

**Breaking News! IRS Creates a One Page Form!
Permits Non-Profits to Request Certain
Approvals in One Simple Step!**

By: Jessica Lubar and Seth Groman

The IRS recently issued a new form making it easier for non-profits to ensure that their activities will not jeopardize their tax-exempt status.

A non-profit that receives a tax-exempt determination letter from the IRS must make sure that its activities and operations comply with the applicable tax rules. Failure to comply with the rules could result in the imposition of penalties, a change in classification of an entity from a public charity to a private foundation, or even the revocation of an organization's exempt status. Private foundations in particular are subject to a number of excise taxes based on how they use their funds. As a result, non-profits often want to be sure that a proposed action or activity will not affect their tax status prior to undertaking it. In addition, there are certain activities or procedures that the IRS must approve before a non-profit undertakes it.

The IRS created Form 8940, Request for Miscellaneous Determination, to streamline the process for certain types of ruling requests. Prior to the issuance of Form 8940, all exempt organization ruling requests had to be made in the form of a private letter ruling request. The Form 8940 is a one (1) page form that requires the organization to attach a detailed explanation of the ruling requested. In contrast, a private letter ruling request had to comply with all of the procedural requirements applicable to letter rulings. Thus, in addition to streamlining the IRS's data gathering process, the Form 8940 reduces the administrative burden and cost on organizations making certain requests.

Form 8940 may only be used to request advance approval from the IRS for certain types of requests. Specifically, Form 8940 may be used to make the following requests:

- Advance approval of certain private foundation set-asides
- Advance approval of private foundation voter registration activities
- Advance approval of private foundation scholarship procedures
- Exemption from Form 990 filing requirements
- Advance determination that a potential grant or contribution is an *unusual grant*, excluded from certain public support calculations
- Change in (or initial determination of) Type of a section 509(a)(3) supporting organization
- Reclassification of foundation status, including a voluntary request from a public charity for private foundation status
- Termination of private foundation status under Internal Revenue Code section 507(b)(1)(B) (advance ruling request)
- Termination of private foundation status under Code section 507(b)(1)(B) (60-month period ended)

A user fee must be submitted with the Form 8940. The amount of the user fee is currently \$400 or \$1,000 depending on the type of determination sought, but that is subject to change periodically by the IRS.

If you have questions regarding your non-profit's tax-exempt status or other IRS-related issues, please contact an attorney in our tax group at (410) 727-6600 or by e-mail at:

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