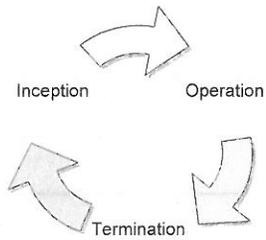


IRS Requirements for Charities and Nonprofits

Thomas Gray
Internal Revenue Service
Exempt Organizations Examinations

The Cycle of Life



Inception

Existence is conceived at the state level:

- Non-profit corporations
- Trust declarations/trust agreements
- Unincorporated associations
- Limited liability corporations*

Exemption is granted at the federal level.

*LLC can be exempt if all members are also exempt

Operation

From inception to termination, treated as a for-profit entity unless an application is filed.

Filing requirements if not exempt:

Corporation, Association	Form 1120, <i>U.S. Corporation Income Tax Return</i>
Trust	Form 1041, <i>U.S. Income Tax Return for Estates and Trusts</i>
LLC	Form 1065, <i>U.S. Return of Partnership Income</i>

Operation

Certain types of organizations have unique requirements:

Apostolic organization	Form 1065, <i>U.S. Return of Partnership Income</i>
Farmer's cooperative	Form 1120-C, <i>U.S. Income Tax Return for Cooperative Associations</i>
Homeowner association	Form 1120-H, <i>U.S. Income Tax Return for Certain Homeowners Associations</i>
Political organization	Form 1120-POL, <i>U.S. Income Tax Return for Certain Political Organizations</i>

Exemption

To obtain exemption, file an application.



Form 1023



-or-
Form 1024



*Some exceptions apply.

Exceptions

The Form 1023 is unnecessary for:

Churches , including synagogues, temples, and mosques.

Integrated auxiliaries of churches and conventions or associations of churches.

Any organization that has gross receipts in each taxable year of normally not more than \$5,000.

Exceptions

Form 1024 is not to be filed by:

Homeowner associations that provide benefits to the members (lawn maintenance, repairs, etc.)

Political organizations

Organizations seeking a group ruling (exemption to be granted to all subordinate members of the organization)

Organizing Document

Organizing documents include:

A corporate charter,

Articles of incorporation,

A trust instrument,

Articles of association,

Any other instrument by which the organization is created under state law, and

All amendments to the above documents

By-laws normally are not the organizing document

Governance

Key elements of a good charity:

Clearly articulated purposes

Knowledgeable and committed board

Sound management practices

For more information on governance, watch the WAACO presentation later today.

EIN

Every entity must have an Employer Identification Number, **not** to be confused with Washington State's UBI number.

Online: <https://sa2.www4.irs.gov/modiein/individual/index.jsp>

Call: (800) 829-4933

Fax Form SS-4 to: (859) 659-5760

Mail Form SS-4 to:

Internal Revenue Service

Attn: EIN Operation

Cincinnati, OH 45999



User Fees

For 2011:

\$400 Organizations with annual gross receipts < \$10,000 during preceding 4 years

\$850 Organizations with annual gross receipts ≥ \$10,000 during preceding 4 years

\$3,000 Group exemption requests

\$10,000 Private letter rulings

User Fees

To indicate the correct user fee, complete the following:

- For Form 1023, complete Form 1023, page 12.
- For Form 1024, complete Form 8718.
- For group rulings, complete Form 8718.

Place the payment in an envelope on top of the checklist enclosed in the application.

Do not staple or attach the payment to the application.

Form 2848 / Form 8821

Form 2848 is used for representation by a Power of Attorney

Form 8821 is used only for others to receive information

Form 8821 does not confer representation rights

Complete if needed/desired

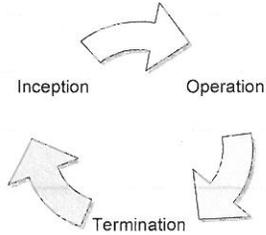


Application Processing

Timeframes for a response:

If the application:	Then:
can be approved immediately	a determination letter will be issued within 90 days
needs minor additional information	a request for additional information will be made within 90 days
was submitted on obsolete forms or is missing required items	a request for additional information will be made within 90 days
requires additional development	is being worked on at this time if submitted during November 2010

The Cycle of Life



What Next?

Once exemption is granted, the previously taxable entity now operates as an exempt organization.

To maintain that exemption, the organization must avoid jeopardizing their exempt status.

In addition, the organization is now subject to new filing requirements.

Jeopardizing §501(c)(3)

Private benefit

Inurement

Substantial lobbying

Political campaign activity

Substantial unrelated business

Failure to comply with filing requirements

Private Benefit

If an organization's exempt activities serve the private interests of any individual or organization, exemption may be revoked.

An organization must serve the public rather than private interests.

Inurement

What is inurement?

When an organization allows its assets or income to accrue to insiders or disqualified persons

Insiders include officers, directors, trustees, key employees and founders

Inurement

Examples of inurement include:

- Payment of dividends
- Payment of unreasonable compensation
- Transfer of property, real and personal, to insiders for less than fair market value
- Unreported taxable fringe benefits

Acceptable Activities

Leaders' Personal Statements – but

- No partisan comments in organization's publications or at official functions
- Outside the organization, leaders should clearly indicate that comments are personal

Candidate speeches – if

- Equal opportunity to all
- Organization does not support or oppose
- No political fundraising

Unrelated Business Income

Three part test:

- Trade or business activity
- Regularly carried on
- Not substantially related to organization's exempt purpose

An organization operated primarily to carry on an unrelated trade or business will not qualify for exemption

Examples

Unrelated business income can come from many sources:

- Advertising
- Gaming activities
- Sale of merchandise & publications
- Parking lot for general public
- Rental income, if
 - Debt-financed, or
 - Personal property

Exceptions

There are exceptions to the rule:

- Substantially all work is performed by volunteers
- Activity conducted primarily for convenience of members
- Trade or business involves sale of donated merchandise

Filing Requirements

Depends on the gross receipts

Most public charities have to file Form 990-EZ, Form 990 or Form 990-N

Failure to file may result in penalties and/or revocation of tax exempt status

Filing Requirements

Organizations not required to file:

- churches and certain church-affiliated organizations
- certain organizations affiliated with governmental units
- organizations that file as part of a group ruling
- political organizations and others with alternative filing requirements

Filing Requirements

2010 Tax Year (Filed in 2011 or 2012)	Form to File
Gross receipts normally ≤ \$50,000	990-N
Gross receipts > \$50,000, < \$200,000, and total assets < \$500,000	990-EZ or 990
Gross receipts ≥ \$200,000, and/or total assets ≥ \$500,000	990

Sponsoring organizations of donor-advised funds and controlling organizations described in §512(b)(13) must file Form 990 regardless of the amount of their gross receipts or assets.

Form 990-N

Who Must File:

- Small Tax-Exempt Organizations
- Gross Receipts < \$50,000
- Tax year ending on or after December 31, 2007
- Required to electronically file Form 990-N at: epostcard.Form990.org

Fail to file for three years:
automatically lose tax-exempt status

Jeopardizing Exemption

Revocation for organizations other than public charities and private foundations typically depends on the requirements for the specific type of organization.

- Organizations not permitted to have inurement:
- §501(c)(4) civic leagues, local associations of employees
 - §501(c)(6) business leagues, chambers of commerce, etc.
 - §501(c)(7) social clubs

Jeopardizing Exemption

Other organizations not permitted to have inurement:
§501(c)(9) voluntary employee benefit associations
§501(c)(11) teachers' retirement fund associations
§501(c)(13) cemetery companies
§501(c)(19) veterans' organizations
§501(c)(26) state sponsored organizations providing health coverage for high-risk individuals

Jeopardizing Exemption

Other activities that give rise to revocation:

§501(c)(2) title holding corporations failing to remit their net income to their parent exempt organizations

§501(c)(4) social welfare organizations activities are primarily political in nature

§501(c)(6) business leagues primary purposes to conduct non-exempt trade or business activities

Jeopardizing Exemption

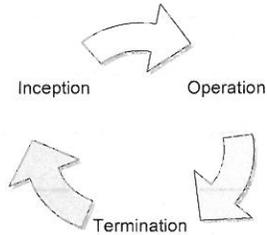
Other activities that give rise to revocation:

§501(c)(7) social clubs having written policies for discrimination on basis of race, color, or religion

§501(c)(8) fraternal organizations failing to provide member benefits vs. §501(c)(10) fraternal organizations providing member benefits

§501(c)(19) veterans' organizations having more than 2.5% of the membership from the general public

The Cycle of Life



End of the road

Exempt organizations can be of perpetual duration, however, many eventually discontinue operations.

Exemption can be withdrawn via three methods:

- Revocation as a result of an audit by the IRS
- Automatic revocation for failure to file Form 990 series
- Termination due to dissolution or bankruptcy

Revocation

An organization that is found to be operated for non-exempt purposes or fails to be organized in accordance with the applicable code section can be revoked.

Upon loss of exemption, the organization will be subject to either a Form 1120 or Form 1041 filing requirement.

Private foundations will file the Form 990-PF in addition to the Form 1120 or Form 1041.

Revocations of §501(c)(3) organizations are publicly listed.

Automatic revocation

When the Pension Protection Act of 2006 was enacted, Congress changed the reporting rules.

For organizations that are subject to a Form 990, 990-EZ, 990-N, or 990-PF filing requirement, exemption will be revoked after three consecutive years of failing to file.

Revocation would be effective from the filing due date of the third annual return.

Lists will shortly be available on www.irs.gov/eo

Termination

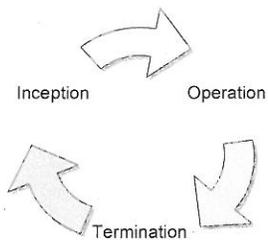
Organizations can voluntarily terminate their existence.

Articles of dissolution should be filed with the Secretary of State, and a copy included with the Form 990 or 990-EZ.

Form 990 or 990-EZ filers will check the terminated box, and include a Form 990 Schedule N.

Form 990-N filers will answer yes to the question as to whether the organization has terminated.

The Cycle of Life



Additional Information

Online: www.irs.gov/eo

Over the phone: 1-877-829-5500 (toll free)

Web based training: www.stayexempt.org
