

IRS Posts Automatic Revocation List: Are You and Your Chapters Still Exempt?

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As many of you know, the Pension Protection Act of 2006 amended the Internal Revenue Code to require the automatic revocation of the exempt status of organizations that fail to file required information returns with the IRS for three consecutive years. The IRS has just announced the first of these revocations, about 275,000 in all, covering the tax years of 2007, 2008, and 2009.

The IRS on June 8 posted the Automatic Revocation of Exemption List to its website and published guidance to help tax-exempt organizations that have had their exemptions automatically revoked because they failed to file required information returns for three straight years. We have done a quick and preliminary review of the Automatic Revocation List and have noticed a number of Greek organizations on the list, though they appear to be comprised mostly of chapters and alumni associations. It appears that most revocations have an effective date of June 9, 2011.

What To Do?

Under the just issued guidance, a revoked organization must complete an application for reinstatement even if it was not required to submit an exemption application the first time it sought exempt status.

Most organizations that want their exemptions reinstated retroactive to the date of revocation must submit a request for retroactive reinstatement along with its reinstatement application. The request for retroactive reinstatement should include a written statement showing the organization had reasonable cause for not filing, including a detailed description of the facts and circumstances that led to the failures, how the failures were discovered, and what was done to avoid or mitigate the failures. In addition, the statement should set forth the policies and procedures it has established to prevent recurrence of the failures. Finally, the organization must submit paper returns for all tax years during and after the three-year period it failed to file.

Some small organizations will have their request for retroactive reinstatement automatically approved. They must not have been required to file Form 990, "Return of Organization Exempt From Income Tax," or Form 990-EZ for tax years before 2007 and were eligible to file the Form 990-N electronic postcard for 2007 forward. These organizations must apply for retroactive reinstatement on or before December 31, 2012, and should write "Notice 2011-43" at the top of the application and envelope.