



IRS 2011 EXEMPT ORG. INFO.

OBTAINING & MAINTAINING
501(C)(3) TAX EXEMPT STATUS IS
CRUCIAL TO THE SUCCESS OF
YOUR ORG.

501(C)(3) STATUS - BENEFITS

- FEDERAL INCOME TAX - EXEMPT;
- POSSIBLE EXEMPTION FROM:
 - STATE INCOME TAX;
 - SALES TAX;
- REDUCED POSTAL RATES;
- 501(C)(3)'S ONLY – FEDERAL UNEMP. TAX (FUTA) – FORM 940 - EXEMPT;
- 501(C)(3)'S ONLY - TAX DEDUCTIBLE CONTRIBUTIONS;
- TAX EXEMPT FINANCING



DEFINITION

- A TAX EXEMPT ORG. IS ...
 - TRUST;
 - UNINCORPORATED ASSOC.;
 - NON-PROFIT CORP.



DESCRIBED IN THE IRC AS EXEMPT FROM
FEDERAL INCOME TAX.

***ALL TAX EXEMPT ORG'S ARE NON-PROFIT
(STATE LAW), BUT NOT ALL NON-PROFITS
ARE TAX EXEMPT (FEDERAL LAW)!**

ORGANIZED & OPERATED

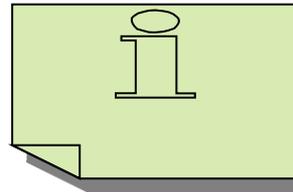
- A 501(C)(3) ORG. MUST BE: ORGANIZED & OPERATED FOR ONE OR MORE EXEMPT PURPOSES DESCRIBED IN IRC 501(C)(3):
- PURPOSES MUST BE 1 OF 8:
CHARITABLE, EDUCATIONAL, RELIGIOUS, SCIENTIFIC, LITERARY, TESTING FOR PUBLIC SAFETY, FOSTERING NAT'L OR INT'L AMATEUR SPORTS COMPETITIONS, &/OR PREVENTING CRUELTY TO CHILDREN OR ANIMALS.



ORGANIZING DOCUMENTS MUST:

- PURPOSES: LIMITED TO THOSE STATED IN IRC 501(C)(3);
- ASSETS: PERMANENTLY DEDICATED TO AN EXEMPT PURPOSE;
- DISSOLUTION: ASSETS DISTRIBUTED FOR IRC 501(C)(3) PURPOSES;
- INUREMENT: PROHIBITED TO INSIDERS.

- ** (See Pub. 557 – Sample Articles) **



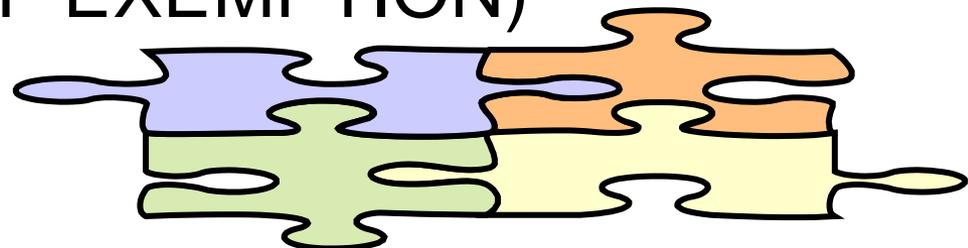
PUBLIC CHARITY STATUS

- IRS PRESUMES QUALIFIED 501(C)(3) ORG. IS A PRIVATE FDN. (PF), UNLESS IT SHOWS IT'S PUBLICLY SUPPORTED ...
- (I.E.: BROAD (PUBLIC) FINANCIAL SUPPORT: (GIFTS, GRANTS, CONTRIBUTIONS) FROM GENERAL PUBLIC; GOV'T AGENCY; CORPS.; PF'S; (OR) INCOME FROM EXEMPT ACTIVITIES LIKE ADMISSIONS)
- HAVE COMMUNITY BASED BOARD OF DIRECTORS.
- ** (FORM 990 – SCHEDULE A) **



ACTIVITIES THAT CAN JEOPARDIZE 501(C)(3) STATUS

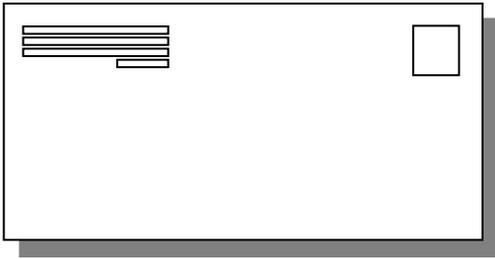
- PRIVATE BENEFIT/INUREMENT;
- LOBBYING;
- POLITICAL ACTIVITY;
- EXCESS UNRELATED BUSINESS INCOME (UBI) - (SUBSTANTIAL IN RELATION TO OVERALL ACTIVITIES)
- FAILING TO MEET ANNUAL FILING REQUIREMENTS – (3 CONSECUTIVE YRS. RESULTS IN LOSS OF EXEMPTION)



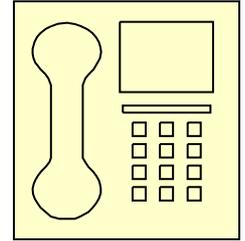
PRIVATE BENEFIT/INUREMENT

- PRIVATE BENEFIT: 501(C)(3)'S, MUST AVOID ALL ACTIVITIES THAT WILL: "SUBSTANTIALLY" BENEFIT THE "PRIVATE INTEREST" OF AN INDIVIDUAL OR FOR-PROFIT ENTITY.
- INUREMENT: EXCESS BENEFIT - (INCOME/ASSETS – DIVIDENDS, EXCESSIVE COMP, TRANSFER OF PROPERTY @ BELOW FMV) TO AN "INSIDER" OF THE ORG. IS STRICTLY PROHIBITED!! ANY AMOUNT WILL RESULT IN LOSS OF EXEMPTION & ORG. WILL HAVE TO PAY EXCISE TAXES.
- INSIDER: PERSON WHO HAS PERSONAL & PRIVATE INTEREST IN ORG'S ACTIVITIES (OFFICERS, DIRECTORS, KEY EMPLOYEES).





LOBBYING



- (ATTEMPTING TO INFLUENCE LEGISLATION):
- (CONTACT OR ENCOURAGE PUBLIC TO CONTACT MEMBERS OF A LEGISLATIVE BODY OR THEIR REPS. FOR PURPOSES OF SUPPORTING/OPPOSING/PROPOSING LEGISLATION – GRASS ROOTS LOBBYING);
- (ACTIONS BY US CONGRESS OR STATE & LOCAL GOVERNING BODIES (I.E. BILLS, RESOLUTIONS, ACTIONS BY THE PUBLIC – REFERENDUMS, BALLOT INITIATIVES, CONSTITUTIONAL AMENDMENTS).

- *** LOBBYING IS NOT ABSOLUTELY PROHIBITED FOR 501(C)(3)'S *** ELECTION MADE WITH FORM 5768 – 501(H) ELECTION.

- 2 TESTS USED TO MEASURE “SUBSTANTIAL” ARE: SUBSTANTIAL PART TEST (TIME & EXPENDITURES MEASURED) OR EXPENDITURE TEST (\$ SPENT EXCEEDS A SET AMOUNT BASED ON SIZE).

- IF LOBBYING BECOMES SUBSTANTIAL, ORG. FAILS OPERATIONAL TEST!

POLITICAL CAMPAIGN ACTIVITY

- ABSOLUTE PROHIBITION!!! (REVOCATION)!!!
- DIRECT OR INDIRECT PARTICIPATION OR INTERVENING IN ANY POLITICAL CAMPAIGN ON BEHALF OF (OR IN OPPOSITION TO) ANY CANDIDATE FOR ELECTIVE OFFICE.
- (I.E. PUBLIC STATEMENTS, SPONSORING DEBATES/FORUMS FOR/AGAINST, CONTRIBUTIONS TO PAC'S, FUNDRAISING).
- ** VOTER EDUCATION GUIDES, REGISTRATION ACTIVITIES, DEBATES/SPEAKING ENGAGEMENTS WITHOUT ENDORSEMENT OR BIAS, PUBLIC POLICY ISSUES, ETC. ARE OK! **
- (REV. RULE. 2007-41; FACT SHEET 2006-17)



UNRELATED BUSINESS INCOME (UBI)

- THE ACTIVITY GENERATES INCOME BY BEING:
 1. A TRADE OR BUSINESS (SELLING GOODS/PERFORMING SERVICES);
 2. REGULARLY CARRIED ON (FREQUENCY & CONTINUITY) – THE SAME WAY A FOR-PROFIT WOULD RUN A SIMILAR ACTIVITY;
 3. NOT SUBSTANTIALLY RELATED TO ORG'S EXEMPT PURPOSE (DOESN'T FURTHER EXEMPT PURPOSES).

**** ALL 3 FACTORS MUST BE PRESENT TO CONSTITUTE UBI!!! ****

EXAMPLES: ADVERTISING (SPACE IN MAGS, JOURNALS, NEWSLETTERS, EVENT PROGRAMS, WEBSITES, BULLETINS), DEBT-FINANCED PROPERTY (RENTAL INCOME), SALE OF MERCHANDISE, GAMING (RAFFLES, CASINO NIGHTS, TEXAS HOLD'EM, ETC.)



EXCEPTIONS TO UBI

- CONDUCTED BY “UNCOMPENSATED” VOLUNTEER WORKFORCE (85% OR MORE);
- CONDUCTED FOR CONVENIENCE OF MEMBERS, EMPLOYEES, STUDENTS, PATIENTS, ETC.
- SALE OF DONATED ARTICLES/MERCHANDISE (THRIFT STORE, GARAGE SALE);
- LOW COST ARTICLES (MAILING LABELS, GREETING CARDS, PENS, APPROX. \$9.60 (2010));
- INCOME FROM CONVENTION OR TRADE SHOWS;
- SPONSORSHIP (LOGOS, NAME OF CO. IN TITLE – COLLEGE FOOTBALL GAMES) (DISTINGUISHABLE FROM ADVERTISING);
- LICENSED BINGOS (LEGAL IN THE STATE).

- *** (PUB. 598 – UNRELATED BUSINESS INCOME) ***



EXCLUSIONS/DEDUCTIONS TO UBI



- INTEREST, DIVIDENDS, ANNUITIES;
- ROYALTIES (PAYMENT FOR USE OF A RIGHT – TRADEMARK/TRADE NAME/COPYRIGHT);
- RENTAL INCOME (IF NOT DEBT FINANCED & NO SERVICES PROVIDED);
- GAINS/LOSSES FROM SALE OF PROPERTY (NOT SALE OF INVENTORY);
- \$1,000 SPECIFIC DEDUCTION.
- IF UBI GROSS INCOME (BEFORE DEDUCTIONS) = \$1,000 OR MORE - FORM 990-T IS DUE: UBI TAX, (AFTER DEDUCTIONS) = 15% -- FILED IN ADDITION TO FORM 990/990-EZ/990-N.





GAMING



- EXAMPLES: BINGO; RAFFLES; CASINO NIGHTS; TEXAS HOLD'EM; PULL-TABS; LOTTERIES.
- FEDERAL WAGERING EXCISE TAXES APPLY TO CERTAIN TYPES OF GAMBLING:
- FORM 730 - MONTHLY TAX ON WAGERING;
- FORM 11-C - ANNUAL OCCUPATIONAL TAX & REGISTRATION.
- FORM W-2G - PRIZE WINNERS OF \$600 OR MORE & BINGO WINNERS OF \$1,200 OR MORE.
- FORM 945 - WITHHELD FEDERAL INCOME TAX (ANNUAL).
- *** (PUB. 3079 – GAMING PUB. FOR TAX EXEMPT ORG'S.) ***



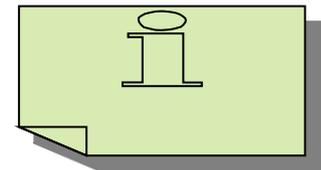
RECORDKEEPING



- KEEP 4 CATEGORIES OF RECORDS:
(SHOW: GROSS INCOME – RECEIPTS;
DISBURSEMENTS – EXPENSES)
 1. MONEY COMING IN;
 2. MONEY GOING OUT;
 3. ASSETS (REAL ESTATE, PURCHASES, FINANCING);
 4. EMPLOYMENT (PUB. 15 – CIRCULAR E)

ALSO, MAINTAIN: APPLIC. FOR EXEMPTION (FORM 1023/1024);
DETERMINATION LETTER; GOVERNING DOCUMENTS:
(ARTICLES, BYLAWS, CONSTITUTION, ETC.)

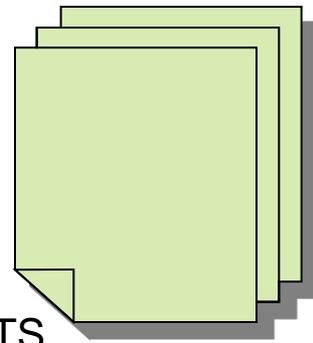
(**PUB. 538 – STARTING A BUSINESS & KEEPING RECORDS.**)
(**PUB. 4221-PC – COMPLIANCE GUIDE FOR 501(C)(3) PUBLIC
CHARITIES.**)



FILING REQUIREMENTS

- BEGINNING IN 2008 – ALL SMALL ORG'S. HAVE A FILING REQUIREMENT (ELECTRONIC FORM 990-N).
- FAILURE TO FILE FORM 990;990-EZ; OR 990-N FOR 3 CONSECUTIVE YRS = REVOCATION OF TAX EXEMPT STATUS AS OF THE FILING DUE DATE OF THE 3RD RETURN. (FIRST REVOCATIONS EFFECTIVE 4/15/2010).

FORM 990/990-EZ



- FORM 990/990-EZ REQUIRED IF ORG. HAS ANNUAL GROSS RECEIPTS (AMOUNTS RECEIVED FROM ALL SOURCES WITHOUT REDUCTION OF ANY COSTS OR EXPENSES) NORMALLY EXCEEDING \$25,000. (2010 & LATER = \$50,000).
- FORM 990/990-EZ IS INFO. RETURN SHOWING: MISSION, PROGRAMS, & ACTIVITIES.
- 2008 - FORM 990 REDESIGNED – (FILED IN 2009).
- 2009 - FORM 990-N BECAME A REQUIREMENT (TAX PERIODS AFTER 12/31/06).
- 2010 - FORM 990-N (E-POSTCARD) REQUIRED FOR ORG'S. UP TO OR BELOW \$50,000 GROSS RECEIPTS. (\$25,000 IN 2009).
- RETURNS DUE: 15TH DAY OF THE 5TH MONTH AFTER THE END OF ACCOUNTING PERIOD. (5/15 FOR CALENDAR YEAR T/P'S).
- FORM 8868 – GRANTS 90 DAY EXTENSION & 2ND FORM 8868 GRANTS ADD'L 90 DAY EXTENSION. (NO MORE THAN 6 MONTH EXTENSION).
- NOTE: CHURCHES & SOME RELIGIOUS ORG'S, STATE INSTITUTIONS, PENSION & PROFIT SHARING PLANS & STOCK TRUSTS DON'T HAVE TO FILE FORMS: 990/990-EZ/990-N.

EMPLOYEE OR INDEPENDENT CONTRACTOR

- EMPLOYEE – EMPLOYER HAS THE RIGHT TO DIRECT & CONTROL THE WORKER (HOW & WHAT NEEDS TO BE DONE).
- OFFICERS: (PRES., VP., SECRETARY, TREASURER) - EMPLOYEES BY STATUTE (SECTION 3121(D).
(FORM W-2 IF EARN \$100 OR MORE IN A CALENDAR YEAR).
- DIRECTORS: (MEMBERS OF BOARD) - NON-EMPLOYEES.
(FORM 1099-MISC – IF EARN \$600 OR MORE).



3 CATEGORIES OF EVIDENCE:

- BEHAVIORAL CONTROL - (TIME, PLACE, MANNER, METHOD, PROCEDURE, TRAINING, INSTRUCTIONS).
- FINANCIAL CONTROL - (INVESTMENT IN EQUIPMENT, FACILITIES, PAID FLAT FEE OR HOURLY WAGE?).
- RELATIONSHIP - (TERMINATION OF WORKER, CONTRACT, EMPLOYEE BENEFITS, PENSION PLAN, HEALTH INS.)

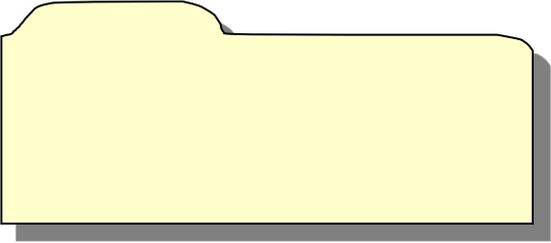
- (PUB. 15 & 15-A – CIRCULAR E – EMPLOYER'S TAX GUIDE)
- (PUB. 3079 – GAMING PUB. PAGE 17 (SEE DEFINITIONS)!!!)



INDEPENDENT CONTRACTOR OR VOLUNTEER

- INDEP. CONTRACTOR – SELF-EMPLOYED; CARRY ON INDEPENDENT TRADE/BUSINESS; BEAR A GENUINE POSSIBILITY OF PROFIT OR LOSS (TELL THEM WHAT NEEDS TO BE DONE, BUT NOT HOW TO DO IT – DEGREE OF INDEPENDENCE) IF EARNINGS OF \$600 OR MORE IN A CALENDAR YEAR - (FORM 1099-MISC).
- VOLUNTEER – EXPECTS NOTHING IN RETURN – NO EMPLOYMENT TAX ISSUES.
- ** IF AN ORG. GIVES A VOLUNTEER CASH ITEMS (GIFT CARDS, GIFT CERTIFICATES, OR ANY OTHER TAXABLE FRINGE BENEFITS) – THESE ITEMS BECOME WAGES & VOLUNTEERS BECOME EMPLOYEES – (W-2'S) **
- ** TIPS RECEIVED FROM CUSTOMERS ARE TAXABLE TO VOLUNTEERS (BINGO WORKERS, WAITRESSES, BARTENDERS, ETC.)
- ** (PUB. 3079 – GAMING PUB. PAGE 17 – DEFINITIONS) **

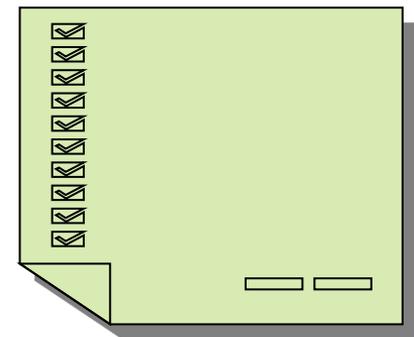




FORM W-9

- REQUIRES INDIVIDUAL TO IDENTIFY THEIR BUSINESS STATUS (SOLE PROPRIETOR, CORP., PARTNERSHIP, ETC.) & PROVIDE A EMPLOYER ID. NUMBER (EIN) OR SOCIAL SECURITY NUMBER (SSN) & ADDRESS.

**** SEE EXAMPLE FORM W-9 ****
(LAST PAGE OF HANDOUT!)



PUBLIC INSPECTION/DISCLOSURE

- ANNUAL RETURNS: (FORMS: 990/990-EZ, 990-PF, 990-T; ALL SCHEDULES – EXCEPT “B” LIST OF CONTRIBUTORS, ETC.) (AVAILABLE FOR 3 YEARS).
- FORMS 1023/1024 (EXEMPTION APPLICATION & SUPPORTING DOCUMENTS)
- EXEMPTION LETTER
- (WITHHOLD CONFIDENTIAL INFO.: PATENTS, PROCESSES, STYLES OF WORK, NAT’L DEFENSE MATERIALS)



FURNISHING COPIES

- POST DOCUMENTS TO ORG. WEBSITE;
- PROVIDE COPIES & CHARGE A REASONABLE FEE (.20 PER PAGE);
- PROVIDE COPIES WITHIN REASONABLE TIMEFRAME (2 WEEKS);
- DIRECT REQUESTER TO A PUBLIC WEBSITE (I.E. WWW.GUIDESTAR.ORG (OR) WWW.FOUNDATIONCENTER.ORG;
- MAINTAIN RECORDS FOR 3 YEARS AFTER DUE DATE OR FILING DATE – WHICHEVER IS LATER.



PENALTIES

- IF ORG. INTENTIONALLY DISREGARDS DISCLOSURE RULES OR FILING REQUIREMENTS... PENALTIES = \$20 PER DAY FOR NON-COMPLIANCE, UP TO A MAX. OF \$10,000.
- IF ANY INDIVIDUAL AT THE ORG. WILFULLY REFUSES TO COMPLY ... HE/SHE CAN BE CHARGED A PENALTY UP TO \$5,000.



QUID PRO QUO DISCLOSURES: (SOMETHING FOR SOMETHING)

- (A CONTRIBUTION MADE BY DONOR IN EXCHANGE FOR GOODS OR SERVICES).
- CONTRIBUTIONS REC'D > \$75, WITH GOODS OR SERVICES PROVIDED IN RETURN - ORG. MUST DISCLOSE VALUE OF GOODS OR SERVICES TO DONOR. (ONLY AMOUNT IN EXCESS OF VALUE OF GOODS/SERVICES REC'D IS A CONTRIBUTION).
- (E.G. \$100 PAID FOR A CONCERT TICKET, FMV \$40 – DONOR'S TAX DEDUCTION MAY NOT EXCEED \$60).
- (DISCLOSURE STATEMENT: MUST PROVIDE DONOR WITH GOOD-FAITH ESTIMATE OF FMV OF GOODS OR SERVICES & TELL DONOR THEY CAN ONLY CLAIM CONTRIBUTION AMOUNT THAT EXCEEDS FMV).
- SO ... IF ORG. GETS DONATION GREATER THAN \$75 & GIVES DONOR "SOMETHING" IN RETURN, ORG. MUST DISCLOSE VALUE OF THE "SOMETHING" TO DONOR.



DISCLOSURE EXCEPTIONS

- TOKENS – INSUBSTANTIAL GOODS OR SERVICES (LOGO ITEMS: PENS, ADDRESS LABELS, BUTTONS, CALENDARS, ETC.)
- (ITEM DOES NOT COST MORE THAN \$9.60 – 2010 FIGURE, ADJUSTED FOR INFLATION).
- MEMBERSHIP BENEFITS – ANNUAL RECURRING RIGHTS/PRIVILEGES RESULTING FROM ANNUAL MEMBERSHIP DUES OF \$75 OR LESS (FREEBIES, DISCOUNTS).
- INTANGIBLE RELIGIOUS BENEFITS – RELIGIOUS PURPOSES ONLY & NOT SOLD COMMERCIALY (RELIGIOUS CEREMONY).



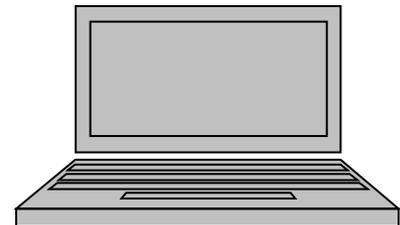
NON-QUID PRO QUO ACKNOWLEDGEMENTS

- WHEN NOTHING GIVEN IN RETURN FOR A CONTRIBUTION – THERE IS NO DISCLOSURE REQUIREMENT.
- HOWEVER: W/O WRITTEN ACKNOWLEDGEMENT, DONOR CAN'T CLAIM TAX DEDUCTION FOR ANY SINGLE CONTRIBUTION OF \$250 OR MORE.
- *** (SEE PUB. 1771) ***



ACKNOWLEDGEMENT TYPES

- MAIL NO LATER THAN JAN. 31ST OF YEAR FOLLOWING DONATION: (LETTER, POSTCARD, E-MAIL).
- CONTAIN: ORG'S NAME, DATE, AMOUNT OF \$ CONTRIBUTED, DESCRIPTION (NOT VALUE) OF NON-CASH CONTRIBUTION, STATEMENT THAT ORG. PROVIDED NO GOODS/SERVICES (or), DESCRIPTION & GOOD FAITH ESTIMATE OF VALUE OF GOODS/SERVICES PROVIDED, STATEMENT THAT GOODS/SERVICES PROVIDED WERE ENTIRELY INTANGIBLE RELIGIOUS BENEFITS, (if) THAT'S THE CASE.
- THE STATEMENT DOES NOT: HAVE TO INCLUDE THE DONOR'S SSN OR EIN!



OTHER DISCLOSURES

- IF ORG. OFFERS TO SELL GOODS/SERVICES WHICH ARE AVAILABLE FREE (OR FOR A NOMINAL FEE) FROM FEDERAL GOV'T – ORG. MUST DISCLOSE THAT FACT!



MORE INFO.:



- EO WEBSITES:
 - WWW.IRS.GOV/EO
 - WWW.IRS.GOV/FORMSPUBS
 - WWW.STAYEXEMPT.IRS.GOV
- TOLL FREE TAX-EXEMPT CUSTOMER NUMBER:
(1-877-829-5500);
- FORMS & PUBS TOLL FREE NUMBER:
(1-800-829-3676);
- EO UPDATE (NEWSLETTER):
EO-UPDATE-SUBSCRIBE@LISTS.QAI.IRS.GOV

