 6033(f) require section 501(c)(3) and (4) organizations to report the amount of taxes imposed under section 4958 (excess benefit transactions) involving the organization, unless abated, as well as any other information the Secretary may require concerning those transactions.

If the organization answers "Yes," then complete and attach Part I of Schedule L (Form 990 or 990-EZ), *Transactions with Interested Persons*.

**TIP** An excess benefit transaction may have serious implications for the disqualified person that entered into the transaction with the organization, any organization managers that knowingly approved of the transaction, and the organization itself. A section 501(c)(3) or 501(c)(4) organization that becomes aware that it may have engaged in an excess benefit transaction should obtain competent advice regarding section 4958, consider pursuing correction of any excess benefit, and take other appropriate steps to protect its interests with regard to such transaction and the potential impact it could have on the organization's continued exempt status. See Appendix E for a discussion of section 4958, and Schedule L, Part I, regarding reporting of excess benefit transactions.

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### Line 40c—Taxes Imposed on Organization Managers or Disqualified Persons

For line 40c, enter the amount of taxes imposed on organization managers and/or disqualified persons under sections 4912, 4955, and 4958, unless abated.

### Line 40d—Taxes Reimbursed by the Organization

For line 40d, enter the amount of tax on line 40c that was reimbursed by the organization. Any reimbursement of the excise tax liability of a disqualified person or organization manager will be treated as an excess benefit unless (1) the organization treats the reimbursement as compensation during the year the reimbursement is made, and (2) the total compensation to that person, including the reimbursement, is reasonable.

### Line 40e—Tax on Prohibited Tax Shelter Transactions

Answer "Yes" if the organization was a party to a prohibited tax shelter transaction as described in section 4965(e) at any time during the organization's tax year. An organization that files Form 990-EZ (other than a section 527 political organization or a section 4947(a)(1) trust) and that is a party to a prohibited tax shelter transaction must file Form 8886-T and may also have to file Form 4720 and pay excise tax imposed by section 4965. For more information, see the instructions to Forms 8886-T and 4720.

### Line 41—List of States

List each state with which the organization is filing a copy of this return in full or partial satisfaction of state filing requirements.

### Line 42a. Location of Books and Records.

Provide the name of the person who possesses the books and records. The organization is not required to provide the address or telephone number for the personal residence of an individual. The organization's address and phone number may be used instead, or the business address and telephone number of such individual.

### Line 42b. Foreign Financial Accounts

Answer "Yes" if either item 1 or 2 below applies:

1. At any time during the calendar year (ending with or within the organization's tax year), the organization had an interest in, or signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account); and
  - a. The combined value of the accounts was more than \$10,000 at any time during the calendar year; and
  - b. The accounts were not with a U.S. military banking facility operated by a U.S. financial institution.
2. The organization owns more than 50% of the stock in any corporation that would answer "Yes" to item 1 above.

If the "Yes" box is checked, enter the name of the foreign country or countries. Attach a separate sheet if more space is needed.

File Form TD F 90-22.1 by June 30 after the end of the calendar year with the Department of the Treasury at the address shown on the form. Form TD F 90-22.1 is available by calling 1-800-TAX-FORM (1-800-829-3676) or by downloading it from the IRS website at [www.irs.gov](http://www.irs.gov). Do not file it with the IRS or attach it to Form 990-EZ.

### Line 43. Section 4947(a)(1) Nonexempt Charitable Trusts

A section 4947(a)(1) nonexempt charitable trust that has no taxable income under Subtitle A may use Form 990-EZ to meet its Section 6012 filing requirement by checking the box on line 43 (in which case Form 1041 is not required). In such case, enter on line 43 the total of exempt-interest dividends received or accrued (if reporting under the accrual method of accounting) during the tax year. Such tax-exempt interest includes

exempt-interest dividends received from a mutual fund or other regulated investment company as well as tax-exempt interest received directly.

### Line 44. Donor Advised Funds



*A sponsoring organization of a donor advised fund must file Form 990 rather than Form 990-EZ, regardless of the amount of its gross receipts or net assets.*

A sponsoring organization is any of the following types of organizations if it maintains one or more donor advised funds:

1. A section 501(c)(3) public charity described in section 509(a)(1), (2), or (3).
2. A veterans' organization, organized in the United States or any of its possessions, no part of the net earnings of which inures to the benefit of any private shareholder or individual, that meets the requirements to receive deductible contributions under section 170(c)(3).
3. A domestic fraternal organization described in section 501(c)(8) or (10) that uses charitable contributions exclusively for charitable purposes.
4. A cemetery company described in section 501(c)(13).

A "donor advised fund" is a fund or account:

1. That is separately identified by reference to contributions of a donor or donors;
2. That is owned and controlled by a sponsoring organization; and
3. For which the donor or donor advisor has or reasonably expects to have advisory privileges in the distribution or investment of amounts held in the donor advised funds or accounts because of the donor's status as a donor.

A donor advised fund does not include any fund or account:

1. That makes distributions only to a single identified organization or governmental entity, or
2. In which a donor or donor advisor gives advice about which individuals receive grants for travel, study, or other similar purposes, if:
  - a. The donor or donor advisor's advisory privileges are performed exclusively by such person in his or her capacity as a committee member in which all of the committee members are appointed by the sponsoring organization;
  - b. No combination of donors or donor advisors (and related persons as defined below) directly or indirectly control the committee; and
  - c. All grants from the fund or account are awarded on an objective and nondiscriminatory basis following a procedure approved in advance by the board of directors of the sponsoring organization. The procedure must be designed to ensure that all grants meet the requirements of sections 4945(g)(1), (2), or (3); or
3. That the Secretary exempts from being treated as a donor advised fund because either such fund or account is advised by a committee not directly or indirectly controlled by the donor or donor advisor or such fund benefits a single identified charitable purpose. For example, see Notice 2006-109, 2006-51 I.R.B. 1121, and any future related guidance.

A "donor advisor" is any person appointed or designated by a donor to advise a sponsoring organization on the distribution or investment of amounts held in the donor's donor advised fund or similar account.

### Line 45. Section 512(b)(13) Controlled Entity



*A controlling organization of a controlled entity under section 512(b)(13) must file Form 990 rather than Form 990-EZ if there was any transfer of funds between the controlling organization and any controlled entity during the year.*

The controlled entity may be a stock or nonstock corporation, association, partnership, limited liability company,

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or trust. Control exists if the controlling organization owns more than 50% of:

- The stock of a corporation (measured by voting power or value);
- The profits or capital interest in a partnership; or
- The beneficial interest in a trust or other entity.

Control of a nonstock corporation means that over 50% of its directors or trustees are either representatives of, or directly or indirectly controlled by, the controlling organization. A trustee or director is a representative of an exempt organization if a trustee, director, agent, or employee of such exempt organization. A trustee or director is controlled by an exempt organization if such organization has the power to remove such trustee or director and designate a new trustee or director.

## Part VI—Section 501(c)(3) Organizations Only

All section 501(c)(3) organizations and 4947(a)(1) trusts must complete Part VI.

### Required Statements

1. **Schedule A attachment.** Section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts must complete and attach Schedule A (Form 990 or 990-EZ), *Public Charity Status and Public Support*.

2. **Statement regarding personal benefit contract.** If, in connection with a transfer of funds to the organization, the organization directly or indirectly pays premiums on any personal benefit contract, or there is an understanding or expectation that any person will directly or indirectly pay such premiums, the organization must do the following:

- Attach a statement describing the organization's involvement with the personal benefit contract(s);
- Report on Form 8870 the premiums that the organization paid, and the premiums paid by others but treated as paid by the organization; and
- Report and pay an excise tax, equal to premiums paid, on Form 4720

A *personal benefit contract* is generally any life insurance, annuity, or endowment contract that benefits, directly or indirectly, the transferor, a member of the transferor's family, or any other person designated by the transferor (other than an organization described in section 170(c)). See section 170(f)(10); Notice 2000-24, 2000-1 C.B. 952; and Announcement 2000-82, 2000-2 C.B. 385.

### Line 46. Political Campaign Activities

Answer "Yes" and complete Part I of Schedule C (Form 990 or 990-EZ), *Political Campaign and Lobbying Activities*, if the organization participated or intervened in (including the publishing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office, directly or indirectly. See the Schedule C instructions for a discussion of political campaign activity.

### Line 47. Lobbying Activities

Answer "Yes" and complete Part II of Schedule C (Form 990 or 990-EZ), *Political Campaign and Lobbying Activities*, if the organization engaged in lobbying activities. See the Schedule C instructions for a discussion of lobbying activities.

### Line 48. School

Answer "Yes" and complete Schedule E (Form 990 or Form 990-EZ), *Schools*, if the organization checked the box on line 2 of Schedule A (Form 990 or Form 990-EZ), *Public Charity Status and Public Support*, Part I, indicating that it is a school.

### Line 49. Transfers to Exempt Non-Charitable Related Organizations

Answer "Yes" if the organization made any transfer to a related organization that is an exempt organization other than a 501(c)(3) organization, such as a related 501(c)(4) organization or a related 527 political organization.

A *transfer* for this purpose is any transaction or arrangement in which the organization transferred something of value (cash, other assets, services, use of property, etc.) to the exempt non-charitable related organization, whether or not for adequate consideration. The organization may (but is not required to) explain the transfer in an attachment.

A *related organization* for this purpose is an organization with either of the following relationships to the filing organization at any time during the organization's tax year:

1. The two organizations share some element of common control, or
2. A historic and continuing relationship exists between the two organizations.

An *element of common control* is present when one or more of the officers, directors, or trustees of one organization are elected or appointed by the officers, directors, trustees, or members of the other. An element of common control is also present when more than 25% of the officers, directors, or trustees of one organization serve as officers, directors, or trustees of the other organization.

A *historic and continuing relationship* exists when two organizations participate in a joint effort to work in concert toward the attainment of one or more common purposes on a continuous or recurring basis rather than on the basis of one or several isolated transactions or activities. Such a relationship also exists when two organizations share facilities, equipment, or paid personnel during the year, regardless of the length of time the arrangement is in effect.

### Line 50. Five Highest Compensated Employees over \$100,000

Complete this table for the five employees (other than officers, directors, trustees, and key employees as defined in Part IV above) with the highest annual compensation over \$100,000. At the bottom of the table, enter the number of other employees (other than officers, directors, trustees, and key employees) with annual compensation over \$100,000 who are not individually listed.

Determination of the five highest compensated employees depends on whether the organization uses Option 1 or Option 2 for Part IV compensation reporting. Whichever option is selected must be used for both Part IV and Part VI compensation reporting.

Under Option 1, a fiscal-year organization must use the calendar year ending within its tax year to determine its five highest compensated employees over \$100,000, and to report such compensation. Combine the compensation includible in columns (c) and (d) in determining whether compensation exceeds \$100,000 for the calendar year.

Under Option 2, a fiscal-year organization may determine the five highest compensated employees over \$100,000 for its tax year, or for the calendar year ending within its tax year. Use the same year as was used in reporting compensation for officers, directors, trustees, and key employees in Part IV. Combine compensation includible in columns (c), (d), and (e) in determining whether compensation exceeds \$100,000.

See the Part IV instructions for more information on Option 1 and Option 2 compensation reporting and for filling out the table columns (a) through (e) of line 50.

**Example.** S is not a key employee. The organization uses a calendar tax year. During the year, S received a salary of \$80,000 and a \$2,000 bonus. S contributed \$5,000 of the salary on a pre-tax basis to a qualified defined-contribution retirement plan, and received a matching employer contribution of \$5,000 from the organization. S contributed another \$5,000 of the salary on a pre-tax basis to a qualified health plan. S received from the employer non-taxable health benefits for herself and her family of \$10,000, and non-taxable family educational benefits of \$5,000.

To determine whether S is to be listed as among the five highest compensated employees under Option 1, S's compensation in column (c) would be \$82,000, the amount

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reportable in Form W-2, Box 5, consisting of the \$80,000 salary (including her contributions to the qualified plans) and the \$2,000 bonus. S's compensation in column (d) would be \$15,000, consisting of the organization's payments of \$5,000 to the retirement plan and \$10,000 to the health plan. Thus, under Option 1, S's total compensation of \$97,000 would not place her among the five highest compensated employees over \$100,000.

To determine whether S is to be listed as among the five highest compensated employees under Option 2, S would have the following compensation: \$82,000 under column (c), consisting of the \$80,000 salary and \$2,000 bonus; and \$20,000 under column (d), consisting of the employer's payments of \$5,000 to the retirement plan, \$10,000 to the health plan, and \$5,000 of educational benefits. Total compensation of S would be \$102,000. Thus, under Option 2, S would be listed in line 50 as one of the five highest compensated employees unless there are five other employees (other than key employees) with higher compensation.

See Pub. 525, *Taxable and Nontaxable Income*, for more information.

### Line 51. Five Highest Compensated Independent Contractors over \$100,000

Complete this table for the five highest compensated independent contractors that received more than \$100,000 in compensation for services, whether professional services or other services, from the organization. At the bottom of the table, enter the number of other independent contractors with annual compensation over \$100,000 who are not individually listed.

Independent contractors include organizations as well as individuals and may include professional fundraisers, law firms, accounting firms, publishing companies, management companies, and investment management companies. See Publication 1779 and Publication 15-A for distinguishing employees from independent contractors. Any compensation received by an officer, director, trustee, key employee, or highest compensated employee in the capacity as an independent contractor must be included in such person's compensation reported in Part IV or Part VI line 50.

Fiscal-year organizations must use the same year (whether tax year or calendar year ending within the tax year) as is used in Part IV for determining their five highest compensated independent contractors and reporting their compensation in such year.

**Column (C). Compensation.** Enter the amount of compensation the organization paid or incurred for the applicable year. If the organization uses the calendar year and the cash method of accounting, report the amount reported on Form 1099-MISC, Box 7, if filed. Otherwise, report the amount paid pursuant to the parties' agreement or applicable state law.



*Form 1099-MISC is not always required to be issued for payments to an independent contractor.*

Compensation includes fees and similar payments to independent contractors but not reimbursement of expenses. However, for this purpose, the organization must report the gross payment to the independent contractor that includes expenses and fees if the expenses are not separately reported to the organization.

### Signature Block

To make the return complete, an officer of the organization authorized to sign it must sign in the space provided. For a

corporation or association, this officer may be the president, vice president, treasurer, assistant treasurer, chief accounting officer, or other corporate or association officer, such as a tax officer. A receiver, trustee or assignee must sign any return he or she files for a corporation or association. For a trust, the authorized trustee(s) must sign.

### Paid Preparer

Generally, anyone who is paid to prepare the return must sign the return and fill in the other blanks in the Paid Preparer's Use Only area. An employee of the filing organization is not a paid preparer.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature;
- Enter the preparer information (other than PTIN and EIN blocks, except as described below); and
- Give a copy of the return to the organization.

The paid preparer must enter the preparer's identifying taxpayer identification number and the preparer's firm's EIN only if filing Form 990-EZ for a section 4947(a)(1) nonexempt charitable trust that is not filing Form 1041. The preparer's identifying number is the preparer's social security number or the preparer's taxpayer identification number (PTIN), if obtained, or the preparer's social security number.



*The IRS is not authorized to redact the paid preparer's social security number if such SSN is entered in the paid preparer's block. Because the Form 990-EZ is a publicly disclosable document, any information entered in this block will be publicly disclosed (see Appendix D). Accordingly, any paid preparer whose identifying number must be listed on the Form 990 may wish to apply for and obtain a PTIN using Form W-7P.*

### Paid Preparer Authorization

On the last line of Part II, check "Yes" if the IRS may contact the paid preparer who signed the return to discuss the return. This authorization applies only to the individual whose signature appears in the "Paid Preparer's Use Only" section of the Form 990-EZ. It does not apply to the firm, if any, shown in that section.

By checking this box "Yes," the organization is authorizing the IRS to contact the paid preparer to answer any questions that may arise during the processing of the return. The organization is also authorizing the paid preparer to:

- Give the IRS any information that is missing from the return,
- Call the IRS for information about the processing of the return, and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

The organization is not authorizing the paid preparer to bind the organization to anything or otherwise represent the organization before the IRS.

The authorization will automatically end no later than the due date (excluding extensions) for filing the organization's 2008 Form 990-EZ. If the organization wants to expand the paid preparer's authorization or revoke the authorization before it ends, see Pub. 947, *Practice Before the IRS and Power of Attorney*.

Check "No" if the IRS is to contact the organization at the address or telephone number listed in the heading, rather than the paid preparer.

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## Appendix of Special Instructions to Form 990-EZ Contents

- A** Exempt Organizations Reference Chart
- B** How to Determine Whether an Organization's Gross Receipts Are Normally \$25,000 (or \$5,000) or Less
- C** Special Gross Receipts Test for Determining Exempt Status of Section 501(c)(7) and Section 501(c)(15) Organizations
- D** Public Inspection of Returns
- E** Section 4958 Excess Benefit Transactions
- F** Forms and Publications To File or Use
- G** Use of Form 990, or Form 990-EZ, To Satisfy State Reporting Requirements

### Appendix A: Exempt Organizations Reference Chart

To determine how the instructions for Form 990-EZ apply to the organization, an organization must know the Code section under which the organization is exempt.

Type of Organization	I.R.C Section
Corporations Organized Under Act of Congress	501(c)(1)
Title Holding Corporations	501(c)(2)
Charitable, Religious, Educational, Scientific, etc. Organizations	501(c)(3)
Civic Leagues and Social Welfare Organizations	501(c)(4)
Labor, Agricultural, and Horticultural Organizations	501(c)(5)
Business Leagues, etc.	501(c)(6)
Social and Recreation Clubs	501(c)(7)
Fraternal Beneficiary and Domestic Fraternal Societies and Associations	501(c)(8) & (c)(10)
Voluntary Employees' Beneficiary Associations	501(c)(9)
Teachers' Retirement Fund Associations	501(c)(11)
Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, etc.	501(c)(12)
Cemetery Companies	501(c)(13)
State Chartered Credit Unions, Mutual Reserve Funds	501(c)(14)
Insurance Companies or Associations Other than Life	501(c)(15)
Cooperative Organizations to Finance Crop Operations	501(c)(16)
Supplemental Unemployment Benefit Trusts	501(c)(17)

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Type of Organization		I.R.C Section
Employee Funded Pension Trusts (created before 6/25/1959)		501(c)(18)
Organizations of Past or Present Members of the Armed Forces		501(c)(19) & (c)(23)
Black Lung Benefit Trusts		501(c)(21)
Withdrawal Liability Payment Funds		501(c)(22)
Title Holding Corporations or Trusts		501(c)(25)
State-Sponsored Organizations Providing Health Coverage for High-Risk Individuals		501(c)(26)
State-Sponsored Workmen's Compensation and Insurance and Reinsurance Organizations		501(c)(27)
Religious and Apostolic Associations		501(d)
Cooperative Hospital Service Organizations		501(e)
Cooperative Service Organizations of Operating Educational Organizations		501(f)
Child Care Organizations		501(k)
Charitable Risk Pools		501(n)
Political Organizations		527

## Appendix B: How to Determine Whether an Organization's Gross Receipts Are Normally \$25,000 (or \$5000) or Less

To figure whether an organization has to file Form 990-EZ (or Form 990), apply the \$25,000 (or \$5000) gross receipts test (below) using the following definition of gross receipts and information in *Figuring Gross Receipts* below.

### Gross Receipts

Gross receipts are the total amounts the organization received from all sources during its annual accounting period, without subtracting any costs or expenses.



**Do not use the definition of gross receipts described in Appendix C, Special Gross Receipts Test for Determining Exempt Status of Section 501(c)(7) and Section 501(c)(15) Organizations, to figure gross receipts for this purpose. That test is limited to**

*determining exempt status of such organizations.*

**Gross receipts when acting as an agent.** If a local chapter of a section 501(c)(8) fraternal organization collects insurance premiums for its parent lodge and merely sends those premiums to the parent without asserting any right to use the funds or otherwise deriving any benefit from them, the local chapter does not include the premiums in its gross receipts. The parent lodge reports them instead. The same treatment applies in other situations in which one organization collects funds merely as an agent for another.

### Figuring Gross Receipts

Figure gross receipts for Form 990 and Form 990-EZ as follows.

**Form 990.** Gross receipts are the sum of lines 6b (both columns), 7b (both columns), 8b, 9b, 10b, and 12, Column A of Form 990, Part VIII.

**Form 990-EZ.** Gross receipts are the sum of lines 5b, 6b, 7b, and 9 of Form 990-EZ, Part I.

**Example.** Organization M reported \$50,000 as total revenue on line 9 of its

Form 990-EZ. M added back the costs and expenses it had deducted on lines 5b (\$2,000); 6b (\$1,500); and 7b (\$500) to its total revenue of \$50,000 and determined that its gross receipts for the tax year were \$54,000.

### \$25,000 Gross Receipts Test

To determine whether an organization's gross receipts are normally \$25,000 or less, apply the following test. An organization's gross receipts are considered normally to be \$25,000 or less if the organization is:

1. Up to a year old and has received, or donors have pledged to give, \$37,500 or less during its first tax year;
2. Between 1 and 3 years old and averaged \$30,000 or less in gross receipts during each of its first 2 tax years; or
3. Three years old or more and averaged \$25,000 or less in gross receipts for the immediately preceding 3 tax years (including the year for which the return would be filed).

If the organization's gross receipts are normally \$25,000 or less, it must file Form 990-N, *Electronic Notice (e-Postcard)* for

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*Tax-Exempt Organizations not Required To File Form 990 or 990-EZ* (with exceptions for certain organizations described in General Instruction B).

### \$5,000 Gross Receipts Test

To determine whether an organization's gross receipts are normally \$5,000 or less, apply the following test. An organization's gross receipts are considered normally to be \$5,000 or less if the organization is:

1. Up to a year old and has received, or donors have pledged to give, \$7,500 or less during its first tax year;
2. Between 1 and 3 years old and averaged \$6,000 or less in gross receipts during each of its first 2 tax years; or
3. Three years old or more and averaged \$5,000 or less in gross receipts for the immediately preceding 3 tax years (including the year for which the return would be filed).

## Appendix C: Special Gross Receipts Test for Determining Exempt Status of Section 501(c)(7) and 501(c)(15) Organizations

Section 501(c)(7) organizations (social clubs) and 501(c)(15) organizations (insurance companies) apply the same gross receipts test as other organizations to determine whether they must file the Form 990 or Form 990-EZ. However, section 501(c)(7) and 501(c)(15) organizations are also subject to separate gross receipts tests to determine whether they qualify as tax-exempt for the tax year. The following tests use a special definition of gross receipts for purposes of determining whether these organizations are exempt for a particular tax year.

### 501(c)(7)

A section 501(c)(7) organization may receive up to 35% of its gross receipts, including investment income, from sources outside its membership and remain tax-exempt. Part of the 35% (up to 15% of gross receipts) may be from public use of a social club's facilities.

"Gross receipts" for purposes of determining 501(c)(7) exemption are the club's income from its usual activities and include:

- Charges,
- Admissions,
- Membership fees
- Dues,
- Assessments, and
- Investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments.

Gross receipts for this purpose do not include:

- Capital contributions (see Regulations section 1.118-1),
- Initiation fees, or

- Unusual amounts of income (such as the sale of the clubhouse).



*College fraternities or sororities or other organizations that charge membership initiation fees, but not annual dues, must include initiation fees in their gross receipts.*

### 501(c)(15)

If any section 501(c)(15) insurance company (other than life insurance) normally has gross receipts of more than \$25,000 for the tax year and meets both parts of the following test, then the company may file Form 990 (or Form 990-EZ, if applicable).

1. The company's gross receipts must be equal to or less than \$600,000, and
2. The company's premiums must be more than 50% of its gross receipts.

If the company did not meet this test and the company is a mutual insurance company, then it must meet the *Alternate test* to qualify to file Form 990 (or Form 990-EZ, if applicable). Insurance companies that do not qualify as tax-exempt must file Form 1120-PC, U.S. Property and Casualty Insurance Company Income Tax Return, or Form 1120, U.S. Corporation Income Tax Return, as taxable entities for the year. See Notice 2006-42, which is on page 878 of the Internal Revenue Bulletin 2006-19 available at [www.irs.gov](http://www.irs.gov).

**Alternate test.** If any section 501(c)(15) insurance company (other than life insurance) is a mutual insurance company and it did not meet the above test, then the company must meet both parts of the following alternate test.

1. The company's gross receipts must be equal to or less than \$150,000, and
2. The company's premiums must be more than 35% of its gross receipts.

If the company does not meet either test, then it must file Form 1120-PC or Form 1120 (if the company is not entitled to insurance reserves) instead of Form 990 or Form 990-EZ.



*The alternate test does not apply if any employee of the mutual insurance company or a member of the employee's family is an employee of another company that is exempt under section 501(c)(15) (or would be exempt if this provision did not apply).*

**Gross receipts.** To determine whether a section 501(c)(15) organization satisfies either of the above tests described in Appendix C, figure gross receipts by adding:

1. premiums (including deposits and assessments) without reduction for return premiums or premiums paid for reinsurance;
2. gross investment income of a non-life insurance company (as described in section 834(b)); and
3. other items that are included in the filer's gross income under Subchapter B, Chapter 1, Subtitle A of the Code.

This definition does not, however, include contributions to capital. For more information, see *Notice 2006-42*.

**Premiums.** Premiums consist of all amounts received as a result of entering into an insurance contract. They are reported in Form 990, Part VIII (Statement of Revenue), line 2, or in Form 990-EZ, Part I, line 2.

**Anti-abuse rule.** The anti-abuse rule, found in section 501(c)(15)(C), explains how gross receipts (including premiums) from all members of a controlled group are aggregated in figuring the above tests.

## Appendix D: Public Inspection of Returns

Some members of the public rely on Form 990, or Form 990-EZ, 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 returns.

An organization's completed Form 990, or Form 990-EZ, is available for public inspection as required by section 6104. Schedule B, Schedule of Contributors (Form 990, 990-EZ, or 990-PF) is open for public inspection for section 527 organizations filing Form 990 or Form 990-EZ. For other organizations that file Form 990 or Form 990-EZ, parts of Schedule B may be open to public inspection. Form 990-T filed after August 17, 2006, by a 501(c)(3) organization to report any unrelated business income, is also available for public inspection and disclosure.

### Through the IRS

Use Form 4506-A to request:

- A copy of an exempt or political organization's return, report, notice, or exemption application;
- An inspection of a return, report, notice, or exemption application at an IRS office.

The IRS can provide copies of exempt organization returns on a compact disc (CD). Requesters can order the complete set (all Forms 990 and 990-EZ or all Forms 990-PF filed for a year) or a partial set by state or by month. For more information on the cost and how to order CD-ROMs, call the TEGE Customer Account Services toll-free number (1-877-829-5500) or write to the IRS:

Internal Revenue Service  
TE/GE EO Determinations  
P.O. Box 2508  
Cincinnati, OH 45201

The IRS may not disclose portions of an exemption application relating to any trade secrets, etc. Additionally, the IRS may not disclose the names and addresses of contributors. See the Instructions for Schedule B (Form 990, 990-EZ, or 990-PF) for more information about the disclosure of that schedule.

Notice 2008-49, 2008-20 I.R.B. 979, provides interim guidance regarding the



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requirement that section 501(c)(3) organizations and the IRS make available for public inspection Form 990-T.

Forms 990 or 990-EZ can only be requested for section 527 organizations for tax years beginning after June 30, 2000.

A return, report, notice, or exemption application may be inspected at an IRS office free of charge. Copies of these items may also be obtained through the organization as discussed in the following section.

### Through the Organization

**Public inspection and distribution of certain returns of unrelated business income.** Section 501(c)(3) organizations that are required to file Form 990-T after August 17, 2006, must make Form 990-T available for public inspection under section 6104(d)(1)(A)(ii).

**Public inspection and distribution of returns and reports for a political organization.** Section 527 political organizations required to file Form 990, or Form 990-EZ, must, in general, make their Form 8871, 8872, 990, or 990-EZ available for public inspection in the same manner as annual information returns of section 501(c) organizations and 4947(a)(1) nonexempt charitable trusts are made available. See the public inspection rules for *Tax-exempt organizations*, later. Generally, Form 8871 and Form 8872 are available for inspection and printing in the Charities & Nonprofits section of the IRS Web site ([www.irs.gov](http://www.irs.gov)).



Note that a section 527 political organization (and an organization filing Form 990-PF) must disclose their Schedule B (Form 990, 990-EZ, or 990-PF). See the Instructions for Schedule B. The penalties discussed in General Instruction H also apply to section 527 political organizations (Rev. Rul. 2003-49, 2003-20 I.R.B. 903).

**Public inspection and distribution of applications for tax exemption and annual information returns of tax-exempt organizations.** Under Regulations sections 301.6104(d)-1 through -3, a tax-exempt organization must:

- Make its application for recognition of exemption and its annual information returns available for public inspection without charge at its principal, regional and district offices during regular business hours.
- Make each annual information return available for a period of 3 years beginning on the date the return is required to be filed (determined with regard to any extension of time for filing) or is actually filed, whichever is later.
- Provide a copy without charge (for Form 990-T, this requirement applies only to Forms 990-T filed after August 17, 2006), other than a reasonable fee for reproduction and actual postage costs, of all or any part of any application or return

required to be made available for public inspection to any individual who makes a request for such copy in person or in writing (except as provided in Regulations sections 301.6104(d)-2 and -3).

### Definitions

**Tax-exempt organization** is any organization that is described in section 501(c) or (d) and is exempt from taxation under section 501(a). The term tax-exempt organization also includes any section 4947(a)(1) nonexempt charitable trust or nonexempt private foundation that is subject to the reporting requirements of section 6033.

**Application for tax exemption** includes:

- Any prescribed application form (such as Form 1023 or Form 1024),
- All documents and statements the IRS requires an applicant to file with the form,
- Any statement or other supporting document submitted in support of the application, and
- Any letter or other document issued by the IRS concerning the application.

**Application for tax exemption** does not include:

- Any application for tax exemption filed before July 15, 1987, unless the organization filing the application had a copy of the application on July 15, 1987;
- In the case of a tax-exempt organization other than a private foundation, the name and address of any contributor to the organization; or
- Any material that is not available for public inspection under section 6104.



If there is no prescribed application form, see Regulations section 301.6104(d)-1(b)(4)(i).

**Annual information return** includes:

- An exact copy of the Form 990 or Form 990-EZ filed by a tax-exempt organization as required by section 6033.
- Any amended return the organization files with the IRS after the date the original return is filed.
- An exact copy of Form 990-T if one is filed by a 501(c)(3) organization.

The copy must include all information furnished to the IRS on Form 990, Form 990-EZ, or Form 990-T as well as all schedules, attachments and supporting documents, except for the name and address of any contributor to the organization. See the Instructions for Schedule B (Form 990, 990-EZ, or 990-PF). However, schedules, attachments, and supporting documents filed with Form 990-T that do not relate to the imposition of unrelated business income tax are not required to be made available for public inspection and copying. See Notice 2008-49, 2008-20 I.R.B. 979.

**Annual returns more than 3 years old.** An annual information return does not include any return after the expiration of 3 years from the date the return is required to be filed (including any

extension of time that has been granted for filing such return) or is actually filed, whichever is later.

If an organization files an amended return, however, the amended return must be made available for a period of 3 years beginning on the date it is filed with the IRS.

**Local or subordinate organizations.** For rules relating to annual information returns of local or subordinate organizations, see Regulations section 301.6104(d)-1(f)(2).

**Regional or district offices.** A regional or district office is any office of a tax-exempt organization, other than its principal office, that has paid employees, whether part-time or full-time, whose aggregate number of paid hours a week are normally at least 120.

A site is not considered a regional or district office, however, if:

- The only services provided at the site further exempt purposes (such as day care, health care or scientific or medical research); and
- The site does not serve as an office for management staff, other than managers who are involved solely in managing the exempt function activities at the site.

### Special rules relating to public inspection

**Permissible conditions on public inspection.** A tax-exempt organization:

- May have an employee present in the room during an inspection.
- Must allow the individual conducting the inspection to take notes freely during the inspection.
- Must allow the individual to photocopy the document at no charge, if the individual provides photocopying equipment at the place of inspection.

**Organizations that do not maintain permanent offices.** A tax-exempt organization with no permanent office:

- Must make its application for tax exemption and its annual information returns available for inspection at a reasonable location of its choice.
- Must permit public inspection within a reasonable amount of time after receiving a request for inspection (normally not more than 2 weeks) and at a reasonable time of day.
- May mail, within 2 weeks of receiving the request, a copy of its application for tax exemption and annual information returns to the requester instead of allowing an inspection.
- May charge the requester for copying and actual postage costs only if the requester consents to the charge.

An organization that has a permanent office, but has no office hours, or very limited hours during certain times of the year, must make its documents available during those periods when office hours are limited, or not available, as though it were an organization without a permanent office.

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**Special rules relating to copies.**

**Time and place for providing copies in response to requests made in-person.** A tax-exempt organization must:

- Provide copies of required documents under section 6104(d) in response to a request made in person at its principal, regional and district offices during regular business hours.
- Provide such copies to a requester on the day the request is made, except for unusual circumstances (see below).

**Unusual circumstances.** In the case of an in-person request, where unusual circumstances exist so that fulfilling the request on the same business day causes an unreasonable burden to the tax-exempt organization, the organization must provide the copies no later than the next business day following the day that the unusual circumstances cease to exist, or the 5th business day after the date of the request, whichever occurs first.

Unusual circumstances include:

- Requests received that exceed the organization’s daily capacity to make copies;
- Requests received shortly before the end of regular business hours that require an extensive amount of copying; or
- Requests received on a day when the organization’s managerial staff capable of fulfilling the request is conducting special duties, such as student registration or attending an off-site meeting or convention, rather than its regular administrative duties.

**Agents for providing copies.** For rules relating to use of agents to provide copies, see Regulations sections 301.6104(d)-1(d)(1) and (2).

**Request for copies in writing.** A tax-exempt organization must honor a written request for a copy of documents (or the requested part) required under section 6104(d) if the request:

1. Is addressed to, and delivered by mail, electronic mail, facsimile, or a private delivery service, as defined in section 7502(f), to a principal, regional, or district office of the organization; and
2. Sets forth the address to which the copy of the documents should be sent.

**Time and manner of fulfilling written requests**

IF the organization	THEN the organization
Receives a written request for a copy,	Must mail the copy of the requested documents (or the requested parts) within 30 days from the date it receives the request.
Mails the copy of the requested document,	Is deemed to have provided the copy on the postmark date or private delivery mark (if sent by certified or registered mail, the date of registration or the date of the postmark on the sender’s receipt).
Requires payment in advance,	Is required to provide the copies within 30 days from the date it receives payment.
Receives a request or payment by mail,	Is deemed to have received it 7 days after the date of the postmark, absent evidence to the contrary.
Receives a request transmitted by electronic mail or facsimile,	Is deemed to have received it the day the request is transmitted successfully.
Receives a written request without payment or with an insufficient payment, when payment in advance is required,	Must notify the requester of the prepayment policy and the amount due within 7 days from the date of the request’s receipt.
Receives consent from an individual making a request,	May provide a copy of the requested document exclusively by electronic mail (the material is provided on the date the organization successfully transmits the electronic mail.

**Request for a copy of parts of a document.** A tax-exempt organization must fulfill a request for a copy of the organization’s entire application for tax exemption or annual information return or any specific part or schedule of its application or return. A request for a copy of less than the entire application or less than the entire return must specifically identify the requested part or schedule.

**Fees for copies.** A tax-exempt organization may charge a reasonable fee for providing copies. Before the organization provides the documents, it may require that the individual requesting copies of the documents pay the fee. If the organization has provided an individual making a request with notice of the fee, and the individual does not pay the fee within 30 days, or if the individual

pays the fee by check and the check does not clear upon deposit, the organization may disregard the request.

**Form of payment—(A) Request made in person.** If a tax-exempt organization charges a fee for copying, it must accept payment by cash and money order for requests made in person. The organization may accept other forms of payment, such as credit cards and personal checks.

**(B) Request made in writing.** If a tax-exempt organization charges a fee for copying and postage, it must accept payment by certified check, money order, and either personal check or credit card for requests made in writing. The organization may accept other forms of payment.

**Avoidance of unexpected fees.** Where a tax-exempt organization does not require prepayment and a requester does not enclose payment with a request, an organization must receive consent from a requester before providing copies for which the fee charged for copying and postage exceeds \$20.

**Documents to be provided by regional and district offices.** Except as otherwise provided, a regional or district office of a tax-exempt organization must satisfy the same rules as the principal office with respect to allowing public inspection and providing copies of its application for tax exemption and annual information returns.

A regional or district office is not required, however, to make its annual information return available for inspection or to provide copies until 30 days after the date the return is required to be filed (including any extension of time that is granted for filing such return) or is actually filed, whichever is later.

**Documents to be provided by local and subordinate organizations.**

**Applications for tax exemption.** Except as otherwise provided, a tax-exempt organization that did not file its own application for tax exemption (because it is a local or subordinate organization covered by a group exemption letter) must, upon request, make available for public inspection, or provide copies of, the application submitted to the IRS by the central or parent organization to obtain the group exemption letter and those documents which were submitted by the central or parent organization to include the local or subordinate organization in the group exemption letter.

However, if the central or parent organization submits to the IRS a list or directory of local or subordinate organizations covered by the group exemption letter, the local or subordinate organization is required to provide only the application for the group exemption ruling and the pages of the list or directory that specifically refer to it. The local or

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subordinate organization must permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day. See Regulations section 301.6104(d)-1(f) for further information.

**Annual information returns.** A local or subordinate organization that does not file its own annual information return (because it is affiliated with a central or parent organization that files a group return) must, upon request, make available for public inspection, or provide copies of, the group returns filed by the central or parent organization.

However, if the group return includes separate schedules with respect to each local or subordinate organization included in the group return, the local or subordinate organization receiving the request may omit any schedules relating only to other organizations included in the group return.

The local or subordinate organization must permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day.

In a case where the requester seeks inspection, the local or subordinate organization may mail a copy of the applicable documents to the requester within the same time period instead of allowing an inspection. In such a case, the organization may charge the requester for copying and actual postage costs only if the requester consents to the charge.

If the local or subordinate organization receives a written request for a copy of its annual information return, it must fulfill the request by providing a copy of the group return in the time and manner specified in the paragraph earlier, *Request for copies in writing*.

The requester has the option of requesting from the central or parent organization, at its principal office, inspection or copies of group returns filed by the central or parent organization. The central or parent organization must fulfill such requests in the time and manner specified in the paragraphs, *Special rules relating to public inspection* and *Special rules relating to copies* earlier.

**Failure to comply.** If an organization fails to comply with the requirements specified in this paragraph, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 apply.

**Making applications and returns widely available.** A tax-exempt organization is not required to comply with a request for a copy of its application for tax exemption or an annual information return if the organization has

made the requested document widely available (see below).

An organization that makes its application for tax exemption and/or annual information return widely available must nevertheless make the document available for public inspection as required under Regulations section 301.6104(d)-1(a).

A tax-exempt organization makes its application for tax exemption and/or an annual information return widely available if the organization complies with the Internet posting requirements and the notice requirements given below.

**Internet posting.** A tax-exempt organization can make its application for tax exemption and/or an annual information return widely available by posting the document on a World Wide Web page that the tax-exempt organization establishes and maintains or by having the document posted, as part of a database of similar documents of other tax-exempt organizations, on a World Wide Web page established and maintained by another entity. The document will be considered widely available only if:

- The World Wide Web page through which it is available clearly informs readers that the document is available and provides instructions for downloading it;
- The document is posted in a format that, when accessed, downloaded, viewed and printed in hard copy, exactly reproduces the image of the application for tax exemption or annual information return as it was originally filed with the IRS, except for any information permitted by statute to be withheld from public disclosure; and
- Any individual with access to the Internet can access, download, view and print the document without special computer hardware or software required for that format (other than software that is readily available to members of the public without payment of any fee) and without payment of a fee to the tax-exempt organization or to another entity maintaining the World Wide Web page.

**Reliability and accuracy.** In order for the document to be widely available through an Internet posting, the entity maintaining the World Wide Web page must have procedures for ensuring the reliability and accuracy of the document that it posts on the page and must take reasonable precautions to prevent alteration, destruction or accidental loss of the document when posted on its page. In the event that a posted document is altered, destroyed or lost, the entity must correct or replace the document.

**Notice requirement.** If a tax-exempt organization has made its application for tax exemption and/or an annual information return widely available, it must notify any individual requesting a copy where the documents are available

(including the address on the World Wide Web, if applicable). If the request is made in person, the organization must provide such notice to the individual immediately. If the request is made in writing, the notice must be provided within 7 days of receiving the request.

**Tax-exempt organization subject to harassment campaign.** If the Director EO Examination (or designee) determines that the organization is being harassed, a tax-exempt organization is not required to comply with any request for copies that it reasonably believes is part of a harassment campaign.

Whether a group of requests constitutes a harassment campaign depends on the relevant facts and circumstances such as:

- a sudden increase in requests;
- an extraordinary number of requests by form letters or similarly worded correspondence;
- hostile requests;
- evidence showing bad faith or deterrence of the organization's exempt purpose;
- prior provision of the requested documents to the purported harassing group; and
- a demonstration that the organization routinely provides copies of its documents upon request.

A tax-exempt organization may disregard any request for copies of all or part of any document beyond the first two received within any 30-day period or the first four received within any 1-year period from the same individual or the same address, regardless of whether the Director EO Examination (or designee) has determined that the organization is subject to a harassment campaign.

A tax-exempt organization may apply for a determination that it is the subject of a harassment campaign and that compliance with requests that are part of the campaign would not be in the public interest by submitting a signed application to the Director EO Examination (or designee) for the area where the organization's principal office is located.

In addition, the organization may suspend compliance with any request it reasonably believes to be part of the harassment campaign until it receives a response to its application for a harassment campaign determination. However, if the Director EO Examination (or designee) determines that the organization did not have a reasonable basis for requesting a determination that it was subject to a harassment campaign or reasonable belief that a request was part of the campaign, the officer, director, trustee, employee, or other responsible individual of the organization remains liable for any penalties for not providing the copies in a timely fashion. See Regulations section 301.6104(d)-3.

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## Appendix E: Section 4958 Excess Benefit Transactions

The intermediate sanction regulations are important to the exempt organization community as a whole, and for ensuring compliance in this area. The rules provide a roadmap by which an organization may steer clear of situations that may give rise to inurement.

Under section 4958, any disqualified person who benefits from an excess benefit transaction with an applicable tax-exempt organization is liable for a 25% tax on the excess benefit. The disqualified person is also liable for a 200% tax on the excess benefit if the excess benefit is not corrected by a certain date. Also, organization managers who participate in an excess benefit transaction knowingly, willfully, and without reasonable cause are liable for a 10% tax on the excess benefit, not to exceed \$20,000 for all participating managers on each transaction.

### Applicable Tax-Exempt Organization

These rules only apply to certain applicable section 501(c)(3) and 501(c)(4) organizations. An *applicable tax-exempt organization* is a section 501(c)(3) or a section 501(c)(4) organization that is tax exempt under section 501(a), or was such an organization at any time during a 5-year period ending on the day of the excess benefit transaction.

An applicable tax-exempt organization does not include:

- A private foundation as defined in section 509(a).
- A governmental entity that is exempt from (or not subject to) taxation without regard to section 501(a) or relieved from filing an annual return under Regulations section 1.6033-2(g)(6).
- Certain foreign organizations.

An organization is not treated as a section 501(c)(3) or 501(c)(4) organization for any period covered by a final determination that the organization was not tax-exempt under section 501(a), so long as the determination was not based on private inurement or one or more excess benefit transactions.

### Disqualified Person

The vast majority of section 501(c)(3) or 501(c)(4) organization employees and contractors will not be affected by these rules. Only the few influential persons within these organizations are covered by these rules when they receive benefits, such as compensation, fringe benefits, or contract payments. The IRS calls this class of covered individuals disqualified persons.

A *disqualified person*, regarding any transaction, is any person who was in a position to exercise substantial influence over the affairs of the applicable tax-exempt organization at any time

during a 5-year period ending on the date of the transaction. Persons who hold certain powers, responsibilities, or interests are among those who are in a position to exercise substantial influence over the affairs of the organization. This would include, for example, voting members of the governing body, and persons holding the power of:

- Presidents, chief executive officers, or chief operating officers.
- Treasurers and chief financial officers.

A disqualified person also includes certain family members of a disqualified person, and 35% controlled entities of a disqualified person.

The following persons are considered disqualified persons with respect to the following organizations, along with certain family members and 35% controlled entities associated with them:

- With respect to a sponsoring organization of a donor advised fund, a donor of a donor advised fund,
- With respect to a sponsoring organization of a donor advised fund, an investment advisor of the sponsoring organization, and
- With respect to a supported organization of a section 509(a)(3) supporting organization, the disqualified persons of the section 509(a)(3) supporting organization.

Substantial contributors to supporting organizations are also considered disqualified persons along with their family members and 35% controlled entities.

See the instructions for Form 4720, Schedule I for more information regarding these disqualified persons.

**Who is not a disqualified person?** The rules also clarify which persons are not considered to be in a position to exercise substantial influence over the affairs of an organization. They include:

- An employee who receives benefits that total less than the highly compensated amount (\$100,000 in 2007) and who does not hold the executive or voting powers just mentioned; is not a family member of a disqualified person; and is not a substantial contributor;
- Tax-exempt organizations described in section 501(c)(3); and
- Section 501(c)(4) organizations with respect to transactions engaged in with other section 501(c)(4) organizations.

**Who else may be considered a disqualified person?** Other persons not described above can also be considered disqualified persons, depending on all the relevant facts and circumstances.

**Facts and circumstances tending to show substantial influence:**

- The person founded the organization.
- The person is a substantial contributor to the organization under the section 507(d)(2)(A) definition, only taking into account contributions to the organization for the past 5 years.
- The person's compensation is primarily based on revenues derived from activities

of the organization that the person controls.

- The person has or shares authority to control or determine a substantial portion of the organization's capital expenditures, operating budget, or compensation for employees.
- The person manages a discrete segment or activity of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole.
- The person owns a controlling interest (measured by either vote or value) in a corporation, partnership, or trust that is a disqualified person.
- The person is a nonstock organization controlled directly or indirectly by one or more disqualified persons.

**Facts and circumstances tending to show no substantial influence:**

- The person is an independent contractor whose sole relationship to the organization is providing professional advice (without having decision-making authority) with respect to transactions from which the independent contractor will not economically benefit.
- The person has taken a vow of poverty.
- Any preferential treatment the person receives based on the size of the person's donation is also offered to others making comparable widely solicited donations.
- The direct supervisor of the person is not a disqualified person.
- The person does not participate in any management decisions affecting the organization as a whole or a discrete segment of the organization that represents a substantial portion of the activities, assets, income, or expenses of the organization, as compared to the organization as a whole.

**What about persons who staff affiliated organizations?** In the case of multiple affiliated organizations, the determination of whether a person has substantial influence is made separately for each applicable tax-exempt organization. A person may be a disqualified person with respect to more than one organization in the same transaction.

### Excess Benefit Transaction

An *excess benefit transaction* is a transaction in which an economic benefit is provided by an applicable tax-exempt organization, directly or indirectly, to or for the use of any disqualified person, and the value of the economic benefit provided by the applicable tax-exempt organization exceeds the value of the consideration (including the performance of services) received for providing such benefit. An excess benefit transaction also can occur when a disqualified person embezzles from the exempt organization.

To determine whether an excess benefit transaction has occurred, all consideration and benefits exchanged between a disqualified person and the

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applicable tax exempt organization, and all entities it controls, are taken into account.

For purposes of determining the value of economic benefits, the value of property, including the right to use property, is the fair market value. Fair market value is the price at which property, or the right to use property, would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy, sell or transfer property or the right to use property, and both having reasonable knowledge of relevant facts.

**Donor advised funds.** For a donor advised fund, an excess benefit transaction includes a grant, loan, compensation, or similar payment from the fund to a:

- Donor or donor advisor,
- Family member of a donor, or donor advisor,
- 35% controlled entity of a donor, or donor advisor, or
- 35% controlled entity of a family member of a donor, or donor advisor.

The excess benefit in this transaction is the amount of the grant, loan, compensation, or similar payment. For additional information see the Instructions for Form 4720.

**Supporting organizations.** For any supporting organization, defined in section 509(a)(3), an excess benefit transaction includes grants, loans, compensation, or similar payment provided by the supporting organization to a:

- Substantial contributor
- Family member of a substantial contributor
- 35% controlled entity of a substantial contributor
- 35% controlled entity of a family member of a substantial contributor

Additionally, an excess benefit transaction includes any loans provided by the supporting organization to a disqualified person (other than an organization described in section 509(a)(1), (2), or (4)).

A substantial contributor is any person who contributed or bequeathed an aggregate of more than \$5000 to the organization, if that amount is more than 2% of the total contributions and bequests received by the organization before the end of the tax year of the organization in which the contribution or bequest is received by the organization from such person. A substantial contributor includes the grantor of a trust.

The excess benefit for substantial contributors and parties related to those contributors includes the amount of the grant, loan, compensation, or similar payment. For additional information see the Instructions for Form 4720.

**When does an excess benefit transaction usually occur?** An excess benefit transaction occurs on the date the disqualified person receives the economic

benefit from the organization for federal income tax purposes. However, when a single contractual arrangement provides for a series of compensation payments or other payments to a disqualified person during the disqualified person's tax year, any excess benefit transaction with respect to these payments occurs on the last day of the taxpayer's tax year.

In the case of the transfer of property subject to a substantial risk of forfeiture, or in the case of rights to future compensation or property, the transaction occurs on the date the property, or the rights to future compensation or property, is not subject to a substantial risk of forfeiture. Where the disqualified person elects to include an amount in gross income in the tax year of transfer under section 83(b), the excess benefit transaction occurs on the date the disqualified person receives the economic benefit for federal income tax purposes.

**Section 4958 applies only to post-September 1995 transactions.** Section 4958 applies to excess benefit transactions occurring on or after September 14, 1995. Section 4958 does not apply to any transaction occurring pursuant to a written contract that was binding on September 13, 1995, and at all times thereafter before the transaction occurs.

### What is reasonable compensation?

*Reasonable compensation* is the valuation standard that is used to determine if there is an excess benefit in the exchange of a disqualified person's services for compensation.

*Reasonable compensation* is the value that would ordinarily be paid for like services by like enterprises under like circumstances. This is the section 162 standard that will apply in determining the reasonableness of compensation. The fact that a bonus or revenue-sharing arrangement is subject to a cap is a relevant factor in determining the reasonableness of compensation.

For determining the reasonableness of compensation, all items of compensation provided by an applicable tax-exempt organization in exchange for the performance of services are taken into account in determining the value of compensation (except for certain economic benefits that are disregarded, as discussed in *What benefits are disregarded?* later). Items of compensation include:

- All forms of cash and noncash compensation, including salary, fees, bonuses, severance payments, and deferred and noncash compensation.
- The payment of liability insurance premiums for, or the payment or reimbursement by the organization of taxes or certain expenses under section 4958, unless excludable from income as a *de minimis* fringe benefit under section 132(a)(4). (A similar rule applies in the private foundation area.) Inclusion in

compensation for purposes of determining reasonableness under section 4958 does not control inclusion in income for income tax purposes.

- All other compensatory benefits, whether or not included in gross income for income tax purposes.
- Taxable and nontaxable fringe benefits, except fringe benefits described in section 132.
- Foregone interest on loans.

**Written intent required to treat benefits as compensation.** An economic benefit is not treated as consideration for the performance of services unless the organization providing the benefit clearly indicates its intent to treat the benefit as compensation when the benefit is paid.

An applicable tax-exempt organization (or entity that it controls) is treated as clearly indicating its intent to provide an economic benefit as compensation for services only if the organization provides written substantiation that is contemporaneous with the transfer of the economic benefits under consideration. Ways to provide contemporaneous written substantiation of its intent to provide an economic benefit as compensation include:

- The organization produces a signed written employment contract;
- The organization reports the benefit as compensation on an original Form W-2, Form 1099, Form 990, or 990-EZ, or on an amended form filed prior to the start of an IRS examination; or
- The disqualified person reports the benefit as income on the person's original Form 1040 or on an amended form filed prior to the start of an IRS examination.

**Exception.** To the extent the economic benefit is excluded from the disqualified person's gross income for income tax purposes, the applicable tax-exempt organization is not required to indicate its intent to provide an economic benefit as compensation for services. (For example: employer provided health benefits, and contributions to qualified plans under section 401(a).)

**What benefits are disregarded?** The following economic benefits are disregarded for purposes of section 4958:

- Nontaxable fringe benefits. An economic benefit that is excluded from income under section 132.
- Benefits to volunteer. An economic benefit provided to a volunteer for the organization if the benefit is provided to the general public in exchange for a membership fee or contribution of \$75 or less per year.
- Benefits to members or donors. An economic benefit provided to a member of an organization due to the payment of a membership fee, or to a donor as a result of a deductible contribution, if a significant number of nondisqualified persons make similar payments or contributions and are offered a similar economic benefit.

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- Benefits to a charitable beneficiary. An economic benefit provided to a person solely as a member of a charitable class that the applicable tax-exempt organization intends to benefit as part of the accomplishment of its exempt purpose.
- Benefits to a governmental unit. A transfer of an economic benefit to or for the use of a governmental unit, as defined in section 170(c)(1), if exclusively for public purposes.

**Is there an exception for initial contracts?** Section 4958 does not apply to any fixed payment made to a person pursuant to an initial contract. This is a very important exception, since it would potentially apply, for example, to all initial contracts with new, previously unrelated officers and contractors.

An *initial contract* is a binding written contract between an applicable tax-exempt organization and a person who was not a disqualified person immediately prior to entering into the contract.

A *fixed payment* is an amount of cash or other property specified in the contract, or determined by a fixed formula that is specified in the contract, which is to be paid or transferred in exchange for the provision of specified services or property.

A *fixed formula* may, in general, incorporate an amount that depends upon future specified events or contingencies, as long as no one has discretion when calculating the amount of a payment or deciding whether to make a payment (such as a bonus).

**Treatment as new contract.** A binding written contract providing that it may be terminated or cancelled by the applicable tax-exempt organization without the other party's consent (except as a result of substantial non-performance) and without substantial penalty, is treated as a new contract, as of the earliest date that any termination or cancellation would be effective. Also, a contract in which there is a material change, which includes an extension or renewal of the contract (except for an extension or renewal resulting from the exercise of an option by the disqualified person), or a more than incidental change to the amount payable under the contract, is treated as a new contract as of the effective date of the material change. Treatment as a new contract may cause the contract to fall outside the initial contract exception, and it thus would be tested under the fair market value standards of section 4958.

### Rebuttable Presumption of Reasonableness

Payments under a compensation arrangement are presumed to be reasonable and the transfer of property (or right to use property) is presumed to be at fair market value, if the following three conditions are met.

1. The transaction is approved by an authorized body of the organization (or an entity it controls) which is composed of individuals who do not have a conflict of interest concerning the transaction.

2. Prior to making its determination, the authorized body obtained and relied upon appropriate data as to comparability. There is a special safe harbor for small organizations. If the organization has gross receipts of less than \$1 million, appropriate comparability data includes data on compensation paid by three comparable organizations in the same or similar communities for similar services.

3. The authorized body adequately documents the basis for its determination concurrently with making that determination. The documentation should include:

- The terms of the approved transaction and the date approved;
- The members of the authorized body who were present during debate on the transaction that was approved and those who voted on it;
- The comparability data obtained and relied upon by the authorized body and how the data was obtained;
- Any actions by a member of the authorized body having a conflict of interest; and
- Documentation of the basis for the determination before the later of the next meeting of the authorized body or 60 days after the final actions of the authorized body are taken, and approval of records as reasonable, accurate and complete within a reasonable time thereafter.

**Special rebuttable presumption rule for nonfixed payments.** As a general rule, in the case of a nonfixed payment, no rebuttable presumption arises until the exact amount of the payment is determined, or a fixed formula for calculating the payment is specified, and the three requirements creating the presumption have been satisfied. However, if the authorized body approves an employment contract with a disqualified person that includes a nonfixed payment (for example, discretionary bonus) with a specified cap on the amount, the authorized body may establish a rebuttable presumption as to the nonfixed payment when the employment contract is entered into by, in effect, assuming that the maximum amount payable under the contract will be paid, and satisfying the requirements giving rise to the rebuttable presumption for that maximum amount.

**An IRS challenge to the presumption of reasonableness.** The Internal Revenue Service may refute the presumption of reasonableness only if it develops sufficient contrary evidence to rebut the probative value of the comparability data relied upon by the authorized body. This provision gives taxpayers added protection if they faithfully find and use contemporaneous

persuasive comparability data when they provide the benefits.

**Organizations that do not establish a presumption of reasonableness.** An organization may still comply with section 4958 even if it did not establish a presumption of reasonableness. In some cases, an organization may find it impossible or impracticable to fully implement each step of the rebuttable presumption process described above. In such cases, the organization should try to implement as many steps as possible, in whole or in part, in order to substantiate the reasonableness of benefits as timely and as well as possible. If an organization does not satisfy the requirements of the rebuttable presumption of reasonableness, a facts and circumstances approach will be followed, using established rules for determining reasonableness of compensation and benefit deductions in a manner similar to the established procedures for section 162 business expenses.

### Section 4958 Taxes

**Tax on disqualified persons.** An excise tax equal to 25% of the excess benefit is imposed on each excess benefit transaction between an applicable tax-exempt organization and a disqualified person. The disqualified person who benefited from the transaction is liable for the tax. If the 25% tax is imposed and the excess benefit transaction is not corrected within the taxable period, an additional excise tax equal to 200% of the excess benefit is imposed.

If a disqualified person makes a payment of less than the full correction amount, the 200% tax is imposed only on the unpaid portion of the correction amount. If more than one disqualified person received an excess benefit from an excess benefit transaction, all such disqualified persons are jointly and severally liable for the taxes.

To avoid the imposition of the 200% tax, a disqualified person must correct the excess benefit transaction during the taxable period. The taxable period begins on the date the transaction occurs and ends on the earlier of the date the statutory notice of deficiency is issued or the section 4958 taxes are assessed. This 200% tax may be abated if the excess benefit transaction subsequently is corrected during a 90-day correction period.

**Tax on organization managers.** An excise tax equal to 10% of the excess benefit may be imposed on the participation of an organization manager in an excess benefit transaction between an applicable tax exempt organization and a disqualified person. This tax, which may not exceed \$20,000 with respect to any single transaction, is only imposed if the 25% tax is imposed on the disqualified person, the organization manager knowingly participated in the transaction, and the manager's

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participation was willful and not due to reasonable cause. There is also joint and several liability for this tax. An organization manager may be liable for both the tax on disqualified persons and on organization managers in appropriate circumstances.

An *organization manager* is any officer, director, or trustee of an applicable tax-exempt organization, or any individual having powers or responsibilities similar to officers, directors, or trustees of the organization, regardless of title. An organization manager is not considered to have participated in an excess benefit transaction where the manager has opposed the transaction in a manner consistent with the fulfillment of the manager's responsibilities to the organization. For example, a director who votes against giving an excess benefit would ordinarily not be subject to this tax.

A person participates in a transaction knowingly if the person has actual knowledge of sufficient facts so that, based solely upon such facts, the transaction would be an excess benefit transaction. Knowing does not mean having reason to know. The organization manager ordinarily will not be considered knowing if, after full disclosure of the factual situation to an appropriate professional, the organization manager relied on the professional's reasoned written opinion on matters within the professional's expertise or if the manager relied on the fact that the requirements for the rebuttable presumption of reasonableness have been satisfied. Participation by an organization manager is willful if it is voluntary, conscious, and intentional. An organization manager's participation is due to reasonable cause if the manager has exercised responsibility on behalf of the organization with ordinary business care and prudence.

### Correcting an Excess Benefit Transaction

A disqualified person corrects an excess benefit transaction by undoing the excess benefit to the extent possible, and by taking any additional measures necessary to place the organization in a financial position not worse than that in which it would be if the disqualified person were dealing under the highest fiduciary standards. The organization is not required to rescind the underlying agreement; however, the parties may need to modify an ongoing contract with respect to future payments.

A disqualified person corrects an excess benefit by making a payment in cash or cash equivalents equal to the correction amount to the applicable tax-exempt organization. The correction amount equals the excess benefit plus the interest on the excess benefit; the interest rate may be no lower than the applicable Federal rate. There is an anti-abuse rule to prevent the disqualified person from effectively transferring

property other than cash or cash equivalents.

**Exception.** For a correction of an excess benefit transaction described in *Donor advised funds* (discussed earlier), no amount repaid in a manner prescribed by the Secretary may be held in a donor advised fund.

**Property.** With the agreement of the applicable tax-exempt organization, a disqualified person may make a payment by returning the specific property previously transferred in the excess benefit transaction. The return of the property is considered a payment of cash (or cash equivalent) equal to the lesser of:

- The fair market value of the property on the date the property is returned to the organization, or
- The fair market value of the property on the date the excess benefit transaction occurred.

**Insufficient payment.** If the payment resulting from the return of the property is less than the correction amount, the disqualified person must make an additional cash payment to the organization equal to the difference.

**Excess payment.** If the payment resulting from the return of the property exceeds the correction amount described above, the organization may make a cash payment to the disqualified person equal to the difference.

### Churches and Section 4958

The regulations make it clear that the IRS will apply the procedures of section 7611 when initiating and conducting any inquiry or examination into whether an excess benefit transaction has occurred between a church and a disqualified person.

### Revenue Sharing Transactions

Proposed intermediate sanction regulations were issued in 1998. The proposed regulations had special provisions covering "any transaction in which the amount of any economic benefit provided to or for the use of a disqualified person is determined in whole or in part by the revenues of one or more activities of the organization. . ." — so-called revenue-sharing transactions. Rather than setting forth additional rules on revenue-sharing transactions, the final regulations reserve this section. Consequently, until the Service issues new regulations for this reserved section on revenue-sharing transactions, these transactions will be evaluated under the general rules (for example, the fair market value standards) that apply to all contractual arrangements between applicable tax-exempt organizations and their disqualified persons.

### Revocation of Exemption and Section 4958

Section 4958 does not affect the substantive standards for tax exemption under section 501(c)(3) or section 501(c)(4), including the requirements that the organization be organized and

operated exclusively for exempt purposes, and that no part of its net earnings inure to the benefit of any private shareholder or individual. The legislative history indicates that in most instances, the imposition of this intermediate sanction will be in lieu of revocation. The IRS has indicated that the following factors will be considered (among other facts and circumstances) in determining whether to revoke an applicable tax-exempt organization's exemption status where an excess benefit transaction has occurred:

- The size and scope of the organization's regular and ongoing activities that further exempt purposes before and after the excess benefit transaction or transactions occurred;
- The size and scope of the excess benefit transaction or transactions (collectively, if more than one) in relation to the size and scope of the organization's regular and ongoing activities that further exempt purposes;
- Whether the organization has been involved in multiple excess benefit transactions with one or more persons;
- Whether the organization has implemented safeguards that are reasonably calculated to prevent excess benefit transactions; and
- Whether the excess benefit transaction has been corrected, or the organization has made good faith efforts to seek correction from the disqualified person(s) who benefited from the excess benefit transaction.

## Appendix F: Forms and Publications To File or Use

**Internet.** You can access the IRS website 24 hours a day, 7 days a week, at [www.irs.gov](http://www.irs.gov) to:

- Download forms, instructions, and publications.
- Order IRS products online.
- Research your tax questions online.
- Search publications online by topic or keyword.
- View Internal Revenue Bulletins (IRBs) published in the last few years.
- Sign up to receive local and national tax news by email.

**CD for tax products.** You can order Publication 1796, IRS Tax Products CD, and obtain:

- A CD that is released twice so you have the latest products. The first release ships in late December and the final release ships in late February.
- Current-year forms, instructions, and publications.
- Prior-year forms, instructions, and publications.
- Tax Map: an electronic research tool and finding aid.
- Tax law frequently asked questions (FAQs).
- Tax Topics from the IRS telephone response system.
- Fill-in, print, and save features for most tax forms.

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- Internal Revenue Bulletins.
- Toll-free and email technical support.

Buy the CD from National Technical Information Service (NTIS) at [www.irs.gov/cdorders](http://www.irs.gov/cdorders) for \$35 (no handling fee) or call 1-877-233-6767 toll free to buy the CD for \$35 (plus a \$5 handling fee).

**By phone and in person.** You can order forms and publications by calling 1-800-TAX-FORM (1-800-829-3676). You can also get most forms and publications at your local IRS office.

### Other Forms That May Be Required

**Schedule A (Form 990 or 990-EZ).** Public Charity Status or Public Support.

**Schedule B (Form 990, 990-EZ, or 990-PF).** Schedule of Contributors.

**Schedule C (Form 990 or 990-EZ).** Political Campaign and Lobbying Activities.

**Schedule D (Form 990).** Supplemental Financial Statements.

**Schedule E (Form 990 or 990-EZ).** Schools.

**Schedule F (Form 990).** Statement of Activities Outside the United States.

**Schedule G (Form 990 or 990-EZ).** Supplemental Information Regarding Fundraising or Gaming Activities.

**Schedule H (Form 990).** Hospitals.

**Schedule I (Form 990).** Grants and Other Assistance to Organizations, Governments and Individuals in the U.S.

**Schedule J (Form 990).** Compensation Information.

**Schedule K (Form 990).** Supplemental Information on Tax Exempt Bonds.

**Schedule L (Form 990 or Form 990-EZ).** Transactions with Interested Persons.

**Schedule M (Form 990).** Non-Cash Contributions.

**Schedule N (Form 990 or 990-EZ).** Liquidation, Termination, Dissolution or Significant Disposition of Assets.

**Schedule O (Form 990).** Supplemental Information to Form 990.

**Schedule R (Form 990).** Related Organizations and Unrelated Partnerships.

**Forms W-2 and W-3.** Wage and Tax Statement; and Transmittal of Wage and Tax Statements.

**Form W-9.** Request for Taxpayer Identification Number and Certification.

**Form 940.** Employer's Annual Federal Unemployment (FUTA) Tax Return.

**Form 941.** Employer's QUARTERLY Federal Tax Return. Used to report social security, Medicare, and income taxes withheld by an employer and social security and Medicare taxes paid by an employer.

**Form 943.** Employer's Annual Tax Return for Agricultural Employees.

**Trust Fund Recovery Penalty.** If certain excise, income, social security, and Medicare taxes that must be collected or withheld are not collected or

withheld, or these taxes are not paid to the IRS, a Trust Fund Recovery Penalty may apply. The Trust Fund Recovery Penalty may be imposed on all persons (including volunteers) who the IRS determines were responsible for collecting, accounting for, and paying over these taxes, and who acted willfully in not doing so.

This penalty does not apply to volunteer unpaid members of any board of trustees or directors of a tax-exempt organization, if these members are solely serving in an honorary capacity, do not participate in the day-to-day or financial activities of the organization, and do not have actual knowledge of the failure to collect, account for, and pay over these taxes. However, the preceding sentence does not apply if it results in no person being liable for the penalty.

The penalty is equal to the unpaid trust fund tax. See Pub. 15 (Circular E), Employer's Tax Guide, for more details, including the definition of responsible persons.

**Form 990-T.** Exempt Organization Business Income Tax Return. Filed separately for organizations with gross income of \$1,000 or more from business unrelated to the organization's exempt purpose. The Form 990-T is also filed to pay the section 6033(e)(2) proxy tax. For Form 990, see Part V, line 3 and its instructions; for Form 990-EZ, see Part V, line 35 and its instructions.

**Form 990-W.** Estimated Tax on Unrelated Business Taxable Income 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 1040.** U.S. Individual Income Tax Return.

**Form 1041.** U.S. Income Tax Return for Estates and Trusts. Required of section 4947(a)(1) nonexempt charitable trusts that also file Form 990 or Form 990-EZ. However, if such a trust does not have any taxable income under Subtitle A of the Code, it can file Form 990, or Form 990-EZ, and does not have to file Form 1041 to meet its section 6012 filing requirement. If this condition is met, complete Form 990, or Form 990-EZ, and do not file Form 1041.

A section 4947(a)(1) nonexempt charitable trust that normally has gross receipts of not more than \$25,000 (see the gross receipts discussion in *Appendix B*) and has no taxable income under Subtitle A must complete Part V, line 12 and the signature block on page 1 of the Form 990. On the Form 990-EZ, complete line 43 and the signature block on page 4 of the return. In addition, complete only the following items in the heading of Form 990 or Form 990-EZ:

#### Item

- A** Tax year (fiscal year or short period, if applicable)
- B** Applicable checkboxes
- C** Name, DBA, and address
- D** Employer identification number (EIN)
- I** Section 4947(a)(1) nonexempt charitable trust box

**Form 1096.** Annual Summary and Transmittal of U.S. Information Returns.

**Form 1098 series.** Information returns to report mortgage interest, student loan interest, qualified tuition and related expenses received, and a contribution of a qualified vehicle that has a claimed value of more than \$500.

**Form 1099 series.** Information returns to report acquisitions or abandonments of secured property, proceeds from broker and barter exchange transactions, cancellation of debt, dividends and distributions, certain government and state qualified tuition program payments, taxable distributions from cooperatives, interest payments, payments of long-term care and accelerated death benefits, miscellaneous income payments, distributions from an HSA, Archer MSA or Medicare Advantage MSA, original issue discount, distributions from pensions, annuities, retirement or profit-sharing plans, IRAs, insurance contracts, etc., and proceeds from real estate transactions. Also, use certain of these returns to report amounts that were received as a nominee on behalf of another person.

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

**Form 1128.** Application To Adopt, Change, or Retain a Tax Year.

**Form 2848.** Power of Attorney and Declaration of Representative.

**Form 3115.** Application for Change in Accounting Method.

**Form 4506.** Request for Copy of Tax Return.

**Form 4506-A.** Request for Public Inspection or Copy of Exempt or Political Organization IRS Form.

**Form 4562.** Depreciation and Amortization.

**Form 4720.** Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code.

**Form 5500.** Annual Return/Report of Employee Benefit Plan. Employers who maintain pension, profit-sharing, or other funded deferred compensation plans are generally required to file the Form 5500. This requirement applies whether or not the plan is qualified under the Internal Revenue Code and whether or not a deduction is claimed for the current tax year.

**Form 5578.** Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax.



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**Form 5768.** Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation.

**Form 7004.** Application for Automatic Extension of Time to File Corporation Income Tax Return.

**Form 8038** series. Tax Exempt Bonds.

**Form 8274.** Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption from Employer Social Security and Medicare Taxes.

**Form 8282.** Donee Information Return. Required of the donee of charitable deduction property who sells, exchanges, or otherwise disposes of donated property within 3 years after receiving it. The form is also required of any successor donee who disposes of charitable deduction property within 3 years after the date that the donor gave the property to the original donee. It does not matter who gave the property to the successor donee. It may have been the original donee or another successor donee.

**Form 8283.** Noncash Charitable Contributions.

**Form 8300.** Report of Cash Payments Over \$10,000 Received in a Trade or Business. Used to report cash amounts in excess of \$10,000 that were received in a single transaction (or in two or more related transactions) in the course of a trade or business (as defined in section 162). However, if the organization receives a charitable cash contribution in excess of \$10,000, it is not subject to the reporting requirement since the funds were not received in the course of a trade or business.

**Form 8328.** Carryforward Election of Unused Private Activity Bond Volume Cap.

**Form 8718.** User Fee for Exempt Organization Determination Letter Request.

**Form 8821.** Tax Information Authorization.

**Form 8822.** Change of Address. Used to notify the IRS of a change in mailing address that occurs after the return is filed.

**Form 8868.** Application for Extension of Time to File an Exempt Organization Return.

**Form 8870.** Information Return for Transfers Associated With Certain Personal Benefit Contracts. Used to identify those personal benefit contracts for which funds were transferred to the organization, directly or indirectly, as well as the transferors for, and beneficiaries of, those contracts.

**Form 8871.** Political Organization Notice of Section 527 Status.

**Form 8872.** Political Organization Report of Contributions and Expenditures.

**Form 8886.** Reportable Transaction Disclosure Statement.

**Form 8886-T.** Disclosure by Tax-Exempt Entity Regarding Prohibited Tax Shelter Transaction.

**Form 8899.** Notice of Income from Donated Intellectual Property. Used to report net income from qualified intellectual property to the IRS and the donor.

**Form 8921.** Applicable Insurance Contracts Information Return.

**Form SS-4.** Application for Employer Identification Number.

**Form TD F 90-22.1.** Report of Foreign Bank and Financial Accounts.

### Helpful Publications

**Publication 15.** Circular E, Employer's Tax Guide.

**Publication 15-A.** Employer's Supplemental Tax Guide (Fringe Benefits).

**Publication 463.** Travel, Entertainment, Gift, and Car Expenses.

**Publication 525.** Taxable and Nontaxable Income.

**Publication 526.** Charitable Contributions.

**Publication 538.** Accounting Periods and Methods.

**Publication 557.** Tax-Exempt Status for Your Organization.

**Publication 561.** Determining the Value of Donated Property.

**Publication 598.** Tax on Unrelated Business Income of Exempt Organizations.

**Publication 892.** Organization Appeal Procedures for Unagreed Issues

**Publication 910.** IRS Guide to Free Tax Services.

**Publication 946.** How To Depreciate Property.

**Publication 1771.** Charitable Contributions— Substantiation and Disclosure Requirements.

**Publication 1828.** Tax Guide for Churches and Religious Organizations.

**Publication 3079.** Gaming Publication for Tax-Exempt Organizations.

**Publication 3386.** Tax Guide for Veterans Organizations.

**Publication 3833.** Disaster Relief, Providing Assistance through Charitable Organizations.

**Publication 4220.** Applying for 501(c)(3) Tax-Exempt Status.

**Publication 4221-PC.** Compliance Guide for 501(c)(3) Public Charities.

**Publication 4221-PF.** Compliance Guide for 501(c)(3) Private Foundations.

**Publication 4302.** A Charity's Guide to Vehicle Donations.

**Publication 4303.** A Donor's Guide to Vehicle Donations.

**Publication 4630.** Exempt Organizations Products and Services Navigator.

## G. Use of Form 990, or Form 990-EZ, To Satisfy State Reporting Requirements

Some states and local government units will accept a copy of Form 990 or Form 990-EZ in place of all or part of their own financial report forms. The substitution applies primarily to section 501(c)(3) organizations, but some of the other types of section 501(c) organizations are also affected. If the organization uses Form 990 or 990-EZ to satisfy state or local filing requirements, such as those under state charitable solicitation acts, note the following discussions.

### Determine State Filing Requirements

The organization may consult the appropriate officials of all states and other jurisdictions in which it does business to determine their specific filing requirements. Doing business in a jurisdiction may include any of the following: (a) soliciting contributions or grants by mail or otherwise from individuals, businesses, or other charitable organizations; (b) conducting programs; (c) having employees within that jurisdiction; (d) maintaining a checking account; or (e) owning or renting property there.

### Monetary Tests May Differ

Some or all of the dollar limitations applicable to Form 990 or 990-EZ when filed with the IRS may not apply when using Form 990 or 990-EZ in place of state or local report forms. Examples of the IRS dollar limitations that do not meet some state requirements are the normally \$25,000 gross receipts minimum that creates an obligation to file with the IRS and the \$100,000 minimum for listing independent contractors in Form 990, Part VII, Section B, or Form 990-EZ, Part VI, line 51.

### Additional Information May Be Required

State or local filing requirements may require the organization to attach to Form 990 or 990-EZ one or more of the following: (a) additional financial statements, such as a complete analysis of functional expenses or a statement of changes in net assets; (b) notes to financial statements; (c) additional financial schedules; (d) a report on the financial statements by an independent accountant; and (e) answers to additional questions and other information. Each jurisdiction may require the additional material to be presented on forms they provide. The additional information does not have to be submitted with the Form 990 or 990-EZ filed with the IRS.

Even if the Form 990 or 990-EZ that the organization files with the IRS is accepted by the IRS as complete, a copy of the same return filed with a state will

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not fully satisfy that state's filing requirement if (1) required information is not provided, including any of the additional information discussed above, or (2) the state determines that the form was not completed by following the applicable Form 990 or 990-EZ instructions or supplemental state instructions. In such case, the state may ask the organization to provide the missing information or to submit an amended return.

#### **Use Of Audit Guides May Be Required**

To ensure that all organizations report similar transactions uniformly, many states require that contributions, gifts, grants, etc., and functional expenses be reported according to the AICPA industry audit and accounting guide, Not-for-Profit Organizations (New York, NY, AICPA, 2003), supplemented by Standards of Accounting and Financial Reporting for Voluntary Health and Welfare

Organizations (Washington, DC, National Health Council, Inc., 1998, 4th edition).

#### **Donated Services And Facilities**

Even though reporting donated services and facilities as items of revenue and expense is called for in certain circumstances by the two publications named above, many states and the IRS do not permit the inclusion of those amounts in Parts VIII and IX of Form 990 or Part I of Form 990-EZ. The optional reporting of donated services and facilities is discussed in the instructions for Part III for both Form 990 and Form 990-EZ.

#### **Amended Returns**

If the organization submits supplemental information or files an amended Form 990 or 990-EZ with the IRS, it must also send a copy of the information or amended return to any state with which it filed a copy of Form 990 or 990-EZ originally to

meet that state's filing requirement. If a state requires the organization to file an amended Form 990 or 990-EZ to correct conflicts with the Form 990 or 990-EZ instructions, the organization must also file an amended return with the IRS.

#### **Method of Accounting**

Most states require that all amounts be reported based on the accrual method of accounting. See also *General Instruction D*.

#### **Time For Filing May Differ**

The deadline for filing Form 990 or 990-EZ with the IRS differs from the time for filing reports with some states.

#### **Public Inspection**

The Form 990 or 990-EZ information made available for public inspection by the IRS may differ from that made available by the states, such as Schedule B (Form 990, 990-EZ, or 990-PF).

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**Index**

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