

ALERTS AND UPDATES

IRS Offers One-Time Special Relief Filing Program: Last Chance for Small Tax-Exempt Organizations to Preserve Their Exempt Status

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Individuals serving on nonprofit boards or otherwise involved with a nonprofit organization should be aware that hundreds of thousands of small nonprofit organizations are at risk of losing their federal tax-exempt status for failing to file 2007, 2008 and 2009 federal tax returns. Recently, the Internal Revenue Service (IRS) offered a one-time relief program to help these organizations preserve their status as tax-exempt organizations. Organizations at risk should consider entering this relief program by October 15, 2010.

Since January 1, 2007, all nonprofit organizations, with the exception of churches and their affiliates, have been required to file an annual return with the IRS. Organizations failing to file for three consecutive years will automatically lose their federal tax-exempt status. The IRS currently maintains a website listing the names and last-known addresses of organizations at risk of losing their tax-exempt status. To view the list, [visit the IRS website](#) and search for "list of organizations at risk of automatic revocation of tax-exempt status." Also, in early 2011, the IRS plans to publish a list of organizations that have lost their tax-exempt status due to noncompliance.

Beginning in 2007, the Pension Protection Act of 2006 made two key changes affecting tax-exempt organizations:

- Created a filing requirement for very small tax-exempt organizations, with annual gross receipts of \$25,000 or less, which were previously exempt from filing. Starting in 2007, these organizations were required to file Form 990-N (e-Postcard). Churches and their affiliated entities remained exempt from this filing requirement.
- The IRS will automatically revoke the tax-exempt status of any organization, no matter the size, that fails to meet its filing requirement for three consecutive years. The automatic revocation is effective as of the due date of the third year's return. Organizations that lose their tax-exempt status are required to reapply and pay the appropriate fees to regain their status. Furthermore, any income received between the revocation and reinstatement of exempt status may be taxable at the federal and possibly state levels, and any contributions made by donors during that time are not tax-deductible.

Under the IRS program, organizations eligible for relief include small tax-exempts eligible to file Form 990-N or Form 990-EZ for all three tax years between 2007 and 2009, and whose due date for their third-consecutive return is between May 17, 2010, and October 15, 2010.

In order to maintain tax-exempt status, nonprofit organizations that qualify to file IRS Form 990-N (e-Postcard), can file the form (or file electronically) by October 15, 2010. Nonprofits eligible to file Form 990-EZ would need to participate in a Voluntary Compliance Program (VCP) by October 15, 2010, to protect their status. Under the VCP, organizations have to file by October 15, 2010, any unfiled Form 990-EZ returns for the past three years, complete a checklist and pay a compliance fee ranging from \$100 to \$500, depending on 2009 gross receipts.

Failure to file the required returns by October 15, 2010, will result in revocation of tax-exempt status. Without this status, all profits will be taxable and contributions received will not be tax-deductible for donors. This is likely to make it challenging, if not potentially impossible, for the organization to attract donors.

For Further Information

If you would like more information about this topic or your own unique situation, please contact [Will Friel](#) or the practitioner with whom you are regularly in contact.

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