

12 Not-for-Profit Corporations—the Form 990

I. Introduction

An organization may qualify for exemption from federal income tax if it is organized and operated exclusively for one or more of the following purposes:

- Charitable
- Religious
- Educational
- Scientific
- Literary
- Testing for public safety
- Fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment)
- The prevention of cruelty to children or animals

To qualify, the organization must be a corporation, community chest, fund, or foundation. A trust is a fund or foundation and does qualify. However, an individual or a partnership does not qualify.

Qualifying organizations include:

- Nonprofit old-age homes
- Parent-teacher associations
- Charitable hospitals or other charitable organizations
- Alumni associations
- Schools
- Chapters of the Red Cross or Salvation Army
- Boys' Clubs

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- Churches

A. Child Care Organizations

The term "educational purposes" includes the providing of care for children away from their homes if substantially all the care provided is to enable individuals (the parents) to be gainfully employed and the services are available to the general public.

B. Instrumentalities

A state or municipal instrumentality may qualify under §501(c)(3) if it is organized as a separate entity from the governmental unit that created it and if it otherwise meets the organizational and operational tests of §501(c)(3). Examples of qualifying instrumentalities include state schools, universities, and hospitals. However, if an organization is an integral part of the local government or possesses governmental powers, it does not qualify for exemption. A state or municipality itself does not qualify for exemption.

II. Contributions

Contributions to domestic organizations described in this chapter, except for organizations testing for public safety, are deductible as charitable contributions on the donor's federal income tax return.

A. Fund-Raising Events

If the donor receives something of value in return for the contribution, a common occurrence with fund-raising efforts, part or all of the contribution may not be deductible. This may apply to fund-raising activities such as charity balls, bazaars, banquets, auctions, concerts, athletic events, and solicitations for membership or contributions **when merchandise or benefits are given in return for payment of a specified minimum contribution.**

If the donor receives or expects to receive goods or services in return for a contribution to an organization, the donor cannot deduct any part of the contribution unless the donor intends to, and does, make a payment greater than the fair market value of the goods or services. **If a deduction is allowed, the donor can deduct only the part of the contribution, if any, that is more than the fair market value of the goods or services received.** The organization should determine in advance the fair market value of any goods or services to be given to contributors and tell them when it publicizes the fund-raising event or solicits their contributions how much is deductible and how much is for the goods or services.

B. Exemption Application Not Filed

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Donors **may not** deduct any charitable contribution to an organization that is required to apply for recognition of exemption but has not done so.

C. Separate Fund, Contributions to Which Are Deductible

An organization that is exempt from federal income tax other than as an organization described in §501(c)(3) may, if it desires, establish a fund, **separate and apart from its other funds**, exclusively for religious, charitable, scientific, literary, or educational purposes, to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals.

If the fund is organized and operated exclusively for these purposes, it may qualify for exemption as an organization described in §501(c)(3), and contributions made to it will be deductible as provided by §170. A fund with these characteristics must be organized in such a manner as to prohibit the use of its funds upon dissolution, or otherwise, for the general purposes of the organization creating it.

III. Application for Recognition of Exemption

Form 1023 and accompanying statements must show that all of the following are true.

1. The organization is organized exclusively for, and will be operated exclusively for, one or more of the purposes (charitable, religious, etc.) specified in the introduction to this chapter.
2. No part of the organization's net earnings will inure to the benefit of private shareholders or individuals. The organization must establish that it will not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests.
3. The organization will not, as a substantial part of its activities, **attempt to influence legislation** (unless it elects to come under the provisions allowing certain lobbying expenditures) **or participate to any extent in a political campaign for or against any candidate for public office.**

A. Political Activity

If any of the activities (whether or not substantial) of the organization consist of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office, the organization **will not qualify for tax-exempt status under §501(c)(3)**. Such participation or intervention includes the publishing or distributing of statements.

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Whether the organization is participating or intervening, directly or indirectly, in any political campaign on behalf of (or in opposition to) any candidate for public office depends upon all of the facts and circumstances of each case. Certain voter education activities or public forums conducted in a nonpartisan manner may not be prohibited political activity under §501(c)(3), while other so-called voter education activities may be prohibited.

B. Organizations Not Required To File Form 1023

Some organizations are not required to file Form 1023.

These include:

- Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group.
- Any organization (other than a private foundation) normally having annual gross receipts of not more than \$5,000.

These organizations are exempt automatically if they meet the requirements of §501(c)(3).

C. Gross Receipts Test

For purposes of the gross receipts test, an organization normally does not have more than \$5,000 annually in gross receipts if:

1. During its first tax year the organization received gross receipts of \$7,500 or less.
2. During its first two years the organization had a total of \$12,000 or less in gross receipts.
3. In the case of an organization that has been in existence for at least three years, the total gross receipts received by the organization during the immediately preceding two years, plus the current year, are \$15,000 or less.

An organization with gross receipts higher than the amounts given in the gross receipts test, unless otherwise exempt from filing Form 1023, must file a Form 1023 **within 90 days after the end of the period in which the amounts are exceeded.** For example, if an organization's gross receipts for its first tax year were less than \$7,500, but at the end of its second tax year its gross receipts for the two-year period were more than \$12,000, the organization must file Form 1023 within 90 days after the end of its second tax year.

If the organization had existed for at least three tax years and had met the gross receipts test for all prior tax years but fails to meet the requirement for the current tax year, its tax-exempt status for the prior years will not be lost even if Form 1023 is not filed within 90 days after the close of the current tax year.

However, the organization will not be treated as a §501(c)(3) organization for the period beginning with the current tax year and ending with the filing of Form 1023.

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Example 1. An organization is organized and operated exclusively for charitable purposes and is not a private foundation. It was incorporated on January 1, 1993, and files returns on a calendar year basis. It did not file a Form 1023. The organization's gross receipts during the years 1993 through 1996 were as follows:

1993	\$3,600
1994	2,900
1995	400
1996	12,600

The organization's total gross receipts for 1993, 1994, and 1995 were \$6,900. Therefore, it did not have to file Form 1023 and is exempt for those years. However, for 1994, 1995, and 1996 the total gross receipts were \$15,900. Therefore, the organization must file Form 1023 within 90 days after the end of its 1996 tax year. If it does not file within this time period, it will not be exempt under §501(c)(3) for the period beginning with tax year 1996 and ending when the IRS receives the Form 1023. The organization, however, will not lose its exempt status for the tax years ending before January 1, 1996.

The IRS will consider applying the Commissioner's discretionary authority to extend the time for filing Form 1023. See the procedures for this extension discussed earlier.

D. Articles of Organization

The organization must include a conformed copy of its articles of organization with the application for recognition of exemption. This may be its trust instrument, corporate charter, articles of association, or any other written instrument by which it is created.

E. Organizational Test

The articles of organization must **limit the organization's purposes to one or more of those described at the beginning of this chapter and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities that do not further one or more of those purposes.** These conditions for exemption are referred to as the organizational test.

Note: Section 501(c)(3) is the provision of law that grants exemption to the organizations described in this chapter. Therefore, the organizational test may be met if the purposes stated in the articles of organization are limited in some way by reference to §501(c)(3).

The requirement that an organization's purposes and powers must be limited by the articles of organization is **not satisfied** if the limit is contained only in the bylaws or other rules or regulations. Moreover, the organizational test is not satisfied by statements of the organization's officers that they intend to operate only for exempt purposes. Also, the test is **not satisfied** by the fact that the organization's actual operations are for exempt purposes.

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In interpreting an organization's articles, the law of the state where the organization was created is controlling. If an organization contends that the terms of its articles have a different meaning under state law than their generally accepted meaning, such meaning must be established by a clear and convincing reference to relevant court decisions, opinions of the state attorney general, or other appropriate state authorities.

The following are examples illustrating the organizational test.

Example 2. Articles of organization state that an organization is formed exclusively for literary and scientific purposes within the meaning of §501(c)(3) of the Internal Revenue Code. **These articles appropriately limit the organization's purposes.** The organization meets the organizational test.

Example 3. An organization, by the terms of its articles, is formed to engage in research without any further description or limitation. **The organization will not be properly limited as to its purposes since all research is not scientific.** The organization **does not** meet the organizational test.

Example 4. An organization's articles state that its purpose is to receive contributions and pay them over to organizations that are described in §501(c)(3) and exempt from taxation under §501(a). **The organization meets the organizational test.**

Example 5. If a stated purpose in the articles is the conduct of a school of adult education and its manner of operation is described in detail, such a purpose **will be satisfactorily limited.**

Example 6. If the articles state the organization is formed for charitable purposes, without any further description, such language ordinarily will be sufficient since the term "charitable" has a generally accepted legal meaning. **On the other hand, if the purposes are stated to be charitable, philanthropic, and benevolent, the organizational requirement will not be met since the terms "philanthropic" and "benevolent" have no generally accepted legal meaning and, therefore, the stated purposes may, under the laws of the state, permit activities that are broader than those intended by the exemption law.**

Example 7. If the articles state an organization is formed to promote American ideals, to foster the best interests of the people, or to further the common welfare and well-being of the community, without any limitation or provision restricting such purposes to accomplishment only in a charitable manner, the purposes **will not be sufficiently limited.** Such purposes are vague and may be accomplished other than in an exempt manner.

Example 8. A stated purpose to operate a hospital does not meet the organizational test since it is **not necessarily charitable.** A hospital may or may not be exempt depending on the manner in which it is operated.

Example 9. An organization that is expressly empowered by its articles to carry on social activities **will not be sufficiently limited** as to its power, even if its articles state that it is organized and will be operated exclusively for charitable purposes.

F. Dedication and Distribution of Assets

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Assets of an organization must be permanently dedicated to an exempt purpose. This means that, should an organization dissolve, **its assets must be distributed for an exempt purpose described in this chapter, or to the federal government or to a state or local government for a public purpose.** If the assets could be distributed to members or private individuals or for any other purpose, **the organizational test is not met.**

1. Dedication

To establish that an organization's assets will be permanently dedicated to an exempt purpose, the articles of organization should contain a provision ensuring their distribution for an exempt purpose in the event of dissolution. Although reliance may be placed upon state law to establish permanent dedication of assets for exempt purposes, an organization's application probably can be processed much more rapidly if its articles of organization include a provision ensuring permanent dedication of assets for exempt purposes.

2. Distribution

Revenue Procedure 82-2, 1982-1 C.B. 367, identifies the states and circumstances in which the IRS will not require an express provision for the distribution of assets upon dissolution in the articles of organization. The procedure also provides a sample of an acceptable dissolution provision for organizations required to have one.

If a named beneficiary is to be the distributee, it must be one that would qualify and would be exempt within the meaning of §501(c)(3) at the time the dissolution takes place. Since the named beneficiary at the time of dissolution may not be qualified, may not be in existence, or may be unwilling or unable to accept the assets of the dissolving organization, a provision should be made for distribution of the assets for one or more of the purposes specified in this chapter in the event of any such contingency.

IV. Annual Information Returns

Every organization exempt from federal income tax under §501(a) must file an annual information return **except:**

1. A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church.
2. A church-affiliated organization that is exclusively engaged in managing funds or maintaining retirement programs.
3. A school below college level affiliated with a church or operated by a religious order, even though

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more than one-half of the activities of which society are conducted in, or directed at persons in, foreign countries.

5. An exclusively religious activity of any religious order.
6. A state institution the income of which is excluded from gross income under §115.
7. A corporation described in §501(c)(1). Such a corporation is organized under an act of Congress and is:
 - a. An instrumentality of the United States, and
 - b. Exempt from federal income taxes.
8. A black lung benefit trust described in §501(c)(21).
9. A stock bonus, pension, or profit-sharing trust that qualifies under §401.
10. A religious or apostolic organization described in §501(d) (required to file Form 1065, U.S. Partnership Return of Income).
11. A foreign organization described in §501(a) (other than a private foundation) that normally does not have more than \$25,000 in annual gross receipts from sources within the United States and has no significant activity in the United States. For further information, see Rev. Proc. 94-17, 1994-1 C.B. 579.
12. A governmental unit or an affiliate of a governmental unit that meets the requirements of Rev. Proc. 95-48, 1995-2 C.B. 418.
13. An exempt organization (other than a private foundation) having gross receipts in each tax year that normally are not more than \$25,000. (See the instructions for Form 990 for more information about what constitutes annual gross receipts that are normally not more than \$25,000.)

1. Forms 990 and 990-EZ

Exempt organizations, **other than private foundations**, must file their annual information return on **Form 990, Return of Organization Exempt from Income Tax**, or **Form 990-EZ, Short Form Return of Organization Exempt from Income Tax**.

Form 990-EZ. This is a shortened version of Form 990. It is designed for use by small exempt organizations and nonexempt charitable trusts.

An organization may file Form 990-EZ instead of Form 990 if it meets both of the following requirements.

1. Its gross receipts during the year were less than \$100,000.
2. Its total assets (line 25, column (B) of Form 990-EZ) at the end of the year were less than \$250,000.

If an organization does not meet either of these conditions, it cannot file Form 990-EZ. **Instead it must file Form 990.**

2. Group Return

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A group return on Form 990 may be filed by a central, parent, or like organization for two or more local organizations, none of which is a private foundation. This return is in addition to the central organization's separate annual return, if it must file a return. It cannot be included in the group return. See the instructions for Form 990 for the conditions under which this procedure may be used. In any year that an organization is properly included as a subordinate organization on a group return, it should not file its own Form 990.

3. Schedule A

Organizations, other than private foundations, that are described in §501(c)(3) and that are otherwise required to file Form 990 must also complete Schedule A of that form.

4. Form 990-PF

All **private foundations** exempt under §501(c)(3) must file Form 990-PF, Return of Private Foundation or Section 4947(a)(1) Nonexempt Charitable Trust Treated as a Private Foundation.

5. Due Date

Form 990, 990-EZ, or 990-PF must be filed by the **15th day of the fifth month after the end of an organization's accounting period.**

6. Application for Exemption Pending

An organization that claims to be exempt under §501(a) of the Code but has not established its exempt status by the due date for filing an information return should complete and file Form 990 or 990-EZ (or Form 990-PF if it considers itself a private foundation). If the organization's application is pending with the IRS, it must so indicate on Form 990, 990-EZ, or 990-PF (whichever applies) by checking the "application pending" block at the top of page 1 of the return.

For more information on the filing requirements, see the instructions for Forms 990, 990-EZ, and 990-PF.
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A. Penalties for Failure to File

An exempt organization that fails to file a required return must pay a penalty of \$20 a day for each day the failure continues. The same penalty will apply if the organization does not give all the information required on the return or does not give the correct information.

1. Maximum Penalty

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The maximum penalty for any one return is the smaller of \$10,000 or 5% of the organization's gross receipts for the year.

2. Organization with Gross Receipts over \$1 Million

For an organization that has gross receipts of over \$1 million for the year, the penalty is \$100 a day up to a maximum of \$50,000.

3. Managers

If the organization is subject to this penalty, the IRS may specify a date by which the return or correct information must be supplied by the organization. Failure to comply with this demand will result in a penalty imposed upon the manager of the organization, or upon any other person responsible for filing a correct return. The penalty is \$10 a day for each day that a return is not filed after the period given for filing. The maximum penalty imposed on all persons with respect to any one return is \$5,000.

4. Exception for Reasonable Cause

No penalty will be imposed if **reasonable cause for failure to file timely can be shown.**

V. Unrelated Business Income Tax Return

A basic principle that establishes exemption from income taxes is that an organization is exempt only if its primary purpose is to engage in the type of activity for which it claims exemption. **Many exempt organizations operate trades or businesses that further their exempt purposes. Some operate trades or businesses that have little or no relationship to their exempt purposes, except to provide funds to carry out those purposes.** The income from an unrelated business may be taxed.

An exempt organization is subject to tax on unrelated business income (UBI) if the income is from a trade or business that is regularly carried on by the organization and that is not substantially related to the performance by the organization of its exempt purpose or function except that the organization needs the profits derived from this activity.

An exempt organization's income from debt-financed property is treated as unrelated business income and is subject to tax in the same proportion as the property remains financed by the debt. In general, debt-financed property is any property, such as rental real estate, tangible personal property, or corporate stock, that the organization finances by debt and holds to produce income instead of for exempt purposes.

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A. Trade or Business

The term "trade or business" generally includes **any activity carried on for the production of income from selling goods or performing services**. It is not limited to integrated aggregates of assets, activities, and goodwill that comprise businesses for the purposes of certain other provisions of the Internal Revenue Code.

Activities of producing or distributing goods or performing services from which gross income is derived do not lose their identity as trades or businesses merely because they are carried on within a larger framework of other activities that may, or may not, be related to the exempt purposes of the organization.

For example, the regular sale of pharmaceutical supplies to the general public by a hospital pharmacy is a trade or business, even though the pharmacy also furnishes supplies to the hospital and patients of the hospital in accordance with its exempt purpose. Another example of a trade or business being carried on within a larger complex of activities is soliciting, selling, and publishing commercial advertising for publication in an exempt organization's periodical that contains editorial matter related to the organization's exempt purpose.

B. Regularly Carried On

Business activities of an exempt organization ordinarily are considered to be regularly carried on if they show a frequency and continuity, and are pursued in a manner similar to comparable commercial activities of nonexempt organizations.

For example, a hospital auxiliary's operation of a sandwich stand for two weeks at a state fair would not be the regular conduct of a trade or business. The stand would not compete with similar facilities that a taxpaying organization would ordinarily operate year-round. However, operating a commercial parking lot every Saturday, year-round, would be the regular conduct of a trade or business.

C. Substantially Related

To determine whether a business activity is or is not substantially related requires an examination of the relationship between the business activities that generate the particular income in question and the accomplishment of the organization's exempt purpose. Trade or business is related to exempt purposes, in the statutory sense, only when the conduct of the business activities has causal relationship to the achievement of exempt purposes (other than through the production of income). The causal relationship must be substantial. The activities that generate the income must contribute importantly to the accomplishment of the organization's exempt purposes to be substantially related.

D. Contribute Importantly

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In determining whether activities "contribute importantly" to the accomplishment of an exempt purpose, the size and extent of the activities involved must be considered in relation to the nature and extent of the exempt function that they intend to serve. For example, if there is income from activities that are in part related to the performance of an organization's exempt function, but the activities are conducted on a larger scale than is reasonably necessary for the performance of a function, the gross income attributable to that portion of the activities in excess of the needs of the exempt function is income from an unrelated trade or business. This income is not from the production or distribution of goods or the performance of services that contribute importantly to the accomplishment of any exempt purpose of the organization.

Example 10.An agricultural organization whose primary purpose is to promote better conditions for breeders of cattle and to improve the breed generally, **engages in an unrelated trade or business** when it regularly sells cattle for its members on a commission basis.

Example 11.An exempt educational organization regularly sells membership mailing lists to business firms. **This activity does not contribute importantly to the accomplishment** of the organization's exempt purposes and therefore is **an unrelated trade or business**.

Example 12.A bar association publishes a legal journal containing opinions of the county court, articles of professional interest to lawyers, advertisements for products and services used by the legal profession, and legal notices. The legal notices are published to satisfy state laws requiring publication of notices in connection with legal proceedings, such as the administration of estates and actions to quiet title to real property. The state designated the bar association's journal as the place to publish the required notices.

The publication of ordinary commercial advertising does not advance the exempt purposes of the association even when it is done in a periodical that contains material related to exempt purposes. Although the advertising is directed specifically to members of the legal profession, it is still commercial in nature and does not contribute importantly to the exempt purposes of the association. Therefore, the advertising income is unrelated trade or business income.

On the other hand, **the publication of legal notices is distinguishable from ordinary commercial advertising in that its purpose is to inform the general public of significant legal events rather than to stimulate demand for the products or services of an advertiser.** This promotes the common interests of the legal profession and contributes importantly to the association's exempt purposes. **Therefore, the publishing of legal notices does not constitute an unrelated trade or business.**

Example 13.A business league operates a fringe parking lot and shuttle bus service. It also operates, as an insubstantial part of its activities, a park and shop plan. The organization's main purpose is to retain and stimulate trade in a particular city's downtown area that has inadequate parking facilities.

No individual or group of downtown merchants is favored by the manner in which the fringe parking and shuttle bus are operated or in the selection of discharge and pickup points. The merchants cannot offer free or discount parking or bus fares to their customers.

The park and shop plan allows customers of particular merchants to park free at certain parking lots in the area. Merchants participating in this plan buy parking stamps, which they distribute to their customers to use to pay for parking.

Operating the fringe parking lot and shuttle bus service provides easy and convenient access to the

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downtown area and, therefore, stimulates and improves business conditions in the downtown area generally. **That activity contributes importantly to the organization's accomplishing its exempt purpose and is not an unrelated trade or business.**

The park and shop plan encourages customers to use a limited number of participating member merchants in order to obtain free parking. This provides a particular service to individual members of the organization and does not further its exempt purpose. Therefore, operating the park and shop plan is **an unrelated trade or business.**

E. Form 990-T

Even though an organization is recognized as tax-exempt, it still may be liable for tax on its unrelated business income. Unrelated business income is income from a trade or business, regularly carried on, **that is not substantially related to the charitable, educational, or other purpose that is the basis for the organization's exemption.** An exempt organization that has \$1,000 or more gross income from an unrelated business must file **Form 990-T, Exempt Organization Business Income Tax Return.**

Note: The obligation to file Form 990-T is in addition to the obligation to file the annual information return, Form 990, 990-EZ, or 990-PF.

F. Estimated Tax

Exempt organizations must make quarterly payments of estimated tax on unrelated business income. An organization must make estimated tax payments if it expects its tax for the year to be \$500 or more.

For additional information see IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations.

VI. Employment Tax Returns

Every employer, including an organization exempt from federal income tax, who pays wages to employees **is responsible for withholding, depositing, paying, and reporting federal income tax, social security and Medicare (FICA) taxes, and federal unemployment tax (FUTA), unless that employer is specifically excepted by law from those requirements or if the taxes clearly do not apply.**

For more information, get a copy of Publication 15, Circular E, Employer's Tax Guide, which summarizes the responsibilities of an employer; Publication 15-A, Employer's Supplemental Tax Guide;

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and Form 941, Employer's Quarterly Federal Tax Return.

A. Penalty

If any person required to collect, truthfully account for, and pay over any of these taxes willfully fails to satisfy any of these requirements or willfully tries in any way to evade or defeat any of them, that person will be subject to a penalty. The penalty, often called the "100% penalty," is equal to the tax evaded, not collected, or not accounted for and paid over. The term "person" includes:

- An officer or employee of a corporation, or
- A member or employee of a partnership.

B. Exception

The penalty is **not imposed** on any unpaid volunteer director or member of a board of trustees of an exempt organization if the unpaid volunteer serves solely in an honorary capacity, **does not** participate in the day-to-day or financial operations of the organization, and **does not have actual knowledge** of the failure on which the penalty is imposed.

This exception does not apply if it results in no one being liable for the penalty.

FICA and FUTA Tax Exceptions. Payments for services performed by a minister of a church or a member of a religious order are not subject to FICA or FUTA taxes.

FUTA Tax Exception. Payments for services performed by an employee of a religious, charitable, educational, or other organization described in §501(c)(3) that are generally subject to FICA taxes if the payments are \$100 or more for the year, are not subject to FUTA taxes.

C. FICA Tax Exemption Election

Churches and qualified church-controlled organizations can elect exemption from employer FICA taxes by filing Form 8274, Certification by Churches and Qualified Church-Controlled Organizations Electing Exemption from Employer Social Security and Medicare Taxes.

To elect exemption, Form 8274 must be filed before the first date on which a quarterly employment tax return would otherwise be due from the electing organization.

Note: The organization may make the election only if it is opposed for religious reasons to the payment of FICA taxes.

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D. Effect on Employees

If a church or qualified church-controlled organization has made an election, payment for services performed for that church or organization, other than in an unrelated trade or business, will not be subject to FICA taxes. However, the employee, unless otherwise exempt, will be subject to self-employment tax on the income. The tax applies to income of \$108.28 or more for the tax year from that church or organization, and no deductions for trade or business expenses are allowed against this "self-employment" income.

VII. Return for Political Activity

A. Form 1120-POL

Caution: Section 501(c)(3) organizations are precluded from, and suffer loss of exemption for, engaging in any political campaign on behalf of, or in opposition to, any candidate for public office.

VIII. Donee Information Return

A. Dispositions of Donated Property

If an organization receives a contribution of charitable deduction property and sells, exchanges, or otherwise disposes of the property within two years after its receipt, the organization must file Form 8282, Donee Information Return (Sale, Exchange, or Other Disposition of Donated Property). It must be filed within 125 days after the disposition. **A copy of Form 8282 is to be given to the donor.** Penalties apply if the organization does not file the return.

B. Charitable Deduction Property

This is any property (other than money or publicly traded securities) for which the organization signed, as donee, an appraisal summary.

C. Publicly Traded Securities

These are securities for which market quotations for the contribution date are readily available on an established securities market.

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D. Appraisal Summary

The **donor** must get a qualified appraisal for contributions of property (other than money or publicly traded securities) **the claimed value of which is more than \$5,000**. The donee organization is not a qualified appraiser for the purpose of making a qualified appraisal. **For more information, see Publication 561, Determining the Value of Donated Property.**

E. Form 8283

The **donor** must attach Form 8283, Noncash Charitable Contributions, to the return on which the deduction is shown. The **donee** must sign Part IV of Section B of Form 8283. The person who signs for the donee must be an official authorized to sign the donee's tax or information returns, or a person specifically authorized to sign by that official. The signature does not represent concurrence in the appraised value of the contributed property. It represents receipt of the property described on Form 8283 on the date specified on the form. The signature also indicates knowledge of the information-reporting requirements on dispositions, as previously discussed. A copy of Form 8283 must be given to the donee.

IX. Information Provided to Donors

A charitable organization must give a donor a disclosure statement for a quid pro quo contribution over \$75. A donor cannot deduct a charitable contribution of \$250 or more unless the donor has a written acknowledgment from the charitable organization.

In certain circumstances, an organization may be able to meet both of these requirements with the same written document.

X. Disclosure of Quid Pro Quo Contributions

A charitable organization must provide a written disclosure statement to donors of a quid pro quo contribution over \$75.

A quid pro quo contribution is a payment that a donor makes to a charity partly as a contribution and partly for goods or services. For example, if a donor gives a charity \$100 and receives a concert ticket valued at \$40, the donor has made a quid pro quo contribution. In this example, the charitable contribution part of the payment is \$60. Even though the deductible part of the payment is not more than \$75, a disclosure statement must be filed because the donor's payment (quid pro quo contribution) is more than \$75.

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A. Disclosure Statement

The required written disclosure statement must:

1. Inform the donor that the amount of the contribution that is deductible for federal income tax purposes is limited to the excess of any money (and the value of any property other than money) contributed by the donor over the fair market value of goods or services provided by the charity, and
2. Provide the donor with a good faith estimate of the fair market value of the goods or services that the donor received.

The charity must furnish the statement in connection with either the solicitation or the receipt of the quid pro quo contribution. If the disclosure statement is furnished in connection with a particular solicitation, it is not necessary for the organization to provide another statement when it actually receives the contribution.

No disclosure statement is required if any of the following are true.

1. The goods or services given to a donor have **"insubstantial value"** as described in Rev. Proc. 90-12, C. B. 1990-1, and Rev. Proc. 92-49, C. B. 1992-1.
2. There is **no donative element involved in a particular transaction** with a charity (for example, there is generally no donative element involved in a visitor's purchase from a museum gift shop).
3. **There is only an intangible religious benefit provided to the donor.** The intangible religious benefit must be provided to the donor by an organization organized exclusively for religious purposes, and must be of a type that generally is not sold in a commercial transaction outside the donative context. For example, a donor who for a payment is granted admission to a religious ceremony for which there is no admission charge is provided an intangible religious benefit. A donor is not provided intangible religious benefits for payments made for tuition for education leading to a recognized degree, travel services, or consumer goods.
4. **The donor makes a payment of \$75 or less per year and receives only annual membership benefits that consist of:**
 - a. Any rights or privileges (other than the right to purchase tickets for college athletic events) that the taxpayer can exercise often during the membership period, such as free or discounted admissions or parking or preferred access to goods or services, or
 - b. Admission to events that are open only to members and the cost per person of which is within the limits for low-cost articles described in Revenue Procedure 90-12 (as adjusted for inflation).

B. Good Faith Estimate of Fair Market Value

An organization may use any reasonable method to estimate the fair market value (FMV) of goods or services it provided to a donor, as long as it applies the method in good faith.

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The organization may estimate the FMV of goods or services that generally are not commercially available by using the FMV of similar or comparable goods or services. Goods or services may be similar or comparable even if they do not have the unique qualities of the goods or services being valued.

Example 14. A charity provides a one-hour tennis lesson with a tennis professional for the first \$500 payment it receives. The tennis professional provides one-hour lessons on a commercial basis for \$100. A good faith estimate of the lesson's FMV is \$100.

Example 15. For a payment of \$50,000, a museum allows a donor to hold a private event in a room of the museum. A good faith estimate of the FMV of the right to hold the event in the museum can be made by using the cost of renting a hotel ballroom with a capacity, amenities, and atmosphere comparable to the museum room, even though the hotel ballroom lacks the unique art displayed in the museum room. If the hotel ballroom rents for \$2,500, a good faith estimate of the FMV of the right to hold the event in the museum is \$2,500.

Example 16. For a payment of \$1,000, a charity provides an evening tour of a museum conducted by a well-known artist. The artist does not provide tours on a commercial basis. Tours of the museum normally are free to the public. A good faith estimate of the FMV of the evening museum tour is \$0 even though it is conducted by the artist.

Penalty for Failure to Disclose. A penalty is imposed on a charity that does not make the required disclosure of a quid pro quo contribution of more than \$75. The penalty is \$10 per contribution, not to exceed \$5,000 per fund-raising event or mailing. The charity can avoid the penalty if it can show that the failure was due to reasonable cause.

C. Acknowledgment of Charitable Contributions Over \$250

A donor can deduct a charitable contribution of \$250 or more only if the donor **has a written acknowledgment** from the charitable organization. The donor must get the acknowledgment by the earlier of:

1. The date the donor files the original return for the year the contribution is made, or
2. The due date, including extensions, for filing the return.

[The donor is responsible for requesting and obtaining the written acknowledgment from the donee.]

D. Quid Pro Quo Contribution

If the donee provides goods or services to the donor in exchange for the contribution (a quid pro quo contribution), the acknowledgment must include a good faith estimate of the value of the goods or services.

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E. Form of Acknowledgment

Although there is no prescribed format for the written acknowledgment, it must provide enough information to substantiate the amount of the contribution. For more information, see IRS Publication 1771, Charitable Contributions—Substantiation and Disclosure Requirements.

XI. Report of Cash Received

An exempt organization that receives, in the course of its activities, more than \$10,000 cash in one transaction (or two or more related transactions) that is not a charitable contribution, must report the transaction to the IRS on Form 8300, Report of Cash Payments Over \$10,000 Received in a Trade or Business.

XII. Public Inspection of Exemption Applications and Annual Returns

The following rules do not apply to private foundations. Section 6104(d) describes the public inspection rules for private foundations.

A. Annual Return

An exempt organization must make available for inspection, upon request, a copy of its return (Form 990 or 990-EZ) for the three-year period starting with the filing date. The organization need not disclose the names of its contributors.

B. Exemption Application

An exempt organization must also make available for public inspection its application for tax-exempt status (generally, Form 1023 or Form 1024). It must also make available a copy of any papers submitted in support of the application (with certain exceptions) and any letter or other document issued by the IRS with respect to the application. This applies for applications submitted on or after July 16, 1987, or before that date if the organization had a copy of the application on July 15, 1987.

XIII. Solicitation of Nondeductible Contributions

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Solicitations for contributions or other payments by certain exempt organizations (including lobbying groups and political action committees) must include a statement that payments to those organizations are not deductible as charitable contributions for federal income tax purposes. The statement must be included in the fund-raising solicitation and be conspicuous and easily recognizable.

XIV. Dues Used for Lobbying or Political Activities

Certain exempt organizations must notify anyone paying dues to the organization whether any part of the dues is not deductible because it is related to lobbying or political activities.