



irs offers limited relief for small nonprofits

MSK Client Alert

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by David Wheeler Newman

The Pension Protection Act of 2006 made two important changes affecting tax-exempt organizations, effective January 1, 2007. Prior to that legislation, charitable organizations that had gross receipts of less than \$25,000 were not required to file an annual information return (Form 990 or 990-EZ) with the IRS. The Act now requires all tax-exempt organizations, other than churches and church-related organizations, to file an annual return with the IRS. Smaller nonprofits, with annual gross receipts of less than \$25,000 satisfy their annual filing obligation by submitting an online report, IRS Form 990-N, Electronic Notice (e-Postcard) (see www.irs.gov for details).

Second, the Act also required that any tax-exempt organization that fails to file required returns for three consecutive years automatically loses its federal tax-exempt status. If an organization loses its exemption, it must reapply to the IRS, and any income received between the revocation date and renewed exemption may be taxable. Recent reports suggest that over 300,000 small nonprofits are at risk of losing their tax-exempt status for failing to comply with the Form 990-N filing requirements – after the IRS sent more than a million notices to small nonprofits about the new filing requirement. It is likely that many of these organizations will lose their tax exemption this year. Early next year, the IRS plans to publish a list of charities and other nonprofits that have lost their tax-exempt status. Contributions to those charities will thereafter no longer be deductible.

On July 26, the IRS announced a limited *one-time* program to help small nonprofits avoid loss of exemption under these rules. Under the program, small nonprofit organizations at risk of losing their tax-exempt status because they failed to file required returns for 2007, 2008, and 2009 can preserve their status by filing returns by October 15, 2010. The only thing that one of these small charities needs to do is go to the IRS website, supply the information required on the (very brief) form, and electronically file it by October 15. The charity will

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then be brought back into compliance.

As part of the announcement, the IRS posted, on a special page at www.irs.gov, a list of "at-risk" small charities that are in danger of losing their tax-exempt status for failing to file the Form 990-N for the past 3 years, together with contact information for those organizations.

Members of the MSK Charitable Sector Practice Group are available to answer any questions you may have regarding the Act and the one-time compliance process described above.