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# Tax Requirements

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## Relevant IRS Forms

**NOTE:** USBC Headquarters is not responsible for misinterpretation of information in this section. Associations should contact the Internal Revenue Service (IRS) or a tax advisor experienced with tax-exempt organizations.

Each state and local association is required by the Internal Revenue Service (IRS) to file certain tax forms. Some of the most commonly used tax forms by associations will include the following:

<u>Form</u>	<u>Description</u>
990, 990-EZ, 990-N	Used for filing the association's annual information (e.g., revenue and expenses). A 990, 990-EZ or 990-N is <b>REQUIRED</b> for all associations regardless of gross revenue.
990-T	Used to report an association's unrelated business income.
941/944	Used to report employment taxes withheld from employee's wages (941 – quarterly)(944 – annually).
1099-MISC	Used to report any compensation paid (\$600 or greater) to an individual that is not an employee of the association.
W-2	Used to report any wages paid to an employee.

More information on the forms above can be found by reviewing the instructions for each, which are available at [www.irs.gov](http://www.irs.gov)

Additional information about each of the above listed Forms is provided below.

### **Form 990, 990-EZ, 990-N (Annual Information Return)**

All tax-exempt organizations are required to file an annual information return regardless of gross receipts. See the chart below to determine which annual information return is required for your association (Form 990, Form 990-EZ or Form 990-N). These forms are reviewed by the IRS and the public to determine how a non-profit organization disperses and uses its funds and assets.

\*\*Until the 2008 tax year, no annual information return was required by an association with gross receipts less than \$25,000. As of 2008 and forward **all** associations are required to file an annual information return (Form 990, 990-EZ or 990-N).



The appropriate form to file is based on the association's annual gross receipts. The following chart should be used to determine which form to file:

<i>2010 Tax Year and later (Filed in 2011 and later)</i>	<i>Form to File</i>
Gross receipts normally $\leq$ \$50,000	990-N
Gross receipts $>$ \$50,000 and $<$ \$200,000, and Total assets $<$ \$500,000	990-EZ or 990
Gross receipts $\geq$ \$200,000, or Total assets $\geq$ \$500,000	990

Gross receipts are the total amounts the association received from all sources during its annual accounting period, without subtracting any costs or expenses. Examples of gross receipts are tournament entry fees, ways and means committee projects, and local membership dues and/or processing fees.

It should be noted, however, that USBC local associations fall into the category of "agents" as defined by the IRS in the "General Instructions for Form 990 and Form 990-EZ." As an agent, the dues money collected on behalf of the state association(s) and national organization **SHOULD NOT** be included within an association's gross receipts.

Some members of the public rely on an organization's Form 990 as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on these forms. Therefore, it is critical that the form is complete and accurate and fully describes the association's programs and accomplishments. A potential donor or sponsor may rely on the contents of this form prior to making a donation.

A tax-exempt organization's annual information return must be made available for public inspection upon request.

### **Filing Considerations**

- Associations must file the annual information return by the 15th day of the fifth month following the close of the fiscal year. Since each association's fiscal year ends July 31, this means Form 990/990-EZ/990-N must be filed by December 15<sup>th</sup>.
- Associations must file Schedule A – "Organization Exempt Under Section 501(c)(3)" – along with Form 990/990-EZ.
- The completed forms are to be sent to: IRS Ogden, UT 84201
- Retain a copy of the filed return for the association's records (and to provide to the public if requested).



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Note that:

- The normal IRS three-year “statute of limitations” is triggered by the filing of a return. If the association does not file a return, the three-year period never starts, the statute never closes, and there is no limit on how far back the IRS can go in an audit situation.
- The annual information return is a good way to notify the IRS of any changes (such as an address) in the association.
- Filing the return gives the association a “paper trail.” When a new president or association manager takes office, he/she will be able to tell at a glance that IRS filings are up-to-date.
- **If an organization fails to file a return for three consecutive years, it will lose its 501(c)(3) exemption.**

### **Form 990-T (Unrelated Business Income)**

Although association’s are tax-exempt, an association can generate taxable income through the operation of a trade or business that is unrelated to the association’s exempt purposes. The resulting tax is called Unrelated Business Income Tax (often referred to as UBIT). Examples of UBIT activities include the sale of T-shirts, pins, related bowling items and income from gaming activities. Note, however, that there are exceptions to these UBIT rules (e.g., if the income was generated by volunteer workforce). Therefore, it is strongly recommended that an association talk with an accountant or tax attorney experienced in non-profit law when dealing with unrelated business income. Additional information about the tax treatment of unrelated business taxable income can be found in IRS Publication 598.

### **Filing Considerations**

- Associations must file IRS Form 990-T, “Exempt Organization Business Income Tax Return,” if they receive gross income of \$1,000 or more from business unrelated to the association’s exempt purpose.
- Form 990-T is due the 15th day of the fifth month after the end of the fiscal year – Dec. 15.
- The completed forms are to be sent to: IRS Ogden, UT 84201.
- The obligation to file Form 990-T is in addition to the obligation to file an annual information return (Form 990/990-EZ/990-N).
- Tax-exempt organizations must make quarterly payments of estimated tax on unrelated business income if it expects its tax to be \$500 or greater for the year.

A tax-exempt organization’s Form 990-T must be made available for public inspection.

### **Form 941/944**

Form 941 (Employer’s Quarterly Federal Tax Return) and Form 944 (Employer’s Annual Federal Tax Return) are the forms used by the association to report employment taxes withheld from association employees. Form 941 is used to report these amounts quarterly and Form 944 is used to report these amounts annually.

After the association files its first Form 941/944, the association must file a return each quarter (Form 941) or year (Form 944), even if there are no taxes to report. Continuing to file each quarter (Form 941) or year (Form 944) keeps the IRS informed that the association still has employees.



If the association files a Form 941/944, but eventually no longer has employees, a final Form 941/944 needs to be filed. Always maintain copies of the Form 941/944(s) for the association's records.

### **Form 941**

Any business employer files a Form 941, "Employer's Quarterly Federal Tax Return," quarterly:

1st quarter – January through March

2nd quarter – April through June

3rd quarter – July through September

4th quarter – October through December

Form 941 is due by the last day of the month following the end of the quarter. For example, wages paid during the first quarter (January through March) must be reported on Form 941 by April 30. If the due date for filing a return falls on a Saturday, Sunday, or legal holiday, the return may be filed on the next business day.

### **Form 944**

Associations with annual liability of \$1,000 or less for Social Security, Medicare, and withheld federal income taxes are eligible to file Form 944 instead of Form 941. Unlike Form 941, which is filed quarterly, Form 944 is filed annually. An association should only file Form 944 if the IRS has contacted you to do so.

Form 944 is due January 31, following the tax season. For example, for payroll taxes through December 31, Form 944 must be filed by January 31.

### **Form 1099-MISC**

Form 1099-MISC is used to report payments made in the course of a trade or business to another person or business who is not an employee. The association must issue a 1099-MISC to a person or business who has received payments of \$600 or more in the calendar year. For instance, if an individual receives a tournament prize of \$500 from the general prize fund, and also wins \$100 in a side competition, he/she must be given a 1099-MISC.

**NOTE: DO NOT** use Form 1099-MISC to report wages and other compensation paid to employees – use IRS Form W-2.

If Form 1099-MISC is mailed to the IRS, Form 1096 "Annual Summary and Transmittal of U.S. Information Returns" must be included. Form 1096 reflects the totals from all of the 1099-MISC forms that the association has issued. If the Form 1099-MISC information is being transmitted to the IRS electronically or on magnetic media, then a Form 1096 is not required.

### **Due Dates for Forms 1099-MISC and 1096**

**January 31** – Form 1099-MISC must be provided to each income recipient.

**February 28** – Form 1099-MISC must be submitted to the IRS if transmission is on paper or magnetic media. Form 1096 must accompany paper submissions.

**March 31** – Form 1099-MISC must be submitted to the IRS if transmitting electronically.



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### **Form W-2**

Form W-2 is used by employers to report wages, tips, and other compensation paid to an employee. The form also reports the employee's income tax and Social Security taxes withheld and any advanced earned income credit payments.

Form W-2 is provided by the employer to the employee and to the Social Security Administration (SSA). The employer (in this case the association) must furnish a copy of the W-2 to employees by January 31 of the year following the year of payment. Additionally, the employer must file the Form W-2 with the SSA by February 28 of the year following the year of payment.

### **Worker Classification**

Association workers should either be classified as employees or independent contractors. The determination as to whether a worker is an employee or independent contractor will affect an association's withholding obligations (e.g., required to withhold taxes on employees but not independent contractors) and an association's reporting obligations (association employees will receive Form W-2 and independent contractors will receive Form 1099). Because the tax requirements are often simpler with respect to independent contractors, employers will often attempt to classify workers as independent contractors. Associations should be aware, however, that the misclassification of employees is one of the most common issues that IRS auditors raise with exempt organizations.

The determination as to whether a worker is an employee or independent contractor is complex, but is essentially made by examining the right to control whether the employer has the ability to control how, when and where the person performs services. The three basic areas of control that determine worker classification are:

- Behavioral control
- Financial control
- Relationship of the parties

An employee is an individual who **performs services that are subject to the will and control of the association**, both what must be done and how it must be done. An association may allow employee discretion and freedom of action but if the association maintains the legal right to control both the method and the result of the services, then the worker should be classified as an employee.

It is important to note that worker classification is not based on how the worker is paid (e.g., wage versus salary), how often the worker is paid, or whether the person works part-time or full-time.



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### **Association Payroll Requirements with Employees**

All state and local associations are required to withhold Social Security, Medicare, and state and federal withholding taxes from employee wages if the employee earns \$100 or more during a calendar year:

<b><u>WAGES</u></b>	<b><u>FILING</u></b>
<b>\$99.99 or less in a calendar year</b>	Wages are not subject to withholding – no filing is required.
<b>\$100 or more in a calendar year</b>	The association must pay its share from every dollar paid in wage or salary, and the association must file Form 941 in each quarter where any wages are paid (or Form 944 if requested by the IRS).

Employers must pay the employer's share of Social Security and Medicare taxes on the wages paid to employees. However, USBC associations are exempt from paying any Federal Unemployment Tax (FUTA).

Associations may be required to pay state unemployment tax and, where applicable, state withholding tax. State procedures vary; therefore, associations should contact their State Department of Labor, Social Security, or IRS office for details.

Local/city governments may require withholding as well. Associations should contact local tax authorities for details.

<p><b>NOTE:</b> In almost every case of non-reporting, the IRS assesses penalties and requires associations to pay back taxes and interest.</p>
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### **How Much to Withhold and Where to Send Withholdings**

A tax-exempt organization generally must withhold federal income tax from its employees' wages. To figure how much to withhold from each wage payment, the tax-exempt organization should use the employee's Form W-4 and the methods described in:

- Publication 15, *Employer's Tax Guide*
- Publication 15-A, *Employer's Supplemental Tax Guide*

Secure a completed Form W-4, "Employee's Withholding Allowance Certificate," from each employee.

Review Publication 15, *Employer's Tax Guide*, and Publication 15-A, *Employer's Supplemental Tax Guide*, to determine the amount of withholding and for directions on depositing the withholding amounts and other employment taxes.



Other laws affecting Association Employees:

- **Worker's Compensation and State Unemployment Taxes:**  
Associations must be aware of workers' compensation laws, covering workers injured on the job, as well as state unemployment laws. These laws vary from state-to-state. Contact the appropriate state government agencies for specific requirements.
- **Minimum Wage Requirements for Employees:**  
Associations that pay employees are potentially subject to the federal and/or respective state's minimum wage requirements, which could vary depending upon whether the individual is a part-time or full-time employee. The minimum wage requirement is a federal and state requirement and always has been in effect. For more information regarding minimum wage regulations in your state, contact your state's Department of Labor.

### **Reimbursing Business Expenses**

An association may reimburse actual business expenses incurred by association employees or directors without tax consequences to the employee or director as long as (i) the expense is related to the business or purposes of the association and (ii) the employee/director submits evidence of such expense (receipts).

If an individual receives a reimbursement for more than such individual's out of pocket expenses, then the excess reimbursement is taxable income to the individual.

If an individual is not reimbursed for out-of pocket association expenses (or for less than 100% of such expenses), the individual may be able to claim the expenses as a donation to the association on his/her personal income tax return.

### **Gaming Activities**

One of the benefits of being part of USBC's group tax exemption is the ability to receive gaming licenses to conduct activities such as 50/50 raffles, bingo, pull-tabs, etc.

Before conducting gaming activities, the association must be aware of the reporting requirements involved as a result of partaking in such activities. In particular, the IRS mandates organizations conducting games of chance to maintain records of gross income, prize payouts, and disbursements to support the information documented in the Form 990 and 990-T.

There may be tax reporting requirements if an individual receives \$600 or more in gambling winnings within the calendar year from association run events. Refer to Form W-2G and its instructions at [www.IRS.gov](http://www.IRS.gov)

The association also must refer to state and local laws, whose guidelines may require additional record keeping and reporting. Moreover, the state and local laws may contain licensing requirements and expense limitations.

The association should contact its respective State Gaming Commission or State Gaming Board to determine the appropriate permit/license required prior to conducting any gaming operations.



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### **Contact the IRS**

Contact the IRS at (800) 829-3676, (800) TAX-FORM, or at [www.IRS.gov](http://www.IRS.gov) for tax related questions. The association may also wish to request the *Guide to Free Tax Services*. The guide contains details on materials available via the internet or telephone regarding filing options, tax publications, and tax education or assistance program information.

Most of the materials are free of charge and available throughout the year. The guide also lists telephone numbers for recorded tax information and automated refund information, as well as IRS mailing addresses.

For TTY/TTD access, call (800) 829-4059 with tax questions and requests.

### **Exempt Organization Tax Law Workshops**

The IRS offers tax help for small and mid-sized non-profit organizations in the form of a traveling exempt organizations tax law workshop program. The 8-hour workshop begins with an overview of tax-exempt status, and continues with more in-depth discussions of activities that can jeopardize 501(c)(3) status, unrelated business income and gaming, employment issues for charities and non-profits, record keeping and disclosures, and an overview of the Form 990 Information Return. Check the “Calendar of Events” at [www.IRS.gov](http://www.IRS.gov) for updates.