IV. ACCOUNTING

Effective Date: April 21, 2008

A. FEDERAL AND STATE TAX FILING REQUIREMENTS

An annual return on FORM 990-Return of Organization Exempt from Income Tax is required from most organizations which have been granted exempt status under Section 501(c) of the Internal Revenue Code. The FORM 990 is due by the 15th day of the 5th month after the close of the organization's tax year.

In the case of small organizations with gross receipts under $100,000 and total assets of less than $250,000 at year-end, an abbreviated annual return on FORM 990-EZ can be filed rather than the more complex FORM 990. However, the due date remains the 15th day of the 5th month.

Small tax-exempt non-profit organizations (Gross receipts of $25,000 or less) 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 (ie, 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.

When it becomes evident that an exempt organization will be unable to complete and file its FORM 990 (or FORM 990-EZ) by the due date, FORM 2758 should be filed to request an extension of time to file the required annual return. Generally the Internal Revenue Service will not grant an extension of time for more than 90 days unless sufficient need for an extended period can be clearly justified by the organization. In no event will an extension of more than six months be granted.

The importance of timely filing the required annual return is demonstrated by the fact that a penalty of $20 per day, not to exceed the smaller of $10,000 or 5% of the organization's gross receipts for the year, can be assessed against the exempt organization unless a timely extension was filed or the organization can show that the late filing was due to reasonable cause. In addition, the penalty can also be charged if an organization files either an incomplete return or furnishes incorrect information on the return.

If an exempt organization has gross income from an unrelated trade or business of $1,000 or more, the organization must file FORM 990-T (Exempt Organization Business Income Tax Return) and pay the tax due. The return is due by the 15th day of the 5th month following the close of the organization's tax year.

Unrelated income is the gross income derived from any trade or business that is regularly carried on and is not substantially related to the organization's exempt purpose or function aside from the organization's need for funds or income or the use which the organization makes of the profits. Not substantially related means that the activity which produces the income does not contribute importantly to the exempt purpose of the organization, other than the need for funds to support the organization's activities. It should be noted that whether or not an activity contributes importantly depends on the facts and circumstances of each case.

An exempt organization will be subject to a penalty for failure to file a required FORM 990-T, penalty for late filing, and interest and penalty for late payment of tax due.

With regards to State of North Carolina filing requirements, exempt organizations must file either federal FORM 990 or FORM 990-EZ. marked “State Copy”. Tax-exempt organizations with unrelated business income must complete the income tax schedules of the North Carolina Corporate Franchise and Income Tax Return (Form CD-405) and file the return by the fifteenth day of the fifth month after its year end and pay tax at the statutory corporate rate.

Since federal and state tax filings for exempt organizations can be quite complex and result in severe penalty charges if not handled properly, it is important for not-for-profit organizations to retain the services of a qualified CPA to serve as tax advisor to the entity.

The following types of organizations exempt from tax under section 501(a) do not have to file Form 990 (or Form 990-EZ) with the IRS:

> **1.** A church, an interchurch organization of local units of a church, a convention or association of churches, an integrated auxiliary of a church (such as a men's or women's organization, religious school, mission society, or youth group), or an internally supported church-controlled organization described in Revenue Procedure (Rev. Proc.) 86-23 1986 - 1 C.B. 564.

2. Church-affiliated organizations that are exclusively engaged in managing funds or maintaining retirement programs and are described in Rev. Proc. 96-10, 1996-1 C.B. 577.

3. A school below college level affiliated with a church or operated by a religious order.

4. A mission society sponsored by, or affiliated with, one or more churches or church denominations. If more than half of the society's activities are conducted in, or directed at persons in foreign countries.

5. An exclusively religious activity of any religious order.

6. A state institution whose income is excluded from gross income under section 115.

7. An organization described in section 501 (c)(1). Section 501 (c)(1) organizations are corporations organized under an Act of Congress that are:

- Instrumentalities of the United States, and
- Exempt from Federal Income Taxes.

8. A private foundation exempt under section 501 (c)(3) and described in section 509 (a). (Required to file Form 990-PF, Return of Private Foundation.)

9. A black lung benefit trust described in section 501(c)(21). (Required to file Form 990 - BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons.)

10. A stock bonus, pension, or profit-sharing trust that qualifies under section 401. (See IRS Form 5500, Annual Return/Report of Employee Benefit Plan.)

11. A religious or apostolic organization described in section 501(d). (Required to file IRS Form 1065, U. S. Partnership Return of Income.)

12. A foreign organization whose annual gross receipts from sources within the U. S. are normally $25,000 or less (Rev. Proc. 94-17, 1994-1 C.B. 579). See the discussion on the $25,000 gross receipts test in General Instruction C. See also General Instruction A if the organization received a Form 990 Package.

13. A governmental unit or affiliate of a governmental unit described in Rev. Proc. 95-48, 1995-2 C.B. 418.

14. A political organization that is:

- A state or local committee of a political party;
- A political committee of a state or local candidate;
- A caucus or association of state or local officials;
- An authorized committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a candidate for federal office;

• A national committee (as defined in section 301(6) of the Federal Election Campaign Act of 1971) of a political party;

• A United States House of Representative or United States Senate campaign committee of a political party committee;

• Required to report under the Federal Election Campaign Act of 1971 as a political committee (as defined in section 301(4) of such Act); or

• An organization described under section 6033(g)(3)(G).

15. An organization whose annual gross receipts are normally $25,000 or less (but see General Instruction A, if the organization received a Form 990 Package). (Required to file Form 990-N, E-postcard)

a) Calculating gross receipts. The organization’s gross receipts are the total amount it received from all sources during its annual accounting period, without subtracting any costs or expenses.

i. Form 990. Gross receipts are the sum of lines 1d, 2, 3, 4, 5, 6a, 7, 8a (both columns), 9a, 10a, and 11 of Part 1. Gross receipts can also be calculated by adding back the amounts on lines 6b, 8b (both columns), 9b, and 10b to the total revenue reported on line 12.

ii. Form 990-EZ. Gross receipts are the sum of lines 1, 2, 3, 4, 5a, 6a, 7a, and 8 of Part 1. Gross receipts can also be calculated by adding back the amounts on lines 5b, 6b, and 7b to the total revenue reported on line 9.

b) Gross receipts when acting as agent. If a local chapter of a section 501(c)(8) fraternal organization collects insurance premiums for its parent lodge and merely sends those premiums to the parent without asserting any right to use the funds or otherwise deriving any benefit from collecting them, the local chapter should not include the premiums in its gross receipts. The parent lodge should report them instead. The same treatment applies in other situations in which one organization collects funds merely as an agent for another.

c) $25,000 gross receipts test. An organization’s gross receipts are considered normally to be $25,000 or less if the organization is:

i. Up to a year old and has received, or donors have pledged to give, $37,500 or less during its first tax year;

ii. Between 1 and 3 years old and averaged $30,000 or less in gross receipts during each of its first 2 tax years; or

iii. Three (3) years old or more and averaged $25,000 or less in gross receipts for the immediately preceding 3 tax years (including the year for which the return would be filed).