

Publication 557

Tax-Exempt Status for Your Organization

(Rev. January 2025)

For use in preparing

2025 Returns

Volume 4 of 8



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The following is an acceptable example of the notice:

NOTICE OF NONDISCRIMINATORY POLICY AS TO STUDENTS

The M School admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It doesn't discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.

Method two. The school can use the broadcast media to publicize its racially nondiscriminatory policy if this use makes the policy known to all segments of the general community the school serves.

If the school uses this method, it must provide documentation showing that the means by which this policy was communicated to all segments of the general community was reasonably expected to be effective. In this case, appropriate documentation would include copies of the tapes or scripts used and records showing that there was an adequate number of announcements. The documentation also would include proof that these announcements were made during hours when they were likely to be communicated to all segments of the general community, that they were long enough to convey the message clearly, and that they were broadcast on radio or television stations likely to be listened to by substantial numbers of members of all racial segments of the general community.

Announcements must be made during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period.

Method three. Rev. Proc. 2019-22, 2019-22 I.R.B. 1260 modifies Rev. Proc. 75-50, 1975-2 C.B. 587, to reflect technological advances since its publication and provides a third method for a private school to satisfy the requirement contained in section 4.03 of the revenue procedure by using its Internet website to publicize the school's racially nondiscriminatory policy as to students. To satisfy the requirement using this method, the school may display a notice (consisting of the same language as in Method 1) of its racially nondiscriminatory policy on its primary publicly accessible Internet homepage at all times during its taxable year (excluding temporary outages due to website maintenance or technical problems)

in a manner reasonably expected to be noticed by visitors to the homepage. See Rev. Proc. 2019-22 for more information about satisfying the publicity requirement using this method.

Exceptions. The publicity requirements won't apply in the following situations.

First, if for the preceding 3 years the enrollment of a parochial or other church-related school consists of students at least 75% of whom are members of the sponsoring religious denomination or unit, the school can make known its racially nondiscriminatory policy in whatever newspapers or circulars the religious denomination or unit uses in the communities from which the students are drawn. These newspapers and circulars can be distributed by a particular religious denomination or unit or by an association that represents a number of religious organizations of the same denomination.

If, however, the school advertises in newspapers of general circulation in the community or communities from which its students are drawn and the second exception (discussed next) doesn't apply to the school, then it must comply with either of the publicity requirements explained earlier.

Second, if a school customarily draws a substantial percentage of its students nationwide, worldwide, from a large geographic section or sections of the United States, or from local communities, and if the school follows a racially nondiscriminatory policy as to its students, the school may satisfy the publicity requirement by complying with the instructions explained earlier under *Policy statement*.

The school can demonstrate that it follows a racially nondiscriminatory policy either by showing that it currently enrolls students of racial minority groups in meaningful numbers or, except for local community schools,

when minority students aren't enrolled in meaningful numbers, that its promotional activities and recruiting efforts in each geographic area were reasonably designed to inform students of all racial segments in the general communities within the area of the availability of the school. The question as to whether a school demonstrates such a policy satisfactorily will be determined on the basis of the facts and circumstances of each case.

The IRS recognizes that the failure by a school drawing its students from local communities to enroll racial minority group students may not necessarily indicate the absence of a racially nondiscriminatory policy when there are relatively few or no such students in these communities. Actual enrollment is, however, a meaningful indication of a racially nondiscriminatory policy in a community in which a public school or schools became subject to a desegregation order of a federal court or are otherwise

expressly obligated to implement a desegregation plan under the terms of any written contract or other commitment to which any federal agency was a party.

The IRS encourages schools to satisfy the publicity requirement by using either of the methods described earlier, even though a school considers itself to be within one of the *Exceptions*. The IRS believes that these publicity requirements are the most effective methods to make known a school's racially nondiscriminatory policy. In this regard, it is each school's responsibility to determine whether either of the exceptions applies. Such responsibility will prepare the school, if it is audited by the IRS, to demonstrate that the failure to publish its racially nondiscriminatory policy in accordance with either one of the publicity requirements was justified by one of the exceptions.

Also, a school must be prepared to demonstrate that it has publicly disavowed or repudiated any statements purported to have been made on its behalf (after November 6, 1975) that are contrary to its publicity of a racially nondiscriminatory policy as to students, to the extent that the school or its principal official was aware of these statements.

Facilities and programs. A school must be able to show that all of its programs and facilities are operated in a racially nondiscriminatory manner.

Scholarship and loan programs. As a general rule, all scholarship or other comparable benefits obtainable at the school must be offered on a racially nondiscriminatory basis. This must be known throughout the general community being served by the school and should be referred to in its publicity.

Financial assistance programs, as well as scholarships and loans made under financial assistance programs, that favor members of one or more racial minority groups and that don't significantly detract from or are designed to promote a school's racially nondiscriminatory policy won't adversely affect the school's exempt status.

Certification. An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students must certify annually, under penalties of perjury, on Schedule E (Form 990) or Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt From Federal Income Tax, whichever applies, that to the best of their knowledge and belief the school has satisfied all requirements that apply, as previously explained.

Failure to comply with the guidelines ordinarily will result in the proposed revocation of the exempt status of a school.



Recordkeeping requirements. With certain exceptions, given later, each exempt private school must maintain the following records for a minimum period of 3 years, beginning with the year after the year of compilation or acquisition.

1. Records indicating the racial composition of the student body, faculty, and administrative staff for each academic year.
2. Records sufficient to document that scholarship and other financial assistance is awarded on a racially nondiscriminatory basis.
3. Copies of all materials used by or on behalf of the school to solicit contributions.

4. Copies of all brochures, catalogs, and advertising dealing with student admissions, programs, and scholarships. (Schools advertising nationally or in a large geographic segment or segments of the United States need only maintain a record sufficient to indicate when and in what publications their advertisements were placed.)

The racial composition of the student body, faculty, and administrative staff can be determined in the same manner as that described at the beginning of this section. However, a school can't discontinue maintaining a system of records that reflect the racial composition of its students, faculty, and administrative staff used on November 6, 1975, unless it substitutes a different system that compiles substantially the same information, without advance approval of the IRS.

The IRS doesn't require that a school release any personally identifiable records or personal information except in accordance with the requirements of the Family Educational Rights and Privacy Act of 1974. Similarly, the IRS doesn't require a school to keep records prohibited under state or federal law.

Exceptions. The school doesn't have to independently maintain these records for IRS use if both of the following are true.

1. Substantially the same information has been included in a report or reports filed with an agency or agencies of federal, state, or local governments, and this information is current within 1 year.
2. The school maintains copies of these reports from which this information is readily obtainable.

If these reports don't include all of the information required, as discussed earlier, records providing such remaining information must be maintained by the school for IRS use.

Failure to maintain records. Failure to maintain or to produce the required records and information, upon proper request, will create a presumption that the organization has failed to comply with these guidelines.

See [Rev. Proc. 2019-22](#) for more information on private school's racially nondiscriminatory policy requirements.

Organizations Providing Insurance

An organization described in sections 501(c)(3) or 501(c)(4) may be exempt from tax only if no substantial part of its activities consists of providing commercial-type insurance.

However, this rule doesn't apply to state-sponsored organizations described in sections 501(c)(26) or 501(c)(27), which are discussed in chapter 4, or to charitable risk pools, discussed next.

Charitable Risk Pools

A charitable risk pool is treated as organized and operated exclusively for charitable purposes if it satisfies all of the following requirements:

1. Is organized and operated only to pool insurable risks of its members (not including risks related to medical malpractice) and to provide information to its members about loss control and risk management,
2. Consists only of members that are section 501(c)(3) organizations exempt from tax under section 501(a),
3. Is organized under state law authorizing this type of risk pooling,

4. Is exempt from state income tax (or will be after qualifying as a section 501(c)(3) organization),
5. Has obtained at least \$1,000,000 in startup capital from nonmember charitable organizations,
6. Is controlled by a board of directors elected by its members, and
7. Is organized under documents requiring that:
 - a. Each member be a section 501(c)(3) organization exempt from tax under section 501(a),
 - b. Each member that receives a final determination that it no longer qualifies under section 501(c)(3) notify the pool immediately, and

- c. Each insurance policy issued by the pool provide that it won't cover events occurring after a final determination described in (b).

Other Section 501(c)(3) Organizations

In addition to the information required for all organizations, as described earlier, you should include any other information described in this section.

Charitable Organizations

If your organization is applying for recognition of exemption as a charitable organization, it must

show that it is organized and operated for purposes that are beneficial to the public interest. Some examples of this type of organization are those organized for:

- Relief of the poor, the distressed, or the underprivileged;
- Advancement of religion;
- Advancement of education or science;
- Erection or maintenance of public buildings, monuments, or works;
- Lessening the burdens of government;
- Lessening of neighborhood tensions;
- Elimination of prejudice and discrimination;
- Defense of human and civil rights secured by law; and
- Combating community deterioration and juvenile delinquency.

The rest of this section contains a description of the information to be provided by certain specific organizations.

This information is in addition to the required inclusions described in chapter 1, and other statements requested on Form 1023 or 1023-EZ. Each of the following organizations must submit the information described.

Charitable organization supporting education. Submit information showing how your organization supports education — for example, contributes to an existing educational institution, endows a professorial chair, contributes toward paying teachers' salaries, or contributes to an educational institution to enable it to carry on research.

Scholarships. If the organization awards or plans to award scholarships, complete Schedule H of Form 1023. Also, submit the following:

1. Criteria used for selecting recipients, including the rules of eligibility;
2. How and by whom the recipients are or will be selected;

3. If awards are or will be made directly to individuals, whether information is required assuring that the student remains in school;
4. If awards are or will be made to recipients of a particular class, for example, children of employees of a particular employer—
 - a. Whether any preference is or will be accorded an applicant by reason of the parent's position, length of employment, or salary;
 - b. Whether as a condition of the award the recipient must upon graduation accept employment with the company; and
 - c. Whether the award will be continued even if the parent's employment ends.

5. A copy of the scholarship application form and any brochures or literature describing the scholarship program.

Hospital. If you are organized to operate a charitable hospital, complete and attach Section I of Schedule C, Form 1023.

If your hospital was transferred to you from proprietary ownership, complete and attach Schedule G of Form 1023. You must attach a list showing:

1. The names of the active and courtesy staff members of the proprietary hospital, as well as the names of your medical staff members after the transfer to nonprofit ownership; and
2. The names of any doctors who continued to lease office space in the hospital after its transfer to nonprofit ownership and the amount of rent paid.

Submit also an appraisal showing the fair rental value of the rented space.

Clinic. Schedule C, Form 1023, is also designed to encompass outpatient clinics. If you are organized to operate a clinic, provide information regarding:

1. A description of the facilities and services;
2. To whom the services are offered, such as the public at large or a specific group;
3. How charges are determined, such as on a profit basis, to recover costs, or at less than cost;
4. By whom administered and controlled;
5. Whether any of the professional staff (that is, those who perform or will perform the clinical services) also serve or will serve in an administrative capacity; and

6. How compensation paid to the professional staff is or will be determined.

Organization providing loans. If you make, or will make, loans for charitable and educational purposes, submit the following information.

1. An explanation of the circumstances under which such loans are, or will be, made.
2. Criteria for selection, including the rules of eligibility.
3. How and by whom the recipients are or will be selected.
4. Manner of repayment of the loan.
5. Security required, if any.
6. Interest charged, if any, and when payable.

7. Copies in duplicate of the loan application and any brochures or literature describing the loan program.

Public-interest law firms. If your organization was formed to litigate in the public interest (as opposed to providing legal services to the poor), such as in the area of protection of the environment, you should submit the following information.

1. How the litigation can reasonably be said to be representative of a broad public interest rather than a private one.
2. Whether the organization will accept fees for its services.
3. A description of the cases litigated or to be litigated and how they benefit the public generally.
4. Whether the policies and program of the organization are the responsibility of a board or committee

representative of the public interest, which is neither controlled by employees or persons who litigate on behalf of the organization nor by any organization that isn't itself an organization described in this chapter.

5. Whether the organization is operated, through sharing of office space or otherwise, in a way to create identification or confusion with a particular private law firm.
6. Whether there is an arrangement to provide, directly or indirectly, a deduction for the cost of litigation that is for the private benefit of the donor.

Acceptance of attorneys' fees. A nonprofit public-interest law firm can accept attorneys' fees in public-interest cases if the fees are paid directly by its clients and the fees aren't more than the actual costs incurred in the case.

Upon undertaking a representation, the organization can't withdraw from the case because the litigant is unable to pay the fee.

Firms can accept fees awarded or approved by a court or an administrative agency and paid by an opposing party if the firms don't use the likelihood or probability of fee awards as a consideration in the selection of cases.

All fee awards must be paid to the organization and not to its individual staff attorneys. Instead, a public-interest law firm can reasonably compensate its staff attorneys, but only on a straight salary basis. Private attorneys, whose services are retained by the firm to assist it in particular cases, can be compensated by the firm, but only on a fixed fee or salary basis.

The total amount of all attorneys' fees (court awarded and those received from clients) mustn't be more than 50% of the total cost of operations of the organization's legal functions, calculated over a 5-year period.

If, to carry out its program, an organization violates applicable canons of ethics, disrupts the judicial system, or engages in any illegal action, the organization will jeopardize its exemption.

Religious Organizations

To determine whether an organization meets the religious purposes test of section 501(c)(3), the IRS maintains two basic guidelines.

1. That the particular religious beliefs of the organization are truly and sincerely held.
2. That the practices and rituals associated with the organization's religious belief or creed aren't illegal or contrary to clearly defined public policy.

Therefore, your group (or organization) may not qualify for treatment as an exempt religious organization for tax purposes if its

actions, as contrasted with its beliefs, are contrary to well established and clearly defined public policy. If there is a clear showing that the beliefs (or doctrines) are sincerely held by those professing them, the IRS won't question the religious nature of those beliefs.

Churches. Although a church, its integrated auxiliaries, or a convention or association of churches isn't required to file Form 1023 to be exempt from federal income tax or to receive tax deductible contributions, the organization may find it advantageous to obtain recognition of exemption. See Form 1023, Schedule A. In this event, you should submit information showing that your organization is a church, synagogue, association or convention of churches, religious order, or religious organization that is an integral part of a church, and that it is engaged in carrying out the function of a church.

In determining whether an admittedly religious organization is also a church, the IRS doesn't accept every assertion that the organization is a church. Because beliefs and practices vary widely, there is no single definition of the word church for tax purposes. The IRS considers the facts and circumstances of each organization applying for church status.

Convention or association of churches. Any organization that is otherwise a convention or association of churches won't fail to qualify as a church merely because the membership of the organization includes individuals as well as churches or because the individuals have voting rights in the organization.

Integrated auxiliaries. An organization is an integrated auxiliary of a church if all the following are true.

1. The organization is described both in sections 501(c)(3) and 509(a)(1), 509(a)(2), or 509(a)(3).
2. It is affiliated with a church or a convention or association of churches.
3. It is internally supported. An organization is internally supported unless both of the following are true.
 - a. It offers admissions, goods, services, or facilities for sale, other than on an incidental basis, to the general public (except goods, services, or facilities sold at a nominal charge or for a small part of the cost).
 - b. It normally gets more than 50% of its support from a combination of governmental sources, public solicitation of contributions, and receipts from the sale of admissions,

goods, performance of services, or furnishing of facilities in activities that aren't unrelated trades or businesses.

Special rule. Men's and women's organizations, seminaries, mission societies, and youth groups that satisfy (1) and (2) shown earlier are integrated auxiliaries of a church even if they aren't internally supported.

In order for an organization (including a church and religious organization) to qualify for tax exemption, no part of its net earnings can inure to any individual.

Although an individual is entitled to a charitable deduction for contributions to a church, the assignment or similar transfer of compensation for personal services to a church generally doesn't relieve a taxpayer of federal income tax liability on the compensation, regardless of the motivation behind the transfer.

Scientific Organizations

You must show that your organization's research will be carried on in the public interest. Scientific research will be considered to be in the public interest if the results of the research (including any patents, copyrights, processes, or formulas) are made available to the public on a nondiscriminatory basis; if the research is performed for the United States or a state, county, or municipal government; or if the research is carried on for one of the following purposes.

1. Aiding in the scientific education of college or university students.
2. Obtaining scientific information that is published in a treatise, thesis, trade publication, or in any other form that is available to the interested public.
3. Discovering a cure for a disease.

4. Aiding a community or geographical area by attracting new industry to the community or area, or by encouraging the development or retention of an industry in the community or area.

Scientific research, for exemption purposes, doesn't include activities of a type ordinarily incidental to commercial or industrial operations such as the ordinary inspection or testing of materials or products, or the designing or constructing of equipment, buildings, etc.

If you engage or plan to engage in research, submit all of the following.

1. An explanation of the nature of the research.
2. A brief description of research projects completed or presently being engaged in.
3. How and by whom research projects are determined and selected.

4. Whether you have contracted or sponsored research, or contemplated doing so, and, if so, names of past sponsors or grantors, terms of grants or contracts, together with copies of any executed contracts or grants.
5. Disposition made or to be made of the results of your research, including whether preference has been or will be given to any organization or individual either as to results or time of release.
6. Who will retain ownership or control of any patents, copyrights, processes, or formulas resulting from your research.
7. A copy of publications or other media showing reports of your research activities. Only reports of your research activities or those conducted on your behalf, as distinguished from those of your creators or members conducted in their individual capacities, should be submitted.

Literary Organizations

If your organization is established to operate a book store or engage in publishing activities of any nature (printing, publication, or distribution of your own material or that printed or published by others and distributed by you), explain fully the nature of the operations, including whether sales are or will be made to the general public, the type of literature involved, and how these activities are related to your stated purposes.

Amateur Athletic Organizations

There are two types of amateur athletic organizations that can qualify for tax-exempt status. The first type is an organization that fosters national or international amateur sports competition but only if none of its activities involve providing athletic facilities or equipment. The second type is a Qualified amateur sports organization (discussed below).

The difference is that a qualified amateur sports organization can provide athletic facilities and equipment.

Donations to either type of amateur athletic organization are deductible as charitable contributions on the donor's federal income tax return. However, no deduction is allowed if there is a direct personal benefit to the donor or any other person other than the organization.

Qualified amateur sports organization.

An organization will be a qualified amateur sports organization if it is organized and operated:

1. Exclusively to foster national or international amateur sports competition, and
2. Primarily to conduct national or international competition in sports or to support and develop amateur athletes for that competition.

The organization's membership can be local or regional in nature.

Prevention of Cruelty to Children or Animals

Examples of activities that may qualify this type of organization for exempt status are:

1. Preventing children from working in hazardous trades or occupations,
2. Promoting high standards of care for laboratory animals, and
3. Providing funds to pet owners to have their pets spayed or neutered to prevent overbreeding.

Private Foundations and Public Charities

It is important that you determine if your organization is a private foundation. Most organizations exempt from income tax (such as organizations described in section

501(c)(3)) are presumed to be private foundations unless they notify the IRS within a specified period of time that they meet the requirements of section 509(a) to be treated as other than a private foundation. This notice requirement applies to most section 501(c)(3) organizations regardless of when they were formed. See Form 1023, Part VII.

Private Foundations

Every organization that qualifies for tax exemption as an organization described in section 501(c)(3) is a private foundation unless it falls into one of the categories specifically excluded from the definition of that term (referred to in sections 509(a)(1), 509(a)(2), 509(a)(3), or 509(a)(4)). In effect, the definition divides these organizations into two classes, namely private foundations and public charities. Public charities are discussed later.

Organizations that fall into the excluded categories are generally those that either have broad public support or actively function in a supporting relationship to those organizations. Organizations that test for public safety are also excluded.

Application to IRS. Even if an organization falls within one of the categories excluded from the definition of private foundation, it will be presumed to be a private foundation, with some exceptions, unless it files a timely Form 1023 or Form 1023-EZ with the IRS showing it isn't a private foundation. This application requirement applies to an organization regardless of when it was organized. The only exceptions to this requirement are those organizations that are excepted from the requirement of filing Form 1023 or 1023-EZ as discussed, earlier, under *Organizations Not Required To File Form 1023.*

When to file application. If an organization has to file the application, it must do so within 27 months from the end of the month in which it was organized.

If your organization is newly applying for recognition of exemption as an organization described in this chapter (a section 501(c)(3) organization) and you wish to establish that your organization is a public charity rather than a private foundation, you must complete the applicable lines of Part VII of Form 1023 or Part IV of Form 1023-EZ. See *Application for Recognition of Exemption*, earlier in this chapter, for more information.

In determining the date on which a corporation is organized for purposes of applying for recognition of section 501(c)(3) status, the IRS looks to the date the corporation came into existence under the law of the state in which it is incorporated.

For example, where state law provides that existence of a corporation begins on the date its articles are filed by a certain state official in the appropriate state office, the corporation is considered organized on that date. Later nonsubstantive amendments to the enabling instrument won't change the date of organization, for purposes of the filing requirement.

Application filed late. An organization that states it is a private foundation when it files its application for recognition of exemption after the 27-month period will be treated as a section 501(c)(3) organization and as a private foundation only from the date it files its application, rather than the date that it was created or first became described in section 501(c)(3). The organization may obtain retroactive exemption, however, if it establishes that it qualifies for relief from the 27-month deadline.

An organization that states it is a publicly supported charity when it files its application for recognition of exemption after the 27-month period can't be treated as a section 501(c)(3) organization before the date it files the application, except as discussed above. Financial support received before that date can't be used for purposes of determining whether the organization is publicly supported. However, an organization that can reasonably be expected to meet the support requirements (discussed later under Public Charities) when it applies for tax-exempt status will be classified as a publicly supported charity and not a private foundation.

Excise taxes on private foundations.

There is an excise tax on the net investment income of most domestic private foundations. In addition, excise taxes may be imposed on the private foundation or disqualified persons if the foundation or disqualified persons have

engaged in certain transactions or activities. Managers may also be subject to excise tax for their role in approving the activity. See Chapter 5 for more information on excise taxes.

Governing instrument. A private foundation can't be tax exempt nor will contributions to it be deductible as charitable contributions unless its governing instrument contains special provisions in addition to those that apply to all organizations described in section 501(c)(3).

Sample governing instruments. The following samples of governing instrument provisions illustrate the special charter requirements that apply to private foundations. Draft A is a sample of provisions in articles of incorporation; Draft B, a trust indenture.

Draft A

General

1. The corporation will distribute its income for each tax year at a time and in a manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Revenue Code, or the corresponding section of any future federal tax code.
2. The corporation won't engage in any act of self-dealing, as defined in section 4941(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code.
3. The corporation won't retain any excess business holdings, as defined in section 4943(c) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

4. The corporation won't make any investments in a manner as to subject it to tax under section 4944 of the Internal Revenue Code, or the corresponding section of any future federal tax code.
5. The corporation won't make any taxable expenditures, as defined in section 4945(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Draft B

Any other provisions of this instrument notwithstanding, the trustees shall distribute its income for each tax year at a time and in a manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Any other provisions of this instrument notwithstanding, the trustees won't engage in any act of self-dealing as defined in section 4941(d) of the Internal Revenue Code, or the corresponding section of any future federal tax code; nor retain any excess business holdings as defined in section 4943(c) of the Internal Revenue Code, or the corresponding section of any future federal tax code; nor make any investments in a manner as to incur tax liability under section 4944 of the Internal Revenue Code, or the corresponding section of any future federal tax code; nor make any taxable expenditures as defined in section 4945 (d) of the Internal Revenue Code, or the corresponding section of any future federal tax code.

Effect of state law. A private foundation's governing instrument will be considered to meet these charter requirements if valid provisions of state law have been enacted that:

1. Require it to act or refrain from acting so as not to subject the foundation to the taxes imposed on prohibited transactions, or
2. Treat the required provisions as contained in the foundation's governing instrument.

The IRS has published a list of states with this type of law. The list is in Revenue Ruling 75-38, 1975-1 C.B. 161 (or later update).

Public Charities

A private foundation is any organization described in Section 501(c)(3), unless it falls into one of the categories specifically excluded from the definition of that term in section 509(a), which lists four basic categories of exclusions. These categories are discussed under the Section 509(a)(1), 509(a)(2), 509(a)(3), and 509(a)(4)

Organizations headings that follow this introduction. See Section 509(a)(1) Organizations, etc.

If your organization falls into one of these categories, it isn't a private foundation and you should state this in Part VII of Form 1023 or Part IV of Form 1023-EZ.

If your organization doesn't fall into one of these categories, it is a private foundation and is subject to the applicable rules and restrictions until it terminates its private foundation status. Some private foundations also qualify as private operating foundations; these are discussed near the end of this chapter.

Generally speaking, a large class of organizations excluded under section 509(a)(1) and all organizations excluded under section 509(a) (2) depend upon a support test. This test is used to assure a minimum percentage of broad-based public support in the organization's total support

pattern. Thus, in the following discussions, when the one-third support test (see *Qualifying as Publicly Supported*, later) is referred to, it means the following fraction normally must equal at least one-third.

Qualifying support

Total support



Including items of support in qualifying support (the numerator of the fraction) or excluding items of support from total support (the denominator of the fraction) may decide whether an organization is excluded from the definition of a private foundation, and thus from the liability for certain excise taxes. It is very important to classify items of support correctly.

Section 509(a)(1) Organizations

Section 509(a)(1) organizations include:

1. A church or a convention or association of churches (section 170(b)(1)(A)(i)),
2. An educational organization such as a school or college (section 170(b)(1)(A)(ii)),
3. A hospital or medical research organization operated in conjunction with a hospital (section 170(b)(1)(A)(iii)),
4. Endowment funds operated for the benefit of certain state and municipal colleges and universities (section 170(b)(1)(A)(iv)),
5. A governmental unit (section 170(b)(1)(A)(v)),
6. An agricultural research organization (section 170(b)(1)(A)(xi)), and

7. A publicly supported organization (section 170(b)(1)(A)(vi)).

Church. The characteristics of a church are discussed earlier in this chapter under *Religious Organizations*.

Educational organizations. An educational organization that qualifies as a public charity under section 170(b)(1)(A)(ii) is one whose primary function is to present formal instruction that normally maintains a regular faculty and curriculum and that normally has a regularly enrolled body of pupils or students in attendance at the place where it regularly carries on its educational activities. The term includes institutions such as primary, secondary, preparatory, or high schools, and colleges and universities. It includes federal, state, and other publicly supported schools that otherwise come within the definition. It doesn't include organizations engaged in both educational and noneducational activities,

unless the latter are merely incidental to the educational activities. A recognized university that incidentally operates a museum or sponsors concerts is an educational organization. However, the operation of a school by a museum doesn't necessarily qualify the museum as an educational organization.

An exempt organization that operates a tutoring service for students on a one-to-one basis in their homes, maintains a small center to test students to determine their need for tutoring, and employs tutors on a part-time basis isn't an educational organization for these purposes. Nor is an exempt organization that conducts an internship program by placing college and university students with cooperating government agencies an educational organization.

Hospitals and medical research organizations. A hospital described in section 170(b)(1) (A)(iii) is an organization

whose principal purpose or function is to provide hospital or medical care or either medical education or medical research. A rehabilitation institution, outpatient clinic, or community mental health or drug treatment center may qualify as a hospital if its principal purpose or function is providing hospital or medical care. If the accommodations of an organization qualify as being part of a skilled nursing facility, that organization may qualify as a hospital if its principal purpose or function is providing hospital or medical care.

Exceptions. The term hospital doesn't include convalescent homes, homes for children or the aged, or institutions whose principal purpose or function is to train handicapped individuals to pursue a vocation. An organization that mainly provides medical education or medical research won't be considered a hospital, unless it is also actively engaged in providing medical or hospital care to patients on its premises or in its facilities,

on an in-patient or out-patient basis, as an integral part of its medical education or medical research functions.

A cooperative hospital service organization that meets the requirements of section 501(e) will qualify as a hospital.

Hospitals participating in provider-sponsored organizations. An organization can be treated as organized and operated exclusively for a charitable purpose even if it owns and operates a hospital that participates in a provider-sponsored organization, whether or not the provider-sponsored organization is tax exempt. For section 501(c)(3) purposes, any person with a material financial interest in the provider-sponsored organization is treated as a private shareholder or individual with respect to the hospital.

Requirements for section 501(c)(3) hospitals under the Affordable Care Act.

The Affordable Care Act (ACA), enacted March 23, 2010,

added requirements that hospital organizations must satisfy in order to be described in section 501(c)(3), as well as reporting and excise taxes.

Requirements for charitable hospitals.

Section 501(r), added to the Code by the ACA, imposes requirements on section 501(c)(3) organizations that operate one or more hospital facilities (hospital organizations). Each section 501(c)(3) hospital organization is required to meet four general requirements on a facility-by-facility basis:

- establish written financial assistance and emergency medical care policies,
- limit amounts charged for emergency or other medically necessary care to individuals eligible for assistance under the hospital's FAP,
- make reasonable efforts to determine whether an individual is eligible for

assistance under the hospital's FAP before engaging in extraordinary collection actions against the individual, and

- conduct a community health needs assessment (CHNA) at least once every 3 years. (This CHNA requirement is effective for tax years beginning after March 23, 2012).

The ACA also added section 4959, which imposes an excise tax for failure to meet the CHNA requirements, and added reporting requirements under section 6033(b) related to sections 501(r) and 4959. See Regulations sections 1.501(r)-1 through 1.501(r)-7.

Correction and disclosure procedures under section 501(r). Revenue Procedure 2015-21 provides correction and disclosure procedures under which certain failures to meet the requirements of section 501(r) will be excused for purposes of sections 501(r)(1) and 501(r)(2)(B). See [*Rev. Proc. 2015-21, 2015-13 I.R.B. 817*](#), or later guidance.

Medical research organization. A medical research organization must be directly engaged in the continuous active conduct of medical research in conjunction with a hospital, and that activity must be the organization's principal purpose or function.

Endowment funds. Organizations operated for the benefit of certain state and municipal colleges and universities may be endowment funds described in section 170(b)(1)(A)(iv). They are organized and operated exclusively to:

1. Receive, hold, invest, and administer property for a college or university; and
2. Make expenditures to or for the benefit of a college or university;

The college or university must be:

1. An agency or instrumentality of a state or political subdivision; or

2. Owned or operated by:
 - a. A state or political subdivision; or
 - b. An agency or instrumentality of one or more states or political subdivisions.

The phrase “expenditures to or for the benefit of a college or university” includes expenditures made for any one or more of the normal functions of a college or university.

These expenditures include those for:

1. Acquiring and maintaining real property comprising part of the campus area;
2. Erecting (or participating in erecting) college or university buildings;
3. Acquiring and maintaining equipment and furnishings used for, or in conjunction with, normal functions of colleges and universities;
4. Libraries;

5. Scholarships; and
6. Student loans.

The organization must normally receive a substantial part of its support from the United States or any state or political subdivision, or from direct or indirect contributions from the general public, or from a combination of these sources.

Support. Support doesn't include income received in the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for exemption.

In determining the amount of support received by an organization for a contribution of property when the value of the contribution by the donor is subject to reduction for certain ordinary income and capital gain property, the fair market value of the property is taken into account.

Indirect contribution. An example of an indirect contribution from the public is the receipt by the organization of its share of the proceeds of an annual collection campaign of a community chest, community fund, or united fund.

Governmental units. A governmental unit described in section 170(b)(1)(A)(v) includes a state, a territory of the United States, or a political subdivision of either of the foregoing, or the United States or the District of Columbia.

Agricultural research organizations.

Agricultural research organizations described in section 170(b)(1)(A)(ix) operated in conjunction with a land-grant college or university or a non-land-grant college of agriculture may now qualify for public charity status. See the Instructions for Form 1023 for more information.

Publicly supported organizations. An organization is a publicly supported organization if it is one that normally receives a substantial part of its support from a governmental unit or from the general public.

Types of organizations that generally qualify are:

- Museums of history, art, or science;
- Libraries;
- Community centers to promote the arts;
- Organizations providing facilities for the support of an opera, symphony orchestra, ballet, or repertory drama, or for some other direct service to the general public; and
- Organizations such as the American Red Cross or the United Way.

Qualifying as Publicly Supported

An organization will qualify as publicly supported under section 170(b)(1)(A)(vi) if it passes the one-third support test. If it fails that test, it may qualify under the facts and circumstances test. An organization may also qualify as publicly supported under section 509(a)(2). See Section 509(a)(2) Organizations, later.

One-third support test. An organization will qualify as publicly supported under section 170(b)(1)(A)(vi) if it normally receives at least one-third of its total support from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources. For a definition of support, see Support, later.

Definition of normally for one-third support test. An organization will be considered as normally meeting the one-third support test under section 170(b)(1)(A)(vi) for its current tax year and the next tax year

if, for the current tax year and the 4 tax years immediately before the current tax year, the organization meets the one-third support test on an aggregate basis. See also *Computation period for public support* (*Special computation period for new organizations*) later, in this discussion.

Facts and circumstances test. The facts and circumstances test is for organizations failing to meet the one-third support test. If your organization fails to meet the one-third support test, it may still be treated as a publicly supported organization described in section 170(b)(1)(A)(vi) if it normally receives a substantial part of its support from governmental units, from direct or indirect contributions from the general public, or from a combination of these sources. To qualify, an organization must meet the ten-percent-of-support requirement and the attraction of public support requirement.

These requirements establish, under all the facts and circumstances, that an organization normally receives a substantial part of its support from governmental units or from direct or indirect contributions from the general public. The organization must also be in the nature of a publicly supported organization, taking into account five different factors. See Additional requirements (the five public support factors), later.

Ten-percent-of-support requirement. The percentage of support normally received by an organization from governmental units, from contributions made directly or indirectly by the general public, or from a combination of these sources must be substantial. An organization won't be treated as normally receiving a substantial amount of governmental or public support unless the total amount of governmental and public

support normally received is at least 10% of the total support normally received by that organization.

Attraction of public support requirement.

An organization must be organized and operated in a manner to attract new and additional public or governmental support on a continuous basis. An organization will meet this requirement if it maintains a continuous and bona fide program for solicitation of funds from the general public, community, or membership group involved, or if it carries on activities designed to attract support from governmental units or other charitable organizations described in section 509(a)(1). In determining whether an organization maintains a continuous and bona fide program for solicitation of funds from the general public or community, consideration will be given to whether the scope of its fundraising activities is reasonable in light of its charitable activities.

Consideration will also be given to the fact that an organization may, in its early years of existence, limit the scope of its solicitation to persons who would be most likely to provide seed money sufficient to enable it to begin its charitable activities and expand its solicitation program.

Definition of normally for facts and circumstances test. An organization will normally meet the requirements of the facts and circumstances test for its current tax year and the next tax year if, for the current tax year and the 4 tax years immediately before the current tax year, the organization meets the ten-percent-of-support and the attraction of public support requirements on an aggregate basis and satisfies a sufficient combination of the factors discussed later.

The combination of factors that an organization normally must meet doesn't have to be the same for each 4-year period as long as a sufficient combination of factors exists to show compliance.

Additional requirements (the five public support factors). In addition to the two requirements of the facts and circumstances test, the following five public support factors will be considered in determining whether an organization is publicly supported. However, an organization generally doesn't have to satisfy all of the factors. The factors relevant to each case and the weight accorded to any one of them may differ depending upon the nature and purpose of the organization and the length of time it has existed. The combination of factors that an organization normally must meet doesn't have to be the same for each 4-year period as long as a

sufficient combination of factors exists to show that the organization is publicly supported.

- 1. *Percentage of financial support factor.*** When an organization normally receives at least 10% but less than one-third of its total support from public or governmental sources, the percentage of support received from those sources will be considered in determining whether the organization is publicly supported. As the percentage of support from public or governmental sources increases, the burden of establishing the publicly supported nature of the organization through other factors decreases, while the lower the percentage, the greater the burden.

If the percentage of the organization's support from the general public or governmental sources is low because it receives a high percentage of its total support from investment income on its endowment funds, the organization will be treated as complying with this factor if the endowment fund was originally contributed by a governmental unit or by the general public. However, if the endowment funds were originally contributed by a few individuals or members of their families, this fact will increase the burden on the organization to establish compliance with other factors. Facts pertinent to years before the 4 tax years immediately before the current tax year may also be considered.

2. *Sources of support factor.* If an organization normally receives at least 10% but less than one-third of its total support from public or governmental sources, the fact that it receives the support from governmental units or directly or indirectly from a representative number of persons, rather than receiving almost all of its support from the members of a single family, will be considered in determining whether the organization is publicly supported. In determining what is a representative number of persons, consideration will be given to the type of organization involved, the length of time it has existed, and whether it limits its activities to a particular community or region or to a special field that can be expected to appeal to a limited number of persons. Facts pertinent to years before the 4 tax years immediately before the

current tax year may also be considered.

- 3. *Representative governing body factor.*** The fact that an organization has a governing body that represents the broad interests of the public rather than the personal or private interest of a limited number of donors will be considered in determining whether the organization is publicly supported.

An organization will meet this requirement if it has a governing body composed of:

1. Public officials acting in their public capacities,
2. Individuals selected by public officials acting in their public capacities,
3. Persons having special knowledge or expertise in the particular field or discipline in which the organization is operating, and

4. Community leaders, such as elected or appointed officials, members of the clergy, educators, civic leaders, or other such persons representing a broad cross-section of the views and interests of the community.

In a membership organization, the governing body should also include individuals elected by a broadly based membership according to the organization's governing instrument or bylaws.

4. *Availability of public facilities or services factor.* The fact that an organization generally provides facilities or services directly for the benefit of the general public on a continuing basis is evidence that the organization is publicly supported.

Examples are:

- A museum or library that is open to the public,

- A symphony orchestra that gives public performances,
- A conservation organization that provides educational services to the public through the distribution of educational materials, or
- An old-age home that provides domiciliary or nursing services for members of the general public.

The fact that an educational or research institution regularly publishes scholarly studies widely used by colleges and universities or by members of the general public is also evidence that the organization is publicly supported.

Similarly, the following factors are also evidence that an organization is publicly supported.

1. Participating in, or sponsoring, the programs of the organization by members of the public having special

knowledge or expertise, public officials, or civic or community leaders.

2. Maintaining a definitive program by the organization to accomplish its charitable work in the community, such as slum clearance or developing employment opportunities.
3. Receiving a significant part of its funds from a public charity or governmental agency to which it is in some way held accountable as a condition of the grant, contract, or contribution.

5. Additional factors pertinent to membership organizations. The following are additional factors in determining whether a membership organization is publicly supported.

1. Whether the solicitation for dues-paying members is designed to enroll a substantial number of persons in the community or area, or in a particular

profession or field of special interest (taking into account the size of the area and the nature of the organization's activities).

2. Whether membership dues for individual (rather than institutional) members have been fixed at rates designed to make membership available to a broad cross section of the interested public, rather than to restrict membership to a limited number of persons.
3. Whether the activities of the organization will be likely to appeal to persons having some broad common interest or purpose, such as educational activities in the case of alumni associations, musical activities in the case of symphony societies, or civic affairs in the case of parent-teacher associations.

Special rule. The fact that an organization has normally met the one-third support test requirements for a current tax year, but is unable normally to meet the requirements for a later tax year, won't in itself prevent the organization from meeting the requirements of the facts and circumstances test for the later tax year.

Example. X is recognized as an organization described in section 501(c)(3). On the basis of support received during tax years 2020, 2021, 2022, 2023, and 2024, it meets the one-third support test for tax year 2024 (the current tax year). X also meets the one-third support test for 2025, as the immediately succeeding tax year.

In tax years 2020, 2021, 2022, 2023, and 2024, in the aggregate, X doesn't receive at least one-third of its support from governmental units referred to in section 170(c)(1), from contributions made directly or indirectly by the general public, or from a

combination of these sources. X still meets the one-third support test for tax year 2024 based on the aggregate support received for tax years 2020 through 2024.

In tax years 2021, 2022, 2023, 2024, and 2025, in the aggregate, X doesn't receive at least one-third of its support from governmental units referred to in section 170(c)(1), from contributions made directly or indirectly by the general public, or from a combination of these sources. X doesn't meet the one-third support test for tax year 2024.

Based on the aggregate support and other factors listed in Regulations section 1.170A-9(f) (3)(iii)(A) through (E) for tax years 2020, 2021, 2022, 2023, and 2024, X meets the facts and circumstances test for tax year 2024 and for tax year 2025 (as the immediately succeeding tax year).

Therefore, X is still an organization described in section 170(b)(1)(A)(vi) for tax year 2024 even though X didn't meet the one-third support test for that year.

Special computation period for new organizations (Computation period for public support). If, at the time of applying for tax-exempt status, an organization can reasonably be expected to meet the one-third support test or the facts and circumstances test during its first 5 tax years, the organization will qualify as publicly supported for its first 5 years. The organization will be classified as a public charity for its first 5 years, regardless of the public support actually received during this period. Beginning with the organization's sixth tax year, the organization will qualify as publicly supported if it meets the one-third support test or the facts and circumstances test for its sixth year (based on support received in its second through sixth tax years),

or as a carryover for its fifth tax year (based on support received in its first through fifth tax years). If the organization is required to file Form 990 or 990-EZ, it must establish that it meets the public support test each year on Schedule A (Form 990).

Reasonable expectation of public

support. An organization that can reasonably be expected to meet the one-third support test or the facts and circumstances test during its first 5 years is one that can show that its organizational structure, current or proposed programs and activities, and actual or intended method of operation can reasonably be expected to attract the type of broadly based support from the general public, public charities, and governmental units that is necessary to meet the public support requirements discussed earlier under *Qualifying As Publicly Supported*.

Example. Organization Y was formed in January 2017 and uses a December 31 tax year. After September 9, 2017, and before December 31, 2017, Organization Y filed a Form 1023 requesting recognition of exemption as an organization described in section 501(c)(3) and in sections 170(b)(1)(A)(vi) and 509(a)(1). In its application, Organization Y established that it can reasonably be expected to meet the one-third support test. Organization Y receives a determination letter that it is an organization described in section 501(c)(3) and sections 170(b)(1)(A)(vi) and 509(a)(1) effective as of the date of formation.

Organization Y is described in sections 170(b)(1)(A)(vi) and 509(a)(1) for its first 5 tax years (tax years ending December 31, 2017, through December 31, 2021).

Organization Y can qualify as a public charity beginning with the tax year ending December 31, 2021,

if Organization Y meets the one-third support test or facts and circumstances test for the tax years ending December 31, 2018, through December 31, 2022, or for the tax years ending December 31, 2017, through December 31, 2021.

Determinations of public support status.

An organization may request a determination letter that it is described in section 170(b)(1)(A)(vi). This request is made on Form 1023 or Form 1023-EZ, or at such other time as the organization believes it is described in section 170(b)(1)(A)(vi). The IRS may revoke the section 170(b)(1)(A)(vi) determination letter if, on examination, the organization has not met the requirements. The IRS may also revoke the section 170(b)(1)(A)(vi) determination letter if the organization's application for a determination contained an omission or inaccurate material information.

Reliance by grantors or contributors. As a general rule, grantors or contributors may rely on a determination that an organization is described in section 170(b)(1)(A)(vi) until notice of change of status of the organization is made to the public. The IRS publishes such notices from time to time in the Internal Revenue Bulletin, [IRS.gov/irb/](https://www.irs.gov/irb/). Grantors and contributors can also find information about an organization's exempt status under section 501(c)(3) and its status as a public charity or private foundation from [TaxExempt Organization Search](#). However, a grantor or contributor can't rely on a determination letter or information on Tax-Exempt Organization Search if the grantor or contributor was responsible for, or aware of, the act or failure to act that resulted in the organization's loss of classification as a publicly supported organization.

Support. For purposes of publicly supported organizations, the term support includes (but isn't limited to):

1. Gifts, grants, contributions, or membership fees;
2. Net income from unrelated business activities, whether or not those activities are carried on regularly as a trade or business;
3. Gross investment income;
4. Tax revenues levied for the benefit of an organization and either paid to or spent on behalf of the organization; and
5. The value of services or facilities furnished by a governmental unit to an organization without charge (except services or facilities generally furnished to the public without charge).

Amounts that aren't support. The term support doesn't include:

1. Any amount received from the exercise or performance by an organization of the purpose or function constituting the basis for its exemption (in general, these amounts include amounts received from any activity the conduct of which is substantially related to the furtherance of the exempt purpose or function, other than through the production of income); or
2. Contributions of services for which a deduction isn't allowed.

These amounts are excluded from both the numerator and the denominator of the fractions in determining compliance with the one-third support test and ten-percent-of-support requirement. The following discusses an exception to this general rule.

Organizations dependent primarily on gross receipts from related activities.

Organizations won't satisfy the one-third support test or the ten-percent-of-support requirement if they receive:

1. Almost all support from gross receipts from related activities; and
2. An insignificant amount of support from governmental units (without regard to amounts referred to in (3) in the list of items included in support) and contributions made directly or indirectly by the general public.

Example. Z, an organization described in section 501(c)(3), is controlled by Thomas Blue, its president. Z received \$500,000 during the current tax year and the 4 tax years immediately before its current tax year under a contract with the Department of Transportation, under which Z engaged in research to improve a particular vehicle used primarily by the federal government.

During the same period, the only other support received by Z was \$5,000 in small contributions primarily from Z's employees and business associates. The \$500,000 is gross receipts from a related activity and not support from a governmental unit, because the services are provided to serve the direct and immediate needs of the payor rather than primarily to confer a direct benefit on the public. Because of this fact, and because Z's contributions from the public are insignificant, Z doesn't meet the one-third support test or the ten-percent-of-support requirement.

For the rules that apply to organizations that fail to qualify as section 509(a)(1) publicly supported organizations because of these provisions, see Section 509(a)(2) Organizations, later. See also Gross receipts from a related activity in the discussion on section 509(a)(2) organizations.

Membership fees. Membership fees are included in the term support if they are paid to provide support for the organization rather than to buy admissions, merchandise, services, or the use of facilities.

Support from a governmental unit. For purposes of the one-third support test and the ten-percent-of-support requirement, the term support from a governmental unit includes any amounts received from a governmental unit, including donations or contributions and amounts received on a contract entered into with a governmental unit for the performance of services, or from a government research grant. However, these amounts aren't support from a governmental unit for these purposes if they constitute amounts received from the exercise or performance of the organization's exempt functions.

Any amount paid by a governmental unit to an organization won't be treated as received from the exercise or performance of its exempt function if the purpose of the payment is primarily to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public (regardless of whether part of the expense of providing the service or facility is paid for by the public), rather than to serve the direct and immediate needs of the payor. This includes:

1. Amounts paid to maintain library facilities that are open to the public,
2. Amounts paid under government programs to nursing homes or homes for the aged to provide health care or domiciliary services to residents of these facilities, and

3. Amounts paid to child placement or child guidance organizations under government programs for services rendered to children in the community.

These payments are mainly to enable the recipient organization to provide a service or maintain a facility for the direct benefit of the public, rather than to serve the direct and immediate needs of the payor. Furthermore, any amount received from a governmental unit under circumstances in which the amount would be treated as a grant will generally constitute support from a governmental unit. See the discussion of *Grants*, later, under *Section 509(a)(2) Organizations*.