

LEGAL UPDATE

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By: Tracy Green Landauer

SMALL NON-PROFITS HAVE AN IMPORTANT FILING REQUIREMENT

Small non-profits have a relatively new filing requirement: the e-postcard, which is also called Form 990-N. Since the requirement applies to groups that have not needed to file with the IRS in the past, and for whom the IRS may not have current contact information, there may be active organizations whose officers and directors remain ignorant of the requirement, or who mistakenly believe it does not apply to them. For groups that have not already done so, failure to file this e-postcard by October 15th could result in revocation of the tax-exempt status of the organization.

For many years, small 501(c)(3) **non-profits with receipts below \$25,000** had no annual IRS filing requirement. That changed with enactment of the Pension Protection Act of 2006: such non-profits **are now required to file an electronic postcard (Form 990-N) with the IRS each year** to confirm their exemption from the return filing requirements (Form 990 or 990-EZ) that apply to larger organizations.

Although this requirement was added by the Pension Protection Act of 2006, thousands of small organizations have failed to file the postcard for each of the last three years and are therefore in danger of having their tax exemptions revoked. To help such organizations, the IRS has extended the due date for the postcards until October 15th. The postcards can be accessed at the following site: <http://epostcard.form990.org/>.

Completing the e-Postcard requires only the following information:

- Employer identification number (EIN), also known as a Taxpayer Identification Number (TIN);
- Tax year;

- Legal name and mailing address;
- Any other names the organization uses;
- Name and address of a principal officer;
- Web site address if the organization has one;
- Confirmation that the organization's annual gross receipts are normally \$25,000 or less; and
- If applicable, a statement that the organization has terminated or is terminating (going out of business).

The IRS web site (www.irs.gov) contains the following additional information, and can be searched to see whether a particular organization has filed:

ANNUAL ELECTRONIC FILING REQUIREMENT FOR SMALL EXEMPT ORGANIZATIONS — FORM 990-N (E-POSTCARD)

Small tax-exempt organizations whose annual gross receipts are normally \$25,000 or less may be required to electronically submit Form 990-N, also known as the e-Postcard, unless they choose to file a complete Form 990 or Form 990-EZ.

If you do not file your e-Postcard on time, the IRS will send you a reminder notice but you will not be assessed a penalty for late filing the e-Postcard. However, an organization that fails to file required e-Postcards (or information returns – Forms 990 or 990-EZ) for three consecutive years will automatically lose its tax-exempt status. The revocation of the organization's tax-exempt status will not take place until the filing due date of the third year.

Note: Small organizations at risk of losing their tax-exempt status because they failed to file for three

consecutive years should review [IRS guidance](#) to help them come back into compliance.

DUE DATE OF THE E-POSTCARD

The e-Postcard is due every year by the 15th day of the 5th month after the close of your [tax year](#). For example, if your tax year ended on December 31, the e-Postcard is due May 15 of the following year. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. **You cannot file the e-Postcard until after your tax year ends.**

HOW TO FILE

Click [here](#) to file the e-Postcard. If you have trouble accessing the system using that link, you may be able to access the filing site directly by typing or pasting the following address into your Internet browser: <http://epostcard.form990.org>. When you access the system, you will leave the IRS site and file the e-Postcard with the IRS through our trusted partner, Urban Institute. The form must be completed and filed electronically. There is no paper form.

INFORMATION YOU WILL NEED TO FILE THE E-POSTCARD

The e-Postcard is easy to complete. All you need is [eight items of basic information](#) about your organization.

WHO MUST FILE

Most small tax-exempt organizations with gross receipts that are normally \$25,000 or less must file the e-Postcard. Exceptions to this requirement include:

- Organizations that are included in a [group return](#),
- [Churches](#), their integrated auxiliaries, and conventions or associations of churches, and
- [Organizations required to file a different return](#).

SEARCH FOR E-POSTCARDS - PUBLIC DISCLOSURE

To find and view an organization's e-Postcard click [here](#). To download the entire data base of e-Postcard filings click [here](#).

ADDITIONAL INFORMATION

- [Frequently Asked Questions](#) – e-Postcard – [Frequently Asked Questions](#) – Automatic Revocation for Not Filing Annual Return or Notice
- [Final regulations](#) (July 23, 2009)
- [Educational tools](#): Help spread the word – Help small tax-exempt organizations stay exempt!
- [EO Update](#): Subscribe to Exempt Organization's regular email newsletter that highlights new information posted on the Charities and Non-Profits pages of IRS.gov.

Account, tax law, or questions about filing the e-Postcard should be directed to Customer Account Services at 1-877-829-5500. For questions about or problems with the e-Postcard filing system, use the **Technical Support** link on the filing site.

The foregoing is merely a discussion of the relatively new filing requirements for small non-profits. If you would like to learn more about this topic or how Pryor Cashman LLP can serve your legal needs, please contact Tracy Green Landauer at 212-326-0253 or tlandauer@pryorcashman.com.

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Tracy Green Landauer organizes and provides ongoing and special issue representation to tax-exempt organizations including arts, community, research, charitable, literary and trade organizations. She advises clients on issues of governance, unrelated business income, self-dealing, private inurement, excess benefits, foreign and domestic grant-making, complex structures, fundraising and lobbying. Tracy also provides personal estate, tax, charitable gift and retirement planning to a broad range of individuals, tailoring plans to the needs and goals of each client.

The services Tracy provides to her tax-exempt clients include:

- Counseling both new and established tax-exempt entities (including various national humanitarian research, arts and literary organizations) on issues of formation, exemption, board governance and policies, choice of entity and complex structures
- Counseling charitable organizations on:
 - Compensation planning and IRS compensation audits
 - IRS and state reporting requirements
 - Compliance issues in domestic and international grant-making
 - Unrelated business income, prohibited transactions, private inurement and operational issues
- Helping publicly supported organizations comply with state fundraising/solicitation requirements for traditional and electronic media

Tracy's services to individuals include:

- Developing comprehensive estate plans for a broad range of business owners, professionals and entrepreneurs
- Gift, estate and generation-skipping transfer tax planning
- Succession planning for business owners
- Charitable gift and income tax planning
- Developing multi-generational wealth preservation plans
- Administering decedents' estates and trusts