Federal Tax-Exempt Status—501(c)(3) Organizations

Most PTAs are classified as tax-exempt 501(c)(3) public charities under the Internal Revenue Code (IRC).

One major advantage for organizations that are exempt under Section 501(c)(3) of the IRC is that contributions to such organizations may be deductible on donors' federal income taxes. In addition, PTA members who receive only minimal reimbursement for their PTA- related expenses may be able to treat the balance as a charitable gift. Examples of possible expense deductions include transportation, telephone calls, meals, and lodging. Consult current IRS rulings for allowable deductions.

It is very important that PTAs do not jeopardize their tax-exempt status. They must not violate certain restrictions that apply to their 501(c)(3) classification:

- As a 501(c)(3), a PTA must be organized and operated exclusively for charitable, educational, or scientific purposes (the mission as defined in bylaws).
- A PTA's resources and funds cannot be used for the private benefit of an officer or director (private inurement).
- Upon a PTA's dissolution, its assets must be distributed for one or more of those defined exempt purposes.
- A PTA cannot engage in any political activity. Associations that are classified as 501(c)(3) are forbidden to support candidates for public office.
- A PTA can only engage in an insubstantial amount of lobbying activity (see pages 50 and 51 for more details).

In evaluating whether or not an organization meets the qualifications for exemption under Section 501(c)(3), the IRS evaluates according to the following:

- Organizational test—The IRS examines bylaws, articles of incorporation, etc., to determine the purpose of the organization/association and for other provisions that address compliance with the restrictions listed above.
- Operational test—The IRS evaluates the organization's operations, its activities, the sources of its income and receipts, and the disposition of funds with regard to the restrictions listed above.

Employer Identification Number and IRS Form SS-4

Every PTA must acquire an IRS Employer Identification Number (EIN, or FEIN [Federal

Employer Identification Number]).That number is a part of the permanent record of the local PTA and should also be on file in the state PTA office. Check with the state PTA office or the previous treasurer for the PTA's EIN. This number should be used for bank accounts and will be required for filing IRS Form 990.
The PTA may acquire an EIN by filing Form SS-4 (Application for Employer Identification Number) with the IRS. The name of the local, council, or district PTA should be used in filling out the application. The school address may be used if only one school is involved. The only place an individual's name should appear is on the signature line where the officer making the application must sign. The "reason for applying," as requested on the form, should be completed "for banking purposes only."

Because some state PTAs secure the EIN for their PTAs, be sure to check with your state PTA office or state treasurer before filing Form SS-4.
If your PTA does not have an EIN and needs one immediately, call the IRS at (800) 829-4933 (complete the Form SS-4 before calling). The IRS will issue EINs to authorized persons over the phone. No fee is required.

Determination Letter of Federal Tax-Exempt Status and IRS Form 1023

PTAs can generally qualify for exemption from federal income tax. Some state PTAs have secured from the IRS a group or blanket federal income tax exemption under Section 501(c)(3) of the Internal Revenue Code; this group or blanket exemption applies to the state PTA's local units and other constituent bodies. In other states, each local PTA must secure tax exemption for itself from the IRS. Check with the state PTA office if this information is not known.

If tax exemption has not been secured for the PTA, the treasurer or another officer must apply for recognition of tax exemption by completing IRS Form 1023 in the name of the PTA and returning it to the IRS with a check in the amount of the required fee. A PTA must have an EIN number before it may file Form 1023. The IRS will issue a letter stating its determination of tax-exempt status. **This determination letter of tax-exempt status from the IRS should be part of the permanent records of the PTA.** It is advisable for the state PTA office to have a copy for its file. Once approved, a tax exemption continues in force until revoked by the IRS.

Note: Form 8718 (User Fee for Exempt Organization Determination Letter Request) has been incorporated into Part XI of Form 1023. A separate form is no longer necessary.

Refer to IRS Publication 557 (Tax-Exempt Status for Your Organization) for the rules and procedures for obtaining exemption from federal income tax.

By law, an application for determination of tax-exempt status submitted to the IRS must be made available for public inspection upon request, as must any papers submitted in support of the application and any letter or other document issued by the IRS in response to the application. The IRS is required to impose penalties for failure to comply with this provision of the law unless failure to do so was due to reasonable cause.

Private Inurement

Private inurement is when an individual of power or influence within the nonprofit enters into an arrangement with the nonprofit and receives benefits greater than he or she has given. Under no circumstances should a PTA enter into such transactions. The PTA will risk intermediate sanctions (significant excise taxes) and loss of tax-exempt status.

Information Return of Organization Exempt from Income Tax- IRS Forms 990 and 990-EZ

Local, council, or district PTAs are required to file an annual information return of their income and expenses on Form 990 (Information Return of Organization Exempt from Income Tax) and other related information forms provided by the IRS, such as Schedule A and Form 990-T. The IRS normally sends such forms to tax-exempt associations, but the responsibility of filing lies with the PTA treasurer, whether or not such forms are received.

Once your PTA has filed the appropriate type of Form 990, send a copy to your state office.

990-N /E-Postcard

PTAs whose annual gross receipts are $50,000 or less for tax years ending on or after December 31, 2010, are required to submit Form 990-N, also known as the e-Postcard, electronically unless they choose to file a complete Form 990 or Form 990-EZ.

If you do not file your e-Postcard on time, the IRS will send you a reminder notice, but you will not be assessed a penalty for filing the e-Postcard late. **However, an organization that fails to file required e-Postcards (or information returns – Forms 990 or 990-EZ) for three consecutive years will automatically lose its tax-exempt status. The revocation of the organization's tax-exempt status will not take place until the filing due date of the third year. If this happens to your PTA, you can find resources at PTA.org/taxhelp to guide you through the next steps.**

The e-Postcard is due every year by the 15th day of the 5th month after the close of your tax year. For example, if your tax year ended on December 31, the e-Postcard is due May 15 of the following year. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. You cannot file the e-Postcard until after your tax year ends.

Completing the e-Postcard requires the eight items listed below:

- Employer identification number (EIN), also known as a Taxpayer Identification
- Number (TIN)
- Tax year
- Legal name and mailing address
- Any other names the organization uses Name and address of a principal officer Website address, if the organization has one
- Confirmation that the organization's annual gross receipts are normally $50,000 or less for tax years ending on or after December 31, 2010
- If applicable, a statement that the organization has terminated or is terminating (going out of business)

To file the e-Postcard go to http://epostcard.form990.org/. Keep a copy of the information filed for the PTA's permanent records.

990-EZ

If the PTA's annual gross receipts are normally more than $50,000 but less than $200,000, and total assets are less than $500,000, the PTA has an obligation to complete and file Form 990-EZ, whether or not it received the form in the mail. See Page 55 for further instructions.

- Forms 990 and 990-EZ are due by the 15th day of the fifth month after the close of the PTA's fiscal year. For example, if the PTA's fiscal year-end is June 30, the form is due November 15.
- If the return is filed late, a penalty of $20 a day may be charged. The penalty is not to exceed the lesser of $10,000 or 5 percent of the association's gross receipts for the year. Also, a penalty may be charged if the return is filed incorrectly or incompletely.
- If the PTA is required to submit a completed Form 990 or 990-EZ, it must submit a Schedule A as well (501(c) (4) organizations are not required to file Schedule A, but must file a Form 990 or 990-EZ as required).
- If the PTA has more than $1,000 in gross unrelated business income, it must file a Form 990-T as well.
- If the PTA has made significant changes to its bylaws (i.e. change in fiscal year, change in governance/ structure), a copy of the updated bylaws should be submitted to the IRS with the completed Form 990 or 990-EZ.
- If the PTA wishes to request an extension of time to file Form 990 or 990-EZ, it should completed and a Form 8868 filed with the IRS before the deadline determined by the close of the PTA's fiscal year.

Public Inspection Requirements

Any PTA that files a Form 990, 990-N, or 990-EZ must make the return available for public inspection during the three-year period beginning with the date it is due, including extensions. All parts of the return and all required schedules and attachments other than the schedule of contributors to the association must be made available. Inspection must be permitted during regular business hours at the association's principal office. If the association does not maintain a permanent office, it must provide a reasonable location for a requester to inspect the association's annual returns. The association may mail the information to a requester; in such cases, the association may charge for postage and copying only if the requester gives up the right to a free inspection.

For a request made in person, the PTA must respond immediately. For a request made in writing, the PTA must provide the requested copies within **30 days** and may charge a reasonable fee for reproduction and mailing costs. PTAs may file their 990s with services like GuideStar or post their 990s on their website in a PDF format for easy public access.

Any PTA that does not comply with the public inspection requirement will be assessed a penalty of $20 for each day that inspection was not permitted, up to a maximum of $10,000 for each return. No penalty will be imposed if the failure is due to reasonable cause (determined by the IRS). Any PTA that willfully fails to comply will be subject to an additional penalty of $1,000.

All inquiries should be reported to the state

Unrelated Business Income and IRS Form 990-T

Most PTAs are exempt from federal income tax under Section 501(c)(3) of the IRC and are further defined as public charities (not private foundations).

Having tax-exempt status means that a PTA does not pay federal income tax on income from activities that are substantially related to the purpose for which the PTA was given tax-exempt status.

However, the PTA may be required to pay tax on other types of income, referred to as unrelated business income (UBI).

The law requires nonprofits to:

- Report unrelated business activities when gross receipts are at least $1,000 by filing IRS Form 990-T.
- Pay taxes on net (after expenses) receipts.

Nonprofits risk losing their tax-exempt status only if such activities become the primary focus and make the tax-exempt mission secondary.

What Is Unrelated Business Income?

For an activity to be classified as yielding unrelated business income (UBI), three factors must be present: The activity must be (1) a trade or business, (2) regularly carried on, and (3) unrelated to the organization's tax-exempt purpose.

1. A trade or business

- For the activity to be considered a business, the nonprofit must take an active role in the generation of the income.
- The activity must provide income, but does not have to produce a profit.

2. Regularly carried on

- IRS regulations state that activities that are carried on only "discontinuously or periodically" will not be considered to be regularly carried on.
- If an activity is of short duration, but follow-up or preparation is carried on over a long period, the income from that activity could be UBI.
- An activity occurring only once per year may yield UBI if a commercial company performing the same activity would also be active only once a year.

3. Unrelated to the association's tax-exempt purpose

- If an activity is not substantially related to the PTA's mission, then it could be considered unrelated to fulfilling the tax-exempt purpose of the PTA.
- The substantial relation of the activity to the PTA's tax-exempt purpose cannot come solely from the PTA's need for money.

The destination or use of the income has no bearing on whether it is unrelated business income. The determination is made by how the income is earned.

Exceptions or Exemptions

The income from most PTA fundraising activities is exempt from federal income taxes because:

- The activities are conducted only once per year, or

- **At least 85 percent of the work of the activities is conducted by volunteers**, or
- The activities consist of selling donated merchandise (e.g., a silent or live auction of donated merchandise).

Judgment of whether an activity is related or unrelated is made on a case-by-case basis.

The federal, state, and local governments may have different standards for pursuing the charge of UBI, although most state and local governments follow the federal rules.

Statement for Recipients of Miscellaneous Income—IRS Form 1099-MISC

PTAs may be required to file Form 1099-MISC with the IRS if they pay $400 or more during the calendar year to any unincorporated business or person for services rendered or in payment for a grant, award, or scholarship.

Form 1099-MISC need not be issued to corporations or to those paid less than $600. Form 1099-MISC must be sent to the recipients on or before January 31 of each year and filed with the IRS, along with Form 1096 (Annual Summary and Transmittal of U.S. Information Returns), on or before February 28 of each year.

For details regarding when and how to file, download the Instructions for Form 1099- MISC, as well as the General Instructions for Forms 1099, 1098, 5498, and W-2G,
at IRS.gov.

Application to Adopt, Change, or Retain a Tax Year—IRS Form 1128

An association that is recognized as exempt from federal income tax and wishes to change its accounting period or fiscal year must inform the IRS. In some cases, IRS Form 1128 (Application to Adopt, Change, or Retain a Tax Year) must be filed. The IRS can impose penalties and interest when a PTA changes its accounting period without filing Form 1128 when required to do so.

If a PTA has not changed its accounting period at any time within the last 10 years, it should prepare an interim short period financial report covering the months that fall between the end of the current and start of the new fiscal year and submit a Form 990 and Schedule A to the IRS covering those interim months. The report and form should be marked “change of accounting period.” It is not necessary to file Form 1128 in this instance.

Excess Benefit Transactions

When a PTA provides perks, payment, or extra benefits (such as limousine service, presidential suites, or first-class air travel) to officers or special members of its association, the IRS may consider it an excess benefit transaction, and the individual receiving the benefit, as well as the person who approved the benefit, may be liable for tax penalties.

The IRS may consider it an excess benefit transaction if a PTA provides to an officer or person associated with the PTA a benefit that exceeds what would be considered reasonable compensation as consideration for service.

Previously, PTAs could lose their tax-exempt status for engaging in excess benefit transactions. The Taxpayer Bill of Rights 2 (signed into law July 30, 1996) imposes intermediate sanctions—an alternative to revoking an association's exempt status.

In order for a transaction not to be classified as an excess benefit, any item that may appear to be an excess benefit should be substantiated with documentation showing how the transaction benefited the PTA (e.g., presidential suite was used for officers meetings or meetings with sponsors or exhibitors for future business).

Disposition of Local PTA Assets

Local PTAs contemplating dissolution should be aware of the state PTA policies and their legal implications. Each PTA's bylaws provide that "in the event of the dissolution of the organization, its assets shall be distributed for one or more of the exempt purposes specified in Section 501(c)(3) of the IRC of 1954 as from time to time amended," and further, that the 501(c)(3) association receiving the funds be designated by the state PTA.

This basic policy only states what would be reasonably expected—**that the assets of the PTA, after the debts and obligations of the association have been paid or adequately provided for, be used for one or more of the educational purposes for which they were collected, and not be given to individuals.** Any disbanding local PTA must comply with those rules and, as stated in the bylaws, is obligated, upon withdrawal of its charter, to yield up and surrender all of its books and records and all of its assets and property to the state PTA or another PTA as designated by the state PTA. The state PTA should be contacted well before any action is contemplated. The policy on disposition of assets (i.e., all cash, accounts receivable, other property, and any rights that may have monetary value) is also applicable in cases where PTAs merge.

IRS Forms and Publications

All IRS forms and publications may be obtained for free from the IRS. Call (800) TAX-FORM (829-3676) or visit **IRS.gov.**