



NONPROFIT LAW BULLETIN

To: Clients and Friends of the Firm

From: Michael D. Schley

Date: July 27, 2010

Reply to
our Santa Barbara Office:
311 E. Carrillo Street
Santa Barbara, CA 93101
T: 805-966-2940
F: 888-453-1535

**Re: IRS Lists Nonprofits at Risk of Losing Exemption for Failure to File 990;
One-Time Relief Available for Smaller Nonprofits**

As we wrote on May 10, all non-church exempt organizations (with calendar fiscal years) had a filing deadline for Form 990 of May 17, and **those nonprofits that have missed filing for three years will automatically lose their exemption.** This is a significant issue for the sector because, four years ago, many nonprofits had no filing requirement, and there has been a general concern that many of those organizations would miss the filing deadlines under the new law. (See our [May 10 memorandum](#) explaining the new filing requirements and the deadline.)

This concern is apparently justified. The IRS has published its own list of over 35,000 organizations that appear to have missed this filing requirement. **In the Santa Barbara and Goleta zip codes alone, over 300 nonprofits are named as in jeopardy of losing their exemption for failure to meet the filing requirement,** including some prominent charities, several UCSB fraternity/sorority organizations, at least one foundation, and several homeowners associations and improvement districts. The list is available at [this IRS website](#). The IRS warns that the list may have inaccuracies and might not include all nonprofits that are in jeopardy of losing their exemption.


At the same time, the IRS has announced one-time relief programs for small and smaller organizations that missed the deadline: (1) a filing extension for the smallest organizations (those eligible to file Form 990-N); and (2) a voluntary compliance program for small tax-exempt organizations eligible to file Form 990-EZ. IRS has provided details about the relief program on its [website](#), along with Frequently Asked Questions (FAQs). IRS cautions that this relief isn't available to larger organizations required to file Form 990 or to private foundations that file Form 990-PF.

The IRS will begin automatically revoking exemptions under this rule in 2011. A nonprofit that loses tax-exempt status must begin filing regular income tax returns and paying taxes. Until an

organization's revocation has occurred, its donors can continue to make tax-deductible donations; but once the revocation occurs, it will be necessary for the organization to apply again for tax-exempt status. Loss of federal tax exemption can also result in loss of state tax exemption.

We would be glad to assist with more information.

Sincerely,

A handwritten signature in black ink that reads "Michael D. Schley". The signature is written in a cursive style with a long, sweeping tail on the "y".

Michael D. Schley