



BDO KNOWLEDGE

Webinar Series

BDO Annual Nonprofit Tax Update

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BDO Annual Tax Update

With You Today



Laura Kalick



Joyce Underwood



Marc Berger

Agenda

What's happening at the IRS and Treasury?

- New Leadership
- Website
- Disaster Relief
- New Forms
- New Rulings
- New Work Plan

Tax Reform





WWW.IRS.GOV

[Applying for Tax Exempt Status](#)

Information about how to apply for IRS recognition of tax-exempt status

[Annual Reporting & Filing](#)

990-series forms, requirements and filing tips

[Revoked? Reinstated? Learn More](#)

Information about the automatic revocation process and how to be reinstated

[EO Select Check](#)

Search for a tax-exempt's status

[How to Stay Exempt](#)

Resources for tax-exempt nonprofit organizations

[StayExempt.IRS.gov](#)

Tax basics for exempt organizations

[Educational Resources and Guidance](#)

Publications, forms, official guidance and other materials

IRS WEBSITE-WHAT CHANGED AND HOW TO USE IT

- Cleaner layout with intuitive links
- Items organized in logical manner to make things easier to find
- Study seeking feedback from users specific to Charities & Nonprofits
- Provides access to industry news and topics of interest
- Explanations of topics includes drill-down links, law and publications
- Life Cycle sections for different types provide area guidance:
 - Creating an organization
 - Applying for exemption
 - Required filings
 - Compliance issues
 - Significant events
- Easy access point to educational materials and Issue Snapshots

WWW.IRS.GOV

Resources

Training Articles--Charities & Non-Profits A-Z Site Index

- From 1979 through 2004, EO annually published a series of articles known as the [Exempt Organizations Continuing Professional Education Technical Instruction Program](#).
- Refer to the [Exempt Organizations CPE Topical Index](#) for a cumulative listing of available articles.

Audit Technique Guides (ATGs) for Exempt Organizations

- <https://www.irs.gov/charities-non-profits/audit-technique-guides-atgs-for-exempt-organizations>

EO Issue Snapshots

- Volunteer Labor Exclusion from UBI
- Income from Mailing Lists
- Exclusive Provider Arrangements and Sponsorships
- Expenditure Responsibility
- Taxes on Failure to Distribute Income
- Advertising or Qualified Sponsorship Payments
- Request for Private Operation Foundation status

To locate Snapshots: <https://www.irs.gov/government-entities/tax-exempt-and-government-entities-issue-snapshots>

Disaster Relief

- Employee leave donations-- Notice 2017-48
- Employers can offer tax free assistance to staff -Section 139(a)
- Increased access to retirement plan funds
- IRC 501(c)(3) status for disaster relief organizations--Existing 501(c)(3) organizations can get involved in disaster relief activities that accomplish charitable purposes even though those activities were not described in its exemption application, without first obtaining permission from the IRS
- New organizations can apply for expedited treatment
- IRS Pub 3833

Proposed Forms 1024 and 1024-A

- Form 1024
 - To be released in January 2018—first revision since September 1998
 - Would no longer be used for 501(c)(4) organizations
- Form 1024-A
 - Form is only for new 501(c)(4) organizations; but must still file Form 8976
 - Form requests information about political activity and questions similar to that on the Form 1023 such as:
 - Relationships between officers and directors
 - Conflict of interest policy and reasonable compensation; compensation through non-fixed payments
 - Connections with any other organizations; successor to another organization
 - Do you lease property; make foreign grants or conduct activities in foreign countries

Form 1023-EZ

Half of Form 1023-EZ filers had mistakes; IRS found self-dealing, high amounts of unrelated business income, a lack of charitable activities, and incomplete forms

- Revenue Procedure 2017-5 --Orgs exempt under a subsection other than IRC section 501(c)(3) are no longer eligible to use Form 1023-EZ
- 2018 revisions to the Form 1023-EZ will include activity description and additional questions on gross receipts, asset thresholds, and foundation classification

EO expects the average processing time for a Form 1023-EZ to increase

New Form 990-EZ

- Includes 29 “help” icons describing key information needed to complete many of the fields within the form
 - Icons also provide links to additional information on IRS.gov
 - “Pop-up” boxes share information to help small and mid-size exempt organizations avoid common mistakes when filling out the form and filing their return.
- In 2016, the error rate for electronically-filed 990-EZ returns was only 1 percent, compared to the 33 percent error rate in paper-filed returns. In 2016, the IRS processed over 263,000 Forms 990-EZ, with the majority of the filings – 139,000 -- on paper.
- Once completed, filers can print Form 990-EZ and mail it to the IRS.

AUTOMATIC SIX-MONTH EXTENSION OF TIME TO FILE FORM 990 RETURNS

- Organizations must file a request for extension on Form 8868 by the due date of the return for which the organization is requesting an extension.
- A separate request for extension must be attached for each return and only applies to the return for which it is requested (i.e., no bulk requests are permitted), and a request for extension on the Form 990 does not also extend to the Form 990-T or Form 4720.
- The automatic six-month extension will be granted if the filing entity properly completes Form 8868, files it, and pays any balance due by the due date for the return for which the extension applies. The Form 8868 can be filed electronically or by paper. It does not toll any interest, late filing, or late payment penalties.

Rev. Proc. 2017-53—Equivalency Determinations for Foreign Charities

Facts for 501(c)(3) status:

- Governing instruments
- Charitable purposes
- Charitable distribution of assets on dissolution
- No private shareholders
- Insubstantial lobbying and no political intervention
- Affiliated organizations
- Description of activities and analysis
- Terrorist organizations and blocked persons
- Hospitals and § 501(r)
- Schools and racial discrimination

Facts for public charity status:

- Financial and non-financial tests
- 509(a)(1) or 509(a)(2) orgs within first 5 years and after first 5 years
- Support from governments
- Medical research organizations
- Non-functionally integrated Type III supporting organizations
- Operating and exempt operating foundations

IRS Work Plan For FY 2018

Compliance Strategy And Realignment Of Units

Strategy

- Pool input from multiple sources to identify target areas of non-compliance
- New governance board will review targets and determine which areas to pursue

Realignment of units

- Indian Tribal Governments (ITG) and Tax Exempt Bonds (TEB) grouped into one function (ITG/TEB)
- Federal, State and Local Governments (FSLG) has been moved into Exempt Organizations and will now be referred to as Federal, State, Local / Employment Tax (FSL/ET)

IRS Work Plan For FY 2018

Knowledge Management

Issue snapshots planned:

- Gaming
- Unrelated business income (and related exemption issues)
- IRC section 501(r)
- Organizational test requirements
- Employment tax

Audit Technique Guides (ATGs) instead of technical information in Internal Revenue Manual

FY 2018 Work Plan Compliance Program

- Compliance Strategies:
 - Supporting organization status applied for in Form 1023 and org files Form 990-N
 - Previously for-profit entities that convert to 501(c)(3)
 - Private benefit and inurement
- Data-driven approaches--We do not know the triggers however:
 - Changes from previous year's return
 - Significant diversion of assets
 - Debt financed income
 - Issue Snapshots are also target areas
- Referrals, claims for refunds, post-determination compliance



FY 2018 Work Plan

Focus on Record Keeping and Reporting

- Combined Annual Wage Reporting (CAWR) employment tax
- CAWR - Federal Unemployment Tax Act (FUTA)
- Section 501(c)(7) organizations with investment income that do not file Form 990-T
- Financial Assistance Policy under IRC section 501(r)(4)

FY 2018 Work Plan

Federal, State, and Local/Employment Tax (FSL/ET)

Complex worker classification and/or complex fringe benefit issues:

- Early retirement incentive plans
- Form W-2/1099 matches
- FUTA tax with related 501(c)(3) organization and 501(c)(4)
- Notice CP 2100 - backup withholding

FY 2018 Work Plan

Tax Exempt Bonds Compliance

- Arbitrage: bonds with guaranteed investment contracts and/or qualified hedges as well as bonds with investments beyond a temporary period
- Acquisition financing
- Non-qualified use: examine dispositions of financed facilities and/or excessive private business use
- Bonds issued with a deep discount and private activity bonds with excessive weighted average maturities



Tax Reform



Goals of Tax Reform

- Simplifying the tax code
 - Ensuring fairness
 - Promoting economic growth
-
- The last significant overhaul of the tax code was in 1986

Rates and Deductions Impact Charitable Giving

- Eliminate state and local tax itemized deductions and keep charitable deduction and mortgage interest deduction
- Doubles the standard deduction from the current \$6,350 for individuals and \$12,700 for joint filers to \$12,700 and \$25,400, respectively
- Estate tax elimination

Charitable Deduction-Other Proposals

- Proposals that would augment charitable giving:
 - Make charitable deduction an above the line item
 - Permit taxpayers to claim a charitable deduction after the close of the tax year but before the due date of the return (e.g., April 15)
- Proposals that would diminish charitable giving:
 - Cap on deductible amount charitable contributions of \$100,000 per individual and \$200,000 per married couple
 - 2% floor before contributions deductible



Other Exempt Organization Proposals that have been Introduced

- **Donor Advised Funds**
 - Allow the IRA rollover to DAFs and take off \$100,000 cap
 - Impose a maximum 10-year time period for DAF accounts to be distributed to non-DAF charities
- **Johnson Amendment**
 - Repeal provision that prohibits all 501(c)(3) non-profit organizations from endorsing or opposing political candidates



Previous Proposals--UBIT

- Tax royalties from licensing an organization's name or logo as unrelated business income
- Require organizations to calculate the net unrelated taxable income of each unrelated trade or business separately such that loss from one business could only be used to offset income from that business
- Treat certain corporate sponsorship payments as taxable advertising revenue



Previous Proposals--Miscellaneous

- Apply intermediate sanctions rules to 501(c)(5) and 501(c)(6) organizations
- Impose a 2.5% excise tax on private foundations that engage in self-dealing transactions
- Require donor-advised funds to distribute contributions within five years of receipt
- Lower the excise tax on private foundation investment income to 1%
- Repeal the tax-exempt status of professional sports leagues
- Impose a 25% excise tax on executive compensation more than \$1,000,000
- Impose a 10% excise tax on organizations that engage in excess benefit transactions, and eliminate the rebuttable presumption for reasonable compensation
- Repeal special charitable deduction provisions for college athletic event seating rights

Stay Tuned



Questions?

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<http://nonprofitblog.bdo.com/>

Conclusion

Thank you for your participation!

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