

IRS 501(c)(3) Application and Exemption Letter

The Application

After a nonprofit receives its IRS tax exemption letter from the IRS, the board's interest in the exemption application (Form 1023) often disappears. After a few years, many nonprofits have no idea where the application is located. Nonprofits must maintain a copy of the application in an accessible location because federal law requires nonprofits to make the application available for public inspection. For more information, see this Section on public disclosure requirements.

Nonprofits should review the application annually to verify whether the activities and mission of the organization match the representations made to the IRS in the application. Material changes to these items and other corporate changes must be reported to the IRS and included as attachments to the annual Form 990 filing. Questions about changes to the nonprofit's operations should be directed to: IRS Exempt Organizations, 1100 Commerce Street, Dallas, Texas 75242, (214) 767-1490 or (877) 829-5500. For other questions about charitable organizations, see the IRS website and Publication 557 at www.irs.gov.

Advance Ruling on Public Charity Status

Start-up organizations often file their request for tax-exempt status from the IRS before the organizations have a record of their operations. These organizations may obtain an “advance ruling” from the IRS stating that their nonprofit organizations are public charities rather than private foundations. If an organization receives an advance ruling that it is a public charity, the IRS will re-evaluate the operations of the organization when the advance ruling expires.

A nonprofit must obtain a permanent ruling to continue operations as a public charity. Otherwise, upon the expiration of the advance ruling period, the nonprofit will be considered a private foundation. Donations and reporting requirements for differ from those of public charities.

The difference in qualifying as a public charity rather than a private foundation is based on the variety and percentage of sources of monetary support for the organization. Therefore, it is important that the organization keep careful records of all donations, including small ones, to substantiate its public charity status.

Expiration of Advance Ruling

The advance ruling covers the first **five fiscal years** of an organization. The expiration date should be included on the tax exemption letter sent by the IRS. The nonprofit should designate someone to monitor the expiration date. If a nonprofit cannot locate the expiration date, the following information can be utilized to determine the date:

- ◆ The first year begins on the date of incorporation—not the date the exemption was granted.
- ◆ The ruling expires at the end of five fiscal years after the date of incorporation.

Example:	Date organization incorporated: March 15, 2002
	Fiscal year: October 1-September 30
	First fiscal year ends: September 30, 2002
	Advance ruling ends: September 30, 2006

Process to Obtain a Permanent Ruling on Public Charity Status

Within 90 days after the expiration of the advance ruling period, submit Form 8734 to the IRS, available on the IRS website at www.irs.ustreas.gov/forms_pubs/forms.html. Send the form to the IRS at PO Box 192, Covington, Kentucky 41012. The IRS will then send back a final letter ruling regarding public charity status.