

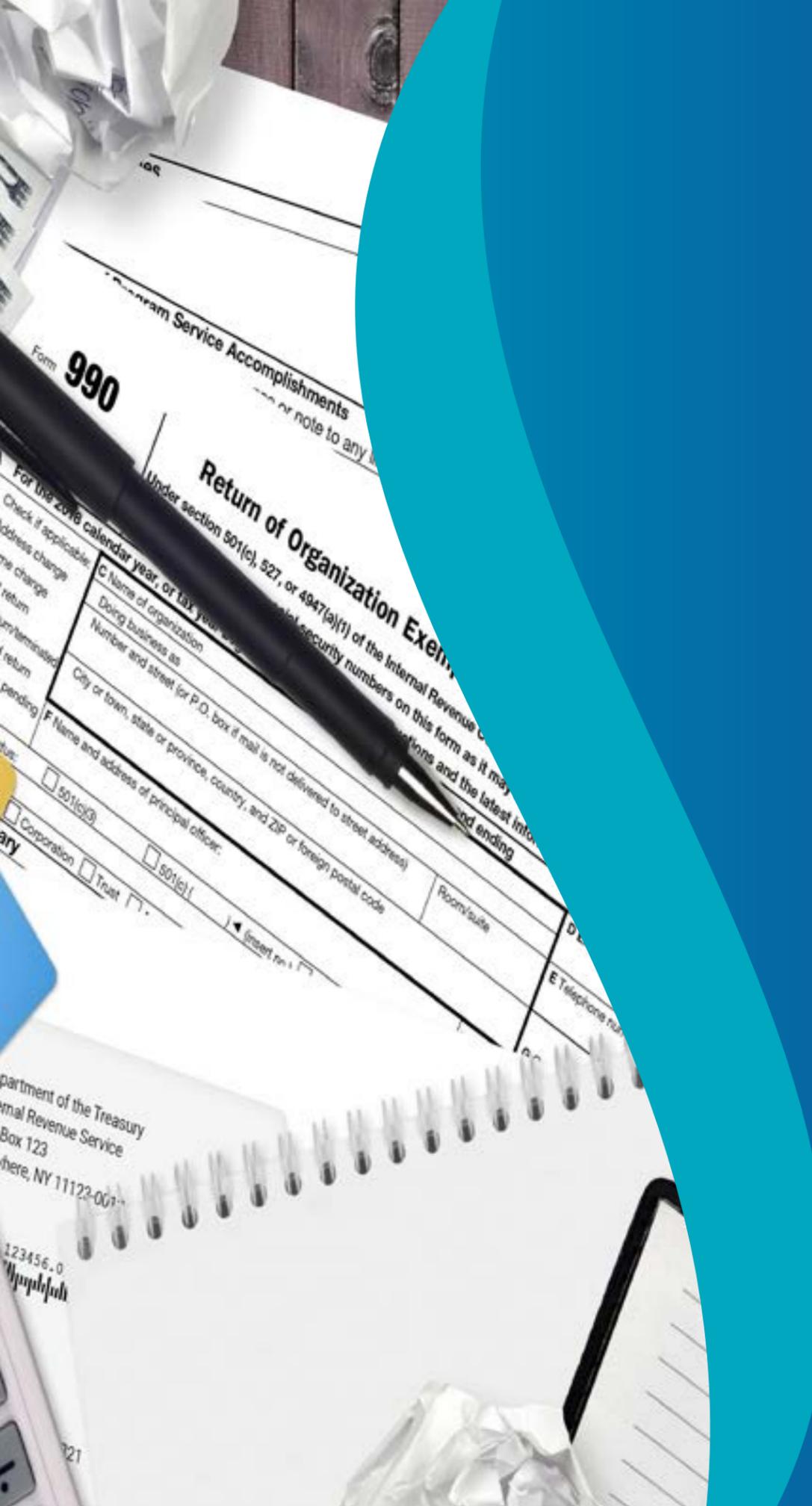
Give Me Your 990!

Public Disclosure Requirements for
Tax-Exempt Organizations

2022 EDITION



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“Give Me Your 990!”

What do you have to do when you hear these words? Unfortunately, not every nonprofit knows how to respond to this demand. This fact sheet describes the federal public disclosure requirements for 501(c) tax-exempt organizations. It is intended to help organizations understand their obligations when they receive requests for information.

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What Information Are We Required to Give?

A. What a Requestor is Entitled to Receive

When your organization receives a written or in-person request for your organizational tax documents, the requestor is entitled to receive:

Your annual filing documents, which will be either:

- **An Information Return:** A copy of each annual information return (e.g. IRS Form 990, “Return of Organization Exempt from Income Tax” or Form 990-PF, “Return of Private Foundation”) filed within the last three years, including schedules and attachments, or
- **Business Income Return:** An exact copy of Form 990-T, including schedules, attachments, and supporting documents (this applies to 501(c)(3) organizations only). Please note: statements, attachments, and supporting documents filed with Form 990-T that do not relate to the imposition of unrelated business income tax are not required to be made available for public inspection and copying.

The IRS does permit certain organizations to redact certain donor information as described below in more detail.

A copy of your application for tax-exemption (e.g., IRS Form 1023, Form 1024, or 1024-A, including attachments and supporting documents).

B. What Information is Actually Requested

Your response can be limited to the specific information requested. For example, if a requestor asks for your annual information return for the prior year, you can limit your response to only the prior year’s Form 990. You do not need to send the three most recent Form 990s if the prior year return is the only form requested.

Similarly, if the requestor asks only for your tax-exemption application, you can limit your response to your Form 1023, 1024, or 1024-A. You do not need to send any Form 990 returns if only the tax-exemption application is requested.

What Documents Must Be Included in Our Response?

A. An Information Return

A request for your “annual information return” means you must provide, for each of the last three years, a copy of:

- Form 990, 990-EZ, or 990-PF;
- Any attachments; and
- All schedules (however, some organizations may redact certain donor information, see below)

Remember that you are **required** to provide these documents for each annual information return filed within the last three years unless the requestor specifically narrows the request.

Most 501(c)s are not obligated to reveal information about contributors. The law permits exempt organizations other than private foundations and 527 political organizations to omit the names and addresses of contributors in Schedule B, as well as any identifying information in Schedule B, Part II from public disclosure.

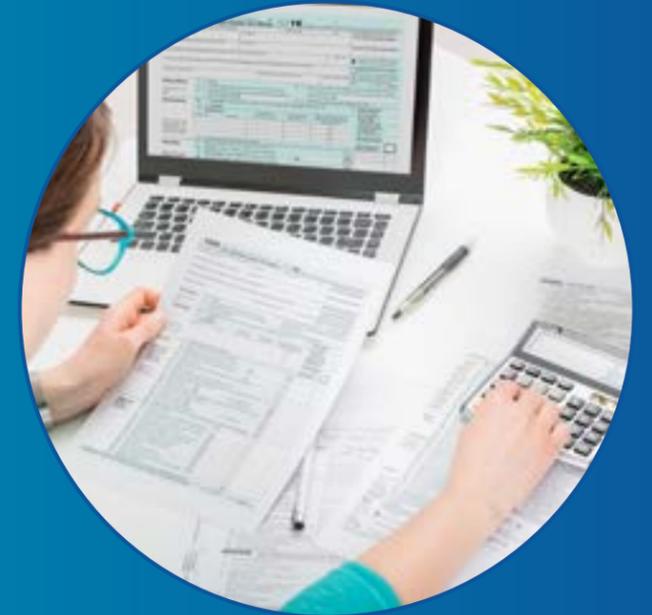
Private foundations and 527 political organizations, however, are required to reveal information about contributors. Schedule B is open to public inspection for private foundations and 527 political organizations. 527 political organizations must also make their Form 8872: Report of Contributions and Expenditures available for public inspection and copying, but not their Form 1120-POL, US Income Tax Return for Certain Political Organizations.

If you qualify to file a 990-N, this is considered a “notice” and not a return. Therefore, you do not have to provide a copy to any requestors. You can direct them to the IRS website at apps.irs.gov/app/eos/ where they can view any 990-N information for any qualifying organization.

B. Application for Tax-Exemption

A request for your “tax-exemption application” means you **must** provide a copy of:

- Form 1023, Form 1024, or Form 1024-A;
- Any letter the IRS sent concerning your application;
- All attachments;



- Any supporting documents; and
- Any subsequent amendments to the organization's application.

C. Form 990-T*

A request for Form-990-T means a 501(c)(3) **must** provide a copy of:

- Form 990-T, Exempt Organization Unrelated Business Income Tax Return within the last three years; and
- All schedules, attachments, and supporting documents that relate to imposition of tax on unrelated business income must also be included. The IRS has listed on its website some documents related to UBIT that may now be exempted from public disclosure and copying. To see a list, visit: <https://www.irs.gov/charities-non-profits/charitable-organizations/public-inspection-of-attachments-to-a-501c3-organizations-form-990-t-exempt-organization-business-income-tax-return>



Note: this obligation only applies to 501(c)(3) organizations' unrelated business income and accompanying documents and attachments.

What if We Cannot Find the Requested Documents?

If your organization cannot locate or never retained a copy of any annual information return filed within the last three years or your application for tax-exemption, copies may be obtained from the IRS Tax Exempt and Government Entities Division.

See page 5 for IRS contact information.

Note that organizations were not required to retain a copy of their tax-exemption application prior to July 15, 1987. If your organization filed for tax-exemption prior to July 15, 1987, and you did not have a copy of your tax-exemption application on that date, you are not obligated to produce a copy. If you retained a copy of your application at that time, you must provide a copy upon request.

When Do We Have to Respond?

A. In-Person Requests

If a request is made in person during regular business hours, you must respond to the request on the same day. It is recommended, therefore, that you have copies of your public disclosure materials on hand.

Note that requests sent by courier are considered written requests, not in-person requests.

B. Written Requests

If a request is made in writing (e.g. by mail, fax, email, or courier), you must respond within 30 days of receiving the request.

What if the Request Comes to Our Regional, District, or Field Office?

If an organization regularly maintains a regional, district, or field office having three or more full-time or part-time employees, it shall make the same financial documents available for public inspection and copying no later than 30 days after the documents were required to be filed with the IRS and in the same manner that the primary office must provide the documents.

Requests made to local, subordinate or chapter offices, for which a parent organization has sought a group exemption are handled slightly differently. *See 26 CFR 301.6104(d)-1 for how these requests*

What If We Don't Have a Physical Office?

An organization without a physical office or with a physical office that has irregular public hours or very limited public hours must make its application for tax exemption and annual information returns available for public inspection at a reasonable location of its choice, including a reasonable time of day within two weeks of the request. As an alternative, the organization may mail the requested documents to the requestor, charging for copying and actual postage only if the requestor consents to charges.



Can We Charge for Copying and Postage Costs?

You are allowed to charge for copying and postage costs incurred when responding to requests for your public disclosure documents. *See below for permissible charges.*

When tax-exempt organizations are required to furnish paper copies to a requestor, you may charge for the actual copying and postage costs.

IRS regulations permit you to charge a reasonable fee of no more than the applicable per-page copying fee that is used by the IRS under its FOIA fee schedule.¹ The current IRS FOIA fee schedule can be found on the IRS website at <http://www.irs.gov/foia>.

¹ The IRS's FOIA fee schedule is the list of charges for documents required to be available under the Freedom of Information Act. Tax-exempt organizations may disregard the IRS's fee exclusion that makes the first 100 pages of copies free.

As of this printing, the IRS FOIA fees are 20¢ per page. You may also charge the actual postage costs incurred to send copies of requested documents to the requestor by CD or flash drive as opposed to physical paper copies of the documents.

Note that if you intend to charge for copying and postage, you must provide the requestor with timely notice of the approximate costs and the acceptable forms of payment. If you require advanced payment and receive a written request that does not include a payment, you must notify the requestor of your prepayment policy and amount due within 7 days from the request.

Acceptable forms of payment must include at least cash and money order for in-person requests, and at least certified check, money order, and either personal check or credit card for

Can We Respond Electronically?

If a tax-exempt organization makes its public disclosure documents "widely available," it does not have to provide copies to individual requestors.

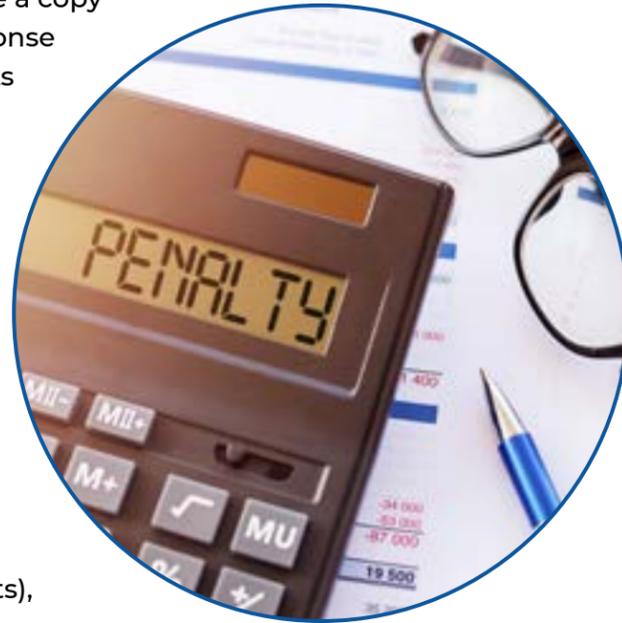
Documents are considered "widely available" if there is an exact image (e.g. a Portable Document Format, .pdf) of the original document on the organization's website or on a database of exempt organizations maintained by another organization. The public must be able to access, download, view, and print the file for free. An organization that makes its documents widely available through a database but not on its own website must advise requestors how to access the forms.

If you qualify to file a 990-N, this is considered a "notice" and **not** a return. Therefore, you do not have to provide a copy of the 990-N to any requestors. You can direct them to the IRS website at apps.irs.gov/app/eos/ where they can view any 990-N information for any qualifying organization.

Note that while making these documents "widely available" is an acceptable alternative to providing copies of these documents, you are still required to make the documents available for public inspection to those that show up in-person.

What Happens If We Don't Respond?

Once a request is made, failure to provide a copy of the requested documents by the response deadline (same day for in-person requests or within 30 days for written requests) means the organization is subject to a \$20-per-day penalty for every day that you fail to fully respond for each return requested. For organizations with gross receipts in excess of \$1,000,000 for the year in question, the per-day penalty is \$100 for each return requested.



For each failure to provide a copy of the annual information return (Form 990 or Form 990-PF, schedules, and attachments), there is a maximum penalty of \$10,000.

For organizations with gross receipts in excess of \$1,000,000 for the year in question, the maximum penalty is \$50,000 for each return requested.

Any person who willfully fails to comply with the public inspection requirements can face an additional \$10,000 penalty.

There is no maximum penalty for failure to provide a copy of your tax-exempt application (Form 1023, Form 1024, or Form 1024-A, attachments, and supporting documents).

Can We Report a Tax-Exempt Organization that Fails to Respond to Our Request?

Public disclosure noncompliance complaints may be filed with the IRS Exempt Organizations Examinations Division.

Your complaint should include:

- A copy of your written request or a written description of your in-person request;
- A description of what, if any, response the organization offered you; and
- Any other relevant materials or information.

Your complaint should be sent to the following address:

IRS EO Referrals
Mail Code 4910
1100 Commerce Street
Dallas, TX 75252



Members of the public may send information that raises questions about an exempt organization's compliance with IRS regulations to the address above, using Form 13909, available at www.irs.gov.

Please note: The IRS cannot advise you of any action it has taken or may take in response to a complaint due to confidentiality laws enacted by Congress. They are only permitted to discuss matters with the authorized representatives of the entity in order to protect the privacy of all taxpayers.

Are Public Disclosure Documents Available from Any Other Source?

Beginning in tax year 2020, all tax-exempt organizations, including 527 political organizations, are required to file their annual returns electronically with the IRS. These annual returns are publicly available online in XML, a machine readable format through AWS (Amazon's Open Data Registry) in partnership with the IRS, available here <https://registry.opendata.aws/irs990/>.

Note: This does not relieve the organization from making their tax-exempt application and three years' worth of annual returns available for public inspection at their office during regular business hours.

Anyone can also request a tax-exempt organization's public disclosure documents by mail from the IRS using **IRS Form 4506-A**, available online at <http://www.irs.gov>.

You can mail the Form 4506-A to the following address:

Internal Revenue Service
Attn: Correspondence Unit
P.O. Box 2508, Room 6403
Cincinnati, OH 45201



You can also see the 990-N information for any qualifying organization at apps.irs.gov/app/eos/.

Individuals can view 527 political organizations' publicly disclosable documents online at the IRS site <https://www.irs.gov/charities-non-profits/political-organizations/political-organization-filing-and-disclosure>.

Public disclosure documents for all tax-exempt organizations registered with the IRS (including 501(c)(3)s, 501(c)(4)s, and private foundations) are also available through GuideStar, a searchable database of nonprofits located online at <http://www.guidestar.org>.

Resources: The information provided above is a summary of rules that apply to most situations and are not exhaustive for all situations. Please consult with legal counsel, tax advisors, or original sources to be fully informed of all the rules that may apply to your situation.

Information on public inspection and distribution of tax-exempt organizations' financial documents as required by federal law can be found in the following locations:

- 26 USC § 6104
- 26 CFR § 301.6104(d)-1
- IRS Guidance on public disclosure of exempt organization financial documents <https://www.irs.gov/charities-non-profits/exempt-organization-public-disclosure-and-availability-requirements>
- IRB 2008-20 https://www.irs.gov/irb/2008-20_IRB#NOT-2008-49
- Instructions for Form 4506-A <https://www.irs.gov/pub/irs-pdf/i4506a.pdf>
- Form 4506-A <https://www.irs.gov/pub/irs-prior/f4506a--2019.pdf>

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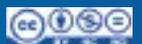
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