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## Nonprofit Topic

### Are Your Annual IRS and MA Nonprofit Filings Up to Date?

This Nonprofit Topic reviews the required annual filings of MA nonprofit corporations that are tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

- I. IRS – Annual Filing for Organizations Tax-Exempt under Section 501(c)(3)
- II. MA Secretary of the Commonwealth – Annual Report for Nonprofit Corporations
- III. MA Attorney General’s Office (AGO) – Registration and Filing Requirement for Charitable Organizations

*See tips for small nonprofits in each section below.*

#### **I. IRS – Annual Filing for Organizations Tax-Exempt under Section 501(c)(3)**

- Most organizations that are exempt from federal income tax under Internal Revenue Code Section 501(c)(3) must file an annual exempt organization return (Form 990 or Form 990-EZ) or annual notice (Form 990-N). <https://www.irs.gov/charities-non-profits/annual-exempt-organization-returns-notice-and-schedules>
- Some kinds of organizations are exempt from the annual filing requirement: <https://www.irs.gov/charities-non-profits/annual-exempt-organization-return-who-must-file>
- To search for 501(c)(3) annual filings: <https://apps.irs.gov/app/eos/>
- Annual Exempt Organization Returns (Form 990 or Form 990-EZ) or Annual Notice (Form 990-N)
- Which form to file? More information: <https://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in>
- *Tips for small nonprofits:*
  - Tax-exempt organizations with annual gross receipts that are normally \$50,000 or less can file Form 990-N with the IRS. (*This form is easy to fill out.*)

- However, if the organization has annual gross receipts of more than \$25,000, the MA Attorney General’s Office (AGO) requires the organization to include a Form 990 or Form 990-EZ for that fiscal year along with its Form PC filed with the AGO (see section III below). The AGO does not accept the Form 990-N.
- Organizations that qualify as tax-exempt under Section 501(c)(3), and normally have annual gross receipts of \$5,000 or less, may (but are not required to) apply to the IRS for determination of their tax-exempt status under Section 501(c)(3). Important: These small nonprofits are required to file Form 990-N with the IRS each year, even if they do not apply for an IRS determination letter. For more information: <https://www.irs.gov/charities-non-profits/annual-electronic-notice-form-990-n-for-small-organizations-faqs-who-must-file>

**IRS Filing due date:** The 15th day of the 5th month following the end of the organization's taxable year. The organization’s taxable year is the 12-month period that it uses for financial and IRS reporting purposes. It may be the calendar year or another 12-month period. If your organization uses the calendar year, its annual exempt organization return (Form 990 or Form 990-EZ) or annual notice (Form 990-N) is due on May 15.

**When to start filing:** An organization must start filing its annual exempt organization return or annual notice on or before the 15<sup>th</sup> day of the 5<sup>th</sup> month following the end of its first taxable year, which may mean it has to file before it receives an IRS determination regarding its tax-exempt status.

**Automatic revocation of tax exemption:** An organization’s tax exemption will be automatically revoked by the IRS if the organization does not file its annual exempt organization return or annual notice for three consecutive years. (The exemption can be reinstated if certain requirements are met.) For more information: <https://www.irs.gov/charities-non-profits/automatic-revocation-of-exemption>

## **II. MA Secretary of the Commonwealth – Annual Report for Nonprofit Corporations**

- Every nonprofit corporation organized under the laws of Massachusetts must file a nonprofit Annual Report with the MA Secretary of the Commonwealth on or before November 1st of each year, including the year in which they were incorporated.
- To search for filings by nonprofit corporations:
  - <https://corp.sec.state.ma.us/corpweb/CorpSearch/CorpSearch.aspx>
  - Search for your organization, using the name on its Articles of Organization
  - In search results, click on the organization’s name
  - Click on “View Filings” at the bottom of the page
  - Confirm that Annual Reports are up to date

- To file current or past Annual Reports with the MA Secretary of the Commonwealth: <https://www.sec.state.ma.us/divisions/corporations/filing-by-subject/corporations/corporations-domestic-non-profit.htm>
- If someone is an officer and a director, that should be stated on the form.

**Filing due date:** On or before November 1st of each year, including the year of incorporation.

- *Tip for small nonprofits:* The Annual Report is easy to fill out.

### **III. MA Attorney General's Office (AGO) – Registration and Filing Requirement for Charitable Organizations**

- Most charitable organizations organized, operating, or raising funds in Massachusetts must register with the MA Attorney General and file a Form PC annually. This is required whether or not the charitable organization is incorporated.
- To review the MA Attorney General's registration and filing requirements for charitable organizations: <https://www.mass.gov/info-details/frequently-asked-questions-about-charitable-organizations>
- To register with the AGO and file Form PC (for the current year or past years): <https://www.mass.gov/info-details/online-charity-filing-portal>
- To search for filings by public charities: <https://masscharities.force.com/FilingSearch/s/>
  - Search by AG account number, employer identification number (EIN), or charity's name
  - In search results, select the organization's name
  - Click on "Get Filings"
  - Confirm that the organization is registered with the AGO
  - Confirm that the organization has filed a Form PC for each year
- Additional documents filed with the Form PC:
  - A copy of the organization's Form 990 or Form 990-EZ filed with the IRS for the fiscal year must also be filed with the AGO, if its annual gross support and revenue is more than \$25,000.
  - Financial statements included with the Form PC must be reviewed by an independent CPA if the organization's annual gross support and revenue is more than \$500,000, and must be audited by an independent CPA if its annual gross support and revenue is more than \$1,000,000.

**Certificate of Solicitation:** If a registered charity wishes to begin soliciting before the due date of its first Form PC, it may submit a Schedule A-2 and a \$50 check to the AGO, to apply for a Certificate of Solicitation.

For additional links and more information on solicitation by charitable organizations in MA (including two categories of charitable organizations not required to have a Certificate of Solicitation): <https://www.mass.gov/info-details/overview-of-solicitation>

**Filing due date:** Form PC is due 4 ½ months after the end of each fiscal year. The organization's fiscal year is the 12-month period that it uses for financial reporting purposes. It may be the calendar year or another 12-month period. If your organization uses the calendar year, its Form PC is due on May 15.

***Disclaimer: This information is provided for educational purposes only. It is not intended or offered as legal advice. Please consult an attorney for the latest and most accurate information, and advice on how it may apply to your organization.***