WHAT YOU NEED TO KNOW

Not For Profit Disclosures



WHAT YOU NEED TO KNOW: NOT FOR PROFIT DISCLOSURES

For non-profits, proper disclosure is critical not just to satisfy the IRS but also for your donor relationships. The public, including current and potential donors, expect access to accurate and trustworthy financial data from causes they choose to support. The IRS has multiple public disclosure requirements for tax exempt organizations. There are different forms for different types of entities and different ways an organization can meet the specific requirements for making those forms available to the public.



QUICK FACTS

- For organizations that are tax exempt under Section 501(c) there are two primary required disclosures, the exemption application and the yearly informational return.
- Every organization under 501(c)(3) is presumed, by the IRS, to be a private foundation
- To be classified as public charity you must meet the 509(a) requirements and notify the IRS.

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DISCLOSURE INFORMATION

For organizations that are tax exempt under Section 501(c) the two primary required disclosures are the **exemption application** and the **yearly informational return**.

Exemption Applications

- Form 1023 organizations under 501(c)(3)
- Form 1024 organizations under the other sections of 501(c)
- Either form must include any and all supporting documents and any letters from the IRS concerning your application

Informational Returns

- Form 990 most common
- Form 990PF private foundations
- Form 990EZ gross receipts under \$200,000 AND total assets under \$500,000
- Form 990N small organizations, with annual receipts normally under \$50,000 (AKA e-postcard)
- Form 990T unrelated business income

EXCEPTION FOR CHURCHES AND GOVERNMENTAL UNITS

Religious organizations fall under Section 501(c)(3) but churches are exempt from form 1023 or any of the 990 forms (except 990T if applicable). Churches are also not subject to typical IRS audits, the IRS may only begin a church tax inquiry if the Treasury Department reasonably believes that a church or association of churches do not qualify for tax exemption. Governmental units are also not subject to the disclosure requirements of typical non-profits.

FYI

Be sure to talk with Reilly, Penner & Benton to see what the current rules, regulations and changes are regarding not for profit disclosures.

PRIVATE FOUNDATION

Every organization under 501(c)(3) is presumed, by the IRS, to be a private foundation unless it falls under specific categories that are NOT considered private. The category descriptions are found in Section 509(a). To be classified as a public charity you must meet the 509(a) requirements and notify the IRS via form 1032 that the organization is not a private foundation.

Private foundations are generally subject to the same disclosure rules that apply to the other exempt organizations, they file form 990PF.

A significant difference between private and public organizations is the confidentiality of their donors. Private foundations are required to disclose the identity of their donors, while public organizations are not. Public organizations are required to disclose significant donor information to the IRS, but are not required to disclose that same information to the public.



UNRELATED BUSINESS INCOME

All tax exempt organizations, including churches, are required to publically disclose their taxable unrelated business income. This information is included annually on form 990T.

Income is considered unrelated (and taxable) if it meets three criteria:

- It is a trade or business
- It is generally carried on
- It is not substantially related to furthering the exempt purpose of the organization

POLITICAL ORGANIZATIONS-SECTIONS 527 & 501

Political organizations exempt under Section 527 are subject to the following disclosure requirements:

- Form 8871 notice of status
- Form 8872 contributions and expenditures
- Donor information and identities are required to be disclosed

Political organizations exempt under 501(c)(4) or 501(c)(6) are considered public entities, thus not required to disclose donor information to the public. They are subject to greater restrictions of their actions than political organizations under 527.

PUBLIC INSPECTION INFORMATION

The traditional rule is that all required documents must be available for

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public inspection at the tax-exempt organization's principle office (or district office).

Request in-person:

- In person, walk-in requests are expected to be met same day, within reason.
- The individual may freely take notes, and may photocopy documents subject to a reasonable copy fee.

Request via mail:

Organization must provide requested copies within 30 days.

Widely Available exception:

A tax exempt organization is not required to comply with requests for copies if it has made the documents "widely available". They still must be available for inspection in person at the office location.

HARASSMENT EXCEPTION

Requests that qualify as harassment may be ignored, but must be reported to the IRS district office

- May be from an individual or a coordinated group of individuals
- An extraordinary number of requests, designed to disrupt the operations of the organization
- Direct evidence of bad faith by the purported harassers

