

# I. ORGANIZATION OF THE NON-PROFIT AGENCY

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**Effective Date: April 21, 2008**

## D. TAX EXEMPT STATUS

Organizations which engage in non-profit activities are not automatically exempt from federal and state taxes because of the nature and purpose of the entity or the services provided. With the exception of several types of organizations (churches, subordinate organizations, etc.) which are exempt under Section 508(c) of the Internal Revenue Code (IRC), all other organizations must make formal application for exempt status.

**FORM 1023 - APPLICATION FOR RECOGNITION OF EXEMPTION** is used by organizations seeking exemption under Section 501 (c)(3) because the organizations provide one or more of a wide range of public service benefits such as religious, educational, charitable, scientific, prevention of cruelty to children and animals, etc.

**Section 501(c)(3)** organizations are exempt from federal and state taxes and federal unemployment taxes (FUTA), are eligible for preferred postal rates, can offer 403(b) annuity plans to employees, and, most importantly, contributions to such organizations are charitable deductions for individuals and corporations.

**FORM 1024 - APPLICATION FOR RECOGNITION OF EXEMPTION** is used by organizations seeking exemption under other sections of 501 (c) such as civic leagues (c)(4), labor unions (c)(5), business leagues (c)(6), etc.

**IRS Publication 557 - TAX EXEMPT STATUS FOR YOUR ORGANIZATION** provides excellent guidance to organizations seeking recognition of exemption from federal income tax. The filing of either FORM 1023 or FORM 1024 represents a complicated process and should not be attempted by an organization without the assistance, and advice of a qualified person. Also, a number of documents, such as Articles of Incorporation, by-laws, financial reports and data, etc., must be included with the FORM when submitted to the Internal Revenue Service for consideration.

**Section 501(c)(3)** organizations should make application (FORM 1023) for tax exemption **within 15 months** from the end of the month in which they were organized. When the application is filed within the specified time, any exemption will be recognized retroactively to the organizing date.

It is possible to obtain a ruling or determination letter in advance of operations if the proposed operations are described in sufficient detail so that a reasonable conclusion may be reached that the organization clearly meets the requirements of a particular section of the law. Such a description must be specific and describe the activities that the organization expects to engage in, the expected source of funds, and the nature of anticipated expenditures.

It is important to show whether the source of funds will be public or private, as well as the nature of such income. For example, specific information should be given about plans to obtain contributions, grants, or income from fund-raising activities and/or investments. Anticipated expenditures should differentiate between those for furtherance of the exempt purpose and those required for administrative purposes. Criteria to be used to select recipients of exempt purpose expenditures and/or activities should be included.

If the submitted information is not in sufficient detail to allow the Internal Revenue Service to determine the exempt status of an organization, then it will be necessary to wait for a detailed statement of actual operations before the ruling or determination letter is granted.

Non-profit organizations exempt under Section 501 (c) of the Internal Revenue Code are still subject to certain annual filing with the Internal Revenue Service and the State Department of Revenue. An organization is required to report its income-producing activities and reflect how the activities and expenditures are related to its exempt purpose.

All exempt organizations, except private foundations, farmers' cooperatives, homeowners' associations, and political organizations, should file FORM-990 no later than the 15th day of the fifth month following the close of the year. The abbreviated FORM 990-EZ, rather than the FORM-990, can be used by entities with gross receipts under \$100,000 and total assets less than \$250,000 at year-end.

Small tax-exempt non-profit organizations must now fill a short electronic form, called Form 990-N, with the IRS. Form 990-N, also called the E-postcard, is a short electronic notice that most small, tax-exempt organizations (such as [501\(c\) 3s](#)) have to file with the IRS, as of 2008, for activities from January 1, 2007 onward. Form 990-N is filed if your non-profit organization:

- Is Tax-exempt
- Has gross receipts of \$25,000 or less
- Is not required to file another IRS form such as Form 990, Form 990-EZ, or Form 990-PF
- Is not part of a group return

Then the organization must file the e-postcard with the IRS. Your organization may choose to submit a completed IRS [Form 990 or Form 990-EZ](#) instead. However, the Form 990-N is much simpler and quicker to fill out. The IRS's e-postcard is short and simple. Here is what you must provide: Organization's name, Any other names your organization uses, Organization's mailing address, Organization's website address (if applicable), Organization's employer identification number (EIN), Name and address of a principal officer of your organization, Organization's annual tax period, A statement that your organization's annual gross receipts are still normally \$25,000 or less, If applicable, indicate if your organization is going out of business. Before, most small non-profits (grossing less than \$25,000 a year) did not have to file anything with the IRS. The Pension Protection Act of 2006 (PPA) requires that you file annually ensuring that the IRS and potential donors can access up-to-date information on your organization.

The IRS requires that the e-postcard be filed electronically. There is no paper form. You must be able to access the internet, but no software or download is required. If your non-profit does not have a computer, you will be able to fill out Form 990-N using a computer at a public library. Form 990-N must be filed every year; however there is no one due date for filing the e-postcard. Instead, you must file "by the 15th day of the 5th month after" your non-profits' fiscal year ends. For instance, if your fiscal year is the same as the calendar year (i.e., ending on December 31st), your organization does not need to file the e-postcard until May 15. If your non-profit fails to file the e-postcard for three consecutive years, the IRS will revoke the organization's tax-exempt status.

In addition to either the FORM-990 or the 990-EZ, exempt organizations also must file FORM 990-T if more than \$1,000 in unrelated business income was received during the year. Unrelated business income (UBI) is generated when an exempt organization engages in a trade or business

that is not related to the exempt purpose of the organization. UBI is a complex subject and is beyond the scope of this manual

However, organizations should obtain a copy of IRS Publication 598-**TAX ON UNRELATED BUSINESS INCOME OR EXEMPT ORGANIZATION** which is an excellent source of information.

Upon receipt of the tax-exempt status from the Internal Revenue Service, the non-profit organization should submit a copy of the exemption to the North Carolina Department of Revenue and request State exemption. **FORM CD-427: RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX** is used to annually report the exempt organization's activities to the State.