

## 990-N, 990-EZ Filing Relief Opportunity for Small Charities at Risk of Losing Tax Exempt Status

A summer of intense heat and rain has left many anticipating relief from the extreme conditions as autumn weather approaches. October will bring with it, however, an end to a different type of relief offered by the IRS to small charitable organizations.

As described in our April 16, 2010 G&G Law *Alert*<sup>TM</sup>, several hundred thousand charities will lose tax exempt status if they do not file a Form 990-N with the IRS in 2010. Previously, organizations with less than \$25,000 annual gross receipts were not required to file an annual report with the IRS. But a 2007 regulatory change required such entities to file a simple e-postcard notice called the Form 990-N if they were not otherwise required to file a Form 990 or Form 990-EZ.

Any organization that has not satisfied its annual report filing requirements for three years in a row is subject to revocation of tax exempt status. If such status is lost, the organization will have to reapply for tax exempt recognition by filing Form 1023 and paying the filing fee. Since organizations with gross receipts of less than \$25,000 have been required to file Form 990-N since 2007, if they have not filed it for 2007, 2008, and 2009, they are in danger of losing tax exempt status this year. The original deadline for filing the 990-N for 2009 was May 17, 2010.

On July 26, 2010, however, the IRS announced a “one-time relief program” to preserve tax exempt status for entities that missed their third year of filing the requisite 990-N or 990-EZ. Organizations qualifying to submit the 990-N for 2009 that missed the May deadline now have until October 15, 2010 to file a 990-N before their tax exempt status is revoked.

In addition to extending the deadline for small charities required only to file the Form 990-N, the IRS also provided a “voluntary compliance program” for any charities that qualified, but failed, to file a Form 990-EZ for the years 2007, 2008, and 2009.<sup>1</sup> To avoid revocation of exemption, these organizations may file the 2007, 2008, and 2009 Forms 990-EZ by October 15, 2010, and pay a compliance fee in lieu of late penalties. The compliance fee is \$100 if 2009 gross receipts were \$100,000 or less; \$200 if gross receipts were \$100,001 to \$200,000; and \$500 if gross receipts were \$200,001 to \$499,999.

The forecast for relief from the IRS is clear: entities qualifying, but having failed, to file the 990-N or 990-EZ must file by October 15, 2010. And the radar map for those affected can be found at [IRS.gov](http://IRS.gov), where a list of those at risk of losing tax exempt status is posted.<sup>2</sup> As cooler autumn months approach, nonprofit leaders can avoid the heat of IRS scrutiny, winds of exasperated donors, and flood of paper work and fees by verifying their organizations have timely filed the required forms.

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<sup>1</sup> Because of the extensive IRS revisions to the full Form 990 beginning in 2008, the thresholds for qualifying to file Form 990-EZ have varied greatly to allow ramp-up for the new Form 990. In 2007, an organization with gross receipts of less than \$100,000 and total assets of less than \$250,000 could file a Form 990-EZ. The thresholds for 2008 are gross receipts of less than \$1,000,000 and total assets less than \$2.5 million, and for 2009, gross receipts of less than \$500,000 and total assets less than \$1.25 million.

<sup>2</sup> The IRS will publish a list of the revoked organizations in early 2011. Donors who contribute to organizations at risk of losing tax exempt status will be able to deduct contributions given up until the time the list of revoked organizations is published.