

Federal Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to Booster Clubs regarding federal tax regulations. Steps have been documented to aid a Booster Club in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a Booster Club will remain in compliance with all federal tax regulations.

Each Booster Club should strive to remain in good standing with all federal agencies, including the Internal Revenue Service (IRS). **Therefore, each Booster Club is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the Booster Club's responsibility.

General Federal Regulatory Information

Booster Club officers are solely responsible for ensuring that their Booster Club is in compliance with all federal regulations. Therefore, the District, including any District employee, is not responsible for a Booster Club not being in good standing with all federal agencies. However, the District has provided the following information that includes detailed steps Booster Clubs should take to comply with federal tax regulations.

This information is organized as follows:

[Obtaining an Employer Identification Number](#)

[Why Do I Want To Be Tax-Exempt?](#)

[Why Do I Want To Be a Public 501\(c\)\(3\)?](#)

[Becoming a Public 501\(c\)\(3\) Tax-Exempt Organization](#)

- Applying for Public 501(c)(3) Tax-Exempt Status
- Obtaining Tax Exemption through National Affiliation
- Advance Ruling Period
- Filing Requirements for Tax-Exempt Organizations

[Taxable Organizations.](#)

[Change in Address](#)

[Further Questions?](#)

For more details, see Life Cycle of a Public Charity on the IRS website at www.irs.gov/charities.

Federal Regulatory Information

Obtaining an Employer Identification Number

Every organization must have an employer identification number, even if it will not have employees. The employer identification number is a unique number that identifies the organization to the Internal Revenue Service.

Since Booster Clubs are separate entities from the District, **Booster Clubs can not use the District's EIN.**

IMPORTANT

An organization is not automatically considered tax-exempt by acquiring an EIN. All organizations must first apply for an EIN to be recognized as a unique entity and then apply for tax-exempt status. Likewise, the mere fact that an entity is organized as a non-profit organization does not indicate that it is exempt from federal tax.

Booster Clubs may obtain an EIN by:

1. Applying Online

Once the application is completed, the information is validated during the online session, and an EIN is issued immediately.

2. Applying by Phone

Call Business & Specialty Tax Line at (800) 829-4933. The EIN will be issued to the individual over the telephone.

3. Applying by Fax

Fax the completed [Form SS-4](#) application to (859) 669-5760. A fax will be sent back with the EIN within four (4) business days.

4. Applying by Mail

Mail the completed Form SS-4 to:

IRS

Attn. EIN Operation

Cincinnati, OH 45999

The processing timeframe for an EIN application received by mail is four weeks.

Note: No fee is required for obtaining an EIN.

Federal Regulatory Information

After receiving your EIN, you may use it to then open a bank account and obtain a State Sales Tax Permit. **Booster Clubs should not use an individual's social security number to conduct the business of the organization.**

Copies of the completed SS-4 form and the IRS response documenting the assigned EIN number should be kept in the Booster Club's permanent records from year to year. You may also want to have the Secretary keep a backup copy of these documents on a CD.

Why Do I Want To Be Tax-Exempt?

The IRS Tax Code provides for special treatment of certain organizations identified as "tax-exempt." Some benefits to becoming tax-exempt as a public 501(c)(3) organization include:

1. Taxes are not paid to the IRS for revenues raised, and
2. Contributions to certain tax-exempt organizations [501(c)(3)] are tax-deductible by the contributor.

However, the following are restrictions placed on tax-exempt organizations that Booster Clubs **must follow** to receive tax-exempt status and to retain that status:

- ◆ **Tax-exempt organizations must benefit a group as a whole instead of benefiting individual members of a group.** Since Booster Clubs usually assist student groups, all members of the student group sponsored are to be treated equally and receive the same opportunity to benefit from the Booster Club's assistance. Therefore, one student cannot receive a greater benefit than another unless the criteria for financial need discussed below is met.

In some instances, individuals may not be able to afford to pay the amount owed to participate in a particular event. The IRS has indicated that a group or club may establish criteria that could be used to determine if a person is in financial need. If the criteria are met, the group or club could provide the necessary funds to allow the individual to participate. The criteria should be established in writing prior to a particular situation arising. In addition, the criteria should be used consistently for all people, and the criteria should not change every year.

- ◆ **Tax-exempt organizations cannot use individual accounts.** "Individual accounts" are those accounts used by a Booster Club to credit an individual with revenues raised. The Booster Clubs would use these accounts to benefit the individual by offsetting that individual's expenses with the amount credited to that individual from the revenues raised.

Please note that individual accounts do not refer to bank accounts.

Federal Regulatory Information

The purpose of a tax-exempt organization is to benefit an entity as a whole instead of benefiting individuals. Therefore, the use of individual accounts could result in denial of the application for tax-exempt status by the IRS or the loss of existing tax-exempt status. In addition, the individual benefits received by people would result in taxable income to them.

- ◆ **Tax-exempt organizations cannot require a person to participate in fund-raising activities.** Normally, Booster Clubs raise funds for a student group through the efforts of the Booster Club members; however, sometimes the students of the group being assisted participate in the fund-raising activities. A Booster Club cannot require its members or the students in the related student group to participate in a fund-raiser. Furthermore, members of the student group who do not participate in fund-raising activities would receive the same opportunity to benefit as those members of the student group who participated. The members or students cannot be penalized in anyway for not participating in a fund-raiser.
- ◆ **Tax-exempt organizations cannot require that a certain amount be raised or sold per person.** For example, a Booster Club cannot require that each Booster Club member or student of the assisted group sell \$20 worth of candy or sell 10 candy bars in a fund-raiser.

The following is an illustration of the above concepts:

A dance team is attending a summer dance camp that costs \$2,000 for its 10 members (\$200 each). The Dance Team Booster Club decides to have a catalog fund-raiser to help defray some of the cost of the summer dance camp. The catalog sale generates a total of \$200 of revenue. Of the 10 total members of the dance team, only 2 participate in the catalog sale that generates the \$200, which is deposited into the Dance Team Booster Club's bank account.

*Since revenues from the catalog sale were to be used to defray some of the dance camp expense, the tax-exempt Dance Team Booster Club must give all 10 dance team members an equal opportunity to benefit from the catalog sale, even though only 2 members participated. This means that **each member's cost** would be reduced by \$20 ($\$200 / 10$ members). Therefore, each member's cost for attending the summer camp would be \$180 ($\200 cost - $\$20$ fund-raiser benefit).*

Why Do I Want To Be a Public 501(c)(3)?

When applying for tax-exempt status with the IRS, Booster Clubs should apply for the **public 501(c)(3) tax-exemption**. This type of exemption means that the organization is tax-exempt; the majority of its income is from the public; and all donations, subject to certain individual restrictions, are deductible on the contributor's tax return. In addition, 501(c)(3) organizations are eligible for state tax benefits. (*See the State Regulatory Information.*)

Federal Regulatory Information

The IRS has several other tax-exempt categories; however, the 501(c)(3) status is the **ONLY** category that allows any donations to be deductible on the contributor's tax return. All other categories allow for tax-exemption, but do not allow for deductible donations under any circumstances.

With a 501(c)(3) tax-exempt status, an organization may be public or private. A private 501(c)(3) organization has additional requirements and constraints that a public 501(c)(3) organization does not have.

Therefore, all Booster Clubs should apply for tax-exempt status as a public 501(c)(3) organization.

Becoming a Public 501(c)(3) Tax-Exempt Organization

Tax-exempt status is not automatic once an EIN has been issued; **organizations must apply for tax-exempt status**. According to the IRS, an organization is either a taxable organization or a tax-exempt organization. Likewise, the mere fact that an entity is organized as a non-profit organization does **not** indicate that it is exempt from federal tax. "Non-profit" is a state law concept and is **not** recognized by the IRS. Furthermore, organizations may **not** represent themselves as tax-exempt until they have obtained notification from the IRS stating they are a tax-exempt entity.

All Booster Clubs must obtain tax-exempt status with the IRS as a public 501(c)(3) organization.

The Booster Club officers should take the necessary steps to ensure they follow the regulations regarding that type of entity.

Applying for Public 501(c)(3) Tax-Exempt Status

1. Complete IRS Package 1023 (Application for Recognition of Exemption) seeking tax-exempt status as a **public 501(c)(3)** organization.
2. Complete IRS Form 8718 (User Fee for Tax-exempt Organization Determination Letter Request) and pay the required fee of \$400 or \$850.
3. Mail Package 1023, Form 8718, and a check for the filing fee to:

Internal Revenue Service
PO Box 192
Covington, KY 41012

The filing fee is \$400 if your annual gross receipts averaged **no more than \$10,000** during the last 4 years or if you are a new organization that does not anticipate annual gross receipts exceeding \$10,000 during your first 4 years.

Federal Regulatory Information

The filing fee is \$850 if your annual gross receipts averaged **more than \$10,000** during the last 4 years or if you are a new organization that anticipates annual gross receipts exceeding \$10,000 during your first 4 years.

Annual gross receipts: The total amount of revenue collected by an organization during its reporting year from any source. Sources may include, but are not limited to, membership fees, donations, fund-raising revenues, amounts collected for the payment of expenses (e.g., uniforms, trips), and any other amounts received.

To determine annual gross receipts:

- **Add** all deposits made to the Booster Club's bank account(s),
- **Add** cash on hand that was not deposited by the end of its reporting year,
- **Less** transfers from one bank account to another, and
- **Add** expenses paid with money collected that was not deposited in the Booster Club's bank account(s).

When completing the IRS Package 1023, Booster Clubs will establish their fiscal year-end (*also known as the accounting period year-end or official year-end*). Once this date is established, the IRS does not easily allow an organization to change it. Changes are usually only allowed for extreme circumstances.

The date established will determine when the Booster Club has to file their informational return (Form 990) to the IRS. The return is due 4 ½ months after the end of a fiscal year (*the 15th day of the 5th month after the organization's accounting period ends*).

When considering a fiscal year-end date, you may wish to align your year-end with the school's year-end date of June 30. This way, the financial activity of the Club can relate easily to a given school year. Second, the current officers can prepare the annual Financial Report and have it audited before the new school year begins. Third, the Club's Form 990 would not be due to the IRS until November 15; therefore, the new officers would have time to prepare it after beginning the new school year.

The IRS approval process for tax-exempt status usually takes several months.

Read "[Top Ten Reasons for Delays in Processing Exempt Organization Applications](#)" under Exhibits before you submit your application!!

The IRS will send the organization an Acknowledgement of Your Request letter that indicates your application and fee were received and are being processed.

Federal Regulatory Information

Upon approval by the IRS of the tax-exempt status, the organization will receive a Determination Letter stating that the organization is considered to be tax-exempt as of a certain date. Only then can the organization represent itself as a federally tax-exempt organization.

Likewise, donations to the organization are only deductible on the contributor's tax return as of the effective date on the Determination Letter received by the Booster Club granting **501(c)(3)** tax-exempt status and within set guidelines that apply to 501(c)(3) organizations.

Therefore, if the Booster Club receives tax exemption under any other code [i.e., 501(c)(4), 501(c)(7)], donations received are **not deductible on the contributor's tax return**. Furthermore, Booster Clubs should clearly state in all advertisements that donations to the organization are "**not tax-deductible**" so that a contributor is not misled and does not incur penalties levied by the IRS for taking the deduction erroneously.

If the IRS does not grant tax-exempt status, the organization will receive a Letter of Denial stating the organization is not considered tax-exempt.

Send a copy of the Acknowledgement of Your Request and a copy of the Determination Letter to the District's Internal & Systems Control Department when each is received.

Examples of an [Acknowledgment of Your Request](#) and a [Determination Letter](#) have been included in the Appendix.

Obtaining Tax-Exemption through National Affiliation

Some organizations may become affiliated with a national organization that has already received tax-exempt status as a public 501(c)(3) organization from the IRS (e.g., PTAs). The national organization may have a Group Exemption Number (GEN) assigned to it by the IRS. The GEN may be used by local affiliates to avoid having to file their own Form 1023.

Each local affiliate, however, must obtain an Employer Identification Number (EIN).

Advance Ruling Period (Temporary Tax-exempt Status)

Some Booster Clubs may receive a temporary approval of tax-exempt status as a public 501(c)(3) organization for sixty (60) months known as an "advance ruling period." The temporary status is usually granted for newly-formed Booster Clubs and is stated in the Determination Letter as "Advance Ruling Period Begins/Advance Ruling Period Ends."

The 60-month grace period is considered a trial period by the IRS to determine if granting the **public 501(c)(3)** status is appropriate for a particular organization. Ninety days prior to the end of

Federal Regulatory Information

the 60 months, IRS Form 8734 (Support Schedule for Advanced Ruling Period) is required to be submitted by the Booster Club to maintain the **501(c)(3) tax-exempt status as a public organization**.

Failure to submit this form results in the organization automatically being reclassified as a private foundation which has additional requirements and constraints that a public organization does not have. Some of these requirements and constraints include the reduced deduction of donations by a donor, the payment of excise taxes, and the annual filing of IRS Form 990-PF (Return of Private Foundation).

The IRS usually sends a notice to these organizations prior to their expiration date to remind them to submit the Form 8734; however, Booster Clubs should not rely on the IRS. Instead, the Booster Clubs should monitor their own temporary status expiration date.

After the IRS reviews the Form 8734 information, the IRS may grant a permanent public tax-exempt status to the organization. The tax-exempt status would remain in effect as long as all regulations concerning public tax-exempt organizations are followed.

Filing Requirements for Tax-Exempt Organizations

Annually, each Booster Club must file an exempt organization information return Form 990-N, 990-EZ, or 990, *Return of Organization Exempt from Income Tax*. **The return is due by the 15th day of the 5th month after the close of your tax year.** For example, if your tax year ended on June 30, 2012, the Form 990 is due November 15, 2012

Most small tax-exempt organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, also known as the e-Postcard, unless they choose to file a complete Form 990 or Form 990-EZ instead. The e-Postcard is required to be filed on-line and is relatively easy to complete. All you need is eight items of basic information about your organization. **You cannot file the e-Postcard until after your tax year ends.** Please go to www.irs.gov for more information.

The Form 990-N, 990-EZ, or 990 is due by the 15th day of the 5th month after the Organization's accounting year ends.

For the 2009 Tax Year:

Booster Clubs must use Form 990-N, normally known as the e-Postcard if:

1. Gross receipts are \$25,000 or less.

Federal Regulatory Information

Booster Clubs must use Form 990-EZ if:

1. Gross receipts are more than \$25,000 but less than \$500,000 **AND**
2. Total assets are less than \$1,250,000 at year-end.

Booster Clubs must use Form 990 if:

1. Gross receipts are \$500,000 or more
2. Total assets are \$1,250,000 or more at year-end.

For tax years 2010 and later:

Booster Clubs must use Form 990-N, normally known as the e-Postcard if:

1. Gross receipts are \$50,000 or less.

Booster Clubs must use Form 990-EZ if:

1. Gross receipts are more than \$50,000 but less than \$200,000 **AND**
2. Total assets are less than \$500,000 at year-end.

Booster Clubs must use Form 990 if:

3. Gross receipts are \$200,000 or more
4. Total assets are \$500,000 or more at year-end.

Taxable Organizations

If a Booster Club has not obtained tax-exempt status from the IRS, that Booster Club is a taxable entity. Taxable organizations operate under different guidelines than tax-exempt organizations and are required to submit Form 1120 (U.S. Corporation Tax Return) annually. Form 1120 must be filed each year no matter the amount of the gross receipts.

Since the District Booster Clubs should be public 501(c)(3) organizations, the IRS guidelines concerning taxable organizations are not included in this handbook. Taxable organizations should obtain their own competent independent counsel, such as a CPA, on accounting and tax matters

Federal Regulatory Information

related to their specific circumstances. The cost of the counsel would be the Booster Club's responsibility.

Change in Address

If your address has changed, you need to notify the IRS to ensure you receive any IRS refund or correspondence. To change your address with the IRS, you may complete a Form 8822 (*Address Change Request*) and send it to the address shown on the form.

Further Questions?

If you have additional questions regarding the information discussed above, you may contact:

Internal Revenue Service

Main Number	1-800-829-1040 (toll-free)
Tax-Exempt Organizations	1-877-829-5500 (toll-free)
Tax Forms & Publications	1-800-829-3676 (toll-free)

Website addresses

IRS Home Page	www.irs.gov
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For information downloaded from the IRS website, please refer to the [Internal Revenue Service](#) section of the Exhibits.