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501(c)(4) Social Welfare Organizations Must Provide Notice to the IRS

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Election and Political Law

In December 2015, we informed readers of the new requirement for 501(c)(4) social welfare organizations to notify the IRS upon formation. Enforcement of the requirement was delayed until the IRS was able to issue an appropriate form. The IRS recently announced that 501(c)(4) organizations may now register on the IRS website. We respond to common questions about the procedure below.

What form is used to provide notice?

Form 8976, Notice of Intent to Operate under Section 501(c)(4).

What 501(c)(4) organizations *do not* have to submit Form 8976?

501(c)(4) organizations that were organized on or before July 8, 2016 that have either (i) applied for a determination letter by filing IRS Form 1024, Application for Recognition of Exemption under Section 501(a); or (ii) filed at least one annual information return or notice (Form 990, Form 990-EZ, or 990-N) are not required to file Form 8976.

When is Form 8976 due?

September 6, 2016 for those organizations **formed on or before July 8, 2016** which have not either (i) applied for a determination letter by filing IRS Form 1024; or (ii) filed at least one annual information return or notice (Form 990, Form 990-EZ, or 990-N).

For organizations **formed after July 8, 2016**, the due date is **60 days** after the date of organization, e.g., date of incorporation.

Are there any penalties if the Form 8976 is submitted late?

Yes, a penalty of $20 per day (not to exceed $5,000) may be imposed on the organization and, in certain cases, on the person responsible for the failure to file.

How does one submit Form 8976?

Forms 8976 must be submitted online at the IRS registration services website. Paper submissions will not be accepted. The filer must first obtain a password to use the site before filing Form 8976.

Is there a fee to file?

$50 for 2016. Pay at www.pay.gov.

What information do I have to provide about the organization?

- Name of the organization
- Address of the organization
- Employer Identification Number (EIN) of the organization
- Date of formation
- State or other jurisdiction of organization
- Statement that the purpose of the organization is to operate as either a (i) social welfare organization/civic league; or (ii) local association of employees
- Month the organization's annual accounting period ends
- Attestation that the information provided is correct and the individual submitting Form 8976 is authorized to submit it on behalf of the organization

Will I receive an acknowledgment from the IRS?

After the bank confirms payment of the fee and the IRS validates the organization's information and eligibility, the organization will receive an acknowledgment notice within 60 days.

Is Form 8976 available to the public?

No, Form 8976 is not open to public inspection.

Does the receipt of an acknowledgment mean that the IRS has determined that the organization qualifies as tax-exempt?

No, an organization that files Form 8976 is merely notifying the IRS that the organization exists. To obtain a determination letter from the IRS the organization must file IRS Form 1024, Application for Recognition of Exemption under Section 501(a).

May an organization that files Form 8976 operate as a 501(c)(4) organization without filing an application for exemption (Form 1024)?

Yes, section 501(c)(4) organizations may "self-declare" tax-exempt status but must annually file the applicable information return or notice (Form 990, Form 990-EZ, or 990-N).

If a 501(c)(4) organization files Form 8976, must it also file Form 990, Form 990-EZ, or 990-N each year?

Yes.

If you have any questions concerning the material discussed in this client advisory, please contact the following member of our Election and Political Law practice:

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