INSIGHT
Center for Community
Economic Development

New Reporting Requirements for Tax-Exempt Organizations
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The Pension Protection Act of 2006 (PPA) made a number of tax law changes that affect tax-exempt organizations.[i] These include new reporting requirements for many organizations engaged in community economic development (CED) projects. Several of these requirements are summarized below.

New "e-postcard" Filing

Many tax-exempt organizations with annual gross receipts under $25,000 are exempted from filing Form 990 annual returns. Under the PPA, these organizations are required to file an electronic notice called Form 990-N, or the e-postcard, with the IRS annually. This requirement went into effect in 2008, for the 2007 tax year.

The e-postcard filing requirement does not apply to churches, their integrated auxiliaries, and conventions or associations of churches. Other exceptions include organizations that are included in a group return, private foundations required to file Form 990-PF, and section 509(a) (3) supporting organizations required to file Form 990 or Form 990-EZ.

The form 990-N is due on the 15th day of the 5th month after end of the exempt organization's fiscal year. For example, an organization with a fiscal year that ends December 31 will be required to file form 990-N on May 15th. There is no financial penalty for filing late or failing to file, however, organizations that fail to file the e-postcard for three consecutive years risk revocation of their tax-exempt status.

Transactions with Controlled For-Profit Subsidiaries

Many organizations with CED programs establish for-profit subsidiaries to carry out business activities unrelated to their exempt purpose. Internal Revenue Code §512(b)(13) defines such subsidiaries as 'controlled' when the parent non-profit owns more than 50% of the stock or other beneficial interest in the company.

PPA requires tax-exempt organizations with controlled taxable subsidiaries to report income from and loans to their subsidiaries, as well as transfers between the exempt parent and controlled taxable subsidiary organizations. The reporting requirements apply to 990, 990-EZ, or 990-PF returns due (excluding extensions) after August 17th, 2006 for 2005.

Affected organizations must report the following information for each controlled subsidiary:

- name of controlled entity,
- an income description for each item of interest, annuities, royalties, or rents received from the subsidiary,
- income amount,
- any loans made to the controlled entity, and
- descriptions and amounts of each transfer between controlling entity and controlled entity.

This information should be reported on a controlled entity schedule. These reporting requirements were not reflected in the instructions for the 2005 Form 990 or 990-PF.

Public Inspection of Form 990-T (UBIT Return)

Section 501 (c) (3) organizations that are required to file Form 990-T (unrelated business income tax returns) will be required to make them available for public inspection and copying at their offices, during regular business hours. Organizations that make their Forms 990-T widely available on the internet are not required to comply with individual requests for copies of the return. These public disclosure requirements apply to all organizations that file the Form 990-T, even if the organization is not otherwise required to make its filings public.

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This memo provides only a brief summary of the PPA reporting requirements most likely to affect organizations engaged in CED. The full text of the PPA, with detailed summaries by the House Ways and Means Committee and Joint Committee on Taxation is available through the IRS web site at http://www.irs.gov/charities/article/0,,id=161145,00.html

[i] Page 120 STAT. 780, Public Law 109-280