



STATE OF MICHIGAN  
DEPARTMENT OF EDUCATION  
LANSING

RICK SNYDER  
GOVERNOR

MICHAEL P. FLANAGAN  
STATE SUPERINTENDENT

**Food Distribution  
The Emergency Food Assistance Program  
Administrative Policy No. 3  
Fiscal Year 2012-2013**

**SUBJECT: Automatic Revocation of Tax-Exempt Status**

**DATE: August 12, 2013**

The Internal Revenue Service (IRS) has recently changed its filing requirements for some tax-exempt organizations. Failure to comply with the requirements may result in the loss of tax-exempt status from the IRS. This will affect some Food Distribution programs, including the Emergency Food Assistance Program (TEFAP), that require tax-exempt status to receive USDA Foods in their respective programs. Loss of tax-exempt status, without taking reinstatement measures, will result in exclusion from Food Distribution Programs until such time that tax-exempt status is reinstated.

As a result of the new IRS requirements, TEFAP agencies that have had their tax exempt status automatically revoked by the IRS are not eligible for participation in their respective programs. This memorandum is intended to serve two purposes: (1) provide guidance to TEFAP agencies that have had their non-profit tax-exempt status revoked by the IRS, and (2) provide guidance to TEFAP agencies on the reinstatement process for its distribution and/or pantry sites whose tax-exempt status has been revoked by the IRS.

The Michigan Department of Education (MDE) Food Distribution Unit will review the IRS Automatic Revocation of Exemption List (List) annually to ensure that its TEFAP recipient agencies have maintained a non-profit tax-exempt status.

The MDE Food Distribution Unit will notify any recipient agency that has had its tax-exempt status revoked. If notified, the recipient agency will be required to begin the process of reinstatement as directed by MDE to maintain eligibility for their respective program. The process is as follows:

- MDE will notify the agency that it has 30 days to provide documentation that it has applied for reinstatement of its tax exempt status with the IRS or it will be terminated from the program.
- The agency must forward documentation to MDE of its IRS recognition of tax exempt status within 180 days of its initial 30 day notification.
- MDE may grant one, 90 day extension to the agency if it can demonstrate that its inability to obtain appropriate status during initial period was due to circumstances beyond the its control.

The agency's status will be documented at the time of review and updated when appropriate for programs that require reinstatement measures.

**STATE BOARD OF EDUCATION**

JOHN C. AUSTIN – PRESIDENT • CASANDRA E. ULBRICH – VICE PRESIDENT  
DANIEL VARNER – SECRETARY • RICHARD ZEILE – TREASURER  
MICHELLE FECTEAU – NASBE DELEGATE • LUPE RAMOS-MONTIGNY  
KATHLEEN N. STRAUS • EILEEN LAPPIN WEISER

608 WEST ALLEGAN STREET • P.O. BOX 30008 • LANSING, MICHIGAN 48909  
www.michigan.gov/mde • (517) 373-3324

## **Local Agency Review Requirements of IRS Revocation of Tax-Exempt Status**

TEFAP agencies that have agreements with distribution and/or pantry sites are required to review the IRS Automatic Revocation of Exemption List (List) annually, maintain documentation of this review, and the status for all partner ERAs at the time of review. This information is to be maintained on file for review by MDE.

The List is found at:

<http://apps.irs.gov/app/eos/pub78Search.do?searchChoice=revoked&dispatchMethod=selectSearch>

If a site and/or pantry appear on the List, the agency will notify the entity that its tax-exempt status has been revoked by the IRS. The process for reinstatement is as follows:

- The agency will notify the site and/or pantry that it has 30 days to provide documentation that it has applied for reinstatement of its tax exempt status with the IRS or it will be terminated from the program.
- The site and/or pantry must forward documentation to the agency of its IRS recognition of tax exempt status within 180 days of its initial 30 day notification.
- The agency may grant one, 90 day extension to the site and/or pantry if it can demonstrate that its inability to obtain appropriate status during initial period was due to circumstances beyond the its control.

If an audit is outstanding, the records shall be retained beyond the 3-year period as long as required for the resolution of the issues raised by the audit. Documentation of the review date is essential because the List changes frequently as organizations are added to or deleted from the List. Executive Directors, Program Managers, and Financial Managers must be notified by the agency's designee that a site and/or pantry has had its tax-exempt status revoked by the IRS. A memorandum template for documenting the review of the List is attached.

For more information, please refer to Policy Memorandum No. FD-118 "Automatic Revocation of Tax Exempt Status"

Attachments: Policy Memorandum No. FD-118  
IRS Revocation of Tax-Exempt Status Sample Memorandum



# Food Distribution National Policy Memorandum

United States  
Department of  
Agriculture

Food and  
Nutrition  
Service

3101 Park  
Center Drive

Alexandria, VA  
22302-1500

**DATE:** OCT 13 2011

**POLICY NO:** FD-118 Charitable Institutions (CI), Commodity Supplemental Food Program (CSFP), The Emergency Food Assistance Program (TEFAP)

**SUBJECT:** Automatic Revocation of Tax-Exempt Status

The Internal Revenue Service (IRS) has recently changed its filing requirements for some tax-exempt organizations. Failure to comply with the requirements may result in the revocation of an organization's tax-exempt status by the IRS. Some Food Distribution programs, including CIs, CSFP, and TEFAP, require tax-exempt status in order for certain organizations to receive USDA foods under each respective program. It has come to our attention that a number of organizations receiving USDA foods have had their tax-exempt status revoked. The purpose of this memorandum is to outline the procedures for each Food Distribution program in addressing organizations that have lost tax-exempt status for failing to meet IRS filing requirements.

According to the IRS, most tax-exempt organizations are required to file an annual return or notice with the IRS. Exceptions to this requirement include governmental and many faith-based organizations. Pursuant to authority in Section 6033(j) of the Internal Revenue Code (IRC), the IRS must automatically revoke the tax exemption of any private nonprofit organization that fails to satisfy its filing requirement for three consecutive years. The IRS has in place an application process in which organizations may seek reinstatement of tax-exempt status after automatic revocation. Additional information about automatic revocation of tax-exempt status may be found at: <http://www.irs.gov/charities/article/0,,id=239696,00.html>. Recently, the IRS initiated this automatic tax-exemption revocation. The IRS Automatic Revocation of Exemption List (List), which is organized by State, may be found at: <http://www.irs.gov/charities/article/0,,id=240099,00.html>.

## TEFAP

The Emergency Food Assistance Act of 1983 requires that an eligible recipient agency must be "nonprofit," per 7 U.S.C. 7501(3). TEFAP regulations at 7 CFR 251.5(a)(3) establish that if not a public entity, an eligible organization must possess tax-exempt status, or be automatically exempt as "organized or operated exclusively for religious purposes," as described in the IRC, or have made an application and be working towards tax-exempt status. By November 18, 2011, all TEFAP State agencies must review the List and determine whether any of the eligible recipient agencies (ERA) with which the State agency has a TEFAP agreement are listed. By this date, the State agency must also require that any ERA with which it has an agreement to further distribute TEFAP foods or funds review the List and determine whether any of the ERAs with which that ERA has a TEFAP agreement are listed. After the initial review, State agencies and ERAs should check the List periodically, but no less

frequently than annually, to ensure that ERAs with which they have a TEFAP agreement do not appear on the List.

Should any ERA appear on the List, the State agency or ERA must notify the organization in writing that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status or it will be terminated from TEFAP. Per 7 CFR 251.5(a)(3)(iv), the organization then must forward documentation of IRS recognition of tax-exempt status to the State or ERA within 180 days of the above-mentioned notification. A State agency or ERA may grant one 90-day extension if the organization can demonstrate, as described in 7 CFR 251.5(a)(3)(iv), that its inability to obtain appropriate status during the initial period was due to circumstances beyond the organization's control.

In addition to regular checks of established ERAs, State agencies and ERAs must verify that organizations that are applying to become ERAs do not appear on the List prior to approving the organization's application.

#### **CSFP**

Consistent with regulations applicable to CSFP, including 7 CFR Parts 247 and 250, CSFP local and subdistributing agencies must be public or private nonprofit agencies. All private nonprofit agencies participating in CSFP must either possess tax-exempt status, be automatically exempt as organized or operated exclusively for religious purposes, as described in the IRC, or have made an application and be working towards tax-exempt status in order to be eligible for participation. By November 18, 2011, all CSFP State agencies must review the List and determine whether any of its CSFP local or subdistributing agencies are listed. By this date, the State agency must also require that any local or subdistributing agencies that have agreements with other local agencies review the List and determine whether any of those agencies are listed. After the initial review, State, local, and subdistributing agencies should check the List periodically, but no less frequently than annually, to ensure that local and subdistributing agencies with which they have an agreement do not appear on the List.

Should any local or subdistributing agency appear on the List, the State, local, or subdistributing agency must notify the organization that it has 30 days to provide documentation that it has applied for reinstatement of tax-exempt status or it will be terminated from CSFP. Consistent with CSFP regulations at 7 CFR 247.7(c), the organization then must forward documentation of IRS recognition of tax-exempt status to the State within 180 days of the above-mentioned notification. A State, subdistributing, or local agency may grant one 90-day extension if the organization can demonstrate that its inability to obtain appropriate status during the initial period was due to circumstances beyond the organization's control.

In addition to regular checks of established agencies, State agencies, local agencies, and subdistributing agencies must also verify that organizations that are applying to be

local or subdistributing agencies do not appear on the List prior to approving the organization's application.

**Charitable Institutions**

Per 7 CFR 250.3, CIs that are not public institutions must be private nonprofit organizations with tax-exempt status. By November 18, 2011, all State distributing agencies (SDA) must review the List and determine whether any CIs with which the SDA has an agreement are listed. SDAs must immediately notify and terminate from the program any CI that is on the List. A CI may reapply for the program once its tax-exempt status is reinstated. After the initial review, State agencies should check the List periodically, but no less frequently than annually, to ensure that CIs with which they have an agreement do not appear on the List.

In addition to regular checks of established agencies, States agencies must also verify that private nonprofit organizations that are applying to be CIs do not appear on the List prior to approving the organization's application.



Shirley Roberts  
Acting Director  
Food Distribution Division

Memorandum

Date: (Date of Notification)

To: Executive Director, Program Manager, and Financial Manager

Re: Annual Review of IRS Revocation of Tax-Exempt Status

This purpose of this memorandum is to document and identify distribution sites and/or pantries that have had their tax-exempt status revoked by the Internal Revenue Service (IRS). These entities must maintain their tax-exempt status to receive and distribute USDA foods. **Agency Name** will only partner with distribution sites and/or pantries that have maintained their IRS tax-exempt status.

Attached is a list of current distribution and/or pantry sites for **NAME OF AGENCY**.

These entities were reviewed on **DATE** regarding their tax-exempt status to remain eligible to receive and distribute USDA Foods with federally funded programs administered by this agency according to the IRS Automatic Revocation of Exemption List found at:

<http://apps.irs.gov/app/eos/pub78Search.do?searchChoice=revoked&dispatchMethod=selectSearch>

Check one:

- All distribution sites and/or pantries were identified as maintaining their IRS Tax-Exempt status.
- The following distribution sites and/or pantries have been identified as having their IRS tax-exempt status revoked:

**(List all distribution sites and/or pantries that appear on the IRS Automatic Revocation of Exemption List)**

This information will be maintained as part of our agency's annual review of the tax-exempt status of distribution sites and pantries. The documentation will be retained on file for three years or longer if outstanding audit issues exist.

**Signature and Title of Person Sending Notification**