

Instructions for Form 8940



Department of the Treasury
Internal Revenue Service

(Rev. June 2011)

Request for Miscellaneous Determination, Under Section 507, 509(a), 4940, 4942, 4945, and 6033 of the Internal Revenue Code

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

General Instructions

Purpose of Form

Organizations exempt under section 501(c)(3) may file Form 8940 for miscellaneous determinations under sections 507, 509(a), 4940, 4942, 4945, and 6033. Nonexempt charitable trusts may also file a Form 8940 for an initial determination under section 509(a)(3). These instructions supplement the general procedures for issuing determination letters under Rev. Proc. 2011-4, 2011-1 I.R.B. 123, available at www.irs.gov/irb/2011-01_IRB/ar09.html (updated annually).

Note: *Organizations applying for recognition of exemption under section 501(c)(3) and simultaneously requesting either an advance approval of scholarship procedures under section 4945(g) or exception from filing Form 990, Return of Organization Exempt From Income Tax, filing requirements should include their request with their Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code, rather than file Form 8940.*

Where to File

Send completed Form 8940, user fee payment, and all other required information to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

If you are using express mail or a delivery service, send Form 8940, user fee payment, and all other required information to:

Internal Revenue Service
201 West Rivercenter Blvd.
Attn. Extracting Stop 312
Covington, KY 41011

Specific Instructions

Part I—Identification of Organization

Line 1a. Full name of organization

Enter your complete name exactly as it

appears in the organizing documents, as revised.

Note. Throughout these instructions, “you” and “your” refer to the organization filing Form 8940.

Line 1b — 1e. Mailing address. Enter your complete address where all correspondence will be sent. If mail is not delivered to a street address and you have a P.O. Box, show the box number instead of a street address

For a foreign address, enter the information in the following order: city, province or state, and country. Follow the country’s practice in placing the postal code in the address. Do not abbreviate the country name.

Line 2. Employer Identification Number (EIN). Enter the nine-digit EIN assigned to you.

Line 3. Month the tax year ends (01-12). Enter the month that your tax year (annual accounting period) ends, using a two-digit number format. For example, if your annual accounting period ends December 31, enter “12.” The annual accounting period is the 12-month period on which your financial records are based.

Line 4. Person to contact if more information is needed. Print the name and title of the person to contact if more information is needed. The person to contact may be an officer, director, trustee, or other individual who is permitted to speak with us according to your bylaws or other rules of operation. Your person to contact may also be an “authorized representative”, such as an attorney, certified public accountant, or enrolled agent for whom you have submitted a completed Form 2848, Power of Attorney and Declaration of Representative, with the Form 8940.

Line 5. Contact telephone number Provide a daytime telephone number for the contact listed on line 4.

Line 6. Fax number (optional). Provide a fax number for the contact listed in line 4.

Line 7. User fee submitted. Visit our website at www.irs.gov/eo or call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500 for the appropriate user fee due. The schedule for user fees is set forth in Rev. Proc. 2011-8, 2011-1 I.R.B. 237, available at www.irs.gov/irb/2011-01_IRB/ar13.html (updated annually).

Part II—Type of Request

Line 8. Check the box that best describes your request. Submit a separate request for each type of request set forth in Part II, unless you are requesting to be reclassified as a public charity under section 509(a)(3), in which case you check both the line 8f and 8g boxes. Submit an attachment that provides a detailed explanation of your request. Be sure to include your name and EIN on each additional sheet submitted. For additional information on any of the determination issues covered by Form 8940, visit our website at www.irs.gov/eo

Line 8a. Advance approval of certain set-asides described in section 4942(g)(2). Check this box if you are requesting advance approval of certain set-asides under section 4942(g)(2).

If the requirements of section 4942(g)(2) are met, an amount set aside for a specific project which comes within one or more purposes described in section 170(c)(2)(B) may be treated as a qualifying distribution in the year of the set-aside rather than in the year in which it is actually paid. A set-aside under the suitability test requires advance approval.

Based on requirements for advance approval of a set aside in Regulations section 53.4942(a)-3(b)(7), submit the following information:

- A description of the nature and purposes of the project and the amount of the set-aside.
- A statement providing amounts and dates of planned additions to the set aside after its initial establishment.
- An explanation of why the project can be better accomplished by a set-aside rather than an immediate payment of funds.
- A description of the project including estimated costs, sources of any future funds expected to be used, to complete the project, and location of any physical facilities to be acquired or constructed as part of the project.
- A statement that the amounts to be set aside will actually be paid within a specified period of time that ends not more than 60 months after the date of the first set-aside, or a statement showing good cause why the period for paying the amount set aside should be extended. Any good cause statement must include a showing that the proposed project could not be divided into two or more projects

covering periods of no more than 60 months each and setting forth the extension of time required.

The request must be submitted before the end of the tax year in which the amount is set aside.

Line 8b. Advance approval of voter registration activities described in section 4945(f). Check this box if you are requesting advance approval of voter registration activities described in section 4945(f).

Under section 4945(f), an exempt section 501(c)(3) organization may engage in nonpartisan voter registration activities if certain requirements are satisfied. If an organization meets these requirements, a grant by a private foundation to such organization is not considered a taxable expenditure even though the grant is earmarked for voter registration purposes generally.

An organization will be given an advance ruling that it is described in section 4945(f) for its first tax year of operation if it submits evidence establishing that it can reasonably be expected to meet the tests under section 4945(f) for such year. Submit information demonstrating how you meet each of the five requirements:

1. You (the organization engaging in the voter registration activities) are described in section 501(c)(3) and exempt from taxation under section 501(a).

2. Your voter registration activities are:

- nonpartisan,
- not confined to one specific election period, and

3. You spend substantially all of your income directly for the active conduct of activities constituting the purpose or function for which you are organized and operated rather than to make grants to fund the activities of other organizations.

4. You receive substantially all of your support (other than gross investment income) from:

- exempt organizations;
- the general public;
- governmental units; or
- any combination of those.

You do not receive more than 25 percent of your support (other than gross investment income) from any one exempt organization; and do not receive more than 50 percent of your support from gross investment income.

5. Contributions to you for voter registration drives are not subject to conditions that they may be used only in specified states or other localities of the United States, or that they may be used in only one specific election period.

Line 8c. Advance approval of individual grant procedures described in section 4945(g). Check this box if you are a private foundation and are requesting advance approval of your individual grant-making procedures under section 4945(g). A private foundation's grant to an individual for travel, study, or similar purposes generally is a taxable expenditure if made before the foundation obtains IRS approval of its grant procedures.

Individual grant-making programs described in section 4945(g) include:

1. section 4945(g)(1) — Scholarship or fellowship grants described in section 117(a)(1) (as in effect on the day before the 1986 amendment), awarded on an objective and nondiscriminatory basis, and used for study at an educational organization described in section 170(b)(1)(A)(ii)

2. section 4945(g)(2) — Prizes or awards described in section 74(b)

Note. *If your prizes or awards are not intended to finance a future activity of the recipient and impose no conditions on the recipient as to how they may be spent, you do not have to request advance approval of your grant-making procedures for such prizes or awards, because such a prize or award is not a grant for travel,*

study, or other similar purposes. See Revenue Rulings 77-380, 1977-2 C.B. 419; 76-460, 1976-2 C.B. 371, and 75-393, 1975-2 C.B. 451.

3. section 4945(g)(3) — Grants to achieve a specific objective; produce a report or other similar product; or improve or enhance a literary, artistic, musical, scientific, teaching, or other similar capacity, skill or talent.

- Submit a statement indicating whether you are requesting advance approval of your individual grant-making procedures under section 4945(g)(1), (3), or a combination of them.

- Submit a completed Form 1023, Schedule H - Organizations Providing Scholarships, Fellowships, Educational Loans, or Other Educational Grants to Individuals and Private Foundations Requesting Advance Approval of Individual Grant Procedures. Review the instructions to Form 1023 for guidance on completing Schedule H.

Line 8d. Exception from Form 990 Filing Requirements. Check this box if you are requesting an exception from filing Form 990, Form 990-EZ, Short Form of Organization Exempt From Income Tax or Form 990-N (e-Postcard).

If you believe you should be exempt from filing Form 990 or Form 990-EZ because you are affiliated with a church or a convention or association of churches, please review Regulations section 1.6033-2(g) and (h) and Rev. Proc. 96-10 1996-1 C.B. 577.

If you believe you should be exempt from filing Form 990 or Form 990-EZ because you are a governmental unit or affiliated with a governmental unit, please review Rev. Proc. 95-48 1995-2 C.B. 418.

Indicate under which exception, as listed in *Table 1*, you believe you qualify for exemption from filing, and submit the appropriate information.

Table 1. Exception from Form 990 Filing Requirements

Organization	Documentation required to support the exemption
<i>A church, an interchurch organization of local units of a church, a convention or association of churches.</i>	If you are requesting reclassification as a church, an interchurch organization of local units of a church, or a convention or association of churches, please refer to the instructions listed in Line 8g, Reclassification of Foundation Status, for a church or convention or association of churches.
<i>An integrated auxiliary of a church described in Regulations section 1.6033-2(h) (such as a men's or women's organization, religious school, mission society, or religious group).</i>	<ul style="list-style-type: none"> • Submit documentation that you are described both in sections 501(c)(3) and 509(a)(1), (2), or (3). • Submit documentation, one of the three items listed below, showing that you are affiliated with a church or a convention or association of churches, as detailed in Regulations section 1.6033-2(h)(2). <ol style="list-style-type: none"> 1. Submit documentation indicating whether you are covered by a group exemption letter issued under applicable administrative procedures, (see Rev. Proc. 80-27, 1980-1 C.B. 677, and Regulations section 601.601(a)(2)(ii)(b)), to a church or a convention or association of churches, 2. Submit documentation from your bylaws or other organizational documents that states whether the affiliated church has the authority to appoint and remove your directors, as this will document that you are operated, supervised, or controlled by or in connection with (as defined in Regulations section 1.509(a)-4) a church or a convention or association of churches, or 3. Submit supporting documentation to detail how relevant facts and circumstances show that you are affiliated with a church or a convention or association of churches, as detailed in Regulations section 1.6033-2(h)(3). • Submit documentation, both of the items listed below, detailing whether or not you are internally supported as detailed in Regulations section 1.6033-2(h)(4). <ol style="list-style-type: none"> 1. State whether you offer admissions, goods, services or facilities for sale, other than on an incidental basis, to the general public (except goods, services, or facilities sold at a nominal charge or for an insubstantial portion of the cost), and 2. Submit documentation detailing whether you normally receive more than 50 percent of your support from a combination of governmental sources, public solicitation of contributions, and receipts from the sale of admissions, goods, performance of services, or furnishing of facilities in activities that are not unrelated trades or businesses. <p>Note: Men's or women's organizations, seminaries, mission societies, and youth groups do not need to meet the internal support requirement.</p>
<i>A church-affiliated organization (other than a section 509(a)(3) 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.</i>	<ul style="list-style-type: none"> • Submit documentation detailing your fund management, financing, or retirement insurance program(s) primarily for organizations described in sections 509(a)(1) and 170(b)(1)(A)(i). • Submit documentation indicating whether more than 50 percent of the individuals covered by the program(s) are directly employed by those organizations, or documentation indicating whether more than 50 percent of the assets are contributed by, or held for the benefit of, employees of those organizations.
<i>A school below college level affiliated with a church or operated by a religious order described in Regulations section 1.6033-2(g)(1)(vii).</i>	<ul style="list-style-type: none"> • Refer to the instructions for an integrated auxiliary of a church described in Regulations section 1.6033-2(h). <p>Note. A school below college level affiliated with a church or operated by a religious order does not have to submit documentation detailing whether or not it is internally supported.</p>
<i>A mission society (other than a section 509(a)(3) supporting organization) 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.</i>	<ul style="list-style-type: none"> • Submit documentation that you are described in section 501(c)(3) and section 509(a)(1) or (2). • Submit documentation detailing that more than half of your activities are conducted in, or directed at, persons in foreign countries. • Submit documentation that you are sponsored by or affiliated with one or more churches or church denominations: <ul style="list-style-type: none"> • Submit bylaws or other organizational documents showing that a majority of your officers, directors, or trustees (i) are appointed or elected by churches or church denominations, or (ii) also serve in such capacity with churches or church denominations. • Submit documentation to detail how relevant facts and circumstances show that you are affiliated with one or more churches or church denominations. See Regulations section 1.6033-2(h) for guidance.
<i>A state institution (other than a section 509(a)(3) supporting organization) whose income is excluded from gross income under section 115.</i>	Submit a copy of the ruling letter from the IRS stating that your income, derived from activities constituting the basis for its exemption under section 501(c), is excluded from gross income under section 115.
<i>A governmental unit described in Rev. Proc. 95-48, 1995-2 C.B. 418.</i>	<ul style="list-style-type: none"> • This Form is not for organizations exempt from federal income tax under section 501(c) requesting reclassification as a governmental unit. • If you are exempt from federal income tax under section 501(c) and are requesting reclassification as a governmental unit, you must obtain a letter ruling by following the procedures specified in Rev. Proc. 2011-1, 2011-1 I.R.B. 1 or its successor. There is a fee associated with obtaining such a letter ruling.

Organization	Documentation required to support the exemption
<p>An affiliate of a governmental unit (other than a section 509(a)(3) supporting organization) described in Rev. Proc. 95-48, 1995-2 C.B. 418</p>	<ul style="list-style-type: none"> • Submit documentation from your bylaws or other organizational documents that states whether your board members were appointed by a governmental unit, an affiliate of a governmental unit, a public official acting in an official capacity, or elected by the public at large, pursuant to local statute or ordinance. This will document that you are either “operated, supervised or controlled” by governmental units, or by organizations that are affiliates of governmental units, within the meaning of Regulations section 1.509(a)-4(g)(1)(i). • Submit supporting documentation in your bylaws or other organizational document that indicate you meet at least two (2) of the affiliation factors listed in Rev. Proc. 95-48, Section 4.03. • Submit documentation detailing how you meet all of the facts and circumstances detailed in Rev. Proc. 95-48, Section 4.04.
<p>An organization described in section 501(c)(1)</p>	<ul style="list-style-type: none"> • 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. • Submit a copy of your determination letter from the IRS that indicates whether you are described in section 501(c)(1).

Line 8e. Advance approval that a potential grant or contribution is an “unusual grant” Check this box if you are requesting advance approval that a grant (including a contribution or bequest for this purpose) is an “unusual grant”.

If you are described in section 170(b)(1)(A)(vi) or section 509(a)(2) you may request a determination that a grant you received be classified as an “unusual grant” under Regulations section 1.170A-9T(f)(6)(ii) or 1.509(a)-3T(c)(3).

Regulations sections 1.170A-9T(f)(6)(iii) and 1.509A-3T(c)(4) set forth the criteria for an unusual grant. Grants are considered unusual if each of the following three requirements is met:

1. The grant is attracted by reason of the publicly supported nature of the organization;
2. The grant is unusual or unexpected with respect to the amount thereof; and
3. The grant, would, by reason of its size, adversely affect the status of the organization as normally being publicly supported for the applicable period.

In determining whether a particular grant may be excluded as an unusual grant, all pertinent facts and circumstances will be taken into consideration. No single factor will necessarily be determinative.

Submit the following information and documentation with your request:

- The name of the grantor, the amount of the grant, and the purpose(s) for which you will use the grant funds.
- A copy of the grant agreement, if any (whether signed or proposed).
- Copies of all correspondence between you and the grantor regarding this grant.
- An explanation of any prior or current relationship between the grantor and you and/or your trustees, directors, or officers.
- A statement as to whether the grantor exercises any control over you, or within you.
- A listing of conditions that must be satisfied prior to receipt of the grant.
- A listing of all previous grants to you from the grantor.
- Documentation detailing how you meet some or all of the facts and circumstances detailed in Regulations section 1.509(a)-3T(c)(4).

Line 8f. Change in Type or Initial Determination of Type for 509(a)(3) Organizations. Check this box if you are a 509(a)(3) supporting organization requesting a change in Type or initial determination of Type.

Supporting organizations are described in section 509(a)(3) based on the type of relationship they have with their supported organization(s). Under the Pension Protection Act of 2006 (PPA) supporting organizations are classified as Type I, Type II, or Type III supporting organizations. The names reflect the existing three relationships with supported organizations described in the current regulations:

- A Type I supporting organization is operated, supervised, or controlled by its supported organization(s) (comparable to a parent-subsidiary relationship).
- A Type II supporting organization is supervised or controlled in connection with its supported organization(s) (comparable to a brother-sister relationship).
- A Type III supporting organization is operated in connection with its supported organization(s). The PPA further classifies Type III supporting organizations into the following two categories: Type III supporting organizations that are functionally integrated or Type III supporting organizations that are not functionally integrated.

1. Proposed regulations under the Code, required by the PPA, provide new rules for Type III supporting organizations that are operated “in connection with” their supported organizations (74 Fed. Reg. 48672). The proposed regulations also provide the criteria that Type III supporting organizations must satisfy in order to qualify as “functionally integrated.” For those Type III supporting organizations that do not qualify as functionally integrated, the regulations require an annual payout equal to five percent of the fair market value of the organization’s non-exempt use assets.

2. Organizations may continue to rely on the existing regulations that apply to Type III supporting organization until the

effective date of final or temporary regulations (except for the alternative responsiveness test for trusts that was eliminated by the PPA).

If you are a section 509(a)(3) supporting organization that has received a further determination that you are classified as a Type I, Type II, or Type III supporting organization, and you wish to request a change in Type, please submit the following:

- a request for change from a Type ___ to a Type ___ section 509(a)(3) supporting organization,
- a copy of the your organizing document,
- a copy of your bylaws, and
- Schedule D of Form 1023*

If you are a section 509(a)(3) supporting organization that has not received a determination that you are classified as a Type I, Type II, or Type III supporting organization, and wish to request a determination of your Type, please submit the following:

1. a request for classification as a Type ___ section 509(a)(3) supporting organization,
2. a copy of the your organizing document,
3. a copy of your bylaws, and
4. Schedule D of Form 1023*

* Effective August 17, 2006, the alternative responsiveness trust applicable to charitable trusts was eliminated by the PPA. As a result, all supporting organizations seeking Type III classification, including charitable trusts, must answer questions under Lines 4a-e of Section II of Schedule D (regardless of whether they checked “Yes” on Line 3).

If you have requested classification as a Type III supporting organization and wish to be further classified as functionally integrated, provide a narrative description and discussion of all relevant facts that support a functionally integrated classification under Prop. Regulation section 1.509(a)-4(i)(4) or the corresponding section of the final regulations, if they have been published.

Line 8g. Reclassification of Foundation Status. Check this box if you are requesting a reclassification of foundation status.

If you are described in section 501(c)(3) and classified by the IRS as a public charity, you may request a determination regarding a change in your public charity classification. Submit a request indicating your current public charity classification and the public charity classification to which you are requesting reclassification. Also, provide a statement describing any adverse impact if you do not receive the requested status.

Also check this box if you are a public charity seeking classification as a private

foundation. (Note: A public charity that has become a private foundation can indicate its new private foundation status simply by filing a Form 990-PF, *Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation* and following any procedures specified in the form, instructions or other published guidance.)

Also check this box if you request reclassification as an operating foundation or as an exempt operating foundation. A private foundation that wishes to become a public charity must terminate its private foundation status. See line 8h.

Also check this box if you are a nonexempt charitable trust described in section 4947(a)(1) and are requesting an initial determination that you are described in section 509(a)(3).

These instructions supplement the procedures set forth in Rev. Proc. 2011-10, 2011-2 I.R.B. 294.

An organization that is not currently classified under section 509(a)(3) and requests section 509(a)(3) classification or reclassification must check the boxes for both line 8f and line 8g. See *Table 2* for details.

Table 2. Reclassification of Foundation Status

Type of reclassification	Documentation required to support the reclassification
Request for reclassification as a church or a convention or association of churches under sections 509(a)(1) and 170(b)(1)(A)(i)	Submit a completed Form 1023 Schedule A - Churches. Review the Instructions for Form 1023 for guidance in completing Schedule A.
Request for reclassification as a school, college, or university under sections 509(a)(1) and 170(b)(1)(A)(ii)	Submit a completed Form 1023 Schedule B – Schools, Colleges, and Universities. Review the Instructions for Form 1023 for guidance in completing Schedule B.
Request for reclassification as a hospital or medical research organization under sections 509(a)(1) and 170(b)(1)(A)(iii)	Submit a completed Form 1023 Schedule C – Hospitals and Medical Research Organizations. Review the instructions to Form 1023 for guidance in completing Schedule C.
Request for reclassification as an organization operated for the benefit of a college or university owned or operated by a government unit as described in sections 509(a)(1) and 170(b)(1)(A)(iv)	Submit a completed Form 990 Schedule A, Parts I and II. Submit documentation from your bylaws or other organizational documents indicating that you are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university described in section 170(b)(1)(A)(ii). Also, submit information showing that such college or university is an agency or instrumentality of a State or political subdivision thereof, or is owned or operated by a State or political subdivision thereof, or by an agency or instrumentality of one or more States or political subdivisions.
Request for reclassification as an organization that normally receives a substantial part of its support from a government unit or from the general public described in sections 509(a)(1) and 170(b)(1)(A)(vi)	Submit either: 1. A copy of your signed Form 990, Parts I through XI, or Form 990-EZ, Parts I through VI, with the completed Schedule A, Public Charity Status and Public Support, as filed with the IRS for the tax year immediately preceding the tax year in which this request is made; or 2. Your support information for the past five completed tax years, using your overall method of accounting used to complete the Form 990 or Form 990-EZ for such years. This information may be provided to the IRS on a completed Schedule A, Public Charity Status and Public Support, to the most recent version of Form 990 or Form 990-EZ. Submit also a list showing the name of and amount contributed by each person (other than a governmental unit or an organization described in section 170(b)(1)(A)(vi), including a public charity that actually qualifies under section 170(b)(1)(A)(vi) but claims or is recognized under a different public charity status, such as a church or a hospital) whose total gifts for the past five completed tax years exceeded 2% of your total support for this period, as described in Regulations section 1.170A-9T(f)(6) and (7). A “person” includes an organization as well as an individual. Also state the sum of these excess amounts (this amount is reported on Form 990, Schedule A, Part II, Section A, line 6).

Type of reclassification	Documentation required to support the reclassification
<p>Request for reclassification as an organization described in section 509(a)(2) that normally receives: (1) more than 33¹/₃ % of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions – subject to certain exceptions, and (2) no more than 33¹/₃ % of its support from gross investment income and unrelated business taxable income (less section 511 tax) from business acquired by the organization after June 30, 1975.</p>	<p>Submit either:</p> <ol style="list-style-type: none"> 1. A copy of your signed Form 990, Parts I through XI, or Form 990-EZ, Parts I through VI, with the completed Schedule A, Public Charity Status and Public Support, as filed with the IRS for the tax year immediately preceding the tax year in which this request is made; or 2. Your support information for the past five completed tax years, using your overall method of accounting used to complete the Form 990 or Form 990-EZ for such years. This information may be provided to the IRS on a completed Schedule A, Public Charity Status and Public Support, to the most recent version of Form 990 or Form 990-EZ. Also, submit both of the following: <ul style="list-style-type: none"> • A list showing the name of each disqualified person (as defined in section 4946) that provided any support described in section 509(a)(2)(A), and the total amount of such support (without regard to the \$5,000 and 1% limitations) received in each tax year from each such person. Also state the sum of such amounts for each tax year (these amounts are reported on Form 990, Schedule A, Part III, Section A, line 7a). • A list showing the name of each person other than a disqualified person (and showing the name of each bureau or similar agency of a governmental unit) that provided support described in section 509(a)(2)(A)(ii) in any of the organization's last five completed tax years in excess of the greater of (1) 1% of the organization's support in such year or (2) \$5,000, and showing the amount of such excess for each tax year. Also state the sum of such excess amounts for each tax year (these amounts are reported on Form 990, Schedule A, Part III, Section A, line 7b).
<p>Request for reclassification as a supporting organization described in section 509(a)(3)</p>	<p>See the instructions for Line 8f for a discussion of the three Types of supporting organizations. To demonstrate how you meet the requirements for reclassification as a section 509(a)(3) supporting organization, please submit the following:</p> <ul style="list-style-type: none"> • your current foundation classification, • a statement requesting a change in foundation classification to section 509(a)(3) Type ___ • a copy of your organizing document, • a copy of your bylaws, and • Schedule D of Form 1023* <p>* Effective August 17, 2006, the alternative responsiveness trust applicable to charitable trusts was eliminated by the PPA. As a result, all supporting organizations seeking Type III classification, including charitable trusts, must answer questions under Lines 4a-e of Section D (regardless of whether they checked "Yes" on Line 3).</p>
<p>Request for classification of nonexempt charitable trust as a supporting organization described in section 509(a)(3)</p>	<p>If you are a nonexempt charitable trust described in section 4947(a)(1) and are requesting an initial determination that you are described in section 509(a)(3), then furnish the following information from the date that you first became described in section 4947(a)(1) (but not before Oct. 9, 1969) to the present:</p> <ul style="list-style-type: none"> • A list of all of the trustees that have served, together with a statement stating whether such trustees were disqualified persons within the meaning of section 4946(a) (other than as foundation managers); • A copy of your original trust instrument and all amendments adopted thereafter; and • Schedule D of Form 1023* <p>See the instructions for Line 8f for a discussion of the three Types of supporting organizations. If you did not qualify under section 509(a)(3) in one or more prior years after October 9, 1969 in which you were described in section 4947(a)(1), then you cannot be issued a section 509(a)(3) determination letter except in accordance with the procedures for termination of private foundation status under Section 507(b)(1)(B), set forth in line 8h.</p> <p>* Effective August 17, 2006, the alternative responsiveness trust applicable to charitable trusts was eliminated by the PPA. AS a result, all supporting organizations seeking Type III classification, including charitable trusts, must answer questions under Lines 4a-e of Section II of Schedule D (regardless of whether they checked "Yes" on Line 3).</p>
<p>Request for reclassification as a private foundation as described in section 509(a)</p>	<p>Submit a completed Form 990, Schedule A, Parts II and III. This will assist the IRS in determining whether or not you are normally publicly supported under either sections 509(a)(1) and 170(b)(1)(A)(vi) or under section 509(a)(2). Submit a statement indicating your requested effective date of reclassification as a private foundation. Also, show how you meet the governing instrument requirements of section 501(e). See Rev. Rul. 75-38, 1975-1 C.B. 161. Private foundations are required to request advance approval of their grant-making procedures under section 4945(g).</p> <ul style="list-style-type: none"> • If you are requesting reclassification as a private foundation and conduct, or will conduct, grant-making activities described under section 4945(g), submit a statement to that effect and submit a separate Form 8940 for Line 8c.

Type of reclassification	Documentation required to support the reclassification
<p>Request for reclassification as a private operating foundation as described in section 4942(j)(3)</p>	<p>If you are changing from public charity to private foundation, then also provide the documentation required for a request for a reclassification as a private foundation described in section 509(a).</p> <p>Submit a completed Form 990-PF, Part XIV – Private Operating Foundations. This will assist the IRS in determining whether you satisfy the following financial tests which are necessary for classification as a private operating foundation:</p> <ul style="list-style-type: none"> • The Income Test (Regulations section 53.4942(b)-1(a)), and one (1) of the following Tests: <ul style="list-style-type: none"> • The Assets Test (Regulations section 53.4942(b)-2(a)); • The Endowment Test (Regulations section 53.4942(b)-2(b)); or • The Support Test (Regulations section 53.4942(b)-2(c)). <p>Private operating foundations must make direct qualifying distributions to be used for the active conduct of the operating foundation’s own programs or activities. These activities must be conducted by the operating foundation rather than by or through one or more grantee organizations that receive distributions directly or indirectly from the foundation.</p> <p>Regulations section 53.4942(b)-1(a) lists several types of expenses that are considered direct qualifying distributions for the active conduct of an operating foundation’s exempt activities.</p> <p>Submit a listing and description of your distributions that details whether your distributions are used directly for the active conduct of your own programs or activities.</p> <p>Also, provide a statement describing any adverse impact if you do not receive the requested status.</p>
<p>Request for reclassification as an exempt operating foundation as described in section 4940(d)(2):</p>	<p>If you are changing from public charity to private foundation, then also provide the documentation required for a request for reclassification as a private foundation described in section 509(a).</p> <p>Section 4940(d) provides that the term “exempt operating foundation”, with respect to any tax year, applies to any private foundation if:</p> <ul style="list-style-type: none"> • Such foundation is an operating foundation as defined in section 4942(j)(3); • Such foundation has been publicly supported under section 170(b)(1)(A)(vi) or 509(a)(2) for at least ten years, or under section 302(c)(3) of the Tax Reform Act of 1984, Public Law 98-369, such foundation was an operating foundation as defined in section 4942(j)(3) as of January 1, 1983; • At all times during the tax year, the governing body of such foundation (i) consists of individuals at least 75 percent of whom are not disqualified individuals, as defined in section 4940(d)(3)(B), and (ii) is broadly representative of the general public; and, • At no time during the year does such foundation have an officer who is a disqualified individual. <p>Submit documentation showing that you meet the requirements for classification as an operating foundation as defined in section 4942(j)(3). Refer to the instructions above regarding a request for reclassification as a private operating foundation as described in section 4942(j)(3).</p> <p>Submit documentation indicating whether or not you have been publicly supported under section 170(b)(1)(A)(vi) or 509(a)(2) for at least ten years, or documentation that you were an operating foundation as defined in section 4942(j)(3) as of January 1, 1983.</p> <p>Submit a listing of your governing body, indicating whether at least 75 percent of whom are not disqualified individuals, as defined in section 4940(d)(3)(B), and are broadly representative of the general public.</p> <p>Submit a statement indicating whether at any time during the year you had an officer who is a disqualified individual.</p>

Line 8h. Termination of private foundation status under section 507(b)(1)(B) – advance ruling. Check this box if you are requesting an advance ruling on termination of your private foundation status.

Section 507(b)(1)(B) allows a private foundation to terminate its private foundation status and become a public charity. An organization may terminate its private foundation status under section 507(b)(1)(B) if it meets the requirements of section 509(a)(1), (2), or (3) for a continuous 60-month period beginning with the first day of any tax year, and notifies the IRS before beginning the

60-month period that it is terminating its private foundation status.

Note. *An organization that erroneously determined that it was a private foundation but that actually qualified and has continued to qualify as a public charity may request retroactive reclassification as a public charity instead of terminating private foundation status under section 507(b)(1)(B). The organization must demonstrate that it has continuously qualified as a public charity.*

An organization that wishes to terminate its private foundation status under section 507(b)(1)(B) is not required to obtain an advance ruling, but merely to

provide the information set forth in Regulations section 1.507-2T(b)(3). If a private foundation obtains an advance ruling that it can be expected to satisfy the requirements of section 507(b)(1)(B)(i) during the 60-month period, then contributors may rely on such ruling as set forth in Regulations section 1.507-2T(d)(3), and there will be no penalty under section 6651 for failure to pay section 4940 tax during the 60-month period if the organization fails to terminate its private foundation status. The organization cannot otherwise rely on the advance ruling during the 60-month period or thereafter.

The request for an advance ruling should include:

- The name and address of the private foundation
- A statement of its intention to terminate its private foundation status
- Descriptions of the organization's past, current, and proposed activities, and how it intends to attract public support
- Proposed budgets during the 60-month termination period
- The date the organization's regular tax year begins
- The date the 60-month termination period begins
- The Code section under which it seeks classification (section 509(a)(1), (2), or (3))
- If section 509(a)(1) applies, the specific type of section 170(b)(1)(A) organization for which it seeks classification as well as the appropriate schedule of Form 1023 (if applicable)
- If section 509(a)(2) applies, Schedule A Part III of Form 1023
- If section 509(a)(3) applies, see instructions for line 8(g), Request for reclassification as a supporting organization described in section 509(a)(3)

As a condition to receiving the advance ruling, you must consent to extend the period of limitations to assess section 4940 tax, for any tax year within the advance ruling period, to four years after filing the Form 990 or Form 990-PF annual information return for the last tax year within the 60-month period.

Line 8i. Termination of private foundation status under section 507(b)(1)(B) – 60 month period ended. Check this box if you if you have completed the 60-month termination of foundation status period.

Regulations sections 1.507-2T(b)(4) and (c) require an organization, which is terminating its private foundation status, to notify the IRS that it has met the

requirements of a public charity within 90 days after the end of 60-month period.

Information to be provided at the conclusion of the 60-month period must include the following:

- A complete description of the organization's current operations pertinent to the public charity status, as well as any changes during the 60-month period.
- Copies of the organization's governing instruments, bylaws, and amendments during the 60-month period (if applicable).
- For public charity status under sections 509(a)(1) and 170(b)(1)(A)(vi) or section 509(a)(2), Form 990 Schedule A Part II or III (as applicable) for the 60-month period.

An organization that intends to terminate its private foundation status as a section 509(a)(3) supporting organization at the conclusion of the 60-month period should also include the following:

- Details of the relationship between the organization and the supported organizations during the 60-month period.
- All pertinent information to establish that the organization did not violate the control requirements described in section 509(a)(3)(C) during the 60-month period, such as details of any changes in its foundation managers (as defined in section 4946(b)(1)) during the 60-month period.

Signature Requirements

An officer, director, trustee, or other official who is authorized to sign for you must sign Form 8940. The signature must be accompanied by the title or authority of the signer and the date. Please clearly print the accompanying information.

Representation

Attach a completed Form 2848 if you want to authorize a representative to represent you regarding Form 8940. An

individual authorized by Form 2848 may not sign Form 8940 unless that person is also an officer, director, trustee or other official who is authorized to sign the form.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	4 hrs., 46 min.
Learning about the law or the form	4 hrs., 22 min.
Preparing the form	4 hrs., 38 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send Form 8940 to this address. Instead, see *Where To File* earlier.
