

Understanding Tax

for Fraternal Unit Leaders and
Committee Chairmen

Exemptions, Forms and Filing Requirements for Fraternal Units



This booklet presents accounting and tax information that may or may not be right for your specific Fraternal Unit. In view of the complex, individual, and specific nature of tax situations, this booklet is not intended to replace professional accounting or legal advice. Moose International expressly disclaims any responsibility for any loss or risk incurred as a consequence of the application of the contents of this booklet. Moose International advises each Fraternal Unit to seek the advice of their own legal or tax professional.

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Definitions

The dictionary defines *nonprofit* as “not seeking profit.” Although legal statutes refer to the two terms *nonprofit* and *not-for-profit* as synonymous, the “practical” legal definition [as established by the Internal Revenue Service (IRS)] does make a distinction.

Not-for-Profit vs. Nonprofit

Not-for-profit refers to an ***activity***, for example, a hobby (like fishing).

A ***nonprofit*** organization can be an association of people who like fishing (though the activity does not have to be “not-for-profit”).

Nonprofit refers to an ***organization*** established for purposes other than profit making. That is, it is **not** the “primary purpose” of the organization to compete commercially in a trade or business to return an advantageous gain. Note that nonprofit does not necessarily mean “charitable.”

Legal professionals and academicians tend to use the “nonprofit” term, while fundraisers (such as the *National Society of Fund Raising Executives*) tend to use the “not-for-profit” term.

Those involved in this sector believe “not-for-profit” more appropriately describes their organizations. They may have good reason. There is a “mental” distinction made by some people who perceive that a nonprofit organization is “not supposed to,” or “not allowed to make money” from its activities. This is **not** true.

A nonprofit organization **can** conduct activities intended to return a gain (over the cost of conducting the activity), which may then be used to assist the organization in achieving its primary purpose. That *includes* the gain from the food and beverage operation of your Lodge social quarters. There are, of course, restrictions placed by the IRS.

Tax-exempt

Tax-exempt. Exempt from taxation – as the capital or income of a philanthropic organization

Tax-exempt Is Not Tax Free

Organization Classifications

A Moose Fraternal Unit is classified by the IRS as a “**fraternal organization**”, not a “**charitable**” organization.

Fraternal Units, State Associations and even Moose International are classified by the IRS Code, Section 501(c)(8) as exempt organizations. One frequently misunderstood difference between the two classifications is whether a member’s donation of cash or goods is tax deductible for the individual. Donations given to a **501(c)(8) organization**, for that organization’s use, **are not tax deductible** by the donor.

Moose Charities is classified by the IRS as Section 501(c)(3), “**charitable**” organization and is charged with supporting Mooseheart and Moosehaven. When donating to Mooseheart and/or Moosehaven, make checks payable to *Moose Charities* and indicate the purpose of your donation in the memo section. Donations made to Moose Charities **are tax deductible** to the extent permitted by law.

Most states require that all, or at least a portion of, bingo and other gaming proceeds be donated to a 501(c)(3) charity like, *Moose Charities*. Whichever charity you choose, to comply with this requirement, make checks payable directly to that charity.

Related Business Activity

Related business activities are those activities that provide services and benefits to the members of the organization and the member’s family.

An activity may be related and permissible by IRS regulations but, never-the-less, not permitted by Moose International to protect our fraternity’s constitutional right of privacy.

Unrelated Business Activity

Unrelated business income is the income from a trade or business that is regularly carried on by an exempt organization that is not substantially related to its exempt purpose or function, except that the organization uses the profits from this activity.

A business activity is not substantially related to an organization’s exempt purpose if it does not contribute importantly to accomplishing that purpose (other than by producing funds).

IRS Allowed Exceptions

The following activities are specifically excluded from the definition of unrelated business and are considered related activities if they are not in violation of any state or local laws.

- **Public Entertainment Activity** - income producing or fund raising activities that last for a short period will ordinarily not be treated as *regularly carried on* if they recur only sporadically. Some examples of exceptions include a food booth at a local fair, carnival, and local craft show or arts festival. The general safe-harbor guideline is the activity may be held only once or twice a year.
- **Volunteer Workforce** - Any business in which substantially all of the work is performed for the organization without compensation is *not* considered an unrelated trade or business.
- **Bingo Games** - See “Wagering Taxes” section on page 4.
- **Pole Rentals** - Renting ground to a utility for a cell tower, for example.

Unrelated Business Taxable Income

Unrelated Business Taxable Income – This generally means the gross income (more than \$1,000 annually) from any unrelated business regularly carried on by the exempt organization, minus the deductions directly connected with carrying on the business.

You can see that a Fraternal Unit is exempt from paying Federal and State Income Taxes only so long as its activities are related to our organization's fraternal and philanthropic purposes. However, Moose Fraternal Units that derive income (more than \$1,000 annually) from unrelated activities are subject to income tax.

In addition, the same basic taxes paid by other trades or businesses may apply to your Fraternal Unit, as well.

Taxes That May Apply to Your Fraternal Unit

Unrelated Business Income Tax (UBIT)

All Fraternal Units and State Associations subject to tax on unrelated business income are taxed at corporate rates on that income. The tax is imposed on the unit's Unrelated Business Taxable Income, which is arrived at by deducting from gross unrelated business income all ***directly connected*** expenses.

Employment taxes

There is no difference between *for-profit* and *not-for-profit* establishments where employment taxes are concerned. The rules are the same for both. Anyone who receives cash, or ***other compensation***, for services could be considered an employee. Therefore, subject to withholding for Income, Medicare, and Social Security taxes.

Tip Income

Any employee or volunteer who receives tips of \$20 or more in a month must report them to their employer. Tips must be reported to the employer so that:

- The employer can withhold federal income tax, social security and Medicare taxes;
- The employer can report the correct amount of earnings to the Social Security Administration (which affects your benefits when you retire or if you become disabled, or your family's benefits if you die); and,
- To avoid the penalties for not reporting tips to the employer.

Tips in the form of cash, check, or credit card tips received by the individual are reportable to the employer.

Wagering Taxes

Gaming taxes are levied on various types of "games of chance." Multiple levels of government -- federal, state and local, collect the tax. Usually a license is required of any establishment participating in gaming activities. Most states only issue licenses to tax-exempt organizations.

Bingo

The IRS has specifically excluded bingo from federal income taxability under the unrelated business provisions, provided it meets its definition.

Legal definition. For a game to meet the legal definition of bingo, wagers must be placed, winners must be determined, and prizes or other property must be distributed in the presence of all persons placing wagers in that game.

A wagering game that does not meet the legal definition of bingo does not qualify for the exclusion, regardless of its name. For example, “Instant Bingo”, in which a player buys a pre-packaged bingo card with pull-tabs that a player removes to determine if he or she is a winner, does not qualify.

Federal Taxation Guidelines for Wagering Income

The Fraternal Unit must comply with all licensing, registration, reporting, and taxation requirements at all levels of government.

If wagering is sold only to good standing members, all proceeds are federally non-taxable and the Fraternal Unit incurs no additional federal reporting requirements.

If wagering is sold to any non-member, but **all** proceeds are donated to a 501C-3 charity (i.e., Moose Charities), the proceeds are federally non-taxable, and the Fraternal Unit incurs no additional federal reporting requirements. The money from this gaming should be kept separate from other Fraternal Unit funds.

If wagering is sold to non-members, and even one cent is utilized to support any Fraternal Unit activity or expense, all proceeds are federally taxable. In this case the Fraternal Unit must file an annual federal Form 11-C, and file a Form 730 each month. Additionally, if the Fraternal Unit's bingo and related wagering operation utilizes paid employees, a Form 990-T must be filed annually.

Sales/Use Tax

Sales Tax:

A tax imposed by a state or local government, on certain merchandise sold at retail, at the point of sale. Multi-levels of government can collect this tax at varying rates. The retailer is responsible for paying Sales Tax, but is permitted to pass the tax along to the retail customer.

Use Tax:

A tax imposed on purchases when the transaction takes place other than in the area where the item will be put into service; generally when the item will be used in a different state. Use Tax could be paid at the time of purchase, but is often paid at a different time; then usually directly to the taxing body.

Property Tax

Property Tax is a tax on **Real Property** and/or **Personal Property**. The tax rate is applied to the “assessed value” of the asset.

- **Real Property:** Land and fixed improvements, such as buildings.
- **Personal Property:** Furniture, equipment and inventory.

Some states have eliminated or reduced property taxes to fraternal organizations.

Other State and Local taxes

Your Fraternal Unit may be subject to other taxes imposed by state, county, and township and city governments. The following partial list of taxes may be applicable in your area: State Income Tax, State Unemployment Tax, City Income Tax, Vending Machine Tax, Amusement Tax, and Tourism Tax. It is the Fraternal Unit’s responsibility to know and comply with all applicable taxes and regulations.

Penalties and Liabilities for Unpaid Taxes

Fines and Penalties

Not paying a tax owed makes the Fraternal Unit liable for fines and/or penalties, which can be added to the original tax amount. The penalties can become substantial. For example, not paying real estate taxes could result in loss of ownership of the property.

Elected Officers Have Liability

The ultimate responsibility to assure that the taxes of a corporation are paid, lies with the officers of the corporation.

Taxes withheld from wages/salaries represents money the employer is “holding in trust” for the employee, until it is deposited with the appropriate government agency. **This money does not “belong” to the Fraternal Unit.** The governmental entity, to which taxes are owed, can attach both the assets of the corporation (Lodge), and the personal assets of the corporate officers (*elected officers of the Fraternal Unit*) for taxes not remitted.

Common Tax Forms and Filing Deadlines

Form 990	Return Of Organization Exempt From Income Tax
Purpose: Who files: When filed: Note:	Annual information return. Fraternal Units with gross receipts greater than or equal to \$200,000 or total assets greater than or equal to \$500,000. September 15. Forms and worksheets are available at www.mooseintl.org or www.irs.gov
Form 990 EZ	Short Form Return Of Organization Exempt From Income Tax
Purpose: Who files: When filed: Note:	Annual information return. Fraternal Units with gross receipts less than \$200,000 and total assets less than \$500,000. September 15. Forms and worksheets are available at www.mooseintl.org or www.irs.gov
Form 990 N	Annual Electronic Filing for Small Exempt Organizations
Purpose: Who files: When filed: Note:	Annual information return. Fraternal Units with gross receipts less than or equal to \$50,000. September 15. Electronic filing may be completed at www.irs.gov
Form 990 T	Exempt Organization Business Income Tax Return
Purpose: Who files: When filed: Note:	To report and pay income tax on unrelated business taxable income. Fraternal Units with unrelated gross receipts greater than \$1,000. September 15. Seek professional help if you are required to file this form.
Form 2758	Application For Extension Of Time To File
Purpose: Who files: When filed: Note:	To request an extension of time to file Form 990, 990EZ or 990T. Any Fraternal Unit requiring an extension of time to file the forms. Before September 15. Only gives you additional time to file the Return. Any tax due must be sent with the extension.
Form W-4	Employee's Withholding Allowance Certificate
Purpose: Who files: When filed: Note:	To determine proper amount to withhold from an employee wages. All Fraternal Units with payroll. Not filed with the IRS, (to claim exempt an employee must earn less than \$200.00 per week, and owe no taxes for the fiscal year). Must keep on file for every employee, also, keep for 4 years after employee leaves your employment. Employees can resubmit a new Form W-4 any time.
Form W-5	Earned Income Tax Credit Advanced Payment Certificate
Purpose: Who files: When filed: Note:	Allows employee to receive a portion of their expected Earned Income Tax Credit each pay period. All Fraternal Units with employees requesting the Earned Income Tax Credit. Not filed with IRS, Form is kept at the Fraternal Unit and used each pay period. Employer must allow employee to claim the credit.
Form I-9	Employment Eligibility Verification
Purpose: Who files: When filed:	INS (Immigration and Naturalization Service) form that verifies applicant is eligible to work in the U.S. Any Fraternal Unit hiring a paid employee. Not filed with the INS or IRS, but must be retained for 3 years after date of termination.
Form 941	Employer's Quarterly Federal Tax Return
Purpose: Who files: When filed: Note:	Report withheld income tax, and Social Security and Medicare taxes. Any Fraternal Unit with a payroll. The end of the month following each calendar quarter, if all deposits were made when due, then you have 10 additional days to file the return for that quarter. Refer to Circular E for deposit instructions. Most Fraternal Units will use the monthly deposit schedule rules.
Form 940 Form 940-EZ	Employer's Annual Federal Unemployment (FUTA) Tax Return Form 940-EZ may be used if certain conditions are met. (see form instructions)
Purpose: Who files: When filed: Note:	Payment of federal unemployment tax. Any Fraternal Unit with a payroll. January 31 for the prior calendar year. Deposit must be made quarterly if the tax for that quarter alone would be more than \$100. If you also pay State Unemployment tax, your federal rate may be lower.
Form 944	Employer's Annual Federal Tax Return
Purpose: Who files: When filed: Note:	Payment of federal unemployment tax. Any Fraternal Unit with a federal payroll tax liability of less than \$1,000. January 31 for the prior calendar year. You will be notified by the IRS if you are to complete this form instead of the 940/941

Form 8109	Federal Tax Deposit
Purpose: Who files: When filed:	To deposit taxes related to Forms 940 or 940EZ and Form 941. All Fraternal Units with a payroll. Whenever required - see instructions to Form 940EZ and Form 941.
Form W-2	Wage And Tax Statement
Purpose: Who files: When filed:	To report wages paid and taxes withheld from employees. All Fraternal Units with a payroll. Employee copies by January 31. IRS copy with Form W-3 by February 28.
Form W-3	Transmittal Of Income And Tax Statements
Purpose: Who files: When filed:	To recap information from Form W-2's. All Fraternal Units with a payroll. February 28, along with IRS copy of W-2's.
Form 4070	Employee's Report Of Tips To Employer
Purpose: Who files: When filed: Note:	To report tips received by employees to their employer. All tipped employees and volunteers. Not sent to the IRS. If you have a large operation (i.e. 10 or more employees on a typical business day), you are required to file Form 8027 Employer's Annual Information Return of Tip Income and Allocated Tips.
Form W2-G	Certain Gambling Winnings
Purpose: Who files: When filed: Note:	To report certain gambling winnings greater than \$600 for a day. Fraternal Units with gambling pay outs as follows: Pull Tabs Greater than \$600 Raffles Greater than \$1,000 Bingo, and Slots Greater than \$1,200 (including wager) Keno Greater than \$1,500 (reduced by wager) Poker Tournament Greater than \$5,000 (reduced by wager or buy-in) Copy B to recipients at the time of pay out. Copy A to IRS along with Form 1096 by February 28. Winners must provide SS# to avoid "backup withholding rules."
Form 11-C	Occupational Tax And Registration Return For Wagering
Purpose: Who files: When filed: Note:	To obtain a license to conduct certain types of gambling. Fraternal Units that allow the public to participate in gambling activities (except bingo). July 1. See the new Federal Taxation Guidelines for Wagering Income on page 148 in our General Laws.
Form 730	Tax On Wagering
Purpose: Who files: When filed: Note:	To pay an excise tax on all gross wagers. Fraternal Units that allow the public to participate in gambling activities (except bingo). Monthly by the end of the following month. See the new Federal Taxation Guidelines for Wagering Income on page 148 in our General Laws.
Form 1099-MISC	Miscellaneous Income
Purpose: Who files: When filed: Note:	To report certain payments greater than \$600 for the year. Most Fraternal Units. Copy B to recipients by January 31. Copy A to IRS along with Form 1096 by February 28. The following types of payments are <u>excluded</u> : – Payroll; – Payments made to Corporations (except fees paid to incorporated law firms); – Vendors selling you goods for resale; – Any expense reimbursements, such as mileage expenses and convention expenses.
Form 1099 INT	Interest Income
Purpose: Who files: When filed: Note:	To report certain interest payments greater than \$10 for the year. Fraternal Units paying interest to individuals. Copy B to recipients by January 31. Copy A to IRS along with Form 1096 by February 28. Issued to members you pay interest to for Certificates of Indebtedness or on loans from members.
Form 1096	Annual Summary And Transmittal Of U.S. Information Returns
Purpose: Who files: When filed: Note:	To summarize and transmit any Form 1099's or W2-G's issued. Any Fraternal Unit issuing Form 1099 or W2-G. February 28 along with Copy A of Form 1099 or W2-G. A separate Form 1096 is required for each type of Form 1099 or W2-G.

References

Here are a few IRS publications available on specific topics discussed in this pamphlet:

- Publication 15 – Circular E, Employer's Tax Guide
- Publication 598 – Tax on Unrelated Business Income of Exempt Organizations
- Publication 3079 – Gaming Publication for Tax-exempt Organizations
- Publication 557 – Tax-exempt Status for Your Organization
- Publication 531 – Reporting Tip Income

To get Forms and Publications by computer through the internet go to:

www.irs.gov.

Additional Information Resources

Additional information on tax reporting and filing may be available to your unit of the Order by calling Joe Mech in the Finance Department at Moose International, (630) 859-2000, ex 6495