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believe that they are not required to file returns with the IRS, particularly if they ...

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May 15 was the filing deadline for nonprofits operating on a calendar year that are

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limited funds, file annual Form 990-series information returns or notices with the IRS, not all nonprofits are required to file. Nonprofits that are exempt from filing include churches and certain church-related or affiliated organizations, certain governmental organizations and governmental units and certain political organizations. Exercise caution in determining whether your client is exempt from filing. Not all nonprofits that have religious or political activities are exempt. For a detailed list, visit: <https://www.irs.gov/charities-non-profits/annual-exempt-organization-return-who-must-file>

If your client is not required to file, then there is nothing more you need to do. Keep in mind, however, that if at any time your client stops meeting the requirements for exemption from filing, for example, because of a change in activities or governance, or a change in the law, it will become subject to tax filing requirements in that year.

Second, determine when your client is required to file such return. The Form 990-series returns must be filed, or an extension requested, within 4 months and 15 days of the close of the organization's fiscal year.

### **Determine Whether Your Nonprofit Client Has Failed to File for Multiple Years**

Organizations that fail to file required information returns for three consecutive years will have their tax-exempt status automatically revoked, effective as of the due date of the third required filing. If you are aware that your client has failed to file for multiple years, you should ascertain whether your client has lost its tax-exempt status. You can find out through IRS EO Select Check: <https://apps.irs.gov/app/eos/>.

If your client's tax-exempt status has been revoked, it may wish to have its tax-exempt status reinstated. This requires submitting a Form 1023, Form 1023-EZ or Form 1024 (as applicable), Application for Exemption, including the appropriate user fee. Reinstatement of tax-exempt status may be retroactive if the Application for

Exemption is filed within 15 months of revocation or the nonprofit has reasonable

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If you are unable to obtain retroactive reinstatement of tax-exempt status for your client, you will need to file the appropriate tax return for a taxable entity (i.e., if the nonprofit is a corporation: Form 1120; if it is a trust: Form 1041) for all years the nonprofit was not exempt from tax.

## What to File

Small nonprofits with average annual gross receipts of \$50,000 or less may file an electronic Form 990-N (e-Postcard), which requires minimal information.

Nonprofits with average annual gross receipts above \$50,000 must file a Form 990-EZ or 990 depending on their receipts and assets. If either gross receipts equal or exceed \$200,000 *or* total assets equal or exceed \$500,000 the Form 990 is required.

Private foundations must file Form 990-PF, regardless of the amount of gross receipts or assets.

Although an automatic six-month filing extension is generally available, if your client did not file the Form 8868 by May 15, or 4 months and 15 days after the close of the client's fiscal year, the extension is unavailable.

You should also check for applicable state tax filing requirements. In addition, many state's Attorney General or other nonprofit regulatory agency require certain annual filings, which may include a copy of the applicable Form 990.

## Penalties

An automatic penalty is imposed on late-filed Form 990-series returns. The penalty is \$20 per day the return is late, capped at the lesser of \$10,000 or 5% of gross receipts for the year. For nonprofits having gross receipts above \$1,020,000, the penalty increases to \$100 per day, capped at \$51,000 or 5% of gross receipts.

If the nonprofit received a notice from the IRS regarding an unfiled return, and the

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whether your client can present facts and circumstances that demonstrate reasonable cause for filing late. Additional penalties may be imposed for willful failure to file. The best protection from these additional penalties is filing delinquent returns as soon as possible.

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Note – this article is intended to address assisting new or existing nonprofit clients that have missed the filing deadline through their negligence. This article does not provide guidance with respect to issues that may arise if your existing nonprofit clients missed the filing deadline as a result of your action or inaction.

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