

# NONPROFIT UPDATE ● ● ●



## Disclosure Requirements for Tax-exempt Organizations

Tax-exempt organizations must make certain tax documents available for public inspection. These documents include the Exempt Organization Application (Form 1023 or Form 1024) including legal briefs or responses to questions and any letters or other documents issued by the Internal Revenue Service (IRS) in connection with the application. Organizations must also disclose the annual Form 990 information returns for the preceding three years including amended returns (Form 990, Form 990-EZ, Form 990-PF and Form 990-T); these forms must be available for a three-year period beginning with the due date of the return (including any extension of time for filing). The return must be the exact copy of the return filed with the IRS, including attachments and supporting documents. Note, however, that a tax-exempt organization, other than a private foundation, need not disclose the name and address of any contributor. Copies must be provided immediately upon request in the case of in-person requests, and within 30 days in the case of written requests. The tax-exempt organization may charge a reasonable fee for copying and postage in connection with providing the copies. The organizations that are considered tax-exempt organizations for the purpose of these disclosure requirements include organizations exempt from federal income tax under Internal Revenue Code (IRC) Section 501(a) and described in IRC Section 501(c) or IRC Section 501(d) and include charities, fraternities, social clubs and schools.

An organization that files the Form 990 information return must indicate whether it has met the disclosure requirements during the tax year. The organization must check a box (or multiple boxes) to indicate how its documents were made available to the public: (1) on the organization's own website; (2) on another's website; (3) upon request; or (4) in some other fashion. It is important to note that posting the organization's return on Guidestar.org does not meet the public disclosure requirements as the IRS makes the return available to Guidestar.org, not the filing organization. An organization should not check the box "on another's website" if the return is only available on Guidestar.org. Organizations cannot rely on Guidestar.org to satisfy their disclosure requirements.

If an organization fails to comply with these disclosure requirements penalties will be assessed. Responsible persons of a tax-exempt organization who fail to provide the necessary documents may be subject to a penalty of \$20 per day with a maximum penalty of \$10,000 for each failure to provide a copy of an annual return. There is no maximum penalty for the failure to provide a copy of an exemption application.

It is important for management of every tax-exempt organization to be aware of these disclosure requirements and to provide the necessary information when requested as the penalties for failure to provide can be significant.