

Private Foundations Bulletin

Keeping the IRS Updated on Routine Foundation Administrative Matters

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We all know that change is inevitable. Keeping the Internal Revenue Service (IRS) informed of applicable administrative changes to your foundation may seem bothersome, but it's important to remember that informing the IRS in a timely manner of changes demonstrates a commitment to compliance and good governance practices. While private foundations are required by law to regularly provide accurate and current information to the IRS, above all else, regular communication helps to maintain a private foundation's good standing with the IRS and contributes to a positive relationship.

In this bulletin, we present a few routine – yet important – administrative matters to help ensure your private foundation keeps the IRS up to date.

Federal Form 8822-B, Change of Address or Responsible Party – Business

Federal Form 8822-B is used by private foundations to notify the IRS of changes in its mailing address or business location and/or responsible party. Timely submission of Form 8822-B is important to ensure that any correspondence from the IRS reaches the foundation at its updated address, helping to facilitate smooth communication and compliance with regulatory requirements. A foundation should not wait until it files its annual return to notify the IRS of such changes; the form should be filed shortly after the change occurs. When completing this form for a change in address, it is important to accurately provide the previous address on file with the IRS, the new address and the effective date of the change.

For a change in responsible party, it is important to note that the IRS defines a “responsible party” as the individual or entity that controls, manages or directs the private foundation and the disposition of its funds and assets. A responsible party could include a director or trustee, president or executive director who has such responsibilities and should, in most cases, also coincide with the individual who signs the foundation's annual tax returns. Form 8822-B is not required to be filed or prepared by the foundation's tax preparers and instead can be completed by management whenever a change occurs.

Change in Governing Instruments, Articles of Incorporation, Bylaws or Other Similar Instruments

In the event there is a change in Governing Instruments, Articles of Incorporation, Bylaws or similar instruments, a foundation is required to notify the IRS of such change via its annual return (Federal Form 990-PF). We recommend that you inform your tax preparers as soon as a change occurs to make certain it is properly reflected on the annual return. The foundation's tax preparers should check “Yes” for question 3, Part VI-A Statements Regarding Activities on the Federal Form 990-PF, and attach a conformed copy of the amended document(s).

Electronic Federal Tax Payment System (EFTPS)

Regarding private foundations that utilize the Electronic Federal Tax Payment System (EFTPS) to make tax payments, it is essential to maintain regular activity (login and/or usage) to avoid account deactivation due to non-use. The EFTPS does not notify a user their account has been deactivated. If an account has been

deactivated, re-enrollment is required, which can take 7-10 business days to obtain a new personal identification number (PIN) via mail. Therefore, we recommend that foundation management, a few weeks prior to any payment due date, ensure their account is still active to avoid last-minute scrambles to make “emergency” same-day payments via phone or banking institutions.

Additionally, if a foundation has recently changed bank accounts or banking institutions, ensuring prompt updating of account information within the system will help to prevent payments from being rejected.

Federal Form 8940, Request for Miscellaneous Determination

Federal Form 8940 must be used by private foundations to request advanced approval for, among other items, the following:

- Scholarship procedures/programs
- Set-asides under section 4942(g)(2)
- Voter registration activities
- Reclassification of foundation status
- Voluntary conversion from a public charity to a private foundation
- Terminating private foundation status

If the foundation is undertaking a new program or activity, it is intending to substantially change a program or activity for which it has previously received IRS approval or is looking for reclassification or termination of its status, timely submission of Form 8940 is important to ensure efficient processing and approval by the IRS.

When undertaking any of the above, we recommend that the foundation work with legal counsel and its tax preparers jointly to ensure that such changes are properly communicated to the IRS.

Conclusion

Above are just a few of the routine administrative matters that often go overlooked when it comes to keeping the IRS informed of changes at a foundation. Maintaining constant and clear communication and transparency throughout the life of the foundation is vital for conformity and regulatory adherence. By knowing and observing the requirements of these routine administrative matters, foundations can effectively manage and report changes to avoid issues, penalties, delays or discrepancies in dealings with the IRS.

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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