

Instructions for Form 1028

(Rev. September 2006)



Department of the Treasury
Internal Revenue Service

Application for Recognition of Exemption Under Section 521 of the Internal Revenue Code

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

General Instructions

Keep a copy of the completed application form in your permanent records.

A. Who May Use This Form

Form 1028 may be used by a farmers' cooperative to apply for recognition of exempt status under section 521. A farmers' cooperative, as defined in section 521, is an association of farmers, fruit growers, or persons with similar occupations that is organized and operated on a cooperative basis.

B. Where To File

Send the completed application, all required information, and Form 8718, User Fee for Exempt Organization Determination Letter Request, with the appropriate user's fee, to the address shown in the Instructions to Form 8718. Soon after we receive the application, you will be advised of the Internal Revenue Service's determination and of the annual returns that the organization will be required to file.

C. Power of Attorney

If an agent or attorney will represent the organization, you must file a power of attorney, specifically authorizing the

representative to act in person or by correspondence. Send the power of attorney with the application when you file it. Use Form 2848, Power of Attorney and Declaration of Representative, or Form 8821, Tax Information Authorization, for this purpose.

D. Attachments

Every attachment should state that it relates to Form 1028 and identify the applicable part and line item number. The attachments should also show the organization's name, address, and employer identification number (EIN), and be on 8½" x 11" paper.

In addition to the required documents and statements, include any additional information citing court decisions, rulings, opinions, etc., that may help to speed the processing of the application. Generally, attachments in the form of tape recordings are not accepted unless accompanied by a transcript.

E. Annual Return

An organization that is recognized as exempt from income tax under section 521 must file an annual return on Form 1120-C, U.S. Income Tax Return for Cooperative Associations. An organization will not be considered exempt, even though it operates within the provisions of sections 521 and 1381 through 1388, unless it files this application or has previously received a

ruling recognizing its exemption under section 521 of the Internal Revenue Code of 1986 or corresponding provisions of prior law.

F. User Fees for Exempt Organization Ruling and Determination Requests

The Internal Revenue Service is required to collect a fee from any organization seeking an IRS determination of its exempt status as an organization described in section 521. A fee also applies to any exempt organization's request for a private letter ruling.

The nonrefundable fee must be submitted with the application or ruling request. Otherwise, the request will be returned without any action being taken on it.

The fees are shown in Form 8718, which is used to transmit both the appropriate fee and the application or ruling request. User fees are subject to change. Check our website at www.irs.gov and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.

Specific Instructions

Part I—Identification

Line 1a—Organization's Name. Enter the organization's name as it appears in its organizing documents, including amendments. If the organization will be operated under another name, show that name in parentheses.

Line 1b—Employer Identification Number (EIN). Enter the organization's EIN. If the organization does not have an EIN, it must apply for one. An EIN can be applied for:

- Online—Click on the EIN link at www.irs.gov/businesses/small. The EIN is issued immediately once the application information is validated.
- By telephone at 1-800-829-4933 from 8:00 a.m. to 8:00 p.m. in the local time zone.
- By mailing or faxing Form SS-4, Application for Employer Identification Number.

If the organization has not received its EIN by the time the return is due, enter "Applied for" in the space for the EIN. For more details, see Pub. 583.

Make sure the application is complete. Remember to...

1. **Complete all parts of the application.**
2. **Show the employer identification number (EIN):**
 - a. If the organization has one, put it on line 1b.
 - b. If the organization doesn't have an EIN, you must apply for one (see the Specific Instructions for Part I, line 1b).
3. **Enclose financial statements** (see the Specific Instructions for Part IV):
 - a. Current year (must include the period that is within 60 days of the application's filing date) and 3 preceding years.
 - b. Detailed breakdown of receipts and expenditures — no lump sums.
4. **Include a conformed copy of the complete organizing instrument and a copy of the bylaws.**
 - a. An organizing instrument means:
 - 1) Articles of incorporation
 - a) Signed by the incorporators, and
 - b) Signed by an appropriate government official, or
 - 2) Constitution of articles of association (signed).
 - b. A conformed copy is one that agrees with the original and all amendments to it.
5. **Enclose Form 8718 and appropriate user fee** (see General Instruction F).
6. **Have the application signed by one of the following:**
 - a. An officer,
 - b. A director, or
 - c. A person having power of attorney (submit the power of attorney too).
7. **Give the name and phone number of someone we can call during normal business hours if we need additional information (Part I, line 3).**

Part II—Type of Entity and Organizational Documents

One of the basic requirements for exemption is that the organization be “organized” for one or more exempt purposes. If the organization does not have an organizing instrument, it will not qualify for exempt status.

None of the documents submitted in support of this application, including organizational documents, will be returned.

Instead of the originals, submit “conformed” copies of these documents. A “conformed” copy is one that agrees with the original document and all of its amendments. If the copies are not signed, they must be accompanied by a declaration signed by an officer authorized to sign for the organization, certifying that they are complete and accurate copies of the original documents.

Chemically or photographically reproduced copies of articles of incorporation showing the certification of an appropriate government official need not be accompanied by a declaration.

Part III—Activities and Operational Information

Lines 17 through 19. The information requested on lines 17 through 19 must be completed for the current year and each of the 3 immediately preceding years (or for the time the organization has existed if less than 4 years). The requested information for the current year must cover the period beginning on the first day of your organization’s established annual accounting period and ending on any day which is within 60 days of the date of the application. If the date of the application is less than 60 days after the first day of the current accounting period, no information is required for the current year. Requested information is required for the 3 preceding years regardless of the current year requirement. Please note that if no information is required for the current year, the preceding year’s information period can end on any day which is within 60 days of the date of the application.

Definitions. The term “producer” means an individual or corporation engaged in farming as a business receiving income based on farm production rather than fixed compensation. For example, a corporation leases its land to a tenant farmer who agrees to pay a rental fee based on a percentage of the farm crops produced. Both the landowner and the tenant farmer qualify as producers.

“Current and active” producers are patrons of a cooperative who market more than 50% of their products or

purchase more than 50% of their supplies and equipment through the cooperative during the cooperative’s tax year.

Part IV—Financial Data

The statement of receipts and expenditures and the balance sheets must be completed for the current year and each of the 3 immediately preceding years (or for the time the organization has existed if less than 4 years). We may request financial data for more than 4 years if circumstances warrant. All financial information for the current year must cover the period beginning on the first day of your organization’s established annual accounting period and ending on any day which is within 60 days of the date of the application. If the date of the application is less than 60 days after the first day of the current accounting period, no financial information is required for the current year. Financial information is required for the 3 preceding years regardless of the current year requirements. Please note that if no financial information is required for the current year, the preceding year’s financial information can end on any day which is within 60 days of the date of the application.

You may reproduce page 4 of the form and complete the financial data for each required year. Attach the financial data for all required years to the application.

The statements should be consistent with the method of accounting the organization uses in maintaining its books and records.

Line 3b—Cost of Goods Sold. Include per-unit retain allocations paid to patrons in money, qualified written notices of allocation, or other property (except nonqualified per-unit retain certificates) and the amount paid to patrons in money or other property (except per-unit retain certificates) to redeem nonqualified per-unit retain certificates. (See sections 1382 and 1388.)

Line 15—Other Expenditures. In the attached schedule for other expenditures, include a breakdown for nonpatronage distributions paid as dividends on capital stock and nonpatronage distributions made on a patronage basis. This breakdown should include only distributions of earnings derived from business done for the United States Government or any of its agencies or income from sources other than patronage, but only to the extent such amounts are paid in the same manner provided for patronage dividends below. The term “income from sources other than patronage” means incidental income derived from sources not directly related to the marketing, purchasing, or service activities of the cooperative association. For example, income derived from the

lease of premises, from investment in securities, or from the sale or exchange of capital assets constitutes income from sources other than patronage.

Also include in the schedule the total amount of per-unit retain allocations other than those reflected in cost of sales on line 3b and the total amount of written notices of allocation other than those reflected on line 16. (See sections 1382 and 1388.)

Line 16—Patronage Dividends. In the attached schedule, show the amount of patronage dividends paid to patrons in money, qualified written notices of allocation, or other property (except non-qualified written notices of allocation) and the amount paid to patrons in money or other property (except written notices of allocation) to redeem nonqualified written notices of allocation. (See sections 1382 and 1388 and the related regulations.)

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. If you want your organization to be recognized as tax-exempt by the IRS, you are required to give us this information. We need it to determine whether the organization meets the legal requirements for tax-exempt status.

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:

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| Recordkeeping | 44 hr., 14 min. |
| Learning about the law or the form | 1 hr., 44 min. |
| Preparing the form | 4 hr., 23 min. |
| Copying, assembling, and sending the form to the IRS | 32 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 the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6406, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File* on page 1.
