

LAREDO INDEPENDENT SCHOOL DISTRICT



PARENT TEACHER ORGANIZATION (PTO) GUIDELINES 2020-21

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Financial Guidelines

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Appendix

Acknowledgments: Thank you to the Cypress-Fairbanks Independent School District for granting us permission to use their documents to develop our own Booster Club and PTO guidelines. We particularly would like to acknowledge Ms. Carol Oman, Director of Internal Audit at Cypress-Fairbanks ISD for her support with this project. These guidelines were written with the intent to help parents and volunteers in complying with District policies and guidelines, University Interscholastic League (UIL) guidelines, and state and federal regulatory guidelines.

Contact List

In addition to your Sponsor, other helpful contacts are provided below from school administration to other District personnel, State agencies, and Federal agencies:

High Schools and Middle School / Principals

| | | |
|--|---|--|
| Raymond & Tirza Martin HS 2002 San Bernardo Ave. Laredo, TX 78040 | Principal: Guillermo Pro Email: gpro@laredoisd.org | Phone: (956) 273-7100 Fax: (956) 795-3860 |
| Joseph W. Nixon High School 2000 East Plum St Laredo, TX 78043 | Principal: Cassandra Mendoza Email: cmendoza@laredoisd.org | Phone: (956) 273-7400 Fax: (956) 795-3844 |
| Cigarroa High School 2600 Zacatecas St. Laredo, TX 78046 | Principal: Jose E. Iznola Email: jeiznola@laredoisd.org | Phone: (956) 273-6800 Fax: (956) 795-3814 |
| Early College HS 5241 University Blvd Laredo, TX 78041 | Principal: Margarita Taboada Email: mtaboada@laredoisd.org | Phone: (956) 273-7700 Fax: (956) 795-8185 |
| Vidal M. Treviño School of Communications & Fine Arts 820 Main St. Laredo, TX 78040 | Principal: Mario Mierles Email: mamireles@laredoisd.org | Phone: (956) 273-7800 Fax: (956) 795-3330 |
| Cigarroa Middle School 2600 Zacatecas St. Laredo, TX 78046 | Principal: Jose M. Cerda Email: jcerda@laredoisd.org | Phone: (956) 273-6100 Fax: (956) 718-2208 |
| L. J. Christen Middle School 2201 Santa Maria. Laredo, TX 78040 | Principal: Sandra E. Garcia Email: segarcia@laredoisd.org | Phone: (956) 273-6400 Fax: (956) 795-3732 |
| M. B. Lamar Middle School 1818 Arkansas Ave. Laredo, TX 78043 | Principal: Eduardo Lopez Email: elopez2@laredoisd.org | Phone: (956) 273-6200 Fax: (956) 795-3760 |

Contact List

| | | |
|---|--|--|
| Memorial Middle School 2002 Marcella Ave. Laredo, TX 78043 | Principal: Melissa Valdez Email: mevaldez@laredoisd.org | Phone: (956) 273-6600 Fax: (956) 795-3780 |
|---|--|--|

| Other Important Phone Numbers | | |
|--|--|----------------|
| District | | |
| <u>Division of Finance</u> | | |
| Flor Ayala Chief Financial Officer | fayala@laredoisd.org | (956) 273-1043 |
| Gloria Vargas Accounting Supervisor | gvargas@laredoisd.org | (956) 273-1073 |
| <u>Internal Audit</u> | | |
| Elizabeth Henry Internal Auditor | ehenry@laredoisd.org | (956) 273-1461 |
| <u>Athletics</u> | | |
| Sylvia Barrera Director of Athletics | slbarrera@laredoisd.org | (956) 273-1220 |
| <u>Plant Facilities & Support Services</u> | | |
| Raymundo P. Villarreal, Jr. Assistant Superintendent for Plant Facilities & Support Services | reyvillarreal@laredoisd.org | (956) 795-3615 |
| <u>Elementary Education</u> | | |
| Myrtala Ramirez Director of Elementary Education | mramirez@laredoisd.org | (956) 273-1742 |
| <u>Secondary Education</u> | | |
| Israel Castilla Director of Secondary Education | icastilla@laredoisd.org | (956) 273-1745 |

Contact List

| Other Important Phone Numbers | | |
|---|--|-------------------------------|
| State | | |
| <u>Competitions and Rules</u> | | |
| University Interscholastic League (UIL) | www.uil texas.org | (512) 471-5883 |
| <u>Incorporations</u> | | |
| Texas Secretary of State | www.sos.state.tx.us | (512) 463-5555 |
| <u>Raffles</u> | | |
| Texas Attorney General | www.oag.state.tx.us | (713) 223-5886 |
| <u>Sales Tax</u> (Sales Tax Permit, Sales Tax Exemption, Sales Tax Reports, and Franchise Tax) | | |
| Texas Comptroller's Office General Information www.cpa.state.tx.us/taxinfo/sales/index.html (includes Searchable Taxpayer Information Databases) | | 1-800-252-5555 |
| Exempt Organizations Department www.cpa.state.tx.us/taxinfo/exempt/index.html | | 1-800-531-5441 ext. 34142 |
| Federal | | |
| <u>IRS Exempt Status as a 501(c)(3) Organization and Tax Returns</u> | | |
| Internal Revenue Service (IRS) | | |
| General Information www.irs.gov | | 1-800-829-1040 |
| Tax-exempt Organizations www.irs.gov (Select Charities & Non-Profits) | | 1-877-829-5500 (toll-free) |
| Tax Forms & Publications www.irs.gov (Select Forms & Publications) | | 1-800-829-3676 |

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PTO Checklist

Included in this section:

- A comprehensive checklist that all PTOs should complete.

PTO Checklist

The following checklist serves as a guide to help ensure that your PTO has complied with the District's Board Policies and guidelines and federal and state regulations governing PTOs. In addition, information you document here will help future officers continue your compliance efforts.

Page Reference

General

- | | | | |
|--------------------------|----|---|---------------------|
| <input type="checkbox"/> | 1. | Provide the Auditor, the School Principal, and the Division of Finance with a list of the PTO officers by October 15, 2015 and as officers change. The list should include: <ul style="list-style-type: none"> - Name - Office Held - Mailing Address - Home Phone Number - Work Phone Number - Cell Phone Number - E-mail Address | 5.2 – 5.3 |
| <input type="checkbox"/> | 2. | Provide the Auditor, the School Principal, and the Division of Finance with the PTO's constitution, bylaws, and operating procedures by October 15, 2015. In addition, provide updated copies as changes are made. | |
| <input type="checkbox"/> | 3. | The PTO's official mailing address is: <div style="margin-top: 10px;"> Official Name _____ PO Box / Street _____ City, State and Zip Code _____ </div> | 4.5 4.14 6.11 |

Insurance

- | | | | |
|--------------------------|----|--|------|
| <input type="checkbox"/> | 4. | The PTO should consider purchasing a general liability, event liability, and/or fidelity (bond) insurance coverage policies. | 6.11 |
|--------------------------|----|--|------|

Fund-Raisers

- | | | | |
|--------------------------|----|--|------------|
| <input type="checkbox"/> | 5. | For the fund-raisers planned for the current school year, submit the Permission Request (first 2 pages) of the Fund-Raising Activity Report to the Principal or designee for approval by September 30. | 6.7 – 6.11 |
|--------------------------|----|--|------------|

PTO Checklist

Page Reference

- ☐ 6. In addition, provide the Principal with detailed fund-raising information at least 30 days prior to the fund-raising event, if not already provided on the Permission Request. 6.7 – 6.8

The detailed fund-raising information should include:

- Purpose of the fund-raiser,
- Type of fund-raising activity (i.e., candy sale, carnival)
- Date(s), time(s), and place(s) of the activity,
- Name of the sponsoring organization,
- Name and phone number of organization's representative,
- Name and phone number of person(s) in charge of the fund-raiser, and
- Name and phone number of the person(s) who will be handling the money for the fund-raiser.

- ☐ 7. If your PTO has received a tax-exemption from the Texas Comptroller's Office, your organization is entitled to two (2) "one-day, tax-free" sales/auction days per calendar year. (See Checklist item #22.) 4.4
5.9

If you are entitled to the two "one-day, tax-free" sales days, indicate the "one-day, tax-free" sales/auction that have been used or that are planned:

Calendar Year _____

Date / Fund-raiser _____

Date / Fund-raiser _____

Calendar Year _____

Date / Fund-raiser _____

Date / Fund-raiser _____

- ☐ 8. The PTO cannot require members or students to fund-raise or raise a certain amount. For example, a student's ability to attend a trip cannot be based on raising a certain amount of money. If your PTO is currently requiring fund-raising, discontinue this requirement. 4.9 – 4.10
6.8

The PTO cannot use individual accounts to credit an individual for funds raised. If your PTO is using individual accounts currently, discontinue this practice.

Fund-raising is an opportunity to generate revenue for the PTO as a group, not individuals. Therefore, revenues should be recorded in a group account

where all members or students have the same opportunity to **benefit equally** from the revenues.

One member or student should not receive a larger benefit from fund-raising than another. In addition, if a member or student chooses not to participate in the fund-raiser, that person still **receives an equal benefit** from the revenues generated.

Financial Matters

General

- ☐ 9. The bank accounts used by the PTO include:

| <u>Bank Name</u> | <u>Account Number</u> |
|------------------|-----------------------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

- ☐ 10. Determine the identification number used for the bank accounts. The PTO's Employee Identification Number (EIN) should be used. Do not use an individual's social security number, and **do not use the District's EIN.**
- 4.8 – 4.9
6.3
D.2.1

The identification number used for the bank accounts is as follows:

- ☐ 11. Update the authorized signers on your bank accounts as officers change.
- 6.3 – 6.4
A.1.17

The current authorized signers include the following PTO officers:

| <u>Name of Person</u> | <u>Officer Position Held / District Employee? (Yes/No)</u> | |
|---------------------------|--|-----------|
| <i>Example: June Bugg</i> | <i>President</i> | <i>No</i> |
| _____ | _____ | |
| _____ | _____ | |
| _____ | _____ | |
| _____ | _____ | |

IMPORTANT

District employees may serve parent organizations as a general member or as a member of its executive board, except for the position of Treasurer. District employees shall not serve in a capacity over the organization's financial affairs, including an authorized signer on the bank account.

- | | | | |
|--------------------------|-----|---|--------------|
| <input type="checkbox"/> | 12. | For the PTO safe, change the safe combination as officers change. No school personnel should be given the combination to the safe. | 6.19 – 6.20 |
| <input type="checkbox"/> | 13. | Determine whether your organization is in good standing with the Texas Comptroller's Office by calling their office. | 5.9 6.19 |
| <input type="checkbox"/> | 14. | Determine whether your organization is in good standing with the IRS by calling the Exempt Organization Section of the IRS. | 5.10 6.19 |
| <input type="checkbox"/> | 15. | Present a written Treasurer's Report at every meeting that includes the general membership or have it available for review upon request. A copy of the Treasurer's Report should be kept at the school's front office for review. | 6.21 |
| <input type="checkbox"/> | 16. | File the PTO's Texas Sales Tax Reports as required. | 4.4 |

The Texas Comptroller's Office determines how often the report needs to be filed and is subject to change.

PTO Checklist

Page Reference

The PTO files its Texas Sales Tax Report:

- ☐ Monthly
- ☐ Quarterly
- ☐ Season (Semi-Annually)(Not available for new PTOs)
- ☐ Annually

- ☐ 17. Provide a copy of the written PTO Financial Report for the applicable school year to the School Principal by September 30, of each year. 5.4 –5.7

For example, a report for the 2014-15 school year should be submitted by September 30, 2015.

- ☐ 18. Provide a copy of the PTO Review Report that indicates the results of the review of the organization's financial information, including the Financial Report to the School Principal by September 30, of each year along with the Financial Report. 5.8 – 5.15

- ☐ 19. Provide a copy of the financial report and review report at a meeting that includes the PTO's general membership by October 31 of each year, or a copy should be available at the school's front office for review. 5.4

- ☐ 20. Issue 1099 forms to applicable individuals or businesses by January 31, of each year. If 1099 forms are issued, send information to the IRS by February 28, of each year. 5.10
6.14

District employees hired by the PTO must be paid directly by the PTO and not through the District.

Note: Request a W-9 form from the individual or business before issuing them a check.

- ☐ 21. File the IRS Form 990, 990-EZ, or 990-N, Return of Organization Exempt from Income Tax, each year. 4.13 –
4.14
D.1.2 –
D.1.3
- The return is due by the 15th day of the 5th month after the organization's accounting period ends (due 4 ½ months after your official year-end).

Official Year-end: ____/____/____ *Due Date for Return:* ____/____/____

PTO Checklist

Page Reference

State Regulatory Information

The following items need to be done only once since the origination of the PTO.

- ☐ 22. Determine whether your organization has obtained a Texas Sales Tax Permit. 4.3
C.2.3

The PTO's sales tax permit number is: _____

- ☐ 23. Determine whether your organization has obtained a sales tax-exemption from the Texas Comptroller's Office. 4.3 –4.4

The PTO has received a tax-exemption from the Texas Comptroller's Office:

- ☐ Yes
☐ No

Reminder: Only those organizations with a tax-exemption from the Texas Comptroller's Office are entitled to the two (2) "one-day, tax-free" sales/auction days.

- ☐ 24. If the PTO is incorporated, determine whether your organization has obtained an exemption from Texas franchise tax from the Texas Comptroller's Office. 4.5

The PTO is incorporated:

- ☐ Yes
☐ No

If the PTO is incorporated, an exemption from Texas franchise tax was obtained from the Texas Comptroller's Office:

- ☐ Yes
☐ No

Federal Regulatory Information

The following items need to be done only once since the origination of the PTO.

- ☐ 25. Obtain an Employer Identification Number (EIN) from the Internal Revenue Service (IRS). 4.8 – 4.9
D.2.1

The EIN for the PTO is: _____

PTO Checklist

Page Reference

- ☐ 26. Determine whether the PTO has received tax-exempt status as a public 501(c)(3) organization from the IRS. If the IRS has approved the PTO's tax-exempt status, a Determination Letter would have been received from the IRS. 5.10
D.2.29 –
D.2.35

The PTO received its tax-exempt status as a public 501(c)(3) organization from the IRS:

- ☐ Yes
☐ No

If you have not applied for the tax-exempt status, complete the IRS Form 1023, Application for Recognition of Exemption, and the Form 8718, User Fee for Tax-Exempt Organization Determination Letter Request. Submit these forms and the applicable fee to the IRS. D.2.2 –
D.2.27

If you have applied for the tax-exempt status but you have not received your Determination Letter, you should receive an Acknowledgment of Your Request. Call the IRS to determine the status of your application.

- ☐ 27. **As your PTO President or Treasurer changes, give the applicable *PTO Policies and Procedures Manual* to the new officer(s).**

If you have any questions concerning the above items, please refer to the applicable sections of this handbook.

Creating Your Own Identity

Included in this section:

- **Creating Your Own Identity Overview**
- **Life Cycle of a Public Charity**
- **Incorporation of a Non-Profit Organization**

Creating Your Own Identity Overview

Creating Your Own Identity Overview

This section of the *Manual* provides detailed information related to applying for permits and exemptions you will need. As a supplement to these pages, the following short summary lists the necessary steps in the order in which they should be completed. Some blank forms and examples of completed forms and other information are included in the Appendix to assist you in completing the steps. In addition, see the Life Cycle of a Public Charity immediately following this section.

1. Establish a PTO Steering Committee to setup the organization. (Members of the steering committee cannot be considered as PTO officers until they are elected at a general membership meeting.)
2. Decide if your PTO Club will be an association or a corporation and prepare the necessary organizing document.

An association will prepare and sign an “Articles of Association” as an organizing document; However, this document **will not be filed** with the Texas Secretary of State. The date the final document is signed by at least two officers or board members is considered the beginning date of the organization.

A corporation will prepare *Form 202* (Certificate of Formation Nonprofit Corporation) **to be filed** with the Texas Secretary of State. You should receive a copy of your certificate of formation from the Texas Secretary of State stamped with the date considered the beginning date the organization.

Both the IRS and State of Texas require that each PTO have an organizing document to establish the official formation of the organization. You will submit this document along with the appropriate forms when applying for federal tax exemption as a public 501(c)(3) organization and when applying for state sales, use, and franchise tax exemptions.

Benefits of Incorporation:

- Formalize organization and provide standardized operating procedures through Articles of Incorporation and Bylaws.
 - Helps shield the individuals governing and operating the nonprofit organization from liabilities incurred by the organization, unless the individuals are negligent in their duties.
3. If an association, skip to Step 5. If a corporation, go to Step 4.
 4. For a corporation, file for incorporation with the Texas Secretary of State before proceeding with Step 5. (*See the Incorporation of a Non-Profit Organization information.*)
 5. Draft the PTO bylaws as soon as possible.

Creating Your Own Identity Overview

6. A membership drive should occur to let parents know about the PTO and when the first membership meeting will be held. At the first meeting, have the general membership approve establishing the PTO and the PTO bylaws. Then elect officers in accordance with the bylaws.
7. Apply for an Employer Identification Number (EIN) with the IRS.
8. After receiving an EIN and electing officers, the PTO can open a bank account.
9. Apply for a Sales Tax Permit with the Texas Comptroller's Office.
10. Apply for an exemption from Texas sales, excise, and use tax with the Texas Comptroller's Office.
11. If you are incorporated, file for franchise tax-exemption with the Texas Comptroller's Office.
12. Apply for federal tax-exemption as a **public 501(c)(3)** organization with the IRS along with the applicable fee.

Read "Top Ten Reasons for Delays in Processing Exempt Organization Applications" in the Appendix before you submit your application.

13. Receive a Letter of Acknowledgement from the IRS indicating receipt of your application and payment. Forward a copy to Division of Finance and the Internal Audit Department.
14. Correspond with the IRS if your bylaws need to be modified or if the IRS needs additional information to complete your approval process.
15. Receive a Determination Letter (approximately 4 – 6 months later) stating you are a public 501(c)(3) tax-exempt organization.
16. Send a copy of the Determination Letter to the Division of Finance and the Internal Audit Department.
17. Put all of the documents related to these steps in a "Permanent File" in a safe place to be forwarded to the new officers each year. You may also scan these documents and save to a CD. Make copies for several officers.
18. **Pat yourself on the back for a job well done!!**

Life Cycle of a Non-Profit Charity

Life Cycle of a Public Charity

The following excerpts were downloaded from the IRS website. The information documented below is subject to change by the IRS. Therefore, for the most up-to-date version of this information, please go to

www.irs.gov/charities

Organizations that meet the requirements of Internal Revenue Code section 501(c)(3) are exempt from federal income tax as charitable organizations. In addition, contributions made to charitable organizations by individuals and corporations are deductible under Code section 170.

During its existence, a public charity has numerous interactions with the IRS – from filing an application for recognition of tax-exempt status, to filing the required annual information returns, to making changes in its mission and purpose. The IRS provides information, explanations, guides, forms and publications on all of these subjects – they are available through this IRS Web site. The illustration below provides an easy-to-use way of linking to the documents most charities will need as they proceed through the phases of their “life cycle.”

The IRS web site includes examples of various documents found in the following sections.

Starting Out

- [Organizing Documents](#)
 - [Required Provisions](#)
 - [Sample Organizing Documents](#)
 - [Governance and related topics](#)
- [Bylaws](#)
 - [State law requirements](#)
- [Employer Identification Number](#)
 - [Application Form](#)
 - [Online EIN Application](#)
- [Charitable Solicitation](#)
 - [Initial State Registration](#)
 - [Periodic State Reporting](#)
 - [State Charity Offices](#)
- [Help from the IRS](#)

Applying to IRS

- [Requirements for Exemption](#)
- [Application Forms](#)
 - [Exemption Application](#)
 - [Group exemption](#)

Life Cycle of a Non-Profit Charity

- [User Fee](#)
 - [Power of Attorney](#)
 - [Disclosure of Applications](#)
- [IRS Processing](#)
 - [While You Wait](#)
 - [Rulings and Determination Letters](#)
- [Help from the IRS](#)
 - [Application Process Step by Step](#)
 - [Customer Account Services](#)
 - [Publication 4220](#), *Applying for 501(c)(3) Tax-Exempt Status*
 - [Publication 557](#), *Tax-Exempt Status for Your Organization*

Required Filings

- [Annual Exempt Organization Return](#)
 - [Requirements for Filing](#)
- [e-File for Exempt Organizations](#)
 - [e-Postcard for Small Exempt Organizations](#)
- [Unrelated Business Income Tax](#)
 - [Requirements for Filing](#)
 - [Form 990-T](#)
 - [Form 990-T instructions](#)
 - [Form 990-W](#)
 - [Estimated Tax](#)
 - [Exceptions and Exclusions](#)
 - [Publication 598](#), *Tax on Unrelated Business Income for Exempt Organizations*
- [Help from the IRS](#)
 - [Customer Account Services](#)
 - [Publication 4221-PC](#), *Compliance Guide for 501(c)(3) Public Charities*
 - [Publication 557](#), *Tax-Exempt Status for Your Organization*

Ongoing Compliance

- [Jeopardizing Exemption](#)
 - [Inurement/Private Benefit](#)
 - [Intermediate Sanctions](#)
 - [Lobbying/Political Activity](#)
 - [Not Filing Annual Return or Notice](#)
- [Employment Taxes](#)
 - [Requirement to Pay](#)
 - [Exceptions and Exclusions](#)
 - [Worker Classification](#)
 - [Forms and Publications](#)
- [Retirement Plan Compliance](#)
- [Substantiation and Disclosure](#)
 - [Charitable Contributions](#)
 - Publication 1771, [Charitable Contributions Substantiation and Disclosure](#)

Life Cycle of a Non-Profit Charity

- Requirements
 - [Written acknowledgments](#)
 - [Quid pro quo contributions](#)
 - [Charity auctions](#)
 - [Noncash Contributions](#)
 - Donor ([Form 8283](#))
 - Donee ([Form 8282](#))
 - [Publication 561](#), *Determining the Value of Donated Property*
 - [Public Disclosure Requirements](#)
 - [Help from the IRS](#)
 - [Customer Account Services](#)
 - [Publication 4221-PC](#), *Compliance Guide for 501(c)(3) Public Charities*
 - [Publication 557](#), *Tax-Exempt Status for Your Organization*

Significant Events

- [Reporting Changes to IRS](#)
 - [Termination of Exempt Organization](#)
- [Private Letter Rulings and Determination Letters](#)
- [Audits of Exempt Organizations](#)
 - [Potential Examination Consequences](#)
 - [Examination Procedures](#)
 - [Power of Attorney](#)
- [Termination of an Exempt Organization](#)
- [Help from the IRS](#)

Incorporation of a Non-Profit Organization

Incorporation of a Non-Profit Organization

The following excerpts were downloaded from the Texas Secretary of State's website. The information documented below is subject to change by the Texas Secretary of State. Therefore, for the most up-to-date version of this information, please go to

www.sos.state.tx.us

A non-profit corporation is created by filing certificate of formation with the secretary of state in accordance with the Texas Business Organizations Code ("BOC"). "Non-Profit corporation" means a corporation no part of the income of which is distributable to members, directors, or officers [BOC, Section 22.001(5)].

Two copies of the Certificate of Formation, Form 202, should be submitted to the secretary of state for filing. The filing fee for a non-profit corporation is \$25.00.

The secretary of state will return the appropriate evidence of filing to the submitter together with a file-stamped copy of the document, if a duplicate copy of the document was provided for such purpose. The incorporator will need to order a "certified copy" of the certificate of formation to submit with the federal tax-exemption paperwork.

TAX EXEMPTION

Not all non-profit corporations are entitled to exemption from state or federal taxes. The secretary of state, however, does not make such determinations.

You should consult the Internal Revenue Service (IRS) prior to filing the articles to determine what provisions must be included in the articles for the corporation to be exempt from federal taxes. IRS Publication 557, titled "How to Apply for Recognition of Exemption for an Organization," describes the rules and procedures for non-profit organizations requesting exemption. The publication can be obtained from either the IRS or the Government Printing Office.

A non-profit corporation may be exempt from the payment of state franchise taxes if its purposes fall within one of the exemptions listed in the Texas Tax Code, Chapter 171, Subchapter B. Questions on exemption procedures should be addressed to:

Comptroller of Public Accounts
Tax Assistance
Exempt Organizations Section
Austin, Texas 78774-0100
(512) 463-4600 or (800) 252-1381
TDD: (800) 248-4099 or (512) 463-4621

Incorporation of a Non-Profit Organization

ARTICLES OF INCORPORATION FOR A NON-PROFIT CORPORATION

The secretary of state has promulgated *Form 202* (Certificate of Formation for a Nonprofit Corporation) to meet statutory requirements and facilitate filings with the office. Use of this form is permissive. *Form 202* (Certificate of Formation for a Nonprofit Corporation) is available on the secretary of state website at http://www.sos.state.tx.us/corp/forms_boc.shtml and can also be completed on-line through **SOSDirect**.

“Forming a Nonprofit Tax-Exempt Corporation in Texas” published by the 2010 Texas C-Bar is available on the secretary of state website, http://www.sos.state.tx.us/corp/nonprofit_org.shtml. This publication explains the basic steps in forming a nonprofit corporation and obtaining tax-exempt status from the state of Texas and the federal government.

Selection or completion of a form found on this web site is the responsibility of the user and the user's attorney. The forms and information provided by the secretary of state are not intended to provide legal advice or to substitute for the advice of an attorney. If you have specific legal questions, consult your attorney.

EXECUTION REQUIREMENTS AND FEE

1. The articles should be signed by ALL the incorporators.
2. If a person signs a document which the person knows is false in any material respect with the intent that the document be delivered to the secretary of state to be filed on behalf of a corporation, the person has committed an offense. The offense is a Class A misdemeanor.
3. Two copies of *Form 202* should be submitted to the secretary of state.
4. There is a \$25 filing fee for all non-profit corporations
5. If two copies of *Form 202* were not filed with the secretary of state, the incorporator will need to order a “certified copy” of the certificate of formation to submit with the federal tax-exemption paperwork. The certified copy may be ordered for \$15 plus \$1 per page.

COMMON ERRORS CAUSING REJECTION OF A PROPOSED FILING

Common errors include:

1. failure to properly execute the documents;
2. failure to state that the corporation is a non-profit corporation; or
3. the designation of less than three directors.

Incorporation of a Non-Profit Organization

ARTICLES OF AMENDMENT FOR A NON-PROFIT CORPORATION

Articles of amendment may be filed to add, delete, or alter provisions of the articles of incorporation using *Form 403* (Certificate of Correction). A corporation may amend its articles of incorporation to correct only those statements that contains an inaccurate or erroneous statement, was defectively or erroneously signed, sealed, acknowledged or verified, the governing law authorizes or requires to be included in the original filing instrument. A certificate of correction may not alter, add, or delete a statement that by its alteration, addition or deletion would have caused the secretary of state to determine that the filing instrument did not conform to the requirements of applicable law at the time of filing. *Form 403* (Certificate of Correction) is available on the secretary of state website at http://www.sos.state.tx.us/corp/forms_boc.shtml and can also be completed on-line through **SOSDirect**.

After the secretary of state files the certificate of correction, the filing instrument is considered to have been corrected on the date of the original filing except where a person is adversely affected by the correction, the filing instrument is considered to have been corrected on the date the certificate of correction is filed.

Selection or completion of a form found on this web site is the responsibility of the user and the user's attorney. The forms and information provided by the secretary of state are not intended to provide legal advice or to substitute for the advice of an attorney. If you have specific legal questions, consult your attorney.

EXECUTION REQUIREMENTS AND FEE

1. The certificate of correction must be signed by a person authorized to sign the certificate of formation.
2. If a person signs a document which the person knows is false in any material respect with the intent that the document be delivered to the secretary of state to be filed on behalf of a corporation, the person has committed an offense. The offense is a Class A misdemeanor.
3. There is a \$15 filing fee.

Incorporation of a Non-Profit Organization

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Following the Rules...

Included in this section:

- **Authoritative Guidelines Overview**
- **State Regulatory Information**
- **Federal Regulatory Information**

Authoritative Guidelines Overview

PTOs are governed by various entities. The School District has Board Policies and guidelines that **must be followed** by PTOs, as well as guidelines that the School Principal may implement. Also, the PTOs must follow the guidelines of the State of Texas and the federal government through the IRS. Some state regulations relate to state sales tax while other regulations involve becoming incorporated or involve the holding of a raffle.

The following information is included in this section:

- ◆ District Board Policy GE (Legal) and GKB (Legal), *Relations with Parent Organizations/Advertising and Fund Raising in the Schools*
- ◆ State Regulatory Information
- ◆ Federal Regulatory Information

The state and federal regulatory information included in this section does not include all laws or rules that may apply to your particular situation. This information is provided by the District's Internal Audit Department; however, Internal Audit is not an authority on specific accounting situations or tax-related issues concerning individual PTOs. Therefore, PTOs should obtain competent independent counsel, such as a Certified Public Accountant (CPA) or an attorney, to address accounting and tax matters related to their specific circumstances. The cost of these services would be the PTO's responsibility. In addition, the IRS and the Texas Comptroller's Office may be contacted for questions related to your organization's specific situation.

IMPORTANT

PTO officers are solely responsible for ensuring that their PTO is in compliance with District policies and guidelines, state regulations, and federal regulations.

Therefore, the District, including any District employee, is not responsible for a PTO not complying with the various policies, guidelines, and regulations.

State Regulatory Information

State Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to PTOs regarding state tax regulations. Steps have been documented to aid a PTO in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a PTO will remain in compliance with all state tax regulations.

Each PTO should strive to remain in good standing with all state agencies. **Therefore, each PTO is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the PTO's responsibility.

General State Regulatory Information

PTO officers are solely responsible for ensuring that their PTO is in compliance with all state regulations. Therefore, the District, including any District employee, is not responsible for a PTO not being in good standing with all state agencies. However, the District has provided the following information that includes detailed steps PTOs should take to comply with state tax regulations.

This information is organized as follows:

| | <u>Page</u> |
|---|-------------|
| Obtaining a Texas Sales Tax Permit..... | 4.8 |
| Qualifying for Exemption from Texas Sales and Use Tax. | 4.8 |
| Reporting Requirements | 4.9 |
| Franchise Tax..... | 4.10 |
| Change in Address | 4.10 |
| Further Questions? | 4.10 |

State Regulatory Information

Obtaining a Texas Sales Tax Permit

To sell any taxable items within the State of Texas, a company, organization, or person must apply for a Sales Tax Permit. PTOs should obtain a Texas Sales Tax Permit if you intend to sell goods or taxable services in Texas. The sale of goods **does include** fund-raisers, such as candy sales, T-shirt sales, and sales of other items. In addition, some PTOs sell services that may be taxable.

PTOs may obtain a Texas Sales Tax Permit by submitting the completed applications to the Texas Comptroller's Office. You **must** apply on-line for the Texas Sales Tax Permit.

Note: Go to the Texas Comptroller of Public Accounts website at www.window.state.tx.us

A Texas Sales Tax Permit will be issued to the PTO along with a Sales Tax Permit Number. The Texas Sales Tax Permit Number has 11 digits and begins with a 1, 2, or 3. The permit numbers beginning with a "1" are based on an entity's EIN. Those permit numbers beginning with a "2" are based on a person's social security number. The permit numbers beginning with a "3" are assigned by the Comptroller's Office.

PTOs cannot use the District's Sales Tax Permit Number.

To determine if your PTO has a permit you may use the searchable Taxpayer Information Database at www.window.state.tx.us/taxinfo/exempt.

Qualifying for Exemption from Texas Sales and Use Tax

To apply for exemption prior to receiving your federal exempt status from the IRS, complete application *AP-207*.

To apply for exemption based on the federal exempt status, complete application *AP-204*. See website at www.window.state.tx.us/taxinfo/exempt. On this webpage, you may also do an Exempt Organization Search to verify if your PTO is exempt.

The sales and use tax exemption allows approved organizations an exemption from sales tax when purchasing items to further the organization's exempt purpose. Therefore, this exemption allows the approved PTO to make sales tax-exempt purchases of items intended for resale for a fund-raiser. **This exemption process is separate and in addition to applying for federal tax-exemption from the IRS.**

State Regulatory Information

See Appendix for additional information from Texas Comptroller's Office.

The PTOs with the exemption are entitled to two (2) "one-day, tax-free" sales or auctions per calendar year. A fund-raiser qualifies for the "one-day, tax-free" sale/auction if all items are to be delivered on one day. Each "one-day" sale/auction may not exceed 24 consecutive hours.

Remember: You must be granted the exemption first to be entitled to the two (2) "one-day, tax-free" sales or auctions per calendar year.

Sales of items such as T-shirts, candles, cups, etc. are subject to sales tax when sold on days other than the two (2) "one-day, tax-free" sale/auction days.

All **catalog fund-raisers** are considered taxable, and **CANNOT** be considered as one of your two (2) "one-day, tax-free" sales per calendar year. Your PTO is considered an agent of the vendor and, therefore, must collect sales tax for items sold that are taxable.

If you plan to hold a catalog fund-raiser, tax must be collected for those items in the fund-raiser that are taxable. For instance, gift wrap is taxable, but cookie dough is exempt from sales tax by law. The vendor should remit the applicable sales tax to the Texas Comptroller's Office.

Reporting Requirements

The Texas Comptroller's Office requires that PTOs file at least one sales tax report per calendar year. The frequency of filing the sales tax report is determined by the Texas Comptroller's Office. The amount of anticipated sales tax payments affects the frequency of reporting. The sales tax reports may be due monthly, quarterly, or annually. Some PTOs have reports due on a seasonal basis (semi-annually). This reporting frequency is no longer available for new PTOs.

Since sales tax payments may vary from year to year, the frequency of reporting can also change. The Texas Comptroller's Office will generally communicate changes in filing requirements to the PTOs in writing. In addition, the Texas Comptroller's Office will generally mail the required reporting form and information to organizations that have obtained a Sales Tax Permit.

State Regulatory Information

Franchise Tax

Every profit and nonprofit corporation in Texas must file all franchise tax reports and public information reports with appropriate payment until the Comptroller's office has granted tax exemption. Failure to do so will cause the loss of corporate privileges as well as the forfeiture of charter by the Texas Secretary of State.

PTOs that have received their Determination Letter from the IRS granting 501(c)(3) tax exemption may also request exemption from the Texas franchise tax through the Texas Comptroller's Office.

For additional franchise tax information, go to the Texas Comptroller's Office website at www.window.state.tx.us, under Franchise Tax.

Change in Address

If the mailing address for the PTO changes, immediately notify the Texas Comptroller's Office. Failure to do so may result in important correspondence being lost. To avoid frequent mailing address changes, the Texas Comptroller's Office recommends that each PTO obtain its own post office box (PO Box) or private mailing box (PMB) to be used for official PTO mail. In addition, the post office box address and keys can be given easily to the new officers at the beginning of each new year.

Further Questions?

Texas Comptroller's Office

Austin Office

Exempt Organizations Department

1-800-252-5555 (toll-free)

1-800-531-5441 ext. 34142

State Regulatory Information

Website addresses

Texas Comptroller's Office

www.window.state.tx.us

Sales Tax Information

www.window.state.tx.us/taxinfo/exempt

Exempt Organizations

www.window.state.tx.us/taxinfo/exempt

Federal Regulatory Information

Federal Regulatory Information

This section has been prepared to provide general, not specific or all-inclusive, information to PTOs regarding federal tax regulations. Steps have been documented to aid a PTO in abiding by the regulations; however, these steps are only general guidelines and do **not** ensure that a PTO will remain in compliance with all federal tax regulations.

Each PTO should strive to remain in good standing with all federal agencies, including the Internal Revenue Service (IRS). **Therefore, each PTO is responsible for obtaining its own competent independent counsel on accounting and tax matters related to its specific circumstances.** This counsel may include a Certified Public Accountant (CPA) or an attorney. The cost of these services would be the PTO's responsibility.

General Federal Regulatory information

PTO officers are solely responsible for ensuring that their PTO is in compliance with all federal regulations. Therefore, the District, including any District employee, is not responsible for a PTO not being in good standing with all federal agencies. However, the District has provided the following information that includes detailed steps PTOs should take to comply with federal tax regulations.

This information is organized as follows:

| | <u>Page</u> |
|---|-------------|
| Obtaining an Employer Identification Number | 4.13 |
| Why Do I Want To Be Tax-Exempt? | 4.14 |
| Why Do I Want To Be a Public 501(c)(3)? | 4.15 |
| Becoming a Public 501(c)(3) Tax-Exempt Organization | 4.16 |
| Applying for Public 501(c)(3) Tax-Exempt Status | 4.16 |
| Filing Requirements for Tax-Exempt Organizations | 4.18 |
| Change in Address | 4.19 |
| Further Questions? | 4.19 |

For more details, see Life Cycle of a Public Charity on the IRS website at www.irs.gov/charities.

Federal Regulatory Information

Obtaining an Employer Identification Number

Every organization must have an employer identification number, even if it will not have employees. The employer identification number is a unique number that identifies the organization to the Internal Revenue Service.

Since PTOs are separate entities from the District, **PTOs can not use the District's EIN.**

IMPORTANT

An organization is **not** automatically considered tax-exempt by acquiring an EIN. All organizations must first apply for an EIN to be recognized as a unique entity and then apply for tax-exempt status. Likewise, the mere fact that an entity is organized as a non-profit organization does **not** indicate that it is exempt from federal tax.

PTOs may obtain an EIN by:

1. Applying Online
Once the application is completed, the information is validated during the online session, and an EIN is issued immediately.
2. Applying by Phone
Call Business & Specialty Tax Line at (800) 829-4933. The EIN will be issued to the individual over the telephone.
3. Applying by Fax
Fax the completed [Form SS-4](#) application to (859) 669-5760. A fax will be sent back with the EIN within four (4) business days.
4. Applying by Mail
Mail the completed Form SS-4 to:

IRS
Attn. EIN Operation
Philadelphia, PA 19255

The processing timeframe for an EIN application received by mail is four weeks.

Federal Regulatory Information

Note: No fee is required for obtaining an EIN.

After receiving your EIN, you may use it to then open a bank account and obtain a State Sales Tax Permit. **PTOs should not use an individual's social security number to conduct the business of the organization.**

Copies of the completed SS-4 form and the IRS response documenting the assigned EIN number should be kept in the PTO's permanent records from year to year. You may also want to have the Secretary keep a backup copy of these documents on a CD.

Why Do I Want To Be Tax-Exempt?

The IRS Tax Code provides for special treatment of certain organizations identified as "tax-exempt." Some benefits to becoming tax-exempt as a public 501(c)(3) organization include:

1. Taxes are not paid to the IRS for revenues raised, and
2. Contributions to certain tax-exempt organizations [501(c)(3)] are tax-deductible by the contributor.

However, the following are restrictions placed on tax-exempt organizations that PTOs **must follow** to receive tax-exempt status and to retain that status:

- ♦ **Tax-exempt organizations must benefit a group as a whole instead of benefiting individual members of a group.** Since PTOs usually assist student groups, all members of the student group sponsored are to be treated equally and receive the same opportunity to benefit from the PTO's assistance. Therefore, one student cannot receive a greater benefit than another unless the criteria for financial need discussed below is met.

In some instances, individuals may not be able to afford to pay the amount owed to participate in a particular event. The IRS has indicated that a group or club may establish criteria that could be used to determine if a person is in financial need. If the criteria are met, the group or club could provide the necessary funds to allow the individual to participate. The criteria should be established in writing prior to a particular situation arising. In addition, the criteria should be used consistently for all people, and the criteria should not change every year.

- ♦ **Tax-exempt organizations cannot use individual accounts.** "Individual accounts" are those accounts used by a PTO to credit an individual with revenues raised. The PTOs would use these accounts to benefit the individual by offsetting that individual's expenses with the amount credited to that individual from the revenues raised.

Please note that individual accounts do not refer to bank accounts.

Federal Regulatory Information

The purpose of a tax-exempt organization is to benefit an entity as a whole instead of benefiting individuals. Therefore, the use of individual accounts could result in denial of the application for tax-exempt status by the IRS or the loss of existing tax-exempt status. In addition, the individual benefits received by people would result in taxable income to them.

- ◆ **Tax-exempt organizations cannot require a person to participate in fund-raising activities.** Normally, PTOs raise funds for a student group through the efforts of the PTO members; however, sometimes the students of the group being assisted participate in the fund-raising activities. A PTO cannot require its members or the students in the related student group to participate in a fund-raiser. Furthermore, members of the student group who do not participate in fund-raising activities would receive the same opportunity to benefit as those members of the student group who participated. The members or students cannot be penalized in anyway for not participating in a fund-raiser.
- ◆ **Tax-exempt organizations cannot require that a certain amount be raised or sold per person.** For example, a PTO cannot require that each PTO member or student of the assisted group sell \$20 worth of candy or sell 10 candy bars in a fund-raiser.

The following is an illustration of the above concepts:

High Spirit PTO is having a fund-raiser to help reduce the cost of a special field trip for the 4th graders. The cost of the trip is \$5,000 for 100 people. Therefore, each person's cost for the trip before the fund-raiser is \$50.

Of the 100 people participating in the trip, only 50 people participate in the fund-raiser and raise a total of \$1,500.

The \$1,500 must be split equally among the 100 people going on the trip, even though only 50 people participated in the fund-raiser. Therefore, each person receives a benefit of \$15 (\$1,500 / 100). Now, each person's cost for the trip is \$35 (\$50 - \$15).

Why Do I Want To Be a Public 501(c)(3)?

When applying for tax-exempt status with the IRS, PTOs should apply for the **public 501(c)(3) tax-exemption**. This type of exemption means that the organization is tax-exempt; the majority of its income is from the public; and all donations (contributions), subject to certain individual restrictions, are deductible on the contributor's tax return. In addition, 501(c)(3) organizations are eligible for state tax benefits. (*See the State Regulatory Information.*)

The IRS has several other tax-exempt categories; however, the 501(c)(3) status is the **ONLY** category that allows any donations to be deductible on the contributor's tax return. All other categories allow for tax-exemption, but do not allow for deductible donations under any circumstances.

Federal Regulatory Information

With a 501(c)(3) tax-exempt status, an organization may be public or private. A private 501(c)(3) organization has additional requirements and constraints that a public 501(c)(3) organization does not have.

Therefore, all PTOs should apply for tax-exempt status as a public 501(c)(3) organization.

Becoming a Public 501(c)(3) Tax-Exempt Organization

Tax-exempt status is not automatic once an EIN has been issued; **organizations must apply for tax-exempt status**. According to the IRS, an organization is either a taxable organization or a tax-exempt organization. Furthermore, organizations may **not** represent themselves as tax-exempt until they have obtained notification from the IRS stating they are a tax-exempt entity.

According to Board Policy GE (Local), **all PTOs must obtain tax-exempt status with the IRS as a public 501(c)(3) organization**. The PTO officers should take the necessary steps to ensure they follow the regulations regarding that type of entity.

Applying for Public 501(c)(3) Tax-Exempt Status

1. Complete IRS Package 1023 (Application for Recognition of Exemption) seeking tax-exempt status as a **public 501(c)(3)** organization.
2. Complete IRS Form 8718 (User Fee for Tax-exempt Organization Determination Letter Request) and pay the required fee of \$400 or \$850.
3. Mail Package 1023, Form 8718, and a check for the filing fee to:

Internal Revenue Service
PO Box 192
Covington, KY 41012

The filing fee is \$400 if your annual gross receipts averaged **no more than \$10,000** during the last 4 years or if you are a new organization that does not anticipate annual gross receipts exceeding \$10,000 during your first 4 years.

The filing fee is \$850 if your annual gross receipts averaged **more than \$10,000** during the last 4 years or if you are a new organization that anticipates annual gross receipts exceeding \$10,000 during your first 4 years.

Federal Regulatory Information

Annual gross receipts: The total amount of revenue collected by an organization during its reporting year from any source. Sources may include, but are not limited to, membership fees, donations, fund-raising revenues, amounts collected for the payment of expenses (e.g., uniforms, trips), and any other amounts received.

To determine annual gross receipts:

- **Add** all deposits made to the PTO's bank account(s),
- **Add** cash on hand that was not deposited by the end of its reporting year,
- **Less** transfers from one bank account to another, and
- **Add** expenses paid with money collected that was not deposited in the PTO's bank account(s).

When completing the IRS Package 1023, PTOs will establish their fiscal year-end (*also known as the accounting period year-end or official year-end*). Once this date is established, the IRS does not easily allow an organization to change it. Changes are usually only allowed for extreme circumstances.

The date established will determine when the PTO has to file their informational return (Form 990) to the IRS. The return is due 4 ½ months after the end of a fiscal year (*the 15th day of the 5th month after the organization's accounting period ends*).

When considering a fiscal year-end date, you may wish to align your year-end with the school's year-end date of September 30. This way, the financial activity of the Club can relate easily to a given school year. Second, the current officers can prepare the annual Financial Report and have it audited before the new school year begins. Third, the Club's Form 990 would not be due to the IRS until January 15; therefore, the new officers would have time to prepare it after beginning the new school year.

The IRS approval process for tax-exempt status usually takes several months.

Read "Top Ten Reasons for Delays in processing Exempt Organization Applications" in the Appendix before you submit your application!!!

The IRS will send the organization an Acknowledgement of Your Request letter that indicates your application and fee were received and are being processed.

Upon approval by the IRS of the tax-exempt status, the organization will receive a Determination Letter stating that the organization is considered to be tax-exempt as of a certain date. Only then can the organization represent itself as a federally tax-exempt organization.

Likewise, donations to the organization are only deductible on the contributor's tax return as of the effective date on the Determination Letter received by the PTO granting **501(c)(3)** tax-exempt status and within set guidelines that apply to 501(c)(3) organizations.

Federal Regulatory Information

Therefore, if the PTO receives tax exemption under any other code [i.e., 501(c)(4), 501(c)(7)], donations received are **not deductible on the contributor's tax return**. Furthermore, PTOs should clearly state in all advertisements that donations to the organization are **"not tax-deductible"** so that a contributor is not misled and does not incur penalties levied by the IRS for taking the deduction erroneously.

If the IRS does not grant tax-exempt status, the organization will receive a Letter of Denial stating the organization is not considered tax-exempt.

Send a copy of the Acknowledgement of Your Request and a copy of the Determination Letter to the District's Internal Auditor when each is received.

Examples of an Acknowledgment of Your Request and a Determination Letter have been included in the Appendix.

Filing Requirements for Tax-Exempt Organizations

Annually, each PTO must file an exempt organization information return Form 990-N, 990-EZ, or 990, *Return of Organization Exempt from Income Tax*. **The return is due by the 15th day of the 5th month after the close of your tax year.** For example, if your tax year ended on June 30, 2020, the Form 990 is due November 15, 2020.

According to the IRS, small tax-exempt organizations, such as small PTOs, are required to file an annual electronic notice Form 990-N (*e-Postcard*). The e-Postcard is required to be filed on-line. **The e-Postcard is due every year by the 15th day of the 5th month after the close of your tax year. You cannot file the e-Postcard until after your tax year ends.**

As per IRS =

Must an organization file Form 990-N if it was not required to file an application for tax exemption? Yes, certain organizations do not have to apply for tax exemption but still have a Form 990-N filing requirement. If your organization did not file an application for tax exemption because it is a section 501(c)(3) organization whose gross receipts in each taxable year are normally not more than \$5,000 or because it is exempt under another Code section, such as section 501(c)(7), an officer of the organization should call Customer Account Services at 1-877-829-5500 (a toll-free number) and ask that the organization be set up to allow filing of Form 990-N.

Federal Regulatory Information

Whether your PTO has filed for exemption status with the IRS, file the appropriate 990 form as required by exempt organizations.

Which form to use?

PTOs must use Form 990-N, normally known as the e-Postcard if:

1. Gross receipts are \$50,000 or less.

PTOs must use Form 990-EZ if:

1. Gross receipts are more than \$50,000 but less than \$200,000 **AND**
2. Total assets are less than \$500,000 at year-end.

PTOs must use Form 990 if:

3. Gross receipts are \$200,000 or more
4. Total assets are \$500,000 or more at year-end.

Federal Regulatory Information

Change in Address

If your address has changed, you need to notify the IRS to ensure you receive any IRS correspondence. To change your address with the IRS, you may complete a Form 8822, *Address Change Request*, and send it to the address shown on the form.

Further Questions

If you have additional questions regarding the information discussed above, you may contact:

Internal Revenue Service

| | |
|--------------------------|----------------------------|
| Main Number | 1-800-829-1040 (toll-free) |
| Tax-Exempt Organizations | 1-877-829-5500 (toll-free) |
| Tax Forms & Publications | 1-800-829-3676 (toll-free) |

Website addresses

| | |
|---------------|--|
| IRS Home Page | www.irs.gov |
|---------------|--|

Additional information downloaded from the IRS' website is included in the Appendix.