

# IRS Exempt Organizations

## 501(c)

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Colloquially, a **501(c) organization** or simply "a **501(c)**" is an [American](#) tax-exempt, nonprofit corporation or association. **Section 501(c)** of the United States [Internal Revenue Code](#) ([26 U.S.C. § 501\(c\)](#)), provides that 28 types of [nonprofit organizations](#) are [exempt](#) from some [federal income taxes](#). Sections 503 through 505 set out the requirements for attaining such exemptions. Many states refer to Section 501(c) for definitions of organizations exempt from state taxation as well.

## Types

According to the IRS Publication 557, in the *Organization Reference Chart* section, the following is an exact list of 501(c) organization types and their corresponding descriptions.<sup>[1]</sup>

- 501(c)(1) — Corporations Organized Under Act of Congress (including [Federal Credit Unions](#))
- 501(c)(2) — Title Holding Corporation for Exempt Organization
- [501\(c\)\(3\)](#) — Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, to Foster National or International Amateur Sports Competition, or Prevention of Cruelty to Children or Animals Organizations
- [501\(c\)\(4\)](#) — Civic Leagues, Social Welfare Organizations, and Local Associations of Employees
- 501(c)(5) — Labor, Agricultural, and Horticultural Organizations
- 501(c)(6) — Business Leagues, Chambers of Commerce, Real Estate Boards, etc.
- 501(c)(7) — Social and Recreational Clubs
- 501(c)(8) — Fraternal Beneficiary Societies and Associations
- 501(c)(9) — [Voluntary Employees Beneficiary Associations](#)
- 501(c)(10) — Domestic Fraternal Societies and Associations
- 501(c)(11) — Teachers' Retirement Fund Associations
- 501(c)(12) — Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, etc.
- 501(c)(13) — [Cemetery](#) Companies
- 501(c)(14) — State-Chartered [Credit Unions](#), Mutual Reserve Funds
- 501(c)(15) — Mutual Insurance Companies or Associations
- 501(c)(16) — Cooperative Organizations to Finance Crop Operations
- 501(c)(17) — Supplemental Unemployment Benefit Trusts
- 501(c)(18) — Employee Funded Pension Trust (created before June 25, 1959)
- 501(c)(19) — Post or Organization of Past or Present Members of the [Armed Forces](#)

- 501(c)(21) — [Black lung](#) Benefit Trusts
- 501(c)(22) — Withdrawal Liability Payment Fund
- 501(c)(23) — Veterans Organization (created before 1880)
- 501(c)(25) — Title Holding Corporations or Trusts with Multiple Parents
- 501(c)(26) — State-Sponsored Organization Providing Health Coverage for High-Risk Individuals
- 501(c)(27) — State-Sponsored Workers' Compensation [Reinsurance](#) Organization
- 501(c)(28) — National Railroad Retirement Investment Trust

## General compliance issues

Under Section 511, a 501(c) organization is subject to tax on its "[unrelated business income](#)," whether or not the organization actually makes a profit, but not including selling donated merchandise or other business or trade carried on by volunteers, or certain bingo games.<sup>[2]</sup> Disposal of donated goods valued over \$2,500, or acceptance of goods worth over \$5,000 may also trigger special filing and record-keeping requirements.

Note that "tax exempt" also does not excuse an organization from maintaining proper records and filing any required annual or special-purpose [tax returns](#).<sup>[3]</sup> Previously, annual returns were not generally required from an exempt organization accruing less than \$25,000 in gross income yearly.<sup>[4]</sup> However, from 2008 onwards, many such organizations must file a yearly "e-Postcard" known as Form 990-N, or risk losing their exemption.<sup>[5]</sup>

Failure to file required returns such as Form 990 (Return of Organization Exempt From Income Tax) may result in monetary fines of up to \$250,000 per year. Exempt or political organizations (excluding churches or similar religious entities) must make their returns, reports, notices, and exempt applications available for public inspection. The organization's Form 990 (or similar such public record as the Form 990-EZ or Form 990-PF) is generally available for public inspection and photocopying at the offices of the exempt organization, through a written request and payment for photocopies by mail from the exempt organization, or through a direct Form 4506-A *Request for Public Inspection or Copy of Political Organization IRS Form* request to the IRS of the exempt organization filing of Form 990 for the past three tax years. The Form 4506-A also allows the public inspection and/or photocopying access to Form 1023 *Application for Recognition of Exemption* or Form 1024, Form 8871 *Political Organization Notice of Section 527 Status*, and Form 8872 *Political Organization Report of Contribution and Expenditures*. Failure to file such timely returns and to make other specific information available to the public also is prohibited.<sup>[6]</sup>

## 501(c)(3)

501(c)(3) exemptions apply to corporations, and any community chest, fund, [cooperating association](#) or foundation, organized and operated exclusively for [religious](#), [charitable](#), [scientific](#), testing for public safety, [literary](#), or [educational](#) purposes, to foster national or international amateur sports competition, to promote the arts, or for the prevention of cruelty to children or animals.<sup>[7][8]</sup>

Another provision, [26 U.S.C. § 170](#), provides a deduction, for federal income tax purposes, for some donors who make [charitable contributions](#) to most types of 501(c)(3) organizations, among others. Regulations specify which such deductions must be verifiable to be allowed (e.g., receipts for donations over \$250). Due to the tax deductions associated with donations, loss of 501(c)(3) status can be highly challenging to a charity's continued operation, as many foundations and corporate matching programs do not grant funds to a charity without such status, and individual donors often do not donate to such a charity due to the unavailability of the deduction.

Testing for public safety is described under section 509(a)(4) of the code, which makes the organization a public charity and not a private foundation,<sup>[9]</sup> but contributions to 509(a)(4) organizations are not deductible by the donor for federal income, estate, or gift tax purposes.

The two exempt classifications of 501(c)(3) organizations are as follows:<sup>[10]</sup>

A [public charity](#), identified by the [Internal Revenue Service](#) (IRS) as "not a private foundation," normally receives a substantial part of its income, directly or indirectly, from the general public or from the government. The public support must be fairly broad, not limited to a few individuals or families. Public charities are defined in the Internal Revenue Code under sections 509(a)(1) through 509(a)(4).

A [private foundation](#), sometimes called a non-operating foundation, receives most of its income from investments and endowments. This income is used to make grants to other organizations, rather than being dispersed directly for charitable activities. Private foundations are defined in the Internal Revenue Code under section 509(a) as 501(c)(3) organizations, which do not qualify as public charities.

Before donating to a 501(c)(3) organization, a donor may wish to review IRS Publication 78, which lists organizations currently exempt under 501(c)(3).<sup>[11]</sup>

## Obtaining status

Most organizations acquire 501(c)(3) tax exemption by filing IRS [Form 1023](#). The form must be accompanied by a \$850 filing fee if the gross receipts for the organization are expected to average \$10,000 or more.<sup>[12][13]</sup> If gross receipts are expected to average less than \$10,000, the filing fee is reduced to \$400.<sup>[12][13]</sup> There are some classes of organizations that automatically are treated as tax exempt under 501(c)(3), without the need to file Form 1023:

- Churches, their integrated auxiliaries, and conventions or associations of churches<sup>[14]</sup>
- Organizations that are not private foundations and that have gross receipts that normally are not more than \$5,000<sup>[15]</sup>

The IRS also expects to release a software tool called Cyber Assistant in 2011, which will assist with preparation of the application for tax exemption.

## Political activity

Section 501(c)(3) organizations are subject to limits or absolute prohibitions on engaging in political activities.

## Elections

Organizations described in section 501(c)(3) are prohibited from conducting [political campaign](#) activities to intervene in [elections](#) to public office.<sup>[16]</sup> The Internal Revenue Service website elaborates upon this prohibition as follows:

Under the Internal Revenue Code, all section 501(c)(3) organizations are absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Certain activities or expenditures may not be prohibited depending on the facts and circumstances. For example, certain voter education activities (including presenting public forums and publishing voter education guides) conducted in a non-partisan manner do not constitute prohibited political campaign activity. In addition, other activities intended to encourage people to participate in the electoral process, such as voter registration and get-out-the-vote drives, would not be prohibited political campaign activity if conducted in a non-partisan manner.

On the other hand, voter education or registration activities with evidence of bias that (a) would favor one candidate over another; (b) oppose a candidate in some manner; or (c) have the effect of favoring a candidate or group of candidates, will constitute prohibited participation or intervention.

The Internal Revenue Service provides resources to exempt organizations and the public to help them understand the prohibition. As part of its examination program, the IRS also monitors whether organizations are complying with the prohibition.

## Lobbying

In contrast to the absolute prohibition on political campaign interventions by all section 501(c)(3) organizations, public charities (but not private foundations) may conduct a limited amount of lobbying to influence legislation. Although the law states that "No substantial part..." of a public charity's activities can go to [lobbying](#), charities with large budgets may lawfully expend a million dollars (under the "expenditure" test), or more (under the "substantial part" test) per year on lobbying.<sup>[17]</sup> To clarify the standard of the "substantial part" test, Congress enacted §501 (h) (called the Conable election after its author Representative Barber Conable). The section establishes limits based on operating budget that a charity can use to determine if it meets the substantial test. This changes the prohibition against direct intervention in partisan contests only for lobbying. The organization is now presumed in compliance with the substantiality test if they work within the limits. The Conable Election requires a charity to file a declaration with the IRS and file a functional distribution of funds spreadsheet with their Form 990. IRS form 5768<sup>[18]</sup> is required to make the Conable election.

## 501(c)(4)

*see also: [Citizens United v. Federal Election Commission](#)*

501(c)(4) organizations are generally civic leagues and other corporations operated exclusively for the promotion of [social welfare](#), or local associations of employees with membership limited to a designated company or people in a particular municipality or neighborhood, and with net earnings devoted exclusively to charitable, educational, or recreational purposes.<sup>[19]</sup> Unlike 501(c)(3) organizations, 501(c)(4) organizations may lobby for legislation; they may also participate in political campaigns and elections, as long as campaigning is not the organization's primary purpose.<sup>[20]</sup>

Contributions to 501(c)(4) organizations are not deductible as charitable contributions. 501(c)(4) organizations are not required to disclose their donors publicly.<sup>[21]</sup> This aspect of the law has led to extensive use of the 501(c)(4) provisions for organizations that are actively involved in lobbying, and has become controversial.<sup>[22]</sup>

The tax exemption for 501(c)(4) organizations applies to most of their operations, but contributions may be subject to gift tax, and income spent on political activities - generally the advocacy of a particular candidate in an election - is taxable.[\[23\]](#)