

IRS Requirements

CHAPTER 501(c)6 DESIGNATION

Each local Chapter and State Organization is part of ABOTA. As such you are carried under the ABOTA umbrella as a subordinate of a Group Exemption. Each local Chapter and State Organization is considered a Not-for-profit organization with IRS and has been designated as a 501(c)6 organization. Each local chapter and state organization has been assigned a Federal Identification number. These numbers are available at the national ABOTA office. Please contact the Financial Coordinator for this number if needed.

Sales Tax - The question is asked many times if the local chapter must pay taxes. This answer is two-fold. The local chapter does not pay income tax but is required to pay Sales Tax to the local state and may possibly be responsible for other types of taxes. Each state is different. As states are searching for revenue they are changing many of their rulings regarding tax exemption within the state. Please work with the Financial Coordinator at the national office as these changes are being made within your state.

IRS RULES FOR DONATIONS

If your chapter wishes to donate funds, be sure to review the IRS's rules for donors.

Revenue Procedure 2011-33 set forth guidelines governing donors. The rules require that before making a donation to a not-for-profit entity, the taxpayer must 1.) Verify the organization's eligibility to receive a charitable donation, 2.) Determine if the charity is a supporting organization (and if it is, determine what type) and 3.) Confirm that the organization is not on the OFAC list of organizations and persons linked to terrorism. The steps below will assist in determining donation eligibility.

1. Verify the organization is eligible to receive a tax-deductible charitable contribution.

Not all tax-exempt organizations are eligible to receive a tax deductible donation and verifying a specific organization is eligible requires three steps.

A. Determine if the organization is allowed to receive a charitable contribution. A potential donor may use Exempt Organizations Select Check (www.irs.gov/charities-non-profits/exempt-organizations-select-check) to determine a specific organization's eligibility.

This list is not inclusive of all charitable organizations but is a first place to check. If you are unable to find a specific charitable organization use the IRS Business Master File (BMF) to determine a specific organization's eligibility.

B. Confirm the organization's foundation and deductibility status. The majority of organizations that are allowed to receive tax-deductible contributions are classified as 501(c)(3) charitable organizations, but there some other types of not-for-profits allowed to receive tax deductible gifts although some special rules and restrictions may apply.

Before making a donation, donors should double check the deductible amount allowed as well as whether a donor must exercise expenditure responsibility. The IRS used to require donors to use Publication 78 for this research, but they are now allowed to use the BMF (Business Master File) as well. Both sources will provide a deductibility code.

C. Determine the organization's standing with the IRS. If a not-for-profit organization fails to file an annual return for three consecutive years, The Pension Protection Act of 2006 would revoke their tax exempt

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IRS RULES FOR DONATIONS (continued)

status. Under the Act the IRS is required to publish a list of organizations that have lost their tax exempt status. The IRS also revokes the not-for-profit status of organizations on a case-by-case basis for serious noncompliance with the tax code. Revocations for either situation can be found on the IRS website. (www.irs.gov)

Organizations that have lost their tax exempt status may continue to accept contributions, but those donations are no longer tax-deductible. Also, donor-advised funds who match donations to such organizations are required to exercise expenditure responsibility over those grants.

It's important to always check an organization still has its tax-exempt status before making what you believe to be a tax deductible donation.

2. Determine if the not-for-profit is a supporting organization, and if so, what kind.

The Pension Protection Act of 2006 also limits distributions to supporting organizations. Supporting organizations are defined as charities established for the purpose of providing support to another charity. There are many different types of supporting organizations, and what type an organization is determines if grantors must exercise expenditure responsibility and whether those grants count towards a private Foundation's minimum payout.

Donors are allowed to research supporting organization status (509(a)(3) status) using any of the following sources:

- A. A charity's IRS Letter of Determination (The document where the IRS approves a not-for-profit organization's application for tax-exempt status)
- B. The BMF
- C. A third-party source of BMF data (as long as it meets certain criteria)
- D. Publication 78

When making donations to a supporting organization, a donor is required to determine what type of organization the recipient is. Unfortunately, Publication 78 does not identify supporting organizations at all, and the BMF contains only limited data. This necessitates additional research on the part of the donor to determine the type of supporting organization a recipient may be.

3. Confirm the organization is not on the OFAC list of organizations and persons linked to terrorism.

Financial contributions to organizations or persons linked to terrorism are prohibited under the USA PATRIOT Act. The Office of Foreign Assets Control (OFAC) and the U.S. Department of Treasury maintains a list of individuals and organizations whose assets have been frozen due to suspected terrorist ties. These individuals and organizations are known as "Specially Designated Nationals" (SDNs).

If there is any chance an organization you plan to make a donation to may be linked to terrorism, be sure to check the OFAC publications to ensure that the organization is not an SDN.

These new rules governing donors can be complex. If you have any questions, do not hesitate to contact the National ABOTA Office.

Source: Lane Gorman Trubitt, PLLC