

Annual Filings: what to file & when

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Legal Center for Nonprofits, Inc.
February 19, 2016

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Scope of this Program

Following this program, you will:

- ⦿ Know which filings are required for your nonprofit organization annually.
- ⦿ Be able to identify and locate the appropriate forms.
- ⦿ Be aware of penalties for failure to make annual filings.

Types of Annual Filings

Three Agencies oversee nonprofits:

FEDERAL

Internal Revenue
Service, Exempt
Organizations Division

STATE

Attorney General's Office,
Division of Nonprofits &
Charities

and

Secretary of Commonwealth,
Corporations Division

Federal: IRS Information Return

Form 990 / 990-EZ / 990-N

Federal

Who must file?

Every organization exempt from federal income tax under IRC § 501(a) **EXCEPT** certain specified organizations:

- Churches
- Certain schools
- State & governmental institutions
- Certain political organizations

Federal

Which 990 Form to File?

Form to File

Gross receipts normally \leq \$50,000

Note: Organizations eligible to file the *e-Postcard* may choose to file a full return

990-N

Gross receipts $<$ \$200,000, and
Total assets $<$ \$500,000

990-EZ
or 990

Gross receipts \geq \$200,000, or
Total assets \geq \$500,000

990

Private foundation

990-PF

[http://www.irs.gov/Charities-&-Non-Profits/Form-990-Series-Which-Forms-Do-Exempt-Organizations-File%3F-\(Filing-Phase-In\)](http://www.irs.gov/Charities-&-Non-Profits/Form-990-Series-Which-Forms-Do-Exempt-Organizations-File%3F-(Filing-Phase-In))

Federal

By what date must the Information Return be filed?

4 1/2 months after the close of the fiscal year. For example, organizations with a calendar (i.e., January to December) fiscal year, must file by May 15.

The return for 2015 is due on May 15, 2016.

Federal

Late filing?

If organization cannot meet the due date, apply for an extension!

Form 8868 (Rev. January 2013) Department of the Treasury Internal Revenue Service	Application for Extension of Time To File an Exempt Organization Return ▶ File a separate application for each return.	OMB No. 1545-1709
<ul style="list-style-type: none">• If you are filing for an Automatic 3-Month Extension, complete only Part I and check this box ▶ <input type="checkbox"/>• If you are filing for an Additional (Not Automatic) 3-Month Extension, complete only Part II (on page 2 of this form). <p>Do not complete Part II unless you have already been granted an automatic 3-month extension on a previously filed Form 8868.</p> <p>Electronic filing (e-file). You can electronically file Form 8868 if you need a 3-month automatic extension of time to file (6 months for a corporation required to file Form 990-T), or an additional (not automatic) 3-month extension of time. You can electronically file Form 8868 to request an extension of time to file any of the forms listed in Part I or Part II with the exception of Form 8870, Information Return for Transfers Associated With Certain Personal Benefit Contracts, which must be sent to the IRS in paper format (see instructions). For more details on the electronic filing of this form, visit www.irs.gov/efile and click on <i>e-file for Charities & Nonprofits</i>.</p> <p>Part I Automatic 3-Month Extension of Time. Only submit original (no copies needed). A corporation required to file Form 990-T and requesting an automatic 6-month extension—check this box and complete Part I only ▶ <input type="checkbox"/></p> <p><i>All other corporations (including 1120-C filers), partnerships, REMICs, and trusts must use Form 7004 to request an extension of time to file income tax returns.</i></p>		

Filing late without extension may result in penalties (e.g., \$20 per day for each day late)!

Federal

Form 990	Return of Organization Exempt From Income Tax	OMB No. 1545-0047
Department of the Treasury Internal Revenue Service	Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)	2012 Open to Public Inspection
▶ The organization may have to use a copy of this return to satisfy state reporting requirements.		
A For the 2012 calendar year, or tax year beginning	, 2012, and ending	, 20
B Check if applicable:	C Name of organization	D Employer identification number
<input type="checkbox"/> Address change	Doing Business As	
<input type="checkbox"/> Name change	Number and street (or P.O. box if mail is not delivered to street address) Room/suite	E Telephone number
<input type="checkbox"/> Initial return		
<input type="checkbox"/> Terminated	City, town or post office, state, and ZIP code	
<input type="checkbox"/> Amended return		G Gross receipts \$
<input type="checkbox"/> Application pending	F Name and address of principal officer:	H(a) Is this a group return for affiliates? <input type="checkbox"/> Yes <input type="checkbox"/> No
		H(b) Are all affiliates included? <input type="checkbox"/> Yes <input type="checkbox"/> No If "No," attach a list. (see instructions)
I Tax-exempt status: <input type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527		H(c) Group exemption number ▶
J Website: ▶		
K Form of organization: <input type="checkbox"/> Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Association <input type="checkbox"/> Other ▶	L Year of formation:	M State of legal domicile:
Part I Summary		
1	Briefly describe the organization's mission or most significant activities:	

“Full” 990 (12 pages + schedules)

Federal

Form 990-EZ	Short Form Return of Organization Exempt From Income Tax Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation) ▶ Sponsoring organizations of donor advised funds, organizations that operate one or more hospital facilities, and certain controlling organizations as defined in section 512(b)(13) must file Form 990 (see instructions). All other organizations with gross receipts less than \$200,000 and total assets less than \$500,000 at the end of the year may use this form. ▶ <i>The organization may have to use a copy of this return to satisfy state reporting requirements.</i>	OMB No. 1545-1150
		2012 Open to Public Inspection
Department of the Treasury Internal Revenue Service	A For the 2012 calendar year, or tax year beginning _____, 2012, and ending _____, 20	
B Check if applicable: <input type="checkbox"/> Address change <input type="checkbox"/> Name change <input type="checkbox"/> Initial return <input type="checkbox"/> Terminated <input type="checkbox"/> Amended return <input type="checkbox"/> Application pending	C Name of organization _____ Number and street (or P.O. box, if mail is not delivered to street address) _____ Room/suite _____ City or town, state or country, and ZIP + 4 _____	D Employer identification number _____ E Telephone number _____ F Group Exemption Number ▶ _____
G Accounting Method: <input type="checkbox"/> Cash <input type="checkbox"/> Accrual Other (specify) ▶ _____	H Check ▶ <input type="checkbox"/> if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).	
I Website: ▶ _____	J Tax-exempt status (check only one) – <input type="checkbox"/> 501(c)(3) <input type="checkbox"/> 501(c) () ◀ (insert no.) <input type="checkbox"/> 4947(a)(1) or <input type="checkbox"/> 527	
K Check ▶ <input type="checkbox"/> if the organization is not a section 509(a)(3) supporting organization or a section 527 organization and its gross receipts are normally not more than \$50,000. A Form 990-EZ or Form 990 return is not required though Form 990-N (e-postcard) may be required (see instructions). But if the organization chooses to file a return, be sure to file a complete return.		

990-EZ (4 pages + schedules)

Federal

Schedules for 990 & 990-EZ

- 20+ additional schedules.
- Schedule A – all 501(c)(3) charities must complete; calculates public support.
- Other schedules depend on organization's specific information.



- Charitable Organizations
- Churches & Religious Organizations
- Political Organizations
- Private Foundations
- Other Non-Profits
- Contributors

Charities & Non-Profits Topics

- Life Cycle
- Search for Charities
- A-Z Site Index
- StayExempt.irs.gov
- Calendar of Events
- EO Update
- Exempt Organizations FAQs
- Charities & Non-Profits Home**

Information Needed to File e-Postcard



Completing the e-Postcard requires the eight items listed below:

1. [Employer identification number](#) (EIN), also known as a Taxpayer Identification Number (TIN).
2. [Tax year](#)
3. Legal name and mailing address
4. Any other names the organization uses
5. Name and address of a principal officer
6. Web site address if the organization has one
7. Confirmation that the organization's annual [gross receipts](#) are \$50,000 or less
8. If applicable, a statement that the organization has terminated or is terminating (going out of business)

Additional information:

[Form 990-N: Information Reported](#)

<http://www.irs.gov/Charities-&Non-Profits/Information-Needed-to-File-e-Postcard>

990-N Electronic Postcard (online filing)

Federal

990-N Filers (those organizations with gross receipts less than \$50,000):

- All small organizations must file some type of 990!
- Does NOT matter if organization had \$0 income! Must file anyway!

Federal

990-N Filers

- Includes organizations that were ***not*** required to APPLY for tax-exempt status (i.e., small organizations with gross receipts less than \$5,000).
- Includes organizations in fiscal sponsorship relationships that have their own EIN.

Federal

What happens if I fail to file an annual return or annual electronic notice?

“If an organization is required to file ... and fails to do so for three consecutive years, the organization will lose its tax-exempt status as of the filing due date of the third year.” --IRS

Federal

In a case of failure to file:

- Revocation is automatic “by operation of law” after 3 consecutive years of failing to file.
- Must apply for reinstatement via Form 1023 or 1024.
- Must pay user fee of either \$400 or \$850, depending on gross receipts.

Federal

In a case of failure to file:

- Organizations satisfying the requirements of a reinstatement process can receive ***retroactive*** reinstatement of tax-exempt status.
- The IRS is not imposing any late filing penalties against organizations that were automatically revoked nor does the organization need to file any Form 990, Form 990-EZ, or Form 990-N that was delinquent at the time of automatic revocation.
- BUT penalties may apply if the organization is subsequently automatically revoked for a second time.

Federal

990 and 990-EZ

- Open to Public Inspection
- Key sections:
 - Revenues, Expenses, Net Assets
 - Balance Sheet
 - Program Service Accomplishments
 - List of Officers, Directors, Trustees, and Key Employees – including compensation
 - Statement of Functional Expenses (990)
 - Additional Schedules required:
 - Schedule A required for all charities;
 - Additional schedules may be required.

Federal

Form 990 Schedule T

Unrelated Business Income (“UBI”) Tax

- Activity regularly carried on, and
- Activity not substantially related to exempt purpose, and
- Conducted in similar manner to for-profit business.

Federal

Who must file Schedule T?

UBI must be reported if organization's gross UBI in a tax year is \$1,000 or more.

IRS has been studying UBI and findings indicate it is under-reported.

If the organization has UBI, consult an accountant!

Federal

Form 990-T Unrelated Business Income Tax

- Activities possibly subject to UBIT:
 - Parking lot rented to general public
 - Advertising revenue
 - Function rentals
- Typically excluded from UBIT:
 - Real property rentals
 - Member convenience activities
 - Dividends, interest, annuities, royalties
- Rules are convoluted & many exceptions apply!

State Annual Filing: MA Attorney General's Office (“AGO”)

Form PC + Attachments

Attorney General's Filing Requirements

Attorney General's Office ("AGO") has oversight of charities and charitable solicitation, to ensure charitable \$\$ used for charitable purposes.

- BEFORE fundraising, must register with AGO, to receive Certificate of Solicitation.
- Annually thereafter, must renew Certificate by filing annual Form PC.

Attorney General's Filing Requirements

Exceptions to Certificate of Solicitation requirement:

- An organization that is primarily religious in purpose; or
- An organization that does not raise or receive contributions from the public in excess of \$5,000 during a calendar year or does not receive contributions from more than ten persons during a calendar year, if all ... activities are performed by persons who are not paid for their services and if no part of their assets or income inures to the benefit of, or is paid to, any officer or members ([M.G.L. c. 68, s. 20](#)).
- Certain other organizations, such as Red Cross and some veterans' organizations are also exempt.

Attorney General's Filing Requirements



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

LEGAL CENTER FOR NONPROFITS, INC
45 Christine Drive
Dartmouth, MA 02747

Certificate for Solicitation

This certificate has been issued to the organization listed below because it is current in its filings with the Attorney General's Division of Non-Profit Organizations/Public Charities. This registration in no manner constitutes endorsement or approval by the Commonwealth of Massachusetts of the named organization.

Name of organization: LEGAL CENTER FOR NONPROFITS, INC
Certificate End Date: 05/15/2013
Attorney General's Account Number: 054237

Attorney General's Filing Requirements

Annual Filing

Annually, charities must file with AGO:

- Form PC & Schedules with attachments:
 - IRS Form 990 or 990-EZ (except organizations with annual GS&R* < \$5,000 for the year)
 - CPA Audit or Review if GS&R > \$200,000
 - Filing Fee (\$35+ depending on GS&R)

*gross support & revenue

Attorney General's Filing Requirements



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
NON-PROFIT ORGANIZATIONS/PUBLIC CHARITIES DIVISION
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

Office Use Only: Fiscal Year

Print Form

(617) 727-2200, ext. 2101
www.mass.gov/ago/charities

Form PC

Report for the Fiscal Period: to

Attorney General's Account #:

Federal ID #:

When did the organization first engage in charitable work in Massachusetts?

Has the organization applied for or been granted IRS tax exempt status? Yes No

If yes, date of application OR date of determination letter:

IRS Exemption under 501(c):

Check all items attached
(if applicable)

- Schedule A-1
- Schedule A-2
- Schedule RO
- Probate Account
- Copy of IRS Return
- Audited Financial Statements/Review
- Filing Fee
- Amended Articles/By-Laws

<http://www.mass.gov/ago/docs/nonprofit/form-pc-fillable.pdf>

Attorney General's Filing Requirements

Annual Filing Due Date

Due 4 1/2 months after close of fiscal year (same as IRS). Therefore, organizations with a calendar fiscal year submit reports by May 15.

Attorney General's Filing Requirements

Need to File Form PC Late?

Submit to AGO Division of Charities/Nonprofits:

- Copy of the IRS Form 8868, or
- Short letter explaining the need for additional time.
- Request by email to CharitiesExtensions@state.ma.us

Note:

- Include the six-digit Attorney General Account number.
- No written confirmation of approved extensions are sent, but will notify you if it has been denied.
- Maximum of 2 three-month extensions are permitted

Attorney General's Filing Requirements

Penalties for failure to file

AGO can seek enforcement and statutory penalties of \$50/day for each day not filed up to \$10,000.



State Annual Filing:
Secretary of Commonwealth
Annual Report

Secretary of State Filing Requirements

Secretary of State oversees all corporations in Massachusetts (as well as LLCs, limited partnerships, etc.).

Nonprofits that are incorporated fall within the Secretary's purview.

Secretary of State Filing Requirements

Annual Report to Corporations Division

All nonprofit corporations must file an Annual Report on or before **November 1st** of each year. Except churches & religious organizations.

NOTE: This is a **firm calendar due date** not related to fiscal year!

Secretary of State Filing Requirements

Annual Report to Corporations Division

- Download form at <http://www.sec.state.ma.us/cor/corpweb/corcorpnp/npfrm.htm>
- Fillable PDF form may be
 - Printed & mailed, OR
 - Filed online or faxed BUT NOTE extra fee is required!
- Filing fee \$15 (+ \$3.50 for fax or online filing)

Secretary of State Filing Requirements

The Commonwealth of Massachusetts

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place - Room 1717, Boston, Massachusetts 02108-1512
Telephone: (617) 727-9640

ANNUAL REPORT

FEE: \$15.00

M.G.L. Ch.180
Corporation
Annual Report

FEDERAL IDENTIFICATION

Filing for November 1, 20

NO. _____

In compliance with the requirements of Section 26A of Chapter one hundred and eighty (180) of the General Laws:

1. NAME: _____

2. ADDRESS: _____

(number)

(street)

(city or town)

(state)

(zip)

3. DATE OF THE LAST ANNUAL MEETING: _____

4. If the corporation is a cemetery corporation, it must hold perpetual care funds in trust and attach a copy of the written agreement establishing the trust. (check appropriate box)

The cemetery corporation certifies that perpetual care funds are held in trust and a copy of the written agreement establishing the trust is attached.

OR

The cemetery corporation hereby certifies that it does not hold perpetual care funds in trust.

5. State the names and addresses of the president, treasurer, clerk, at least one director of the corporation, and the date on which the term of

Secretary of State Filing Requirements

2nd half of form – see how easy it is?

5. State the names and addresses of the president, treasurer, clerk, at least one director of the corporation, and the date on which the term of office of each expires: (PLEASE TYPE OR PRINT).

NAME OF OFFICE	NAME	ADDRESSES Number, Street, City or Town, State and Zip Code	EXPIRATION OF TERM OF OFFICE
President:			
Treasurer:			
Clerk: (or Secretary)			
Directors: (or Officers having the powers of Directors)			

I, the undersigned _____ being the _____ of the above-named corporation, in compliance with General Laws, Chapter 180, hereby certify that the information above is true and correct as of the dates shown.

IN WITNESS WHEREOF AND UNDER PENALTIES OF PERJURY, I hereto sign my name on this _____ day of _____, 20____.

Signature: _____ Title: _____

Contact Person: _____ Contact Person Telephone #: _____

Secretary of State Filing Requirements

Failure to File

- No filing for 2 or more consecutive years, Secretary may revoke charter.

To reinstate

- File Application for Revival \$40;
- File last 10 years of Annual Reports
\$15/each year.

Churches

- IRS distinguishes “churches” and religious organizations.
 - Churches not required to file 990s.
 - Religious organizations must file 990s like any other tax-exempt organization.
- AGO also exempts churches (follows IRS).
- Secretary of State also exempts churches and religious organizations.

Other Important Filings

If organization compensates anyone, it may be required to make additional filings:

- Payroll
 - Payroll tax filings (form 941, MA wage reporting)
 - W-2s to employees by Jan 31
 - W-3 to SSA by Feb 28 (beginning 2016, deadline is January 31, 2017)
 - 1096 to IRS by Feb 28
- 1099s to independent contractors by Jan 31

Other Important Filings

Unemployment Tax Filings

- Nonprofits are exempt from Federal Unemployment Tax (FUTA)
- State Unemployment Tax (SUTA), choice for nonprofits:
 - A) Contributory (default) – pay into state fund by filing quarterly similar to for-profit businesses, OR
 - B) Reimbursement (“self-insure”) – pay unemployment claims as they arise.
 - Once method selected, it remains in effect for at least 2 calendar years.

Board's Responsibilities

Board's fiduciary duties require it to ensure compliance with these filing requirements.

- Overarching responsibility to ensure organization's compliance with law.
- In certain situations, risk of penalties is with individual board members & staff, in addition to corp. (e.g., misclassified employees; excess benefit transactions)
- 990s, Forms PC, and Annual Reports become public documents, available for review by 3rd parties (e.g., donors, etc.).
- 990 now has significant governance section, including asking whether board has received a copy & process used to review it.

Board's Responsibilities

Board's review of 990:

- NO legal requirement to review 990.

BUT

- Review is in keeping with goals of transparency & accountability.
- Lack of review suggests organizational weakness.

Board's Responsibilities

Recommendations for Boards:

- Adopt a policy on review of annual filings (including 990, Form PC, Annual Report);
- Larger boards: Task a committee with review annually; may be Finance or Audit Cmte;
- Do any areas need closer scrutiny? E.g., compensation, unrelated business income, etc.
- If necessary, ask the hard questions!

Resources

IRS Portal for Charities & Nonprofits:

<http://www.irs.gov/Charities-&-Non-Profits>

IRS FAQ about Annual Reporting Requirements

<http://www.irs.gov/Charities-&-Non-Profits/Questions-about-the-Annual-Reporting-Requirements-for-Exempt-Organizations>

IRS Pub. 1828 Tax Guide for Churches & Religious Organizations

Resources

Massachusetts Attorney General's Office Non-Profit Organizations/Public Charities Division

<http://www.mass.gov/ago/doing-business-in-massachusetts/public-charities-or-not-for-profits/>

Massachusetts Secretary of State Nonprofit Corporation Information

<http://www.sec.state.ma.us/cor/corpweb/cornp/npinf.htm>

Upcoming Programs

Wednesday, February 24 6:00 – 8:00 pm	Insurance for Nonprofits Jeffrey Pelletier, Commercial Account Executive with the Sylvia Group, explains insurance needs of nonprofits.
Wednesday, March 9 6:00 – 8:00 pm	Sharing Your Message Online: Part 2 Catherine DeTerra, Vice President, Marketing and Grants Development, at Old Colony YMCA, dives deeper into Facebook—Learn tips & strategies to get posts seen!
Friday, March 4 8:30 – 10:00 am	Fundraising for Faith-based Organizations Development professional Laur Schaberg discusses fundraising especially for faith based organizations, including tithing & stewardship, and grant-seeking. Doors open at 8:00; breakfast refreshments.



**New
Date!**