

Introduction

Effective June 8, 2008, the IRS will no longer be requiring double applications for newly formed organizations wanting to be recognized as public charities. The old five-year advanced ruling period has been abandoned in favor of a simpler process. A new 501(c)(3) can be immediately classified as a publicly supported charity, not a private foundation. However, in the organization's sixth year, it must convince the IRS that it meets the public support test by filing Schedule A of Form 990.

Therefore, any new charitable organization that receives its 501(c)(3) public charity designation on or after June 8, 2008, (or any 501(c)(3) organization whose advance ruling period expiration date occurs on or after June 8, 2008) will not necessarily receive any additional documentation from the IRS confirming that it has retained public charity status. This will require that both Feeding America Members as well as Capability Development adjust the manner in which compliance with these requirements is verified.

Compliance Determinants - Members

1. Request that any member agency in their sixth year of operation to confirm submission of Schedule A of IRS Form 990 (would apply to those agencies which had already filed and obtained an advance ruling and the ruling would have expired on or after June 8, 2008 or has not yet expired). The agency should be requested to furnish the Member with written confirmation that this has occurred.
2. Review IRS Publication 78 in the 7th year of the agency's existence to verify that the agency continues to be listed as a public charity. A copy of the page from Publication 78 listing that agency should be included in the Member files.

Compliance Determinants – Capability Development

1. Ask Members if they have contacted those agencies (in the 6th year operating as a 501(c)(3) public charity) with 501(c)(3) advance rulings that expired on or after June 8, 2008 or have not yet expired, to confirm agency submission of Schedule A of IRS Form 990. Request to see an example of the letters which were sent to the impacted agencies as well as written communication from the agency verifying that they had complied with this requirement.
2. Random spot check of agency files for a copy of the IRS Publication 78 page documenting the agency's public charity status.