

Tax Filing (990's)

Recognized Student Organizations (RSOs) are not automatically tax-exempt and are not included in the University's tax-exempt status. In order to qualify as an RSO, a student organization must operate as a non-profit entity and meet specific criteria (some of which are provided below) they are required to obtain their own federal identification number and complete the necessary forms to obtain and maintain tax-exempt status.

Federal Income Tax

Most Recognized Student Organizations (RSOs) will qualify for federal income tax-exemption as a 501(c)(3) Charitable Organization, 501(c)(4) Social Welfare Organization, or 501(c)(7) Social and/or Recreational Organization. In most cases, student organizations are not automatically granted tax-exempt status but must formally apply for tax-exemption to the IRS. Student organizations will need to determine their organization classification (i.e., 501(c)(3) Charitable Organization, etc.) under the International Revenue Code and proceed according to their gross annual receipt. A student organization that normally:

- Reports less than \$5,000 on their gross receipt, regardless of the organization's classification, will automatically be considered tax-exempt and will not need to file annually with the IRS.
- Reports between \$5,000 and \$50,000 on their gross receipt, and is considered a 501(c)(3) Charitable Organization (see section on 501(c)(3) Charitable Organizations), must obtain an Employment Identification Number (EIN), apply for tax-exemption by filing Form 1023, and file Form 990 N annually with the IRS.
- Reports between \$5,000 and \$50,000 on their gross receipt, and is considered either a 501(c)(4) Social Welfare Organization or 501(c)(7) Social and/or Recreational Organization, does not need to formally apply for tax-exemption but must obtain an Employment Identification Number (EIN) and file Form 990 N annually with the IRS (see sections on 501(c)(4) Social Welfare and 501(c)(7) Social and Recreational Organizations).
- Reports between \$50,000 and \$200,000 on their gross receipt or holds assets less than \$500,000, regardless of the organization's classification, must apply for tax-exemption and file 990 EZ annually with the IRS.
- Reports more than \$200,000 on their gross receipt or holds assets greater than \$500,000, regardless of the organization's classification, must apply for tax-exemption and file Form 990 (long form) annually with the IRS.

Application forms and procedures for tax-exemption vary depending on the organization's purpose, organizational structure and activities. The following sections will provide information on the qualifications and application procedures for obtaining tax-exemption as a 501(c)(3) Charitable Organization, 501(c)(4) Social Welfare Organization, or 501(c)(7) Social and/or Recreational Organization.

NOTE: Remember, an organization normally reporting less than \$5,000 on their gross-receipt will not need to apply for tax-exemption or file annually with the IRS (organizations in this category have to need to read the following sections).

501(c)(3) Charitable Organizations

A student organization may qualify for tax-exemption under Internal Revenue Code section 501(c)(3) if that organization is organized and operated exclusively for one or more of the following purposes:

- Charitable
- Religious
- Educational
- Scientific
- Literary
- Testing for public safety
- Fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment)
- Prevention of cruelty to children or animals

Student organizations meeting these criteria may obtain tax-exempt status by filing Form 1023 with the IRS and paying the appropriate fee amount (fees range from \$400 - \$850). Student organizations wishing to apply for tax-exempt status should contact Student Organization Financial Services (SOFS). SOFS will assist student organizations with the application process. The application process involves the following steps:

1. Obtain an Employment Identification Number (EIN).
2. Fill out Form 1023.
3. Fill out Form 8718 and submit, including the applicable fee amount, with Form 1023.
4. Gather the supporting documents that must be submitted with Form 1023 (i.e., trust instrument, articles of incorporation, corporate charter, articles of association, or any other written instrument by which it is created -- bylaws may be included but may not replace the articles of incorporation).
5. Gather the pertinent financial data. A balance sheet for the current year and financial data for the last four years (the current year and the previous three) will be needed. Financial data should include all receipts and expenditures with explanatory statements. For more detailed information on how to document financial data, see IRS publication 557.
6. Every document submitted during your tax-exempt application process must include the organization name, address, EIN, and the line item number from Form 1023.
7. Each document sent during the application process should be a copy of the original. Do not send original documents. All copies must have the original signatures.
8. Wait for the IRS to respond. A response should arrive in less than 270 days. The IRS may be contacted during the waiting process for updates regarding an organization's application status.

According to the IRS website, a student organization's submitted Form 1023 and accompanying statements must show that all of the following are true:

- The organization is organized exclusively for, and will be operated exclusively for, one or more of the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment) and/or the prevention of cruelty to children or animals.
- No part of the organization's net earnings will inure to the benefit of private shareholders or individuals. The organization must establish that it will not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests.
- The organization will not, as a substantial part of its activities, attempt to influence legislation (unless it elects to come under the provisions allowing certain lobbying expenditures) or participate to any extent in a political campaign for or against any candidate for public office.

Once federal income tax-exemption is granted, a tax-exempt organization must file the appropriate 990 form annually with the IRS. 501(c)(3) Charitable Organizations reporting:

- Between \$5,000 and \$50,000 on their gross receipt should file Form 990 N annually with the IRS.
- Between \$50,000 and \$200,000 on their gross receipt should file Form 990 EZ annually with the IRS.
- More than \$200,000 on their gross receipt should file Form 990 (long form) annually with the IRS.

501(c)(4) Social Welfare Organizations

If a student organization will not be independently soliciting funds (and therefore does not need to qualify as an organization that can receive donations that are tax-deductible to the donor), and normally reports less than \$50,000 on their gross annual receipt, it can usually qualify as a tax-exempt organization under section 501(c)(4) or 501(c)(7) of the Code without applying to the IRS; however, the following requirements will be necessary to maintain tax-exempt status:

1. Establish proper organizing documents. According to the IRS, these may be a: trust instrument, articles of incorporation, corporate charter, articles of association, or any other written instrument by which it is created.
2. Obtain an Employment Identification Number (EIN).
3. File Form 990 N (e-Postcard) annually.

Student organizations reporting more than \$50,000 on their gross receipts will need to apply to the IRS for tax-exempt status. A student organization may become tax-exempt under Internal Revenue Code section 501(c)(4) if:

- The organization is operated exclusively for the promotion of social welfare.
 - To be operated exclusively to promote social welfare, an organization must operate primarily to further the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements).
 - An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations operated for profit.
- The organization does not primarily benefit a private group of citizens.
 - In the exceptional case, an organization whose services are made available solely to its members may qualify. In such cases, it must be clearly established that making the service available to the membership benefits the community as a whole.
- The earnings of the organization does not inure to the benefit of any private shareholder or individual.
- The organization's primary activity does not involve carrying on a business with the general public in a manner similar to organizations operated for profit.

A student organization that qualifies as a Social Welfare Organization under section 501(c)(4) of the Code, but exceeds \$50,000 on their gross annual receipt, must file Form 1024 with the IRS and pay the appropriate fee amount (fees range from \$400 - \$850) in order to be recognized as a tax-exempt organization. Student organizations wishing to apply for tax-exempt status should contact Student Organization Financial Services (SOFS). SOFS will assist student organizations with the application process. The application process involves the following steps:

1. Obtain an Employment Identification Number (EIN).
2. Fill out Form 1024.
3. Fill out Form 8718 and submit, including the applicable fee amount, with Form 1024.
4. Gather the supporting documents that must be submitted with Form 1024 (i.e., trust instrument, articles of incorporation, corporate charter, articles of association, or any other written instrument by which it is created -- bylaws may be included but may not replace the articles of incorporation).
5. Gather the pertinent financial data. A balance sheet for the current year and financial data for the last four years (the current year and the previous three) will be needed. Financial data should include all receipts and expenditures with explanatory statements. For more detailed information on how to document financial data, see IRS publication 557.
6. Every document submitted during your tax-exempt application process must include the organization name, address, EIN, and the line item number from Form 1024.
7. Each document sent during the application process should be a copy of the original. Do not send original documents. All copies must have the original signatures.
8. Wait for the IRS to respond. A response should arrive in less than 270 days. The IRS may be contacted during the waiting process for updates regarding an organization's application status.

Once federal income tax-exemption is granted, a tax-exempt organization must file the appropriate 990 form annually with the IRS. 501(c)(4) Social Welfare Organizations reporting:

- Between \$5,000 and \$50,000 on their gross receipt should file Form 990 N annually with the IRS.
- Between \$50,000 and \$200,000 on their gross receipt should file Form 990 EZ annually with the IRS.
- More than \$200,000 on their gross receipt should file Form 990 (long form) annually with the IRS.

Tax-Exemption for 501(c)(7) Social and Recreational Organizations

If a student organization will not be independently soliciting funds (and therefore does not need to qualify as an organization that can receive donations that are tax-deductible to the donor), and normally reports less than \$50,000 on their gross annual receipt, it can usually qualify as a tax-exempt organization under section 501(c)(4) or 501(c)(7) of the Code without applying to the IRS; however, the following requirements will be necessary to maintain tax-exempt status:

1. Establish proper organizing documents. According to the IRS, these may be a: trust instrument, articles of incorporation, corporate charter, articles of association, or any other written instrument by which it is created.
2. Obtain an Employment Identification Number (EIN).
3. File Form 990 N (e-Postcard) annually.

Student organizations reporting more than \$50,000 on their gross receipts will need to apply to the IRS for tax-exempt status. A student organization may become tax-exempt under Internal Revenue Code section 501(c)(7) if that organization meets the following requirements listed on the IRS website. See bullets below:

- Requirements for Exemption - In General: To be exempt under Internal Revenue Code section 501(c)(7), a social club must be organized for pleasure, recreation, and other similar non-profitable purposes and substantially all of its activities must be for these purposes. A club will not be recognized as tax exempt if its charter, by laws, or other governing instrument, or any written policy statement provides for discrimination against any person based on race, color, or religion. There is an exception, however, for a club that in good faith limits its membership to members of a particular religion, to further the teachings or principles of that religion and not to exclude individuals of a particular race or color.
- Personal Contact Required: An essential earmark of an exempt club is personal contact, commingling, and face-to-face fellowship. Members must share interests and have a common goal directed toward pleasure, recreation, and other non-profitable purposes. Fellowship need not be present between each member and every other member of the club so long as it is a material part in the life of the organization. A statewide or nationwide organization that is made up of individual members, but is divided into local groups, satisfies this requirement if fellowship is a material part of the life of each local group.

- **Limited Membership Required:** Another earmark of a social club is limited membership. A club that issues corporate memberships is dealing with the general public (the corporation's employees). Evidence that a club's facilities will be open to the general public (persons other than members or their dependents or guests) may cause denial of exemption. This does not mean, however, that any dealing with outsiders will automatically deprive a club of exemption.
- **Support by Membership Dues Required:** In general, a club should be supported solely by membership fees, dues, and assessments. A section 501(c)(7) organization may receive up to 35 percent of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. No more than 15 percent of this amount may be derived from the use of the club's facilities or services by the general public or from other activities not furthering social or recreational purposes for members. If an organization has non-member income that exceeds these limits, all the facts and circumstances will be considered in determining whether the club continues to qualify for exempt status.
- **Inurement Prohibited:** The statute prohibits exemption if any part of the organization's net earnings inures to the benefit of any person having a personal and private interest in the activities of the organization. Inurement is not limited to overt distributions; even undistributed earnings may benefit members by decreasing membership dues or increasing the services the club makes available to its members without a corresponding increase in dues or other fees paid for club support. Fixed fee payments to members who bring new members into the club are not an inurement of the club's net earnings, if the payments are reasonable compensation for performing necessary administrative service.

A student organization that qualifies as a Social Club under section 501(c)(7) of the Code, but exceeds \$50,000 on their gross annual receipt, must file Form 1024 with the IRS and pay the appropriate fee amount (fees range from \$400 - \$850) in order to be recognized as a tax-exempt organization. Student organizations wishing to apply for tax-exempt status should contact Student Organization Financial Services (SOFS). SOFS will assist student organizations with the application process. The application process involves the following steps:

1. Obtain an Employment Identification Number (EIN).
2. Fill out Form 1024.
3. Fill out Form 8718 and submit, including the applicable fee amount, with Form 1024.
4. Gather the supporting documents that must be submitted with Form 1024 (i.e., trust instrument, articles of incorporation, corporate charter, articles of association, or any other written instrument by which it is created -- bylaws may be included but may not replace the articles of incorporation).
5. Gather the pertinent financial data. A balance sheet for the current year and financial data for the last four years (the current year and the previous three) will be needed. Financial data should include all receipts and expenditures with explanatory statements. For more detailed information on how to document financial data, see IRS publication 557.
6. Every document submitted during your tax-exempt application process must include the organization name, address, EIN, and the line item number from Form 1024.
7. Each document sent during the application process should be a copy of the original. Do not send original documents. All copies must have the original signatures.

8. Wait for the IRS to respond. A response should arrive in less than 270 days. The IRS may be contacted during the waiting process for updates regarding an organization's application status.

Once federal income tax-exemption is granted, a tax-exempt organization must file the appropriate 990 form annually with the IRS. 501(c)(7) Social and/or Recreational Organizations reporting:

- Between \$5,000 and \$50,000 on their gross receipt should file Form 990 N annually with the IRS.
- Between \$50,000 and \$200,000 on their gross receipt should file Form 990 EZ annually with the IRS.
- More than \$200,000 on their gross receipt should file Form 990 (long form) annually with the IRS.

Sales Tax and Payroll Taxes

The SOFS office will assist organizations in the determination of their sales tax liability, if any, related to the amount deposited. The SOFS office will remit all sales tax collected to the Nebraska Department of Revenue. SOFS also provides organizations with payroll services, including completion and filing of federal and state payroll tax forms. If an organization is considering compensating individuals for services the treasurer should consult with the SOFS office so that the organization adheres to proper tax compliance. Payroll taxes related to this compensation may need to be withheld and remitted to the proper taxing authority.

NOTE: There is a general misconception that if an organization is exempt from federal income taxes, it is exempt from other taxes, i.e., state sales taxes. Sales and payroll taxes are not exempted by federal income tax exemptions. Please direct any questions about tax issues to the SOFS office.