On July 14, a webinar called “How to reinstate and maintain your IRS tax-exempt status” was conducted. We're sorry to report that some of the information was inaccurate.

The presenters did present accurate information regarding the background of this issue with the IRS. However, the steps presented regarding reinstatement of tax-exempt status were inaccurate. We sincerely apologize for the inaccuracy and for your time and effort viewing the presentation, whether live or archived.

For your convenience, we have attached the correct, updated text of the presentation. A webinar that explains the procedures with the correct information is being scheduled for a later date. The inaccurate version of the webinar has been deleted from our archives.

Thank you!

7/26/2011
How to reinstate and maintain your IRS tax-exempt status
Disclaimer

• We are **not tax professionals** and we are providing this webinar for information purposes only.

• If you have any questions you should contact an **attorney** or **tax professional**.
Kiwanis clubs are 501(c)(4) organizations

- Tax-exempt status for purchases
  - According to the Internal Revenue Service, to be tax-exempt as a 501(c)(4) organization, a nonprofit must not be organized for profit and must be operated exclusively for the promotion of social welfare. This means that the organization must operate primarily to further, in some way, the common good and general welfare of the people of the community (such as by bringing about civic betterment and social improvements).

- A 501(c)(4) is not able to receive tax-deductible donations.
Kiwanis club foundations are 501(c)(3) organizations

- Tax-exempt status for purchases (so can 501(c)(4) organizations).
- Able to receive tax-deductible donations.
- Additional scrutiny and filing requirements than 501(c)(4) organizations.

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Background information
Background

- Congress passed the Pension Protection Act (PPA) in 2006, requiring most tax-exempt organizations to file an annual information return or notice with the IRS. For small organizations, the law imposed a filing requirement for the first time for tax years beginning in 2007.
- In addition, the law automatically revokes the tax-exempt status of any organization that does not file required returns or notices for three consecutive years.
Background

• IRS officials say the program will allow them to clean up the master list of charities and notify active charities about changes to laws governing their operations.

• For several years, the IRS and Kiwanis International has made an extensive effort to inform organizations of the changes in the law through multiple outreach and education avenues, including mailing multiple notices to organizations that had not filed. Overall, the IRS believes the vast majority of small tax-exempt organizations are now in compliance with the 2006 law.
Warning: file or be revoked!
July 2010 – IRS amnesty

• The Internal Revenue Service (IRS) issued list of tax-exempt organizations that had failed to comply with three year reporting period.

• IRS announced amnesty period for all tax-exempt organizations that did not file annual returns for 2007, 2008 and 2009 to do so by October 15, 2010.

• Kiwanis International notified clubs and districts of the need to file such returns.
It’s official. Your club has been revoked!
(but all is not lost)
WASHINGTON — The Internal Revenue Service announced that approximately 275,000 organizations under the law have automatically lost their tax-exempt status because they did not file legally required annual reports for three consecutive years.
Is my club still tax exempt or has it been revoked?

• The list of organizations whose tax-exempt status has been revoked for failing to meet their filing requirement, which will be available on the IRS website at:

http://www.irs.gov/charities/article/0,,id=240099,00.html

• The IRS will update the list monthly to include additional organizations that lose their tax-exempt status.

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If my club has had its tax exempt status revoked...

- The IRS provides steps to reinstate tax-exempt status
- IRS has no authority to undo an automatic revocation.
- There is no appeal process.
- All such organizations must apply to have tax-exempt status reinstated.
How to reinstate your IRS tax-exempt status (IRS Notice 2011-43 and 2011-44)
Revoked clubs must apply for reinstatement with IRS

• All organizations must apply for reinstatement …even if organization was not originally required to file an application for exemption.

• Use Form 1023 “Application for Recognition of Exemption Under Section 501(c)(3)”.

• Most other organizations seeking reinstatement must submit Form 1024 “Application of Recognition of Exemption Under Section 501(a).
Revoked clubs must apply. What form to use?

- Kiwanis Clubs (and Key Clubs and Circle K Clubs) should use Form 1024 [for 501(c)(4) orgs]...19 pages.
- Kiwanis Club Foundations should use Form 1023 [for 501(c)(3) orgs]...28 pages.
Revoked clubs must apply for reinstatement with IRS

• If approved, effective date of new tax-exempt status will be date application is filed.
• Some organizations able to show reasonable cause for failure to file annual returns may request retroactive reinstatement.
Reinstatement for subordinate organizations?

• If organization is a subordinate organization included in a group exemption letter (which a Kiwanis Club is)…club must submit its own application for reinstatement and pay user fee.
Small vs. large organizations... reinstatement rules?

• Large organizations must complete more detailed application to be reinstated.
• Small organizations (most Kiwanis Club qualify for this) have less stringent reinstatement rules.
The IRS announced transition relief for certain small tax-exempt organizations – those with annual gross receipts of US$50,000 or less for 2010 – that were made subject to the new “postcard” filing under the PPA. The relief allows eligible small organizations to regain their tax-exempt status retroactive to the date of revocation and pay a reduced application fee of US$100 rather than the typical US$400 or US$850 fee.
Small organizations

Most Kiwanis clubs fit this category
Small organizations...must meet all three of these to get relief

• Organization never required to file annual returns (Form 990 or Form 990-EZ) prior to 2007.
• Organization eligible in all three years beginning 2007, 2008, and 2009 to file Form 990-N (e-Postcard).
• Organization had annual gross receipts not more than US$25,000 for 2007, 2008, and 2009.
• Must apply for exemption prior to December 31, 2012.
Small organizations...IRS provides transitional relief

• For organizations with annual gross receipts of US$50,000 or less for 2010.
• For clubs that failed to file Form 990-N for all three taxable years beginning 2007, 2008 and 2009.
• Must file Form 1023 or Form 1024 no later than December 31, 2012.
• Must pay US$100 reinstatement fee (attach Form 8718 with payment).

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Small organizations...IRS provides transitional relief

• Organization must use same forms file by all other applications for tax-exempt status (Form 1023 or 1024).
• Organization must write “Notice 2011-43” on top of application form.
Small organizations...IRS provides transitional relief

• Organization must attach following statement to its application for reinstatement:
  – [Name of Organization] was not required to file annual information returns for taxable years beginning before 2007, was eligible in each of its taxable years beginning in 2007, 2008 and 2009 to file Form 990-N e-Postcard; and had annual gross receipts of normally not more then US$25,000 in each of its taxable years beginning in 2007, 2008 and 2009.

• Organization eligible for reduced user fee of US$100.

• See instruction on application for the address to mail form.

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Form 1024

Primary information needed to complete this form
Form 1024 – Part I

- Check Box b – 501(c)(4)…Social Welfare Organization.
- Line 1 and 3 – Name and contact information
- Line 2 – EIN (do not use KI’s or District’s number).
- Line 5 – Date organized.
- Line 6 and 7 – most likely answer is NO.
- Line 8 – Check “Corporation” usually…attach Articles of Incorporation (AOI).
Form 1024 – Part II

• Line 1 – Provide detailed narrative description of activities of organization (club)...past, present, and future. How does activity further exempt purpose?
• Line 3 – Name, address, titles of officers and Board.
• Line 7 – Qualifications of membership and # members. Provide membership solicitation material.
• Line 8 – How will club’s assets be distributed upon dissolution? Refer to AOI.
Form 1024 – Part II
(Explain yes answers)

• Line 9 – Has club distributed funds to members?
• Line 10 – Will club make payments for services performed?
• Line 11 – Will organization make any payments to members for services performed?
• Line 14 – Does club lease or plan to lease property?
• Line 16 – Provide copies of published materials.
Form 1024 – Part III

• Section A – Provide complete income statement (revenues and expenses) for current year and three prior years.
• Section B – Provide complete balance sheet (assets, liabilities and net assets) for current year.
Form 1024 – Schedule B (for 501(c)(4) organizations – most answers are no

• Line 1 – Has club received previous IRS ruling as a 501(c)(3) and been revoked for inappropriate political activity?
• Line 2 – Does organization plan to provide following services – condo maintenance, food-buying coop, recreational, transportation, or job placement services?
• Line 3 – Is organization claiming exemption as homeowner’s association?
• Line 4 – Is organization claiming exemption as local association of employees?

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Form 1024 – Sections that are most likely not applicable

- Part IV – For 501(c)(9) and 501(c)(17) organizations [New organizations].
- Schedule A – For 501(c)(2) and 501(c)(25) organizations [Title Holding Corporations].
- Schedule C – For 501(c)(5) and 501(c)(6) organizations [Labor Organizations and Business Leagues].
- Schedule D – For 501(c)(7) organizations [Social Clubs].
- Schedule E – For 501(c)(8) and 501(c)(10) organizations [Fraternal Association].
Form 1024 – Sections that are most likely not applicable

• Schedule F – For 501(c)(9) organizations [Voluntary Employee Benefit Association].
• Schedule G – For 501(c)(12) organizations [Mutual and Co-op Companies].
• Schedule H – For 501(c)(13) organizations [Cemeteries].
Form 1024 – Sections that are most likely not applicable

- Schedule I – For 501(c)(15) organizations [Small Insurance Association].
- Schedule J – For 501(c)(17) organizations [Supplemental Unemployment Compensation Trusts].
- Schedule K – For 501(c)(19) organizations [Armed Forces Organization].
Form 1024
Payment and mailing

• Form 1024 has 19 pages…but about ½ are not applicable…so the form is not as cumbersome as one would expect.
• Don’t forget to have officer or director to sign and date the return.
• Attach all required schedules and materials.
• Attach Form 8718 and enclose your check for US$100…the reduced reinstatement user fee for small organizations.
• Mail return to: IRS, P.O. Box 12192, Covington, KY 41012-0192 (per Form 8718).

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Large organizations

Much more work required
Large organizations...what to do to be reinstated?

- Large organizations are those that do not qualify as a small organization under IRS Notice 2011-43.
- Are usually organizations that were required to file Forms 990 or 990-EZ.
- Must submit application on Form 1023 or Form 1024.
- Must pay prescribed reinstatement fee.
Large organizations...what to do to be reinstated back to revocation date?

• Provide written statement showing reasonable cause for failing to file required returns for entire three year period (2007, 2008 and 2009) and any later years, including detailed description of facts and circumstances that led to each failure, discovery of each failure, and steps taken to avoid or mitigate the failures.
Large organizations...what to do to be reinstated?

• Provide written statement describing safeguards put into place to ensure club will not fail to file returns or notices in future.
• Provide evidence to substantiate material aspects of written statements.
• File past unfiled tax returns for 2007, 2008 and 2009 and to date of reinstatement application.
Large organizations...what to do to be reinstated?

- The following declaration:
  - I, [Name and Title], under penalties of perjury, that I am authorized to sign this request for retroactive reinstatement on behalf of [Name of Organization], and I further declare that I have examined this request for retroactive reinstatement, including the written explanation of all the facts and information pertaining to the claim for reasonable cause and the evidence to substantiate the claim for reasonable cause, and to the best of my knowledge and belief, this request is true, correct, and complete.
Large organizations...
Reasonable cause standard

- Failure to file due to reliance on erroneous written information from IRS.
- Failure to file arose from events beyond their control.
- Undertook steps taken to avoid or mitigate failure to file.
- Provide history of complying with filing requirements outside three years.
- Provide support that all of activities are performed by volunteers.
Upon reinstatement – first thing you do?
When reinstated...next step

• Send Kiwanis International copy of your new determination letter that you received from the IRS.
• Keep copy of new determination letter in club’s permanent files.
• Make sure club treasurer and secretary are knowledgeable of the IRS filing rules and regulations.
How to maintain your IRS tax-exempt status
(or do you want to reapply again?)
Important steps to maintain your tax-exempt status

• File your annual return with theirs…it’s that simple!.
  – Form 990-N if gross receipts US$50,000 or less.
  – Form 990-EZ if gross receipts greater than US$50,000 and less than US$200,000.
  – Form 990 if gross receipts are US$200,000 or more.
  – Asset limitations apply as well…see IRS website for details.
What Form 990-N do I use?

• The year on the tax form should be dated for the year your fiscal year starts.
• Example…
It’s not easier the second time around!
Can you be revoked a second time?

• Only if club fails to file returns or notices for another three (3) consecutive years, beginning with taxable year the IRS approves its application for re-instatement.
Can you be revoked a second time?

• Yes you can!
  – If club fails to file returns or notices for another three consecutive years, beginning with the taxable year the IRS approves its application for re-instatement.
Can you be revoked a second time?

- Example #1 – Club reinstated September 1, 2011…fiscal year ends September 30
  - If club fails to file returns with forms dated 2010 (year beginning 10/1/10), 2011 (year beginning 10/1/11) and 2012 (year beginning 10/1/12).
Can you be revoked a second time?

• Example #2 – Club reinstated February 1, 2012…fiscal year ends September 30
  – If club fails to file returns with forms dated 2011 (year beginning 10/1/11), 2012 (year beginning 10/1/12) and 2013 (year beginning 10/1/13).
What is needed for Form 990-N (e-Postcard)
Which form to file... to remain legal

- Go to: http://www.irs.gov/charities/article/0,,id=169250,00.html
- File 990-N (e-postcard) – vast majority
  - Or, 990EZ – 4 pages
  - Or, 990 – 11 pages
e-Postcard...what info needed?

- The e-postcard is easy to complete. All you need is the following information:
  - Organization’s legal name
    - An organization’s legal name is the organization’s name as it appears in the certificate of incorporation or the organization’s application for Federal tax-exempt status, unless a request was previously submitted to the IRS to have the name officially changed.

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e-Postcard...what info needed?

• Any other names your organization uses –
  – If the organization is known by or uses other names to refer to the organization as a whole (and not to its programs and activities), commonly referred to as Doing-Business-As (DBA) names, they should be listed.

• Organization’s mailing address – the mailing address is the current mailing address used by the organization.

• Organization’s website address (if you have one).
e-Postcard ... what info needed?

- Organization’s *employer identification number (EIN)
  
  *http://www.irs.gov/charities/article/0,,id=156360,00.html

  – Every tax-exempt organization must have an EIN, sometimes referred to as a Taxpayer Identification Number (TIN), even if it does not have employees. The EIN is a unique number that identifies the organization to the Internal Revenue Service. Your organization would have acquired an EIN by filing a Form SS-4 prior to requesting tax-exemption. The EIN is a 9-digit number and the format of the number is NN-NNNNN (for example: 00-1234567).
e-Postcard...what info needed?

– If you do not know your EIN, you may be able to find it on the organization’s bank statement, application for Federal tax-exempt status, or prior year return.

– Please note that the EIN is not your tax-exempt number. That term generally refers to a number assigned by a state agency that identifies organizations as exempt from state sales and use taxes.

– If you do not have an EIN, see the *Instructions for Form SS-4 for different ways to apply for an EIN. Do not use the EIN of a parent or other organization.


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e-Postcard...what info needed?

• Name and address of a principal officer of your organization
  – Usually president, vice president, secretary, or treasurer – often specified in the organization’s by-laws.

• Organization’s annual tax year
  – Like any taxpayer, exempt organizations must keep books and reports and file returns based on an annual accounting period called a tax year. A *tax year is usually 12 consecutive months that can be either calendar year or fiscal year and is often specified in the organization’s by-laws.

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e-Postcard...what info needed?

• Answers to the following questions:
  – Are your *gross receipts still *normally US$25,000 or less (US$50,000 for tax years ending on or after December 31, 2010)?
  – Has your organization terminated or gone out of business?
    *http://www.irs.gov/charities/article/0,,id=177784,00.html
    *http://www.irs.gov/charities/article/0,,id=177338,00.html
Important links...

• Leadership Guide – Treasurer section
  – Treasurer Section 2010-2011 Leadership Guide (1).pdf
• IRS website – list of organizations whose tax-exempt status has been revoked
• What to do?
• What is an Employer Identification Number (EIN)?
• EIN instructions
• Tax year
• Gross receipts

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For further questions, contact:

- Kiwanis International Finance Department:
  - Bill Parker, Controller
    1-800-549-2647, ext. 146
    bparker@kiwanis.org
  - Joanne Fregeau, Finance Coordinator
    1-800-549-2647, ext. 153
    jfregeau@kiwanis.org
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