

GIVE ME YOUR 990!

Public
Disclosure
Requirements for
Tax-Exempt
Organizations

by Liz Towne
and Shannon Garrett


ALLIANCE^{FOR}JUSTICE

Exempt From Income Tax

of the Internal Revenue Code (except black lung or private foundation)

of this return to satisfy state reporting requirements

, 2005, and ending

D Employer

E Telephone

F Accounting

(a)(1) nonexempt charitable A (Form 990 or 990-EZ).

H and I are not applicable

H(a) Is this a group

H(b) If "Yes," enter

H(c) Are all affiliates (If "No," attach

H(d) Is this a separate organization c

I Group Exem

M Check to attach S

Net Assets or Fund Balances (See the

ounts received:

1a	
1b	
1c	

noncash \$

ent fees and contracts (from Part VII, line 93)

Investments

6a	
6b	

6b from line 6a)

(A) Securities	(B) Other
8a	
8b	
8c	

Columns (A) and (B))

ule). If any amount is from gaming, check here

of

9a	
9b	

ndraising expenses

vents (subtract line 9b from line 9a)

ns and allowances

10a	
10b	

entory (attach schedule) (subtract line 10b from l

103)

t, 5, 6c, 7, 8d, 9c, 10c, and 11)

olumn (B))

ine 44, column (C))

n (D))

chedule)

nd 44, column (A))

subtract line 17 from line 12)

igning of year (from line 73, column (A

ation)

“Give me your 990!”

What do you have to do when you hear these words? Unfortunately, not every nonprofit knows how to respond to this demand.

This pamphlet describes the federal public disclosure requirements for 501(c) tax-exempt organizations. It is intended to help all nonprofits (including private foundations) understand their obligations when they receive requests for information.

Alliance for Justice is a national association of environmental, civil rights, mental health, women’s, children’s, and consumer advocacy organizations. Alliance for Justice works to secure access to justice for all Americans, strengthen the role of nonprofit organizations in public policy, and foster a new generation of advocates.

Through the Nonprofit Advocacy Project and the Foundation Advocacy Initiative, Alliance for Justice seeks to increase nonprofit involvement in the policymaking process. In addition to publications such as this one, Alliance for Justice supports nonprofit advocacy through in-person and online workshops and individualized technical assistance. Alliance for Justice also monitors legislative activity impacting nonprofit advocacy, provides information to the charitable community, and works to reduce restrictions on nonprofits.

Liz Towne is Director of Advocacy Programs at Alliance for Justice. Shannon Garrett is formerly Legislative Counsel at Alliance for Justice.

TABLE OF CONTENTS

What information are we required to give?	2
What documents must be included in our response?	3
What if we cannot find the requested documents?	4
When do we have to respond?	4
Can we charge for copying and postage costs?	5
Are there any exceptions to the photocopied response requirements?	6
What happens if we don't respond?	6
Can we report a tax-exempt organization that fails to respond to our request?	7
Are public disclosure documents available from any other source?	7
Top Ten Tips on Public Disclosure	8

WHAT INFORMATION ARE WE REQUIRED TO GIVE?

When responding to requests for documents, every tax-exempt organization should know two things:

- A. What a requestor is entitled to receive; and
- B. What information is actually requested.

A. What a requestor is entitled to receive

When your organization receives a written or in-person request for your organizational tax documents, the requestor is entitled to receive:

- A copy of each annual information return (e.g., IRS Form 990 or Form 990-PF) filed within the last three years, including schedules and attachments;
- A copy of your application for tax-exemption (e.g., IRS Form 1023 or Form 1024), including attachments and supporting documents; and
- An exact copy of Form 990-T, including schedules, attachments and supporting documents (this applies to 501(c)(3) organizations only).

B. What information is actually requested

Your response can be limited to the specific information requested. For example, if a requestor asks for your annual information return for the year 2004, you can limit your response to your year 2004 Form 990. You do not need to send the three most recent Form 990s if only the 2004 return is requested.

Similarly, if the requestor asks only for your tax-exemption application, you can limit your response to your Form 1023 or 1024. You do not need to send any Form 990 returns if only the tax-exemption application is requested.

WHAT DOCUMENTS MUST BE INCLUDED IN OUR RESPONSE?

A. Annual information return

A request for your “annual information return” means you must provide, for each of the last three years, a copy of:

- Form 990 or Form 990-PF;
- Any attachments; and
- All schedules.

Remember that you are required to send these documents for each annual information return filed within the last three years unless the requestor specifically narrows the request.

Public charities are not obligated to reveal information about contributors. The law permits public charities to omit the names and addresses of contributors in Schedule B, as well as any identifying information in Schedule B, Part II.

Private foundations, however, are required to reveal information about contributors. Private foundations cannot omit contributor names and addresses.

B. Application for tax-exemption

A request for your “tax-exemption application” means you must provide a copy of:

- Form 1023 or Form 1024;
- All attachments;
- Any supporting documents; and
- Any letter the IRS sent concerning your application.

C. Form 990-T

A request for Form 990-T means the 501(c)(3) must provide a copy of:

- Form 990-T, Exempt Organization Business Income Tax Return filed after August 17, 2006 and within the last three years; and
- All schedules, attachments and supporting documents that relate to imposition of tax on unrelated business income must additionally be included.

WHAT IF WE CANNOT FIND THE REQUESTED DOCUMENTS?

If your organization cannot locate or never retained a copy of any annual information return filed within the last three years or your application for tax-exemption, copies may be obtained from the IRS Tax Exempt and Government Entities Division. See page 7 for IRS contact information.

Note that organizations were not required to retain a copy of their tax-exemption application prior to July 15, 1987. If your organization filed for tax-exemption prior to July 15, 1987, and you did not have a copy of your tax-exemption application on that date, you are not now obligated to produce a copy. If you retained a copy of your application at that time, you must now provide a copy upon request.

WHEN DO WE HAVE TO RESPOND?

A. In-person requests

If a request is made in person, you must respond to the request on the same day. It is recommended, therefore, that you have copies of your public disclosure materials on hand.

Note that requests sent by courier are considered written requests, not in-person requests.

B. Written requests

If a request is made in writing (i.e., by mail, fax, email, or courier), you must respond within 30 days of receiving the request.

You are allowed to charge for copying and postage costs incurred when responding to requests for your public disclosure documents. See page 5 for permissible charges.

CAN WE CHARGE FOR COPYING AND POSTAGE COSTS?

When tax-exempt organizations are required to furnish copies to a requestor, you may charge for the copying and postage costs.

IRS regulations permit you to charge a reasonable fee of no more than the applicable per-page copying fee that is used by the IRS under its FOIA fee schedule.* The current IRS FOIA fee schedule can be found on the IRS website at <http://www.irs.gov/foia>. As of this printing, the IRS FOIA fees are 20¢ per page.

You may also charge the actual postage costs incurred to send copies of requested documents to the requestor.

Note that if you intend to charge for copying and postage, you must provide the requestor with timely notice of the approximate costs and the acceptable forms of payment. If you require advance payment and receive a written request that does not include a payment, you must notify the requestor of your prepayment policy and amount due within 7 days.

Acceptable forms of payment must include at least cash and money order for in-person requests, and at least certified check, money order, and either personal check or credit card for written requests.

* The IRS's FOIA fee schedule is the list of charges for documents required to be available under the Freedom of Information Act. Tax-exempt organizations may disregard the IRS's fee exclusion that makes the first 100 pages of copies free.

ARE THERE ANY EXCEPTIONS TO THE PHOTOCOPIED RESPONSE REQUIREMENTS?

If a tax-exempt organization makes its public disclosure documents “widely available,” it does not have to provide copies to individual requestors.

Documents are considered “widely available” if they are readily available in a PDF file on your website. The file must be an exact image of the original document that may be accessed, downloaded, viewed, and printed for free.

Note that while a PDF file on your website is an acceptable alternative to providing copies of these documents (either in response to an in-person or written request), you are still required to make the documents available for public inspection during regular business hours.

WHAT HAPPENS IF WE DON'T RESPOND?

Once a request is made, failure to provide a copy of the requested documents by the response deadline (same day for in-person requests or within 30 days for written requests) means the organization is subject to a \$20 per-day penalty for every day that you fail to fully respond.

For each failure to provide a copy of the annual information return (Form 990 or Form 990-PF, schedules, and attachments) there is a maximum penalty of \$10,000.

There is no maximum penalty for failure to provide a copy of your tax-exempt application (Form 1023 or Form 1024, attachments, and supporting documents).

CAN WE REPORT A TAX-EXEMPT ORGANIZATION THAT FAILS TO RESPOND TO OUR REQUEST?

Public disclosure noncompliance complaints may be filed with the IRS Tax Exempt and Government Entities Division.

Your complaint should include:

- A copy of your written request or a written description of your in-person request;
- A description of what, if any, response the organization offered you; and
- Any other relevant materials or information.

Your complaint should be sent to:

Internal Revenue Service

TE/GE Customer Account Services

P.O. Box 2508

Cincinnati, OH 45201

(877) 829-5500

Additional information about the IRS complaint procedure can be found in IRS Fact Sheet 2002-10, available online at <http://www.irs.gov>.

ARE PUBLIC DISCLOSURE DOCUMENTS AVAILABLE FROM ANY OTHER SOURCE?

Anyone can request a tax-exempt organization's public disclosure documents from the IRS using IRS Form 4506-A, available online at <http://www.irs.gov>.

Some public disclosure documents for all tax-exempt organizations registered with the IRS (including 501(c)(3), 501(c)(4), and 527 organizations) are also available through GuideStar, a searchable database of nonprofits located online at <http://www.guidestar.org>.

TOP TEN TIPS ON PUBLIC DISCLOSURE

- 1.** Know the lobbying and election-related activity rules for your organization.
- 2.** Maintain accurate and complete annual information returns.
- 3.** File accurate and complete annual information returns.
- 4.** Public charities should prepare a copy of each year's Form 990 for public disclosure by omitting the names and addresses of all contributors.
- 5.** Keep public disclosure copies of your tax-exempt application and your annual information returns filed within the last three years prepared in advance of requests.
- 6.** Create a PDF file of these documents and place it in a public location on your website.
- 7.** When you receive a request, identify the exact documents the requestor is seeking.
- 8.** Respond to a request for public disclosure in a timely manner.
- 9.** Notify the IRS if the requests become harassing (i.e., a sudden increase in requests, multiple requests from the same person, requests made through form letters, requests containing hostile language).
- 10.** Contact Alliance for Justice for technical assistance at (866) NP-LOBBY (1-866-675-6229) or advocacy@afj.org.

Return of Organization Exempt From Income Tax
 Section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung
 benefit trust or private foundation)
 Use a copy of this return to satisfy state reporting requirements.
 2005, and ending
 D Employer id

Name of organization		Room/suite		E Telephone
if mail is not delivered to street address)				()
				F Accounting

City or town, state or country, and ZIP + 4

☐ 501(c) () ◀ (insert no.) ☐ 4947(a)(1) or ☐ 527

the organization's gross receipts, while a return with the IRS; but if the organization has no gross receipts, it must file a return. **Some states require a complete return.**

Public support noncash \$ _____ (Part VII, line 93)

6a

(A) Securities		(B) Other
8a		

gross amount from
an inventory
less: cost or other basis and sales expenses.
(loss) (attach schedule)
line 8c, columns (A) and (B)) If any amount is from gaming, check here

Special events and other		
Gross revenue (not including \$		
contributions reported on line 1a)		
Direct expenses other than fundraising expenses		
Special events (subtract line 9b from line 9a)	10a	
Allowances	10b	

b Less: cost of goods sold

12	Program services (from line 44, column (A))	
13	Management and general (from line 44, column (D))	
14	Fundraising (from line 44, column (D))	
15	Other (attach schedule)	
16	Total (from line 12)	

17 Total expenses



11 Dupont Circle, N.W.
Second Floor
Washington, D.C. 20036
(202) 822-6070
advocacy@afj.org
<http://www.allianceforjustice.org>
<http://nonprofitadvocacy.blogspot.com>