

AN ALERT FROM THE BDO NONPROFIT SERVICES PRACTICE

BDO KNOWS:

NONPROFIT SERVICES



► SUBJECT

SPECIAL RELIEF FOR SMALL ORGANIZATIONS WHO FAILED TO FILE BY MAY 17 - ACTION MAY BE REQUIRED BY OCTOBER 15

► DETAILS

The Pension Protection Act of 2006 mandated that organizations required to file Form 990 series informational returns would automatically lose their exempt status if the forms were not filed for three years in a row (section 6033(j)(1)). The Act also created a new form, the Form 990-N, Electronic Notice (e-Postcard), for most small organizations with less than \$25,000 in gross receipts. Previously, these small organizations were not required to file any return at all. Thus, small organizations that never had to file previously not only now have a filing requirement, but will lose their exempt status if this requirement has been ignored for three consecutive years.

Because 2009 was the third year of this requirement, calendar-year organizations that had not filed for three years faced automatic loss of exemption on May 17, 2010, if their returns had not been extended (there is no extension available for Form 990-N filers). We had previously issued a Tax Bulletin on this issue on May 10, 2010. Organizations that lose their exempt status will be required to reapply for tax exemption and may have taxable income for the period during which they were not exempt. It is important to note that this new requirement does not affect most churches and affiliates—such organizations are generally not required to file Form 990 series returns (except for Form 990-T if they have unrelated business income).

► [Read more](#)

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On July 26, 2010, the Service announced a one-time special relief program for small charities (IR-2010-87) whose information returns would be due between May 17, and October 15, 2010, and that have not filed such returns for three consecutive years. This program only applies to 990-N and 990-EZ filers—there is no relief program for regular Form 990 or 990-PF filers.

Organizations eligible to file Form 990-N only need to file this form electronically by October 15, 2010, in order to avoid automatic revocation of exempt status. Alternatively, such organizations may file a hard copy Form 990-EZ with the phrase “Filed in Lieu of Form 990-N” written at the top of the form and on the envelope.

For organizations with more than \$25,000 of gross receipts that are eligible to file Form 990-EZ for each of the three years ending with the 2009 year, there is a one-time voluntary compliance program (“VCP”). Organizations must file complete and accurate Forms 990-EZ or Forms 990 for each of the three years, pay a small compliance fee, complete a checklist and submit by October 15, 2010. The Service has clarified that an organization may file Form 990 (rather than Form 990-EZ) in order to comply with the VCP requirements, but only if it is not *required* to file Form 990 with the Service. Specific instructions and frequently asked questions are posted on the IRS Web site.

The Service has posted a list (by state) of approximately 325,000 organizations that it believes are at risk of automatic revocation. If an organization believes it has been incorrectly included on this list, instructions are also posted on the Web site for corrective measures.

For complete information on this relief program, including the VCP and listing of organizations, use the following link to the IRS Web site: www.irs.gov/charities/article/0,,id=225702,00.html.

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