

One-Time Filing Relief Program for Small Tax-Exempt Organizations

Frequently Asked Questions and Answers

August 26, 2010

Filing Relief Program Overview

1. What is the Filing Relief Program?

The IRS is offering a one-time, two-part [Filing Relief Program](#) to help small tax-exempt organizations who have failed to file for three consecutive years to come back into compliance and allow them to retain their tax-exempt status. The two-part Filing Relief Program provides:

1. Additional time for the smallest organizations -- those eligible to submit Form 990-N (also known as the *e-Postcard*); and
2. A voluntary compliance program (VCP) for organizations eligible to file Form 990-EZ for its current and prior two tax periods.

2. Why is the Filing Relief Program necessary?

The [Pension Protection Act of 2006](#) made two important changes affecting tax-exempt organizations, effective the beginning of 2007. First, it mandates that all tax-exempt organizations, other than churches and church-related organizations, [must file an annual return](#) with the IRS. The Form 990-N was created for small tax-exempt organizations that had not previously had a filing requirement. Second, the law also requires that any tax-exempt organization that fails to file for three consecutive years automatically loses its federal tax-exempt status. The IRS conducted an extensive outreach effort about this new legal requirement but, even so, many organizations have not filed returns on time. This one-time limited relief program helps small organizations preserve their status.

For more information about what automatic revocation is and its consequences, see our [Automatic Revocation Frequently Asked Questions](#) on our website.

Filing Relief Program Eligibility and Requirements

3. My organization has failed to file for the past three years. How do I know if I can qualify for one of the one-time Filing Relief Programs?

First, as the Filing Relief Program only applies to small tax-exempt organizations, you should go to the [Annual Information Return Filing Chart](#) to determine if your organization was/is eligible to submit Form 990-N (*e-Postcard*) for the 2009 tax year or file the Form 990-EZ for the 2007, 2008 and 2009 tax years.

Second, you'll need to comply with the terms described in the Filing Relief Program. See [990-N Eligibility](#) and [990-EZ Eligibility](#).

4. I'm not sure if my organization filed for the past three years. How can I find out?

The IRS posted on its website a list of [Exempt Organizations At Risk of Losing Tax Exemption For Failure to File](#) (At-Risk List), which was generated on June 30, 2010. This list includes organizations for which the IRS does not have a record of having filed a

required annual return or notice for 2007, 2008 and 2009 tax years through October 15, 2010. The list includes Form 990, 990-EZ, 990-PF and 990-N filers.

The list may be incomplete, as certain organizations may be at risk of automatic revocation even if their names do not appear on these lists:

- Subordinates in group rulings for which the parent has not filed a [required group return](#);
- Very small section 501(c)(3) public charities [not required to file an application for exemption](#);
- Other section 501(c) organizations not required to file an application for exemption.

5. My organization is not on the At-Risk List. Is my organization safe from automatic revocation?

Not necessarily. An organization whose name is not on the list may still be subject to automatic revocation, or loss of exemption, if it does not timely file its annual return or submit its annual electronic notice. Organizations that may not appear on the At-Risk List that are nonetheless at risk of automatic revocation include:

1. Subordinates in group rulings for which [the parent has not filed a required group return](#);
2. Very small 501(c)(3) public charities [not required to file an application for exemption](#); and
3. Other 501(c) organizations not required to file an application for exemption.

Moreover, if your organization's due date falls after October 15, you would not be included on the list and should check your records to ensure you are up to date on your filings.

6. I believe my organization is listed on the At-Risk List in error. What should I do?

Follow the steps outlined in [What to Do if You Think IRS Records Are in Error](#).

7. My organization is listed on the At-Risk List in error. I believe my organization is not required to file an annual return because it is a church, local unit of a church, convention or association of churches, or an integrated auxiliary of a church. What should I do?

Churches and certain church affiliated organizations are not required to file an annual return. However, IRS records may indicate that you have a filing requirement, because:

1. When you applied for tax-exempt status, the IRS recognized you as exempt and as an organization other than a church or church affiliated organization
2. You filed with the IRS indicating that you were other than a church or church affiliated organization
3. If you are a subordinate in a group ruling, the group ruling holder (parent organization) may have provided the IRS with information indicating you are other than a church or church related organization

You were included on the At-Risk List because you have a filing requirement according to IRS records, and you have not filed for three consecutive years.

WHAT TO DO:

Churches and Church-related Organizations That Are Not Part of a Group Ruling

If you want to avoid inclusion on a list of revoked organizations and you are eligible to participate in the filing relief program, you must file now through that program.

If you now wish to be reclassified as a church or church related organization so that IRS records no longer indicate that you have a filing requirement, you should submit a request to the Cincinnati IRS office to be reclassified. If you are reclassified, IRS records will no longer indicate that you have a filing requirement. To request classification as a church, you must submit the following pursuant to Revenue Procedure 2010-4, 2010-1 I.R.B. 122:

1. Send a **cover letter** with name of organization, name of officer, address, EIN, and telephone contact information
2. A **subject line or other indicator** on the cover letter in bold, underlined, or all-caps font should indicate "REQUEST FOR DETERMINATION AS TO FOUNDATION STATUS."
3. A **statement requesting classification as a church**. Indicate in the letter you are attaching Schedule A of Form 1023.
4. **Penalties of perjury statement**. A request for a letter ruling or determination letter and any change in the request submitted at a later time must be accompanied by the following declaration: "Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and, to the best of my knowledge and belief, the request or the modification contains all the relevant facts relating to the request, and such facts are true, correct, and complete."
5. **Signature by taxpayer**. The declaration must be signed and dated by the taxpayer, not the taxpayer's representative. Neither a stamped signature nor a faxed signature is permitted. For an organization, an officer should sign.
6. Attach a filled out copy of Schedule A of Form 1023.
7. Send all of the above to:
Internal Revenue Service
P.O. Box 2508
Rm. 4024
Cincinnati, OH 45201

To verify whether you have a filing requirement or to obtain additional assistance with requesting a reclassification, please call Customer Account Services at 1-877-829-5500 (toll-free).

Churches and Church-related Organizations that are Part of (Subordinates) a Group Ruling

To avoid being placed on a revocation list, a subordinate organization in a church-related group ruling should contact the parent organization. If a parent organization believes the filing requirement information on IRS records regarding a subordinate organization is incorrect, the parent organization should submit a letter on parent organization letterhead to the IRS no later than October 15, 2010. The letter should include:

- A notation across the top- "990 Automatic Revocation Corrected Information"
- The parent organization's four-digit GEN and EIN
- The subordinate organization's name, address and EIN
- The effective date for the subordinate organization's inclusion in the group ruling

- A statement as to why the subordinate organization is exempt from filing a 990 series return/notice
- The letter must include the following declaration: "Under penalties of perjury, I declare that I have examined this letter and, to the best of my knowledge and belief, it is true, correct, and complete."
- The signature of an authorized parent organization officer.

No later than October 15, 2010, send the request to change information regarding one or more subordinate organizations to:

IRS
Attn. EO Entity
Mail Stop 6273
Ogden, UT 84201

or

Fax: 801-620-3263 or 801-620-3249

8. I believe that my organization is listed on the At-Risk List in error because I am part of a non-church related group ruling and don't need to file a return.

Being a member of a non-church group ruling does not change the filing requirements for an exempt organization. Both the parent organization and the subordinate organizations still must file annual returns. The parent organization must file its own separate return, but it also may be able to file a group return on behalf of some or all of its subordinates. So, even if you are a subordinate organization, unless you were included on your parent organization's group return, you still will be required to file your own return. To verify whether you are part of a group ruling, and whether a group return was properly filed on your behalf, call Customer Account Services at 1-877-829-5500 (toll-free).

9. My organization was eligible to submit a Form 990-N for its 2009 tax year, but we missed our due date. What can we do to preserve our tax exemption?

Organizations that are eligible to submit Form 990-N for tax year 2009 and that have due dates on or before May 17, 2010, June 15, 2010, July 15, 2010, August 16, 2010, or September 15, 2010, may submit [Form 990-N](#) online by the extended due date of October 15, 2010 to avoid [automatic revocation](#).

If it chooses, your organization may file a paper Form 990-EZ or Form 990 in lieu of its 2009 Form 990-N by October 15, 2010. You should send the paper return to the address below and write the following on the top of the form and on the envelope:

Filed in lieu of Form 990-N

Internal Revenue Service
M/S 1114
P.O. Box 12610
Ogden, UT 84412

10. My organization is eligible to submit a Form 990-N for 2009, but it wasn't eligible to submit Form 990-N in 2007 and 2008. What should we do?

Submit your 2009 Form 990-N by October 15, 2010.

11. **My organization is eligible to submit the 990-N, but when we attempted to submit it, we received an error message indicating the EIN was incorrect. What should we do?**

If you are certain that your EIN was entered correctly, the IRS may not have your organization listed as a tax-exempt organization. This may be because your application for tax exemption is pending or you did not need to apply for tax exemption. If this is the case, an officer of the organization should contact Customer Account Services at 1-877-829-5500 (toll-free) and ask that the organization be set up to allow it to submit the e-Postcard.

12. **My organization is on the At-Risk List, but we are required to file a Form 990 (or Form 990-PF.) Can we qualify for the Filing Relief Program?**

No. Although the At-Risk list includes all types of 990-series filers, only organizations eligible to submit a 990-N or file a 990-EZ are eligible to participate in the Filing Relief Program. However, if you are a 990 or 990-PF filer and your 2009 return due date has not passed yet, you still have the opportunity to file now and avoid automatic revocation.

13. **My organization was eligible to submit a Form 990-N for the 2007 and 2008 tax years, but our gross receipts were greater in tax year 2009, requiring us to file a Form 990-EZ. Is there any relief for us?**

Yes. An organization like yours can take advantage of a [one-time voluntary compliance program](#) to come back into compliance and avoid automatic revocation if—

- It failed to file for 2007, 2008, and 2009;
- It was [eligible](#) to file a Form 990-EZ for 2009; and
- It was eligible to file either a Form 990-N or Form 990-EZ for 2007 and 2008.

14. **What do we have to do to participate in the Voluntary Compliance Program?**

To participate in the Voluntary Compliance Program, an organization must:

- File complete (all required schedules and attachments) paper Forms 990-EZ or, at your option, Forms 990 for its [2007](#), [2008](#) and [2009](#) tax years by the extended due date of October 15, 2010;
- Submit a signed [checklist](#) agreeing to the terms of the voluntary compliance program; and
- Submit a check to the “U.S. Treasury” for the correct compliance fee.

An organization should mail the returns, checklist, and payment, in a single envelope, to the address below and write the following on the top of each form submitted and on the envelope: **Filing Relief VCP**

Internal Revenue Service
M/S 1114
PO Box 12610
Ogden, UT 84412

If any of the three required information returns are incomplete, the checklist is not signed or missing, or if the [compliance fee check](#) is not for the correct amount, your organization’s request to participate in the VCP will be rejected and your organization may be automatically revoked.

15. What is the compliance fee?

The compliance fee is required for participation in the voluntary compliance program (VCP). The compliance fee is in lieu of taxes, penalties and interest that otherwise would be incurred by reason of the non-filing of the annual information returns required under section 6033 of the Internal Revenue Code. Paying the compliance fee does not affect liability for any taxes that would be imposed, even if you had filed the returns, including but not limited to unrelated business income and employment taxes.

The organization must submit with its [request to participate in the VCP](#) a check payable to "U.S. Treasury" in the applicable amount:

If your gross receipts as reported on your 2009 information return are...	Amount of compliance fee is . . .
\$100,000 or less	\$100
\$100,001 to \$200,000	\$200
\$200,001 to \$499,999	\$500

16. If the IRS cashes my compliance fee check, does that mean my organization qualified for the voluntary compliance program and is no longer in danger of automatic revocation?

Not necessarily. The IRS must deposit checks within 24 hours of receipt. Once the IRS reviews your entire submission, it will send you a letter either accepting or rejecting your organization's submission for the voluntary compliance program.

17. My organization is eligible to file a Form 990-EZ (or submit a Form 990-N), but we had to prepare a Form 990 for our state. Can we file the Form 990 instead of the Form 990-EZ for the voluntary compliance program, or must we also file a Form 990-EZ?

In order to participate in the [voluntary compliance program](#), the organization must have been [eligible](#) to file a Form 990-EZ (or submit Form 990-N) for each tax year beginning in 2007, 2008 and 2009. If the organization chooses to file a Form 990 for any of the years in question (regardless of reason: state law requirement, donor request, etc.), the Form 990 may be filed instead of a Form 990-EZ, so long as the Form 990 is complete.

18. My organization is required to file a Form 990 or a Form 990-PF for one of the three years. Are we able to participate in the voluntary compliance program?

No. Organizations that are or were *required* to file a Form 990 or Form 990-PF for tax years 2007, 2008 or 2009 are not eligible to participate in the voluntary compliance program and automatically are revoked if they fail to file, as of the due date of their third consecutive annual return.

19. My organization is eligible to participate in the Filing Relief Program. Can we file Form 8868, *Application for Extension to File an Exempt Organization Return*, and request an extension to file beyond October 15, 2010?

No. [Form 8868](#) may only be filed for a single tax return whose due date has not passed.

- 20. My organization appeared on the List of Organizations At Risk of Automatic Revocation of Tax-Exempt Status, but we took advantage of the filing relief programs. Will the list be updated to show that my organization is no longer on the list?**

No. The [List of Organizations At Risk of Automatic Revocation of Tax-Exempt Status](#) was generated as of June 30, 2010 as a one-time posting and it will not be updated. If your organization is eligible to participate in the [one-time filing relief program](#), and did so in a timely manner, it will not have its tax-exempt status automatically revoked, and the organization will not appear on an IRS published list of revoked organizations.

Consequences of Automatic Revocation

- 21. My donors are concerned because our organization's name appeared on the At-Risk List. Are their contributions to our organization still tax-deductible?**

Donors who contribute to an organization on the At-Risk List can deduct contributions made until the organization's name appears on the IRS published list of revoked organizations.

- 22. I made a contribution to a 501(c)(3) charity that now appears on the List of Organizations At Risk of Automatic Revocation of Tax-Exempt Status. Can I still take a charitable tax deduction for my donation if the organization loses its exempt status?**

Yes. The IRS publishes a list of organizations it has determined are eligible to receive tax-deductible charitable contributions in [Publication 78](#). Donors who contribute to organizations eligible to receive tax deductible contributions are generally entitled to rely on that determination until the IRS publishes an announcement that the organization's tax-exemption has been revoked. The At-Risk List is not an announcement of revocation, so you can take a tax deduction for contributions made before the IRS publishes the name of the organization on the list of revoked organizations. The IRS will begin publishing the list of revoked organizations on the www.IRS.gov website early in 2011.

Of course, you also can help At-Risk organizations you support by contacting them and encouraging them to participate in the filing relief program to avoid revocation.

- 23. My organization, which is not a private foundation, is on the List of Organizations At Risk of Automatic Revocation of Tax-Exempt Status, but the organization no longer exists. What do I need to do?**

Terminated Organizations with Assets

If your organization has terminated, but still has assets and meets the filing requirements for a Form 990 or Form 990-EZ, the organization should file a final annual information return and explain how the assets will be distributed in accordance with your organization's articles of incorporation. If your organization meets the filing requirements for filing the 990-N, the organization should file a final Form 990-N indicating this is a final return and follow its articles of incorporation for the appropriate distribution of its assets. Please contact your [state's office for nonprofits](#) with any questions you might have regarding the proper distribution of your assets.

Terminated Organizations Without Assets

If your organization terminated and has no more assets, you have two choices. First, you can take no action and the organization will be considered automatically revoked. An organization that is automatically revoked for not filing will be removed from IRS records of tax-exempt organizations as of the due date of its third consecutive annual return, its name will be published on the IRS list of revoked organizations, and its name will not appear in the next issue of Publication 78. If, however, your organization decides that it prefers not to be publicly listed as revoked for failing to file returns, it should file a return for the most recent tax year and indicate on the filing that it is terminating and this is the organization's final return.

24. What does it mean if my organization is automatically revoked? Can we still receive tax deductible donations?

If your organization is automatically revoked, it is no longer tax-exempt, and may be required to file one of the following forms with the IRS at the address listed in the instructions and pay any applicable income taxes:

- [Form 1120](#), *U.S. Corporation Income Tax Return*, due by the 15th day of the 3rd month after the end of your organization's tax year, or
- [Form 1041](#), *U.S. Income Tax Return for Estates and Trusts*, due by the 15th day of the 4th month after the end of your organization's tax year.

In addition, an organization that is automatically revoked is not eligible to receive tax-deductible contributions and will be removed from [Publication 78](#). Organizations will be informed of the revocation by letter. A list of revoked organizations will be published on IRS.gov in early 2011. Donors who contribute to an organization can deduct contributions made until the organization's name appears on the IRS list of revoked organizations.

25. What can I do to have my organization's tax-exempt status reinstated?

If your organization is automatically revoked, it must [apply](#) to have its tax-exempt status reinstated, even if the organization was not originally required to file an application for exemption. For its tax-exempt status to be reinstated, it must:

- Apply for recognition of tax exemption (e.g., [Form 1023](#) or [Form 1024](#)), regardless of whether the organization was originally required to apply for exemption; and
- Pay the appropriate [user fee](#).

26. How do I submit my application to have my organization's tax-exempt status reinstated?

Write "Automatically Revoked" on top of the application and the envelope and send to:

Internal Revenue Service
P.O. Box 12192
Covington, KY 41012-0192

27. What is the filing fee for my organization's application for reinstatement of tax-exempt status?

The fee for an application for reinstatement is the same as an application for a new organization. The amount of the fee generally is determined by the organization's annual gross receipts for the preceding four years.

- less than \$10,000 - \$400 fee
- \$10,000 or greater - \$850 fee

28. Are there any special requirements for my organization's application for reinstatement of tax-exempt status?

Yes. For all Forms 1023 and 1024 applications, write "Automatically Revoked" at the top of the application.

If you are filing Form 1023, you must check "yes" on Part VII, Item 2, to affirmatively answer the question, "Are you submitting this application more than 27 months after the end of the month in which you were legally formed?"

29. Can my organization receive expedited processing of our application for reinstatement of tax-exempt status?

An organization that is automatically revoked can request expedited handling of its re-application just as any other applicant for exemption, by demonstrating a compelling reason for the IRS to approve such a request. See [Applying for Exemption: Expediting Application Processing](#) for further information.

30. Must my organization obtain a new employer identification number (EIN) for its application for reinstatement of tax-exempt status?

No. Your organization should keep its same employer identification number.

31. On what date is automatic revocation effective?

The tax-exempt status of an organization that fails to file a required annual return or submit a required electronic notice for three consecutive years is automatically revoked, effective as of the filing due date of the third year.

The filing due date for an annual return or electronic notice is the 15th day of the 5th month after an organization's tax year ends or the extended due date, whichever is later. For more information about how to determine the filing due date for an organization, see [Return Due Dates for Exempt Organizations: Annual Returns](#).

32. Can the IRS "undo" my organization's automatic revocation?

No. If an organization does not file an annual return or submit the notice for three consecutive years, the organization is automatically revoked by operation of law, and not by a determination made by the IRS. To have its tax-exempt status reinstated, the organization must [file an application](#) for exemption.

- 33. If my organization, after being automatically revoked, applies for and has its tax-exempt status reinstated by the IRS, what is the effective date of the reinstated tax-exempt status?**

If your organization's tax-exempt status is [reinstated](#), the effective date of its reinstatement ordinarily will be the date the organization filed its application.

- 34. Is it possible to have my organization's tax-exempt status reinstatement effective as of the date its status was automatically revoked?**

If an organization wishes to request its tax-exempt status be effective retroactive to the date of revocation, it must submit a letter with its application setting forth a detailed explanation of the organization's reasonable cause for failing to file for three consecutive years. If, after reviewing the explanation, the IRS determines the organization had reasonable cause for failure to file, the reinstatement will be considered retroactive to the date of revocation.