

New IRS Nonprofit “E-postcard” Filing Requirements

by Michael E. Malamut, PRP

The Pension Protection Act of 2006 (PPA), enacted in August of that year, includes a number of provisions applicable to the tax treatment of nonprofit entities. The most important change affecting small nonprofits is a new annual tax reporting requirement applicable to all nonprofit entities. This reporting requirement is commonly called the “e-postcard,” because the new short-form return may only be filed electronically; the official name of the new filing form is Internal Revenue Service Form 990-N.

Parliamentarians can serve an important role in alerting the organizations to which they belong or which they serve of this significant new e-postcard requirement. Many members of NAP serve nonprofits either professionally or as volunteers. It might be useful to these organizations for NAP members to remind them of the new filing requirements in case they are not otherwise aware of them.

For most small nonprofits, whose tax years coincide with the calendar year, the e-postcard requirement starts with the 2007 calendar year, and the first e-postcard return must be filed by May 15, 2008. For organizations with tax years beginning after January 1, 2007, the filing deadline will be the 15th day of the fifth month after the end of their first tax year after January 1, 2007.

Before the PPA, most tax-exempt organizations with less than \$25,000 in annual revenues were exempt from annual filing requirements. Now, however, virtually all tax-exempt organizations must file annually. Smaller organizations, with less than \$25,000 in revenue, must file the e-postcard.

The consequences of failure to file the e-postcard are harsh—loss of tax-exempt status for three years’ consecutive failure to file. The IRS may then choose to treat the organization that has lost its tax-exempt status as a business entity, and all income would be treated as business income. The organization would also face potential penalties for failure to file, even though the organization

would not owe any tax. If an organization loses tax-exempt status for failure to file the e-postcard three years in a row, it would be required to reapply in order to again be recognized as tax-exempt. The current fee for filing an application for recognition is \$300 for the smallest organizations, whether the organization is a 501(c)(3) charitable entity filing IRS Form 1023 or a non-charitable nonprofit filing IRS Form 1024.

There are a few exceptions to the annual e-postcard requirement for small nonprofits. For example, organizations required to file other forms, such as the full IRS Form 990, do not need to file the e-postcard as well. Many churches and church-related organizations remain exempt from annual filing requirements under the PPA.

There is another important exception that covers regional, state, local, and other forms of subordinate organizations (in other words, most chapters and units of larger organizations), but only if the superior organization (called a “central organization” in IRS terminology) has obtained a group determination letter. The superior organization must also file a group return covering all the subordinate units, which requires that the units provide a significant amount of financial paperwork to the superior organization. Local chapters and units should be diligent in determining whether their superior organization has filed all the required documents before they can assume that they have met the e-postcard requirement.

There are a large number of different types of organizations that qualify for tax-exempt status. Common forms of nonprofits that are tax-exempt pursuant to the United States Internal Revenue Code and that many parliamentarians work with fall under Section 501(c)(3) (charities, including sports organizations and churches), 501(c)(4) (civic leagues), 501(c)(5) (labor and agricultural associations), 501(c)(6) (business leagues and chambers of commerce), 501(c)(7) (social clubs), 501(c)(8) (fraternal beneficial societies), 501(c)(10) (other fraternal societies), or 501(c)(19) (certain veterans organization posts). Large numbers of small nonprofits in these categories are not even aware that they have tax-exempt status, because they were previously too small to be required to file the annual IRS Form 990 mandated for most nonprofits

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with revenue above \$25,000 per year.

Because they were exempt from annual filing, many such smaller nonprofits never bothered to seek recognition from the IRS as tax-exempt organizations by filing IRS Form 1023 or Form 1024. Many such small organizations have obtained a tax identification number in order to open a bank account, but that does not indicate that the IRS has approved the organization as a tax-exempt nonprofit. Such small organizations should seek advice from a lawyer or certified public accountant regarding whether they are required to request recognition from the IRS now and what the consequences might be if they fail to do so.

Other small nonprofits may have received recognition as tax-exempt entities years ago but lost the paperwork with transitions between volunteer officers over the years. Without an annual filing requirement for nonprofits, the IRS often has no current information on many of these small organizations and no current address on file. The IRS is notifying many, but not all, organizations directly that they are required to file the e-postcard. The IRS is relying more heavily on a broad-based educational effort.

The IRS has posted more detailed information on its Web site at www.irs.gov/charities/article/0,,id=169250,00.html and www.irs.gov/pub/irs-tege/epostcard_faqs.pdf. The e-postcard is not a daunting document: basically just contact information, the group's taxpayer identification number (needed to open most bank accounts), and a simple acknowledgment that the group's revenue is below \$25,000. By alerting organizations that they work with about this new filing requirement and the consequences of failure to comply, parliamentarians can be part of a vital link in assuring that these organizations maintain their tax-exempt status. ★

Editor's note: NAP Headquarters is filing Form 990-N for associations and units of NAP. Any questions concerning that filing should be directed to NAP Headquarters.

Michael E. Malamut, JD, PRP, CPP-T, chairs the NP Review Committee; see page 18 in this issue of NP to read more about him.