



## **MAY 15, 2010 FILING DEADLINE LOOMS FOR SMALLER TAX-EXEMPT ORGANIZATIONS**

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The Pension Protection Act of 2006 (“PPA”) made several significant changes to the reporting requirements of tax-exempt organizations, including those imposed upon smaller organizations that were not previously required to file an Annual Information Return (Form 990 series). Under the PPA, new sections were added to Internal Revenue Code § 6033 to address electronic filing requirements for organizations whose annual gross receipts are normally \$25,000.00 or less, and to provide for the automatic revocation of tax-exempt status for failure to file Annual Information Returns or the electronic filing, as the case may be. These new provisions apply to a tax-exempt organization’s reporting periods beginning after 2006 (i.e., for taxable years beginning in 2007).

### ***ELECTRONIC NOTICE OF REQUIREMENTS OF § 6033(i)***

Internal Revenue Code § 6033(i) requires that an exempt organization whose annual gross receipts fall below the \$25,000.00 Form 990 filing threshold must nevertheless file an electronic “notice”, or “e-Postcard” with the IRS that sets forth basic information, including such things as the organization’s name, taxpayer I.D. number, address, website address, and whether it is still engaged in its business. No income or expense information is required. Previously, these smaller organizations had no filing obligation whatsoever as they enjoyed the less-than \$25,000.00 gross receipts exception to Form 990 filing. The IRS has designated this electronic filing as “Form 990-N”, although it does not recognize the electronic notice as a “tax return” and thus the filing does not commence the running of the statute of limitations for any taxable year of the organization.

An organization files its e-Postcard by following a link on the IRS’s website to that of another organization, Urban Institute, which gathers the required information and forwards it on to the IRS. The filing is very simple, and takes only a matter of minutes to complete. Once the submission is complete, a confirmatory e-mail is sent to the person filing the e-Postcard. The address of the IRS website with instructions for initiating the electronic filing, located in the “How to File” box found on this page, is: <http://ow.ly/1uR6C>.

***AUTOMATIC REVOCATION OF EXEMPT STATUS FOR  
FAILURE TO FILE ANNUAL INFORMATION RETURNS  
OR ELECTRONIC NOTICES - § 6033(J)***

A second amendment to Internal Revenue Code § 6033 made by the PPA has broad application to virtually all tax-exempt organizations, and not simply smaller ones that previously had no filing obligation due to the \$25,000.00 gross receipts test. Internal Revenue Code § 6033(i) provides that if an exempt organization fails to file an Annual Information Return (Form 990 series) or the “e-Postcard” required under § 6033(i) for three (3) consecutive years, its tax-exempt status is *automatically* revoked as of the due date for the filing of the third annual return or e-Postcard. For calendar year organizations, then, failure to file an annual return or e-Postcard for years 2007 - 2009 would result in automatic revocation of exempt status on **MAY 15, 2010**, the due date for filing the 2009 return or e-Postcard. This harsh result can be avoided by timely filing the 2009 return or e-Postcard.

Once an organization’s tax- exempt status has been automatically revoked under § 6033(j), it will be required to re-apply for exempt status in order to obtain reinstatement of such status. An organization may obtain retroactive reinstatement of its exempt status under a discretionary, “reasonable cause” exception for failure to file its annual returns or e-Postcards set forth in §6033(j)(3), but it will still be required to re-apply for tax-exempt status in order to make this request.

***CONCLUSION***

In order to avoid the possibility of automatic revocation of their exempt status, tax-exempt organizations should review their compliance with these requirements, especially if they have previously been exempted from filing an Annual Information Return or if they have failed to file required returns for any other reason. Those non-compliant organizations having a calendar year-end should review these obligations and take action as quickly as possible in order to allow sufficient time to file an annual return or e-Postcard before the May 15, 2010 deadline.