

Distinguishing Characteristics of Tax-Exempt Organizations

§ 1.4 Role of the Internal Revenue Service

§ 1.8 Developments Responding to COVID-19

(a) CARES and SECURE Acts

(b) IRS Delays in Tax Payment and Return Due Dates

§ 1.4 Role of the Internal Revenue Service

p. 15. Add at end of paragraph at top of page:

In preparing this supplement, I found that rereading the instructions gave me facts and IRS directions I was unaware of or had forgotten. Accordingly, the following is a listing of the items I needed to carefully consider as I review returns prepared by others in my office.

The instructions for 990-PF for 2020 begin with the following “What’s New” section:

- ***Reduced tax on net investment income.*** The Taxpayer Certainty and Disaster Tax Relief Act reduced the 2 percent Internal Revenue Code section 4940(a) excise tax on net investment income of private foundations to 1.39 percent effective for tax years beginning after December 20, 2019. This legislation also repealed Internal Revenue Code section 4940(e), which from January 1, 1985, through December 20, 2019, provided a reduced 1 percent tax when its qualifying distributions for that year exceeded the fair market value of its investment assets multiplied by the private foundation’s average percentage payout for the prior five years. The 2020 990-PF form still contained Part V, Reduced Tax on Net Investment Income, which was no longer used and which the instructions said was not necessary to complete.

Other various sections are also included in the instructions:

- ***Electronic filing reminder.*** For tax years beginning on or after July 2, 2019, the Taxpayer First Act, section 3101 of P.L. 116-25, requires that returns by exempt organizations be filed electronically. Accordingly, you must file the return electronically for tax years beginning in 2020.

- *Reporting standard for net assets updated.* Part II of Form 990-PF was updated to reflect the Financial Accounting Standard Board's (FASB's) reclassification of net assets into two classes, net assets without donor restrictions and net assets with donor restrictions. For more information, see *Part II. Balance Sheets, Lines 24 Through 30, Net Assets or Fund Balances*.
- *Pub. 15-T.* Pub. 15-T, Federal Income Tax Withholding Methods, contains the federal income tax withholding tables that were previously provided in Pubs. 15 and 15-A and explains how to use the tables.
- *Exception from the excise tax on excess business holdings.* Section 4943(g) provides an exception from the excise tax on excess business holdings for certain independently operated enterprises whose voting stock is wholly owned by a private foundation. For more details, see *Part VII-B, Line 3a*.
- *Initial Form 990-PF by former public charity.* If you are filing Form 990-PF because you no longer meet a public support test under section 509(a)(1) and you haven't previously filed Form 990-PF, check *Initial return of a former public charity* in Item G of the heading section on page 1 of your return. Before filing Form 990-PF for the first time, you may want to go to IRS.gov/EO for the latest information and filing tips to confirm you are no longer a publicly supported organization.
- *Automatic revocation.* Most tax-exempt organizations, other than churches, are required to file an annual Form 990, 990-EZ, or 990-PF with the IRS, or to submit a Form 990-N e-Postcard to the IRS. If a tax-exempt private foundation fails to file an annual return as required for three consecutive years, it will automatically lose its tax-exempt status and will become a taxable private foundation. See *M. Penalty for Failure to File Timely, Completely, or Correctly*.
- *IRS e-Services* make taxes easier. Now more than ever before, businesses can enjoy the benefits of filing and paying their federal taxes electronically. Whether you rely on a tax professional or handle your own taxes, the IRS offers you convenient programs to make taxes easier.
 - You can e-file your Form 990-PF, Form 940, and 941 employment tax returns, and Forms 1099 and other information returns. Visit [IRS.gov/Charities-Non-Profits/Annual-Reporting-and-Filing](https://www.irs.gov/Charities-Non-Profits/Annual-Reporting-and-Filing) for details.
 - You can pay taxes online or by phone using the free Electronic Federal Tax Payment System (EFTPS). Visit [EFTPS.gov](https://www.eftps.gov) or call 800-555-4477 for details. Electronic Funds Withdrawal (EFW) from a checking or savings account is also available to those who file electronically.
 - *Don't include social security numbers on publicly disclosed forms.* Because the IRS is required to publicly disclose the organization's annual information returns, social security numbers shouldn't be included on this form. Documents subject to disclosure include schedules and attachments filed with the form
 - *Form 990-PF* is an annual information return that must be filed by the following:
 - Exempt private foundations (section 6033(a), (b), and (c)).
 - Taxable private foundations (section 6033(d)).
 - Organizations that agree to private foundation status and whose applications for exempt status are pending on the due date for filing Form 990-PF.

- Organizations that claim private foundation status, haven't yet applied for exempt status, and whose application isn't yet untimely under section 508(a) for retroactive recognition of exemption.
- Organizations that made an election under section 41(e)(6)(D)(iv).
- Private foundations that are making a section 507(b) termination.
- Include on the foundation's return the financial and other information of any disregarded entity owned by the foundation. See Regulations sections 301.7701-1 through 3 for information on the classification of certain business organizations, including an eligible entity that is disregarded as an entity separate from its owner (disregarded entity).
- *How to avoid filing an incomplete return.* Complete all applicable line items. Answer "Yes," "No," or "N/A" (not applicable) to each question on the return. Make an entry (including a zero when appropriate) on all total lines. Enter "None" or "N/A" if an entire part doesn't apply.
- *Accounting Period.* File the 2020 return for the calendar year 2020 or fiscal year beginning in 2020. If the return is for a fiscal year, fill in the beginning and ending dates of the tax year in the spaces at the top of the return.

The return must be filed on the basis of the established annual accounting period of the organization. If the organization has no established accounting period, the return should be on the calendar-year basis.

For an initial or final return or for a short tax year resulting from a change in accounting period, the 2020 form may also be used as the return for a short period (less than 12 months) ending November 30, 2020, or earlier. The 2020 form may also be used for a short period beginning after November 30, 2020, and ending before December 31, 2021 (not on or after December 31, 2021). When doing so, provide the information for designated years listed on the return, other than the tax year being reported, as if they were updated on the 2020 form. For example, provide the information in Part V, line 1, for the tax years 2016–2020, rather than for the printed years, 2015–2019.

In general, to change its accounting period, the organization must file Form 990-PF by the due date for the short period resulting from the change. At the top of this short period return, write "Change of Accounting Period." If the organization has previously changed its accounting period within the 10-calendar-year period that includes the beginning of the short period resulting from the current change in accounting period, and it had a Form 990-PF filing requirement at any time during that 10-year period, it must also file Form 1128, Application for Change in Accounting Method, with the short-period return. See Rev. Proc. 85-58, 1985-2 C.B. 740, 1985-18 I.R.B. 5.

- *Accounting Methods.* Generally, you should report the financial information requested on the basis of the accounting method the foundation regularly uses to keep its books and records. *Exception.* Complete Part I, column (d), on the cash receipts and disbursements method of accounting.

I commend the IRS for the above list and decided to also include any news items from the Form 990 instruction posted on January 27, 2021, that pertained to Tax-Exempt Organizations issues not mentioned above. Some items are displayed in an abbreviated version for repeated information. One might look for release of the 2022 version.

One might also benefit from the following Form 990 Tips and Cautions:



Certain Form 990 filers must file electronically. See General Instructions, Section E. When, Where, and How To File, later, for who must file electronically.



Reminder: Don't Include Social Security Numbers on Publicly Disclosed Forms. *Because the filing organization and the IRS are required to publicly disclose the organization's annual information returns, social security numbers shouldn't be included on this form. By law, with limited exceptions, neither the organization nor the IRS may remove that information before making the form publicly available. Documents subject to disclosure include statements and attachments filed with the form. For more information, see Appendix D.*



Organizations that have \$1,000 or more for the tax year of total gross income from all unrelated trades or businesses must file Form 990-T, to report and pay tax on the resulting unrelated business taxable income (UBTI), in addition to any required Form 990, 990-EZ, or 990-N.



An organization may not file a "consolidated" Form 990 to aggregate information from another organization that has a different EIN, unless it is filing a group return and reporting information from a subordinate organization or organizations, reporting information from a joint venture or disregarded entity (see Appendix E, Group Returns—Reporting Information on Behalf of the Group, and Appendix F, Disregarded Entities and Joint Ventures—Inclusion of Activities and Items).



An organization that has filed a letter application for recognition of exemption as a qualified nonprofit health insurance issuer under section 501(c)(29), or plans to do so, but hasn't yet received an IRS determination letter recognizing exempt status, must check the "Application pending" checkbox on the Form 990, Item B, page 1.



Subordinate organizations *in a group exemption which are included in a group return filed by the central organization for the tax year shouldn't file a separate Form 990, Form 990-EZ, or Form 990-N for the tax year.*



A public charity described in section 170(b)(1)(A)(iv), 170(b)(1)(A)(vi), or 509(a)(2) that isn't within its initial 5 years of existence should first complete Part II or III of Schedule A (Form 990 or 990-EZ) 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 or Form 990-EZ, and check the box for "Initial return of a former public charity" on page 1 of Form 990-PF.



Depending on the specific accounting method change being requested, the taxpayer may be able to request "automatic" consent. This means that as long as the taxpayer follows the applicable procedures, the taxpayer does not have to wait for formal approval by the IRS before applying the new accounting method. See Rev. Proc. 2019-43, 2019-48 I.R.B. 1107, or its successor, for a list of accounting method changes that generally qualify for automatic consent.



Generally, a taxpayer, including a tax-exempt entity, will recognize a positive section 481(a) adjustment (such as, an increase to income) ratably over 4 tax years and will recognize a negative section 481(a) adjustment in full in the year of change. See Rev. Proc. 2015-13, or its successor.



See Pub. 538, *Accounting Periods and Methods*, and the instructions for Forms 1128 and 3115, about reporting changes to accounting periods and methods.



Properly distinguishing between payments to affiliates and grants and allocations is especially important if the organization uses Form 990 for state reporting purposes. If the organization uses Form 990 only for reporting to the IRS, payments to affiliated or national organizations that don't represent membership dues reportable as miscellaneous expenses on line 24 can be reported on either line 21 or line 1.

Business Activity Codes

The codes listed in this section are a selection from the North American Industry Classification System (NAICS) that should be used in completing Form 990, Part VIII, lines 2 and 11. If you don't see a code for the activity you are trying to categorize, select the appropriate code from the NAICS website at 2017 NAICS Census. Select the most specific six-digit code available that describes the activity producing the income being reported. Note that most codes describe more than one type of activity. Avoid using codes that describe the organization rather than the income-producing activity.

Glossary

The glossary has over 65 pages that include tax, accounting, titles and terms on the tax forms, and an amazing long list of items mentioned in the extensive instructions that themselves total 100 pages.

Before diving into new developments to pages of the sixth edition of *Tax Compliance for Tax-Exempt Organizations*, I'll share an excellent list of suggestions for protecting your data and computer from cyber terrorists.

The following tips were written by AICPA's Not-for-Profit Section:

9 cybersecurity tips for small not-for-profit organizations

Numerous studies have shown that over 90 percent of corporate breaches start with a phishing email. But don't let that statistic lead you to believe that you can strengthen your controls over email and be safe. Recent reports are indicating that fraudsters are now successfully using voice-generating artificial intelligence software to impersonate executives when perpetrating these crimes.

Unfortunately, far too many nonprofits do not have or know of a policy that identifies how their organization handles cybersecurity risk, equipment usage, and data privacy. Cybersecurity is a real concern that all types of organizations, including all types and sizes of not-for-profits, must address.

This article offers tips and best practices related to both the personal and the technical aspects of cybersecurity that even the smallest nonprofits can employ.

Promote organization-wide awareness

It is increasingly important for organizations and users to understand that the cybersecurity adversaries, also known as "bad actors," are after people. Bruce Schneier, a seasoned cybersecurity professional, said, "Amateurs hack systems, professionals hack people." Take spear phishing, for example, where bad actors send emails ostensibly from a trusted sender to get recipients to reveal confidential information.

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Every member of an organization is responsible for security. Take the time to educate users on this fact and make security part of your culture:

- Provide continual training.
- Hold lunch and learns.
- Post signs in the break room.
- Cover a security topic during team meetings.

There are limitless examples of cyber breaches on the Internet that you can discuss. It takes little effort to talk about security and doing so will save headaches in the long run.

Understand the latest social engineering techniques

Bad actors are getting better and better at using social engineering to get us to provide information or click on links to download malware. Phishing is by far the most common method, followed by email, text, and phone. The days of offering money from a bank in Nigeria are over. Bad actors are getting more sophisticated. They prey on human emotions and personalize messages to make them seem real.

Ask yourself if a request makes sense. If it doesn't, don't act on it. Ask someone's opinion (e.g., your IT service provider). Be especially careful on phones. It is difficult to decipher real-versus-fake on small screens. Links are also harder to verify on mobile devices, because they may not be fully visible without clicking on them.

Amp up your passwords and use multi-factor authentication

Have a unique, complex password for every system you use. If a bad actor cracks one username and password, they are likely to try other systems to see if they can get in with the same credentials and they can do this with amazing ease and speed. If you have trouble remembering multiple passwords, use a password manager to store them in a secure manner. NEVER store them in an Excel or Word file on your computer.

Use multi-factor authentication (MFA) as a second layer of defense whenever it is offered. MFA is when the application you are signing into texts you a code or asks you to log in to an app on your phone to get the most recent code to authenticate. This functionality has saved people from breaches many times, yet only 21 percent of nonprofits have their employees using MFA.

Important note: If you receive a request to enter a code and you aren't trying to log in, do not use it and change your password on that application immediately.

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Make sure you install—and update—anti-virus software

At the bare minimum, have anti-virus software installed on every machine within the organization and keep it up to date. While this is not foolproof, updated anti-virus software can help prevent malware from infecting your machine or network if a user clicks on an infected link. Malware changes constantly, so be sure to install anti-virus software updates as soon as the provider releases new virus signatures.

Install a SPAM and virus email filter

If you have a local email server, look into a SPAM and virus filter to prevent infected emails from getting to your users. If you subscribe to a cloud-based email service, see if they offer this as an add-on. This service will actively scan incoming emails and filter out the ones that are suspicious.

Install a firewall

The term “firewall” sounds expensive, but it doesn’t have to be:

- Download a web-based firewall for free.
- Buy a relatively cheap firewall to safeguard your Internet connection.
- Get “endpoint protection” through your anti-virus package for items like servers, workstations, and mobile devices that are used to connect enterprise networks.

The goal is to shield your computers from exposure to the Internet and discovery by the bad actors. Consider professional installation: for about an hour or two of consulting, an expert can install your firewall and make sure it is configured correctly to protect you.

Take advantage of the benefits cloud providers

Most applications are now available in the cloud via providers that have the resources to keep your data secure. Take email for instance. Large, reputable providers offer cloud-based email service, among other offerings, for a monthly subscription fee per user. While that option may seem more expensive, it’s important to consider the benefits of having that provider supporting your email and maintaining uptime and security.

Use caution when choosing service providers

Many small organizations are outsourcing their IT to service providers. For a monthly fee, the service provider handles all or part of your IT work so you can focus on business operations. Be sure you choose a reputable provider if you go this route. Check references and SOC reports, when available, and choose a provider that is well established. You will also want to be sure their service level agreement regarding uptime, service visits, etc. will meet your organization’s needs.

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Consider cyberinsurance

You may want to look into cyberinsurance. Depending on the coverage, it could be relatively inexpensive and could come in handy should your organization ever be breached. This insurance can help with the costs of reputational damage and recovery, among other potential challenges of a breach.

Cybersecurity is not a new topic, yet many organizations are still finding themselves ill-prepared to handle cyber threats and attacks. A culture of awareness is critical for all organizations, regardless of size, type, or budget. Arming your people with the knowledge and tools they need to safeguard data and systems will go a long way in mitigating the threats the bad actors pose in today's business environment. In addition, there are tactics and strategies you can employ to further protect your organization against breaches that don't all cost a fortune. Consider the tips and best practices offered in this article and visit the Cybersecurity Resource Center for additional information.

Additional Resources:

CGMA Cybersecurity Risk Management Tool

This tool helps companies monitor and manage the risk of cybersecurity threats and respond to potential breaches.

Podcast: Cybersecurity and Ransomware—Protecting Yourself from Attack

Hear cybersecurity expert Brian Edelman discuss recent ransomware attacks in this free podcast.

Cybersecurity Fundamentals for Finance and Accounting Professionals Certificate

Develop your fluency and gain the confidence to make sound strategic decisions regarding cybersecurity risk and learn what you should be doing as a non-IT professional to help protect your organization or clients from cyber threats.

Criteria for Management's Description of a Cybersecurity Risk Management Program

Use these criteria to design and describe your organization's cybersecurity risk management program.

Prepared by AICPA, Not-for-Profit Section.

Additionally, the IRS created the following new educational program.

2021 Nationwide Tax Forums Online course listing on October 10, 2021

WASHINGTON—The Internal Revenue Service today announced that 18 new self-study seminars are available through the IRS Nationwide Tax Forums Online.

Tax professionals—CPAs, enrolled agents, Annual Filing Season Program participants, and others—can earn continuing education for \$29 per credit.

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The new seminars were recorded in July and August at the 2021 IRS Nationwide Tax Forum.

1. Advocating for Taxpayers in Order to Avoid Abusive Tax Schemes
2. Be Tax Ready—Understanding Rules for Due Diligence and the Child Tax Credit and Earned Income Tax Credit Under the American Rescue Plan Act of 2021
3. Charities & Tax-Exempt Organizations Update
4. Closer Look at the IRS Independent Office of Appeals
5. Collection Flexibilities During Difficult Economic Times
6. Common Issues Presented to OPR and Best Practices to Address Them
7. Determining an Individual's Tax Residency Status
8. e-Services and You
9. Gig Economy
10. Helping You and Your Clients Steer Clear of Fraud and Scams
11. Key Enforcement Issues
12. Keynote Address
13. Keys to Mastering Due Diligence Requirements and What to Expect During a Due Diligence Audit
14. Overview of Taxpayer Civil Rights
15. Professional Responsibility Obligations when Practicing before the IRS: OPR and Circular 230
16. Retirement Plans—IRS Compliance Initiatives
17. Tax Law Changes from a Forms Perspective
18. Virtual Currency

These 18 courses are now available in addition to 37 sessions from previous years that are also available for credit.

I want to suggest again to readers to always carefully read the instructions to IRS Forms 990, 990-PF, 990-T and others that are required to be filed. Readers can also find some useful news and information on the IRS News, particularly if you are interested in both exempt and nonexempt entities, which is distributed as an email most days of the week. The July 21, 2021, version encouraged, for example, readers to look for Tax Law Answers and to Use the Interactive Tax Assistant to find answers to your tax law questions. An important news item on September 10, 2021, announced, for example, the deductibility of COVID-19 tests in time for individuals to claim the deduction on the 2020 return.

§ 1.4 Role of the Internal Revenue Service

p. 14. Add at beginning of section:

The IRS's Tax Exempt and Government Entities (TE/GE) Division on an ongoing basis seeks to meet its responsibility to provide the best possible service to taxpayers as it administers its responsibility for enforcing the rules set forth in the federal tax

code. Its role ranges from designing forms to writing instructions and memoranda to explain policies and procedures for filing tax returns, monitoring filing deadlines, and managing a trained staff to administer the tax filing system. On August 17, 2021, the Exempt Organizations Rulings & Agreements (EO R&A) office issued an Interim Guidance memorandum, Updated Procedures Relating to Direct Contact (PDF) in the Determination Process, to its employees regarding procedures those employees should use when contacting entities that are applying for tax-exempt status.

The memo notes that the following procedures apply to further ensure taxpayers' effective participation in the exempt organization determinations process, to promote consistency in determinations procedures across TE/GE, and to clarify the Division's processes when the taxpayer authorizes a representative to assist. The memo stipulated the following steps the IRS personnel should follow in assisting tax filers.

- If an organization does not submit a Form 2848 (Power of Attorney and Declaration of Representative) with its application for recognition of tax-exempt status or during case processing, contact the primary contact person listed on the application to discuss issues or items in the application, to follow up on Letters 1312 requesting additional information, and to otherwise discuss determinations such as for a potentially adverse case (i.e., for all telephone inquiries) as currently described in Internal Revenue Manual (IRM) 7.20.1.6.
- If an organization submits a valid Form 2848 with its application for recognition of tax-exempt status or during case processing, IRS specialists will contact the authorized representative listed on the Form 2848 to discuss issues or items in the application, to follow up on Letters 1312 requesting additional information, and to otherwise discuss determinations such as for a potentially adverse case (i.e., for all telephone inquiries), except as listed below.

In the situations below, a specialist should contact the primary contact person listed on the application as currently described in IRM 7.20.1.6.

- a. [If] Specialist cannot make contact with the authorized representative listed on Form 2848 within five business days of the initial attempt to contact the authorized representative. The specialist should confirm the authorized representative, the authorized representative's contact information, and preferences for future communications.
 - b. If the organization's primary contact, board member, officer, or other authorized person contacts the specialist directly, the specialist will discuss the application with that individual and confirm preferences for future communications.
- If a Form 2848 or Form 8821 (Tax Information Authorization Form) is invalid and an additional information request is sent, a copy should be returned to the organization, explaining why the form is invalid. If no additional information is needed, a determination letter is prepared and sent to the organization. An additional information letter or determination letter is not sent to the person(s) designated on an invalid Form 2848 or 882.

To accomplish its job of "giving and taking away an organization's tax-exempt status," the IRS receives and determines qualification for tax exemption for prospective nonprofit organizations that submit Form 1023 or 1024. A vast majority

of other nonprofits qualifying 501(c) exempt entities are not required to file for approval. Their ongoing qualification, as well as those initially seeking and receiving approval, is monitored through the annual filing of Forms 990 that report their financial transactions and respond to countless questions about their mission, activities, persons in control, and importantly about program activities they conduct to accomplish their mission.

The IRS disseminates on the Internet and by release to tax and financial publications news about its activities, instructions for form preparation, and instructions for the vast array of rules that apply to a tax-exempt entity. Those who serve nonprofits with their accounting and legal talents and other skills regularly study IRS pronouncements. Beginning in January and throughout the year new rules and guidance and redesigned forms are issued. For example, on January 4, 2021, Internal Revenue Bulletin 2021-1 contained the following information:

ADMINISTRATIVE

Rev. Proc. 2021-1, page 1.

This procedure contains revised procedures for letter rulings and information letters issued by the Associate Chief Counsel (Corporate), Associate Chief Counsel (Employee Benefits, Exempt Organizations, and Employment Taxes), Associate Chief Counsel (Financial Institutions and Products), Associate Chief Counsel (Income Tax and Accounting), Associate Chief Counsel (International), Associate Chief Counsel (Passthroughs and Special Industries), and Associate Chief Counsel (Procedure and Administration). This procedure also contains revised procedures for determination letters issued by the Large Business and International Division, Small Business/Self Employed Division, Wage and Investment Division, and Tax Exempt and Government Entities Division. Rev. Proc. 2020-1 superseded.

Rev. Proc. 2021-2, page 116.

This procedure explains when and how an Associate office within the Office of Chief Counsel provides technical advice, conveyed in technical advice memoranda (TAMs). It also explains the rights that a taxpayer has when a field office requests a TAM regarding a tax matter. Rev. Proc. 2020-2 superseded.

26 CFR 601.105: Examination of returns and claims for refund, credit or abatement; determination of correct tax liability.

Rev. Proc. 2021-3, page 140.

The revenue procedure provides a revised list of areas of the Code under the jurisdiction of the Associate Chief Counsel (Corporate), the Associate Chief Counsel (Financial Institutions and Products), the Associate Chief Counsel (Income Tax and Accounting), the Associate Chief Counsel (Passthroughs and Special Industries), the Associate Chief Counsel (Procedure and Administration), and the Associate Chief Counsel (Employee Benefits, Exempt Organizations and Employment Taxes) relating to matters on which the

Service will not issue letter rulings or determination letters. Rev. Proc. 2020-3, 2020-1 I.R.B. 131 is superseded.

26 CFR 601.201: Rulings and determination letters.

EMPLOYEE PLANS

Rev. Proc. 2021-4, page 157.

This document updates Rev. Proc. 2020-4, 2020-1 I.R.B. 148, relating to the types of advice the IRS provides to taxpayers on issues under the jurisdiction of the Commissioner, Tax Exempt and Government Entities Division, Employee Plans Rulings and Agreements, and the procedures that apply to requests for determination letters and private letter rulings.

EXEMPT ORGANIZATIONS

Rev. Proc. 2021-5, page 250.

This revenue procedure sets forth procedures for issuing determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements. Specifically, it explains the procedures for issuing determination letters on tax-exempt status (in response to applications for recognition of exemption from Federal income tax under § 501 or § 521 other than those subject to Rev. Proc. 2021-4, this Bulletin (relating to pension, profit-sharing, stock bonus, annuity, and employee stock ownership plans)), private foundation status, and other determinations related to exempt organizations. These procedures also apply to revocation or modification of determination letters. This revenue procedure also provides guidance on the exhaustion of administrative remedies for purposes of declaratory judgment under § 7428. Finally, this revenue procedure provides guidance on applicable user fees for requesting determination letters.

p. 14. Replace first two sentences in second paragraph with the following:

Organizations not organized for profit, but operated exclusively for the promotion of “social welfare,” qualify for exemption from income tax.¹ Effective January 5, 2021, a new entity seeking to obtain recognition as a tax-exempt §501(c)(4) organization may electronically file Form 1024-A and pay fees on www.pay.gov.² It is important to note, however, that their application seeking recognition is not required for U.S. tax reporting; exempt status is permitted so long as qualifications exist. Form 1024, however, may be required and useful for certain state tax purposes. Procedures for filing the request for recognition are regularly updated by the IRS.

A request for expedited handling of the application can be submitted. The request must be indicated on the form and a supporting written statement describing the circumstances and need for fast recognition should be submitted with the completed application. The individual or representative the entity authorizes to sign Form 1024-A

¹Code Sec. 501(c)(4) and Reg. § 1.501(c)(4)-1(a)(2)(ii).

²Rev. Proc. 2021-4, 2021-4 IRB and Proc. 2021-5 that stipulates that the electronic submission process is the exclusive means of submitting a completed Form 1024-A after 90 days beyond application date, or April 5 for a January 1 prior-year filing.

under a Power of Attorney must be an *officer, a director, a trustee, or other official who is authorized to sign* for the organization. A (c)(4) applicant was given 90 days beyond the announcement date to file the new Form 1024-A. Importantly, Form 8976, Notice of Intent to Operate Under Section 501(c)(4), continues to be required.

p. 25. Add new subsection:

§ 1.8 Developments Responding to COVID-19

Disruption of the normally smooth-running tax reporting and collection system in the United States due to events surrounding the COVID-19 pandemic beginning in March 2020 was extensive and in some ways disturbing in retrospect. In a humane way, we turned our attention to distancing and masking and other steps taken to curtail the viral spread.

We were filled with empathy and concern to stop the spread by protecting ourselves and citizens and establishing practices to do so.

(a) CARES and SECURE Acts

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed into law on March 27. The \$2 trillion stimulus bill was intended to provide financial relief to individuals and businesses directly affected by the coronavirus pandemic. Cash payments went to individuals earning below the income level listed below, along with grants to businesses. Awards of \$1,200 per individual or \$2,400 per couple plus an additional \$500 for each qualifying child were paid. Eligible awardees were those with income below an income phase-out based on adjusted gross income (AGI) beginning at \$75,000 per individual and \$150,000 per couple. Qualification was based on the individual's or couple's most recently filed income tax return. If the cash was not needed for immediate short-term expenses, it could be used to pay down debt, invest in the stock market, or donate to a charity, local business, or a family member who "may need it during this challenging time."

Extension of Filing Due Dates. The deadline for individuals to file 2019 income tax returns and pay balances of income tax due on April 15 was separately delayed by executive order until July 15. The CARES Act extended the deadline to make an IRA contribution to July 15. This delay plus the CARES Act grants provided immediate cash flow relief for some to take advantage of the extended IRA due date.

The age at which required minimum distributions (RMDs) are required was raised.

The first required minimum distribution is now required for the year in which one turns age 72 (70½ if you reach 70½ before January 1, 2020). The first payment deadline was delayed until April 1 of 2020 for anyone who turned 70½ in 2019. If you reach 70½ in 2020, you have to take your first RMD by April 1 of the year after you reach the age of 72. For all subsequent years, including the year in which you were paid the first RMD by April 1, you must take the RMD by December 31 of the year.

Mandatory withdrawals were suspended for 2020. Those who had already taken a 2020 RMD from a retirement account had 60+ days to return the money. The original withdrawal was treated as a rollover to an IRA and not to be treated as a taxable distribution.

SECURE Act. The age requirements were similarly amended by the Setting Every Community Up for Retirement Enhancement Act of 2019 (SECURE Act) effective on December 20, 2019. For defined contribution plan participants or Individual Retirement Account (IRA) owners who die after December 31, 2019, the SECURE Act requires the entire balance of the participant's account be distributed within 10 years. There is an exception for a surviving spouse, a child who has not reached the age of majority, a disabled or chronically ill person, or a person not more than 10 years younger than the employee or IRA account owner. The new 10-year rule applies regardless of whether the participant dies before, on, or after the required beginning date, now age 72. Roth IRAs do not require withdrawals until after the death of the owner.

While there is no provision that allows individuals to retroactively put a distribution back into their IRA account, an opportunity to do so was provided. Those who had already taken their 2020 RMD from an IRA had 60 days to return the money. The original withdrawal was treated as a rollover to an IRA and not to be treated as a taxable distribution.

Charitable Contributions. To incentivize additional charitable contributions to those organizations supporting and aiding those most affected by the virus, enhanced donation limitations were included:

- Up to \$300 of charitable *cash* contributions can be taken as a deduction against adjusted gross income (AGI), regardless of whether or not the individual itemizes.
- For 2020, the 50 percent AGI limitation was eliminated, and individuals got a charitable contribution deduction for up to 100 percent of a person's AGI, for *cash (not appreciated property)* contributions.

Small Businesses. Small businesses have been some of the hardest hit as a result of the coronavirus pandemic. The CARES Act introduced many provisions to assist these small businesses, including:

- Employers receive a credit for their portion of the payroll tax (7.65 percent) up to \$10,000 of wages per employee if the business has been impacted by COVID-19 or if revenue is 50 percent lower than the same quarter in 2019.
- Payment of the 2020 payroll tax can be delayed, with 50 percent of the payroll tax due paid in 2021 and 50 percent in 2022.
- Economic Injury Disaster Loans (EIDLs) are business loans for up to \$2 million at an annual interest rate of 3.75 percent, with the first payment not due for one full year. If you apply for an EIDL, you can also apply for a \$10,000 grant toward working capital. These loans can be used to pay and retain employees, make lease payments, pay operating costs, and so forth.
- Small business owners may qualify for tax-free loan forgiveness for the portion of the loan between March 1 and June 30. It could be forgiven if the funds are used to maintain payroll.
- The Act suspends all rules that relate to the net operating losses (NOL) created under the 2017 Tax Cuts and Jobs Act (TCJA). Under the TCJA, NOLs were

limited to 80 percent of taxable income and could not be carried back. NOLs can now be carried back up to five tax years with no income limit.

- Loss limitations that were imposed under the TCJA have been suspended: \$250,000 for single and \$500,000 for joint filings. These losses can offset non-business income.
- Business interest deductibility has been increased from 30 percent of adjusted taxable income to 50 percent.

On its website, the IRS posted frequently asked questions (FAQs) on the effect of COVID-19 on liens, levies, and other IRS collection activities.

The IRS joined the Treasury Department's efforts to ease suffering with its People First Initiative. The initiative provided significant delays in tax payment due dates and IRS examination and taxpayer settlement work as described below:

IRS unveils new People First Initiative; COVID-19 effort temporarily adjusts, suspends key compliance program

On March 25, 2020, the IRS wrote, "To help people facing the challenges of COVID-19 issues, the Internal Revenue Service announced today a sweeping series of steps to assist taxpayers by providing relief on a variety of issues ranging from easing payment guidelines to postponing compliance actions."

"The IRS is taking extraordinary steps to help the people of our country," said IRS Commissioner Chuck Rettig. "In addition to extending tax deadlines and working on new legislation, the IRS is pursuing unprecedented actions to ease the burden on people facing tax issues. During this difficult time, we want people working together, focused on their well-being, helping each other and others less fortunate."

"The new IRS People First Initiative provides immediate relief to help people facing uncertainty over taxes," Rettig added: "We are temporarily adjusting our processes to help people and businesses during these uncertain times. We are facing this together, and we want to be part of the solution to improve the lives of all people in our country."

These new changes include issues ranging from postponing certain payments related to Installment Agreements and Offers in Compromise to collection and limiting certain enforcement actions. The IRS will be temporarily modifying the following activities as soon as possible: the projected start date will be April 1, and the effort will initially run through July 15. During this period, to the maximum extent possible, the IRS will avoid in-person contacts. However, the IRS will continue to take steps where necessary to protect all applicable statutes of limitations.

"IRS employees care about our people and our country, and they have a strong desire to help improve this situation," Rettig said. "These new actions reflect just one of many ways our employees are working hard every day to assist the nation. We care, a lot. IRS employees are actively engaged, and they

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have always delivered for their communities and our country. The People First Initiative is designed to help people take care of themselves and is a key part of our ongoing response to the coronavirus effort.”

More specifics about the implementation of these provisions will be shared soon. Highlights of the key actions in the IRS People First Initiative include:

Existing Installment Agreements. For taxpayers under an existing Installment Agreement, payments due between April 1 and July 15, 2020, are suspended. Taxpayers who are currently unable to comply with the terms of an Installment Payment Agreement, including a Direct Debit Installment Agreement, may suspend payments during this period if they prefer. Furthermore, the IRS will not default any Installment Agreements during this period. By law, interest will continue to accrue on any unpaid balances.

New Installment Agreements. The IRS reminds people unable to fully pay their federal taxes that they can resolve outstanding liabilities by entering into a monthly payment agreement with the IRS. See IRS.gov for further information.

Offers in Compromise (OICs). The IRS is taking several steps to assist taxpayers in various stages of the OIC process:

- **Pending OIC applications.** The IRS will allow taxpayers until July 15 to provide requested additional information to support a pending OIC. In addition, the IRS will not close any pending OIC request before July 15, 2020, without the taxpayer’s consent.
- **OIC Payments.** Taxpayers have the option of suspending all payments on accepted OICs until July 15, 2020, although by law interest will continue to accrue on any unpaid balances.
- **Delinquent Return Filings.** The IRS will not default an OIC for those taxpayers who are delinquent in filing their tax return for tax year 2018. However, taxpayers should file any delinquent 2018 return (and their 2019 return) on or before July 15, 2020.
- **New OIC Applications.** The IRS reminds people facing a liability exceeding their net worth that the OIC process is designed to resolve outstanding tax liabilities by providing a “Fresh Start.” Further information is available at IRS.gov.

Nonfilers. The IRS reminds people who have not filed their return for tax years before 2019 that they should file their delinquent returns. More than 1 million households that haven’t filed tax returns during the last three years are actually owed refunds; they still have time to claim these refunds. Many should consider contacting a tax professional to consider various available options since the time to receive such refunds is limited by statute. Once delinquent returns have been filed, taxpayers with a tax liability should consider taking the opportunity to resolve any outstanding liabilities by entering into

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an Installment Agreement or an Offer in Compromise with the IRS to obtain a “Fresh Start.” See IRS.gov for further information.

Field Collection Activities. Liens and levies (including any seizures of a personal residence) initiated by field revenue officers will be suspended during this period. However, field revenue officers will continue to pursue high-income nonfilers and perform other similar activities where warranted.

Automated Liens and Levies. New automatic, systemic liens and levies will be suspended during this period.

Passport Certifications to the State Department. The IRS will suspend new certifications to the Department of State for taxpayers who are “seriously delinquent” during this period. These taxpayers are encouraged to submit a request for an Installment Agreement or, if applicable, an OIC during this period. Certification prevents taxpayers from receiving or renewing passports.

Private Debt Collection. New delinquent accounts will not be forwarded by the IRS to private collection agencies to work during this period.

Field, Office, and Correspondence Audits. During this period, the IRS will generally not start new field, office, and correspondence examinations. We will continue to work refund claims where possible, without in-person contact. However, the IRS may start new examinations where deemed necessary to protect the government’s interest in preserving the applicable statute of limitations.

- **In-Person Meetings.** In-person meetings regarding current field, office, and correspondence examinations will be suspended. Even though IRS examiners will not hold in-person meetings, they will continue their examinations remotely, where possible. To facilitate the progress of open examinations, taxpayers are encouraged to respond to any requests for information they already have received—or may receive—on all examination activity during this period if they are able to do so.
- **Unique Situations.** Particularly for some corporate and business taxpayers, the IRS understands that there may be instances where the taxpayers desire to begin an examination while people and records are available and respective staffs have capacity. In those instances when it’s in the best interest of both parties and appropriate personnel are available, the IRS may initiate activities to move forward with an examination—understanding that COVID-19 developments could later reduce activities for an agreed period.
- **General Requests for Information.** In addition to compliance activities and examinations, the IRS encourages taxpayers to respond to any other IRS correspondence requesting additional information during this time if possible.

Earned Income Tax Credit and Wage Verification Reviews. Taxpayers have until July 15, 2020, to respond to the IRS to verify that they qualify for

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the Earned Income Tax Credit or to verify their income. These taxpayers are encouraged to exercise their best efforts to obtain and submit all requested information, and if unable to do so, please reach out to the IRS indicating the reason such information is not available. Until July 15, 2020, the IRS will not deny these credits for a failure to provide requested information.

Independent Office of Appeals. Appeals employees will continue to work their cases. Although Appeals is not currently holding in-person conferences with taxpayers, conferences may be held over the telephone or by videoconference. Taxpayers are encouraged to promptly respond to any outstanding requests for information for all cases in the Independent Office of Appeals.

Statute of Limitations. The IRS will continue to take steps where necessary to protect all applicable statutes of limitations. In instances where statute expirations might be jeopardized during this period, taxpayers are encouraged to cooperate in extending such statutes. Otherwise, the IRS will issue Notices of Deficiency and pursue other similar actions to protect the interests of the government in preserving such statutes. Where a statutory period is not set to expire during 2020, the IRS is unlikely to pursue the foregoing actions until at least July 15, 2020.

Practitioner Priority Service. Practitioners are reminded that, depending on staffing levels and allocations going forward, there may be more significant wait times for the PPS. The IRS will continue to monitor this as situations develop.

“The IRS will continue to review and, where appropriate, modify or expand the People First Initiative as we continue reviewing our programs and receive feedback from others,” Rettig said. “We are committed to helping people get through this period, and our employees will remain focused on these and other helpful efforts in the days and weeks ahead. I ask for your personal support, your understanding—and your patience—as we navigate our way forward together. Stay safe and take care of your families, friends and others.”

(b) IRS Delays in Tax Payment and Return Due Dates

On July 8, the IRS reminded taxpayers who took advantage of the People First Initiative tax relief and did not make previously-owed tax payments from March 25 to July 15 that they needed to restart their payments on July 15.³

The delay in income tax payment and filing included in the People First Initiative was followed up with delays in payroll tax withholding systems and payment. In response to the economic fallout of the COVID-19 pandemic on August 28, 2020, the IRS provided guidance to employers regarding an August 8 presidential executive order allowing employers to defer the withholding, deposit, and payment of certain

³IR 2020-142, July 8, 2020.

payroll tax obligations (Notice 2020-65). The order also instructed the Secretary of the Treasury to explore avenues, including legislation, for eliminating the obligation to pay the deferred taxes.

On September 2, 2020, another presidential directive permitted the Social Security taxes of most federal employees to be delayed and not withheld from paychecks until 2021. The National Finance Center, which provides payroll services to over 600,000 federal employees, said at the time that it would defer the withholding and payment of the employees' share of Social Security taxes effective for the first pay period beginning after September 1, 2020.

Weather-related disasters also required special IRS declarations. The IRS announced that victims of the California wildfires in counties of California (and later Oregon and Washington) and the derecho storm in an Iowa county were designated as federal disaster areas qualified for individual assistance and additional time to make tax payments and file returns. Affected individuals and businesses had until December 15, 2020, to file returns and pay taxes that were due beginning October 15, 2020, including returns and payments due September 15, 2020, and quarterly payroll and excise tax returns normally due October 31, 2020.⁴

Lastly, the IRS encouraged taxpayers to adopt good tax recordkeeping systems and disaster preparedness. Taxpayers were reminded to create and maintain an emergency preparedness plan, including securing key documents and making copies and electronic backups of various financial statements and records, documenting valuables and content of homes, and updating emergency plans.⁵

Other tax compliance news prompted by COVID-19 included:

- State guidance on whether COVID-19 telecommuters could create nexus was considered in some states for workers temporarily working in another state and their employers who did not reside in that state.
- Security Summit warns tax professionals about new COVID-19 phishing scams, in the fourth installment of a series titled "Working Virtually: Protecting Tax Data at Home and at Work." Scammers are zeroing in on opportunities presented by Economic Impact Payments and increased teleworking by practitioners.
- The Tax Court made additional COVID-19-related procedural changes to accommodate remote operations during the COVID-19 pandemic plus additional procedural changes.
- The IRS placed a temporary stop on mailing notices regarding balances due. "Although the IRS continues to make significant reductions in the backlog of unopened mail that developed while most IRS operations were closed due to COVID-19, this temporary adjustment to processing is intended to lessen any possible confusion that might be associated with delays in processing correspondence received from taxpayers," the agency said. Such confusion might result among taxpayers who previously received a balance due notice and mailed a payment to IRS but the payment may still be unopened. In addition,

⁴IR 2020-190.

⁵IR 2020-189.

the IRS said, the “unopened mail will be posted and credited on the date the IRS received them—rather than the date the agency opened and processed them.” Nevertheless, the IRS encouraged those who had received but not yet responded to a balance due notice to promptly respond.

- On its website, the IRS posted frequently asked questions (FAQs) on the effect of COVID-19 on liens, levies, and other IRS collection activities.
- Exempt organizations (EOs) that filed paper returns prior to 2019 were sent a reminder that, for tax years beginning after July 1, 2019, they were required to e-file their returns.

