

May 2021

Private Foundations Bulletin

Form 2220 – To Include, or Not to Include, That Is the Question

Over the last several months, we have received inquiries from private foundations asking whether or not to include Internal Revenue Service (IRS) Form 2220, *Underpayment of Estimated Tax by Corporations*, along with their IRS Form 990-PF, *Return of Private Foundation*, when filing. As a general rule, foundations are not required to file this form along with their return as the IRS will calculate any penalties and interest owed and will, accordingly, bill the foundation. While this may be true, there are instances where the foundation is **specifically required** to file.

Basics

Private foundations organized as domestic exempt private foundations, domestic taxable private foundations, or nonexempt charitable trusts treated as private foundations are required to make estimated tax payments if the anticipated excise tax (IRS Code Sec. 4940) will be \$500 or more in the upcoming tax year. Foundations can utilize IRS Form 990-W, *Estimated Tax on Unrelated Business Taxable Income for Tax-Exempt Organizations and on Investment Income for Private Foundations*, in order to determine estimated excise taxes required to be deposited throughout the tax year. Excise tax owed is calculated based on net investment income (amount by which the sum of gross investment income and capital gain net income exceeds allowable deductions).

Payment Dates

Estimated tax payments are required to be deposited with the IRS by the 15th day of the fifth, sixth, ninth and twelfth months following the close of the prior tax year. For calendar year taxpayers, these dates are May 15th, June 15th, September 15th and December 15th.

Penalties

Foundations that do not make timely estimated payments throughout the year **may** be subject to both penalties and/or interest. Form 2220 can be utilized to determine whether there is a penalty and, if so, the amount of the penalty. Form 2220 used in conjunction with Form 990-W can help a foundation make timely payments so that penalties are avoided.

Required Inclusion

Foundations are specifically required to include Form 2220 along with their Form 990-PF under the following circumstances:

- The annualized income method is used
- The adjusted seasonal installment method is used
- The foundation is a “large organization”

Of the three circumstances, a foundation being considered a large organization is the most common. A foundation is considered a “large organization” if during **any** of the prior three tax years immediately preceding the current year tax, taxable income was \$1 million or more. As an example, if the foundation is completing their 2020 filing and had taxable income of \$900,000 in 2019, \$1.2 million in 2018 and \$850,000 in 2017, it would be considered a large organization as taxable income was above the \$1 million threshold in one of the preceding three tax years.

Additional Consideration

Even if the foundation is not considered a large organization and does not utilize either the annualized income or adjusted seasonal installment methods, there is an advantage in preparing the Form 2220. If it turns out a penalty is owed, by utilizing the Form 2220, the foundation can determine the amount of penalty owed at the time of filing. Penalties not paid at the time of filing are subject to continued accrual of interest. Utilization of Form 2220 can also help foundations better forecast future estimated payments.

Conclusion

To Include, or not to include? The answer is yes, but only if specifically required or the facts and circumstances indicate that a penalty is owed.

Contact Us

We welcome the opportunity to answer any questions you may have related to this topic or any other accounting, audit, tax or advisory matters relative to private foundations. Please call 212.286.2600 or email any of the Private Foundation Services team members below:

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