

SEPTEMBER 6, 2016 DEADLINE: NEW IRS NOTICE REQUIREMENT FOR 501(C)(4) ORGANIZATIONS

Client Alert
August 30, 2016

Nonprofit entities that intend to operate as 501(c)(4) organizations, such as social welfare organizations, are subject to a new notice requirement with the Internal Revenue Service (IRS) as a result of the Protecting Americans from Tax Hikes Act of 2015 (the “PATH Act”).

Section 405(a) of the PATH Act adds Section 506 to the Internal Revenue Code (the “Code”). Section 506 of the Code requires that each organization intending to operate as a 501(c)(4) organization notify the IRS that it is operating as such no later than **60 days** after the organization is established. A special transitional deadline of **September 6, 2016** applies for certain existing 501(c)(4) organizations, as discussed below.

The method of notification is via Form 8976, *Notice of Intent to Operate Under Section 501(c)(4)*, which must be submitted online.

What types of organizations are affected:

Examples of organizations exempt under Section 501(c)(4) include certain civic leagues, local associations of employees, volunteer fire companies, and organizations that lobby on political issues.

Which organizations are not required to file the notice:

Section 501(c)(4) organizations that are not subject to the notification requirement are those that had, on or before July 8, 2016 –

1. Applied for an IRS Determination Letter that recognizes the organization as a 501(c)(4) organization (using Form 1024); or
2. Filed at least one annual information return or notice as required (e.g., a Form 990, 990-EZ or 990-N *e-Postcard*).

IMPORTANT: This alert applies to 501(c)(4) entities only. No new notice requirement or similar filing is required for 501(c)(3) or other types of nonprofits.

Attorneys

Patricia Sandison

Marla Waiss

Practices & Industries

Tax-Exempt Organizations

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Transitional Deadline. For organizations with a date of organization on or before July 8, 2016 that have not submitted Form 1024 or filed at last one annual return, as described above, by July 8, 2016, the transitional deadline for notification and submission of Form 8976 is on or before **September 6, 2016**.

IRS Form 8976. Form 8976 must be submitted online with a user fee. The user fee for 2016 is \$50.

Organizations must disclose on the Form 8976 (i) the organization's name, address, taxpayer identification number, and the month in which its annual accounting period ends; (ii) the date of organization, and its state or other jurisdiction; and (iii) a statement of purpose of the organization; specifically, whether it will operate as either a social welfare organization/ civic league or a local association of employees.

Penalties for Failure to Comply. An organization that fails to submit a completed Form 8976 by the due date will be subject to penalties, unless it is shown that the failure was due to reasonable cause. Such monetary penalties assessed against the organization will be \$20 for each day during which such failure to submit Form 8976 continues, capped at a maximum amount of \$5,000. In addition, individuals such as officers and directors who are responsible for the organization's tax and regulatory filings also may be required to pay an additional penalty up to the same amount.

IRS Acknowledgment. The IRS will electronically send the organization an acknowledgment of the receipt of its notification within 60 days of receiving a completed and properly submitted Form 8976.

The IRS cautions, however, that submission of Form 8976 is not a request for a determination letter, nor is IRS acknowledgement of Form 8976 determination of tax-exempt status. A nonprofit entity that seeks a formal IRS determination and recognition to operate as a 501(c)(4) tax-exempt social welfare or other organization must continue to submit a Form 1024 *Application for Recognition of Exemption* as a separate matter and procedure.

Under pre-PATH Act law, organizations seeking tax-exempt status under Section 501(c)(4) (e.g., social welfare organizations) were not required to submit a formal exemption application or notice to the IRS. Instead, organizations were exempt under Section 501(c)(4) if they satisfied the requirements that applied to them. However, to get certain benefits such as public recognition of their tax-exempt status, exemption from certain state taxes, and nonprofit mailing privileges, Section 501(c)(4) organizations *voluntarily* could request formal IRS recognition of their tax-exempt status by filing Form 1024. While the Form 1024 application remains an option, the Form 8976 notice filing is now a requirement for all organizations intending to operate as 501(c)(4) organizations.

Need Assistance?

We are happy to provide assistance with any required Form 8976 filing as summarized here or any other nonprofit issue you may have.

For more information, please contact:

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Anne F. Downey
716.848.1683
adowney@hodgsonruss.com

Patricia C. Sandison
518.433.2427
psandison@hodgsonruss.com

Marla Waiss
716.848.1203
MWaiss@hodgsonruss.com

For Additional Information:

IRS T.D. 9775 is available [here](#).

IRS Rev. Proc. 2016-41 is available [here](#).