

Which Form 990 Must Your Organization File?

Q: Are all nonprofits required to file a Form 990 with the IRS? I thought there was an exception for small organizations.

A: ALL nonprofits — with limited exception — must file an annual information return with the IRS known as the Form 990. Prior to the adoption of the Pension Protection Act in 2006, tax-exempt organizations with annual gross receipts less than \$25,000 did not have any annual reporting requirements at the federal level. However, following the adoption of the PPA and starting with the IRS form due in 2008 — covering the 2007 tax year — all nonprofits must file an information return with the IRS every year no matter how limited their revenues. However, nonprofits with limited revenue are required to only annually report to the IRS, in electronic form, certain basic information about the organization. The IRS will revoke the tax exemption of any organization failing to file a Form 990 for three consecutive years, starting with the 2007 tax year. Such revocations are mandatory and automatic under the law.

This change has had a significant impact on national organizations with a chapter structure consisting of large numbers of small volunteer-led chapters with limited revenues. National organizations are discovering that their chapters are largely unaware of this “new” filing requirement and, as a result, have unknowingly lost their tax-exempt status. Accordingly, it is important that all organizations understand their obligations to the IRS, take steps to inform their chapters and check with the IRS to make sure that their chapters have not unwittingly lost their tax exemption.

Nonprofits with annual gross receipts of \$50,000 or less may simply file the Form 990-N — known as the “e-Postcard.” Completing the e-Postcard is simple and only requires the following basic information about the organization:

1. Employer identification number (EIN), also known as a Taxpayer

2. Tax year
3. Legal name and mailing address
4. Any other names the organization uses
5. Name and address of a principal officer
6. Website address, if the organization has one
7. Confirmation that the organization’s annual gross receipts are \$50,000 or less
8. If applicable, a statement that the organization has terminated or is terminating (going out of business)

Following is a quick-reference chart to help determine which Form 990 your organization (or its chapters) is required to file:

Financial Activity	Filing Requirement
Annual gross receipts of \$50,000 or less	Form 990-N (e-Postcard)
Annual gross receipts less than \$200,000 and total assets less than \$500,000	Form 990-EZ or Form 990
Gross receipts \$200,000 or greater or total assets \$500,000 or greater	Form 990

Annual information returns must be filed on the 15th day of the fifth month after the end of the organization’s fiscal year. For instance, if the organization’s fiscal year ends on Dec. 31, its return must be filed with the IRS on or before May 15 of the following year. The IRS will automatically revoke the tax-exempt status of an organization failing to file a Form 990 series return or e-Postcard annually as required for three consecu-

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tive years. The IRS will send a notice of such automatic revocation to the organization’s “last known address.” In addition, the IRS also publishes a list of organizations whose exemption has been revoked at www.irs.gov/Charities-&-Non-Profits/Exempt-Organizations-Select-Check.

Once the IRS has revoked an organization’s tax exemption, the organization is no longer exempt and is subject to regular federal income tax. If the organization is a 501(c)(3), contributions no longer will be tax-deductible to the donor. It is extremely difficult to successfully challenge an automatic revocation. Once its tax exemption has been revoked, an organization must apply for reinstatement by filing a new application for tax exemption on the applicable IRS form (i.e., Form 1023 or Form 1024) and pay the applicable filing fee. Unless there is a valid basis for retroactive reinstatement, the effective date of reinstatement typically will be the date the organization filed the new application for exemption.

Form 990s and additional instructions may be downloaded from the IRS website at www.irs.gov/Charities-&-Non-Profits/Annual-Reporting-&-Filing-1. Form 990-N (the e-Postcard) is an electronic form; no paper copies are available. The form must be filed online at <http://epostcard.form990.org>. ■

The answers provided here should not be construed as legal advice or a legal opinion. Consult a lawyer concerning your specific situation or legal questions.