ATTN OF: CACFP-614

APR 19 2000

SUBJECT: Handouts from IRS Session at National Child and Adult Care Food Program (CACFP) Conference

TO: STATE AGENCY DIRECTORS - (Child Nutrition Programs)
   Colorado DPHE, Iowa ED, Kansas ED,
   Missouri DH, Montana DPHSS,
   Nebraska ED, North Dakota, South Dakota,
   Utah and Wyoming ED

During the National CACFP 2000 Conference, Ms. Joyce Reinsma from the Internal Revenue Service presented a breakout session titled "IRS Issues for Private Nonprofits". Several individuals expressed interest in obtaining a copy of her presentation outline and handouts. Attached is a packet of information provided by Ms. Reinsma.

If you have any questions, contact our staff at (303) 844-0359.

MARY C. NIELSEN, Chief
Child/Adult Care and Summer Food Programs
Child Nutrition Programs

Attachments
Referrals on Questionable Organizations or Activities of Organization to Appropriate IRS Personnel

Julie:

Both federal and state agency representatives asked how information can be reported to IRS with respect to questionable activities of exempt organizations at my presentation on March 28, 2000 at the USDA Nutrition Food Program National Conference.

Per the information I have been able to receive, all information referrals should be made in writing by the informant and sent to:

Internal Revenue Service
PSP
4910 DAL
1100 Commerce
Dallas, TX 75242

As was mentioned when I spoke yesterday, IRS is still in the process of completing our restructuring into various sectors. Eventually, all referrals will be handled through the PSP Unit in Dallas. Presently, there are still some PSP units (for referrals) running in other areas of the country. However, I have been told that where that is the case, the PSP Unit in Dallas will take responsibility to ship the referral to the proper area.

As I mentioned, we have too few agents doing too much work. For this reason, it is not always possible for every referral to be acted upon due to this shortage of agents. Managers must choose for audits those cases that have the strongest potential to be won by the Service. The better the written documentation of the issues, the more likely that the organization will be targeted for audit. When making a referral be as specific and as detailed as possible as to the issues presented. No telephone referrals are taken. This is policy throughout the country. I emphasize that all referrals must be in writing.

If you have any other questions, I can be contacted at (312) 886-0385.

Sincerely,
Joyce Reinsma
Revenue Agent
CACFP National Conference
IRS Issues
March 28, 2000

I. Basic Requirements for Obtaining Exempt Status under Section 501(c)(3)
A. Must be created by an organizing document (trust, articles of incorporation, or articles of association)
B. Must be organized and operated for exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.
C. Certain language must be contained in the organizing document to conform to requirements for charitable organizations. (See handout)
D. Must provide complete financial data for last four years of existence or projected financial data for first two years of existence.
E. Must provide a copy of the bylaws by which it operates (if the bylaws exist).
F. Must establish to IRS satisfaction that no private benefit or inurement exists.

II. Red Flags to Deny or Revoke Exempt Status of Sponsoring Organizations
A. Related board of directors (essentially one-man operation) – person whose compensation is the organization’s primary expense is also its principal officer and director.
B. Created and controlled by day care providers they sponsor so that the providers can participate in CACFP. This is case of “fox guarding the chicken coop”.
C. Refusing to sponsor state licensed or federally qualified day care providers.
D. Creating multiple sponsoring organizations in order to increase the amount of reimbursement under CACFP.
E. Standard badges of inurement include inflated salaries, unsecured loans, excessive rental charges, etc.
F. Special paragraphs are attached to exemption letters that are issued to “sponsoring organizations. (See handout.)

III. Information regarding IRS database on non-profit organizations on the Web as well as other information available on Websites.
A. Exempt organizations search on our IRS site for organizations that are already exempt is not recommended at this time. A much better source for pulling up information on specific organizations that are tax-exempt is www.guidestar.org. (See handout)
B. Website for all other types of information regarding exempt organizations (as well as other matters) can be found at www.irs.gov. (See handouts)
C. All relevant Forms and Publications needed by the “sponsoring organization” to do its job effectively with regard to IRS requirements can also be found on www.irs.gov. This includes Form 1023 (application for exempt status), Form 8718 (user fee form), Publication 557 (information about exempt organizations), Form 990 or 990EZ (annual information returns), W-2 (employee wage statement, Form 1099 (income statement form), etc.

IV. Rules concerning availability of an organization’s Form 990 and Form 1023
A. Must provide copies of three most-recently filed information returns (Forms 990).
B. Must provide copies of their exempt application (plus all supporting documents)
C. Review Announcement 99-62 for overview of requirements. (See handout.)
D. Regulations 1.6104(d)-2 through 1.6104(d)-5. (See handout.)
In order to meet the organizational requirements contained in section 501(c)(3) of the Internal Revenue Code you must amend your Articles of Incorporation with the Secretary of State to include the statements checked below. After the Secretary of State has returned the amended articles to you, please furnish a copy to us so that we may complete the processing of your application.

PURPOSE: The corporation is organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

INUREMENT OF INCOME: No part of the net earnings of the association shall inure to the benefit of, or be distributable to, its members, trustees, officers or other private persons except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered.

LEGISLATIVE OR POLITICAL ACTIVITIES: No substantial part of the activities of the corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation and the association shall not participate in or intervene (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

OPERATIONAL LIMITATIONS: Notwithstanding any other provisions of these articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contribution to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

DISSOLUTION CLAUSE: Upon the dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the Federal government, or to a state of local government, for a public purpose. Any assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.
In order to meet the organizational requirements contained in section 501(c)(3) of the Internal Revenue Code you must amend your Articles of Association to include the statements below. Once your Articles of Association have been amended, dated, and signed by at least two officers, send a copy of these amended Articles of Association to our office. The copy you send to our office must have original (not photocopied) signatures and date.

PURPOSE: The association is organized exclusively for charitable, educational, religious, or scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code.

INUREMENT OF INCOME: No part of the net earnings of the association shall inure to the benefit of, or be distributable to, its members, trustees, officers or other private persons except that the association shall be authorized and empowered to pay reasonable compensation for services rendered.

LEGISLATIVE OR POLITICAL ACTIVITIES: No substantial part of the activities of the association shall be the carrying on of propaganda or otherwise attempting to influence legislation and the association shall not participate in or intervene (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

OPERATIONAL LIMITATIONS: Notwithstanding any other provisions of these articles, the association shall not carry on any other activities not permitted to be carried on (a) by an association exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by an association, contribution to which are deductible under section 170(c)(2) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

DISSOLUTION CLAUSE: Upon the dissolution of the association, assets shall be distributed for one or more purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction of the county in which the principal office of the association is then located, exclusively for such purposes or to such organization organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

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NUTRITION
Quick and Easy Access to IRS Tax Help and Forms

Personal Computer
Access the IRS’s Internet Web Site at http://www.irs.gov to:

- Obtain Frequently Asked Tax Questions
- Complete Tax Forms On-Line “Fill-in Forms”
- Search Publications by Topic or Keyword
- Provide Comments & Request Help via E-mail
- Receive Hot Tax Issues/News “Digital Dispatch” and IRS Local News Net

You can also reach us using:
- File Transfer Protocol at ftp.irs.gov

Mail
Send your order to the Distribution Center nearest to you. You should receive your products within 10 days after we receive your order.

- Western part of U.S.
  Western Area Distribution Center
  Rancho Cordova, CA  95743-0001
- Central part of U.S.
  Central Area Distribution Center
  P.O. Box 8903
  Bloomington, IL  61702-8903
- Eastern part of U.S. and foreign addresses:
  Eastern Area Distribution Center
  P.O. Box 85074
  Richmond, VA  23261-5074

TaxFax Service
Dial 703-368-9694 from your fax machine to get up to 3 items per call. See the menu of forms and instructions available on pages 2 and 3. Follow the directions of the prompts and your items will be immediately faxed back to you.

Phone
Obtain forms, publications, instructions and tax information 24 hours a day, 7 days a week, by calling:

Forms and Publications
1-800-829-3676 to order current and prior year forms, instructions and publications. You should receive your order within 10 days.

TeleTax Information
1-800-829-4477 to listen to pre-recorded messages covering the TeleTax topics. (See menu of tax information available or page 4).

Walk-In
Pick up certain forms, instructions, and publications at many post offices, libraries, and IRS offices. Some libraries and IRS offices have an extensive collection of products available to print from a CD-ROM or photocopy from reproducible proofs.

CD-ROM
Order IRS Publication 1796, Federal Tax Products on CD-ROM, and obtain:

- Current tax forms, instructions and publications
- Prior-year tax forms and instructions
- Popular tax forms which may be filled-in electronically, printed out for submission, and saved for recordkeeping
- Internal Revenue Bulletin

Purchase the CD-ROM via Internet at http://www.irs.gov/orders from the National Technical Information Service (NTIS) for $16 (plus a $5 handling fee) and enjoy a savings of 30% or call toll-free at 1-877-CDFORMS (1-877-233-6767) for $23 (plus a $5 handling fee). The price for 50 or more copies is $16.00 per CD plus a $5.00 handling fee.

Availability: First release—mid-December
Final release—late-January

Minimum System Requirements:
- Microsoft Windows 95, Windows 98, Windows NT 4.0 with service pack 3 or later
- 486 or Pentium-based personal computer (Pentium recommended);
- 16 MB of RAM Windows 95, Windows 98, 24 MB of RAM Windows NT 4.0 (32 MB recommended);
- 75 MB of available hard disk space;
- VGA or higher resolution display adaptor supported by Windows;
- Microsoft CD Extensions with a CD controller board;
- Windows-compatible printer with at least 1 MB of user RAM

- Macintosh
- Power Macintosh
- Apple System Software version 7.5.3 or later
- 6 MB RAM (12 MB Recommended)
- 60 MB available hard disk space

Department of the Treasury
Internal Revenue Service
www.irs.gov

Publication 2053 (1999)
Cat. No. 23265D
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<td>Capital Gains and Losses</td>
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<td>Estimated Tax for Individuals</td>
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<td>Schedule R</td>
<td>Income Tax Return for Single and Joint Filers With No Dependents</td>
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<td>Schedule R</td>
<td>U.S. Nonresident Alien Income Tax Return</td>
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<td>Schedule R</td>
<td>U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents</td>
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<td>Amended U.S. Individual Income Tax Return</td>
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<td>Instr. 1040NR</td>
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</tbody>
</table>

Page 2

The following forms and instructions are available through our Tax Fax service by calling 703-368-9694 from the telephone connected to the fax machine. When you call, you will hear instructions on how to use the service. Select the option for getting forms. Then, enter the Catalog No. shown below for each item you want. When you hang up the phone, the fax will begin.
Quick and Easy Access to IRS Tax Help and Forms

**Personal Computer**

Access the IRS's Internet Web site at http://www.irs.gov to:
- Obtain Frequently Asked Tax Questions
- Complete Tax Forms On-Line "Fill-in Forms"
- Search Publications by Topic or Keyword
- Provide Comments & Request Help via E-mail
- Receive Hot Tax Issues/News "Digital Dispatch" and IRS Local News Net

You can also reach us using:
- File Transfer Protocol at ftp.irs.gov

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**Mail**

Send your order to the Distribution Center nearest to you. You should receive your products within 10 days after we receive your order.

- **Western part of U.S.**
  Western Area Distribution Center
  Rancho Cordova, CA 95743-0001

- **Central part of U.S.**
  Central Area Distribution Center
  P.O. Box 8903
  Bloomington, IL 61702-8903

- **Eastern part of U.S. and foreign addresses:**
  Eastern Area Distribution Center
  P.O. Box 85074
  Richmond, VA 23261-5074

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**TaxFax Service**

Dial 703-368-9694 from your fax machine to get up to 3 items per call. See the menu of forms and instructions available on pages 2 and 3. Follow the directions of the prompts and your items will be immediately faxed back to you.

---

**Phone**

Obtain forms, publications, instructions and tax information 24 hours a day, 7 days a week, by calling:

1-800-829-3676 to order current and prior year forms, instructions and publications. You should receive your order within 10 days.

**TeleTax Information**

1-800-829-4477 to listen to pre-recorded messages covering the TeleTax topics. (See menu of tax information available: " on page 4).

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**Walk-In**

Pick up certain forms, instructions, and publications at many post offices, libraries, and IRS offices. Some libraries and IRS offices have an extensive collection of products available to print from a CD-ROM or photocopy from reproducible proofs.

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*Department of the Treasury*
*Internal Revenue Service*
*www.irs.gov*

*Publication 2053 (1999)*
*Cat. No. 23265D*
Charity Search

Search GuideStar's database of information on more than 620,000 nonprofit organizations.

Keyword(s):

City:

State: Choose a State

Zip: Zip Only

Category: All

Income Range: $0 to Unlimited

EIN:

Search Tips

Any resale of this information or use for commercial gain is prohibited, except in accordance with a GuideStar licensing agreement.

GuideStar is a project of Philanthropic Research, Inc., a 501(c)(3) nonprofit organization.

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http://www.guidestar.org/search/
Advocate Health Care Network
2025 WINDSOR DRIVE
OAK BROOK, IL 60523

Information in this report is compiled from older information supplied by the nonprofit organization, or derived from IRS Form 990 or 990EZ, an annual report filed by nonprofit organizations.

Program / Activities
HEALTH: Community Health Systems

Financial Info
Fiscal Year: 1997
Assets: $226,011,179
Income: $26,043,535
This organization files an IRS Form 990 or 990 EZ.

more financial information

EIN: 36-2167779
Ruling Year: 1988

How to Help:
For individual tax filers who itemize federal income tax deductions, a cash donation to this public charity is fully deductible up to 50% of the taxpayer's adjusted gross income (AGI). Special rules may apply to to certain noncash donations and to contributions not made by individuals; consult your tax adviser.
Advocate Health Care Network
2025 WINDSOR DRIVE
OAK BROOK, IL 60523

Financial Data
From the organization's FORM 990

Revenue and Expenses: Fiscal Year Ending Dec. 31, 1997

<table>
<thead>
<tr>
<th>Revenue</th>
<th></th>
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<td>Contributions</td>
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<tr>
<td>Government Grants</td>
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<td>Program Services</td>
<td>$716,907</td>
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<td>Investments</td>
<td>$25,326,628</td>
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<td>Special Events</td>
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<tr>
<td>Sales</td>
<td>$0</td>
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<td>Other</td>
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<tr>
<td><strong>Total Revenue</strong></td>
<td><strong>$26,043,535</strong></td>
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<table>
<thead>
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<th>Expenses</th>
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<tr>
<td>Program Services</td>
<td>$307</td>
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<tr>
<td>Administration</td>
<td>$0</td>
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<tr>
<td>Other</td>
<td>$0</td>
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<tr>
<td><strong>Total Expenditures</strong></td>
<td><strong>$307</strong></td>
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</table>

NET GAIN/LOSS $26,043,229


Notes
The balance sheet gives a snapshot of the financial health of an organization at a particular point in time. An organization's total assets should generally exceed its total liabilities, or it cannot long survive, but the types of assets and liabilities also must be considered. For instance, an organization's current assets (cash, receivables, securities, etc.) should be sufficient to cover its current liabilities (payables, deferred revenue, current year loan and note payments). Otherwise, the organization may face solvency problems. On the other hand, an organization whose cash and equivalents greatly exceed its current liabilities might not be putting its money to best use.

<table>
<thead>
<tr>
<th>Assets</th>
<th>Jan. 01, 1997</th>
<th>Dec. 31, 1997</th>
<th>Change</th>
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<tbody>
<tr>
<td>Cash &amp; Equivalent</td>
<td>$778,775</td>
<td>$200,000</td>
<td>-$578,775</td>
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<td>Accounts Receivable</td>
<td>$1,623,852</td>
<td>$0</td>
<td>-$1,623,852</td>
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<tr>
<td>Pledges &amp; Grants Receivable</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Receivables/Other</td>
<td>$8,028,098</td>
<td>$0</td>
<td>-$8,028,098</td>
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<tr>
<td>Inventories for Sale or Use</td>
<td>$17,627</td>
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<td>Investments/Securities</td>
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<td>Investments/Other</td>
<td>$126,994,612</td>
<td>$218,996,390</td>
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<td>Fixed Assets</td>
<td>$171,690,512</td>
<td>$0</td>
<td>-$171,690,512</td>
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<tr>
<td>Other</td>
<td>$59,851,750</td>
<td>$6,814,789</td>
<td>-$53,036,961</td>
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<tr>
<td><strong>Total Assets</strong></td>
<td><strong>$369,808,370</strong></td>
<td><strong>$226,011,179</strong></td>
<td><strong>-$143,797,191</strong></td>
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Liabilities

Jan. 01, 1997 | Dec. 31, 1997 | Change
---|---|---

.../financial.adp?ein=36-2167779&keywords=Advocate%20Health%20Care%20Network&G03/24/2000
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<td>$6,353,678</td>
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<td>Grants Payable</td>
<td>$0</td>
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<tr>
<td>Deferred Revenue</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
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<tr>
<td>Loans and Notes</td>
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<td>$0</td>
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<tr>
<td>Tax-Exempt Bond Liabilities</td>
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<td>($224,980,719)</td>
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<td>Other</td>
<td>$39,262,728</td>
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<td><strong>Total Liabilities</strong></td>
<td>$285,081,699</td>
<td>$6,401,746</td>
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**FUND BALANCE**

*84,726,671* *219,609,433* *134,882,762*
### GuideStar.org

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<th>Learn More</th>
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http://www.guidestar.org/sitemap.html

03/24/2000
Frequently Asked Questions About Nonprofits

What is a nonprofit organization?
In the broadest terms, a nonprofit is defined as an organization that does not have owners who profit when revenues exceed expenses. In other words, a nonprofit may make a "profit," but it does not distribute its profit to individuals or shareholders as a for-profit organization would.

What is the difference between tax exempt and tax-deductible?
Nonprofit does not necessarily mean tax exempt or tax-deductible. Organizations must apply to the IRS for tax exempt status, which only means they are exempt from paying income taxes. However, an organization may be tax exempt without being qualified to receive tax-deductible donations.

In order for a tax exempt organization to receive tax-deductible donations, its activities must have been determined "charitable" by the IRS under the provisions of section 501(c)(3) of the Internal Revenue Code. GuideStar lists only these "charitable" nonprofits which have received 501(c)(3) determination and which are, therefore, both tax-exempt and qualified to receive tax-deductible contributions.

What types of organizations fit into the 501(c)(3) classification?
501(c)(3) organizations promote religious, educational, scientific, artistic, cultural, and literary education, as well as more traditional "charitable" activities such as feeding the poor, housing the homeless, and preventing cruelty to children and animals. Many 501(c)(3) organizations would not classify themselves as a "charity," even though they are broadly classified by the IRS as "public charities."

Under the 501(c)(3) classification, one also finds the subset "private (nonoperating) foundations." These organizations fund charitable activities through grants to other nonprofit organizations. They do not operate or administer programs.
directly. 501(c)(3) organizations are classified as "private foundations" unless they meet one of several tests for "public support."

To further add to the confusion within the 501(c)(3) classification is the "private operating foundation," which falls somewhere between a private foundation and a public charity. A private operating foundation offers programs and services, but it is technically a private foundation because it receives funding from a single source such as an endowment and therefore cannot pass the "public support" test.

**How do these distinctions affect me?**
As a donor, it is helpful to know a 501(c)(3) organization's sub-category to determine whether or not it needs your support and to what extent the IRS determines your donation to be tax-deductible.

- Contributions to public charities are deductible up to 50% of adjusted gross income.
- Contributions to private nonoperating foundations are deductible up to 30% of adjusted gross income.
- Contributions to private operating foundations are deductible up to 50% of adjusted gross income.

**Why don't I see my religious organization listed at GuideStar?**
Although religious organizations are considered charities and may receive tax-deductible contributions, they are not required to register with the IRS. Because the GuideStar database is based on IRS-registered charities, it may not contain a listing for your house of worship. However, we would be happy to include them in the database if they contact us.

**What kind of financial information are nonprofits required to provide?**
501(c)(3) organizations with revenue of over $25,000 a year are required to file a Form 990 (or Form 990-EZ) with the IRS each year. This form is the basis for the financial information found on GuideStar Reports. For nonprofit organizations with revenue under $25,000 a year, GuideStar does accept other types of financial statements.
How do I get a copy of the 990 or the 990 EZ?
At this time, you can generally obtain a 990 or 990EZ from three sources:

- the organization itself.
  By law, a nonprofit must show its 990 to anyone who comes to its office and asks. A nonprofit is also required to send copies of the 990 to anyone that requests them; the nonprofit is allowed to charge a nominal fee for making the copies.

- the state charitable solicitation office (often, this is the attorney general's office).
  Many states require nonprofits that solicit donation in their state to file a 990 with their office so you may be able to request a copy from there.

- the IRS.
  By filling out Form 4506-A (available at http://www.irs.ustreas.gov/prod/forms_pubs/forms.html), you can request a copy of an organization's 990.

GuideStar will eventually be able to provide images of the 990 and 990EZ for all the organizations that file them (approximately 200,000 organizations).

What kinds of activities are nonprofit organizations prohibited from engaging in?
A 501(c)(3) may not participate in political activity, including endorsing candidates. Although an organization may promote legislation, if it spends a significant amount of time in lobbying activities, it may lose its tax-exempt status. The IRS also limits the funds a 501(c)(3) may spend directly influencing legislation.

How do I tell if an organization is effective and/or efficient and using my money well?
It is impossible to analyze an organization's effectiveness strictly from financial information since program effectiveness is typically neither calculated nor reported on financial statements.

When trying to judge whether or not an organization uses funds efficiently, it should be noted that reporting practices vary widely between and even within individual nonprofit organizations. Different organizations face different types of
challenges. Some require large staffs; others do not. Younger organizations may need to spend more money on fundraising while establishing themselves.

Therefore, it is most often deceiving to try to compare organizations against each other. GuideStar recommends looking at an individual nonprofit's financial performance over a number of years as a way of judging its fiscal management. You may calculate ratios using data at GuideStar to begin performing such an analysis.

**Do you have a question about nonprofit organizations, which we have not answered?**
Please e-mail customerservice@guidestar.org. We may add your question to this list.
Taxpayer Anxiously Awaits Annual Income Tax Filing Deadline

FILER, ID You know the drill - if you owe a tax balance you wait as long as possible to file your tax return. Local resident Willy Maykitt has endured the last minute filing rush for years. "I want to hang onto my money as long as possible," he said, "but I hate the crowds, and I worry about missing the deadline."

Listen up, Willy. Just e-file your return and, at the same time, authorize the IRS to make an electronic withdrawal from your checking or savings account. You can delay the payment as late as April 17! Just specify a payment date when e-filing your return.
Also, your e-filing software may have a tax payment credit card option. E-filers and paper filers can pay with a credit card by calling 1-888-2PAY-TAX (1-888-272-9829), toll-free.

So, Willy, stop watching that clock and file your tax return NOW.
Topic Index

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Select A-Z above to get close to your topic or just scroll through the list of topics in this column.
Click on a topic and ...

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Alternative Filing Options

Information on how to file taxes electronically instead of mailing the paper tax forms. Also see Alternative Payment Options and Alternative Refund Options.

Alternative Payment Options

Information on electronic payment of taxes. Also see Alternative Filing Options and Alternative Refund Options.

Alternative Refund Options

How to receive direct deposit of your tax refund. Also see Alternative Filing Options and Alternative Payment Options.

Business Taxpayer Information

Tax information for business taxpayers; sole proprietor, partnership, or corporation. Where To File and Around the Nation will help you find information specific to your state.

Digital Dispatch E-Mail Service

Important upcoming tax dates, What's new on the IRS Web site, Recently added Tax Forms and Publications, and IRS News Releases and special IRS announcements all delivered to your e-mail address.

Employment Opportunities

Looking for employment? You'll find the positions, the locations, and the contact information here. Good luck!

Employee Plans

An employers guide to employee retirement plan options.

- Tax Info For Business Section
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IRS Employment Opportunities

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Employee Plans

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Comments and Help

Drop us a line, or we'll drop you one. You can e-mail comments, request help with tax questions, or subscribe to our mailing list. If you have been impacted by a federally declared disaster see Help During Disasters and Emergencies.

Forms and Publications

You can download most of the tax forms, instructions, and publications you need from this web site in several popular file formats.

Frequently Asked Questions

In addition to our Frequently Asked Questions section we have assembled questions and answer pages for various topics around our site. We don't just have the questions, we have the answers, too!
Help During Disasters and Emergencies

If you have damaged or lost property in a location declared by the President as a major disaster area, you may be able to get some money back from the IRS right now.

Individual Taxpayer

Tax information for individual taxpayers. Find out about exemptions. Learn how to estimate tax liability. Where To File and Around the Nation will help you find information specific to your state.

Internal Revenue Bulletins

Contains the latest changes in procedure and official rulings!
Treasury Decisions, Executive Orders, Tax Conventions, legislation, court decisions, and other interesting information in a series of weekly publications. Also see Tax Regulations.

International Tax

this is a group of pages from different sections of our web site that address international tax issues.

IRS News

News releases, newsletters, anything we could find on this web site with news in it.

IRS Notices

Help for understanding your notice and descriptions of notice improvements we are working on.

International Tax Information Links

- International Tax Filing
- International Tax Stats
- Tax Trail for Persons Living Abroad
- Tax Administration Advisory Services

IRS News Links

- IRS Newsstand Section
- Subscribe to the IRS Local News Net
- Subscribe to the IRS Digital Dispatch
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- Around the Nation - State and Local News
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IRS Notices Links

- Understanding Your IRS Notice

State and Local News

State and Local News Links
Find IRS offices in your area and read about local news and seminars, too.

Taxpayer Help and Education

Tax subjects ranging from small business seminars to state services in your area. A tax calendar, frequently asked questions, and TeleTax topic too.

Tax Regulations

The tax law starts with the Internal Revenue Code which is enacted by Congress. After the statute is enacted, the IRS issues regulations to help interpret and apply the law. Here's where you can learn more about IRS regulations. Also see Internal Revenue Bulletins.

Tax Event Calendar

Our Tax Calendar will help you find important individual, business, and excise tax dates for 1999.

Citizen Advocacy Panels (CAPs)

- Where to File - IRS Offices
- Around the Nation - State and Local News
- Joint Federal/State Tax Filing

Taxpayer Help and Education Links

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- TeleTax Topics
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Tax Regulations Links

- Tax Regs in English Section
- Comments on Tax Regs

Tax Calendar Links

- Tax Calendar

Current CAP Districts
The groups of taxpayer volunteers are dedicated to helping the IRS identify ways to improve public service. Find CAP districts in your area for your comments and suggestions on improving public services.

Tax Exempt Organizations

Here's the place to find out if your organization is exempt from federal taxation and how much of your contributions to them are tax deductible. There is is an electronic version of the Publication 78 Cumulative List of Organizations.

TAXinteractive

Paying taxes is a fact of life. No reason to be in the dark about them. Find out more about the American system of taxation.

Tax Stats

Information about the financial composition of individuals, business taxpayers, tax exempt organizations and more. Most data is available as self extracting compressed files.

Tax Rate Tables

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Tax Rate Tables Links
An on-line version of the 1999 Tax Table and Tax Rate Schedules.

Tax Trails

Tax Trails is an interactive session which poses questions that you can answer by selecting Yes or No. Your choice then activates a hypertext link to the next appropriate question until an answer is possible.

What's Hot!

Learn about our first time services. Home in on the latest tax law changes, news flashes and newly released statistics and bulletins. Or, catch up on last minute corrections to forms and publications. Also see IRS News.

• Tax Tables
• Tax Rate Schedule

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What's Hot! Links

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# Information for Tax-Exempt Organizations

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CPE Text
A series of articles of interest to tax-exempt organizations published by the IRS as the Exempt Organizations Continuing Professional Education Technical Instruction Program.

Tax Tips
Some suggestions on how to avoid the most common filing errors.

The IRM contains the policies, procedures, instructions, and guidelines used by the Internal Revenue Service. The IRM is undergoing extensive revisions as the IRS re-invents itself. Only those portions of the IRM that have been rewritten (and do not contain Official Use Only material) are available on this website and as additional portions of the IRM are rewritten they too will be posted.

Tax Stats | Tax Info For You | Tax Info For Business | Electronic Services
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Tuesday, 03-Jun-1997 15:55:00 EDT


03/08/2000

RECEIVED
APR 24 2000
NUTRITION SERVICES
Exempt organizations: Disclosures: Exemption application: Information returns: Public inspection: Copy requirement.—The IRS has reminded tax exempt organizations that they must either provide requesters with copies of their approved exemption applications and their three most recent annual information returns or make the information available on a Web site. Under previous rules, the organizations did not have to provide copies as long as they made the documents available for public inspection. Reasonable copying fees and postage costs may be charged. Penalties also apply to failures to comply with the new disclosure requirements. BACK REFERENCE: ¶36,911.20.

This document reminds exempt organizations that new requirements to provide copies of their exemption applications and three most-recently filed annual information returns are effective June 8, 1999. The new requirements were added to §6104 of the Internal Revenue Code by §1313 of the Taxpayer Bill of Rights 2, P.L. 104-168, 110 Stat. 1452, but they were not to become effective until 60 days after the Secretary of the Treasury promulgated final regulations. Final regulations were issued in Treasury Decision 8818, 64 Fed. Reg. 17279 (April 9, 1999), and may be found by selecting the “Tax Regs in English” option on the Service’s Home Page, http://www.irs.ustreas.gov The new rules require any organization, other than a private foundation, that is exempt from federal income tax under §501(a) and described in §501(c) or §501(d), to comply with requests made either in-person or in-writing from individuals who seek a copy of those documents.

An exemption application includes the Form 1023 (for organizations recognized exempt under §501(c)(3)), Form 1024 (for organizations recognized exempt under most other paragraphs of §501(c) ), or the letter submitted under the paragraphs for which no form is prescribed, together with supporting documents and any letter or document issued by the Service concerning the application. The information returns are the Form 990, Return of Organization Exempt From Income Tax, Form 990-EZ, Short Form Return of Organization Exempt From Income Tax, Form 990-BL, Information and Initial Excise Tax Return for Black Lung Benefit Trusts and Certain Related Persons, and the Form 1065, U.S. Partnership Return of Income. The regulations do not require an exempt organization to disclose the Form 990-T, Exempt Organization Business Income Tax Return, nor the Schedule K-1 of the Form 1065.

The documents must be available at a tax-exempt organization’s principal office and at certain regional or district offices that have the equivalent of at least three full-time employees. In other words, employees who normally work an aggregate of at least 120 paid hours a week.

A tax-exempt organization may charge a reasonable fee for providing copies, which is defined as the amount charged by the IRS for providing copies. Currently, that amount is $1.00 for the first page and .15 for each subsequent page. An organization may require payment before it provides copies, but must advise requesters of the total cost of the copies requested if adequate payment is not included with the request.

Responsible persons of a tax-exempt organization who fail to provide the documents as required may be subject to a penalty of $20 per day for as long as the failure continues. There is a maximum penalty of $10,000 for each failure to provide a copy of an annual information return. There is no maximum penalty for the failure to provide a copy of an exemption application.

A tax-exempt organization does not have to comply with individual requests if it makes the documents “widely available” as described in the regulations. This can be done by posting the documents on a readily accessible World Wide Web site, either its own or on a database of exempt organization documents maintained by another organization, provided the documents are posted in a format that meets the criteria set forth in the regulations. In general, the format must exactly reproduce the image of the original document and allow an Internet user to access, download, view and print the posted document without the payment of a fee. One format that currently meets the criteria is Portable Document Format (.pdf). An organization that makes its documents widely available in this manner, must advise requesters how the forms may be accessed.

The principal author of this announcement is Toussaint Tyson of Office of the Assistant Commissioner (Employee Plans and Exempt Organizations). For further information regarding this announcement contact Toussaint Tyson at
(202) 622-8363 (not a toll-free call).
§301.6104(d)-1. Public inspection of private foundations' annual returns

(a) In general. The annual return which a private foundation must file under section 6033 shall be made available by its foundation managers for inspection at its principal office during regular business hours by any citizen on request made within 180 days after the publication of notice of the availability of such return. Such notice shall be published not later than the day prescribed for filing such return (determined with regard to any extension of time for filing) in a newspaper having general circulation in the county in which the foundation’s principal office is located. The notice shall state that the annual return is available at the foundation’s principal office for inspection during regular business hours by any citizen who requests inspection within 180 days after the date of such publication, and shall state the address of the foundation’s principal office and the name of its principal manager.

(b) Definitions and special rules—(1) Private foundation. For purposes of this section, the term “private foundation” includes both exempt and nonexempt private foundations and also includes trusts described in section 4947(a)(1) that are treated as private foundations for purposes of section 6033.

(2) Manner of making annual return available for public inspection. The foundation managers of a private foundation which has no principal office, or whose principal office is in a personal residence, may satisfy the requirement that the annual return be made available for public inspection at the foundation’s principal office by having the return available for public inspection at an appropriate substitute location or by furnishing a copy free of charge (including postage and copying) to persons who request inspection in the manner and at the time prescribed therefor in section 6104(d) and the regulations thereunder. In addition to its principal office, a private foundation may designate an additional location at which its annual return shall be made available in the manner and at the time prescribed therefor in section 6104(d).

(3) Newspaper having general circulation. The term “newspaper having general circulation” in section 6104(d) shall include any newspaper or journal which is permitted to publish statements in satisfaction of State statutory requirements relating to transfers of title to real estate or other similar legal notices.

(4) Principal manager. A private foundation may furnish the name of its “principal manager” in the notice required by section 6104(d) by furnishing the name of the individual foundation manager who is responsible for publishing such notice or for making the annual return available for inspection under section 6104(d).

(c) Cross-reference. For additional rules with respect to private foundations’ annual returns and their public inspection, see section 6033 and the regulations thereunder. [Reg. §301.6104(d)-1.]

☐ [T.D. 7122, 6-7-71, redesignated by T.D. 7845, 11-5-82. Amended by T.D. 8026, 5-17-85.]
§301.6104(d)-2. Table of contents

This section lists captions contained in §§301.6104(d)-3 through 301.6104(d)-5.

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[Reg. §301.6104(d)-2.]

[TD. 8818, 4-8-99.]
§301.6104(d)-3. Public inspection and distribution of applications for tax exemption and annual information returns of tax-exempt organizations (other than private foundations)

(a) In general. Except as otherwise provided in this section, if a tax-exempt organization (as defined in paragraph (b)(1) of this section), other than a private foundation (as defined in paragraph (b)(2) of this section), filed an application for recognition of exemption under section 501, it shall make its application for tax exemption (as defined in paragraph (b)(3) of this section) available for public inspection without charge at its principal, regional and district offices during regular business hours. Except as otherwise provided in this section, a tax-exempt organization, other than a private foundation, shall make its annual information returns (as defined in paragraph (b)(4) of this section) available for public inspection without charge in the same offices during regular business hours. Each annual information return shall be made available for a period of three years beginning on the date the return is required to be filed (determined with regard to any extension of time for filing) or is actually filed, whichever is later. In addition, except as provided in §§301.6104(d)-4 and 301.6104(d)-5, an organization shall provide a copy without charge, other than a reasonable fee for reproduction and actual postage costs, of all or any part of any application or return required to be made available for public inspection under this paragraph to any individual who makes a request for such copy in person or in writing. See paragraph (d)(3) of this section for rules relating to fees for copies.

(b) Definitions. For purposes of applying the provisions of section 6104(d), this section and §§301.6104(d)-4 and 301.6104(d)-5, the following definitions apply:

(1) Tax-exempt organization. The term tax-exempt organization means any organization that is described in section 501(c) or section 501(d) and is exempt from taxation under section 501(a).

(2) Private foundation. The term private foundation means a private foundation as defined in section 509(a).

(3) Application for tax exemption—(i) In general. Except as described in paragraph (b)(3)(iii) of this section, the term application for tax exemption includes any prescribed application form (such as Form 1023 or Form 1024), all documents and statements the Internal Revenue Service requires an applicant to file with the form, any statement or other supporting document submitted by an organization in support of its application, and any letter or other document issued by the Internal Revenue Service concerning the application (such as a favorable determination letter or a list of questions from the Internal Revenue Service about the application). For example, a legal brief submitted in support of an application, or a response to questions from the Internal Revenue Service during the application process, is part of an application for tax exemption.

(ii) No prescribed application form. If no form is prescribed for an organization's application for tax exemption, the application for tax exemption includes—

(A) The application letter and copy of the articles of incorporation, declaration of trust, or other similar instrument that sets forth the permitted powers or activities of the organization;

(B) The organization's bylaws or other code of regulations;

(C) The organization's latest financial statements showing assets, liabilities, receipts and disbursements;

(D) Statements describing the character of the organization, the purpose for which it was organized, and its actual activities;

(E) Statements showing the sources of the organization's income and receipts and their disposition; and

(F) Any other statements or documents the Internal Revenue Service required the organization to file with, or that the organization submitted in support of, the application letter.

(iii) Exceptions. The term application for tax exemption does not include—

(A) Any application for tax exemption filed by an organization that the Internal Revenue Service has not yet recognized, on the basis of the application, as exempt from taxation under section 501 for any taxable year;

(B) Any application for tax exemption filed before July 15, 1987, unless the organization filing the application had a copy of the application on July 15, 1987, or
(C) Any material, including the material listed in §301.6104(a)-1(i) and information that the Secretary would be required to withhold from public inspection, that is not available for public inspection under section 6104.

(iv) Local or subordinate organizations. For rules relating to applications for tax exemption of local or subordinate organizations, see paragraph (f)(1) of this section.

(4) Annual information return—(i) In general. Except as described in paragraph (b)(4)(ii) of this section, the term annual information return includes an exact copy of any return filed by a tax-exempt organization pursuant to section 6033. It also includes any amended return the organization files with the Internal Revenue Service after the date the original return is filed. The copy must include all information furnished to the Internal Revenue Service on Form 990, Return of Organization Exempt From Income Tax, or any version of Form 990 (such as Forms 990-EZ or 990-BL except Form 990-T) and Form 1065, as well as all schedules, attachments and supporting documents, except for the name and address of any contributor to the organization. For example, the annual information return includes Schedule A of Form 990 (containing supplementary information on section 501(c)(3) organizations), and those parts of the return that show compensation paid to specific persons (currently, Part V of Form 990 and Parts I and II of Schedule A of Form 990).

(ii) Exceptions. The term annual information return does not include Schedule A of Form 990-BL, Form 990-T, Exempt Organization Business Income Tax Return, Schedule K-1 of Form 1065 or Form 1120-POL, U.S. Income Tax Return For Certain Political Organizations, and the return of a private foundation. See §301.6104(d)-1 for requirements relating to public disclosure of private foundation annual returns.

(iii) Returns more than 3 years old. The term annual information return does not include any return after the expiration of 3 years from the date the return is required to be filed (including any extension of time that has been granted for filing such return) or is actually filed, whichever is later. If an organization files an amended return, however, the amended return must be made available for a period of 3 years beginning on the date it is filed with the Internal Revenue Service.

(iv) Local or subordinate organizations. For rules relating to annual information returns of local or subordinate organizations, see paragraph (f)(2) of this section.

(5) Regional or district offices—(i) In general. A regional or district office is any office of a tax-exempt organization, other than its principal office, that has paid employees, whether part-time or full-time, whose aggregate number of paid hours a week are normally at least 120.

(ii) Site not considered a regional or district office. A site is not considered a regional or district office, however, if—

(A) The only services provided at the site further exempt purposes (such as day care, health care or scientific or medical research), and

(B) The site does not serve as an office for management staff, other than managers who are involved solely in managing the exempt function activities at the site.

(c) Special rules relating to public inspection—(1) Permissible conditions on public inspection. A tax-exempt organization may have an employee present in the room during an inspection. The organization, however, must allow the individual conducting the inspection to take notes freely during the inspection. If the individual provides photocopying equipment at the place of inspection, the organization must allow the individual to photocopy the document at no charge.

(2) Organizations that do not maintain permanent offices. If a tax-exempt organization does not maintain a permanent office, the organization shall comply with the public inspection requirements of paragraph (a) of this section by making its application for tax exemption and its annual information returns, as applicable, available for inspection at a reasonable location of its choice. Such an organization shall permit public inspection within a reasonable amount of time after receiving a request for inspection (normally not more than 2 weeks) and at a reasonable time of day. At the organization’s option, it may mail, within 2 weeks of receiving the request, a copy of its application for tax exemption and annual information returns to the requester in lieu of allowing an inspection. The organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. An organization that has a permanent office, but has no office hours or very limited hours during certain times of the year, shall make its documents available during those periods when office hours are limited or not available as though it were an organization without a permanent office.
(d) Special rules relating to copies—(1) **Time and place for providing copies in response to requests made in-person**—(i) **In general.** Except as provided in paragraph (d)(1)(iii) of this section, a tax-exempt organization shall provide copies of the documents it is required to provide under section 6104(d) in response to a request made in person at its principal, regional and district offices during regular business hours. Except as provided in paragraph (d)(1)(ii) of this section, an organization shall provide such copies to a requester on the day the request is made.

(ii) **Unusual circumstances.** In the case of an in-person request, where unusual circumstances exist such that fulfilling the request on the same business day places an unreasonable burden on the tax-exempt organization, the organization must provide the copies no later than the next business day following the day that the unusual circumstances cease to exist or the fifth business day after the date of the request, whichever occurs first. Unusual circumstances include, but are not limited to, receipt of a volume of requests that exceeds the organization’s daily capacity to make copies; requests received shortly before the end of regular business hours that require an extensive amount of copying; or requests received on a day when the organization’s managerial staff capable of fulfilling the request is conducting special duties, such as student registration or attending an off-site meeting or convention, rather than its regular administrative duties.

(iii) **Agents for providing copies.** A principal, regional or district office of a tax-exempt organization subject to the requirements of this section may retain a local agent to process requests made in person for copies of its documents. A local agent must be located within reasonable proximity of the applicable office. A local agent that receives a request made in person for copies must provide the copies within the time limits and under the conditions that apply to the organization itself. For example, a local agent generally must provide a copy to a requester on the day the agent receives the request. When a principal, regional or district office of a tax-exempt organization using a local agent receives a request made in person for a copy, it must immediately provide the name, address and telephone number of the local agent to the requester. An organization that provides this information is not required to respond further to the requester. However, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 continue to apply to the tax-exempt organization if the organization’s local agent fails to provide the documents as required under section 6104(d).

(2) **Request for copies in writing**—(i) **In general.** A tax-exempt organization must honor a written request for a copy of documents (or the requested part) that the organization is required to provide under section 6104(d) if the request—

(A) Is addressed to, and delivered by mail, electronic mail, facsimile, or a private delivery service as defined in section 7502(f) to a principal, regional or district office of the organization; and

(B) Sets forth the address to which the copy of the documents should be sent.

(ii) **Time and manner of fulfilling written requests**—(A) **In general.** A tax-exempt organization receiving a written request for a copy shall mail the copy of the requested documents (or the requested parts of documents) within 30 days from the date it receives the request. However, if a tax-exempt organization requires payment in advance, it is only required to provide the copies within 30 days from the date it receives payment. For rules relating to payment, see paragraph (d)(3) of this section. In the absence of evidence to the contrary, a request or payment that is mailed shall be deemed to be received by an organization 7 days after the date of the postmark. A request that is transmitted to the organization by electronic mail or facsimile shall be deemed received the day the request is transmitted successfully. If an organization requiring payment in advance receives a written request without payment or with an insufficient payment, the organization must, within 7 days from the date it receives the request, notify the requester of its prepayment policy and the amount due. A copy is deemed provided on the date of the postmark or private delivery mark (or if sent by certified or registered mail, the date of registration or the date of the postmark on the sender’s receipt). If an individual making a request consents, a tax-exempt organization may provide a copy of the requested document exclusively by electronic mail. In such case, the material is provided on the date the organization successfully transmits the electronic mail.

(B) **Request for a copy of parts of document.** A tax-exempt organization must fulfill a request for a copy of the organization’s entire application for tax exemption or annual information return or any specific part or schedule of its application or return. A request for a copy of less than the entire application or less than the entire return must specifically identify the requested part or schedule.

(C) **Agents for providing copies.** A tax-exempt organization subject to the requirements of this section may retain an agent to process written requests for copies of its documents. The agent shall provide the copies within the time limits and under the conditions that apply to the organization itself. For example, if the organization received the request first (e.g., before the agent), the deadline for providing a copy in response to a request shall be determined by reference to when
the organization received the request, not when the agent received the request. An organization that transfers a request for a copy to such an agent is not required to respond further to the request. If the organization's agent fails to provide the documents as required under section 6104(d), however, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 continue to apply to the tax-exempt organization.

(3) Fees for copies—(i) In general. A tax-exempt organization may charge a reasonable fee for providing copies. A fee is reasonable only if it is no more than the per-page copying charge stated in §601.702(f)(3)(iv)(B) of this chapter (fee charged by the Internal Revenue Service for providing copies to a requester), plus no more than the actual postage costs incurred by the organization to provide the copies. Before the organization provides the documents, it may require that the individual requesting copies of the documents pay the fee. If the organization has provided an individual making a request with notice of the fee, and the individual does not pay the fee within 30 days, or if the individual pays the fee by check and the check does not clear upon deposit, the organization may disregard the request.

(ii) Form of payment—(A) Request made in person. If a tax-exempt organization charges a fee for copying (as permitted under paragraph (d)(3)(i) of this section), it shall accept payment by cash and money order for requests made in person. The organization may accept other forms of payment, such as credit cards and personal checks.

(B) Request made in writing. If a tax-exempt organization charges a fee for copying and postage (as permitted under paragraph (d)(3)(i) of this section), it shall accept payment by certified check, money order, and either personal check or credit card for requests made in writing. The organization may accept other forms of payment.

(iii) Avoidance of unexpected fees. Where a tax-exempt organization does not require prepayment and a requester does not enclose payment with a request, an organization must receive consent from a requester before providing copies for which the fee charged for copying and postage exceeds $20.

(iv) Responding to inquiries of fees charged. In order to facilitate a requester's ability to receive copies promptly, a tax-exempt organization shall respond to any questions from potential requesters concerning its fees for copying and postage. For example, the organization shall inform the requester of its charge for copying and mailing its application for exemption and each annual information return, with and without attachments, so that a requester may include payment with the request for copies.

(e) Documents to be provided by regional and district offices. Except as otherwise provided, a regional or district office of a tax-exempt organization must satisfy the same rules as the principal office with respect to allowing public inspection and providing copies of its application for tax exemption and annual information returns. A regional or district office is not required, however, to make its annual information return available for inspection or to provide copies until 30 days after the date the return is required to be filed (including any extension of time that is granted for filing such return) or is actually filed, whichever is later.

(f) Documents to be provided by local and subordinate organizations—(1) Applications for tax exemption. Except as otherwise provided, a tax-exempt organization that did not file its own application for tax exemption (because it is a local or subordinate organization covered by a group exemption letter referred to in §1.508-1 of this chapter) must, upon request, make available for public inspection, or provide copies of, the application submitted to the Internal Revenue Service by the central or parent organization to obtain the group exemption letter and those documents which were submitted by the central or parent organization to include the local or subordinate organization in the group exemption letter. However, if the central or parent organization submits to the Internal Revenue Service a list or directory of local or subordinate organizations covered by the group exemption letter, the local or subordinate organization is required to provide only the application for the group exemption ruling and the pages of the list or directory that specifically refer to it. The local or subordinate organization shall permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day. In a case where the requester seeks inspection, the local or subordinate organization may mail a copy of the applicable documents to the requester within the same time period in lieu of allowing an inspection. In such a case, the organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. If the local or subordinate organization receives a written request for a copy of its application for tax exemption, it must fulfill the request in the time and manner specified in paragraph (d)(2) of this section. The requester has the option of requesting from the central or parent organization, at its principal office, inspection or copies of the application for group exemption and the material submitted by the central or parent organization to include a local or subordinate organization in the group ruling. If the central or parent organization submits to the Internal Revenue Service a list or directory of local or subordinate organizations covered by the group exemption letter, it must make such list or directory available for public inspection, but it
is required to provide copies only of those pages of the list or directory that refer to particular local or subordinate organizations specified by the requester. The central or parent organization must fulfill such requests in the time and manner specified in paragraphs (c) and (d) of this section.

(2) Annual information returns. A local or subordinate organization that does not file its own annual information return (because it is affiliated with a central or parent organization that files a group return pursuant to §1.6033-2(d) of this chapter) must, upon request, make available for public inspection, or provide copies of, the group returns filed by the central or parent organization. However, if the group return includes separate schedules with respect to each local or subordinate organization included in the group return, the local or subordinate organization receiving the request may omit any schedules relating only to other organizations included in the group return. The local or subordinate organization shall permit public inspection, or comply with a request for copies made in person, within a reasonable amount of time (normally not more than 2 weeks) after receiving a request made in person for public inspection or copies and at a reasonable time of day. In a case where the requester seeks inspection, the local or subordinate organization may mail a copy of the applicable documents to the requester within the same time period in lieu of allowing an inspection. In such a case, the organization may charge the requester for copying and actual postage costs only if the requester consents to the charge. If the local or subordinate organization receives a written request for a copy of its annual information return, it must fulfill the request by providing a copy of the group return in the time and manner specified in paragraph (d)(2) of this section. The requester has the option of requesting from the central or parent organization, at its principal office, inspection or copies of group returns filed by the central or parent organization. The central or parent organization must fulfill such requests in the time and manner specified in paragraphs (c) and (d) of this section.

(3) Failure to comply. If an organization fails to comply with the requirements specified in this paragraph, the penalty provisions of sections 6652(c)(1)(C), 6652(c)(1)(D), and 6685 apply.

(g) Failure to comply with public inspection or copying requirements. If a tax-exempt organization denies an individual’s request for inspection or a copy of an application for tax exemption or an annual information return as required under this section, and the individual wants to alert the Internal Revenue Service to the possible need for enforcement action, the individual may provide a statement to the district director for the key district in which the applicable tax-exempt organization’s principal office is located (or such other person as the Commissioner may designate) that describes the reason why the individual believes the denial was in violation of the requirements of section 6104(d).

(h) Effective date. This section is effective June 8, 1999. [Reg. §301.6104(d)-3.]

[T.D. 8818, 4-8-99.]
§301.6104(d)-4. Making applications and returns widely available

(a) In general. A tax-exempt organization is not required to comply with a request for a copy of its application for tax exemption or an annual information return pursuant to §301.6104(d)-3(a) if the organization has made the requested document widely available in accordance with paragraph (b) of this section. An organization that makes its application for tax exemption and/or an annual information return widely available must nevertheless make the document available for public inspection as required under §301.6104(d)-3(a), as applicable.

(b) Widely available—(1) In general. A tax-exempt organization makes its application for tax exemption and/or an annual information return widely available if the organization complies with the requirements specified in paragraph (b)(2) of this section, and if the organization satisfies the requirements of paragraph (d) of this section.

(2) Internet posting—(i) In general. A tax-exempt organization can make its application for tax exemption and/or an annual information return widely available by posting the document on a World Wide Web page that the tax-exempt organization establishes and maintains or by having the document posted, as part of a database of similar documents of other tax-exempt organizations, on a World Wide Web page established and maintained by another entity. The document will be considered widely available only if—

(A) the World Wide Web page through which it is available clearly informs readers that the document is available and provides instructions for downloading it;

(B) the document is posted in a format that, when accessed, downloaded, viewed and printed in hard copy, exactly reproduces the image of the application for tax exemption or annual information return as it was originally filed with the Internal Revenue Service, except for any information permitted by statute to be withheld from public disclosure. (See section 6104(d)(3) and §301.6104(d)-3(b)(3) and (4)); and

(C) any individual with access to the Internet can access, download, view and print the document without special computer hardware or software required for that format (other than software that is readily available to members of the public without payment of any fee) and without payment of a fee to the tax-exempt organization or to another entity maintaining the World Wide Web page.

(ii) Transition rule. A tax-exempt organization that posted its application for tax exemption or its annual information returns on a World Wide Web page on or before April 9, 1999 in a manner consistent with regulation project REG-246250-96 (1997 C.B. 627) (See §601.601(d)(2) of this chapter.) will be treated as satisfying the requirements of paragraphs (b)(2)(i)(B) & (C) of this section until June 8, 2000 provided that an individual can access, download, view and print the document without payment of a fee to the tax-exempt organization or to another entity maintaining the World Wide Web page.

(iii) Reliability and accuracy. In order for the document to be widely available through an Internet posting, the entity maintaining the World Wide Web page must have procedures for ensuring the reliability and accuracy of the document that it posts on the page and must take reasonable precautions to prevent alteration, destruction or accidental loss of the document when posted on its page. In the event that a posted document is altered, destroyed or lost, the entity must correct or replace the document.

(c) Discretion to prescribe other methods for making documents widely available. The Commissioner, from time to time, may prescribe additional methods, other than an Internet posting meeting the requirements of paragraph (b)(2) of this section, that a tax-exempt organization may use to make its documents widely available.

(d) Notice requirement. If a tax-exempt organization has made its application for tax exemption and/or an annual information return widely available it must notify any individual requesting a copy where the documents are available (including the address on the World Wide Web, if applicable). If the request is made in person, the organization shall provide such notice to the individual immediately. If the request is made in writing, the notice shall be provided within 7 days of receiving the request.

(e) Effective date. This section is effective June 8, 1999. [Reg. §301.6104(d)-4 ]
§301.6104(d)-5. Tax-exempt organization subject to harassment campaign

(a) **In general.** If the district director for the key district in which the organization's principal office is located (or such other person as the Commissioner may designate) determines that the organization is the subject of a harassment campaign and compliance with the requests that are part of the harassment campaign would not be in the public interest, a tax-exempt organization is not required to fulfill a request for a copy (as otherwise required by §301.6104(d)-3(a)) that it reasonably believes is part of the campaign.

(b) **Harassment.** A group of requests for an organization's application for tax exemption or annual information returns is indicative of a harassment campaign if the requests are part of a single coordinated effort to disrupt the operations of a tax-exempt organization, rather than to collect information about the organization. Whether a group of requests constitutes such a harassment campaign depends on the relevant facts and circumstances. Facts and circumstances that indicate the organization is the subject of a harassment campaign include: a sudden increase in the number of requests; an extraordinary number of requests made through form letters or similarly worded correspondence; evidence of a purpose to deter significantly the organization's employees or volunteers from pursuing the organization's exempt purpose; requests that contain language hostile to the organization; direct evidence of bad faith by organizers of the purported harassment campaign; evidence that the organization has already provided the requested documents to a member of the purported harassing group; and a demonstration by the tax-exempt organization that it routinely provides copies of its documents upon request.

(c) **Special rule for multiple requests from a single individual or address.** A tax-exempt organization may disregard any request for copies of all or part of any document beyond the first two received within any 30-day-period or the first four received within any one-year-period from the same individual or the same address, regardless of whether the district director for the applicable key district (or such other person as the Commissioner may designate) has determined that the organization is subject to a harassment campaign.

(d) **Harassment determination procedure.** A tax-exempt organization may apply for a determination that it is the subject of a harassment campaign and that compliance with requests that are part of the campaign would not be in the public interest by submitting a signed application to the district director for the key district where the organization's principal office is located (or such other person as the Commissioner may designate). The application shall consist of a written statement giving the organization's name, address, employer identification number, and the name, address and telephone number of the person to contact regarding the application. The application must describe in detail the facts and circumstances that the organization believes support a determination that the organization is subject to a harassment campaign. The organization may suspend compliance with respect to any request for a copy of its documents based on its reasonable belief that such request is part of a harassment campaign, provided that the organization files an application for a determination within 10 business days from the day the organization first suspends compliance with respect to a request that is part of the alleged campaign. In addition, the organization may suspend compliance with any request it reasonably believes to be part of the harassment campaign until it receives a response to its application for a harassment campaign determination.

(e) **Effect of a harassment determination.** If the appropriate district director (or such other person as the Commissioner may designate) determines that a tax-exempt organization is the subject of a harassment campaign and it is not in the public interest to comply with requests that are part of the campaign, such organization is not required to comply with any request for copies that it reasonably believes is part of the campaign. This determination may be subject to other terms and conditions set forth by the district director (or such other person as the Commissioner may designate). A person (as defined in section 6652(c)(4)(C)) shall not be liable for any penalty under sections 6652(c)(1)(C), 6652(c)(1)(D) or 6685 for failing to timely provide a copy of documents in response to a request covered in a request for a harassment determination if the organization fulfills the request within 30 days of receiving a determination from the district director (or such other person as the Commissioner may designate) that the organization is not subject to a harassment campaign. Notwithstanding the preceding sentence, if the district director (or such other person as the Commissioner may designate) further determines that the organization did not have a reasonable basis for requesting a determination that it was subject to a harassment campaign or reasonable belief that a request was part of the campaign, the person (as defined in section 6652(c)(4)(C)) remains liable for any penalties that result from not providing the copies in a timely fashion.

(f) **Examples.** The provisions of this section are illustrated by the following examples:

Example 1. V, a tax-exempt organization, receives an average of 25 requests per month for copies of its three most recent information returns. In the last week of May, V is mentioned in a national news magazine story that discusses information contained in V's 1996 information return. From June 1 through June 30, 1997 V receives 200 requests for a copy of its documents. Other than the sudden increase in the number of requests for copies, there is no other evidence to suggest that
the requests are part of an organized campaign to disrupt V's operations. Although fulfilling the requests will place a burden on V, the facts and circumstances do not show that V is subject to a harassment campaign. Therefore, V must respond timely to each of the 200 requests it receives in June.

Example 2. Y is a tax-exempt organization that receives an average of 10 requests a month for copies of its annual information returns. From March 1, 1997 to March 31, 1997, Y receives 25 requests for copies of its documents. Fifteen of the requests come from individuals Y knows to be active members of the board of organization X. In the past X has opposed most of the positions and policies that Y advocates. None of the requesters have asked for copies of documents from Y during the past year. Y has no other information about the requesters. Although the facts and circumstances show that some of the individuals making requests are hostile to Y, they do not show that the individuals have organized a campaign that will place enough of a burden on Y to disrupt its activities. Therefore, Y must respond to each of the 25 requests it receives in March.

Example 3. The facts are the same as in Example 2, except that during March 1997, Y receives 100 requests. In addition to the fifteen requests from members of organization X’s board, 75 of the requests are similarly worded form letters. Y discovers that several individuals associated with X have urged the X's members and supporters, via the Internet, to submit as many requests for a copy of Y’s annual information returns as they can. The message circulated on the Internet provides a form letter that can be used to make the request. Both the appeal via the Internet and the requests for copies received by Y contain hostile language. During the same year but before the 100 requests were received, Y provided copies of its annual information returns to the headquarters of X. The facts and circumstances show that the 75 form letter requests are coordinated for the purpose of disrupting Y’s operations, and not to collect information that has already been provided to an association representing the requesters’ interests. Thus, the fact and circumstances show that Y is the subject of an organized harassment campaign. To confirm that it may disregard the 90 requests that constitute the harassment campaign, Y must apply to the applicable district director (or such other person as the Commissioner may designate) for a determination. Y may disregard the 90 requests while the application is pending and after the determination is received. However, it must respond within the applicable time limits to the 10 requests it received in March that were not part of the harassment campaign.

Example 4. The facts are the same as in Example 3, except that Y receives 5 additional requests from 5 different representatives of the news media who in the past have published articles about Y. Some of these articles were hostile to Y. Normally, the Internal Revenue Service will not consider a tax-exempt organization to have a reasonable belief that a request from a member of the news media is part of a harassment campaign absent additional facts that demonstrate that the organization could reasonably believe the particular requests from the news media to be part of a harassment campaign. Thus, absent such additional facts, Y must respond within the applicable time limits to the 5 requests that it received from representatives of the news media.

(g) Effective date. This section is effective June 8, 1999. [Reg. §301.6104(d)-5.]

[TD. 8818, 4-8-99.]
Revenue Ruling 79-142, 1979-1 CB 58

Section 61.—Gross Income Defined

26 CFR 1.61-1: Gross income.
(Also Sections 162, 170; 1.162-1, 1.170A-1.)

[IRS Headnote] Day care service; Child Care Food Program payments.—
Payments received from a sponsoring charitable organization pursuant to the Child Care Food Program are excludable from a day care home operator’s gross income to the extent that such payments do not exceed expenses incurred in feeding children eligible for assistance under the program. Any portion of the payment that compensates the operator for services is includible in income. Out-of-pocket expenses in excess of reimbursement are deductible under section 170 of the Code where no profit motive exists and under section 162 where such motive does exist.

[Text]

ISSUE

What are the federal income tax consequences to family and group day care home operators who participate in the Child Care Food Program (CCF program) authorized by the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975, Pub. L. No. 94-105, 94th Cong., 1st Sess. (October 7, 1975), 42 U.S.C. section 1766 (Supp. V 1976)?

FACTS

Situation 1.—Under the auspices of a sponsoring charitable organization described in section 170(c) of the Code, which was formed to provide day care and nutritional meals to needy children, an individual operates a nonprofit licensed day care service in the individual’s home and provides meals at lunchtime to the children cared for. Pursuant to the CCF program administered by the Department of Agriculture, the sponsoring organization has entered into an agreement with the State Department of Education whereby the organization has agreed to accept final financial and administrative responsibility for the conduct of the food service provided in the day care home under its authority. In the agreement the sponsoring organization ensures the state agency that meals served in the individual’s day care home meet specified requirements, and that meals are served free or at a reduced price to all children eligible for free and reduced price meals under the CCF program. The sponsoring organization is also required (1) to provide consultative and technical assistance to ensure that meals meet prescribed standards, that adequate records are maintained, and that other CCF program requirements are met, (2) to train day care personnel responsible for the food service, and (3) to make periodic visits to the day care home to monitor compliance.

In exchange, the state agency reimburses the sponsoring organization for the expenses incurred by the day care home operator in providing free and reduced price lunches to eligible children. The amount of the reimbursement payments is determined by the number and types of meals served and the need of the children enrolled in the CCF program. In no event may reimbursement payments to the sponsoring organization exceed the operating costs of the day care food service.

After receiving reimbursement payments from the state agency the sponsoring organization distributes the funds to the individual operating the day care food service. In the taxable year in question the payments made to the day care home operator are equal to the operating costs of the CCF program. No payments are made to the operator to compensate the operator for the value of services rendered in preparing and dispensing the lunches.

Situation 2.—An individual operates a day care service in the individual’s home and provides lunches to needy children under the same facts as in Situation 1, except that in the taxable year in question the individual receives payments from the sponsoring organization that include not only reimbursements for operating expenses, but also payments for the value of the individual’s services.

LAW AND ANALYSIS

Section 61(a) of the Internal Revenue Code of 1954 provides that, except as otherwise provided by law, gross income means all income from whatever source derived. Section 162(a) provides that there shall be allowed as a deduction all the
ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business. Section 170 provides that subject to certain limitations a deduction shall be allowed for any charitable contribution (as defined in section 170(c)) payment of which is made within the taxable year. Section 1.170A-1(g) of the Income Tax Regulations provides, in part, that unreimbursed out-of-pocket expenditures made incident to the rendition of services to a charitable organization may constitute a deductible contribution.

Section 9(d) of the National School Lunch Act and Child Nutrition Act of 1966 Amendments of 1975 provides that "[t]he value of assistance to children under this Act shall not be considered to be income or resources for any purpose under any Federal or State laws, including laws relating to taxation and welfare and public assistance." Pursuant to section 9(d) of the Amendments of 1975, the value of free and reduced meals served to needy children under the CCF program is not includible in the gross incomes of the children or of their parents. However, reimbursements and payments received by operators of family and group day care homes under the CCF program are not excludable from their gross incomes for federal income tax purposes by reason of section 9(d) of the Amendments of 1975, but they may be otherwise excludable from the day care home operator's gross incomes depending on the particular facts.

The individual operating the day care home in *Situation 1* does not have a profit making motive in operating the day care facility and is not, in fact, making a profit. The expenses incurred by the individual in *Situation 1* in gratuitous services to the sponsoring organization. See Rev. Rul. 77-279 furtherance of the CCF program are incurred on behalf of the sponsoring charitable organization and are directly connected with the rendition of (*Situation 1*), 1977-2 C.B. 12.

In contrast, the individual operating the day care home in *Situation 2* does have a profit motive and, in fact, received compensation for services rendered in connection with the lunches provided under the CCF program. Nevertheless, as in *Situation 1*, the food service expenditures subject to reimbursement were incurred by the individual in *Situation 2* on behalf of the sponsoring organization. See Rev. Rul. 77-280 (*Situation 3 and 4*), 1977-2 C.B. 14.

**HOLDINGS**

The payments received from the sponsoring organization in *Situation 1* are not includible in the gross income of the individual as long as the payments do not exceed the expenses incurred by the individual in feeding the children eligible for assistance under the program.

The portion of each payment received by the individual in *Situation 2* from the sponsoring organization that represents reimbursement of actual expenditures incurred on behalf of the sponsoring organization is not includible in the gross income of the individual. The portion of the payment attributable to compensation for the value of the individual's services is includible in the individual's gross income.

In both *Situations 1* and 2, the individual's reimbursed expenditures are not the individual's own expenses, but are incurred on behalf of the sponsoring organization. Therefore, the reimbursed expenses are not deductible by the individual in either *Situation 1* under section 170 of the Code or *Situation 2* under section 162.

If in *Situation 1* the operating costs of the CCF program had been greater than the reimbursement payments, the excess of the out-of-pocket expenses over the reimbursement would have been deductible by the individual within the limitations of section 170 of the Code as contributions for the use of the sponsoring organization, because the individual would be rendering gratuitous services to the sponsoring organization by feeding the children. See Rev. Rul. 77-280 (*Situations 1 and 2*).

If in *Situation 2* the operating costs of the CCF program had been greater than the reimbursement payments, the excess of the out-of-pocket expenses over the reimbursement would have been deductible as a trade or business expense under section 162 of the Code. See Rev. Rul. 77-280 (*Situations 3 and 4*).