

American Society of Health-System Pharmacists

Federal Financial Requirements

ASHP's Financial Toolkit for Affiliates

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FEDERAL REQUIREMENTS

NOTE: All IRS forms can be accessed online at www.irs.gov. Type in the form number referenced in this section to obtain the appropriate PDF version of the document you are seeking.

Federal Tax-Exempt Status: 501(c)(3) Organizations

Some professional societies are classified as tax-exempt 501(c)(3) public charities under the Internal Revenue Code (IRC).

One major advantage for organizations that are exempt under Section 501(c)(3) of the IRC is that contributions to such organizations may be deductible on donors' federal income taxes. In addition, organization members who receive only minimal reimbursement for their association-related expenses may be able to treat the balance as a charitable gift.

It is very important that organizations do not jeopardize their tax-exempt status. They must not violate certain restrictions that apply to their 501(c)(3) classifications:

- As a 501(c)(3), an association must be organized and operated exclusively for charitable, educational, or scientific purposes (the mission as defined in bylaws)
- An organization's resources and funds cannot be used for the private benefit of an officer or director (private inurement)
- Upon an organization's dissolution, its assets must be distributed for one or more of those defined exempt purposes
- An association can engage in very limited political activity. Associations that are classified as 501(c)(3) are forbidden to support candidates for public office
- An organization can only engage in an insubstantial amount of lobbying activity. Refer to the section on lobbying for more information.

In evaluating whether or not an organization meets the qualifications for exemption under Section 501(c)(3), the IRS evaluates according to the following:

- Organizational test—The IRS examines bylaws, articles of incorporation, etc., to determine the purpose of the organization/association and for other provisions that address compliance with the restrictions listed above
- Operational test—The IRS evaluates the organization's operations, its activities, the sources of its income and receipts, and the disposition of funds with regard to the restrictions listed above.

Employer Identification Number and IRS Form SS-4

Every organization must acquire an IRS Employer Identification Number (EIN, or FEIN [Federal Employer Identification Number]). That number is a part of the permanent record of the association. Check with the executive officer or the previous treasurer for the organization's EIN. This number should be used for bank accounts and will be required for filing IRS Form 990.

The organization may acquire an EIN by filing Form SS-4 (Application for Employer Identification Number) with the IRS. The name of the organization should be used in filling out the application. The only place an individual's name should appear is on the signature line where the officer making the application must sign. The "reason for applying," as requested on the form, should be completed "for banking purposes only." Check with your executive officer to ensure that they have not already applied for an EIN for your association already.

If your association does not have an EIN and needs one, call the IRS at (800) 829-4933 (complete the Form SS-4 before calling). The IRS will issue EINs to authorized persons over the phone. No fee is required.

Determination Letter of Federal Tax Exempt Status and IRS Form 1023

501(c)(3) organizations can generally qualify for exemption from federal income tax.

If tax exemption has not been secured for the organization, the treasurer or another officer must apply for recognition of tax exemption by completing IRS Form 1023 in the name of the organization and returning it to the IRS with a check in the amount of the required fee. Your organization must have an EIN number before it may file Form 1023. The IRS will issue a letter stating its determination of tax-exempt status. This determination letter of tax-exempt status from the IRS should be part of the permanent records of the organization. Once approved, a tax exemption continues in force until revoked by the IRS.

Note: Form 8718 (User Fee for Exempt Organization Determination Letter Request) has been incorporated into Part XI of Form 1023. A separate form is no longer necessary.

Refer to [IRS Publication 557](#) (Tax-Exempt Status for Your Organization) for the rules and procedures for obtaining exemption from federal income tax.

By law, an application for determination of tax-exempt status submitted to the IRS must be made available for public inspection upon request, as must any papers submitted in support of the application and any letter or other document issued by the IRS in response to the application. The IRS is required to impose penalties for failure to comply with this provision of the law unless failure to do so was due to reasonable cause.

Information Return of Organization-Exempt from Income Tax IRS Forms 990 and 990-EZ

Organizations are required to file an annual information return of their income and expenses on Form 990 (Information Return of Organization Exempt from Income Tax) and other related information forms provided by the IRS, such as Schedule A and Form 990-T. The IRS normally sends such forms to tax-exempt associations, but the responsibility of filing lies with the organization treasurer, whether or not such forms are received.

[990-N/E-Postcard](#)

Organizations whose annual gross receipts are \$50,000 or less for tax years ending on or after December 31, 2010, are required to submit Form 990-N, also known as the e-Postcard, electronically unless they choose to file a complete Form 990 or Form 990-EZ.

If you do not file your e-Postcard on time, the IRS will send you a reminder notice, but you will not be assessed a penalty for filing the e-Postcard late. **However, an organization that fails to file required e-Postcards (or information returns – Forms 990 or 990-EZ) for three consecutive years will automatically lose its tax-exempt status.** The revocation of the organization's tax-exempt status will not take place until the filing due date of the third year.

The e-Postcard is due every year by the 15th day of the 5th month after the close of your tax year. For example, if your tax year ended on December 31, the e-Postcard is due May 15 of the following year. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. You cannot file the e-Postcard until after your tax year ends.

Completing the e-Postcard requires the six items listed below:

- Employer identification number (EIN), also known as a Taxpayer Identification Number (TIN)
- Tax year
- Legal name and mailing address
- Any other names the organization uses
- Name and address of a principal officer
- Website address, if the organization has one
- Confirmation that the organization's annual gross receipts are normally \$50,000 or less for tax years ending on or after December 31, 2010
- If applicable, a statement that the organization has terminated or is terminating (going out of business)

To file the e-Postcard go to <http://epostcard.form990.org/>. Keep a copy of the information filed for the organization's permanent records.

990-EZ

If the organization's annual gross receipts are normally more than \$50,000 but less than \$200,000, and total assets are less than \$500,000, the organization has an obligation to complete and file Form 990-EZ, whether or not it received the form in the mail. Refer to the Instructions for IRS Form 990-EZ for further instructions.

- Forms 990 and 990-EZ are due by the 15th day of the fifth month after the close of the organization's fiscal year. For example, if the organization's fiscal year-end is June 30; the form is due November 15
- If the return is filed late, a penalty of \$20 a day may be charged. The penalty is not to exceed the lesser of \$10,000 or 5 percent of the association's gross receipts for the year. Also, a penalty may be charged if the return is filed incorrectly or incompletely

- If the organization is required to submit a completed Form 990 or 990-EZ, it must submit a Schedule A as well (501(c)(4) organizations are not required to file Schedule A, but must file a Form 990 or 990-EZ as required)
- If the organization has more than \$1,000 in gross unrelated business income, it must file a Form 990-T as well
- If the organization has made significant changes to its bylaws (e.g., change in fiscal year, change in governance/ structure), a copy of the updated bylaws should be submitted to the IRS with the completed Form 990 or 990-EZ
- If the organization wishes to request an extension of time to file Form 990 or 990-EZ, it should file a Form 8868 filed with the IRS before the deadline determined by the close of the organization's fiscal year.

Public Inspection Requirements

Any organization that files a Form 990, 990-N, or 990-EZ must make the return available for public inspection during the three-year period beginning with the date it is due, including extensions. All parts of the return and all required schedules and attachments other than the schedule of contributors to the association must be made available. Inspection must be permitted during regular business hours at the association's principal office. If the association does not maintain a permanent office, it must provide a reasonable location for a requester to inspect the association's annual returns. The association may mail the information to a requester; in such cases, the association may charge for postage and copying only if the requester gives up the right to a free inspection.

For a request made in person, the organization must respond immediately. For a request made in writing, the organization must provide the requested copies within 30 days and may charge a reasonable fee for reproduction and mailing costs. Organizations may file their 990s with services like GuideStar for easy public access.

Any organization that does not comply with the public inspection requirement will be assessed a penalty of \$20 for each day that inspection was not permitted, up to a maximum of \$10,000 for each return. No penalty will be imposed if the failure is due to reasonable cause (determined by the IRS). Any organization that willfully fails to comply will be subject to an additional penalty of \$1,000.

Unrelated Business Income and IRS Form 990-T

Some organizations are exempt from federal income tax under Section 501(c)(3) or 501(c)(6) of the Internal Revenue Code. Requirements of exemption can be found by visiting the associated page on the [IRS website](#).

Having tax-exempt status means that an organization does not pay federal income tax on income from activities that are substantially related to the purpose for which the organization was given tax-exempt status.

However, the organization may be required to pay tax on other types of income, referred to as unrelated business income (UBI).

The law requires nonprofits to:

- Report unrelated business activities when gross receipts are at least \$1,000 by filing IRS Form 990-T
- Pay taxes on net (after expenses) receipts

Nonprofits risk losing their tax-exempt status only if such activities become the primary focus and make the tax-exempt mission secondary.

What Is Unrelated Business Income?

For an activity to be classified as yielding unrelated business income (UBI), three factors must be present: The activity must be (1) a trade or business, (2) regularly carried on, and (3) unrelated to the organization's tax-exempt purpose.

1. A trade or business
 - a. For the activity to be considered a business, the nonprofit must take an active role in the generation of the income.
 - b. The activity must provide income, but does not have to produce a profit.
2. Regularly carried on
 - a. IRS regulations state that activities that are carried on only "discontinuously or periodically" will not be considered to be regularly carried on.
 - b. If an activity is of short duration, but follow-up or preparation is carried on over a long period, the income from that activity could be UBI.
 - c. An activity occurring only once per year may yield UBI if a commercial company performing the same activity is active only once a year.
3. Unrelated to the association's tax-exempt purpose
 - a. If an activity is not substantially related to the organization's mission, then it could be considered unrelated to fulfilling the tax-exempt purpose of the organization.
 - b. The substantial relation of the activity to the organization's tax-exempt purpose cannot come solely from the organization's need for money. The destination or use of the income has no bearing on whether it is unrelated business income. The determination is made by how the income is earned.

Exceptions or Exemptions

The income from most association fundraising activities is exempt from federal income taxes because:

- The activities are conducted only once per year, or
- At least 85 percent of the work of the activities is conducted by volunteers, or
- The activities consist of selling donated merchandise (e.g., a silent or live auction of donated merchandise)

Judgment of whether an activity is related or unrelated is made on a case-by-case basis.

The federal, state, and local governments may have different standards for pursuing the charge of UBI, although most state and local governments follow the federal rules.

Statement for Recipients of Miscellaneous Income— IRS Form 1099-MISC

Organizations may be required to file Form 1099-MISC with the IRS if they pay \$400 or more during the calendar year to any unincorporated business or person for services rendered or in payment for a grant, award, or scholarship.

Form 1099-MISC need not be issued to corporations or to those paid less than \$600. Form 1099-MISC must be sent to the recipients on or before January 31 of each year and filed with the IRS, along with Form 1096 (Annual Summary and Transmittal of U.S. Information Returns), on or before February 28 of each year.

For details regarding when and how to file, download the Instructions for Form 1099- MISC, as well as the General Instructions for Forms 1099, 1098, 5498, and W-2G, at [IRS.gov](https://www.irs.gov).

Application to Adopt, Change, or Retain a Tax Year— IRS Form 1128

An association that is recognized as exempt from federal income tax and wishes to change its accounting period or fiscal year must inform the IRS. In some cases, IRS Form 1128 (Application to Adopt, Change, or Retain a Tax Year) must be filed. The IRS can impose penalties and interest when an organization changes its accounting period without filing Form 1128 when required to do so.

If an organization has not changed its accounting period at any time within the last 10 years, it should prepare an interim short period financial report covering the months that fall between the end of the current and start of the new fiscal year and submit a Form 990 and Schedule A to the IRS covering those interim months. The report and form should be marked “change of accounting period.” It is not necessary to file Form 1128 in this instance.

IRS Forms and Publications

All IRS forms and publications may be obtained for free from the IRS. Call (800) TAX-FORM (829-3676) or visit www.irs.gov.