



WEBINAR WILL BEGIN SOON...



MAY 21, 2025

HOW TO LOSE YOUR NONPROFIT'S TAX-EXEMPT STATUS



May 21, 2025



Tax-Exempt
Status
REVOKED

PURPOSE

Be aware of activities that could jeopardize your nonprofit's tax-exempt status so you can avoid them. Our focus will be on 501(c)(3) charitable organizations.



01 ORGANIZATIONAL & OPERATIONAL TESTS

02 PROHIBITED ACTIVITIES

03 REAL-LIFE EXAMPLES

04 THINGS TO CONSIDER

ORGANIZATIONAL & OPERATIONAL TESTS



Organizational Test

Governing documents: Limit purposes to those specified in IRC Section 501(c)(3)

Exempt Purposes: Religious, charitable, scientific, testing for public safety, literary, educational, fostering national or international amateur sports competition, and preventing cruelty to children or animals.

Only an insubstantial part of its activities can not be in furtherance of one or more exempt purposes.

Benefit public not private interests

Dissolution Clause: Must ensure that upon dissolution, the organization's assets will be distributed for one or more exempt purposes.



Operational Test

Primary Activities: The organization must engage primarily in activities that accomplish one or more of the exempt purposes specified in IRC Section 501(c)(3).

Insubstantial Non-Exempt Activities: More than an insubstantial part of the organization's activities must not be devoted to non-exempt purposes.

No Private Inurement: No part of the organization's net earnings may inure to the benefit of private shareholders or individuals such as the founders, founders' families, or persons controlled by such private interests.

Serving Public Rather Than Private Interests

POLLING QUESTION #1

PROHIBITED ACTIVITIES

Prohibited Activities

1 Political Activities

6 Other Issues

2 Substantial Lobbying

3 Substantial Unrelated Business

4 Private Inurement

5 Private Benefit



Political Activities

- Directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.
- Applies to all campaigns – federal, state, and local level.
- Political campaign intervention includes activities that favor or oppose one or more candidates.
- Contributions to political campaign funds.
- Public statements of position in favor of or in opposition to any candidate.
- Distributing statements prepared by others that favor or oppose any candidate.
- Allowing a candidate to use an organization's assets or facilities if other candidates are not given an equivalent opportunity.

Substantial Lobbying

- Carrying on propaganda or otherwise attempting to influence legislation.
- Legislation includes action by Congress, state legislatures, local councils, or similar governing body, with respect to acts, bills, resolutions, or similar items.
- Influencing the public in referendums, ballot initiatives, constitutional amendments, or similar procedure.
- Contacting, or urging the public to contact, members or employees of a legislative body for the purpose of proposing, supporting, or opposing legislation.



Unrelated Trade or Business

- Trade or business: any activity conducted for the production of income from selling goods or performing services.
- Regularly carried on: show a frequency and continuity similar to, and are pursued in a manner similar to, comparable commercial activities of nonexempt organizations.
- Not substantially related to furthering organization's exempt purpose (other than through the production of funds).



Private Inurement

- Net earnings cannot inure in whole or in part to the benefit of private shareholders or individuals.
- “Private shareholder or individual” refers to persons who have a personal and private interest in the organization, such as an officer, a director, or a key employee.
- Any amount of inurement may be grounds for loss of tax-exempt status.



Private Benefit

- Activities that benefit private interests rather than the public as a whole.



Other Issues

- Inactivity
- Lack of books and records
- Failing to file annual returns for 3 consecutive years
- Failing to respond to IRS inquiries

REAL-LIFE EXAMPLES

Political Activity

- A church that sponsored a newspaper advertisement urging people not to vote for a presidential candidate.
- Failed to establish that it was the victim of selective prosecution.
- It cited examples of pastors who engaged in political activities without losing the tax-exempt status of their churches, but it failed to demonstrate that it was similarly situated to any of those other churches.
- None of the activities cited by the church involved the placement of advertisements in newspapers with nationwide circulations opposing a candidate and soliciting tax deductible contributions to defray their cost.



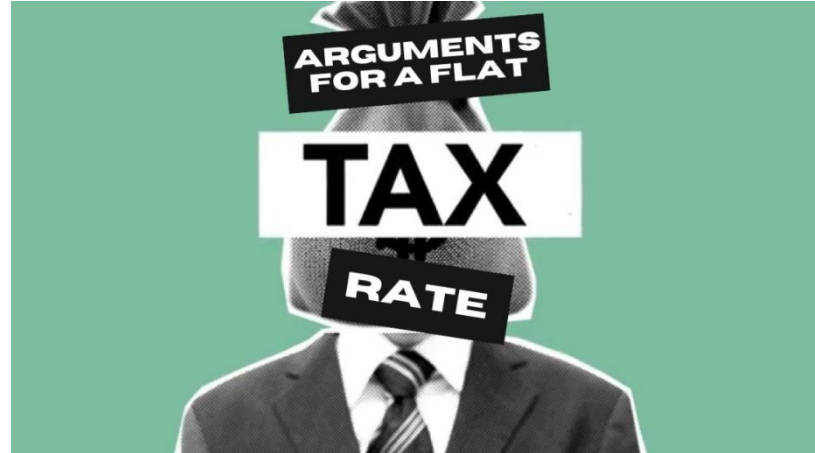
Political Activity

- A local bar association did not qualify as a tax-exempt charitable and educational organization because its rating of candidates for judgeships at the municipal, state and federal level constituted prohibited intervention or participation in political campaigns.
- The ratings were communicated to the members and the public and constituted indirect political activity, not merely the dissemination of objective data, as argued by the association.
- The court rejected the association's argument that political activity must form a "substantial part" of the organization's activities before exempt status is lost. The exemption is lost by participation in any political campaign.



Substantial Lobbying

- An organization created to finance a political commission did not operate exclusively for charitable purposes.
- Denied tax-exempt status. It was "action organization" that actively engaged in the advocacy of a particular political agenda.
- Wanted to repeal of the current tax code and the establishment of a flat tax.
- It then attempted to sell this conclusion to the US Congress, the president and the public.



Lobbying – How much is too much?

- To be safe, make an election to use the expenditure test under Section 501(h) by filing Form 5768

If the amount of exempt purpose expenditures is:	Lobbying nontaxable amount is:
$\leq \$500,000$	20% of the exempt purpose expenditures
$> \$500,000$ but $\leq \$1,000,000$	\$100,000 plus 15% of the excess of exempt purpose expenditures over \$500,000
$> \$1,000,000$ but $\leq \$1,500,000$	\$175,000 plus 10% of the excess of exempt purpose expenditures over \$1,000,000
$> \$1,500,000$ but $\leq \$17,000,000$	\$225,000 plus 5% of the exempt purpose expenditures over \$1,500,000
$> \$17,000,000$	\$1,000,000

POLLING QUESTION #2

Unrelated Business Income

- Main activity was to operate a website through which its customers could purchase flowers at market prices.
- Planned to expand to market other goods and services.
- Planned to donate its business profits to charitable organizations.
- Selling flowers at market rates on the Internet with all profits being directed to charities selected by customers, was not exempt from taxation as it was not operated exclusively for exempt purposes.



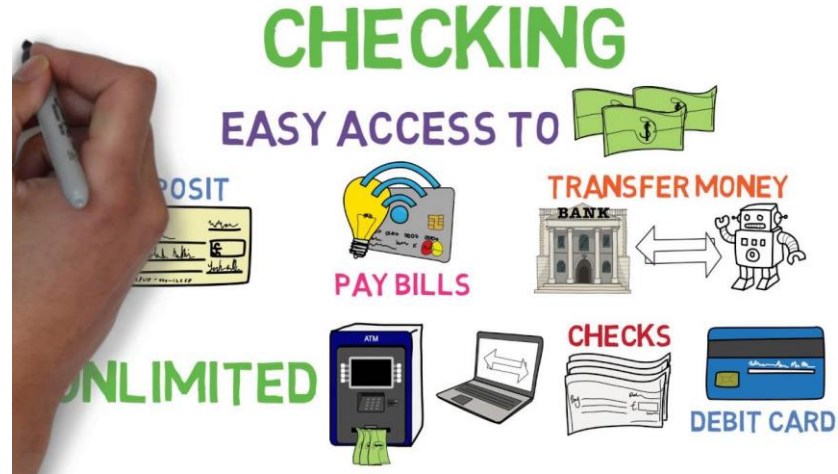
Unrelated Business Income

- New Faith, Inc.
- Purpose will be to supply money, goods, and services to the poor.
- Intended to keep a supply of necessities such as food and clothing in stock so one can be supplied with such necessities immediately.
- Had a goal to construct a camp to house and care for poor people and provide an opportunity for these people to get on their feet.
- Obtained most of its revenues from providing food to the general public from lunch trucks in exchange for donations.
- The commercial activity accounted for nearly all of its gross revenues and there was no evidence that any food items were offered at below-cost prices to needy



Private Inurement

- Purpose was to assist vulnerable populations, including runaways at risk of falling victim to child sex trafficking.
- Provided volunteers to shadow residents of rehabilitation centers to prevent them from being lured into prostitution.
- The organization's president had access to the organization's bank accounts and was the sole signer of these accounts.
- The organization transferred funds to the president's personal and business accounts without proper documentation or substantiation.
- Payments were made to the president's personal credit cards for personal expenses.



Private Inurement

- The organization conducted fundraisers such as raffles, spaghetti dinners, and breakfasts at local fire halls and churches.
- All proceeds were distributed to Z, the founder, to help with expenses for a heart transplant and other bills.
- The board consisted only of Z.
- Family members and friends organized the events.
- The organization's net earnings inure to the benefit of Z, the founder and only board member, which disqualifies it from tax-exempt status.



Private Benefit

- Purpose to further the breeding and training of registered purebred H and assist members in achieving these standards.
- Activities include providing training, testing, hunt tests/trials, seminars, individual training, club training days, and exhibitions.
- The organization conducts monthly club meetings and provides donations to F groups and its parent club scholarship fund.
- The organization is supported by fees from hunts and trials, with no membership fees.
- Training of animals does not qualify as educational under Section 501(c)(3).



Private Benefit

- A booster club formed to raise funds for competitions involving young athletes from a private gym.
- The cost of competitions was paid by the booster club, which billed the parents an assessment for each child that could be paid in cash or through participation in fund-raising activities.
- Only parents who fund-raised benefitted from those activities.
- The class of those parents who received the benefit of the fund-raising was not shown to comprise people who were poor, disadvantaged, or in financial distress, or otherwise members of a charitable class.
- The primary activity of the club, fund-raising, did not benefit all the parents and children and promoted private, nonpublic



Non-Operational (Inactive)

- Inactive during the fiscal year under tax examination.
- Run by volunteers and had little board participation.
- No meetings with the governing body during the fiscal year.
- Was in the process of recruiting individuals to sit on the board.
- No policy manuals, officer manuals, or employee handbooks.
- No funds were disbursed during the tax year
- No correspondence or records between the organization and officers, members, or volunteers during the year.
- **Another example:**
- Only activity was maintaining parcels of donated land that it had previously received.
- This activity was not charitable in nature and was insufficient to meet the operational test



Books & Records, Nonresponsive to IRS

- Organization did not respond to multiple IRS requests for information.
- Failed to keep adequate books and records required to verify its continued qualification for tax-exempt status.



THINGS TO CONSIDER

FORM 990 & SCHEDULES

- Why are there so many questions and possible schedules for the Form 990?
- The Form 990 is designed to show that an organization is meeting the organizational and operational tests.

Form 990	Return of Organization Exempt From Income Tax	OMB No. 1545-0047
Department of the Treasury Internal Revenue Service	Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except private foundations) Do not enter social security numbers on this form as it may be made public. Go to www.irs.gov/Form990 for instructions and the latest information.	2024 Open to Public Inspection
A For the 2024 calendar year, or tax year beginning , 2024, and ending , 20		

Part III **Statement of Program Service Accomplishments**Check if Schedule O contains a response or note to any line in this Part III ☐**1** Briefly describe the organization's mission:

2 Did the organization undertake any significant program services during the year which were not listed on the prior Form 990 or 990-EZ?☐ Yes ☐ No

If "Yes," describe these new services on Schedule O.

3 Did the organization cease conducting, or make significant changes in how it conducts, any program services?☐ Yes ☐ No

If "Yes," describe these changes on Schedule O.

4 Describe the organization's program service accomplishments for each of its three largest program services, as measured by expenses. Section 501(c)(3) and 501(c)(4) organizations are required to report the amount of grants and allocations to others, the total expenses, and revenue, if any, for each program service reported.**4a** (Code: _____) (Expenses \$ _____ including grants of \$ _____) (Revenue \$ _____)

Part IV Checklist of Required Schedules

		Yes	No
1	Is the organization described in section 501(c)(3) or 4947(a)(1) (other than a private foundation)? <i>If "Yes," complete Schedule A</i>	<input type="checkbox"/>	<input type="checkbox"/>
2	Is the organization required to complete Schedule B, Schedule of Contributors? See instructions	<input type="checkbox"/>	<input type="checkbox"/>
3	Did the organization engage in direct or indirect political campaign activities on behalf of or in opposition to candidates for public office? <i>If "Yes," complete Schedule C, Part I</i>	<input type="checkbox"/>	<input type="checkbox"/>
4	Section 501(c)(3) organizations. Did the organization engage in lobbying activities, or have a section 501(h) election in effect during the tax year? <i>If "Yes," complete Schedule C, Part II</i>	<input type="checkbox"/>	<input type="checkbox"/>

Part IV Checklist of Required Schedules *(continued)*

	Yes	No
22 Did the organization report more than \$5,000 of grants or other assistance to or for domestic individuals on Part IX, column (A), line 2? <i>If "Yes," complete Schedule I, Parts I and III</i>	<input type="checkbox"/>	<input type="checkbox"/>
23 Did the organization answer "Yes" to Part VII, Section A, line 3, 4, or 5, about compensation of the organization's current and former officers, directors, trustees, key employees, and highest compensated employees? <i>If "Yes," complete Schedule J</i>	<input type="checkbox"/>	<input type="checkbox"/>
24a Did the organization have a tax-exempt bond issue with an outstanding principal amount of more than \$100,000 as of the last day of the year, that was issued after December 31, 2002? <i>If "Yes," answer lines 24b through 24d and complete Schedule K. If "No," go to line 25a</i>	<input type="checkbox"/>	<input type="checkbox"/>
b Did the organization invest any proceeds of tax-exempt bonds beyond a temporary period exception?	<input type="checkbox"/>	<input type="checkbox"/>
c Did the organization maintain an escrow account other than a refunding escrow at any time during the year to defease any tax-exempt bonds?	<input type="checkbox"/>	<input type="checkbox"/>
d Did the organization act as an "on behalf of" issuer for bonds outstanding at any time during the year?	<input type="checkbox"/>	<input type="checkbox"/>
25a Section 501(c)(3), 501(c)(4), and 501(c)(29) organizations. Did the organization engage in an excess benefit transaction with a disqualified person during the year? <i>If "Yes," complete Schedule L, Part I</i>	<input type="checkbox"/>	<input type="checkbox"/>
b Is the organization aware that it engaged in an excess benefit transaction with a disqualified person in a prior year, and that the transaction has not been reported on any of the organization's prior Forms 990 or 990-EZ? <i>If "Yes," complete Schedule L, Part I</i>	<input type="checkbox"/>	<input type="checkbox"/>
26 Did the organization report any amount on Part X, line 5 or 22, for receivables from or payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons? <i>If "Yes," complete Schedule L, Part II</i>	<input type="checkbox"/>	<input type="checkbox"/>
27 Did the organization provide a grant or other assistance to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor or employee thereof, a grant selection committee member, or to a 35% controlled entity (including an employee thereof) or family member of any of these persons? <i>If "Yes," complete Schedule L, Part III</i>	<input type="checkbox"/>	<input type="checkbox"/>
28 Was the organization a party to a business transaction with one of the following parties? (See the Schedule L, Part IV, instructions for applicable filing thresholds, conditions, and exceptions).		
a A current or former officer, director, trustee, key employee, creator or founder, or substantial contributor? <i>If "Yes," complete Schedule L, Part IV</i>	<input type="checkbox"/>	<input type="checkbox"/>
b A family member of any individual described in line 28a? <i>If "Yes," complete Schedule L, Part IV</i>	<input type="checkbox"/>	<input type="checkbox"/>
c A 35% controlled entity of one or more individuals and/or organizations described in line 28a or 28b? <i>If "Yes," complete Schedule L, Part IV</i>	<input type="checkbox"/>	<input type="checkbox"/>

	conservation contributions? If "Yes," complete Schedule IV	30
31	Did the organization liquidate, terminate, or dissolve and cease operations? If "Yes," complete Schedule N, Part I	31
32	Did the organization sell, exchange, dispose of, or transfer more than 25% of its net assets? If "Yes," complete Schedule N, Part II	32
33	Did the organization own 100% of an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Schedule R, Part I	33
34	Was the organization related to any tax-exempt or taxable entity? If "Yes," complete Schedule R, Part II, III, or IV, and Part V, line 1	34
35a	Did the organization have a controlled entity within the meaning of section 512(b)(13)?	35a
b	If "Yes" to line 35a, did the organization receive any payment from or engage in any transaction with a controlled entity within the meaning of section 512(b)(13)? If "Yes," complete Schedule R, Part V, line 2	35b
36	Section 501(c)(3) organizations. Did the organization make any transfers to an exempt non-charitable related organization? If "Yes," complete Schedule R, Part V, line 2	36
37	Did the organization conduct more than 5% of its activities through an entity that is not a related organization and that is treated as a partnership for federal income tax purposes? If "Yes," complete Schedule R, Part VI	37

Part V Statements Regarding Other IRS Filings and Tax Compliance <i>(continued)</i>				Y
2a	Enter the number of employees reported on Form W-3, Transmittal of Wage and Tax Statements, filed for the calendar year ending with or within the year covered by this return	2a		
b	If at least one is reported on line 2a, did the organization file all required federal employment tax returns? .	2b		
3a	Did the organization have unrelated business gross income of \$1,000 or more during the year?	3a		
b	If "Yes," has it filed a Form 990-T for this year? If "No" to line 3b, provide an explanation on Schedule O .	3b		
4a	At any time during the calendar year, did the organization have an interest in, or a signature or other authority over, a financial account in a foreign country (such as a bank account, securities account, or other financial account)?	4a		
b	If "Yes," enter the name of the foreign country _____ See instructions for filing requirements for FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR).			
5a	Was the organization a party to a prohibited tax shelter transaction at any time during the tax year? . . .	5a		
b	Did any taxable party notify the organization that it was or is a party to a prohibited tax shelter transaction?	5b		
c	If "Yes" to line 5a or 5b, did the organization file Form 8886-T?	5c		

e	Did the organization receive any funds, directly or indirectly, to pay premiums on a personal benefit contract?	7e		
f	Did the organization, during the year, pay premiums, directly or indirectly, on a personal benefit contract?	7f		

Part VI **Governance, Management, and Disclosure.** For each "Yes" response to lines 2 through 7b below, and for a "No" response to line 8a, 8b, or 10b below, describe the circumstances, processes, or changes on Schedule O. See instructions.
 Check if Schedule O contains a response or note to any line in this Part VI ☐

Section A. Governing Body and Management

2	Did any officer, director, trustee, or key employee have a family relationship or a business relationship with any other officer, director, trustee, or key employee?	2		
3	Did the organization delegate control over management duties customarily performed by or under the direct supervision of officers, directors, trustees, or key employees to a management company or other person? .	3		
4	Did the organization make any significant changes to its governing documents since the prior Form 990 was filed?	4		
5	Did the organization become aware during the year of a significant diversion of the organization's assets? .	5		

12a	Did the organization have a written conflict of interest policy? <i>If "No," go to line 13</i>	12a		
b	Were officers, directors, or trustees, and key employees required to disclose annually interests that could give rise to conflicts?	12b		
c	Did the organization regularly and consistently monitor and enforce compliance with the policy? <i>If "Yes," describe on Schedule O how this was done.</i>	12c		
13	Did the organization have a written whistleblower policy?	13		
14	Did the organization have a written document retention and destruction policy?	14		
15	Did the process for determining compensation of the following persons include a review and approval by independent persons, comparability data, and contemporaneous substantiation of the deliberation and decision?			
a	The organization's CEO, Executive Director, or top management official	15a		
b	Other officers or key employees of the organization	15b		

Part VII Compensation of Officers, Directors, Trustees, Key Employees, Highest Compensated Employees, and Independent Contractors

Check if Schedule O contains a response or note to any line in this Part VII ☐

Section A. Officers, Directors, Trustees, Key Employees, and Highest Compensated Employees

4	For any individual listed on line 1a, is the sum of reportable compensation and other compensation from the organization and related organizations greater than \$150,000? <i>If "Yes," complete Schedule J for such individual.</i>			
		4		
5	Did any person listed on line 1a receive or accrue compensation from any unrelated organization or individual for services rendered to the organization? <i>If "Yes," complete Schedule J for such person.</i>			
		5		

Section B. Independent Contractors

- 1 Complete this table for your **five highest compensated independent contractors** that received more than \$100,000 of compensation from the organization. Report compensation for the calendar year ending with or within the organization's tax year.

Part VIII **Statement of Revenue**Check if Schedule O contains a response or note to any line in this Part VIII ☐

				(A) Total revenue	(B) Related or exempt function revenue	(C) Unrelated business revenue	(D) Revenue excluded from tax under sections 512-514
5	4	Federated campaigns	4				

Part IX Statement of Functional Expenses

Section 501(c)(3) and 501(c)(4) organizations must complete all columns. All other organizations must complete column (A).

Check if Schedule O contains a response or note to any line in this Part IX ☐

Do not include amounts reported on lines 6b, 7b, 8b, 9b, and 10b of Part VIII.

	(A) Total expenses	(B) Program service expenses	(C) Management and general expenses	(D) Fundraising expenses
1 Grants and other assistance to domestic organizations and domestic governments. See Part IV, line 21 .				
2 Grants and other assistance to domestic individuals. See Part IV, line 22				
3 Grants and other assistance to foreign organizations, foreign governments, and foreign individuals. See Part IV, lines 15 and 16				
4 Benefits paid to or for members				
5 Compensation of current officers, directors, trustees, and key employees				
6 Compensation not included above to disqualified persons (as defined under section 4958(f)(1)) and persons described in section 4958(c)(3)(B) . .				
7 Other expenses				

Part X Balance SheetCheck if Schedule O contains a response or note to any line in this Part X ☐

		(A) Beginning of year		(B) End of year
1	Cash—non-interest-bearing		1	
2	Savings and temporary cash investments		2	
3	Pledges and grants receivable, net		3	
4	Accounts receivable, net		4	
5	Loans and other receivables from any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons		5	
6	Loans and other receivables from other disqualified persons (as defined under section 4958(f)(1)), and persons described in section 4958(c)(3)(B)		6	
20	Tax-exempt bond liabilities		20	
21	Escrow or custodial account liability. Complete Part IV of Schedule D .		21	
22	Loans and other payables to any current or former officer, director, trustee, key employee, creator or founder, substantial contributor, or 35% controlled entity or family member of any of these persons		22	
23	Secured mortgages and notes payable to unrelated third parties . .		23	

Liabilities

POLLING QUESTION #3



Things to Consider

- Tax-exemption is a privilege that has its own costs that includes rules that must be followed and transparency to the public.
- Reapplying for tax-exempt status is time consuming and expensive including damage to reputation.
- The IRS doesn't just revoke tax-exemptions without warning. You will have time to respond and state your case.
- IRS issues



QUESTIONS?



WE ARE HERE TO HELP!

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