

WVU Student Organizations

Are you...

- A student leader of a student organization looking for resources?
- A student leader interested in establishing a new student organization?
- A student leader or faculty member who has recently become involved in an established student organization?

WVU Tax Services is often contacted requesting information on best business practices and operation of student organizations. WVU Tax Services is the tax unit for the University, and as such we are not permitted to give tax advice to non-University entities like student organizations. However, below we have compiled some basic guidelines to get you started. Feel free to contact WVU Tax Services at tax@mail.wvu.edu if you have questions. While we cannot provide tax advice nor assist with tax return preparation or running of the student organization, we are happy to assist with basic tax guidance.

Note: This information is intended only for West Virginia University student organizations. Although the information contained is designed to offer general organizational and tax information, it is not a substitute for advice obtained from the Internal Revenue Service, West Virginia State Tax Department or a qualified tax professional. This information is subject to change or further interpretation by the Internal Revenue Service or other tax authorities.

General Information

Student organizations are expected to comply with all applicable federal and state tax laws. WVU's tax-exempt status as a state governmental entity does not extend to its student organizations. Nonetheless, WVU expects all student organizations to operate exclusively on a non-profit basis. Filing federal and state returns for an organization and complying with related federal and state tax laws is the responsibility of each student organization.

IRS tax forms and publications can be found at the IRS website at irs.gov. West Virginia state tax forms can be found on the West Virginia State Tax Department website at tax.wv.gov. IRS Publication 557 *Tax-Exempt Status for Your Organization* is a valuable resource.

Money Matters

Each student organization is fully responsible for its own finances. Organizational leaders should be aware that they are personally responsible for the payment of debts incurred during the period for which they are responsible for the student organization.

Financial Records

Organizational leaders should keep original receipts and maintain balanced accounts. Make sure to maintain a record of all income and expenses and supporting documentation. Incorporated student organizations are advised to consult with the Internal Revenue Service or a professional tax return preparer for specific information regarding tax obligations and responsibilities.

Bank Accounts

The University does not provide student organizations with bank accounts. If your student organization needs a bank account, it is up to the organizational leaders to establish an account. When establishing a bank account, we recommend the following guidelines:

- Student organizations should use their own EIN (Employer Identification Number) when establishing a bank account.
 - Use of WVU's EIN is prohibited.
 - Student organizational funds should not be housed with the WVU Foundation.
 - University addresses should may not be used as the permanent banking addresses for student organizations.
 - It is not recommended that student organizations use the Social Security number of an organizational leader, member, faculty member, or other WVU employee when establishing a bank account. Use of an individual's Social Security number should not be utilized on a student organization's bank account as the funds in the account may be treated by the IRS as part of that individual's assets and any earnings on the account will be deemed earnings of the individual for income tax purposes.
-

Employer Identification Number (EIN)

If your student organization needs an Employer Identification Number (EIN), you will be required to apply for an EIN on your own. Student organizations may need an EIN to open a bank account or for transactions with entities outside the University.

To avoid the issuance of multiple EINs, it is advised that the student organization check its records before applying, in order to verify that they have not already been issued an EIN.

Applying for an EIN may be completed on-line through the Internal Revenue Service at: <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

Please note: Applying for an EIN is **not** the same as applying for non-profit status with the IRS.

Non-Profit & Tax-Exempt Status

All student organizations should operate as non-profit organizations that do not operate to generate income for individuals and/or the organization itself. Student organizations, however, are *not* automatically registered as 501(c)3 organizations, and do not, therefore, automatically receive tax-exempt status. WVU's tax-exempt status as a state governmental entity does not pass through to student organizations.

Federal Tax-Exempt Status

In order to qualify as a tax-exempt organization (i.e., exempt from federal taxation under Internal Revenue Code (IRC) Section 501(a)), a student organization must generally be a type of organization described in IRC Section 501(c). Organizations that meet the requirements of IRC Section 501(a) are generally exempt from federal income taxation. In addition, charitable contributions made to some section 501(a) organizations by individuals and corporations are deductible as charitable contributions under IRC Section 170.

Although IRC Section 501(c) includes organizations operating as title holding companies (501(c)(2)), membership organizations (501(c)(4)), trade associations (501(c)(6)), and fraternal beneficiary societies (501(c)(8)), the majority of undergraduate student organizations will qualify for tax exemption under IRC Section 501(c)(3).

An organization exempt under IRC Section 501(c)(3) is an organization organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. Please refer to IRS Publication 557, *Tax-Exempt Status for your Organization*, for a description of the types of organizations included under IRC Section 501(c).

In order to support its entitlement to this exemption, every organization should have a written Constitution, Bylaws, and/or Article of Association which would typically include the following basic information:

- The name and purpose of the organization;
- A description of its activities in terms that indicate the organization's tax-exempt character;
- A description of its membership (e.g., How does someone become a member? Is the group composed predominately of WVU students? Is there membership by audition? Is the group exclusive in any other way?);
- A list of officers and a description of how officers are chosen;
- An indication of how and for what purpose the organization disburses its funds;
- A dissolution provision stating that if the group dissolves, its assets will be distributed to WVU or to some other designated tax-exempt organization.

501(c)(3) Restrictions: Private Benefit and Lobbying

An absolute requirement for federal tax exemption under IRC Section 501(c)(3) and certain other organizations described under IRC Section 501(c) is that none of the

organization's net income or profits can inure to the benefit of private interests, such as the creator or the creator's family, shareholders or other designated individuals or persons controlled directly or indirectly by such private interests. Further, an organization exempt from taxation under IRC Section 501(c)(3) is limited in its ability to attempt to influence legislation and is prohibited from intervening in a political campaign for or against any candidate for public office.

For additional information regarding federal tax-exempt status, please refer to the IRS public charities and non-profits site and IRS Publication 557, *Tax-Exempt Status for Your Organization*.

Obtaining Federal Tax-Exempt Status

The benefits of 501(c)(3) status include exemption from federal income tax and eligibility to receive tax-deductible charitable contributions. To qualify for these benefits most organizations must file an application with and be recognized as exempt under IRC Section 501(c)(3) by the IRS.

Org. with Gross Receipts of Not More Than \$5,000 Per Year

An organization that normally has gross receipts of not more than \$5,000 per year (see gross receipts test below) and which is organized and operated exclusively for tax-exempt purposes will generally be recognized as tax-exempt under Internal Revenue Service Code (IRC) Section 501(a) without applying to the IRS for approval of IRC Section 501(c)(3) status.

Note: Although small organizations may automatically be recognized as tax-exempt under IRC Section 501(a) without applying to the IRS, they will not appear on the Tax-Exempt Organization Search list of organizations eligible to receive tax-deductible contributions nor be able to obtain a written affirmation of their exempt status from the IRS. To be included in the IRS database of exempt organizations and/or to receive a written affirmation of exemption status, these organizations should formally request recognition of exemption by filing Form 1023 or 1023-EZ.

Org. with Gross Receipts in Excess Of \$5,000 Per Year

An organization that normally has gross receipts in excess of \$5,000 per year (see gross receipts test below) and which is organized and operated exclusively for tax-exempt purposes must formally request recognition of exemption in order to be recognized as an entity exempt from federal income taxes. The request is generally made on IRS Form 1023, *Application for Recognition of Exemption under IRC Section 501(c)(3) of the Internal Revenue Code*. Where the form is timely filed, the organization will generally be treated as tax-exempt until the IRS acts on the application. In order to ensure that the Form 1023 is complete and accurate, it is strongly recommended that an organization seek professional tax assistance in completing this application.

Note: Smaller organizations with total assets of \$250,000 or less and annual gross receipts of \$50,000 or less may be eligible to file IRS Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

Note: Organizations which are not described in IRC Section 501(c)(3) may be required to file IRS Form 1024, *Application for Recognition of Exemption under Section 501(a)* or for Determination under Section 120, rather than Form 1023, in order to formally request recognition of exempt status.

Gross Receipts Test – When Filing for Tax-Exempt Status

The gross receipts of an organization are not more than \$5,000 if: 1) during the first taxable year of the organization, the organization received gross receipts of \$7,500 or less; 2) during its first two taxable years, the aggregate gross receipts received by the organization are \$12,000 or less; and 3) in the case of an organization which has been in existence for at least three taxable years, the aggregate gross receipts received by the organization during the immediately preceding two taxable years plus the current year are \$15,000 or less.

Annual Filing Requirements – Form 990

Organizations recognized as tax exempt under IRC Section 501(c)(3) are generally required to file an annual information return. The type of annual filing is determined by the organization's annual gross receipts and assets.

Important: The Pension Protection Act of 2006 mandates that most tax-exempt organizations must file an annual return or submit an electronic notice with the IRS. The Act also requires that any tax-exempt organization that fails to file for three consecutive years automatically loses its federal tax-exempt status.

Org. with Gross Receipts of Not More than \$50,000 Per Year

Organizations with gross receipts that are not normally more than \$50,000 per year (see gross income test below) must electronically submit IRS Form 990-N, also known as the e-Postcard, annually (unless the organization chooses to file a complete Form 990 or 990-EZ). The e-Postcard is due by the 15th day of the 5th month after the close of the organization's tax year.

Note: Organizations that were not formally granted federal tax exempt status through the filing of either Forms 1023 or 1024, but that are recognized as tax exempt (because their annual gross receipts are not more than \$5,000 and they are organized and operated exclusively for tax exempt purposes) should contact the IRS Account Services Unit prior to the initial e-Postcard filing at (877)-829-5500 to request the IRS to set up the organization's account to allow filing of the e-Postcard. Organizations that received formal IRS approval of exempt status do not need to contact the IRS prior to filing the e-Postcard.

Org. with Gross Receipts in Excess of \$50,000 per Year

Whether it has received recognition of its tax-exempt status or is awaiting notification of exempt status, an organization that normally has gross receipts in excess of \$50,000 per year (see gross income test below) must file IRS Form 990, *Return of Organization Exempt from Income Tax*, or IRS Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*, annually with the IRS. Forms 990 and 990-EZ are due by the 15th day of the 5th month after the close of the organization's tax year.

An organization that has gross receipts during the year of less than \$200,000 and total assets at the end of the year of less than \$500,000, however, may file Form 990-EZ rather than Form 990.

A Form 990 or Form 990-EZ must be filed even if the organization has little or no net income (e.g., because its expenses equal its income) or has income only from carrying on its exempt activities. If your organization is required to file an annual information return, it is strongly recommended that you consult with a tax professional to ensure that it is filed in a complete, accurate and timely manner.

Gross Receipts Test – When Filing a Tax Return

An organization's gross receipts are considered normally to be in excess of \$50,000 if the organization is: 1) up to a year old and has received, or donors have pledged to give, more than \$75,000 during its first tax year; 2) between one and three years old and averaged more than \$60,000 in gross receipts during each of its first two tax years; or, 3) three years old or more and averaged more than \$50,000 in gross receipts for the immediately preceding three tax years (including the year for which the return would be filed). If the organization's gross receipts are normally \$50,000 or less, it must submit Form 990-N.

Federal Filing Info. – Other Tax Filings

Employment Taxes

Typically, student organizations do not employ students or other individuals directly. A student organization that employs anyone directly is responsible for all related federal and state employment tax and compliance filings (i.e., payment of all taxes and the filing of all related federal and state tax returns and information returns) associated with the wages paid. In general, employers are required to withhold and remit federal income and FICA taxes (including the employer's share of FICA taxes paid on a matching basis) and state income taxes to the appropriate taxing authorities. Tax-exempt employers may also be responsible for the payment of state unemployment taxes. In addition to the tax returns required for taxes withheld (Form 941, etc.) above, federal and state information returns (Forms W-3, W-2, etc.) must be provided to employees and filed with the appropriate taxing authorities.

Federal Income Taxes

If an organization qualifies for tax-exempt status under IRC Section 501(a), it may still be subject to federal income tax on income from an unrelated trade or business. Unrelated trade or business income is the gross income derived from any trade or business that is regularly carried on and that is not substantially related to the organization's exempt purpose. There are several exceptions to the definition of unrelated trade or business income. An exempt organization which has gross income from an unrelated trade or business of \$1,000 or more in any year must file Form 990-T, *Exempt Organization Business Income Tax Return*, and pay the related federal income tax. Gross income is defined as gross receipts minus the cost of goods sold.

If you believe that your organization will generate unrelated business income, you should contact a tax professional for a complete analysis and assistance in the completion of Form 990-T, if required. Please refer to IRS Publication 598, *Tax on Unrelated Business Income of Exempt Organization*, for additional information regarding unrelated business income.

State Filing Requirements

An organization which is required to file a Form 990 or Form 990-EZ is not required to file a copy of the federal information return or an equivalent state information return with the State of West Virginia. However, if your organization is required to file a federal income tax return Form 990-T, it will be required to file a state income tax return, West Virginia Form CNF-120 *West Virginia Corporation Net Income Tax Return*.

Please consult a tax advisor or state tax authority websites for filing requirements with respect to states, other than West Virginia, if the organization is organized or has activities in states other than West Virginia.

Consumer Sales Tax

Tax Exempt Purchases

Student organizations are not permitted to use WVU's sales tax exemption to make sales tax free purchases. A 501(c)(3) organization wishing to make a purchase exempt from West Virginia sales tax must issue its own Streamlined Sales and Use Tax Agreement Certificate of Exemption, SSTGB Form F0003 to a vendor.

Note: Sales tax is governed by each individual state. Tax-exempt status by the IRS and/or an exemption certificate given for purchases in West Virginia may not be honored on purchases in other states.

Remitting Sales Tax to the State of West Virginia

Even if your organization qualifies to make sales tax exempt purchases, it still may be required to collect sales tax on any sales of goods or services made by the

organization. Please see the West Virginia State Tax Department website for details on what goods and services are subject to West Virginia Consumer Sales Tax. Information can be found at:

<https://tax.wv.gov/Business/SalesAndUseTax/Pages/SalesAndUseTax.aspx>

Recordkeeping & Public Disclosure Requirements

All organizations should maintain accurate and complete financial records and should keep them for at least four to six years. Failure to maintain proper records may make it difficult to substantiate to tax authorities that the organization does not owe taxes, interest and penalties for prior years.

An organization must, during the three-year period beginning with the due date (including extensions, if any) of the Form 990 (or Form 990-EZ), make its return available for public inspection without charge upon request. The entire information return, except for the schedule of contributors, must be made available. In addition, certain other information, including the Form 1023, must be made available for public inspection. Inspection must be permitted during regular business hours at the organization's principal office.