



# Instructions for Schedule A (Form 990 or 990-EZ)

Section references are to the Internal Revenue Code unless otherwise noted.

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## What's New

- We added Part II-B. This part asks for information about the compensation of the five highest paid independent contractors for other services.
- We added a new question to line 3c in Part III that asks about the receipt of qualified real property interests for organizations that received a qualified conservation contribution.
- Line 13 in Part IV has been revised. Organizations that check the box for line 13 must also check the box that describes the type of supporting organization.

## General Instructions

### Purpose of Form

Schedule A (Form 990 or 990-EZ) is used by:

- Section 501(c)(3) organizations, and
- Section 4947(a)(1) nonexempt charitable trusts.

These organizations must use Schedule A (Form 990 or 990-EZ) to furnish additional information not required of other types of organizations that file Form 990, Return of Organization Exempt From Income Tax, or Form 990-EZ, Short Form Return of Organization Exempt From Income Tax.

Section 6033(b) and Rev. Proc. 75-50, 1975-2 C.B. 587 require this additional information.

**Note.** For purposes of these instructions, the term section 501(c)(3) includes organizations exempt under sections:

- 501(e), Cooperative Hospital Service Organizations,
- 501(f), Cooperative Service Organizations of Operating Educational Organizations,
- 501(k), Child Care Organizations, and
- 501(n), Charitable Risk Pools.

### Who Must File

An organization described in section 501(c)(3) or a nonexempt charitable trust described in section 4947(a)(1) must complete and attach Schedule A (Form 990 or 990-EZ) to its Form 990 or Form 990-EZ.

If an organization is not required to file Form 990, or Form 990-EZ, it is not required to file Schedule A (Form 990 or 990-EZ).

Do not use Schedule A (Form 990 or 990-EZ) if an organization is a private foundation. Instead, file Form 990-PF, Return of Private Foundation.

### Period Covered

The organization's Schedule A (Form 990 or 990-EZ) should cover the same period as the Form 990, or Form 990-EZ, with which it is filed.

### Penalties

Schedule A (Form 990 or 990-EZ) is considered a part of Form 990, or Form 990-EZ, for section 501(c)(3) organizations and section 4947(a)(1) nonexempt charitable trusts that are required to file either form. Therefore, any such organization that does not submit a completed Schedule A (Form 990 or 990-EZ) with its Form 990, or Form 990-EZ, does not satisfy its filing requirement and may be charged a \$20 a day penalty (\$100 a day for large organizations). See *General Instruction K*

of the Instructions for Form 990 and Form 990-EZ for details on this and other penalties.

To avoid having to respond to requests for missing information, please be sure to:

- Complete all applicable line items;
- Answer "Yes" or "No" to each question on the return;
- Make an entry (including a zero when appropriate) on all total lines; and
- Enter "None" or "N/A" if an entire part does not apply.

## Specific Instructions

- Attach separate sheets on which you follow the same format and sequence as on the printed form, if you need more space for any part or line item.
- Show totals on the printed form.
- Put the organization's name and employer identification number (EIN) on the attached separate sheets and identify the part or line that the attachments support.
- You may round off cents to whole dollars on your return and schedules. If you do round to whole dollars, you must round all amounts. To round, drop amounts under 50 cents and increase amounts from 50 to 99 cents to the next dollar. For example, \$1.39 becomes \$1 and \$2.50 becomes \$3.

If you have to add two or more amounts to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

## Part I. Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees

Complete Part I for the five non-key employees with the highest annual compensation over \$50,000. At the bottom of the table, enter the number of other employees with annual compensation over \$50,000 who are not individually listed in Part I.



**Do not include employees listed in Part V-A of Form 990 or in Part IV of Form 990-EZ (List of Officers, Directors, Trustees, and Key Employees). Also do not include key employees in table one.**

In columns (c) through (e), show all cash and noncash forms of compensation for each listed employee whether paid currently or deferred. The organization may also provide an attachment to explain the entire year 2005 compensation package for any person listed in Part I.

### Column (c)

Enter salary, fees, bonuses, and severance payments received by each listed employee. Include current year payments of amounts reported or reportable as deferred compensation in any prior year.

### Column (d)

Include in column (d) all forms of deferred compensation and future severance payments (whether or not funded, whether or not vested, and whether or not the deferred compensation plan is a qualified plan under section 401(a)). Include in this column payments to welfare benefit plans on behalf of the employee. Such plans provide benefits such as medical, dental, life insurance, severance pay, disability, etc. Reasonable estimates may be used if precise cost figures are not readily available.

Unless the amounts are reported in column (c), report as deferred compensation in column (d), salaries and other compensation earned during the period covered by the return, but not yet paid by the date the organization files its return.

### Column (e)

Enter in column (e) both taxable and nontaxable fringe benefits (other than *de minimis* fringe benefits described in section 132(e)). Include expense allowances or reimbursements that the recipients must report as income on their separate income tax returns. Examples include:

- Amounts for which the recipient did not account to the organization,
- Allowances that were more than the payee spent on serving the organization, and
- Payments made in connection with indemnification arrangements, the value of the personal use of housing, automobiles, or other assets owned or leased by the organization (or provided for the organization's use without charge), as well as any other taxable and nontaxable fringe benefits.

**Example.** S is not a key employee. S receives a salary of \$35,000 and a \$3,000 bonus. S also receives company-paid medical, dental, and life insurance benefits for his family of \$12,000. During the year, S received family educational benefits of \$5,000. Enter in column (c) \$38,000; enter in column (d) \$12,000; enter in column (e) \$5,000. Total compensation of S is \$55,000, even though his salary and bonus are only \$38,000. S should be listed in Part I as one of the highest paid employees.

See Pub. 525, Taxable and Nontaxable Income, for more information.

## Part II-A. Compensation of the Five Highest Paid Independent Contractors for Professional Services

Complete Part II-A for the five highest paid independent contractors (whether individuals or firms) who performed personal services of a professional nature for the organization and, in return, received over \$50,000 for the year from the organization.

Also show the number of other independent contractors who received more than \$50,000 for the year for performing professional services but who are not individually listed in Part II-A.

*Independent contractors* are persons who are not treated as employees for employment tax purposes. Independent contractors may be individuals or firms. *Professional independent contractors* would generally include attorneys, accountants, auditors, health care professionals, investment advisors, and professional fundraisers.

The organization may, at its discretion, provide an attachment to explain the entire year 2005 compensation package for any person listed in Part II-A.

Fundraising fees exceeding \$50,000 should be reported in Part II-A, but not reimbursements for amounts paid by the fundraiser to others for printing, paper, envelopes, postage, mailing list rental, etc. Part II-A is intended for the fee portion of payments to contractors, not for any expense reimbursements.

## Part II-B. Compensation of the Five Highest Paid Independent Contractors for Other Services

Complete Part II-B for the five highest paid independent contractors (whether individuals or firms) who performed services, that were other than services of a professional nature for the organization and, in return, received over \$50,000 for the year from the organization. For a definition of independent contractor, see Part II-A, above.

Also show the number of other independent contractors who received more than \$50,000 for the year for performing such services but who are not individually listed in Part II-B.

The organization may include an attachment that explains the 2005 compensation package for any person listed in Part II-B.

## Part III. Statements About Activities

**Line 1.** If you checked "Yes" on this line, you must complete Part VI-A or VI-B and

include the additional information discussed under those Parts; otherwise, the return may be considered incomplete.

Enter the total expenses paid or incurred in connection with the lobbying activities described on line 1. The amount of expenses you enter must equal the amounts on line 38, Part VI-A, or line i, Part VI-B. If columns (a) and (b) of line 38 are both completed, enter both amounts separately on line 1.

**Substantial part test.** In general, a section 501(c)(3) organization may not devote a substantial part of its activities to attempts to influence legislation. Under the *substantial part test*, if such an organization engages in substantial lobbying activities, the organization will lose both its tax-exempt status and its ability to receive tax-deductible charitable contributions. Except for churches, certain church affiliated organizations, and private foundations, an organization that loses its section 501(c)(3) status because it did not meet the substantial part test will owe an excise tax under section 4912 on all of its lobbying expenditures. Managers of the organization may also be jointly and severally liable for this tax.

**Expenditure test.** As an alternative to the substantial part test, eligible public charities may elect the expenditure test of section 501(h). The *expenditure test* generally permits higher limits for lobbying expenditures than allowed under the substantial part test. Electing public charities are subject to the lobbying expenditure definitions of section 4911, which are generally more liberal than the definitions under the substantial part test. Section 4911 applies only to public charities that made a valid section 501(h) election by filing Form 5768, Election/Revocation of Election by an Eligible Section 501(c)(3) Organization To Make Expenditures To Influence Legislation.

**Electing public charities.** If the organization is an electing public charity, you must complete Part VI-A of this form.

**Nonelecting public charities.** If the organization checked "Yes" but is not an electing public charity, you must complete Part VI-B and attach a statement giving a detailed description of the organization's lobbying activities.



*All charities, both electing and nonelecting, are absolutely prohibited from intervening in a political campaign for or against any candidate for an elective public office. If a charity does intervene in a political campaign, it will lose both its tax-exempt status and its eligibility to receive tax-deductible charitable contributions. Both the organization and its managers are subject to the tax on political expenditures under section 4955.*

**Line 2.** See Part IV, Definitions, for the meaning of the term family member.

**Lines 2a through 2e.** These lines apply to both sides of a listed transaction. Reporting is required, for example, whether the exempt organization is a

payer or payee, buyer or seller, lender or borrower.

**Line 2d. Compensation or repayment.** If the only compensation or repayment relates to amounts the organization reported in Part V-A of Form 990, or Part IV of Form 990-EZ, check "Yes" and write "See Part V-A, Form 990," or "See Part IV of Form 990-EZ," on the dotted line to the left of the entry space.

**Line 3a. Scholarships, etc.** The term *qualify* in line 3a means that organizations or individuals will use the funds the organization provides for charitable purposes described in sections 170(c)(1) and 170(c)(2).

The term *qualify* also means that individual recipients belong to a charitable class and the payments are to aid them. Examples include:

- Helping the aged poor;
- Training teachers and social workers from underdeveloped countries; and
- Awarding scholarships to individuals.

**Line 3b. Section 403(b) annuity plan.**

Indicate whether you have a section 403(b) annuity plan available for your employees.

**Line 3c. Qualified real property interest.** Answer "Yes" if the organization received a qualified conservation contribution of a qualified real property interest under section 170(h). A qualified real property interest means any of the following interests in real property.

- The entire interest of the donor (other than qualified mineral interest),
- A remainder interest, or
- A restriction (granted in perpetuity) on the use of the real property (a conservation easement).

For additional information on contributions of conservation easements, see section 170(h) and Notice 2004-41.

**Line 4a.** Check "Yes" to line 4a if the organization maintained separate accounts for any participating donor during the tax year even though the donor did not make a contribution for that year or the donor has not exercised his or her right to make a suggestion on the charitable use of funds in the account or its distribution for charity.

Community foundations may maintain separate accounts for participating donors within the meaning of this question.

**Line 4b.** Answer "Yes" to this question if the organization provides any of the following types of credit counseling and/or debt management activities:

- Educating and/or counseling consumers, in person, in writing, or using electronic means;
- Helping consumers consolidate debts;
- Negotiating with creditors on behalf of consumers to lower interest rates, waive fees, adjust balances, or restore acceptable credit ratings;
- Offering, selling, or managing debt and/or loan consolidation services and programs or down payment assistance services;

- Acting as an escrow agent for debtors; or

- Participating in creditor Fair Share arrangements.

**Part IV. Reason for Non-Private Foundation Status**

**Definitions**

The following terms are used in more than one item in Part IV. The definitions given below generally apply.

*Support* (for lines 10, 11, and 12 of Part IV), with certain qualified exceptions described below, means all forms of support including (but not limited to):

**Support includes . . .** **Part IV-A line**

Gifts, grants, contributions, membership fees . . . . . 15 and 16

Any amounts an organization receives from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption\* . . . . . 17

Net income from unrelated business activities, whether or not such activities are carried on regularly as a trade or business 18 and 19

Gross investment income, such as interest, dividends, rents, and royalties 18

Tax revenues levied for the benefit of an organization and either paid to or expended on behalf of such organization; and . . . . . 20

The value of services or facilities (exclusive of those generally furnished to the public without charge) furnished by a governmental unit referred to in Code section 170(c)(1) to an organization without charge . . . . . 21

*\*Note.* The amounts on line 17 are included as support only for those organizations that checked the box on line 12. Otherwise, the amounts on line 17 are not included in support.

**Support does not include . . .** **Part IV-A line**

Any amounts an organization receives from the exercise or performance of its charitable, educational, or other purpose or function constituting the basis for its exemption\* . . . . . 17

Any gain upon the sale or exchange of property which would be considered under any section of the Code as gain from the sale or exchange of a capital asset.

**Part IV-A line**

**Support does not include . . .**

Contributions of services for which a deduction is not allowable.

*\*Note.* For organizations that checked the box on line 12, the amounts on line 17 of the Support Schedule are included in support.

**Support from a governmental unit,** with certain exceptions described below, includes:

- Any amounts received from a governmental unit, including donations or contributions and amounts received in connection with a contract entered into with a governmental unit for the performance of services or in connection with a government research grant, provided these amounts are not excluded from the term support as amounts received from exercising or performing the organization's charitable purpose or function.

An amount paid by a governmental unit to an organization is not treated as received from exercising or performing its charitable, etc., purpose or function if the payment is to enable the organization to provide a service to, or maintain a facility for, the direct benefit of the public, as for example, to maintain library facilities that are open to the public.

- Tax revenues levied for the organization's benefit and either paid to or expended on its behalf.
- The value of services or facilities (exclusive of services or facilities generally furnished, without charge, to the public) furnished by a governmental unit to the organization without charge. For example, a city pays the salaries of personnel to guard a museum, art gallery, etc., or provides the use of a building rent free. However, the term does not include the value of any exemption from federal, state, or local tax or any similar benefit.

**Indirect contributions from the general public.** Indirect contributions are what the organization receives from other organizations that receive a substantial part of their support from general public contributions. An example is the organization's share of the proceeds from an annual community chest drive (such as the United Way or United Fund). These are included on line 15.

**Disqualified person.** A disqualified person is:

1. A substantial contributor, who is—
  - a. Any person who gave an aggregate amount of more than \$5,000, if that amount is more than 2% of the total contributions the foundation or organization received from its inception through the end of the year in which that person's contributions were received.
  - b. The creator of a trust (without regard to the amount of contributions received by the trust from the creator and other persons).
    - Any person who is a substantial contributor at any time generally remains



a substantial contributor for all future periods even if later contributions by others push that person's contributions below the 2% figure discussed above.

- Gifts from the contributor's spouse are treated as gifts from the contributor.
- Gifts are generally valued at fair market value as of the date the organization received them.

2. An officer, director, or trustee of the organization or any individual having powers or responsibilities similar to those of officers, directors, or trustees.

3. An owner of more than 20% of the voting power of a corporation, profits interest of a partnership, or beneficial interest of a trust or an unincorporated enterprise that is a substantial contributor to the organization.

4. A family member of an individual in the first three categories. A *family member* includes only a person's spouse, ancestors, children, grandchildren, great grandchildren, and the spouses of children, grandchildren, and great grandchildren.

5. A corporation, partnership, trust, or estate in which persons described in 1 through 4 above own more than 35% of the voting power, profits interest, or beneficial interest. See section 4946(a)(1).

#### **Normally to satisfy public support test.**

An organization is considered *normally to satisfy the public support test* (for lines 10, 11, and 12 of the *Support Schedule*) for its current tax year and the tax year immediately following its current tax year, if the organization satisfies the applicable support test for the 4 tax years immediately before the current tax year.

If the organization has a material change (other than from unusual grants—see instructions for line 28) in its sources of support during the current tax year, the data ordinarily required in the *Support Schedule* covering the years 2001 through 2004 must be submitted for the years 2001 through 2005. Prepare and attach a 5-year schedule using the same format as provided in the *Support Schedule* for lines 15 through 28.

**Lines 5 through 14. Reason for Non-Private Foundation Status.** Check one of the boxes on these lines to indicate the reason the organization is not a private foundation. The organization's exemption letter states this reason, or the local IRS office can tell you.

**Line 6. School.** Check the box on line 6 for a school whose primary function is the presentation of formal instruction, and which regularly has a faculty, a curriculum, an enrolled body of students, and a place where educational activities are regularly conducted.

A private school, in addition, must have a racially nondiscriminatory policy toward its students. For details about these requirements, see the instructions for Part V.

**Line 7. Hospital or Cooperative Hospital Service Organization.** Check the box on line 7 for an organization whose main purpose is to provide hospital or medical care. A rehabilitation institution or an outpatient clinic may qualify as a hospital, but the term does not include medical schools, medical research organizations, convalescent homes, homes for the aged, or vocational training institutions for the handicapped.

Check the box on line 7 also for a cooperative hospital service organization described in section 501(e).

**Line 9. Hospital Medical Research Organization.** Check the box on line 9 for a medical research organization operated in connection with or in conjunction with a hospital. The hospital must be described in section 501(c)(3) or operated by the Federal government, a state or its political subdivision, a U.S. possession or its political subdivision, or the District of Columbia.

*Medical research* means studies and experiments done to increase or verify information about physical or mental diseases and disabilities and their causes, diagnosis, prevention, treatment, or control. The organization must conduct the research directly and continuously. If it primarily gives funds to other organizations (or grants and scholarships to individuals) for them to do the research, the organization is not a medical research organization.

The organization is not required to be an affiliate of the hospital, but there must be an understanding that there will be close and continuous cooperation in any joint-effort medical research.

**Assets test/Expenditure test.** An organization qualifies as a medical research organization if its principal purpose is medical research, and it devotes more than half its assets, or spends at least 3.5% of the fair market value of its endowment, in conducting medical research directly.

Either test may be met based on a computation period consisting of the immediately preceding tax year or the immediately preceding 4 tax years.

If an organization does not satisfy either the assets test or the expenditure test, it may still qualify as a medical research organization, based on the circumstances involved.

These tests are discussed in Regulations sections 1.170A-9(c)(2)(v) and (vi). Value the organization's assets as of any day in its tax year but use the same day every year. Value the endowment at fair market value, using commonly accepted valuation methods. (See Regulations section 20.2031.)

**Line 10. Organization Operated for the Benefit of a Governmental Unit.** Check the box on line 10 and complete the *Support Schedule* if the organization receives and manages property for and expends funds to benefit a college or university that is owned or operated by

one or more states or their political subdivisions. The school must be as described in the first paragraph of the instructions for line 6.

Expending funds to benefit a college or university includes acquiring and maintaining the campus, its buildings, and its equipment, granting scholarships and student loans, and making any other payments in connection with the normal functions of colleges and universities.

The organization must meet essentially the same public support test described below for line 11. See Rev. Rul. 82-132, 1982-2 C.B. 107.

#### **Line 11. Organization Meeting the Section 509(a)(1) Public Support Test.**

Check either box (but not both) on line 11a or 11b and complete the *Support Schedule* to determine whether the organization meets the section 509(a)(1)/170(b)(1)(A)(vi) public support test described below.

The *Support Schedule* is completed for an organization that normally (see *Part IV, Definitions*) receives at least 33 $\frac{1}{3}$ % of its support (excluding income received in exercising its charitable, etc., function) from:

- Direct or indirect contributions from the general public;
- Other publicly supported (section 170(b)(1)(A)(vi)) organizations; or
- A governmental unit.

To determine whether the section 509(a)(1)/170(b)(1)(A)(vi) test is met, donor contributions are considered support from direct or indirect contributions from the general public only to the extent that the total amount received from any one donor during the 4-tax-year period is 2% or less of the organization's total support for those 4 tax years as described below.

- Any contribution by one individual will be included in full in the total support denominator of the fraction determining the 33 $\frac{1}{3}$ %-of-support or the 10%-of-support limitation.
- Only the portion of each donor's contribution that is 2% or less of the total support denominator will be included in the numerator.

In applying the 2% limitation, all contributions by any person(s) related to the donor as described in section 4946(a)(1)(C) through (G) (and related regulations) will be treated as if made by the donor.

The 2% limitation does not apply to support from governmental units referred to in section 170(c)(1), or to contributions from publicly supported organizations (section 170(b)(1)(A)(vi)), that check the box on their line 11a or 11b.

**Example.** X organization reported the following amounts in its *Support Schedule* for the 4-year period 2001 through 2004:

Line	(e) Total
15	Gifts, grants & contributions . . . \$300,000
17	Gross receipts from admissions, etc. . . . . 100,000
18	Dividends & interest . . . . . 300,000
24	Line 23 minus line 17 . . . . . 600,000
26a	2% of line 24 (2% limitation) . . . 12,000
b	Total of contributions exceeding the 2% limitation . . . 98,000

The X organization determined whether or not it met the section 509(a)(1)/170(b)(1)(A)(vi) public support test as follows:

Total support (line 24): . . . . .	<u>\$600,000</u>
Direct Contributions:	
Total direct contributions from persons who contributed less than 2% of total support . . . . .	50,000
Total direct contributions from six donors, each of whom gave more than 2% (\$12,000) of total support . . . . .	170,000
Indirect contributions from the general public:	
United Fund . . . . .	40,000
Grant from Y City . . . . .	<u>40,000</u>
Total gifts, grants & contributions . . .	<u>\$300,000</u>
Total direct contributions from six donors, each of whom gave more than 2% of total support . . . . .	\$170,000
2% limitation for six donors: (2% × \$600,000 × 6) . . . . .	72,000
Less: Direct contributions in excess of 2% of total support . . . . .	<u>98,000</u>
Total public support . . . . .	<u>202,000</u>

**Section 509(a)(1)/170(b)(1)(A)(vi) computation:**

Line 26c	Total support . . . . .	\$600,000
Line 26d	Less total of lines:	
	18 . . . . .	\$300,000
	19 . . . . .	0-
	22 . . . . .	0-
	26b . . . . .	<u>98,000</u>
		<u>\$398,000</u>
Line 26e	Total public support . . . . .	\$202,000
Line 26f	Public support percentage (line 26e divided by line 26c—\$202,000/\$600,000) . . . . .	<b>33.67%</b>

Since X organization received more than 33⅓% of its total support for the period from public sources, it qualifies as a section 509(a)(1)/170(b)(1)(A)(vi) publicly supported organization. Note that if an organization fails the public support test for 2 consecutive years, it loses its public charity status and becomes a private foundation.

**Facts and circumstances— Public support test.** An organization that does not qualify as publicly supported under the test described above may be publicly supported on the basis of the facts in its case if it receives at least 10% of its

support from the general public. If you believe your organization is publicly supported according to applicable regulations, attach a detailed statement of the facts upon which you base your conclusion.

**Line 12. Organization Meeting the Section 509(a)(2) Public Support Tests.** Check the box on line 12 and complete the *Support Schedule* to determine whether an organization meets both of the following section 509(a)(2) support tests:

1. The organization normally receives more than one-third of its support for each tax year from:

- Persons other than disqualified persons (see *Part IV, Definitions*) with respect to the organization,
- Governmental units (described in section 170(c)(1)), or
- Organizations described in section 170(b)(1)(A) (other than in clauses (vii) and (viii)), and

Such support is received by the organization from any combination of:

- Gifts, grants, contributions, or membership fees, and
- Gross receipts from admissions, sales of merchandise, performance of services, or furnishing of facilities, in an activity that is not an unrelated trade or business (within the meaning of section 513).

Gross receipts, in any tax year, do not include receipts from any person, bureau, or similar agency of a government unit (described in section 170(c)(1)) to the extent such receipts exceed the greater of \$5,000 or 1% of the organization's support in such tax year.

2. The organization normally receives not more than one-third of its support each tax year from the sum of:

- Gross investment income (as defined in section 509(e)), and
- The excess (if any) of the amount of the unrelated business taxable income (as defined in section 512) over the amount of the tax imposed by section 511.

**Gross investment income.** When determining whether an organization meets the gross investment income test of section 509(a)(2)(B), amounts received from the following organizations retain the character of gross investment income (rather than gifts or contributions) to the extent that these organizations characterize the amounts as gross investment income:

- An organization that claims to be described in section 509(a)(3) because it supports a section 509(a)(2) organization; or
- A charitable trust, corporation, fund, or association described in section 501(c)(3) (including a nonexempt charitable trust described in section 4947(a)(1)), that is required to distribute, or normally distributes, at least 25% of its adjusted net income (within the meaning of section 4942(f)) to a section 509(a)(2)

organization, if the distribution normally comprises at least 5% of the distributee organization's adjusted net income.

If an organization receives an amount from a split-interest trust described in section 4947(a)(2) that is required to distribute, or normally distributes, at least 25% of its adjusted net income to a section 509(a)(2) organization, and the distribution normally comprises at least 5% of the distributee organization's adjusted net income, the amount retains the character of gross investment income if it would be characterized as gross investment income attributable to transfers in trust after May 26, 1969, if the trust were a private foundation.

All income characterized under the rules above as gross investment income in the possession of the distributing organization is considered to be distributed first by the organization and keeps its character as such in the possession of the recipient.

For more details, see Regulations section 1.509(a)-5 that covers special rules of attribution.

If the organization received any amounts from either kind of organization above, attach a statement. Show the amounts received from each organization, including amounts, such as gifts, that are not investment income.

**Example.** T organization reported the following amounts in its Support Schedule for the 4-year period 2001 through 2004:

Line	(e) Total
15	Gifts, grants & contributions . . . \$45,000
16	Membership fees . . . . . 50,000
17	Gross receipts from admissions, merchandise, etc. . . . . 25,000
18	Gross income from interest, dividends, etc. . . . . <u>80,000</u>
23	Total of lines 15 through 22 . . . \$200,000
27a	Gifts from disqualified persons . . . \$25,000
b	Excess gross receipts from nondisqualified persons . . . . . \$20,000

T organization determined whether or not it met the one-third tests of section 509(a)(2) in the following computation:

**Section 509(a)(2) computation: Line**

27c	Add: Amounts from column (e), lines 15, 16, 17, 20, and 21 . . . . .	\$120,000
27d	Total of line 27a . . . . .	\$25,000
	Total of line 27b . . . . .	<u>20,000</u>
		<u>45,000</u>
27e	Public support (line 27c minus line 27d total) . . . . .	\$75,000
27f	Total support (line 23, column (e)) . . . . .	\$200,000
27g	Public support percentage (line 27e divided by line 27f—\$75,000/\$200,000) . . . . .	<b>37.50%</b>
27h	Investment income percentage (line 18 divided by line 27f—\$80,000/\$200,000) . . . . .	<b>40.00%</b>

T organization received 37.50% of its total support from the public and thus met the more-than-one-third test of public support to total support. T organization's investment income percentage was 40.00%. Therefore, it did not meet the second part of the section 509(a)(2) test—the not-more-than-one-third of total support from gross investment income and net unrelated business taxable income.

Since T organization did not satisfy both of the one-third tests of section 509(a)(2), it failed the section 509(a)(2) public support test for this year. An organization that fails the public support test for 2 consecutive years loses its public charity status and becomes a private foundation.

**Line 13. Supporting Organization.**

Check the box at the beginning of line 13 that describes the organization type and complete columns (a) and (b) for a supporting organization operated only for the benefit of and in connection with organizations listed in lines 5 through 12, or with organizations described in section 501(c)(4), (5), or (6) that meet the tests of section 509(a)(2) (described in line 12). General principles governing supporting organizations are described in Regulations section 1.509(a)-4.

For column (b), identify the organization supported if it is included in lines 5 through 12. For example, if your organization supported a hospital, enter "7" in column (b).

**Organization Type.** The information below, describes a Type 1, Type 2, or a Type 3, supporting organization.

- Type 1 supporting organization is operated, supervised, or controlled by one or more supported organizations.
- Type 2 supporting organization is supervised or controlled in connection with the supported organization.
- Type 3 supporting organization is operated in connection with one or more publicly supported organizations.

See Schedule D (Form 1023) and its instructions and Regulations section 1.509(a)-4 for more information.

**Line 14. Organization Operated to Test for Public Safety.** Check the box on line 14 only if the organization has received a ruling from the IRS that it is organized and operated primarily to test for public safety.

**Part IV-A. Support Schedule**

Complete the *Support Schedule* if a box on line 10, 11, or 12 was checked.

**Note.** The *Support Schedule* must be completed on the cash method of accounting.

For example, if a grantor makes a grant to an organization payable over a term of years, such grant will be includible in the support fraction of the grantee organization only when and to the extent

amounts payable under the grant are received by the grantee.

If the organization uses the accrual method of accounting, a worksheet such as the one that follows may be used to convert any revenue account from an accrual basis to a cash basis.

**Worksheet to convert a revenue account from the accrual to the cash basis**

1. Revenue per books (accrual basis) . . . . .	_____
2. Add:	
a. Beginning-of-year entry (if any) reversing accrual of income at the end of the prior year; and . . . . .	_____
b. Any amounts collected during the year that were not credited to the revenue account in the current year	_____
3. Subtotal . . . . .	_____
4. Less:	
Income accrued during the current year but not collected as of the end of the year . . . . .	_____
5. Revenue on a cash basis	_____

If the organization has not existed during the whole period the *Support Schedule* covers, fill in the information for the years that apply. If the organization's status is based on years not shown in the *Support Schedule*, attach an additional schedule for the other years.

**Lines 15, 16, 17, 26, and 27.** See *Part IV, Definitions*. See also Regulations section 1.509(a)-3 for the:

1. Distinction between gross receipts from gifts and contributions, grants, and gross investment income, and
2. Definition of membership fees and a bureau or similar agency of a governmental unit.

**Note.** Organizations completing line 26 should note the instructions and examples for lines 10 or 11 regarding the public support test applicable to their type of organization.

Organizations completing line 27 should note the instructions and examples for line 12 for guidance in computing their public support test.

**Line 17. Gross Receipts From Activities Related to Organization's Charitable, etc., Purpose.** Include income generated by the organization's exempt function activities (charitable, educational, etc.) and by its nontaxable fundraising events (excluding any

**Line 26b Example**

Amount on line 26a of 2005 Schedule A (2% limitation) . . . . .							\$12,000
<b>Contributors whose total gifts from 2001 through 2004 were in excess of the 2% limitation</b>							
(a) Name	(b) 2001	(c) 2002	(d) 2003	(e) 2004	(f) Total	(g) Excess contributions (col. (f) less the 2% limitation)	
XYZ Foundation			\$59,000	\$ 3,000	\$62,000	\$50,000	
Apple Office Supply	\$12,000			3,000	15,000	3,000	
Plum Corporation			15,000	15,000	30,000	18,000	
John Smith	5,000	\$5,000	5,000	1,000	16,000	4,000	
Sue Adams		10,000		10,000	20,000	8,000	
Apple Trade Assoc.			20,000	7,000	27,000	15,000	
<b>Total</b> (Carry the total of column (g) to line 26(b) of the 2005 Schedule A (Form 990 or 990-EZ)).						\$98,000	



contributions received, which are reported on line 15).

Examples include income from:

1. Ticket sales to performances by a symphony orchestra,
2. Raffles, bingo, or
3. Fundraising events, income from which is not taxable as unrelated business income because:
  - Substantially all the work is performed without compensation, or
  - Carried on by the organization primarily for the convenience of its members, or
  - Consists of the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions (section 513(a)(1), (2), or (3)).

**Line 26b. Contributions in Excess of the 2% Limitation.** Prepare a list for your files to show the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 2001 through 2004 exceeded the amount shown in line 26a. (Do not file this list with your return.) Enter the total of all these excess amounts on line 26b. An example of such a list for line 26b is given below.

**Line 27a. Contributions, Membership Fees, and Gross Receipts From Disqualified Persons.** For amounts included in lines 15, 16, and 17 that were received from a disqualified person, prepare a list for your records to show the name of, and total amounts received in each year from each disqualified person. (Do not file this list with your return.) Enter the sum of such amounts for each year. An example of such a list for line 27a is given below.

**Line 27a Example**

(a) Name	(b) 2004	(c) 2003	(d) 2002	(e) 2001	(f) Total
David Smith	\$7,000	\$6,000			\$13,000
Anne Parker			\$5,000	\$7,000	\$12,000
<b>Total</b>	\$7,000	\$6,000	\$5,000	\$7,000	\$25,000

▶ Enter the total for each year of columns (b) through (e) on line 27a, 2005 Schedule A (Form 990 or 990-EZ).

▶ Enter the total of column (f) on the line 27a entry space for line 27d, 2005 Schedule A (Form 990 or 990-EZ).

**Line 27b. Gross Receipts From Other Than Disqualified Persons.** For any amount included in line 17 that was received from each person (other than disqualified persons) prepare a list for your records to show the name of, and amount received for each year, that was more than the larger of:

1. The amount on line 25 for the year, or

2. \$5,000.

After computing the difference between the amount received and the larger amount described in 1 or 2, enter the sum of these differences (the excess amounts) for each year. An example of such a list for line 27b is given below for the year 2004 entry line. Prepare similar lists to determine excess amounts for the other entry lines of 27b. (Do not file these lists with your return.)

**Line 27b Example**

Year 2004				
(a) Name	(b) Amount received in (2004)	(c) Amount on line 25 for (2004)	(d) Enter the larger of column (c) or \$5000	(e) Year (2004) Excess (column (b) less column (d))
Word Processing, Inc.	\$25,000	\$2,000	\$5,000	\$20,000
<b>Enter the total for column (e) on line 27b for the year (2004) entry space . . .</b>				\$20,000

**Line 28. Unusual Grants.** Unusual grants generally are substantial contributions and bequests from disinterested persons and are:

1. Attracted because of the organization's publicly supported nature,
2. Unusual and unexpected because of the amount, and
3. Large enough to endanger the organization's status as normally meeting the support test described in the instructions for lines 10, 11, and 12.

A grant that meets these terms may be treated as an unusual grant (that is disregarded entirely in the public support computation) even if the organization receives the funds over a period of years. In the list of unusual grants, show only what the organization received during the year.

Do not treat gross investment income items as unusual grants. Instead, include all investment income in support.

See Rev. Rul. 76-440, 1976-2 C.B. 58 and Regulations sections 1.170A-9(e)(6)(ii) and 1.509(a)-3(c)(3) and (4) for details about unusual grants.

For an organization described in lines 10, 11, or 12 that received any unusual grants during 2001 through 2004, prepare a list for your records to show, for each year, the name of the contributor, the date and amount of the grant, and a brief description of the grant. (Do not file this list with your return.) Do not include these grants in line 15. An example for such a list for line 28 is given below.

**Line 28 Example**

Year ▶ 2004	Description
<b>Name ▶</b> Mr. Disinterested Donor	Undeveloped land – (Volume 578, page xxx, Dept. of Land Records, Jefferson County, Ohio)
<b>Date of Grant ▶</b> January 15, 2004	
<b>Amount of Grant ▶</b> \$6,000	

**Part V. Private School Questionnaire**

All schools that checked the box on line 6, Part IV, must complete Part V. Relevant parts of Rev. Proc. 75-50, 1975-2 C.B. 587 are given below. The revenue procedure gives guidelines and recordkeeping requirements for determining whether private schools that are recognized as exempt from tax have racially nondiscriminatory policies toward their students.

**4.01 Organizational requirements.** A school must include a statement in its charter, bylaws, or other governing instrument, or in a resolution of its governing body, that it has a racially nondiscriminatory policy as to students and therefore does not discriminate against applicants and students on the basis of race, color, and national or ethnic origin.

**4.02 Statement of policy.** Every school must include a statement of its racially nondiscriminatory policy as to students in all its brochures and catalogues dealing with student admissions, programs, and scholarships. A statement substantially similar to the Notice described in paragraph (a) of subsection 1 of section 4.03, *infra*, will be acceptable for this purpose. Further, every school must include a reference to its racially nondiscriminatory policy in other written advertising that it uses as a means of informing prospective students of its programs. The following references will be acceptable:

The (name) school admits students of any race, color, and national or ethnic origin.

**4.03 Publicity.** The school must make its racially nondiscriminatory policy known to all segments of the general community served by the school.

1. The school must use one of the following two methods to satisfy this requirement:

(a) The school may publish a notice of its racially nondiscriminatory policy in a newspaper of general circulation that serves all racial segments of the community. This publication must be repeated at least once annually during the period of the school's solicitation for students or, in the absence of a

solicitation program, during the school's registration period. Where more than one community is served by a school, the school may publish its notice in those newspapers that are reasonably likely to be read by all racial segments of the communities that it serves. The notice must appear in a section of the newspaper likely to be read by prospective students and their families and it must occupy at least three column inches. It must be captioned in at least 12 point boldface type as a notice of nondiscriminatory policy as to students, and its text must be printed in at least 8 point type. The following notice will be acceptable:

### Notice Of Nondiscriminatory Policy As To Students

*The (name) school admits students of any race, color, national and ethnic origin to all the rights, privileges, programs, and activities generally accorded or made available to students at the school. It does not discriminate on the basis of race, color, national and ethnic origin in administration of its educational policies, admissions policies, scholarship and loan programs, and athletic and other school-administered programs.*

(b) The school may use the broadcast media to publicize its racially nondiscriminatory policy if this use makes such nondiscriminatory policy known to all segments of the general community the school serves. If this method is chosen, the school must provide documentation that the means by which this policy was communicated to all segments of the general community was reasonably expected to be effective. In this case, appropriate documentation would include copies of the tapes or script used and records showing that there was an adequate number of announcements, that they were made during hours when the announcements were likely to be communicated to all segments of the general community, that they were of sufficient duration to convey the message clearly, and that they were broadcast on radio or television stations likely to be listened to by substantial numbers of members of all racial segments of the general community. Announcements must be made during the period of the school's solicitation for students or, in the absence of a solicitation program, during the school's registration period.

Communication of a racially nondiscriminatory policy as to students by a school to leaders of racial groups as the sole means of publicity generally will not be considered effective to make the policy known to all segments of the community.

2. The requirements of subsection 1 of this section will not apply when one of the following paragraphs applies:

(a) If for the preceding 3 years the enrollment of a parochial or other church-related school consists of students at least 75% of whom are members of the sponsoring religious denomination or unit, the school may make known its racially nondiscriminatory policy in whatever newspapers or circulars the religious denomination or unit utilizes in the communities from which the students are drawn. These newspapers and circulars may be those distributed by a particular religious denomination or unit or by an association that represents a number of religious organizations of the same denomination. If, however, the school advertises in newspapers of general circulation in the community or communities from which its students are drawn and paragraphs (b) and (c) of this subsection are not applicable to it, then it must comply with paragraph (a) of subsection 1 of this section.

(b) If a school customarily draws a substantial percentage of its students nationwide or worldwide or from a large geographic section or sections of the United States and follows a racially nondiscriminatory policy as to students, the publicity requirement may be satisfied by complying with section 4.02, *supra*. Such a school may demonstrate that it follows a racially nondiscriminatory policy within the meaning of the preceding sentence either by showing that it currently enrolls students of racial minority groups in meaningful numbers or, when minority students are not enrolled in meaningful numbers, that its promotional activities and recruiting efforts in each geographic area were reasonably designed to inform students of all racial segments in the general communities within the area of the availability of the school. The question whether a school satisfies the preceding sentence will be determined on the basis of the facts and circumstances of each case.

(c) If a school customarily draws its students from local communities and follows a racially nondiscriminatory policy as to students, the publicity requirement may be satisfied by complying with section 4.02, *supra*. Such a school may demonstrate that it follows a racially nondiscriminatory policy within the meaning of the preceding sentence by showing that it currently enrolls students of racial minority groups in meaningful numbers. The question whether a school satisfies the preceding sentence will be determined on the basis of the facts and circumstances of each case. One of the facts and circumstances that the Service will consider is whether the school's promotional activities and recruiting efforts in each area were reasonably designed to inform students of all racial segments in the general communities within the area of the availability of the

school. The Service recognizes that the failure by a school drawing its students from local communities to enroll racial minority group students may not necessarily indicate the absence of a racially nondiscriminatory policy as to students when there are relatively few or no such students in these communities. Actual enrollment is, however, a meaningful indication of a racially nondiscriminatory policy in a community in which a public school or schools became subject to a desegregation order of a Federal court or otherwise expressly became obligated to implement a desegregation plan under the terms of any written contract or other commitment to which any Federal agency was a party.

The Service encourages schools to satisfy the publicity requirement by the methods described in subsection 1 of this section, regardless of whether a school considers itself within subsection 2, because it believes these methods to be the most effective to make known a school's racially nondiscriminatory policy. In this regard it is each school's responsibility to determine whether paragraph (a), (b), or (c) of subsection 2 applies to it. On audit, a school must be prepared to demonstrate that the failure to publish its racially nondiscriminatory policy in accordance with subsection 1 of this section was justified by the application to it of paragraph (a), (b), or (c) of subsection 2. Further, a school must be prepared to demonstrate that it has publicly disavowed or repudiated any statements purported to have been made on its behalf (after November 6, 1975) that are contrary to its publicity of a racially nondiscriminatory policy as to students, to the extent that the school or its principal official were aware of such statements.

**4.04 Facilities and programs.** A school must be able to show that all of its programs and facilities are operated in a racially nondiscriminatory manner.

**4.05 Scholarship and loan programs.** As a general rule, all scholarship or other comparable benefits procurable for use at any given school must be offered on a racially nondiscriminatory basis. Their availability on this basis must be known throughout the general community being served by the school and should be referred to in the publicity required by this section in order for that school to be considered racially nondiscriminatory as to students. . . . [S]cholarships and loans that are made pursuant to financial assistance programs favoring members of one or more racial minority groups that are designed to promote a school's racially nondiscriminatory policy will not adversely affect the school's exempt status. Financial assistance programs favoring members of one or more racial groups that do not significantly derogate from the school's racially nondiscriminatory policy similarly will not adversely affect the school's exempt status.



**4.06 Certification.** An individual authorized to take official action on behalf of a school that claims to be racially nondiscriminatory as to students is required to certify annually, under penalties of perjury, that to the best of his or her knowledge and belief the school has satisfied the applicable requirements of sections 4.01 through 4.05 of the Rev. Proc. *This certification is line 35 in Part V.*

**4.07 Faculty and staff.** The existence of a racially discriminatory policy with respect to employment of faculty and administrative staff is indicative of a racially discriminatory policy as to students. Conversely, the absence of racial discrimination in employment of faculty and administrative staff is indicative of a racially nondiscriminatory policy as to students.

**7.01 Specific records.** Except as provided in section 7.03, each exempt private school must maintain for a minimum period of three years, beginning with the year after the year of compilation or acquisition, the following records for the use of the Service on proper request:

1. Records indicating the racial composition of the student body, faculty, and administrative staff for each academic year.
2. Records sufficient to document that scholarship and other financial assistance is awarded on a racially nondiscriminatory basis.
3. Copies of all brochures, catalogues, and advertising dealing with student admissions, programs, and scholarships. Schools advertising nationally or in a large geographic segment or segments of the United States need only maintain a record sufficient to indicate when and in what publications their advertisements were placed.
4. Copies of all materials used by or on behalf of the school to solicit contributions.

#### **7.02 Limitation.**

1. For purposes of section 7.01, the racial composition of the student body, faculty, and administrative staff may be an estimate based on the best information readily available to the school, without requiring student applicants, students, faculty, or administrative staff to submit information to the school that the school otherwise does not require. For each academic year, however, a record of the method by which racial composition is determined must be maintained. . . .

2. The Service does not require that a school release personally identifiable records or personal information contained therein except in accordance with the requirements of the "Family Educational Rights and Privacy Act of 1974," 20 U.S.C. section 1232g (1974). Similarly, the Service does not require a school to keep records the maintenance of which is prohibited under state or federal law.

**7.03 Exceptions.** The records described in section 7.01 need not be independently maintained for Internal Revenue Service use if:

1. Substantially the same information that each of these records would provide has been included in a report or reports filed in accordance with law with an agency or agencies of Federal, state, or local government, and this information is current within one year, and
2. The school maintains copies of these reports from which this information is readily obtainable. Records described in section 7.01 providing information not included in reports filed with an agency or agencies must be maintained by the school for Service use.

#### **7.04 Failure to maintain records.**

Failure to maintain or to produce upon the proper request the required records and information will create a presumption that the organization has failed to comply with these guidelines.

## **Part VI-A. Lobbying Expenditures by Electing Public Charities**

Complete Part VI-A only for an eligible organization that elected to be subject to the lobbying expenditure limitations of section 501(h) by filing Form 5768 and for which the election was valid and in effect for its tax year beginning in the year 2005.

A public charity that makes a valid section 501(h) election may spend up to a certain percentage of its exempt purpose expenditures to influence legislation without incurring tax or losing its tax-exempt status.

**Expenditure test.** Under the expenditure test, there are limits both upon the amount of the organization's grassroots lobbying expenditures and upon the total amount of its direct lobbying and grassroots lobbying expenditures. If the electing public charity does not meet this expenditure test, it will owe a section 4911 excise tax on its excess lobbying expenditures. Moreover, if over a 4-year averaging period the organization's average annual total lobbying or grassroots lobbying expenditures are more than 150% of its dollar limits, the organization will lose its exempt status.

The following terms are used in Part VI-A. See Regulations section 56.4911 for details.

**Exempt purpose expenditures.** The amount an electing public charity may spend on lobbying (without incurring tax) is a scaled percentage of the organization's exempt purpose expenditures. In general, an expenditure is an exempt purpose expenditure if it is paid or incurred by an electing public charity to accomplish the organization's exempt purpose.

In general, exempt purpose expenditures are:

1. The total amount paid or incurred for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition (not including providing athletic facilities or equipment, other than by qualified amateur sports organizations described in section 501(j)(2)),
2. The allocable portion of administrative expenses paid or incurred for the above purposes,
3. Amounts paid or incurred to try to influence legislation, whether or not for the purposes described in 1 above,
4. Allowance for depreciation or amortization, and
5. Fundraising expenditures, except that exempt purpose expenditures do not include amounts paid to or incurred for either the organization's separate fundraising unit or other organizations, if the amounts are primarily for fundraising.

See also Regulations section 56.4911-4(c) for a discussion of excluded expenditures.

**Lobbying expenditures.** The term *lobbying expenditures* means expenditures paid or incurred for the purpose of attempting to influence legislation:

- Through communication with any member or employee of a legislative body, or with any government official or employee who may participate in the formulation of the legislation, and
- By attempting to affect the opinions of the general public.

To determine if an organization has spent excessive amounts on lobbying, you must know which expenditures are lobbying expenditures and which are not lobbying expenditures. An electing public charity's lobbying expenditures for a year are the sum of its expenditures during that year for (1) direct lobbying communications (direct lobbying expenditures) plus (2) grassroots lobbying communications (grassroots expenditures).

**Direct lobbying communications (direct lobbying expenditures).** A direct lobbying communication is any attempt to influence any legislation through communication with any:

- Member or employee of a legislative body, or
- Government official or employee (other than a member or employee of a legislative body) who may participate in the formulation of the legislation, but only if the principal purpose of the communication is to influence legislation.

A communication with a legislator or government official will be treated as a direct lobbying communication, if, but only if, the communication:

- Refers to specific legislation, and
- Reflects a view on such legislation.

**Grassroots lobbying communications (grassroots expenditures).** A grassroots lobbying communication is any attempt to influence any legislation through an attempt to affect the opinions of the general public or any part of the general public.

A communication is generally not a grassroots lobbying communication unless (in addition to referring to specific legislation and reflecting a view on that legislation) it encourages recipients to take action about the specific legislation.

A communication encourages a recipient to take action when it:

(1) States that the recipient should contact legislators;

(2) States a legislator's address, phone number, etc.;

(3) Provides a petition, tear-off postcard, or similar material for the recipient to send to a legislator; or

(4) Specifically identifies one or more legislators who:

- Will vote on legislation;
- Opposes the communication's view on the legislation;
- Is undecided about the legislation;
- Is the recipient's representative in the legislature; or
- Is a member of the legislative committee that will consider the legislation.

A communication described in (4) above generally is grassroots lobbying only if, in addition to referring to and reflecting a view on specific legislation, it is a communication that cannot meet the full and fair exposition test as nonpartisan analysis, study, or research.

**Communication with members.** For purposes of section 4911, expenditures for certain communications between an organization and its members are treated more leniently than are communications to nonmembers. Expenditures for a communication that refers to, and reflects a view on, specific legislation are not lobbying expenditures if the communication satisfies the following requirements:

1. The communication is directed only to members of the organization,
2. The specific legislation the communication refers to, and reflects a view on, is of direct interest to the organization and its members,
3. The communication does not directly encourage the member to engage in direct lobbying (whether individually or through the organization), and
4. The communication does not directly encourage the member to engage in grassroots lobbying (whether individually or through the organization).

Expenditures for a communication directed only to members that refers to, and reflects a view on, specific legislation and that satisfies the requirements of

paragraphs 1, 2, and 4, but does not satisfy the requirements of paragraph 3, are treated as expenditures for direct lobbying.

Expenditures for a communication directed only to members that refers to, and reflects a view on, specific legislation and satisfies the requirements of paragraphs 1 and 2, but does not satisfy the requirements of paragraph 4, are treated as grassroots expenditures, whether or not the communication satisfies the requirements of paragraph 3.

See Regulations section 56.4911-5 for details.

There are special rules regarding certain paid mass media advertisements about highly publicized legislation; allocation of mixed purpose expenditures; certain transfers treated as lobbying expenditures and special rules regarding lobbying on referenda, ballot initiatives, and similar procedures (see Regulations sections 56.4911-2 and -3).

**Legislation.** In general, the term *legislation* includes Acts, bills, resolutions, or similar items. *Specific legislation* includes both legislation that has already been introduced in a legislative body and a specific legislative proposal that the organization either supports or opposes.

**Exceptions to the definitions of direct lobbying communication and/or grassroots lobbying communication.**

In general, engaging in nonpartisan analysis, study, or research and making its results available to the general public or segment or members thereof, or to governmental bodies, officials, or employees is not considered either a direct lobbying communication or a grassroots lobbying communication. Nonpartisan analysis, study, or research may advocate a particular position or viewpoint as long as there is a sufficiently full and fair exposition of the pertinent facts to enable the public or an individual to form an independent opinion or conclusion.

A communication that responds to a governmental body's or committee's written request for technical advice is not a direct lobbying communication.

A communication is not a direct lobbying communication if the communication is an appearance before, or communication with, any legislative body whose action might affect the organization's existence, its powers and duties, its tax-exempt status, or the deductibility of contributions to the organization, as opposed to affecting merely the scope of the organization's future activities.

**Affiliated groups.** Treat members of an affiliated group as a single organization to measure lobbying expenditures and permitted lobbying expenditures.

Two organizations are affiliated if one is bound by the other organization's decisions on legislative issues (control) or if enough representatives of one belong to the other organization's governing

board to cause or prevent action on legislative issues (interlocking directorate).

If you are not sure whether your group is affiliated, you may ask the IRS for a ruling letter. There is a fee for this ruling.

For information on requesting rulings, see Rev. Proc. 2005-4, 2005-1 I.R.B. 128.

Members of an affiliated group measure both lobbying expenditures and permitted lobbying expenditures on the basis of the affiliated group's tax year. If all members of the affiliated group have the same tax year, that year is the tax year of the affiliated group.

However, if the affiliated group's members have different tax years, the tax year of the affiliated group is the calendar year, unless all the members of the group elect otherwise. See Regulations section 56.4911-7(e)(3).

If the electing organization belongs to an affiliated group, complete in Part VI-A, lines 36 through 44:

- Column (a) for the affiliated group as a whole, and
- Column (b) for the electing member of the group.

If there are no excess lobbying expenditures on either line 43 or 44 of column (a), treat each electing member as having no excess lobbying expenditures.

However, if there are excess lobbying expenditures on either line 43 or 44 of column (a), treat each electing member as having excess lobbying expenditures. In such case, each electing member must file Form 4720, Return of Certain Excise Taxes on Charities and Other Persons Under Chapters 41 and 42 of the Internal Revenue Code, and must pay the tax on its proportionate share of the affiliated group's excess lobbying expenditures.

To find a member's proportionate share, see Regulations section 56.4911-8(d). Enter the proportionate share in column (b) on line 43 or line 44, or on both lines.

**Attached schedule.** Attach a schedule showing each affiliated group member's name, address, EIN, and expenses. Use the format of Part VI-A for this schedule. Show which members elected and which did not.

Include each electing member's share of the excess lobbying expenditures on the attached schedule. Nonelecting members do not owe tax, but remain subject to the general rule, which provides that no substantial part of their activities may consist of carrying on propaganda or otherwise trying to influence legislation.

**Limited control.** If two organizations are affiliated because their governing instruments provide that the decisions of one will control the other only on national legislation, apply expenditures as follows:

- Charge the controlling organization with its own lobbying expenditures and the



national legislation expenditures of the affiliated organizations.

- Do not charge the controlling organization with other lobbying expenditures (or other exempt-purpose expenditures) of the affiliated organizations, and
- Treat each local organization as though it were not a member of an affiliated group; i.e., the local organization should account for its own expenditures only and not any of the national legislation expenditures deemed as incurred by the controlling organization.

When this type of limited control is present, each member of the affiliated group should complete column (b) only.

**Group returns.** Although membership in a group affiliated for lobbying does not establish eligibility to file a group return, a group return can sometimes meet the filing requirements of more than one member of an affiliated group. (*General Instruction R* of the Instructions for Form 990 and Form 990-EZ explains who may file a group return.)

If a central or parent organization files a group return on behalf of two or more members of the group, complete column (a), Part VI-A, for the affiliated group as a whole. Include the central, electing, and nonelecting members.

In column (b), except on lines 43 and 44, include the amounts that apply to all electing members of the group if they are included in the group return.

Attach the schedule described above under *Affiliated groups*. Show what amounts apply to each group member.

If the group return includes organizations that belong to more than one affiliated group, show in column (a) the totals for all such groups. On the attached schedule, show the amounts that apply to each affiliated group and to each group member.

If the parent organization has made the lobbying expenditure election, its separate return must also show in column (a) the amounts that apply to the affiliated group as a whole and, in column (b), the amounts that apply to the parent organization only.

A subordinate organization not included in the group return would also complete column (a) for the affiliated group as a whole and column (b) for itself only.

However, if limited control (defined above) exists, complete only column (b) in Part VI-A of the group return for the electing members in the group.

Attach a schedule to show the amounts that apply to each electing member.

In the separate returns filed by the parent and by any subordinate organizations not included in the group return, complete only column (b).

**Lines 36 through 44.** Complete column (b) for any organization using Part

VI-A but complete column (a) only for affiliated groups.

Use lines 36 through 44 to determine whether any of the organization's current year lobbying expenditures are subject to tax. File Form 4720 if you need to report and pay the excise tax.

**Lines 45 through 50.** Lines 45 through 50 are used to determine if the organization exceeded lobbying expenditure limits during the 4-year averaging period.

Any organization for which a lobbying expenditure election under section 501(h) was in effect for its tax year beginning in 2005 must complete columns (a) through (e) of lines 45 through 50 except in the following situations.

1. An organization first treated as a section 501(c)(3) organization in its tax year beginning in 2005 does not have to complete any part of lines 45 through 50.
2. An organization does not have to complete lines 45 through 50 for any period before it is first treated as a section 501(c)(3) organization.
3. If 2005 is the first year for which an organization's first section 501(h) election is effective, that organization must complete line 45, columns (a) and (e).

The organization must then complete all of column (e) to determine whether the amount on line 47, column (e), is equal to or less than the lobbying ceiling amount calculated on line 46 and whether the amount on line 50 is equal to or less than the grassroots ceiling amount calculated on line 49.

The organization does not satisfy both tests if either its total lobbying expenditures or grassroots lobbying expenditures exceed the applicable ceiling amounts. When this occurs, all five columns must be completed and a recomputation made unless exception 1 or 2 above applies.

4. If 2005 is the second or third tax year for which the organization's first section 501(h) election is in effect, that organization is required to complete only the columns for the years in which the election has been in effect, entering the totals for those years in column (e).

The organization must determine, for those 2 or 3 years, whether the amount entered in column (e), line 47, is equal to or less than the lobbying ceiling amount reported on line 46, and whether the amount entered in column (e), line 50, is equal to or less than the grassroots ceiling amount calculated on line 49.

The organization does not satisfy both tests if either its total lobbying expenditures or grassroots lobbying expenditures exceed applicable ceiling amounts. When that occurs, all five columns must be completed and a recomputation made, unless exception 1 or 2 above applies.

If the organization is not required to complete all five columns, attach a statement explaining why. In the

statement, show the ending date of the tax year in which the organization made its first section 501(h) election and state whether or not that first election was revoked before the start of the organization's tax year that began in 2005.

**Note.** If the organization belongs to an affiliated group, enter the appropriate affiliated group totals from column (a), lines 36 through 44, when completing lines 45, 47, 48, and 50.

**Line 45. Lobbying nontaxable amount.** For 2002 through 2005, enter the amount from line 41 of the Schedule A (Form 990 or 990-EZ) filed for each year.

**Line 47. Total lobbying expenditures.** For 2002 through 2005, enter the amount from line 38 of the Schedule A (Form 990 or 990-EZ) filed for each year.

**Line 48. Grassroots nontaxable amount.** For 2002 through 2005, enter the amount from line 42 of the Schedule A (Form 990 or 990-EZ) filed for each year.

**Line 50. Grassroots lobbying expenditures.** For 2002 through 2005, enter the amount from line 36 of the Schedule A (Form 990 or 990-EZ) filed for each year.


## Part VI-B. Lobbying Activity by Nonelecting Public Charities

The Part VI-A instructions defining direct and grassroots lobbying activities by organizations that made the section 501(h) election do not apply to nonelecting organizations that complete Part VI-B.

Part VI-B provides a reporting format for any organization that engaged in lobbying activities in its 2005 tax year but did not make a section 501(h) lobbying expenditure election for that year by filing Form 5768.

A nonelecting public charity will generally be regarded as lobbying if the organization either: (1) contacts, or urges the public to contact, members of a legislative body for the purpose of proposing, supporting, or opposing legislation or the government's budget process; or (2) advocates the adoption or rejection of legislation.

Nonelecting organizations must complete Part VI-B to show lobbying expenditures paid or incurred.

 *In item g, direct contact means a personal telephone call or visit with legislators, their staffs, or government officials.*

These nonelecting organizations must also attach a statement giving a detailed description of their lobbying activities. The detailed description of lobbying activities should include all lobbying activities, whether expenses are incurred or not



(e.g., even lobbying activities carried out by unreimbursed volunteers).

For example, the activities should be included in the attached statement if an organization (either through its employees or volunteers) attempts to influence legislation in any of the following ways:

- Sending letters or publications to government officials or legislators,
- Meeting with or calling government officials or legislators,
- Sending or distributing letters or publications (including newsletters, brochures, etc.) to members or to the general public, or
- Using direct mail, placing advertisements, issuing press releases, holding news conferences, or holding rallies or demonstrations.

## Part VII. Information Regarding Transfers To and Transactions and Relationships With Noncharitable Exempt Organizations

Part VII is used to report direct and indirect transfers to (line 51a), direct and indirect transactions with (line 51b), and relationships with (line 52) any other noncharitable exempt organization (section 6033(b)(9)).

A *noncharitable exempt organization* is an organization exempt under section 501(c) (that is not exempt under section 501(c)(3)), or a political organization described in section 527.

For purposes of these instructions, the section 501(c)(3) organization completing this Schedule A (Form 990 or 990-EZ) is referred to as the *reporting organization*.

A noncharitable exempt organization is related to or affiliated with the reporting organization if:

1. The two organizations share some element of common control, or
2. A historic and continuing relationship exists between the two organizations.

A noncharitable exempt organization is unrelated to the reporting organization if:

1. The two organizations share no element of common control, and
2. A historic and continuing relationship does not exist between the two organizations.

An *element of common control* is present when one or more of the officers, directors, or trustees of one organization are elected or appointed by the officers, directors, trustees, or members of the other. An element of common control is also present when more than 25% of the officers, directors, or trustees of one organization serve as officers, directors, or trustees of the other organization.

A historic and continuing relationship exists when two organizations participate in a joint effort to work in concert toward the attainment of one or more common purposes on a continuous or recurring basis rather than on the basis of one or several isolated transactions or activities. Such a relationship also exists when two organizations share facilities, equipment, or paid personnel during the year, regardless of the length of time the arrangement is in effect.

**Line 51. Reporting of certain transfers and transactions.** Except as provided below, report on line 51 any transfer to or transaction with a noncharitable exempt organization even if the transfer or transaction constitutes the only connection with the noncharitable exempt organization.

**Related organizations.** If the noncharitable exempt organization is related to or affiliated with the reporting organization, report all direct and indirect transfers and transactions except for contributions and grants received by the reporting organization.

**Unrelated organizations.** All transfers from the reporting organization to an unrelated noncharitable exempt organization must be reported on line 51a. All transactions between the reporting organization and an unrelated noncharitable exempt organization must be shown on line 51b unless they meet the *Exception* in the specific instructions for that line.

**Line 51a. Transfers.** Answer “Yes” to lines 51a(i) and 51a(ii) if the reporting organization made any direct or indirect transfers of any value to a noncharitable exempt organization.

A *transfer* is any transaction or arrangement whereby one organization transfers something of value (cash, other assets, services, use of property, etc.) to another organization without receiving something of more than nominal value in return. Contributions, gifts, and grants are examples of transfers.

If the only transfers between the two organizations were contributions and grants made by the noncharitable exempt organization to the reporting organization, answer “No.”

**Line 51b. Other transactions.** Answer “Yes” for any transaction described in lines 51b(i) through (vi), regardless of its amount, if it is with a related or affiliated organization.

**Unrelated organizations.** Answer “Yes” for any transaction between the reporting organization and an unrelated noncharitable exempt organization, regardless of its amount, if the reporting organization received less than adequate consideration. There is adequate consideration where the fair market value of the goods, other assets, or services furnished by the reporting organization is not more than the fair market value of the goods, other assets or services received from the unrelated noncharitable exempt

organization. The *Exception* described below does not apply to transactions for less than adequate consideration.

Answer “Yes” for any transaction, including transfers for adequate consideration, between the reporting organization and an unrelated noncharitable exempt organization if the amount involved is more than \$500. The *amount involved* is the fair market value of the goods, services, or other assets furnished by the reporting organization.

**Exception.** If a transaction with an unrelated noncharitable exempt organization was for adequate consideration and the amount involved was \$500 or less, it is not necessary to answer “Yes” for that transaction.

**Line 51b(iii).** Answer “Yes” for transactions in which the reporting organization was either the lessor or the lessee.

**Line 51b(iv).** Answer “Yes” if either organization reimbursed expenses incurred by the other.

**Line 51b(v).** Answer “Yes” if either organization made loans to the other or if the reporting organization guaranteed the other’s loans.

**Line 51b(vi).** Answer “Yes” if either organization performed services or membership or fundraising solicitations for the other.

**Line 51c.** Complete line 51c regardless of whether the noncharitable exempt organization is related to or closely affiliated with the reporting organization. For the purposes of this line, *facilities* includes office space and any other land, building, or structure whether owned or leased by, or provided free of charge to, the reporting organization or the noncharitable exempt organization.

**Line 51d.** Use this schedule to describe the transfers and transactions for which you entered “Yes” on lines 51a through 51c above. You must describe each transfer or transaction for which you answered “Yes.” You may combine all of the cash transfers (line 51a(ii)) to each organization into a single entry. Otherwise, make a separate entry for each transfer or transaction.

**Column (a).** For each entry, enter the line number from lines 51a through 51c. For example, if you answered “Yes” to line 51b(iii), enter “b(iii)” in column (a).

**Column (d).** If you need more space, write “see attached” in column (d) and use an attached sheet for your description. If you are making more than one entry on line 51d, specify, on the attached sheet, which transfer or transaction you are describing.

**Line 52. Reporting of certain relationships.** Enter on line 52 each noncharitable exempt organization to or with which the reporting organization is related, or affiliated, as defined above. If the control factor or the historic and continuing relationship factor (or both) is present at any time during the year, you

must identify the organization on line 52 even if neither factor is present at the end of the year.

Do not enter unrelated noncharitable exempt organizations on line 52 even if you report transfers to or transactions with those organizations on line 51. For example, if you reported a one-time transfer to an unrelated noncharitable

exempt organization on line 51a(ii), you should not list the organization on line 52.

**Column (b).** Enter the exempt category of the organization; for example, 501(c)(4).

**Column (c).** In most cases, a simple description, such as common directors or auxiliary of reporting organization will be

sufficient. If you need more space, write "see attached" in column (c) and use a separate sheet to describe the relationship. If you list more than one organization on line 52, identify which organization you are describing on the attached sheet.

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