



Exempt Organizations Technical Guide

TG 3-27: IRC Section 501(c)(3) Foundation Classification – Other Public Charities – IRC Sections 509(a)(1) and 170(b)(1)(A)(iv), (v), (ix) and Section 509(a)(4)

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I. Overview

- (1) This Technical Guide (TG) will cover miscellaneous public charity foundation classifications. These are rarely encountered during the exemption application and examination processes. Each section of this TG can be viewed independently. The same terms and concepts may be addressed in multiple sections of this TG; however, they are applied separately and distinctly to that particular section of the Internal Revenue Code (Code).
- (2) The specific public charity foundation classifications discussed in this TG include the following:
 - a. Section 509(a)(1):
 - Section 170(b)(1)(A)(iv) – Organizations for the Benefit of Certain State and Municipal Colleges and Universities
 - Section 170(b)(1)(A)(v) – Governmental Units
 - Section 170(b)(1)(A)(ix) – Agricultural Research Organizations
 - b. Section 509(a)(4) – Organizations Testing for Public Safety
- (3) This TG discusses in detail each foundation classification listed above, organized by section.
 - a. Section II covers organizations for the benefit of certain state and municipal colleges and universities.
 - b. Section III covers governmental units.
 - c. Section IV covers agricultural research organizations.
 - d. Section V covers organizations testing for public safety.
- (4) Each section provides:
 - a. Relevant technical information
 - b. Applicable legal authority
 - c. Pertinent application considerations

A. Introduction

- (1) Section 501(c)(3) of the (Code) describes organizations exempt from federal income tax:
 - a. Corporations and any community chest, fund or foundation that are organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.

- b. No part of the net earnings inures to the benefit of any private shareholder or individual.
- c. No substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)) and which doesn't participate in or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

B. Foundation Classification

- (1) Organizations exempt under Section 501(c)(3) are classified as either a private foundation or public charity under Section 509. By statute, an organization is a private foundation within the meaning of Section 509, unless they are described under:
 - a. Section 509(a)(1) – Organizations described in Section 170(b)(1)(A) (except clauses (vii) and (viii)), which includes:
 - Section 170(b)(1)(a)(i) – Churches
 - Section 170(b)(1)(a)(ii) – Schools
 - Section 170(b)(1)(a)(iii) – Hospitals and Medical Research Organizations
 - Section 170(b)(1)(a)(iv) – Organizations for the Benefit of Colleges and Universities
 - Section 170(b)(1)(a)(v) – Governmental Entities
 - Section 170(b)(1)(a)(vi) – Publicly Supported Organizations
 - Section 170(b)(1)(a)(ix) – Agricultural Research Organizations
 - b. Section 509(a)(2) – Broadly Publicly Supported Organizations
 - c. Section 509(a)(3) – Supporting Organizations
 - d. Section 509(a)(4) – Organizations Testing for Public Safety
- (2) For a list of all TGs published and in process, see the cumulative list of Technical Guides located in TG 0: Technical Guide Overview, Exhibit III, starting on page 10.

II. Section 170(b)(1)(A)(iv) – Organizations for the Benefit of Certain State and Municipal Colleges and Universities

- (1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Sections 509(a)(1) and 170(b)(1)(A)(iv) as an organization that benefits certain state and municipal colleges and universities.

A. Background / History

- (1) Congress recognized that in certain states, local law prevented state universities or colleges from receiving gifts or bequests for particular university purposes.
 - a. Such laws required that gifts be placed in the general state treasury from which funds are appropriated by the legislature for state institutions.
 - b. Thus, the Internal Revenue Service (IRS) had ruled that contributions to such endowment funds were not gifts to the beneficiary university and therefore did not qualify for the more generous deduction treatment under Section 170(b)(1)(A).
 - c. To encourage gift giving for the use of public universities and colleges, the deduction available to donors to universities and colleges was extended to certain funds organized and operated for the benefit of state colleges and universities. See S. Rep. No. 585, 87th Cong., 1st Sess. 4 (1961).
- (2) Section 170(b)(1)(A)(iv) was added to the Code in 1962 permitting a university endowment fund to qualify under Section 501(c)(3). See Pub. L. No. 87-858, Sec. 2(a), 76 Stat. 1134.

B. Relevant Terms

- (1) **Political Subdivision** – A government entity that has a sovereign power. See Treasury Regulation (Treas. Reg.) 1.103-1(b).
- (2) **Sovereign Powers** – The authority to tax, police and enforce eminent domain. See Revenue Ruling (Rev. Rul.) 77-165, 1977-1 C.B. 21.
- (3) **Land-Grant Institutions** – Colleges and universities designated to receive benefits of the Acts of July 2, 1862 (7 USC Sections 301-305, 307-308, 12 Stat. 503-504) and August 30, 1890 (7 USC Sections 321-326, 328, 26 Stat. 417-419). Pub. L. 95-113, Section 1404(10). See 7 USC Sections 3101, 3103.

These acts promoted establishment of institutions of higher learning focused on the agricultural and mechanical arts, without excluding other scientific and classical studies. Land-grant institutions now address many academic fields in addition to those of their foundational colleges of agriculture.
- (4) **Benefit** – Something of value that is provided to the recipient college in support of its exempt purposes.
- (5) **Expenditures** – Disbursements made for any one or more of the normal functions of colleges and universities.

C. Law / Authority

- (1) Section 170(b)(1)(A)(iv) – An organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- (2) Treas. Reg. 1.170A-9(c)(2) – Organizations for the benefit of certain state and municipal colleges and universities.

D. Public Support Requirements

- (1) The public support requirement of Section 170(b)(1)(A)(iv) is similar, but not identical, to that of Section 170(b)(1)(A)(vi).
- (2) The regulations under Section 170(b)(1)(A)(iv), enacted in 1962, have always defined substantial public support in less detail than the regulations under Section 170(b)(1)(A)(vi), enacted in 1964.
 - a. These regulations have never cross-referenced each other.
- (3) Treas. Reg. 1.170A-9(c)(2)(ii), which deals with the substantial public support requirement for Section 170(b)(1)(A)(iv) organizations, provides little elaboration of the Code provisions except for the following principles:
 - a. 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.
 - b. In determining the amount of support received by such organization with respect to a contribution of property, which is subject to reduction under Section 170(e), the fair market value of the property must be considered.
- (4) The regulations also state that support does not include “income received in the exercise or performance by the organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 501(a).” See Treas. Reg. 1.170A-9(c)(2)(ii).
- (5) Rev. Rul. 82-132, 1982-2 C.B. 107, provides the following guidance in distinguishing public support for Sections 170(b)(1)(A)(iv) purposes and 170(b)(1)(A)(vi) purposes:
 - a. The class of government entities referred to in Section 170(b)(1)(A)(iv) includes the United States or any state or political subdivision thereof.
 - b. Section 170(b)(1)(A)(vi) includes support from any governmental unit referred to in Section 170(c)(1) including:
 - A state
 - A possession of the United States
 - Any political subdivision of either of the foregoing
 - The United States
 - The District of Columbia
 - Indian tribal governments
 - c. An organization that satisfies the substantial public support requirements of Section 170(b)(1)(A)(vi), by support from the United States or a state or political subdivision thereof or contributions from the general public, is deemed to satisfy the substantial public support requirements of Section 170(b)(1)(A)(iv).

- d. However, an organization that fails to meet the substantial public support requirements of Section 170(b)(1)(A)(vi) may still meet the requirements under Section 170(b)(1)(A)(iv) and Treas. Reg. 1.170A-9(c)(2)(ii).

E. Expenditures for the Benefit of a College or University

- (1) Under Treas. Reg. 1.170A-9(c)(2)(i), "expenditures to or for the benefit of a college or university" include expenditures made for any one or more of the normal functions of colleges and universities, such as:
 - a. The acquisition and maintenance of real property comprising part of the campus area
 - b. The erection of, or participation in the erection of, college or university buildings
 - c. The acquisition and maintenance of equipment and furnishings used for, or in conjunction with, normal functions of colleges and universities
 - d. Expenditures for scholarships, libraries and student loans

F. Benefited College or University Requirements

- (1) As described in Treas. Reg. 1.170A-9(c)(2)(iii), the college or university (including a land-grant college or university) to be benefited must be both:
 - a. A Section 170(b)(1)(A)(ii) organization (treating a school that is an integral part of a state or political subdivision as separately organized for this purpose)
 - b. An agency or instrumentality of a state or political subdivision thereof, or owned or operated by a state or political subdivision thereof or by an agency or instrumentality of one or more states or political subdivisions

G. Application Considerations

- (1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with public charity classification under Sections 509(a)(1) and 170(b)(1)(A)(iv).

G.1. Form 1023 (Series) – Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code

- (1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Sections 509(a)(1) and 170(b)(1)(A)(iv) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through Pay.gov.

Form 1023 (Rev. January 2020) Department of the Treasury Internal Revenue Service	Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form1023 for instructions and the latest information.	OMB No. 1545-0047 Note: If exempt status is approved, this application will be open for public inspection.
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Use the "?" buttons throughout this form for help in completing this application. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500.

If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

- a. Form 1023, Part VII, Foundation Classification, prompts the applicant to select the foundation classification they are requesting.

Form 1023 (Rev 01-2020)	Name:	EIN:	Page 15
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Part VII Foundation Classification

Part VII is designed to classify you as an organization that is either a private foundation or a public charity. Public charity classification is a more favorable tax status than private foundation classification. If you are a private foundation, this part will further determine whether you are a private operating foundation.

- b. The appropriate selection is "You are described in 509(a)(1) and 170(b)(1)(A)(iv) as an organization operated for the benefit of a college or university that is owned or operated by a governmental unit."

☒ You are described in 509(a)(1) and 170(b)(1)(A)(iv) as an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.

Additional schedules are not required for this foundation classification.

- (2) Organizations not meeting the requirements for classification under Section 170(b)(1)(A)(iv) may qualify under another foundation classification such as Section 170(b)(1)(A)(vi), so long as the organization meets the requirements for the other foundation classification.
- (3) If eligible, organizations can request classification under Section 170(b)(1)(A)(iv) on Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023-EZ must be electronically submitted through Pay.gov.
- a. Note: Organizations must complete the Form 1023-EZ Eligibility Worksheet in the Instructions for Form 1023-EZ to determine if they are eligible to file Form 1023-EZ. These documents can be accessed on the Form 1023-EZ homepage on Pay.gov.

Form 1023-EZ (Rev. April 2021) Department of the Treasury Internal Revenue Service	Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code Do not enter Social Security numbers on this form as it will be made public. Information about Form 1023-EZ and its separate instructions is at www.irs.gov/form1023ez	OMB No. 1545-0047 Note: If exempt status is approved, this application will be open for public inspection.
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☐ Check this box to attest that you have completed the Form 1023-EZ Eligibility Worksheet in the current instructions, are eligible to apply for exemption using Form 1023-EZ, and have read and understand the requirements to be exempt under section 501(c)(3).

Have your annual gross receipts exceeded \$50,000 in any of the past 3 years and/or do you project that your annual gross receipts will exceed \$50,000 in any of the next 3 years? If yes, stop. Do not file Form 1023-EZ. See Instructions. ☐ Yes ☐ No

Do you have total assets the fair market value of which is in excess of \$250,000? If yes, stop. Do not file Form 1023-EZ. See Instructions. ☐ Yes ☐ No

- b. Form 1023-EZ, Part IV, Foundation Classification, Item 2, prompts the applicant to choose the foundation classification they are requesting. The appropriate selection is “Select this box to attest that you are operated for the benefit of a college or university that is owned or operated by a governmental unit. Sections 509(a)(1) and 170(b)(1)(A)(iv).” This is box “c” on the form.

Part IV Foundation Classification

Part IV is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status.

- 1 Are you applying for recognition as a church, school, or hospital (described in section 170(b)(1)(A)(i), (ii), or (iii) of the Internal Revenue Code)? If yes, stop. Do not file Form 1023-EZ. See Instructions ☐ Yes ☐ No
- 2 If you qualify for public charity status, check the appropriate box (2a - 2c below) and skip to Part V below.
 - a ☐ Select this box to attest that you normally receive at least one-third of your support from public sources or you normally receive at least 10 percent of your support from public sources and you have other characteristics of a publicly supported organization. Sections 509(a)(1) and 170(b)(1)(A)(vi).
 - b ☐ Select this box to attest that you normally receive more than one-third of your support from a combination of gifts, grants, contributions, membership fees, and gross receipts (from permitted sources) from activities related to your exempt functions and normally receive not more than one-third of your support from investment income and unrelated business taxable income. Section 509(a)(2).
 - c ☒ Select this box to attest that you are operated for the benefit of a college or university that is owned or operated by a governmental unit. Sections 509(a)(1) and 170(b)(1)(A)(iv).

- (4) See Revenue Procedure (Rev. Proc.) 2025-5, 2025-1 I.R.B. 260, updated annually.

G.2. Form 8940 – Request for Miscellaneous Determination

- (1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 170(b)(1)(A)(iv) on Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through Pay.gov.
- (2)

Form 8940 (Rev. April 2023) Department of the Treasury Internal Revenue Service	Request for Miscellaneous Determination Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form8940 for instructions and the latest information.	OMB No. 1545-0047 <i>Note: If your request is approved, the information you provide may be open for public inspection.</i>
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Use the “?” buttons throughout this form for help in completing your request. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 877-829-5500.

If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

Part I Identification of Applicant

1 Full Name of Organization (exactly as it appears in your organizing document)

- a. Form 8940, Part II, Type of Request, Item 1, prompts the applicant to select the item that best describes their request. The appropriate selection is “Reclassification of foundation status, including a voluntary request from a public charity for private foundation status.”

Form 8940 (Rev. 04-2023)	Name:	EIN:	Page 2
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Part II Type of Request (See Instructions for attachments to upload with your particular request)

1 Select the item below that best describes your request.

☒ Reclassification of foundation status, including a voluntary request from a public charity for private foundation status (Schedule G)

- b. The applicant would then be required to complete Form 8940, Schedule G, Reclassification of foundation status, including a voluntary request from a public charity for private foundation status. Item 1 prompts the applicant to choose the foundation classification they are requesting.

The appropriate selection would be “Sections 509(a)(1) and 170(b)(1)(A)(iv) as an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.”

Schedule G. Reclassification of foundation status, including a voluntary request from a public charity for private foundation status	
1	Select which foundation classification you are requesting from the list below.
☒	Sections 509(a)(1) and 170(b)(1)(A)(iv) as an organization operated for the benefit of a college or university that is owned or operated by a governmental unit. (Schedule O)

- c. Next, the applicant would be required to complete Form 8940, Schedule O, An organization operated for the benefit of a college or university owned or operated by a governmental unit, as described in sections 509(a)(1) and 170(b)(1)(A)(iv).

Schedule O. An organization operated for the benefit of a college or university owned or operated by a governmental unit, as described in sections 509(a)(1) and 170(b)(1)(A)(iv)
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- d. Schedule O contains the following questions:

- Do you normally receive a substantial part of your support (excluding income you receive from an activity substantially related to the charitable, educational, or other section 501(c)(3) purpose that is the basis for your exemption under section 501(a)) from the United States or any state or its political subdivision or from direct or indirect contributions from the general public? If "No," explain.
- Do your bylaws or other organizational documents indicate that you are organized and operated exclusively to receive, hold, invest, and administer property and to make expenditures to or for the benefit of a college or university described in sections 509(a)(1) and 170(b)(1)(A)(ii)?
- Is the college or university an agency or instrumentality of a state or political subdivision thereof, or is it owned or operated by a state or political subdivision thereof, or by an agency or instrumentality of one or more states or political subdivisions? If "Yes," list the name and EIN of the college or university.

- (3) The following documents should also be submitted with Form 8940:

- a. Copies of governing instruments, bylaws, and amendments
- b. Completed Schedule A of Form 990, Part II or III (as applicable)

- (4) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

III. Section 170(b)(1)(A)(v) – Governmental Units

- (1) This section discusses the requirements for a Section 501(c)(3) organization to qualify as a public charity under Sections 509(a)(1) and 170(b)(1)(A)(v) as a governmental unit.

A. Background / History

- (1) Section 170(b)(1)(A)(v) was added to the Code in 1964. See Revenue Act of 1964, Pub. L. No. 88-272, Sec. 209(a), 78 Stat. 43.

B. Relevant Terms

- (1) **Governmental Units** – States, possessions of the United States, or political subdivisions of the foregoing, Indian tribal governments, or the United States or District of Columbia. See Sections 170(c)(1) and 7871(a)(1)(A).
- (2) **Political Subdivision** – A government entity that has a sovereign power. See Treas. Reg. 1.103-1(b).
- (3) **Sovereign Powers** – The authority to tax, police and enforce eminent domain. See Rev. Rul. 77-165, 1977-1 C.B. 21.
- (4) **State** – The definition of a state includes the District of Columbia and any insular area. See Section 7701(a)(10) and 7 USC Section 3103(16).

C. Law / Authority

- (1) Section 170(b)(1)(A)(v) – A governmental unit referred to in subsection 170(c)(1).
- (2) Section 170(c)(1) – States that a “charitable contribution” means a contribution or gift to or for the use of a state, a possession of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.
- (3) Section 7871(a)(1)(A) – Indian tribal government relating to income tax deduction for charitable contributions and gifts.
- (4) Section 7871(a)(7)(B) – Indian tribal government relating to private foundations.
- (5) Treas. Reg. 1.170A-9(e) – Governmental unit is described in section 170(b)(1)(A)(v) if it is referred to in section 170(c)(1).

D. Governmental Unit Defined

- (1) The following governmental units referred to in Section 170(c)(1) are excluded from private foundation status under Sections 509(a)(1) and 170(b)(1)(A)(v):
 - a. A state
 - b. A possession of the United States
 - c. A political subdivision of a state or a possession of the United States

- d. The United States
 - e. The District of Columbia
 - f. Indian tribal governments
- (2) Indian tribal governments are treated as states for purposes of charitable deductions for income tax, estate tax, and gift tax. See Section 7871(a)(1).
- a. A subdivision of an Indian tribal government shall be treated as a political subdivision of a state if (and only if) the Secretary determines (after consultation with the Secretary of the Interior) that such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.
- (3) "Possessions of the United States" are not defined in the regulations under Section 170; however, the following guidance is provided elsewhere:
- a. Territories and commonwealths generally regarded under the Code as U.S. possessions include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands. See:
 - Sections 931-937 (dealing with U.S. possessions)
 - Section 7654(b)(2)
 - Section 7701(d)
 - Rev. Rul. 2016-16, 2016-25 C.B. 1062
 - b. The Interior Department's Office of Insular Affairs deals generally with U.S. territories and insular possessions under Title 48 of the U.S. Code and may be consulted in determining the possessions of the United States.

E. Political Subdivision

- (1) Although Section 170 and the regulations thereunder do not define political subdivision, Treas. Reg. 1.103-1(b) provides that the term "political subdivision" denotes any division of any state or local governmental unit which is a municipal corporation, or which has been delegated the right to exercise part of the sovereign power of the unit.
- (2) Per Rev. Rul. 77-165, 1977-1 C.B. 21, there are three generally acknowledged sovereign powers:
- a. The power to tax
 - b. The power of eminent domain
 - c. The police power
- (3) An entity is a "political subdivision" only if it has a substantial sovereign power. It need not have all three sovereign powers delegated to it, but possessing only

an insubstantial amount of any or all of the sovereign powers is insufficient. See Rev. Rul. 77-165, 1977-1 C.B. 21.

- (4) Special rules apply in determining whether an organization is a political subdivision of an Indian tribal government.
 - a. A subdivision of an Indian tribal government must be treated as a political subdivision of a state if such subdivision has been delegated the right to exercise one or more of the substantial governmental functions of the Indian tribal government.
 - b. Essential governmental functions must only include functions which is customarily performed by state and local governments with general taxing powers. See Section 7871(d) and (e).

E.1. General Principles

- (1) A political subdivision may include special assessment districts, such as:
 - a. Road
 - b. Water
 - c. Sewer
 - d. Gas
 - e. Light
 - f. Reclamation
 - g. Drainage
 - h. Irrigation
 - i. Levee
 - j. School
 - k. Harbor
 - l. Port improvement

A political subdivision also includes similar districts and divisions of a state or local governmental unit.

See Treas. Reg. 1.103-1(b).

- (2) In *Texas Learning Technology Group v. Commissioner*, 96 T.C. 686 (1991), the court reasoned as follows in holding that a Section 501(c)(3) organization was not a political subdivision under Section 170(c)(1), and therefore not a governmental unit under Section 170(b)(1)(A)(v):
 - a. A state statute's characterization of an organization as a political subdivision is not controlling for federal tax purposes.

- b. An organization must possess a sovereign power (traditionally regarded as the power to tax, to condemn property, or to police or regulate) to qualify under Section 170(b)(1)(A)(v).
- c. Governmental functions that are exercisable by others without the sovereign's authorization, such as education of youth, do not constitute sovereign powers.
- d. Government "agencies" or "instrumentalities" are not synonymous with "political subdivisions," as Section 170(b)(1)(A)(iv) refers to "an agency or instrumentality of one or more states or political subdivisions." "From the use of the disjunctive, it is clear that Congress viewed these terms as being separate. Thus, when Congress enacted Section 170(b)(1)(A)(v) in the Revenue Act of 1964, section 209(a), Pub. L. 88-272, 78 Stat. 43, and, by reference to Section 170(c)(1), used only the term "political subdivision," it did not intend to include within this provision the broader category of state agencies or instrumentalities.
- e. An organization cannot claim Section 170(b)(1)(A)(v) status as an "integral part" of a political subdivision if it claims to be separately organized for purposes of Section 501(c)(3) status.

E.2. Specific Rulings

- (1) The following rulings and court cases demonstrate the activities of a political subdivision:
 - a. Rev. Rul. 58-473, 1958-2 C.B. 100: A sewer and water authority, authorized by town ordinance to construct and operate the town's sewer and water system and authorized to charge the costs of sewer construction against the properties benefited, was determined to constitute a political subdivision under Section 170(c)(1).
 - b. Rev. Rul. 75-359, 1975-2 C.B. 79: A voluntary association of counties - organized to perform research in the field of local government, train local officials with respect to their public duties, provide information to permit more efficient operation of county government, and represent the counties at the state legislature, whose members consisted of county officials and others, was determined not to be a political subdivision under Section 170(c)(1) since it was not delegated any sovereign powers of its member counties or the state even though it constituted a wholly-owned instrumentality.
 - c. Rev. Rul. 77-232, 1977-2 C.B. 71: A state Bar, created by statute, that worked with the state Supreme Court in implementing statutory rules on the practice of law in the state and promoted the professional interests of its members was determined not to be a political subdivision under Section 170(c)(1) because it had no meaningful sovereign powers.
 - d. Rev. Rul. 79-323, 1979-2 C.B. 106: An industrial commission, established by a state legislature to study problems of industrial life and promote

economic growth in a particular area consisting of several municipalities and subject to review by the state and member municipalities, was determined to be a Section 170(c)(1) organization although gifts to it were "for the use of" Section 170(c)(1) organizations.

- e. In *Texas Learning Technology Group v. Commissioner*, 96 T.C. 686 (1991), the court held that an unincorporated cooperative organization, which was created by state statute, had members consisting of local public school districts, had a purpose to develop and administer programs to improve student learning in the public schools and was recognized as exempt under Section 501(c)(3), was not a governmental unit under Section 170(b)(1)(A)(v).

F. Other Considerations

- (1) Governmental units are publicly supported organizations, for purposes such as being permissible beneficiaries of Section 509(a)(3) supporting organizations, or grantees over which private foundations need not exercise expenditure responsibility.
- (2) Although a foreign government is not a Section 170(c)(1) governmental unit, support from a foreign government is treated as support from a Section 170(c)(1) governmental unit in determining whether an organization of the same foreign country is a public charity under Sections 509(a)(1) and 170(b)(1)(A)(vi). See Rev. Rul. 75-435, 1975-2 C.B. 215.

For a fuller discussion, see the "Foreign Organizations" section in Part III of TG 3-1: Overview, Applications, Exemption Requirements - IRC Section 501(c)(3).

G. Application Considerations

- (1) Although the IRS does not make Section 170(b)(1)(A)(v) foundation classification determinations, agents need to be aware of issues with respect to this status in the following situations:
 - a. When making a Section 501(c)(3) determination on an organization closely related to a government unit, an agent would need to recognize the presence of Section 170(c)(1) attributes that would disqualify an organization from exempt status.
 - b. When determining foundation classification under Section 170(b)(1)(A)(vi), 509(a)(2) or 509(a)(3) for an organization, support from or support to a Section 170(b)(1)(A)(v) organization may affect its foundation status.
 - c. When a private foundation grants funds to a Section 170(b)(1)(A)(v) organization, the private foundation does not need to exercise expenditure responsibility.
- (2) Many instrumentalities have language in their governing instrument providing that upon dissolution, all remaining assets will be distributed to a state, or any

political subdivision thereof, to satisfy Section 115 requirements and the dissolution requirements of Treas. Reg. 1.501(c)(3)-1(b)(4).

G.1. Form 1023 Not Permitted

- (1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may NOT request classification under Section 509(a)(1) and 170(b)(1)(A)(v).
- (2) Rev. Proc. 2025-5, 2025-1 I.R.B. 260, Section 3, Matters on which EO Determinations will Issue a Determination Letter, excludes governmental entities seeking exemption under Section 501(c)(3) with a foundation classification of 170(b)(1)(A)(v) from applying on Form 1023.
- (3) Organizations requesting classification under Section 170(b)(1)(A)(v) are NOT eligible to use Form 1023EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.
- (4) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

G.2. Form 8940 Not Permitted for Change in Foundation Classification

- (1) Organizations exempt under Section 501(c)(3) may NOT request a change in foundation classification to Section 170(b)(1)(A)(v) on Form 8940, Request for Miscellaneous Determination.
- (2) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

G.3. Letter Ruling Request

- (1) If an organization is exempt from federal income tax under Section 501(c)(3) and is requesting reclassification as a governmental unit, it must obtain a letter ruling by following the procedures specified in Rev. Proc. 2025-1, 2025-1 I.R.B. 1, updated annually. See also, Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

There is a fee associated with obtaining such a letter ruling.

G.4. Other Request

- (1) An organization may submit Form 8940, Request for Miscellaneous Determination, to request exemption from filing Form 990-N, Form 990-EZ or Form 990 because it is either a governmental unit or affiliated with a governmental unit. Form 8940 must be electronically submitted through Pay.gov. See Rev. Proc. 95-48, 1995-2 C.B. 418

Note: An organization with a Section 509(a)(3) foundation classification may not be exempted from its Form 990-N, Form 990-EZ or Form 990 filing requirement under Rev. Proc. 95-48, 1995-2 C.B. 418).

- (2) The following organizations may request relief from filing the Form 990-N, Form 990-EZ or Form 990 because they are one of the following governmental units:

- a. A state or local governmental unit as defined in Regulations section 1.103-1(b), which includes a state, a territory of the United States, the District of Columbia, or any political subdivision thereof.
 - b. An organization entitled to receive deductible charitable contributions as an organization described in Section 170(c)(1), which is a state, a territory of the United States, or any political subdivision of any of the foregoing, or the United States or the District of Columbia, but only if the contribution or gift is made for exclusively public purposes.
 - c. An Indian tribal government or a political subdivision thereof under Sections 7701(a)(40) and 7871
- (3) An organization may request relief from filing Form 990-N, Form 990-EZ or Form 990 as an affiliate of a governmental unit if it has a ruling or determination stating that:
- a. Its income is excluded from gross income under section 115, and
 - b. It is entitled to receive deductible contributions under section 170(c)(1) on the basis that they are for the use of governmental units, or
 - c. It is a wholly owned instrumentality of a state or political subdivision of a state for employment tax purposes. See Sections 3121(b)(7) and 3306(c)(7)).
- (4) An organization may request relief from its Form 990 N, Form 990-EZ or Form 990 filing requirement as a government affiliate if:
- a. Its governing body is elected by the public under local statute or ordinance; or A majority of the members of its governing body are appointed by a governmental unit, an affiliate of a governmental unit, or a public official acting in an official capacity, and
 - b. It has two (2) or more of the affiliation factors listed in Section 4.03 of Rev. Proc. 95-48, 1995-47 I.R.B. 33, and
 - c. The filing of its Form 990-N, Form 990-EZ or Form 990 is not otherwise necessary to the efficient administration of the internal revenue laws. All of the relevant facts and circumstances are considered and those facts and circumstances are described in Section 4.04 of Rev. Proc. 95-48, 1995-47 I.R.B. 33.
- The organization must submit documentation showing how it meets the requirements as governmental unit or an affiliate of a governmental unit. (Examples include organizing documents, bylaws, financial reports and so forth.)
- (5) See Rev. Proc. Rev. Proc. 95-48, 1995-2 C.B. 418 and Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

H. Additional Information

- (1) The following rulings discuss whether certain organizations or groups are construed to be "The United States" for purposes of donating charitable gifts, grants or contributions.
 - a. Gifts to a research foundation created by executive agreement between the U.S. and a foreign country, equally financed, owned, and governed by the U.S. and the foreign country, and whose assets would be divided equally between the two countries upon dissolution, were determined not to be gifts to "the United States" or other Section 170(c)(1) organizations in Rev. Rul. 76-195, 1976-1 C.B. 61.
 - b. Gifts to a Presidential Inaugural Committee appointed by the President-elect to sponsor inaugural festivities were determined not to be gifts to "the United States" for exclusively public purposes in Rev. Rul. 77-283, 1977-2 C.B. 72.
 - c. Gifts to the federal social security trust fund were determined to be gifts to "the United States" in Rev. Rul. 82-169, 1982-2 C.B. 72.

IV. Section 170(b)(1)(A)(ix) – Agricultural Research Organizations

- (1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Sections 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization.

A. Background / History

- (1) Section 170(b)(1)(A)(ix) was added by the PATH Act, Pub. L. No. 114-113, Title VII, Section 715, Div. Q, Title III, Subtitle C, Section 331(a) (December 18, 2015).
- (2) Section 170(b)(1)(A)(ix) became effective December 18, 2015, the date the PATH Act was enacted.
- (3) Although there are no Treasury Regulations specific to Section 170(b)(1)(A)(ix), in the Technical Explanation of the Protecting Americans from Tax Hikes Act of 2015, House Amendment #2 to the Senate Amendment to H.R. 2029, p.195-198, JCX-144-15 (December 17, 2015), the Joint Committee on Taxation stated that it is intended that the provision be interpreted in like manner and consistent with the rules applicable to medical research organizations.
 - a. Therefore, certain sections of both Treas. Reg. 1.170A-9(d) and Treas. Reg. 1.509(a)-2(b) regarding medical research organizations may be considered when determining whether an organization meets the requirements of Section 170(b)(1)(A)(ix).

B. Relevant Terms

- (1) **Agricultural Research Organization** – An organization exempt under Section 501(c)(3) that is directly engaged in the continuous active conduct of

agricultural research (as defined in Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977) and operated in conjunction with a land-grant college or university or a non-land grant college of agriculture. See IRC 170(b)(1)(A)(ix). See also Pub. L. 95-113, Title XIV, Section 1404, Sept. 29, 1977, 91 Stat. 983, which codified definitions regarding agricultural research in 7 USC 3103.

(2) **Agricultural Research** – Research in the food and agricultural sciences. See 7 USC Section 3103(2).

(3) **Food and Agricultural Sciences** – Basic, applied, and developmental research, extension, and teaching activities in food and fiber, agricultural, renewable energy and natural resources, forestry, and physical and social sciences, including activities relating to the following:

- a. Animal health, production, and well-being
- b. Plant health and production
- c. Animal and plant germ plasm collection and preservation
- d. Aquaculture
- e. Food safety
- f. Soil, water, and related resource conservation and improvement
- g. Forestry, horticulture, and range management
- h. Nutritional sciences and promotion
- i. Farm enhancement including financial management, input efficiency, and profitability
- j. Home economics
- k. Rural human ecology
- l. Youth development and agricultural education including 4-H clubs
- m. Expansion of domestic and international markets for agricultural commodities and products including agricultural trade barrier identification and analysis
- n. Information management and technology transfer related to agriculture
- o. Biotechnology related to agriculture
- p. The processing, distributing, marketing, and utilization of food and agricultural products

Note: See 7 USCS Section 3103(9).

(4) **College and University** – An educational institution in any state which:

- a. Admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate
- b. Is legally authorized within such state to provide a program of education beyond secondary education
- c. Provides an educational program for which a bachelor's degree or any other higher degree is awarded
- d. Is a public or other nonprofit institution, and
- e. Is accredited by a nationally recognized accrediting agency or association. See 7 USC 3103(4)(A).

Note: 7 USC 3103(4)(B) states, "The terms 'college' and 'university' include a research foundation maintained by a college or university..."

C. Law / Authority

- (1) Section 170(b)(1)(A)(ix) – An agricultural research organization directly engaged in the continuous active conduct of agricultural research, in conjunction with a land-grant college or university, or a non-land grant college of agriculture.
- (2) United States Code Annotated (USCA), Title 7. Agriculture
 - a. 7 USC Section 3101, Purposes of agricultural research, extension, and education
 - b. 7 USC Section 3102, Additional purposes of agricultural research and extension
 - c. 7 USC Section 3103, Definitions
 - d. 7 USC Section 3104, Agriculture research; declaration of policy; duties of Secretary of Agriculture; use of existing facilities
 - e. 7 USC Section 3105, Agricultural research; authorization of additional appropriations; administrative expenses; availability of special research fund
- (3) There is no corresponding Treasury Regulation for Section 170(b)(1)(A)(ix).

D. Land-Grant College or Non-Land Grant College of Agriculture

- (1) An organization qualifies as a Section 170(b)(1)(A)(ix) agricultural research organization if it is primarily engaged directly in the continuous active conduct of agricultural research in conjunction with a land-grant college or university or a non-land grant college of agriculture.
- (2) The terms "college" and "university" include a research foundation maintained by a college or university.

- a. The terms "land-grant colleges and universities" are defined in 7 USCS Section 3103(13) to mean those institutions eligible to receive funds under the Act of July 2, 1862 (12 Stat. 503-505, as amended; 7 U.S.C. 301-305, 307 and 308), or the Act of August 30, 1890 (26 Stat. 417-419, as amended; 7 USC 321-326 and 328) including Tuskegee University. See also the USDA Land-Grant University Website Directory.
- b. The term "non-land grant college of agriculture" is defined in 7 USCS 3103(14)(A) to mean a public college or university that offers a baccalaureate or higher degree in the study of agricultural sciences, forestry, or both in specified areas of study. See 7 USC 3103(14)(A)(ii) for a list of the specified areas of study.

E. Committed to Spend Contributions

- (1) During the calendar year in which a contribution is made or treated as made, the organization must be committed to spend that contribution for active conduct of agricultural research before January 1 of the fifth calendar year beginning after the date such contribution is made.

F. Lobbying Activities

- (1) An agricultural research organization is permitted to use the expenditure test of Section 501(h) for purposes of determining whether a substantial part of its activities consist of carrying on propaganda, or otherwise attempting, to influence legislation, otherwise known as lobbying.

G. Deductibility of Contributions

- (1) An individual taxpayer who makes a cash charitable contribution may deduct the contribution up to 50% of their contribution base (generally, adjusted gross income, with modifications) because an agricultural research organization is treated as a public charity per se, regardless of its sources of financial support.
Note: From January 1, 2018, through December 31, 2025, the charitable contribution deduction is increased to up to 60% of the individual taxpayer's contribution base. See Section 170(b)(1)(G)(i).

H. Application Considerations

- (1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with public charity classification under Sections 509(a)(1) and 170(b)(1)(A)(ix).

H.1. Form 1023 – Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code

- (1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Sections 509(a)(1) and 170(b)(1)(A)(ix) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through Pay.gov.

Form 1023 (Rev. January 2020) Department of the Treasury Internal Revenue Service	Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form1023 for instructions and the latest information.	OMB No. 1545-0047 <i>Note: If exempt status is approved, this application will be open for public inspection.</i>
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Use the "?" buttons throughout this form for help in completing this application. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500.

If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

- a. Form 1023, Part VII, Foundation Classification, prompts the applicant to select the foundation classification they are requesting.

Form 1023 (Rev 01-2020)	Name:	EIN:	Page 15
Part VII Foundation Classification			
Part VII is designed to classify you as an organization that is either a private foundation or a public charity. Public charity classification is a more favorable tax status than private foundation classification. If you are a private foundation, this part will further determine whether you are a private operating foundation.			

- b. The appropriate selection is "You are described in 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization directly engaged in the continuous active conduct of agricultural research in conjunction with a college or university."

☒ You are described in 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization directly engaged in the continuous active conduct of agricultural research in conjunction with a college or university.

Additional schedules are not required for this foundation classification.

- (2) Organizations not meeting the requirements for classification under Section 170(b)(1)(A)(ix) may qualify under another foundation classification such as Section 170(b)(1)(A)(vi), so long as the organization meets the requirements for the other foundation classification.
- (3) Organizations requesting classification under Section 170(b)(1)(A)(ix) are NOT eligible to use Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.
- (4) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

H.2. Form 8940 – Request for Miscellaneous Determination

- (1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 170(b)(1)(A)(ix) on Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through Pay.gov.

Form 8940 (Rev. April 2023) Department of the Treasury Internal Revenue Service	Request for Miscellaneous Determination Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form8940 for instructions and the latest information.	OMB No. 1545-0047 <i>Note: If your request is approved, the information you provide may be open for public inspection.</i>
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Use the "?" buttons throughout this form for help in completing your request. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 877-829-5500.

If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

Part I Identification of Applicant
1 Full Name of Organization (exactly as it appears in your organizing document)

- a. Form 8940, Part II, Type of Request, Item 1, prompts the applicant to select the item that best describes their request. The appropriate selection is “Reclassification of foundation status, including a voluntary request from a public charity for private foundation status.”

Form 8940 (Rev. 04-2023)

Name:

EIN:

Page 2

Part II Type of Request (See Instructions for attachments to upload with your particular request)

1 Select the item below that best describes your request.

☐ Reclassification of foundation status, including a voluntary request from a public charity for private foundation status (Schedule G)

- b. The applicant would then be required to complete Form 8940, Schedule G, Reclassification of foundation status, including a voluntary request from a public charity for private foundation status. Item 1 prompts the applicant to choose the foundation classification they are requesting.

The appropriate selection would be “Sections 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization directly engaged in the continuous active conduct of agricultural research in conjunction with a college or university.”

Schedule G. Reclassification of foundation status, including a voluntary request from a public charity for private foundation status

1 Select which foundation classification you are requesting from the list below.

☐ Sections 509(a)(1) and 170(b)(1)(A)(ix) as an agricultural research organization directly engaged in the continuous active conduct of agricultural research in conjunction with a college or university. (Schedule P)

- c. Next, the applicant would be required to complete Form 8940, Schedule P, An agricultural research organization described in sections 509(a)(1) and 170(b)(1)(A)(ix).

Schedule P. An agricultural research organization described in sections 509(a)(1) and 170(b)(1)(A)(ix)

- d. Schedule P contains the following questions:

- Explain in detail how you are operated in conjunction with a land-grant college or university or a non-land grant college of agriculture (as defined in section 1404 of the Agricultural Research, Extension, and Teaching Policy Act of 1977).
- Explain in detail your agricultural research program and how contributions to such program will be spent.

(2) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

I. Additional Information

- (1) Research organizations and land-grant colleges are also discussed in other technical guides. For additional information, see:

- a. TG 3-4: Exempt Purpose, Scientific Organizations 501(c)(3).

- (2) Congressional research service reports (CRS) are research projects conducted under Congressional oversight and directed by members of Congress on specific issues. The CRS reports are included as additional research material. The reports are made public, and available on <https://crsreports.congress.gov>.
 - a. CRS, US Land-Grant University System, R45897
 - b. CRS, Agency-Related Nonprofit Research Foundations and Corporations, R46109

V. Section 509(a)(4) – Testing for Public Safety

- (1) This section discusses the requirements for a Section 501(c)(3) organization to qualify under Section 509(a)(4) as an organization testing for public safety.

A. Background

- (1) Testing for public safety became a qualifying Section 501(c)(3) purpose with the reorganization and recodification of the Code of 1954. See Pub. L. No. 591, Sec. 501, 68A Stat. 443. See H.R. Rep. No. 83-2543 (1954).
- (2) The Tax Reform Act of 1969 (Pub. L. 91-172, title I, Section 101(a), Dec. 30, 1969, 83 Stat. 496) created Section 509 and introduced private foundation classification into the Code.
 - a. The Tax Reform Act added restrictions, requirements, taxes, and penalties affecting organizations classified as private foundations under Section 509.
 - b. Organizations testing for public safety were excepted from private foundation classification. See Section 509(a)(4).
 - c. While they are exempt under Section 501(c)(3), contributions to Section 509(a)(4) organizations are not deductible as charitable contributions under any provision of the Code.

B. Relevant Terms

- (1) **Testing for Public Safety** – The testing of consumer products, such as electrical products, to determine whether they are safe for use by the general public. See Treas. Reg. 1.501(c)(3)-1(d)(4).
- (2) **Consumer Products** – Products that are bought by individuals or households for personal use. See Treas. Reg. 1.501(c)(3)-1(d)(4).
- (3) **Trade or Business** – Any activity carried on for the production of income via the sale of goods or performance of services. See Treas. Reg. 1.501(c)(3)-1(e)(1).

C. Law / Authority

- (1) Section 509(a)(4) – An organization which is organized and operated exclusively for testing for public safety.

- (2) Treas. Reg. 1.501(c)(3)-1 – Organizations organized and operated for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention of cruelty to children or animals.
- (3) Treas. Reg. 1.509(a)-1 – Definition of private foundation, which provides that organizations which test for public safety are excluded.

D. Characteristics

- (1) Testing for public safety is an exempt purpose expressly described in Section 501(c)(3).
- (2) Section 509(a)(4) excludes from private foundation status Section 501(c)(3) organizations organized and operated for the purpose of testing products for public safety.
- (3) Although not classified as private foundations, Section 509(a)(4) organizations have less favorable statuses than those described in Sections 509(a)(1), (2) or (3), in several respects (and in some respects even less favorable than private foundations). See sections V.E.1 and V.E.2 of this TG for an explanation.

E. History

- (1) Testing for public safety became a qualifying Section 501(c)(3) purpose in 1954.
- (2) The category was added in response to the decision in *Underwriters' Laboratories v. Commissioner*, 135 F.2d 371 (7th Cir. 1943), where the court held that tests, experiments, and investigations to determine the safety of consumer products did not constitute a scientific purpose. The court held, "The business in which the petitioner was engaged was a commercial testing laboratory, and of a kind usually conducted for profit, and is not exempt."
- (3) In Rev. Rul. 68-373, 1968-2 C.B. 206, an organization engaged in testing drugs for pharmaceutical companies failed to qualify for exemption under Section 501(c)(3).
 - a. The Food and Drug Administration (FDA) already required the tests as a precondition of approval to market a drug.
 - b. The testing was incidental to the pharmaceutical company's commercial operations.
 - c. The testing primarily served the private interest of the drug manufacturers rather than the interest of the public.
- (4) The regulations state that testing for public safety "includes the testing of consumer products, such as electrical products, to determine whether they are safe for use by the general public." See Treas. Reg. 1.501(c)(3)-1(d)(4).
- (5) The legislative history supports the view that Congress intended the testing for public safety purpose to extend only to consumer products. See Senate Report No. 1622, 83rd Cong., 2nd Sess., 310 (1954).

- (6) In Rev. Rul. 65-61, 1965-1 C.B. 234, the Service concluded that an organization that was organized primarily to test for public safety, and to establish safety standards for products used aboard pleasure boats, qualified for exemption under Section 501(c)(3) because it furthered a testing for public safety purpose.
- a. The organization's purpose was to demonstrate a product's safety and soundness.
 - b. The organization, after conducting appropriate testing, certified the product. The products were identified, by a label, as meeting the minimum safety requirements.
 - c. The Service noted that the testing organization tested consumer products for public safety.
- (7) In Rev. Rul. 78-426, 1978-2 C.B. 175, however, an organization whose activities include the inspection, testing, and safety certification of cargo shipping containers and research, development, and reporting of information in the field of containerization was determined not to qualify for exemption under Section 501(c)(3).
- a. The testing and certification serve the private interests of container and other manufacturers and shippers by facilitating their operations in international commerce, and only incidentally serve the public interest.
 - b. Additionally, the safety and efficiency of shipping containers is closely allied to successful commercial operations, since manufacturers and shippers must protect themselves against losses due to spoilage, leakage, delays in transit, and employee injuries.
 - c. This revenue ruling distinguished Rev. Rul. 65-61 because the organization is not organized and operated for the purpose of testing for public safety, as the products tested are containers used by shippers in their business activities and not consumer products utilized by the general public.

E.1. Non-Deductibility of Contributions

- (1) Organizations organized and operated for testing for public safety are not eligible to receive tax-deductible charitable contributions under the following provisions of the Code:
- a. Section 170(c)(2)(B), Income tax
 - b. Section 2055(a)(2), Estate tax
 - c. Section 2106(a)(2)(A)(ii), Estate tax
 - d. Section 2522(a)(2), Gift tax

E.2. Private Foundation Non-Qualifying Distributions

- (1) Since testing for public safety is not a purpose described in Section 170(c)(2)(B), a private foundation's distribution to a Section 509(a)(4)

organization for such purpose is not a qualifying distribution but is a taxable expenditure.

See Sections 4942(g) and 4945(d)(5). See also Treas. Reg. 53.4945-6(c).

- (2) A private foundation must exercise expenditure responsibility over a grant to an organization testing for public safety regardless of the purpose of the grant. Section 4945(h) states, "...the private foundation is responsible to exert all reasonable efforts and to establish adequate procedures:
 - a. To see that the grant is spent solely for the purpose for which made,
 - b. To obtain full and complete reports from the grantee on how the funds are spent,
 - c. To make full and detailed reports with respect to such expenditures to the Secretary."
- (3) A private foundation cannot terminate its private foundation status by transferring its assets to or operating as a Section 509(a)(4), testing for public safety organization. See Section 507(b)(1).
- (4) A 509(a)(4) organization is not excluded from the definition of "substantial contributor" under Section 507(d)(2) or "disqualified person" under Section 4946 in certain situations where other public charities and private foundations are excluded. See Treas. Regs. 1.507-6(a)(2) and 53.4946-1(a)(7) and (8).

F. Application Considerations

- (1) An organization is required to apply to the IRS to be considered for exemption under Section 501(c)(3) with public charity classification under Section 509(a)(4).

F.1. Form 1023 – Application for Recognition of Exemption under Section 501(c)(3) of the Internal Revenue Code

- (1) Organizations applying for an initial determination of their tax-exempt status under Section 501(c)(3) may request classification under Section 509(a)(4) on Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. Form 1023 must be electronically submitted through Pay.gov.

Form 1023 (Rev. January 2020) Department of the Treasury Internal Revenue Service	Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form1023 for instructions and the latest information.	OMB No. 1545-0047 <i>Note: If exempt status is approved, this application will be open for public inspection.</i>
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If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

- a. Form 1023, Part VII, Foundation Classification, prompts the applicant to select the foundation classification they are requesting.

Part VII Foundation Classification

Part VII is designed to classify you as an organization that is either a private foundation or a public charity. Public charity classification is a more favorable tax status than private foundation classification. If you are a private foundation, this part will further determine whether you are a private operating foundation.

- b. The appropriate selection is “You are described in 509(a)(4) as an organization organized and operated exclusively for testing for public safety.”

☐ You are described in 509(a)(4) as an organization organized and operated exclusively for testing for public safety.

- (2) Organizations not meeting the requirements for classification under Section 509(a)(4) may qualify under another foundation classification such as Section 170(b)(1)(A)(vi), so long as the organization meets the requirements for the other foundation classification.
- (3) Organizations requesting classification under Section 509(a)(4) are NOT eligible to use Form 1023EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.
- (4) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

F.2. Determination Letter

- (1) Letter 947 will need to be modified to reflect the lack of contribution deductibility. Suggested language includes, “Donors can’t deduct contributions they make to you under IRC Section 170. You’re not qualified to receive tax deductible bequests, devises, transfers or gifts under Sections 2055, 2106, or 2522.”

F.3. Form 8940 – Request for Miscellaneous Determination

- (1) Organizations exempt under Section 501(c)(3) may request a change in foundation classification to Section 509(a)(4) on Form 8940, Request for Miscellaneous Determination. Form 8940 must be electronically submitted through Pay.gov.

Form **8940**

(Rev. April 2023)

Department of the Treasury
Internal Revenue Service**Request for Miscellaneous Determination**Do not enter social security numbers on this form as it may be made public.
Go to www.irs.gov/Form8940 for instructions and the latest information.

OMB No. 1545-0047

Note: If your request is approved, the information you provide may be open for public inspection.

Use the “?” buttons throughout this form for help in completing your request. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 877-829-5500.

If you cannot complete required responses within the textbox limits throughout this form, upload your additional narratives with the other required documents.

Part I Identification of Applicant

1 Full Name of Organization (exactly as it appears in your organizing document)

- a. Form 8940, Part II, Type of Request, Item 1, prompts the applicant to select the item that best describes their request. The appropriate selection is “Reclassification of foundation status, including a voluntary request from a public charity for private foundation status.”

Part II Type of Request (See Instructions for attachments to upload with your particular request)

1 Select the item below that best describes your request.

☐ Reclassification of foundation status, including a voluntary request from a public charity for private foundation status (Schedule G)

- b. The applicant would then be required to complete Form 8940, Schedule G, Reclassification of foundation status, including a voluntary request from a public charity for private foundation status. Item 1 prompts the applicant to choose the foundation classification they are requesting.

The appropriate selection would be “Section 509(a)(4) as an organization organized and operated exclusively for testing for public safety.” Additional schedules are not required for this foundation classification.

Schedule G. Reclassification of foundation status, including a voluntary request from a public charity for private foundation status

1 Select which foundation classification you are requesting from the list below.

☒ Section 509(a)(4) as an organization organized and operated exclusively for testing for public safety.

- (2) See Rev. Proc. 2025-5, 2025-1 I.R.B. 260, updated annually.

VI. Exhibits

- (1) The following information and graphics demonstrate how to submit an application on www.Pay.gov.

A. Additional Information Regarding Pay.gov

- (1) The applications for determination requests discussed in this TG are all contained on www.Pay.gov. This website allows users to fill out a government form or pay a bill to a United States government agency.
- (2) Pay.gov is an offering of the Department of Treasury, Bureau of the Fiscal Service that provides agencies with a secure government-wide portal for collecting funds electronically. Launched in October 2000, Pay.gov offers a suite of online and offline services to process collections electronically using Internet technologies. It satisfies the demands of agencies and consumers for electronic alternatives by providing the ability to complete forms, make payments, and submit queries 24 hours a day electronically.

B. Form 1023 – Submitting through Pay.gov

- (1) From the Pay.gov homepage, enter “Form 1023” in the search box, located in the upper right of the page, and click the search icon.



- (2) From the search results, click the “Continue” link for Form 1023.

Application for Recognition of Exemption Under Section 501(c)(3)

Description: Organizations file this form to apply for recognition of exemption from federal income tax under Section 501(c)(3)

Form Number: 1023

Agency: [Treasury \(UST\): Internal Revenue Service \(IRS\)](#)

[Continue](#)

- (3) You are now at the Form 1023 homepage.

Application for Recognition of Exemption Under Section 501(c)(3)

1 [Before You Begin](#) 2 Complete Agency Form 3 Enter Payment Info 4 Review & Submit 5 Confirmation

- (4) Applicants will complete and submit Form 1023 by clicking “Continue to the Form.” You can download a blank copy of the application in PDF format by clicking “Preview Form.”

[Preview Form](#) [Cancel](#) [Continue to the Form](#)

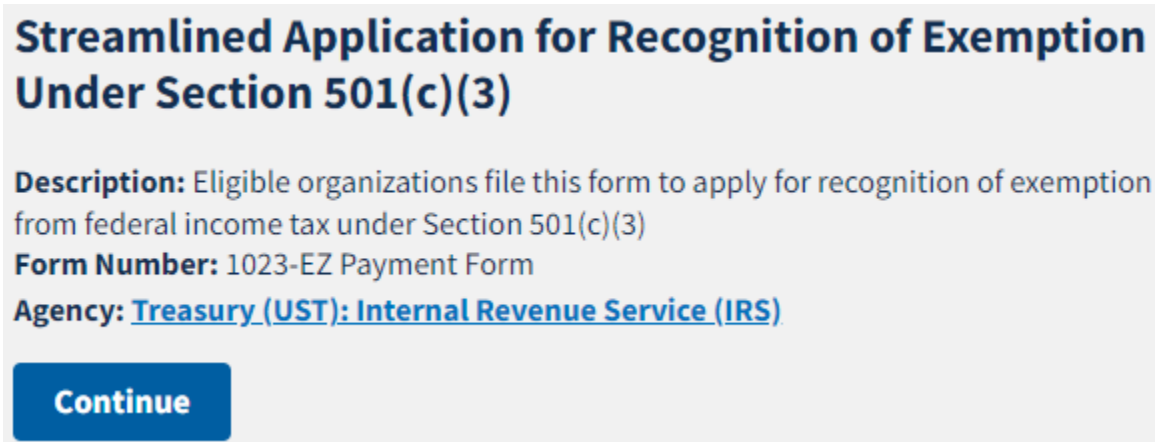
C. Form 1023-EZ – Submitting through Pay.gov

- (1) From the Pay.gov homepage, enter “Form 1023-EZ” in the search box, located in the upper right of the page, and click the search icon.

Pay.gov [Sign In](#) [Search](#)

[Browse Payments](#) [See All Forms](#) [Help](#) [About Us](#) [▼](#)

- (2) From the search results, click the “Continue” link for Form 1023-EZ.



Streamlined Application for Recognition of Exemption Under Section 501(c)(3)

Description: Eligible organizations file this form to apply for recognition of exemption from federal income tax under Section 501(c)(3)

Form Number: 1023-EZ Payment Form

Agency: [Treasury \(UST\)](#): [Internal Revenue Service \(IRS\)](#)

[Continue](#)

- (3) You are now at the Form 1023-EZ homepage.



Streamlined Application for Recognition of Exemption Under Section 501(c)(3)

1 2 3 4 5

[Before You Begin](#) Complete Agency Form Enter Payment Info Review & Submit Confirmation

- (4) Applicants will complete and submit Form 1023-EZ by clicking “Continue to the Form.” You can download a blank copy of the application in PDF format by clicking “Preview Form.”



[Preview Form](#) [Cancel](#) [Continue to the Form](#)

D. Form 8940 – Submitting through Pay.gov

- (1) From the Pay.gov homepage, enter “Form 8940” in the search box, located in the upper right of the page, and click the search icon.



Pay.gov

[Sign In](#) [Search](#)

[Browse Payments](#) [See All Forms](#) [Help](#) [About Us](#) [▼](#)

- (2) From the search results, click the “Continue” link for Form 8940.

Form 8940 Request for Miscellaneous Determination

Description: Organizations exempt under Section 501(a) file Form 8940 for miscellaneous determinations under Sections 507, 509(a), 4940, 4942, 4945, and 6033. Nonexempt charitable trusts may also file this form for an initial determination of foundation classification under Section 509(a)(3). Canadian registered charities file this form to be listed as an organization described in Section 501(c)(3) on IRS.gov or to request classification as a public charity rather than a private foundation.

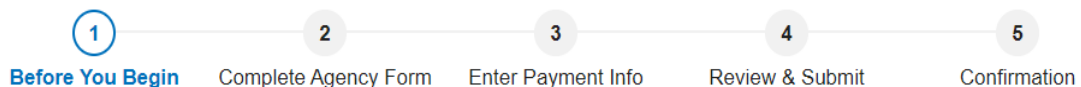
Form Number: Form 8940

Agency: [Treasury \(UST\): Internal Revenue Service \(IRS\)](#)

[Continue](#)

- (3) You are now at the Form 8940 homepage.

Form 8940 Request for Miscellaneous Determination



- (4) Applicants will complete and submit Form 8940 by clicking “Continue to the Form.” You can download a blank copy of the application in PDF format by clicking “Preview Form.”

[Preview Form](#) [Cancel](#) [Continue to the Form](#)