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## Group Tax Exemption Streamlines Process for Affiliated Organizations

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*Chapters, affiliates, and similar regional, state, and local organizations of tax-exempt associations or other nonprofit organizations may obtain a “group exemption,” a determination from the Internal Revenue Service (“IRS”) that all such affiliated organizations are tax-exempt. The group tax exemption process is relatively simple, requiring the central organization to submit a group exemption application letter to the IRS. The central organization also must annually file a list of its qualifying tax-exempt affiliates or chapters.*

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A central association essentially attests in a listing with the IRS that its affiliates qualify as tax-exempt organizations, which in turn relieves the IRS of its obligation to independently evaluate the tax-exempt status of each affiliate. The principal advantage of group exemptions is that each affiliate covered by a group exemption letter, called a “subordinate” organization, is not obligated to go through the often burdensome and costly process of filing its own tax exemption application.

### IRS Application

The central tax-exempt organization can submit a group exemption application letter on behalf of its affiliates. This application must be signed by a principal officer of the central organization and must contain the central organization’s employer identification number, the date of the letter recognizing its own tax exempt status, and the IRS office that issued that letter.<sup>1</sup> In the application, the central organization must confirm the following information concerning all of its subordinate organizations intended to be covered by the group exemption letter:<sup>2</sup>

- They are affiliated with the central organization;
- They are under its control or subject to its general supervision;

<sup>1</sup> Rev. Proc. 80-27, 1980-1 C.B. 677.

<sup>2</sup> *Id.*

- They are all tax-exempt under the same section of the Internal Revenue Code, but that section may be different from that of the central organization. For example, a central organization may be tax-exempt as a charity, while all of its affiliates are exempt as social welfare organizations;
- If they are not to be included in group returns, they are on the same accounting period as the central organization;
- They are neither private foundations nor foreign corporations; and
- They were formed within the 15-month period before the date of submission of the group exemption application.

The application letter must also contain, or include as attachments, the following:<sup>3</sup>

- a detailed description of the subordinate organizations' principal purposes and activities, including financial information;
- a sample copy of a uniform governing instrument adopted by the subordinate organizations (such as model articles of incorporation or bylaws);
- an affirmation that, to the best of the officer's knowledge, the subordinate organizations are operating in accordance with the stated purposes;
- a statement that each subordinate organization to be included in the group exemption has provided written authorization to that effect to the central organization;
- a list of subordinate organizations to be included in the group exemption letter to which the IRS has previously issued a ruling or determination letter regarding tax exemption;
- if relevant, an affirmation that no subordinate organization to be covered by the group exemption is a private foundation; and
- a list of the names, addresses, and employer identification numbers of the subordinate organizations to be included in the group exemption letter.

Once the above conditions are met, the IRS will issue a group exemption letter to the central organization. It should be noted that it is permissible for a central organization to participate in more than one group exemption arrangement, such as having both charitable and social welfare affiliates. Finally, a central organization may also be considered a subordinate organization with respect to a different central organization. For example, a state organization associated with a national organization may have subordinate local organizations covered by a group exemption.

### Maintenance

In order to maintain a group exemption letter, the central organization is required to submit certain information to the IRS at least 90 days before the close of its annual accounting period (fiscal year). The required information includes:<sup>4</sup>

- any changes in the purposes, character, or method of operation of the subordinate organizations to be included in the group exemption;
- a separate list of the names, addresses, and employee identification numbers of the subordinate organizations for each of the following categories: (i) subordinates that have changed their names or

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

addresses during the year, (ii) subordinates that for any reason are no longer to be covered by the group exemption letter, and (iii) subordinates that for any reason are to be added to the group exemption; and

- with respect to new subordinate organizations to be added to the group, the information that must be submitted by a central organization initially on behalf of subordinates to be included in the group exemption, as discussed above.

The group exemption process does not mandate that subordinate organizations and their central organization file the Form 990 annual information return together. In fact, the majority of national professional and trade associations that use group exemptions require their affiliates to file their own Form 990 returns. That being said, it is permissible for a central organization to file a group return on Form 990 for two or more of its subordinate organizations.

### Termination

When a group exemption letter is terminated, the subordinate organizations lose their tax-exempt status. A group exemption letter may be terminated in two basic ways: (i) the central organization dissolves or otherwise ceases to exist, or (ii) the central organization itself fails to continue to qualify as a tax-exempt organization, to submit the information necessary to acquire the letter, to file the annual information return, or to otherwise satisfy the reporting conditions.<sup>5</sup> Thus, if continuing recognition of tax-exempt status is still desired, each subordinate organization must then file an application for recognition of tax exemption, the central organization must file for a new group exemption letter, or the affiliates must become tax-exempt because of their relationship to a different qualifying organization.

Further, the continued viability of a group exemption as applied to a specific subordinate organization is dependent not only on the criteria discussed directly above, but also on the subordinate's continued compliance with the rules for group exemption inclusion, the authorization for inclusion, as well as the annual filing of any required information return for the subordinate.<sup>6</sup> It should be noted that loss of tax exemption by one or more affiliates of the group does not negatively impact the other members' group exemption status.

### Disadvantages

There are certain drawbacks to group exemptions. First, affiliates do not individually have separate IRS determination letters regarding their tax exemption, which can both complicate the process for obtaining tax exemptions on the state level and result in problems for Section 501(c)(3) charitable organizations. For example, donors often want the assurance that a determination letter provides, so as not to rely solely on the organization's representation that it is in fact a charitable entity. In addition, there is no separate assessment of the publicly supported status of the subordinate organizations, which may make it more difficult to assure grantors that the grantee is a public or publicly supported charity. Finally, if a group member is found liable for damages, there is a possibility that the group exemption will be used to support the argument that the central organization is liable as well.

### Conclusion

Despite some relatively minor disadvantages, group exemptions can be quite beneficial to central or national organizations and their affiliates. The streamlined process offered by group exemptions relieves



<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

each affiliate of the duty of filing a separate application for recognition of tax exemption. This, in turn, saves associations significant amounts of money, effort, and time, allowing them to focus more fully on their various tax exempt missions.

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For further information, please contact:

Jerald A. Jacobs [\(bio\)](#)  
Washington, DC  
+1. 202.663.8011  
[jerry.jacobs@pillsburylaw.com](mailto:jerry.jacobs@pillsburylaw.com)

Jefferson C. Glassie [\(bio\)](#)  
Washington, DC  
+1.202.663.8036  
[jeff.glassie@pillsburylaw.com](mailto:jeff.glassie@pillsburylaw.com)

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