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New Law Threatens Loss of Tax Exempt Status

by Bradley M. Pinsky

Fire departments beware! On August 17, 2006, President Bush signed into law the "Pension Protection Act of 2006." This new law requires all organizations to file forms with the Internal Revenue Service once per year. Failure to comply with the law will result in loss of tax exempt status.

The Prior Law

Until now, only organizations that generated more than \$25,000 of revenues were required to file Federal Income Tax Form 990. Now, all organizations must file either a tax return or proper notice form, depending on income.

Revocation of Exempt Status if Returns and/or Notices Not Filed

Under the new law, federal income tax exempt status is REVOKED if an organization with at least \$25,000 of revenues fails to file Form 990 for three successive years. This is in addition to the possible \$10,000 per year penalty for failure to file the tax return. Organizations with less than \$25,000 of gross income that fail to file the required notice for three successive years will also lose tax exempt status.

New Notice Requirement for Small Organizations

The new law requires all 501(c)(3) organizations with less than \$25,000 of income to furnish annually, in electronic form, and at such time and in such manner as the I.R.S. may require, a notice setting forth:

- (A) the legal name of the organization,
- (B) any name under which such organization operates or does business,
- (C) the organization's mailing address and Internet web site address (if any),
- (D) the organization's taxpayer identification number,
- (E) the name and address of a principal officer, and
- (F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1)

The new reporting form is being created by the I.R.S. and will inevitably require some skill in preparing and filing.

What If Your Tax Exempt Status is Revoked?

The I.R.S. will publish a list of the organizations that have had tax exempt status revoked. The organization will have to reapply for new exempt status. If the organization can show "reasonable cause" for failure to file the return/notice, and reapplies, exemption may be granted retroactively to the date of loss of exemption, so that there is no break in tax exempt status. However, the re-application process is complicated and time consuming.

The I.R.S. will also notify New York State of the loss of charitable status, which could lead to a loss of charitable donations to the organization.

What Should You Do Now?

Start filing! Scicchitano & Pinsky, PLLC prepares the required tax returns and tax exempt applications for numerous fire departments across the state of New York! Contact us at: (315) 428-8344.