





# Characteristics of and Reporting Requirements for Selected Tax-Exempt Organizations

**Erika Lunder**  
Supervisory Legislative Attorney

January 30, 2007

<http://wikileaks.org/wiki/CRS-RL30877>

Congressional Research Service

7-5700

[www.crs.gov](http://www.crs.gov)

RL30877

## Summary

This report addresses the differences among the tax-exempt organizations described in Internal Revenue Code subsections 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), and section 527—charitable organizations, social welfare organizations, labor unions, trade associations, and political organizations, respectively.

Each type of organization has a unique statutory definition, enjoys benefits from obtaining tax-exempt status, is subject to statutory limitations on its activities, and must disclose certain information to the IRS and the general public. At the end of the report is a chart that summarizes the organizations' characteristics and reporting requirements.

## Contents

Organizational Definitions .....	1
IRC § 501(c)(3).....	1
IRC § 501(c)(4).....	2
IRC § 501(c)(5).....	2
IRC § 501(c)(6).....	2
IRC § 527 .....	2
Benefits of Tax-Exempt Status.....	3
Tax exemption.....	3
Deductible contributions and dues.....	4
Non-tax benefits.....	5
Disadvantages of Tax-Exempt Status.....	5
Restrictions on lobbying .....	5
Restrictions on political campaign activity .....	6
Related Organizations .....	6
Requirements for Obtaining Tax-Exempt Status.....	7
IRC § 501(c) organizations .....	7
IRC § 527 organizations .....	7
IRS Reporting Requirements .....	8
IRC § 501(c) organizations .....	8
IRC § 527 organizations .....	9
Penalties .....	10
Public Disclosure of Returns.....	10

## Tables

Table 1. Characteristics of and Reporting Requirements for Selected Tax-Exempt Organizations .....	12
--	----

## Contacts

Author Contact Information .....	15
----------------------------------	----

There are more than 30 types of tax-exempt organizations described in the Internal Revenue Code (IRC). Most tax-exempt organizations fall into one of five types: the organizations described in IRC §§ 501(c)(3), 501(c)(4), 501(c)(5), 501(c)(6), and 527. This report was developed to answer frequently asked questions about the differences among these organizations: how they are defined; what they can and cannot do; how they obtain exempt status; and what kind of information they must disclose to the IRS and the public. As will be seen, the same rules often apply to the four organizations described in IRC § 501(c), while different ones apply to 527 organizations.

For purposes of this report, the term “501(c) organizations” refers to the organizations described in IRC §§ 501(c)(3), 501(c)(4), 501(c)(5) and 501(c)(6). It should be noted that there are many other organizations described in IRC § 501(c) and that the rules described in this report do not necessarily apply to them.

## Organizational Definitions

### IRC § 501(c)(3)

The organizations described in IRC § 501(c)(3) are commonly referred to as “charitable organizations.” The section describes them as:

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, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation ... and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

There are two types of 501(c)(3) organizations: public charities and private foundations. In general, public charities receive contributions from a variety of sources, while private foundations receive contributions from limited sources and are often controlled by their donors.<sup>1</sup> Due to fear of abuse, private foundations are subject to stricter regulation than public charities. Examples of 501(c)(3) public charities include the Red Cross, churches, schools, hospitals, Boy Scouts, Girl Scouts, animal shelters, and Little League. Examples of private foundations include the John D. and Catherine T. MacArthur Foundation, the Ford Foundation, the Rockefeller Brothers Fund, Inc., and the Mars Foundation.

An important limitation to note from the organizational definition is that 501(c)(3) organizations may only engage in a non-substantial amount of lobbying and are prohibited from engaging in political campaign activity. None of the other exempt organizations discussed in this report are similarly limited. This issue is discussed below in the “Disadvantages of Tax-Exempt Status” section.

---

<sup>1</sup> IRC § 509.

## IRC § 501(c)(4)

The organizations described in IRC § 501(c)(4) are generally referred to as “social welfare organizations.” The section describes these organizations as:

[c]ivic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Examples of 501(c)(4) organizations include the National Rifle Association and the Sierra Club.

As can be seen from the organizational definitions in IRC §§ 501(c)(3) and 501(c)(4), these organizations have some overlapping characteristics. Both sections include organizations that operate for charitable purposes and are restricted in that no earnings may be used to benefit private shareholders or individuals. There are, however, two important differences between them. First, 501(c)(3) organizations are eligible to receive tax-deductible contributions, but 501(c)(4) organizations are not (see “Benefits of Tax-Exempt Status” section, below). Second, 501(c)(3) organizations are more limited in the amount and types of political activity they may do (see “Disadvantages of Tax-Exempt Status” section, below). Thus, an organization that could qualify under either section will generally choose based on which is more important: receiving tax-deductible contributions or participating in political activity.

## IRC § 501(c)(5)

IRC § 501(c)(5) organizations are described as “labor, agricultural, or horticultural organizations.” Most of these organizations are labor unions.

## IRC § 501(c)(6)

The organizations described in IRC § 501(c)(6) are generally thought of as trade associations. The section describes these organizations as:

[b]usiness leagues, chambers of commerce, real estate boards, boards of trade, or professional football leagues ... not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Examples of 501(c)(6) organizations include the Chamber of Commerce, Jaycees, American Bar Association, American Medical Association, and National Association of Manufacturers.

## IRC § 527

The organizations described in IRC § 527 are political organizations or funds organized and operated primarily for accepting contributions and/or making expenditures for an exempt function.<sup>2</sup> Section 527 defines an *exempt function*<sup>3</sup> as:

---

<sup>2</sup> For more information, see CRS Report RS21716, *Political Organizations Under Section 527 of the Internal Revenue Code*, by Erika Lunder.

influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.

IRC § 527 encompasses every kind of political committee, including a candidate committee, a political party, and a political action committee set up by a union, a corporation or a group of politically-interested citizens. In recent years, the term “527 organization” has been used to describe certain groups that intend to influence federal elections in ways that may be outside the scope of federal election law; however, the tax definition of the term is not limited to such organizations.

## **Benefits of Tax-Exempt Status**

Organizations that qualify for tax-exempt status may receive various types of benefits from the federal government. These include tax and non-tax benefits.

### **Tax exemption**

Most exempt organizations, including those described in IRC §§ 501(c)(3), 501(c)(4), 501(c)(5) and 501(c)(6), are generally exempt from tax on their income. However, they are taxed on any income from unrelated business activities.<sup>4</sup> Additionally, 501(c) organizations, particularly 501(c)(3) organizations, are subject to tax if they engage in certain activities. Taxable activities include making political expenditures, participating in excess lobbying and political activities, and engaging in excess personal benefit transactions (i.e., transactions where insiders realize unwarranted benefits from their relationship with the organization).<sup>5</sup>

527 political organizations are exempt from income tax to the extent that they only have *exempt function* income and engage in *exempt function* activities. *Exempt function* income is income from such sources as contributions, membership dues and political fundraising. The funds must be segregated to be used for an *exempt function*. 527 organizations are taxed if they have income derived from other sources (e.g., investment income) or if they spend money on non-*exempt function* activities.

The exemptions under IRC §§ 501 and 527 do not extend to employment taxes. Thus, if they have employees, exempt organizations generally pay the usual employer share of taxes for Social Security and Medicare. However, churches opposed for religious reasons to the payment of these taxes may elect to be exempt from these taxes, and all 501(c) organizations are exempt for employees whose wages are less than \$100.<sup>6</sup> Additionally, exempt organizations generally pay the federal unemployment (FUTA) tax. However, 501(c)(3) organizations are exempt from this tax,

---

(...continued)

<sup>3</sup> In this report, when *exempt function* is italicized, it is to emphasize that the term refers to political organization exempt function activities (i.e., influencing or attempting to influence an election), not to the activities of other tax-exempt organizations.

<sup>4</sup> IRC §§ 511-514.

<sup>5</sup> IRC § 527(f); IRC chapters 41 and 42.

<sup>6</sup> IRC §§ 3121(a)(16) and (b)(8)(B).

and the other 501(c) organizations are exempt if the employee's wages are less than \$50 per calendar quarter.<sup>7</sup>

## **Deductible contributions and dues**

Of the types of organizations discussed in this report, only 501(c)(3) organizations are eligible to receive tax-deductible charitable contributions.<sup>8</sup> The IRS determines whether an organization is eligible to receive deductible contributions at the time it considers the organization's application for 501(c)(3) status. A list of the 501(c)(3) organizations eligible to receive deductible contributions is found in IRS Publication 78, *Cumulative List of Organizations Described in Section 170(c) of the Internal Revenue Code of 1986*. This publication is available on the IRS website at <http://www.irs.gov>.

Charitable contributions to 501(c)(3) organizations are not deductible if the organization provides goods or services in exchange for the contribution. If the contribution exceeds the fair market value of the goods or services, then the amount of the excess may be deductible. When an organization receives more than \$75 in exchange for goods or services, the organization must tell the donor how much of the contribution, if any, is tax-deductible.<sup>9</sup>

Generally, there are no particular requirements placed on contributors to 501(c)(3) organizations. However, if a contributor wants to take a tax deduction for a contribution of \$250 or more, then he or she needs to obtain "contemporaneous written acknowledgment of the contribution" from the organization.<sup>10</sup> The acknowledgment should include a description of the contribution, a good faith estimate of the value of any property contributed, and a statement about whether anything was given in return. In addition, the Pension Protection Act of 2006 (P.L. 109-280) imposes a new requirement that any cash donation be substantiated by a bank record or written communication from the organization showing its name and the date and amount of the contribution. Contributors also are subject to limitations on the amount that may be deducted: the deduction may not exceed a percentage of the taxpayer's income, only individuals who itemize deductions may take the deduction, and higher-income taxpayers are further restricted in the amount that may be deducted.<sup>11</sup>

When a contribution is not deductible as a charitable contribution, the organization must notify the potential contributor of that fact at the time of solicitation.<sup>12</sup> There is an exception for organizations with annual gross receipts of less than \$100,000. If this exception does not apply, then fundraising solicitations by organizations described in IRC §§ 501(c)(4), 501(c)(5), 501(c)(6) and 527 must include a notice that the donation is not deductible. Organizations that fail to meet this requirement face a fine of \$1,000 for each day the failure occurs, with an annual cap

---

<sup>7</sup> IRC §§ 3306(c)(8) and (10)(A).

<sup>8</sup> IRC § 170. Non-501(c)(3) organizations that may receive tax-deductible contributions are governmental units, veterans organizations, fraternal organizations, and cemetery companies.

<sup>9</sup> IRC §§ 6115 and 6714.

<sup>10</sup> IRC § 170(f).

<sup>11</sup> IRC §§ 62, 63, 68, and 170(b).

<sup>12</sup> IRC § 6113.

of \$10,000.<sup>13</sup> The fines are higher and the cap is eliminated for organizations that intentionally disregard the notification requirement.

Dues to many labor unions (501(c)(5)) and trade associations (501(c)(6)) and to some charitable (501(c)(3)) or social welfare (501(c)(4)) organizations may be tax-deductible business expenses for their members.<sup>14</sup> However, IRC § 162(e) restricts the use of tax-deductible dues for lobbying purposes. If the organization lobbies, it must generally notify its members of the portion of dues that is nondeductible or be subject to a proxy tax on its lobbying expenditures.<sup>15</sup>

## **Non-tax benefits**

Organizations with tax-exempt status may qualify for certain non-tax benefits from the federal government. For example, some federal grants are only available to tax-exempt organizations, generally those described in IRC § 501(c)(3). Additionally, organizations that qualify for tax-exempt status may qualify for favorable mailing rates. The special rates are not an automatic benefit from receiving tax-exempt status so the organization must still apply to the United States Postal Service.<sup>16</sup> Tax-exempt organizations may also receive beneficial treatment under a variety of federal laws (e.g., federal provisions relating to antitrust, securities regulation, bankruptcy, and gambling).

## **Disadvantages of Tax-Exempt Status**

There are some disadvantages to having tax-exempt status. Organizations may be restricted in their activities, such as their ability to participate in lobbying or political campaign activity. Additionally, organizations will have to comply with annual reporting requirements and disclose certain information to the public [see “Reporting Requirements” and “Public Disclosure of Returns” sections, below].

## **Restrictions on lobbying**

As mentioned above, 501(c)(3) organizations are the only type of organization discussed in this report with a statutory definition that explicitly limits lobbying activity.<sup>17</sup> Under IRC § 501(c)(3), these organizations may only conduct a non-substantial amount of lobbying without risking their exempt status. Additionally, they are subject to penalty taxes for making excess lobbying expenditures.<sup>18</sup> The other tax-exempt organizations discussed in this report may, under the

---

<sup>13</sup> IRC § 6710.

<sup>14</sup> IRC § 162. Only individuals who itemize deductions may take the deduction and higher-income taxpayers will be restricted in the amount that may be deducted. IRC §§ 62, 63, and 68. Additionally, only itemizers with substantial expenses that qualify to be deducted as miscellaneous itemized deductions will be able to benefit from the deduction. IRC § 67.

<sup>15</sup> IRC § 6033(e). 501(c)(3) organizations are exempt from this requirement.

<sup>16</sup> For more information on the preferential mailing rates, see USPS Publication 417, *Nonprofit Standard Mail Eligibility*, available at <http://pe.usps.gov/cpim/ftp/pubs/Pub417/Pub417.pdf>.

<sup>17</sup> For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika Lunder.

<sup>18</sup> IRC §§ 4911, 4912, and 4945.

Internal Revenue Code, participate in lobbying so long as it is consistent with the qualifications in their organizational definitions.

Section 18 of the Lobbying Disclosure Act of 1995, P.L. 104-65, prohibits organizations described in IRC § 501(c)(4) from receiving federal grants, loans, or other awards if they engage in lobbying activities, even if they conduct the lobbying with their own funds. As originally passed, section 18 also applied to 501(c)(4) organizations that received government contracts, but the section was amended by P.L. 104-99 to delete that restriction. The Lobbying Disclosure Act imposes registration and disclosure requirements on any organizations that have paid lobbyists whose lobbying activities exceed certain time and monetary limits. (For more information, see CRS Report 96-809, *Lobbying Regulations on Non-Profit Organizations*, by Jack Maskell.)

### Restrictions on political campaign activity

With the exception of 527 organizations, the organizations discussed in this report are restricted in some manner by the Internal Revenue Code from participating in political campaign activity.<sup>19</sup> The purpose of 527 organizations, of course, is to participate in such activity.

The organizational definition in IRC § 501(c)(3) prohibits those organizations from participating in political campaign activity. An organization that violates the prohibition may lose its exempt status and/or be subject to penalty taxes under IRC §§ 4945 and 4955.

The Internal Revenue Code allows 501(c)(4), 501(c)(5), and 501(c)(6) organizations to participate in political campaign activity so long as such activities are consistent with the organization's exempt purpose. However, under IRC § 527(f), any 501(c) organization that makes an expenditure for an *exempt function* is subject to tax on the lesser of its net investment income or the amount of the expenditure. The tax rate is the highest corporate tax rate, with an allowance for capital gains. This provision provides an inducement for these organizations with substantial investment income to conduct their campaign activity through an affiliated 527 organization [see the "Related Organizations" section, below].

Finally, it should be noted that while the *tax laws* permit organizations described in IRC §§ 501(c)(4), 501(c)(5), and 501(c)(6) to engage in political campaign activity, the *election laws* ban corporations and labor unions from making any contribution or expenditure in connection with federal elections.<sup>20</sup> This ban applies whether a corporation is for-profit or tax-exempt. Exceptions may arise from the definitions used in election law, but it is important to note that the election laws do not necessarily correspond to the tax laws. This is another inducement for 501(c) organizations to set up a 527 organization. Of course, 527 organizations must also abide by applicable election laws.

### Related Organizations

It is not unusual for different types of exempt organizations to form affiliates or related organizations to more effectively perform their missions. For example, labor unions often have a

<sup>19</sup> For more information, see CRS Report RL33377, *Tax-Exempt Organizations: Political Activity Restrictions and Disclosure Requirements*, by Erika Lunder.

<sup>20</sup> 2 U.S.C. § 441b.

related 501(c)(3) scholarship fund, which is eligible to receive tax-deductible contributions, and a 527 political action committee, which can conduct campaign/endorsement activities that the union cannot legally carry on inside the union itself. Similarly, a trade association might have a lobbying affiliate, a charitable affiliate, and a political action committee. So long as the entities carefully observe the requirements that the organizations be separate, these types of relationships are not prohibited.

## **Requirements for Obtaining Tax-Exempt Status**

In general, the organizations described in IRC §§ 501(c)(3), (c)(4), (c)(5) and (c)(6) must apply to the IRS to be recognized as tax-exempt, while 527 organizations must notify the IRS of their existence.

### **IRC § 501(c) organizations**

Before an organization described in IRC §§ 501(c)(3), (c)(4), (c)(5), or (c)(6) can apply for exempt status, it generally must be established under state law as whatever type of organization it intends to be, which is usually a nonprofit corporation. This process will typically include developing articles of incorporation and bylaws. The organization must also obtain an employer identification number (EIN) from the IRS, which can be done online. The organization may then apply to the IRS for tax-exempt status.

501(c)(3) organizations file Package 1023 with the IRS.<sup>21</sup> Some organizations do not have to apply, including churches, very small organizations, and organizations that are essentially subsidiaries of organizations with a group exemption letter. If the application is filed within 27 months of the organization's formation, the exemption will generally be effective back to the date of formation. If the organization does not file its application in a timely manner, it will not be treated as an exempt organization for the period between its formation and IRS recognition of its status.

501(c)(4), (c)(5), and (c)(6) organizations file Package 1024, filling out the sections relevant to their organizational type. There is no particular deadline for filing. The recognition of exempt status will be effective back to the date of the organization's formation so long as the organization's activities and purposes have not changed over time. If the organization has altered its activities or substantially amended its charter to qualify for exempt status, then the recognition of its status will be effective as of a date determined by the IRS.

### **IRC § 527 organizations**

With several exceptions, organizations must notify the IRS of their 527 status by electronically filing Form 8871 within 24 hours of formation. They must also obtain an EIN. The exceptions are political organizations that are required to report to the FEC as a political committee, are political committees of non-federal candidates or state or local committees of a political party, or anticipate having annual gross receipts of less than \$25,000. An organization that fails to register

---

<sup>21</sup> For an overview of the application process for IRC § 501(c)(3) organizations, see CRS Report RS21892, *Application Process for Seeking Â§ 501(c)(3) Tax-Exempt Status*, by Erika Lunder.

with the IRS will be taxed at the maximum corporate tax rate on all gross receipts (less certain expenses) for the period of the failure.

## **IRS Reporting Requirements**

In general, tax-exempt organizations must report information to the IRS by filing information and tax returns. While the reporting requirements are similar for 501(c) organizations and 527 organizations, 527 organizations have an additional requirement to report information on their expenditures and contributions.

### **IRC § 501(c) organizations**

The organizations described in IRC §§ 501(c)(3), 501(c)(4), 501(c)(5), and 501(c)(6) must file several returns with the IRS: information returns, income tax returns, and employment tax returns.

Under IRC § 6033, these organizations must file an annual information return [Form 990 series]. Exceptions exist for churches and certain small organizations. The return asks for information concerning such things as sources of revenue, functional expenses, disbursements, and the names and compensation of officers, directors, and trustees. IRC § 6033(b) further requires that 501(c)(3) organizations report information concerning such things as:

- the names and addresses of and amounts given by all substantial contributors (generally donors of gifts in excess of \$5,000)—this information is included on the form’s Schedule B;
- for 501(c)(3) organizations that have elected a numerical measurement of the substantiality of their lobbying expenditures: their lobbying expenditures, the permissible amount of their lobbying expenditures, their grassroots lobbying expenditures, and the permissible amount of grassroots lobbying expenditures;
- information about transfers to and relationships with other 501(c) or 527 organizations; and
- information about any taxes imposed for excess lobbying or political expenditures and excess benefit transactions.

IRC § 6033(f) requires that 501(c)(4) organizations furnish the same information regarding excess benefit transactions.

With respect to income tax returns, all the 501(c) organizations described in this report that conduct business activities unrelated to their exempt purpose must file a Form 990-T. Furthermore, a 501(c) organization that makes an expenditure for an *exempt function* will need to file a Form 1120-POL and one that has been assessed a penalty tax must file Form 4720.

501(c) organizations file the usual employment tax returns for income tax withholding and social security and medicare taxes (Form 941), income reporting (W-2, W-3, Form 1099), and unemployment tax (Form 940).

<http://wikileaks.org/wiki/CRS-RL30877>

## **IRC § 527 organizations**

Like 501(c) organizations, 527 organizations must file information returns, income tax returns, and employment tax returns. 527 organizations with gross receipts of at least \$25,000 (\$100,000 for certain state and local organizations) must file an annual information return (Form 990 series).<sup>22</sup> 527 organizations are not required to file Form 990 if they are state or local committees of a political party, political committees of a state or local candidate, required to report to the FEC as a political committee, caucuses or associations of state or local officials, authorized committees of a candidate for federal office under FECA § 301(6), national committees of a political party under FECA § 301(14), or congressional campaign committees of a political party committee. As discussed above, Form 990 includes such information as the organization's revenue sources and expenses. Additionally, like 501(c)(3) organizations, 527 organizations must report contributions of at least \$5,000 on the form's Schedule B.

527 organizations with taxable income over \$100 must file a tax return (Form 1120-POL).<sup>23</sup> Additionally, 527 organizations with employees are required to file the usual employment tax returns, including those for income tax withholding and social security and medicare taxes (Form 941), income reporting (W-2, W-3, Form 1099), and unemployment tax reporting (Form 940).

527 organizations have an additional reporting requirement that 501(c) organizations are not subject to. 527 organizations must file periodic disclosures of contributions and expenditures with the IRS (Form 8872).<sup>24</sup> The disclosure requirements do not apply to political organizations that have annual gross receipts of less than \$25,000; are political committees of a state or local candidate, state or local committees of a political party; or are required to report to the FEC as a political committee or, if a state or local political organization, required to report similar information to a state. The requirements also do not apply to any expenditure that is an expenditure that expressly advocates for a candidate but is made without the candidate's cooperation.

A periodic report must include (1) the name, address, occupation, and employer of any contributor who makes a contribution during the reporting period and has given at least \$200 during the year, along with the amount and date of the contribution, and (2) the amount, date, and purpose of each expenditure made during the reporting period if the recipient has received at least \$500 during the year, along with the recipient's name, address and, if appropriate, occupation and employer. Contracts to spend or contribute are treated as contributions or expenditures. The organization may file on a (1) quarterly basis in a year with a regularly scheduled election and semi-annually in any other year or (2) monthly basis. There are additional requirements for pre-general election, post-general election, and year-end reports. Form 8872 may be filed electronically, and organizations with annual contributions or expenditures exceeding \$50,000 must do so.

---

<sup>22</sup> IRC § 6033(g).

<sup>23</sup> IRC § 6012(a)(6).

<sup>24</sup> IRC § 527(j).

## Penalties

The penalty imposed on an exempt organization for failing to timely or accurately file the annual information return (Form 990) is \$20 per day for each day the return is not filed, up to the lesser of \$10,000 or 5% of the organization's gross receipts for the year.<sup>25</sup> For organizations with gross receipts over \$1,000,000, the daily penalty is \$100, with a maximum penalty of \$50,000.

Exempt organizations are subject to the same penalties as other taxpayers for failing to file a tax return or pay their taxes. An organization that fails to file a timely tax return is subject to a penalty that equals 5% of the tax due for each month the return is late, limited to 25% of the tax due.<sup>26</sup> If the organization does not pay its taxes, it is subject to a penalty that equals 0.5% of the unpaid tax for each month the tax is not paid, limited to 25% of the unpaid tax.<sup>27</sup> Neither penalty will be imposed if the organization shows that the failure was due to reasonable cause. On the other hand, the penalty may be increased if the failure was due to negligence or fraud.<sup>28</sup> Organizations are also subject to penalty for failing to make estimated tax payments<sup>29</sup> and for failing to properly handle and deposit employment taxes—for more information, see IRS Publication 15, *Circular E, Employer's Tax Guide*, available at <http://www.irs.gov/pub/irs-pdf/p15.pdf>.

If a 527 organization fails to file a timely or accurate Form 8872 (disclosure of contributions and expenditures), it is subject to a penalty that equals the highest corporate tax rate multiplied by the amount of contributions and/or expenditures to which the failure relates.<sup>30</sup>

## Public Disclosure of Returns

Under IRC § 6104, all the 501(c) organizations discussed in this report are required to make available for public inspection a copy of their three most recent information returns [Form 990] and any materials relating to their applications for exempt status. In addition, the Pension Protection Act of 2006 (P.L. 109-280) added a requirement that 501(c)(3) organizations also disclose their unrelated business tax returns (Form 990-T). 527 organizations must meet the same requirement for their Forms 990, notification of 527 status (Form 8871), and returns for disclosing contributions and expenditures (Forms 8872). With respect to Form 990's Schedule B, although 501(c)(3) organizations disclose the names and addresses of their substantial contributors to the IRS, they are not required to disclose any identifying information to the general public unless the organization is a private foundation.<sup>31</sup> 527 organizations must disclose the names and address of their substantial contributors to the IRS and the public. The other 501(c) organizations do not have to disclose the information about substantial contributors to the public.

There are two parts to the public disclosure requirements. First, the organization must make the forms and application available for public inspection during regular business hours at its

---

<sup>25</sup> IRC § 6652(c)(1)(A).

<sup>26</sup> IRC § 6651.

<sup>27</sup> IRC § 6651.

<sup>28</sup> IRC § 6662 and 6663.

<sup>29</sup> IRC § 6655.

<sup>30</sup> IRC § 527(j)(1).

<sup>31</sup> IRC § 6104(d)(3).

principal, regional, and district offices. If an individual makes a request to inspect the returns or application, an inspection copy must generally be provided immediately. Second, the organization must provide copies of the forms and application upon request, whether the request is made in person or in writing. The copies must be free, but the organization is permitted to charge for copying and mailing. If the request is made in person, the organization must generally provide the copies on the same day; if the request is made in writing, the organization must generally respond within 30 days. If the organization has made its documents widely available (e.g., published them on a website), it is not required to respond to written requests for copies. It must, however, still keep the information available for inspection during business hours. An organization that fails to comply with the public inspection requirements is subject to a penalty that equals \$20 per day for each day the failure continues, which is limited to \$10,000 for failures relating to Forms 990 and 8872.<sup>32</sup>

With the exception of the new requirement that 501(c)(3) organizations disclose their unrelated business income tax returns, an organization's income and employment tax returns are not subject to the public disclosure requirements.

Any return or application that must be disclosed to the public by the organization must also be made publicly available by the IRS. All publically-available information may be obtained from the IRS by using Form 4506-A, *Request for Public Inspection or Copy of Exempt or Political Organization*. Additionally, some of the information for 527 organizations is available on the IRS website at <http://www.irs.gov>. The IRS must post electronically submitted Forms 8871 and 8872 in an online database within 48 hours of their filing. The IRS also posts some 527 organizations' Forms 8871, 8872 and 990 that were submitted on paper.

The information contained in this report is summarized in the following chart.

---

<sup>32</sup> IRC §§ 6652(c)(1)(C) and (D). The penalty may be increased if the failure was willful or involved willfully providing false or fraudulent information. IRC §§ 6685 and 7207.

**Table 1. Characteristics of and Reporting Requirements for Selected Tax-Exempt Organizations**

IRC section	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
<b>Short-hand name</b>	charitable organization	social welfare organization	labor union	trade association	political organization
<b>Charitable contribution deduction</b>	yes <sup>0</sup>	no	no	no	no
<b>Business deduction for dues</b>	maybe <sup>0</sup>	maybe (with reduction for lobbying expenses) <sup>0</sup>	usually (with reduction for lobbying expenses) <sup>0</sup>	usually (with reduction for lobbying expenses) <sup>0</sup>	no
<b>Taxed on</b>	unrelated business income; political expenditures; excess lobbying expenditures; excess benefit transactions; withholding taxes on employees	unrelated business income; political expenditures; excess benefit transactions; proxy tax on lobbying expenditures; withholding taxes on employees	unrelated business income; political expenditures; proxy tax on lobbying expenditures; withholding taxes on employees	unrelated business income; political expenditures; proxy tax on lobbying expenditures; withholding taxes on employees	investment income and other non-political income; all expenditures for non-political purposes; withholding taxes on employees
<b>Permitted to lobby</b>	non-substantial amount	yes	yes	yes	to influence the selection of a candidate
<b>Permitted to engage in campaign activities</b>	no, but may educate public about issues	yes, but FECA may prohibit certain activities	yes, but FECA may prohibit certain activities	yes, but FECA may prohibit certain activities	yes, but may be regulated by FECA
<b>Application for exempt status</b>	Package 1023	Package 1024	Package 1024	Package 1024	Form 8871, unless exempt or registered with FEC

IRC section	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
<b>Reports to IRS</b> (not including employment returns such as Forms 940, 941, W-2, W-3, 1099, and the business income return 990-T)	Form 990 or Form 990PF contains: - name, - address, - revenue, - expenses, - total assets, - functional expenses, - program accomplishments, - list of officers, directors, key employees, - compensation of highest paid employees, - compensation of highest paid independent contractors, Form 1120-POL (if made expenditure for an exempt function) contains: - name, - address, - income, - expenses - tax	Form 990 contains: - name, - address, - revenue, - expenses, - total assets - functional expenses, - program accomplishments, - list of officers, directors, key employees, - compensation of highest paid employees, - compensation of highest paid independent contractors Form 1120-POL (if made expenditure for an exempt function) contains: - name, - address - income - expenses - tax	Form 990 contains: - name, - address, - revenue, - expenses, - total assets, - functional expenses, - program accomplishments, - list of officers, directors, key employees, - compensation of highest paid employees, - compensation of highest paid independent contractors Form 1120-POL (if made expenditure for an exempt function) contains: - name, - address - income - expenses - tax	Form 990 contains: - name, - address, - revenue, - expenses, - total assets, - functional expenses, - program accomplishments, - list of officers, directors, key employees, - compensation of highest paid employees, - compensation of highest paid independent contractors Form 1120-POL (if made expenditure for an exempt function) contains: - name, - address - income - expenses - tax	Form 8872 (unless filing with FEC or otherwise exempt); contains: - name, - address, - custodian of records, - contributors' names, addresses, amounts given, - itemized expenditures Form 990 contains: - name, - address, - revenue, - expenses, - total assets, - list of officers, directors, key employees, - functional expenses, - program accomplishments, - compensation of highest paid employees, - compensation of highest paid independent contractors Form 1120-POL contains: - name, - address - income - expenses - tax

IRC section	501(c)(3)	501(c)(4)	501(c)(5)	501(c)(6)	527
<b>Public disclosure of Form 990</b>	yes; but major contributors are not disclosed to the public unless the organization is a private foundation; also must disclose Form 990-T (unrelated business income tax return)	yes; but major contributors are not disclosed to the public	yes; but major contributors are not disclosed to the public	yes; but major contributors are not disclosed to the public	yes; and major contributors are disclosed to the public

**Note:** All forms are available on the IRS website at <http://www.irs.gov/formspubs>.

- a. While the contributions or dues may be deductible, limitations apply which may reduce the amount the contributor or payor is actually able to deduct.

<http://wikileaks.org/wiki/CRS-RL30877>

## **Author Contact Information**

Erika Lunder  
Supervisory Legislative Attorney  
elunder@crs.loc.gov, 7-4538

<http://wikileaks.org/wiki/CRS-RL30877>