

S B

32

SENATE STATE AFFAIRS COMMITTEE

BILL NUMBER SB 32

SPONSOR Szymanski

BILL TITLE Registration

DATE REFERRED 1-9-89

HEARING SCHEDULED 2-8-89

FISCAL NOTE PREPARED ✓

SPONSOR CONTACTED Carolyn x4978

INTERESTED PARTIES CONTACTED

✓ Gail Horetzki, DPS
✓ Bill Brown 4335

IRS 1-800-478-1040 } churches automatically exempt
Publication #557, p. 14 < } & don't have to file tax exempt
status. This applies only if
somebody questions whether
or not you're a church.

OTHER

Xerox 28.10.421

SENATE COMMITTEE REPORT

FIRST COMMITTEE OF REFERRAL

Date of 5-DAY NOTICE 2-8-89
IN ACCORDANCE WITH UNIFORM RULE 23

FURTHER FINANCE

**FISCAL NOTE(S) MUST BE ATTACHED
IN ACCORDANCE WITH AS 24.08.035

DATE TURNED INTO OFFICE 2-24-89

1/9/89

Mr. President:

STATE AFFAIRS Committee considered SB 32

registration of vehicles owned by charitable organizations

and recommended:

- replace with CS _____ same title
- attached amendment(s) and new title
- _____ letter of intent adopted
- do pass
- do not pass
- no recommendation
- individual recommendations
- further referral to _____

FISCAL NOTE(S) attached zero
 appropriation no FN attached

fiscal impact
 Gov. FN introduced w/ bill

MEMBERS SIGNING DO PASS

OTHER RECOMMENDATIONS

Cee Adams

Tim Kelly - Do Not Pass
unless amended.

[Signature]
Chairman signature and recommendation

Committee backup attached

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to registration of vehicles owned by charitable ...
Sponsor: Senator Szymanski
Requestor: Senate State Affairs

Agency Affected: Public Safety
BRU: Division of Motor Vehicles
Component: Field Services

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	82.1	82.1	82.1	82.1	82.1
---------	-----	------	------	------	------	------

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS : (Attach a separate page if necessary)

In calendar year 1987 there were 2,481 vehicles registered under AS 28.10.181(e) as charitable organizations, paying a \$5.00 fee outlined in AS 28.10.421(d)(11). Of these, 906 were passenger cars, 2 were motorcycles, 254 were non-commercial trailers, 1,124 were trucks or vans, and 195 were buses. If these vehicles were to have paid the regular fee instead of the \$5.00 fee, the additional revenue to the State would have been a minimum of \$82,140.

Prepared by: Charles R. Hosack
Division: Motor Vehicles

Phone: 269-5551
Date: 1/18/89

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Date: 1-27-89

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 6, 1989

SUBJECT: Motor vehicle registration - SB 32
TO: Senator Mike Szymanski
FROM: Michael F. Ford *M.F.*
Legislative Counsel

You have asked if there are any legal problems created by denying special license plates or a lower registration fee to charitable organizations, as in SB 277. The short answer is no. The registration fee charged to charitable organizations is purely a creation of statute, and may be changed as determined by the legislature. Charitable organizations have no right or entitlement to special plates, or to special consideration in the fee charged for registering a motor vehicle. See Washington Chocolate Co. v. King County, 152 P.2d 981 (Wash. 1944).

I did examine two other state registration statutes, Washington and California, to determine if they granted similar exemptions. While both states granted narrow exemptions for vehicles owned by government or nonprofit educational groups, neither state had a broad provision similar to AS 28.10.181(e). As each state legislature is free to grant or deny exemptions of this kind, I would expect considerable variation between the states as to particular exemptions.

Please contact me if you have further questions.

MF:kb
wkk1/106



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-4978/4979

Interim
3111 C Street
Suite 510
Anchorage, AK 99503
(907) 561-7617

165 E. Parks Hwy.
Suite 105
Wasilla, AK 99687
(907) 376-MIKE

TO: Members of the Senate State Affairs Committee
FROM: *Mike Szymanski*
Senator Mike Szymanski
DATE: February 6, 1989
SUBJECT: SB32, An Act relating to registration of vehicles owned by charitable organizations

In 1978, the Alaska legislature passed legislation relating to the registration of unique and special vehicles and vehicles used for special purposes. Included in this list of specially registered vehicles are historic vehicles, special request plates, vehicles owned by disabled veterans and handicapped persons, state officials, consular offices, ranchers, farmers, and dairymen, amateur mobile radio station operators, auto dealers, former POW's, occasional users of highways, and also vehicles owned by the state, municipalities, and charitable organizations of the state (AS 28.10.181(3)).

There appears to be a great deal of abuse going on with free plates being supplied to various charitable organizations of the state. "Charitable organization" is defined as a "nonprofit association, corporation, society, or other entity organized, incorporated, or headquartered in the state for educational, cultural, scientific or other charitable purposes, as prescribed in regulations of the department." This definition is so broad that for all practical purposes, every single organization and/or individual in the state qualifies for free plates. As a result, the privilege of having free plates is being abused. The Department of Motor Vehicles does not have the manpower to investigate individual cases to prevent abuse from occurring. Further, the vehicle does not have to pass an IM inspection, and the local government cannot collect taxes on these plates.

There are hundreds of plates issued to utility companies, church denominations, individuals who may or may not be registered as non-profit corporations, labor unions, universities, apartments, the list is endless.

Senate District E

Mar-Su • So. Anchorage • Bird/Indian • Cordwood • Whittier • Nikiski • Cooper Landing • Hope • Seward • Cordova • Valdez

Members of the Senate State Affairs Committee
SB32, An Act relating to registration of vehicles
owned by charitable organizations

In 1987, there were 2,481 vehicles registered as charitable organizations, paying a \$5.00 fee. Of these, 906 were passenger vehicles, 2 were motorcycles, 254 were noncommercial trailers, 1,124 were trucks or vans and 195 were buses. If these vehicles were to have paid the regular fee instead of the \$5.00 fee, the additional revenue to the State would have been a minimum of \$82,140.

With the abuse and lack of control or monitoring, the only solution seems to be to eliminate this category of plates altogether.

ALASKA STATE LEGISLATURE

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman

Sen. Al Adams

Sen. Tim Kelly

Sen. Rick Uehling



P.O. Box V
Juneau, AK 99811

907-465-3712

Senate State Affairs Committee

March 20, 1989

Alfred R. Van Cleef, Major
The Salvation Army
P. O. Box 101459
Anchorage, Alaska 99510

Dear Major Van Cleef:

Thank you for contacting me to express your concerns over Senate Bill 32, which would require that charitable organizations pay full motor vehicle registration fees. As you may know, this bill passed out of the Senate State Affairs Committee on February 24 and is scheduled for a hearing before the Senate Finance Committee on March 22.

SB 32 was introduced because of apparent abuse of the reduced fee privilege. In 1987 there were 2,481 vehicles, including motorcycles and several Mercedes, Lincoln Continentals, and Cadillacs, registered to charitable organizations, including obscure organizations such as the Log Cabin Life Science Church, the Holy Ghost Fathers of Ireland, and Soul Harvest Incorporated.

The \$5 fee undoubtedly benefits all organizations that receive it. The question is whether the state can afford to continue providing this benefit. It is my sense that there is legislative support for continuing the \$5 fee for "reasonable" vehicles for "legitimate" organizations. The problem is in agreeing on what's reasonable and legitimate, and then in coming up with the resources to investigate individual cases to prevent abuse from occurring.

Major Van Cleef, I understand and appreciate the important function the Salvation Army serves and am sympathetic to your concerns. I would urge you to make them known to other legislators, and I assure you I will keep them in mind as our work on SB 32 continues.

Sincerely,

Senator Pat Pourchot
Chairman

SB32MAIL.TX T

RECEIVED MAR 16 1989

Sandra 3/19/89

The Salvation Army

Alaska Divisional Headquarters



Founded in 1865
By William Booth

Eva Burrows
General

Willard S. Evans
Territorial Commander

Alfred R. Van Cleef
Divisional Commander

Mailing Address: P.O. Box 101459
726 E. Ninth Avenue
Anchorage, Alaska 99510
Telephone: (907) 276-2515

March 10, 1989

Senator Pat Pourchot
P.O. Box V
Juneau, AK 99811

SENATE BILL 32

Dear Senator Pourchot:

It has come to the attention of The Salvation Army in the state of Alaska that there is put forth Senate Bill 32 which would bring to an end the exemption granted to vehicles operated by The Salvation Army throughout the state.

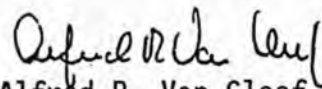
At the present time we operate almost one hundred vehicles in connection with our various programs that deal with senior citizens, handicapped, youth, troubled teens, pregnant teens, and individuals suffering from chemical addiction.

This causes us great concern, for it will have an enormous fiscal impact upon our programs. At present time we are already struggling with keeping our programs at their current level. Although the bill may raise an additional \$82,000 in revenues for the state, it will cause us, as a non-profit organization, to decrease many of our services which at the present time are not costing the state anything.

As Divisional Commander of The Salvation Army for the state of Alaska, I register my great concern with the passage of this bill and hope that it will be given due consideration, so the fiscal impact upon the people of Alaska will be considered as being more important than raising \$82,000 in revenues for the state.

Your understanding will be appreciated.

Sincerely,


Alfred R. Van Cleef
Major
DIVISIONAL COMMANDER

ARVC/beh

Of the 2200 vehicles registered in 1988, 1005 are registered by "churches". If the \$5 fee were maintained for churches, revenues would be cut by about half, from 82.1 to 40.0

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: SB 32, Relating to registration of vehicles owned by charitable organizations
DATE: February 24, 1989

SB 32 would increase the annual vehicle registration fee for charitable organizations from \$5 to whatever the fee is under current statute for a particular type of vehicle (\$35 for a car, \$40 for a truck or van, etc.). When the bill was heard by the committee on February 8, there was discussion of perhaps retaining the \$5 fee for churches.

Please find attached information prepared by the bill sponsor outlining the number of vehicles currently registered to churches and the procedure for registering as a church. Because nearly half of the vehicles registered to charitable organizations are registered to churches, nearly half the \$82,100 in revenue indicated in the fiscal note would be lost if the \$5 fee were maintained for churches.

Testimony was received at our committee hearing on the applicability of emission control inspections and taxes to vehicles registered to charitable organizations. To clarify, the vehicles must undergo emission control inspection (AS 46.03.210 allows an exemption only for locally registered vehicles not used within the local jurisdiction). The vehicles are exempt from municipal motor vehicle registration taxes under AS 28.10.431 (these taxes are based on the age of the vehicle and range from \$60 for a new car to \$100 for a new bus).

SB 32 will be back before the committee to day at 1:30 p.m.



Alaska State Legislature

Senator Mike Szymanski

While in Session:
P.O. Box V
State Capitol, Room 11
Juneau, Alaska 99811
(907) 465-4978/4979
FAX (907) 465-2652

During Interim:
3111 C Street, Suite 510
Anchorage, Alaska 99503
(907) 561-7617

165 E. Parks Highway
Legislative Information Office
Wasilla, Alaska 99687
(907) 376-MIKE

TO: Senator Pat Pourchot
Chair, Senate State Affairs Committee

FROM: *Mike Szymanski*
Senator Mike Szymanski

DATE: February 22, 1989

SUBJECT: Senate Bill 32, Vehicle Registration/Charitable
Groups

In response to the Committee's request for additional information relative to "churches", there are approximately 1,005 vehicles registered under AS 28.10.181(e) as "churches". According to the Division of Motor Vehicles, Standard Operating Procedure for Exempt Vehicles - Charitable or Non-profit, "A church or religious organization must provide an 'Exempt Affidavit' in addition to other registration requirements." Churches do not need to provide a letter from the Internal Revenue Service establishing its tax exempt status.

A brief overview of over 2,200 vehicles registered in 1988 reflects the following:

- Anchorage Baptist Temple - 88 vehicles
- Universal Life Church - 60 vehicles
- Church of Jesus Christ of LDS - 101 vehicles
- The Salvation Army - 86 vehicles
- Catholic Church - 134 vehicles

Review of the above vehicles to determine how many have been sold and have titles transferred, or registrations have expired was not performed.

An example of other churches receiving charitable status are: North American Indian Revivals, Korean Baptist Church of Alaska, Mat Valley Baptist Church, Church of the Aurora, Unalakleet Evangelical Covenant, Bahais of Chena Valley, Buddhist Society, Log Cabin Life Science Church, Alaska Moravian Church, Soul Harvest, Inc., Holy Ghost Fathers of Ireland, Church of the Homeward Bound, Church of the Tree, Ar-Rashid Mosque.

Attachments: 13 AAC 70.210
SOP R-320, pages 1-2
Senate District E

(b) In addition to the other requirements in AS 28.10, the applicant for special registration plates broadcasting on 75 meters through 10 meters must submit a copy of his amateur radio operator's license and call letters issued by the Federal Communications Commission and pay the annual license tax levied under AS 28.10.200(b)(7).

(c) In addition to the other requirements in AS 28.10, the applicant for special registration plates broadcasting on frequencies other than 75 meters through 10 meters must submit a copy of his amateur radio operator's license and call letters issued by the Federal Communications Commission and pay the annual license tax levied upon the particular type of vehicle to be registered.

(d) A registrant may use mobile amateur radio registration plates as long as he retains a qualifying amateur radio operator's license issued by the Federal Communications Commission and otherwise complies with the requirements of law. After proper application to the department, the registration plates may be placed on another vehicle containing a mobile amateur radio station. (Eff. 3/29/78, Register 65)

Authority: AS 28.10.020
AS 28.10.060

AS 28.10.120
AS 28.10.200

13 AAC 70.200. EXEMPTION FROM REGISTRATION TAX FOR MILITARY. A vehicle owned by a member of the armed forces of the United States on active duty, and a vehicle owned jointly by a member and one or more of his or her dependents, is exempt from registration if the vehicle is registered in a state of domicile other than Alaska. A vehicle owned solely by a dependent of a member of the armed forces of the United States on active duty is not exempt from registration. (Eff. 3/29/78, Register 65)

Authority: AS 28.10.020
50 USC App. § 574

13 AAC 70.210. EXEMPTION FROM LICENSE TAX FOR CHARITABLE ORGANIZATION. In addition to the other requirements in AS 28.10, a charitable organization applying for an exemption from the annual license tax must submit to the department, if requested by the department, a letter from the Internal Revenue Service establishing its tax exempt status. When the title to or ownership of a vehicle exempted from the annual license tax is transferred, the charitable organization shall surrender the registration plates to the department. (Eff. 3/29/78, Register 65)

Authority: AS 28.10.020
AS 28.10.210

13 AAC 70.210 will not refund license tax if applicant can prove that he is not a resident of Alaska for licensing purposes. Authority: AS 28.10.020

Authority: AS 28.10.020

13 AAC 70.210. PROCEDURES FOR REGISTRATION OF VEHICLES.

(a) A vehicle may be released by the department in any situation, the title to the vehicle to the owner.

(b) An owner's title may be satisfied and the vehicle may be sold within 10 days of the registration.

Authority: AS 28.10.020
AS 28.10.060
AS 28.10.120

13 AAC 70.210. TAINING TITLE TO VEHICLE. A title insurance company may not issue a title insurance policy without the satisfaction of the department in the face of the certificate of title. The title insurance sale which includes the title insurance. (Eff. 3/29/78, Register 65)

Authority: AS 28.10.020

13 AAC 70.210. THE DEPARTMENT MAY PERMIT A VEHICLE TO BE REGISTERED WITHOUT A TITLE. The department may permit a vehicle to be registered without a title on the condition that the owner pay the annual license tax.

(b) The department may permit a vehicle to be registered without a title on the condition that the owner pay the annual license tax for a period of 90 days.

(c) The department may permit a vehicle to be registered without a title on the condition that the owner pay the annual license tax for a period of 90 days. (Eff. 3/29/78, Register 65)

STATE OF ALASKA		SOP No.	R-320	Page	1
DIVISION OF MOTOR VEHICLES STANDARD OPERATING PROCEDURE		Effective Date	July 1, 1987		
Subject		Supersedes SOP No.	R-320	Dated	06/01/86
EXEMPT VEHICLES - CHARITABLE OR NON-PROFIT		Approved By	<i>Charles E. Horack</i>		
STATUTE	AS 28.10.181(e)	REGULATIONS	13 AAC 70.210	FORM NUMBERS	SEE PAGE 2

Vehicles owned by charitable or non-profit organizations qualify for a reduced registration fee and receive "exempt" license plates. A non-profit organization must provide a "Letter of Determination" from the U.S. Internal Revenue Service in addition to other registration requirements.

A church or religious organization must provide an "Exempt Affidavit" (see example on page 2) in addition to other registration requirements.

Exempt plates remain with the charitable or non-profit organization. They are transferable from one vehicle to another vehicle owned by the same organization. If the vehicle to which the license plates are being transferred is not currently registered then the registration fee of \$5.00 must be paid.

Issuance, transfer, and cancellation of non-profit and religious exempt license plates are handled by the Special Programs Unit. All inquiries should be directed to:

Division of Motor Vehicles
Special Programs Unit
5700 E. Tudor Road
Anchorage, AK 99507
Phone: 269-5571

EXCEPTION: The Anchorage, Fairbanks, and Juneau field offices process these vehicles.

NOTE: If the transaction is an original request for charitable or non-profit exempt license plates, issue a 90 day temporary permit at no charge. See SOP R-145, Temporary Permit.

RENEWAL: Any field office may renew an exempt plate.

INFORMATION ONLY

Class Codes:

Passenger	1P
Motorcycle	2P
Trailer	3P
Truck	4P
Bus	5P

Fees: \$5.00 annually
\$5.00 plate transfer

Body Style: Any acceptable body style

Plates: YYE100 -- YYF499

ALASKA
YYE 123
EXEMPT

STATE OF ALASKA		SOP No. R-320	Page 2
DIVISION OF MOTOR VEHICLES STANDARD OPERATING PROCEDURE		Effective Date July 1, 1982	
EXEMPT VEHICLES - CHARITABLE OR NON-PROFIT		Supercedes SOP Nn R-320	Dated 1/1/82
		Approved By <i>Robert J. Rowan</i>	
STATUTE 28.10.181. (e)	REGULATIONS 13AAC 70,210	FORM NUMBERS 12-818	

Form 12-818

EXEMPT AFFIDAVIT

I, _____ representing _____ religious organization apply for vehicle registration in accordance with Alaska Statute 28.10.181.(e). The vehicle to be registered is a _____ year _____ make _____ serial number _____ and is registered to _____, which is recognized as a religious organization under the Federal Income Tax Laws. This vehicle is to be used only in conducting business of this organization. I certify under penalty of law the information contained in this affidavit is true and correct.

Signed _____

Subscribed and sworn to before me this _____ day of _____ 19_____.

NOTARY IN AND FOR THE STATE OF ALASKA



Publication 557
(Rev. Oct. 88)

Tax-Exempt Status for Your Organization



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purposes specifically designated in the Code. Organizations that are exempt under section 501(a) of the Code include those organizations described in section 501(c) and are covered in this publication.

Chapter 1 provides general information about the procedures for obtaining recognition of tax-exempt status.

Chapter 2 contains information about annual filing requirements and other matters that may affect your organization's tax-exempt status.

Chapter 3 contains detailed information on various matters affecting section 501(c)(3) organizations, including a section on the determination of private foundation status.

Chapter 4 includes separate sections for specific types of organizations described in section 501(c).

Certain organizations that may qualify for exemption are not discussed in this publication, although they are included in the organization reference chart found at the end of this publication. These organizations (and their applicable Code section) are as follows:

Corporations organized under Acts of Congress	501(c)(1)
Teachers' retirement fund associations	501(c)(11)
Mutual insurance companies	501(c)(15)
Corporations organized to finance crop operations	501(c)(16)
Employee funded pension trusts (created before June 25, 1959)	501(c)(18)
Withdrawal liability payment fund	501(c)(22)
Veterans organizations (created before 1880)	501(c)(23)
Religious and apostolic associations	501(d)
Cooperative hospital service organizations	501(e)
Cooperative service organizations of operating educational organizations	501(f)

Likewise, farmers' cooperative associations that qualify for exemption under section 521 and pension, profit-sharing, and stock bonus plans described in section 401 (a) are not discussed in this publication. If you think your organization falls within one of these categories, contact the Internal Revenue Service for more information.

Other information. The Internal Revenue Service provides other publications that cover specific aspects relating to exempt organizations:

Publication 598, Tax on Unrelated Business Income of Exempt Organizations, and

Publication 892, Exempt Organization Appeal Procedures.

Check the Table of Contents at the beginning of this publication to determine whether your organization is described and read the chapter (or section) that applies to your type of organization for the specific information you must submit when applying for recognition of exemption.

The organization reference chart, located near the end of this publication, enables you to locate at a glance the section of the Code under which your organization might qualify for exemption, the required form for application and, if your organization meets the exemption requirements, the annual return to be filed (if any), and whether or not a contribution to your organization will be deductible by a donor. It also gives a description of each type of qualifying organization and the general nature of its activities.

You may use this chart to determine the Code section that you think applies to your organization. Any correspondence with the Internal Revenue Service (in requesting forms or otherwise) will be greatly expedited if you indicate in your correspondence the appropriate Code section.

Free Publications and Forms

If you need information on a subject not covered in this publication, you may check our other free publications. To order publications and forms, call our toll-free telephone number 1-800-424-FORM

Introduction

This publication discusses the rules and procedures for organizations that seek to obtain recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code of 1986 (the Code). It explains the procedures you must follow to obtain an appropriate ruling or determination letter recognizing such exemption, as well as certain other information that applies generally to all exempt organizations. To qualify for exemption under the Code, your organization must be organized for one or more of the

members after the transfer to nonprofit ownership; and

- 4) List the names of any doctors who continued to lease office space in the hospital after its transfer to nonprofit ownership and the amount of rent paid, and submit an appraisal showing the fair rental value of the rented space.

Clinic. If you are organized to operate a clinic, attach a statement including

- 1) A description of the facilities and services;
- 2) To whom the services are offered, such as the public at large or a specific group;
- 3) How charges are determined, such as on a profit basis, to recover costs, or at less than cost;
- 4) By whom administered and controlled;
- 5) Whether any of the professional staff (that is, those who perform or will perform the clinical services) also serve or will serve in an administrative capacity; and
- 6) How compensation paid the professional staff is or will be determined.

Home for the aged. If you are organized to operate a home for the aged, the following information must be submitted:

- 1) A description of the facilities and services provided or to be provided the residents, including the residential capacity of the home and whether the facilities are specifically designed to meet the needs of aged persons;
- 2) The criteria for admission to the home;
- 3) Charge for admission (entrance fee and/or monthly charge) and whether payable in a lump sum or on an installment basis;
- 4) How charges are or will be determined, such as on a profit basis, to recover costs, or at less than cost, and whether the charges are based on providing service at the lowest feasible cost to the residents;
- 5) Whether all residents are or will be required to pay fees;
- 6) Whether any residents are or will be accepted at lower rates or entirely without pay and, if so, how many;
- 7) Whether residents are or will be discharged if unable to pay;
- 8) Whether federal mortgage financing has been applied for and if so, the type;
- 9) Whether health care will be provided to the residents, either directly or through some continuing arrangement with other organizations, facilities, or health personnel; and
- 10) Copies of admission applications and/or any other literature or brochures descriptive of the home, its facilities, and admission requirements.

Community nursing bureau. If you provide a nursing register or community nursing bureau, provide information showing that your organization will be operated as a community project and will receive its primary support from public contributions to maintain a nonprofit register of qualified nursing personnel, including graduate nurses, unregistered nursing school graduates, licensed attendants and practical nurses for the benefit of hospitals, health agencies, doctors, and individuals.

Organization providing loans. If you make or will make loans for charitable and educational purposes, submit the following information:

- 1) An explanation of the circumstances under which such loans are or will be made;
- 2) Criteria for selection, including the rules of eligibility;
- 3) How and by whom the recipients are or will be selected;
- 4) Manner of repayment of the loan;
- 5) Security required, if any;

6) Interest charged, if any, and when payable; and

7) Copies in duplicate of the loan application and any brochures or literature describing the loan program.

Public interest law firms. If your organization was formed to litigate in the public interest (as opposed to providing legal services to the poor), such as in the area of protection of the environment, you should submit the following information:

- 1) How the litigation can reasonably be said to be representative of a broad public interest rather than a private one;
- 2) Whether the organization will accept fees for its services;
- 3) A description of the cases litigated or to be litigated and how they benefit the public generally;
- 4) Whether the policies and program of the organization are the responsibility of a board or committee representative of the public interest, which is not controlled by employees or persons who litigate on behalf of the organization nor by any organization that is not itself an organization described in this chapter;
- 5) Whether the organization is operated, through sharing of office space or otherwise, in a manner so as to create identification or confusion with a particular private law firm; and
- 6) Whether there is an arrangement to provide, directly or indirectly, a deduction for the cost of litigation that is for the private benefit of the donor.

A nonprofit public interest law firm may not seek or accept attorney's fees from its clients as compensation for legal services. However, firms may accept fees awarded or approved by a court or an administrative agency and paid by an opposing party provided that the firms do not use the likelihood or probability of fee awards as a consideration in the selection of cases. All fee awards must be paid to the organization and not to its individual staff attorneys. Instead, a public interest law firm may reasonably compensate its staff attorneys, but only on a straight salary basis. Private attorneys, whose services are retained by the firm to assist it in particular cases, may be compensated by the firm, but only on a fixed fee or salary basis.

If, in order to carry out its program, an organization violates applicable canons of ethics, disrupts the judicial system, or engages in any illegal action, the organization will jeopardize its exemption.

Religious Organizations

In order to determine whether recognition of exemption should appropriately be extended to an organization seeking to meet the religious purposes test of section 501(c)(3), the Internal Revenue Service maintains two basic guidelines:

- 1) That the particular religious beliefs of the organization are truly and sincerely held, and
- 2) That the practices and rituals associated with the organization's religious belief or creed are not illegal or contrary to clearly defined public policy.

Hence, your group (or organization) may not qualify for treatment as an exempt religious organization for tax purposes if its actions, as contrasted with its beliefs, are contrary to well established and clearly defined public policy. If there is a clear showing that the beliefs (or doctrines) are sincerely held by those professing them, the Internal Revenue Service will not question the religious nature of those beliefs.

Churches. Although a church, its integrated auxiliaries, or a convention or association of churches is not required to file Form 1023 to be exempt from federal income tax or to receive tax deductible contributions, such an organization may find it

advantageous to obtain recognition of exemption. In this event, you should submit information showing that your organization is a church, synagogue, association or convention of churches, religious order, or religious organization that is an integral part of a church, and that it is engaged in carrying out the function of a church.

In determining whether an admittedly religious organization is also a church, the Internal Revenue Service does not accept any and every assertion that such an organization is a church. Because beliefs and practices vary so widely, there is no single definition of the word "church" for tax purposes. The Internal Revenue Service considers the facts and circumstances of each organization applying for church status.

Integrated auxiliaries. A separate organization affiliated with a church will be considered an integrated auxiliary if the principal activity of the organization is exclusively religious. That is, if it applied for exemption on its own, it would qualify for exemption as a religious organization.

Examples of organizations considered to be integrated auxiliaries of a church are a men's or women's organization, a religious school (such as a seminary), a mission society, or a youth group. However, church related hospitals, old age homes, and schools of a general academic nature are not considered integrated auxiliaries since their activities can serve as the basis for exemption, even if they are not affiliated with a church.

Note. In order for an organization (including a church and religious organization) to qualify for tax exemption, no part of its net earnings may inure to the benefit of any individual.

Although an individual is entitled to a charitable deduction for contributions to a church, the assignment or similar transfer of compensation for personal services to a church, generally, does not relieve a taxpayer of federal income tax liability on such compensation, regardless of the motivation behind the transfer.

Scientific Organizations

You must show that your organization's research will be carried on in the public interest. Scientific research will be considered to be in the public interest if the results of such research (including any patents, copyrights, processes, or formulas) are made available to the public on a nondiscriminatory basis; if the research is performed for the United States or a state, county, or municipal government; or if the research is carried on for one of the following purposes:

- 1) Aiding in the scientific education of college or university students,
- 2) Obtaining scientific information that is published in a treatise, thesis, trade publication, or in any other form that is available to the interested public,
- 3) Discovering a cure for a disease, or
- 4) Aiding a community or geographical area by attracting new industry to the community or area, or by encouraging the development or retention of an industry in the community or area.

Scientific research, for exemption purposes, does not include activities of a type ordinarily incidental to commercial or industrial operations as, for example, the ordinary inspection or testing of materials or products, or the designing or constructing of equipment, buildings, etc.

If you engage or plan to engage in research, submit the following:

- 1) An explanation of the nature of the research;
- 2) A brief description of research projects completed or presently being engaged in;
- 3) How and by whom research projects are determined and selected;

Alaska State Legislature

Sen. Pat Pourchot, Chairman

Sen. Jan Faiks, Vice Chairman
Sen. Al Adams
Sen. Tim Kelly
Sen. Rick Uehling



P.O. Box V
State Capitol
Juneau, Alaska 99811

907-465-3712

Senate State Affairs Committee

MEMORANDUM

TO: Senate State Affairs Committee Members
FROM: Senator Pat Pourchot, Chairman
RE: February 8 Committee Hearing
DATE: February 7, 1989

On Wednesday, February 8 at 1:30 p.m. in the Beltz Room the Senate State Affairs Committee will hear the following bills:

SB 59, An Act relating to mandatory use of safety devices in motor vehicles.

SB 59 is scheduled for committee action. The bill would make failure to wear a seatbelt an infraction carrying a fine of up to \$15, and would remove the current exemption of rural areas from the child safety device requirements. A draft committee substitute that sets a maximum \$50 fine for violation of the child safety requirements is attached. Under current statute a violation could carry a fine of up to \$300; the court system's current bail schedule sets the fine at \$50.

SB 32, An Act relating to registration of vehicles owned by charitable organizations.

SB 32 would increase the annual registration fee for vehicles owned by charitable organizations. Current statute establishes a special \$5 fee for vehicles owned by municipalities or charitable organizations. SB 32 would remove charitable organizations from this category, requiring them to pay the standard registration fees.

In 1987 there were 2,481 vehicles registered by charitable organizations. Of these, 906 were passenger cars, 2 were motorcycles, 245 were non-commercial trailers, 1124 were trucks or vans, and 195 were buses. The standard fees for these classes of vehicles are \$35 for a car, \$20 for a motorcycle, \$5 for a non-commercial trailer, \$40 for a truck or van, and \$50-220 for a bus depending on its weight.

The Department of Public Safety estimates a \$82,140 increase in revenues through passage of SB 32.

SB 92, An Act relating to motor vehicles and related functions of the Department of Public Safety and Department of Commerce and Economic Development.

SB 92 would make a variety of improvements to the motor vehicle registration law. In brief, it transfers the licensing authority for motor vehicle dealers from the Department of Public Safety to the Department of Commerce, establishes a procedure for registration of interstate rental trucks and trailers, broadens the non-commercial trailer registration requirements, allows for cancellation of fraudulently obtained identification cards, eliminates the requirement that lien documents be filed with the division of motor vehicles, allows for issuance of handicap parking permits to organizations, and repeals the foreign consul license plate provisions. The Governor's transmittal letter and a sectional analysis, both of which are attached, provide information on each of these provisions.

A draft committee substitute has been prepared to correct three errors identified in the original bill. Page 9, lines 13 and 16 incorrectly indicated the current registration fees; the repeal of AS 28.10.181(g) on page 10, line 24 necessitates the repeal of AS 28.10.421(d)(6).

SB 117, An Act relating to special request university license plates.

SB 117 would authorize the Department of Public Safety to issue license plates representing the state university campuses with the letters "UAA", "UAF", or "UAS". The fee for such plates would be \$50, payable at first issuance and upon replacement. Fees would be separately accounted for and could be appropriated by the legislature for the support of programs at each campus.

In addition to "vanity" plates (\$30), current statute provides for special license plates for Pearl Harbor survivors and former prisoners of war (\$0), members of the Alaska National Guard (\$30), motor vehicle dealers (\$45), elected state officials (\$0), disabled veterans and other handicapped persons (\$0), historic vehicles (\$10), consular officers of foreign governments (\$35), amateur mobile radio station vehicles (\$0), ranchers and farmers (\$35), and Winter Olympics commemoration (\$70).

SB 137, An Act relating to commercial vehicle driver licensing.

SB 137 would bring Alaska into compliance with the Federal Commercial Motor Vehicle Safety Act (CMVSA) of 1986. The CMVSA requires that all states have a licensing system for drivers of commercial vehicles. The system must include written

and road tests for the size vehicle being operated and all drivers must be licensed by April 1, 1992. The penalty for noncompliance is the withholding of 10% of federal highway funding.

SB 137 defines "commercial vehicle" by adopting the federal standards (gross weight rating of 26,001 or more pounds, designed to transport more than 15 passengers, or transporting placarded amounts of hazardous materials) while continuing the state's tradition of less strict regulation of vehicles on roads not connected to the main highway system or to heavily-traveled roads. In addition, the definition specifically excludes farmers and firefighters, as allowed by federal law.

With passage of SB 137, the Department of Public Safety plans to begin issuing commercial vehicle operating licenses by January 1, 1991. SB 137 has a zero fiscal note. According to DPS, total implementation costs cannot be estimated at this time. Federal grant monies will be forthcoming; if supplemental state funds are needed, they will likely appear as an increment in the department's FY 91 operating budget.

SB 32, REGISTRATION OF VEHICLES OWNED BY CHARITABLE ORGANIZATIONS

TO TESTIFY:

SENATOR SZYMANSKI, SPONSOR (CAROLYN)

BILL BROWN, DEPT. PUBLIC SAFETY (GAIL HORETSKI)

OTHERS (SEE WITNESS LIST)

F.Y.I.

SZYMANSKI'S BACK-UP SAYS THAT VEHICLES REGISTERED AS OWNED BY CHARITABLE ORGANIZATIONS ARE EXEMPT FROM I.M. INSPECTIONS AND FROM THE MUNICIPALITY OF ANCHORAGE'S MOTOR VEHICLE TAX.

Secs. 28.10.172, 28.10.180. Staggered registration; renewal. [Repealed, § 7 ch 178 SLA 1978.]

Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h) and (i) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle for which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in AS 28.10.421(d), 28.10.431 and 28.10.441; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

(b) **Historic vehicles.** The owner of an historic vehicle may make application for special registration under this subsection. The department, when satisfied that the vehicle meets the requirements for historic vehicle registration under regulations adopted by the commissioner, shall register the vehicle and issue two permanent registration plates of distinctive design and color bearing no date. These plates remain with the vehicle as long as it is registered under this subsection. Vehicles qualifying for registration under this subsection shall be issued registration plates numbered in a separate numerical series beginning with "Historic Vehicle No. 1."

(c) **Special request plates.** Upon application by the owner of a passenger vehicle, noncommercial van or pick-up truck, or motor home, the department may design and issue registration plates containing a series of not more than six letters or numbers or combination of letters and numbers as requested by the owner. The department may, in its discretion, disapprove the issuance of registration plates under this subsection when the requested symbols are a duplication of an existing registration or when the symbols are considered unacceptable by the department.

(d) **Vehicles owned by disabled veterans and handicapped persons.** A

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person who presents to the department written proof that the person is at least 70 per cent disabled or medically handicapped and should be given special consideration by the public with respect to the parking or standing of the person's vehicle in designated spaces, may register one passenger vehicle without charge. The proof required under this subsection may consist of evidence that the person receives at least 70 per cent disability compensation from a government agency at the time of registration or an affidavit signed by a physician licensed to practice medicine in this state. Upon the request of the applicant the department shall issue a specially designed registration plate which displays

(1) recognition of the disabled veteran if the applicant's disability originated from the applicant's service with the armed forces of the United States; or

(2) the standard handicap symbol (the wheelchair logo).

(e) Vehicles owned by the state, municipalities, and charitable organizations of the state. Every certificate of registration and registration plate issued to the state, a municipality or charitable organization of the state is in effect until the vehicle for which the registration certificate and plate were issued is no longer owned and operated by the state, the municipality or the charitable organization of the state or until the department, in its discretion, declares its expiration. The state, municipality or charitable organization of the state shall maintain a current listing of all vehicles registered to it in the order of the registration number assigned to each vehicle, and shall provide a copy of the listing to the department upon request. The listing shall include a description of each vehicle and other identifying information required by the department. Registration plates issued under this subsection shall be of a distinctive design and numbering system. For the purposes of this subsection, "charitable organization" means a nonprofit association, corporation, society or other entity organized, incorporated or headquartered in the state for educational, cultural, scientific or other charitable purposes, as prescribed in regulations of the department.

(f) Vehicles owned by elected state officials. The department shall issue special registration plates to each incumbent elected state official for display on noncommercial motor vehicles owned and driven by the official. The department shall number or design the plates so that registration by an elected state official is indicated upon the plates. The registration plates issued under this subsection remain with the owner of the vehicle only during the official's term of office.

(g) Vehicles owned by consular officers of foreign governments. A vehicle owned by a consular officer of a foreign government shall be issued registration plates displaying the title "consular corps" or "cc." However, the commissioner may waive the registration of consular vehicles and the payment of fees and taxes when consistent with international treaties or agreements.

(h) Vehicles owned by ranchers, farmers, and dairymen. A vehicle

Examples of charitable organizations getting \$5.00 plates for less-than-charitable vehicles:

#	<u>License</u>	<u>Car</u>	<u>Group</u>
1	yya995	Stud 53	Matanuska Electr Assn.
2	yyb365	Buick 72	Turning Point Boys Ranch
3	yycl41	Cadil 69	Arctic Circle Free Will
4	yyel22	Linc 78	Univ. Life Church
5	yye203	Olds 74	International Conference of the Bible
6	yye216	Merced 67	Sapa Christian Center
7	yye381	Cadil 54	Transportation Museum of Alaska
8	yye385	Merc 81	Anchorage Park United Methodist
9	yye545	Saab 74	Sage Hoebermann
10	yye806	Buick 75	Corpo of the Catholic Archbishop
11	yye874	Merc 79	Matanuska Telephone Assoc.
12	yyf473	Merc 75	Catholic Bishop of Northern Alaska
13	yyf478	Linc 83	Anchorage Baptist Temple
14	yyf535	Olds 81	Universal Life Church
15	yyf537	Volvo 82	Universal Life Church
16	yyf546	Cadil 72	Emily Holcomb
17	yyf565	Linc 77	Blessed Trinity Church
18	yyf607	Merc 70	Fairbanks Rescue Mission
19	yyf679	Olds 75	Corporation of the Catholic Archdiocese
20	yyf683	Buick 82	Copper River School District
21	yyf715	Cadil 75	Bible Baptist Church, Inc. (Fairbanks)
22	yyf737	Merc 80	Bible Baptist Church of Fairbanks
23	yyf741	Linc 78	Universal Life Church
24	yye966	Merc 80	Delta Greely School District R
25	yyf896	Olds 81	Homer Electric Assoc
26	yyf908	Buick 75	Universal Life Church
27	yyf989	Cadil 82	Anchorage Gymnastics Assoc
28	yyf998	Stud 52	Homer Electric Assoc
29	yyf994	Stud 53	Homer Electric Assoc
30	yyg140	Olds 80	Corp. of Catholic Archbishops of ANch.
31	yyg150	Linc 79	Raymond Ansel
32	yyg162	Audi 76	St Pauls Catholic Church
33	yyg182	Merc 79	Calvarys Northern Lights Mission
34	yyg189	Saab 72	St. Seraphim of Sarov. Orthodox
35	yyg200	Merced 72	Alaska Mission #4
36	yyg201	Merced 65	Alaska Mission #3
37	yyg265	Olds 80	Western Dominican Province
38	yyg273	Olds 82	Jesuit Fathers
39	yyg312	Olds 77	Anchorage Baptist Temple
40	yyg346	Olds 82	Soul Harvest, Inc.
41	yyg652	Olds 83	Copper Valley Electric Assoc
42	yyg865	Buic 82	Society of Jesus--Alaska Hool.
43	yyh175	Buic 81	Corporation of the Catholic.
44	yyh220	Olds 83	Providence Hospital
45	yyh301	Buic 80	Society of Jesus
46	yyh324	Olds 82	Calvarys Northern Lights
47	yyh355	Linc 73	Mission of Faith #4
48	yyh399	Merced 66	North Star Church (Healy)
49	yyh409	Olds 84	South Anchorage Assembly of God

v

50	yyh489	Buic 84	Alaska Heritage Review (address in Anchorage and also one in Seattle)
51	yyh504	Olds 71	Gods Retreat
52	yyh534	Olds 77	St. Benedicts Church
53	yyh548	Royal 84	Abbot Loop Comm. Chapel
54	yyh587	Olds 82	Matanuska Telephone Assoc.
55	yyh665	Buick 80	Corp of Catholic Archbishops
57	yyh696	Cadil 78	Tri-Valley Volunteer Fire Dept.
58	yyh726	Olds 84	Alaska Villlage Electric Assoc.
59	yyh857	Olds 76	Sapa Christian Center
60	yyj137	Fiat 78	Solid Rock Ministries Inc. (Soldotna)
61	yyj140	Porsche79	Muldoon Community Assembly
62	yyj182	Olds 79	Corp. of Catho. Archbishops Anch
63	yyj190	Buic 85	Sisters of Providence in Washington (Seattle address; secondary Eagle River)
64	yyj272	Olds 82	Corp. Catholic Archbishops Anch
65	yyj295	Buic 84	Our Lady of Compassion
66	yyj323	Olds 83	Wayland Baptist University
67	yyj339	Buic 79	Alaska Evangelistic Fund, Inc.
68	yyj348	Olds 81	Trinity Presbyterian Church
69	yy367	Olds 85	Watchtower Society of New York Inc.
70	yy379	Olds 82	Corp. Cathollic Archbishops of Anchora
71	yyj389	Olds 80	Alaska Pacific University
72	yyj398	Olds 81	St. Marys Episcopal Church
73	yyj436	Olds 83	Theodor Zembal or the Society of Jesus -Oregon
74	yyj445	Buick 81	Alaska Federation of Natives
75	yyj447	Olds 85	Soul Harvest, Inc. (Anchorage & Seattle)
76	yyj450	Cadil 69	Anchorage Baptist Temple
77	yyj457	Peugot 83	Sisters of St. Ann
78	yyj506	Buic 81	Corporation of Catholic
79	yyj564	Buic 84	Boy Scouts of America (ANCHORAGE)
80	yyj566	Buic 84	Boy Scouts of America Ancho
81	yyj598	Buic 85	Hillcrest Church of the Nazarene
82	yyj604	Buic 86	Akeela House, INC.
83	yyj610	Olds 80	Anchorage Baptist Temple
84	yyj632	Buic 86	The Salvation Army

Partial listing of \$5.00 plates given to charitable organizations
(each category has examples only, and is not complete)

- 1) Utilities
 - a. Golden Valley Electric
yye663-699, yyf749-760, 787-91, 100-122
 - b. Copper Valley Electric (yye746-53)
 - c. Mat Su Telephone (yee874-928, yyf218-249; yyf151-51;
many more in yyg, yyg626-39; yyg715-726; 744-763; yyg808-
821; yyg840-47; yyh595-607; 617-632; yyh
 - d. Glacier Highway Electric yyf434-442
 - e. Homer Electric yyf889-896, 958-987, yyg432-443, 447-449;
yyg535-546
 - f. Matanuska Electric Assoc. yyg486-514; 529-533;
yyg822-838; yyh800-811
 - g. Kodiak Electric Association yyg558-577 ; yyg727-36
 - h. Chugach Electric yyg901-947; yyh102-149
 - i. Kulkwan Sanitation Facilities Corp yyh463
- 2) School Districts
 - a. Yukon Koyukuk School Dist (930-945)
 - b. Railbelt School Dist (yyf264-269)
 - c. Lower Kuskokwim School District yyf856-867
 - d. Northwest Arctic School District yyh702-708
- 3) Sheldon Jackson College
- 4) Alaska Teamsters Employee Training yyg465-771
- 5) Fire Departments, Volunteer Fire Departments
- 6) Civil Air Patrol (many, some listed under Alaska Wing)
- 7) Churches
 - a. Universal Life church (one member; hundreds in all)
 - b. Anchorage Baptist Temple yyg414-427
 - c. Arctic Missions (yye776-88)
 - d. 7th Day Adventists (yye820-25)
 - e. Central Alaskan Missions (yye 853-9)
 - f. Soul Harvest yyf374-377; yyj447
 - g. Corporation of the Catholic Bishops AR (many plates)
 - h. North American Indian Revivals & World Missions yyf732-
 - i. Anchorage Baptist Temple yyj450
 - i. LDS yyf835-49
 - j. Holy Ghost Fathers of Ireland yyg764
 - k. Corporation President, LDS yyg856-57
 - l. World of Faith Broadcast yyg889
 - m. Korean Hope Presbyterian Church yyg891
 - n. Solid Rock Ministries (many plates; eg yyj305-7
 - o. Alaska Evangelistic Fund yyj339
- 8) Salvation Army (many plates)
- 9) Anchorage Outboard Club
- 10) Alaska Repertory Theater (8 or 10 at least, scattered)
- 11) Jaycess
- 12) Visual Arts Center yye506
- 13) ULC Inc ~~Quarter~~ (2) yye551
- 14) Individual Names
 - a. Richard Bluel yye660
 - b. Gregory McGovern (yye714)
 - c. Edwin Carns (Living Word Ministry)

- d. Arnold Barry yyf385
- e. Kayleen Louise Stipe & Gary, yyf579
- 17) Alaskan Laborers Training Fund (yye836-9
- 18) Native Associations
 - a. Copper River Native Association
 - b. Orutsararmuit Native Council yyg975
 - c. AFN yyj445
- 19) Providence Hospital yyf 191
- 20) APU yyf207,209,215,217; APU Surplus properties yyg617;yyh546
- 21) AMU yyf210-13
- 23) Gruening Park Apartments yyf349
- 24) Frontiers of Faith Ministries; Sterling (Surplus Properties Services Anchorage
- 25) Alaska Public Television yyf398
- 26) Monroe High school yyf476
- 27) Transportation Museum of Alaska yyf658
- 28) Out of State Plates
 - a. University of Washington!! yyf-686-689;yyf978
 - b. California Unviersity yyg339
- 29) Tanana VALley Fair Assoc yyf794-5
- 30) Town of Metlakatla yyf897
- 31) Anchorage Gymnastics Association yyf989
- 32) Service Oil & GAS, Inc.yygl11
- 33) Hutchings Chevrolet-Oldsmobile yygl51
- 34) Raymond Ansel, Peninsula Savings & Loan Ass. yygl150
- 35) Anchorage Motor Musers Club yyg321
- 36) Agelus Memorial Park yyg410;868
- 37) Casa De San Jose (yyg464)
- 38) Metlakatla Indian Community yyg671
- 39) Stevens Village Council yyg676
- 40) Send of Alaska yyg700-706; yyjl151-52
- 41) Wasilla Lions Club yyg796
- 42) National Outdoor Leadership yyg848-49
- 43) Anchorage Shrine Club yyg874
- 44) Mat-Su Valley Humane Society yyg986
- 45) St. Elizabeth Ann Seton School yyhl76
- 46) Bethel Pre-Maternal Home yyhl90
- 47) Employment Training Center, Fedalaska Federal Credit Union yyhl95
- 48) Cassel Enola, DBA Anchorage Gymnastics Assoc. yyh210;224
- 49) Monroe Foundation yyh336
- 50) Alpine aLTERNATIVES yyh408
- 51) Susitna Girl Scout Council yyh444, Boy Scouts 445
- 52) City of Palmer yyh846
- 53) Alaska State Fair yyh977-79
- 54) Muldoon Community Assembly yyjl140
- 55) Anchorage Police Chaplain yyj210
- 56) Nordic Ski Asocc. of Anch. yyj254
- 57) Interior Region Housing Authority yyj315
- 58) Alaska light opera theatre yyj365
- 59) The Lodge yyj500-501
- 60) Beans Cafe yyj513-

issued in another jurisdiction. (§ 7 ch 178 SLA 1978; am § 2 ch 99 SLA 1983; am § 84 ch 6 SLA 1984; am § 8 ch 45 SLA 1987)

Effect of amendments. — The 1987 amendment in subsection (d) inserted "or (c)" in the first sentence and deleted "and a certificate of inspection by a peace officer of that jurisdiction stating that the vehicle has been determined to be the vehicle described in the certificate of title and that the vehicle has not been reported stolen" at the end of the section.

Sec. 28.10.261. Evidence.

NOTES TO DECISIONS

Applied in *Keltner v. Curtis*, Sup. Ct. Op. No. 2913 (File No. S-162), 695 P.2d 1076 (1985).

Article 3. Transfer of Vehicle.

Section

321. New owner to secure transfer of registration and new title

Sec. 28.10.321. New owner to secure transfer of registration and new title. (a) Except as provided under AS 28.10.281 and 28.10.291, the new owner shall, within 30 days, present the certificates of title and registration properly endorsed to the department, apply for a new title, and register the vehicle as upon an original registration.

(b) An application for certificates of title and registration shall be accompanied by any required registration fees and taxes, transfer of title and lien fees, and by the previous certificates of title and registration, if any. (§ 7 ch 178 SLA 1978; am § 40 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment deleted "and motor freight carrier or bus transportation fees, if any," following "lien fees" in subsection (b).

Article 5. Fees and Charges.

Section

411. Registration fees levied
421. Registration fee rates
423. Emission control inspection program fees

Section

431. Annual motor vehicle registration tax
441. Schedule of other fees and charges

Sec. 28.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) *[Repealed, 1983 Initiative Proposal No. 2, § 6.]*

(c) *[Repealed, § 6 ch 70 SLA 1986.]*

(d) *[Repealed, § 41 ch 37 SLA 1986.]*

(e) *[Repealed, § 3 ch 89 SLA 1987.]*

(f) A resident 65 years of age or older on January 1 of the year the vehicle is registered is entitled to an exemption from the registration fee required under this section for one motor vehicle subject to registration under AS 28.10.421(b)(1), (2), (5), or (6). An exemption may not be granted except upon written application for the exemption on a form prescribed by the department. (§ 7 ch 178 SLA 1978; am 1983 Initiative Proposal No. 2, § 6; am § 85 ch 6 SLA 1984; am § 41 ch 37 SLA 1986; am § 6 ch 60 SLA 1986; am § 6 ch 70 SLA 1986; am § 3 ch 89 SLA 1987)

Effect of amendments. — The 1985 amendment repealed subsection (b), concerning payment of motor carrier fees.

The first 1986 amendment repealed subsection (d), concerning payments by the Department of Community and Regional Affairs.

The second 1986 amendment added subsection (f).

The third 1986 amendment repealed subsection (e), concerning exemption for residents 65 years of age or older.

The 1987 amendment repealed subsection (e), concerning inclusion of state park and camp ground fees in registration fees.

Sec. 28.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under AS 28.10.108 and 28.10.111.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

- (1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use\$35;
- (2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use\$40;
- (3) a taxicab\$70;
- (4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors or tourists\$85;
- (5) a motorcycle or a motor-driven cycle\$20;
- (6) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer\$ 5.

(c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or the commissioner's representative, for a vehicle, including a motor vehicle

pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

- (1) up to and including 5,000 pounds\$50;
- (2) more than 5,000 pounds to and including 12,000 pounds\$85;
- (3) more than 12,000 pounds to and including 18,000 pounds\$155;
- (4) more than 18,000 pounds\$220.

(d) The special registration fees under this subsection are imposed annually, unless otherwise specified, for:

(1) an historic vehicle (one time only upon initial registration under AS 28.10.181)\$10;

(2) special request plates including those authorized for use by Alaska National Guard personnel only\$30; plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates;

(3) a vehicle owned by a disabled veteran or other handicapped person, and registered under AS 28.10.181 or a resident 65 years of age or older who files a written application for an exemption on a form prescribed by the departmentnone;

(4) a vehicle owned by the statenone;

(5) a vehicle owned by an elected state official the fee required for that vehicle under (b) of this section;

(6) a vehicle owned by a consular officer, unless waived under AS 28.10.181\$35;

(7) a vehicle owned by a rancher, farmer, or dairyman and registered under AS 28.10.181\$35;

(8) a snowmobile or off-highway vehicle\$ 5;

(9) an amateur mobile radio station vehicle,

(A) with a transceiver capable of less than 5-band operation the fee required for that vehicle under (b) or (c) of this section;

(B) in recognition of service to the public: a mobile amateur radio station owned by an amateur with general class or higher license, provided the station must be satisfactorily proved capable of operating on at least five bands from 160 through 10 meters, must have an antenna, and must have a power supply and wiring as a permanent part of the vehicle; the transmitting unit may be removed from the car for service or dry storagenone for a mobile amateur radio station vehicle included in (b)(1) or (2) of this section;

(10) dealer registration plates,

(A) the initial set of plates\$45;

(B) each subsequent set of plates\$25;

(11) a vehicle owned by a municipality or charitable organization meeting the requirements of AS 28.10.181(e)\$ 5;

(12) an occasional use vehicle under AS 28.10.181(k)\$15;

(13) a vehicle owned by a Pearl Harbor survivor or a former prisoner of warnone;

(14) special request Winter Olympics commemorative plates\$ 70

plus the fee required for that vehicle under (b)(1) or (2) of this section; the fee required by this paragraph shall be collected only on the first issuance and on the replacement of special request plates; the commissioner of administration shall separately account for the fees received under this paragraph that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska sports fund established under AS 05.35.150.

(c) A vehicle registered under this section which, by the removal of seats, a camper unit, a canopy or other equipment, may be converted into a vehicle on which the registration fee is computed on a different basis or in a different amount may not be driven or moved with seats, camper unit, canopy or other equipment removed unless the other applicable registration fee is paid.

(f) In addition to the fees imposed under (b) and (d) of this section, the following special annual registration fee is imposed upon renewal of registration for a passenger vehicle, motor home, pick-up truck, or a van with special request Winter Olympics commemorative plates\$30;

the commissioner of administration shall separately account for the fees received under this subsection that the department deposits in the general fund; the annual estimated balance in the account may be appropriated by the legislature to the Alaska sports fund established under AS 05.35.150. (§ 7 ch 178 SLA 1978; am §§ 4, 5 ch 54 SLA 1979; am § 2 ch 151 SLA 1984; am § 41 ch 21 SLA 1985; am §§ 7 — 9 ch 60 SLA 1986; am § 1 ch 70 SLA 1986; am §§ 6 — 8 ch 24 SLA 1988)

Cross references. — For legislative intent regarding appropriation of proceeds from sale of Winter Olympics plates, see sec. 1, ch. 24, SLA 1988 in the Temporary and Special Acts.

Effect of amendments. — The 1985 amendment substituted "AS 28.10.108 and 28.10.111" for "AS 28.10.101 — 28.10.111" at the end of subsection (a).

The first 1986 amendment increased the fees in paragraphs (1) through (5) of subsection (b), increased the fees in subsection (c), and in subsection (d) in para-

graph (2) added "including those authorized for use by Alaska National Guard personnel only" and increased the fee, in paragraph (3) substituted "files a written application for an exemption on a form prescribed by the department" for "complies with AS 28.10.411(e)", and increased the fees in paragraphs (6), (7) and (10).

The second 1986 amendment of paragraph (3) of subsection (d) made by § 1, ch. 70, SLA 1986 was identical to the amendment made by § 9, ch. 60, SLA 1986, which is already in effect.

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ANCHORAGE DAILY NEWS Freebie license plates

Lawmakers say courtesy abused

By JOHN LINDBACK

Daily News reporter

JUNEAU — What do the Muldoon Community Assembly, Beans Cafe, University of Washington, Anchorage Gymnastics Association, the Universal Life Church and Chugach Electric Association all have in common?

The state of Alaska gives them and hundreds of other organizations and churches free license plates for their vehicles, regardless of their ability to pay.

While most Alaskans pay the state Division of Motor Vehicles \$35 a year to register a car and \$40 for a pickup, about 2,500 vehicles owned by what state law calls "charitable organizations" get plates for a nominal \$5 a year. The plates are identifiable because they all carry YY as the first two letters.

A 1979 Porsche is registered in the name of the Muldoon Community Assembly, according to state listings. The Anchorage Gymnastics Association registered a 1982 Cadillac. The Sisters of St. Ann registered a 1983 Peugeot. And the Alaska Mission #3 of Anchorage registered a 1965 Mercedes. Alaska Mission #4 of Wasilla registered a 1972 Mercedes.

Hundreds of vehicles are registered to the Universal Life Church.

All of the organizations pay the nominal \$5 fee and somebody from the group signs an affidavit that says the vehicle is used exclusively for the purposes of their group.

Groups based in Anchorage get extra savings. They are also exempted from a personal property tax collected for the Municipality of Anchorage at the time vehicle owners register with the state. For cars, the tax ranges from \$5 to \$60 a year, depending on

See Back Page, PLATES

weather

PLATES: Some lawmakers say it's time for the state to stop giving a break on fees

Continued from Page A-1

the age of the vehicle. But the freebies may not last long.

Legislators who don't like the looks of the motor vehicle lists are beginning to think that the state might benefit from the more than \$80,000 a year it forgoes by handing out free plates.

Sen. Mike Szymanski, D-Anchorage, suspects abuse of an old law that was originally designed to give non-profit charitable organizations a fi-

ancial break. "It seems to me if you can afford a vehicle like a Porsche or a Mercedes you ought to be able to afford the licensing fee to go along with it," Szymanski said. As a result, he's trying to find support this week for a bill that would eliminate free plates for all vehicles except those owned by the state or municipal governments.

So far, Sens. Mitch Abood, R-Anchorage, Arliss Sturgulewski, R-Anchorage and Pat Rodey, D-Anchorage, have signed up to co-sponsor Szymanski's legislation.

Attempts Wednesday to reach some owners of YY plates for comment on Szymanski's plan turned up little. A spokeswoman for the Muldoon Community Assembly, owners of the Porsche, declined comment.

No phone listings could be found for Alaska Mission #3 or Alaska Mission #4, registered as Mercedes owners.

Szymanski said the problem lies in the state law's overly broad definition of charitable organization. It is defined as a "nonprofit association, corporation, society, or other entity organized, in-

corporated, or headquartered in the state for educational, cultural, scientific or other charitable purposes; as prescribed in regulations of the department."

Utility companies and church denominations have registered hundreds of vehicles. Labor groups also qualify for freebie plates along with nonprofit cultural organizations, such as the Alaska Repertory Theatre and the Alaska Light Opera. Other nonprofit organizations like the Nordic Ski Association of Anchorage, Mat-Su Valley Humane Society, Wasilla

Lions Club and Alaska Public Television also get freebie plates.

The definition is so broad that "for all practical purposes, every single organization and/or individual in the state qualifies for free plates," Szymanski said. "As a result, the privilege of having free plates is being terribly abused and the Department (Division) of Motor Vehicles does not have the manpower to investigate individual cases to prevent abuse from occurring."

For budget reasons, the Division of Motor Vehicle has

not assigned anyone to enforce the law, according to Kenneth Simpson of the division's Anchorage office. If somebody is using the vehicle for private purposes there is nothing the state can do, he said.

According to Simpson, charitable organizations in 1986 registered 960 passenger vehicles, 1,185 pick-ups and 179 buses.

"There seems to be no logical reason to assume that any of these groups can't afford to pay their own way," Szymanski said.

Deletes reference to "charitable organization" in regard to registration procedure & fee. Does this mean no registration/fee is required? Also deletes definition of charitable organization.

1 IN THE SENATE

2

SENATE BILL NO. 32

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to registration of vehicles owned by

7

charitable organizations."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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* Section 1. AS 28.10.181(e) is amended to read:

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(e) Vehicles owned by the state or [,] municipalities [, AND

11

CHARITABLE ORGANIZATIONS OF THE STATE]. Every certificate of regis-

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tration and registration plate issued to "the state or [,] a munici-

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pality [OR CHARITABLE ORGANIZATION OF THE STATE] is in effect until

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the vehicle for which the registration certificate and plate were

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issued is no longer owned and operated by the state or [,] the munici-

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pality [OR THE CHARITABLE ORGANIZATION OF THE STATE] or until the

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department, in its discretion, declares its expiration. The state or

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[,] municipality [OR CHARITABLE ORGANIZATION OF THE STATE] shall

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maintain a current listing of all vehicles registered to it in the

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order of the registration number assigned to each vehicle [,] and

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shall provide a copy of the listing to the department upon request.

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The listing must [SHALL] include a description of each vehicle and

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other identifying information required by the department. Registration

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plates issued under this subsection must [SHALL] be of a distinctive

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design and numbering system. [FOR THE PURPOSES OF THIS SUBSECTION,

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"CHARITABLE ORGANIZATION" MEANS A NONPROFIT ASSOCIATION, CORPORATION,

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SOCIETY OR OTHER ENTITY ORGANIZED, INCORPORATED OR HEADQUARTERED IN

28

THE STATE FOR EDUCATIONAL, CULTURAL, SCIENTIFIC OR OTHER CHARITABLE

29

PURPOSES, AS PRESCRIBED IN REGULATIONS OF THE DEPARTMENT.]

4978
BY SZYMANSKI
Carolyn will call
back - no one in
office is "up to
speed" on this.

1 * Sec. 2. AS 28.10.421(d)(11) is amended to read:
2 (11) a vehicle owned by a municipality [OR CHARITABLE ORGA-
3 NIZATION] meeting the requirements of AS 28.10.181(e)..... \$5;

- 2) The solicitation is part of a coordinated fundraising campaign that is soliciting more than 10 persons during the year, and
- 3) The solicitation is made in written form, by television or radio, or by telephone.

Penalties. Failure by an organization to make the required statement will result in a penalty of \$1,000 for each day such failure occurred, up to a maximum penalty of \$10,000 for a calendar year. No penalty will be imposed if it is shown that the failure was due to reasonable cause. If the failure was due to intentional disregard of the requirements, the penalty may be higher and is not subject to a maximum amount.

Transaction or relationship with other organizations. New law requires that tax-exempt charitable organizations described in section 501(c)(3) must include information on their annual return covering direct or indirect transfers, transactions, and relationships between the organization and any other section 501(c) tax-exempt (other than a section 501(c)(3) charity) or political organization. The term "political organization" includes any organization described in section 527, such as political campaign committees and political action committees. This provision is effective for annual returns for years beginning after December 31, 1987.

Required disclosure if information or services sold are available free from government. Certain organizations that sell to individuals information or routine services that could be readily obtained free (or for a nominal fee) from the federal government must include a statement that the information or service can be so obtained. The statement must be made in a conspicuous and easily recognized format when the organization makes an offer or solicitation to sell the information or service. Organizations affected are those exempt under section 501(c) or (d) and political organizations defined in section 527(e).

A penalty is provided for intentional disregard of this requirement. The penalty for failure to comply with this requirement is the greater of \$1,000 for each day the failure occurred, or 50 percent of the aggregate cost of all solicitations that were made by the organization the same day that it fails to meet the requirement.

This requirement is effective for solicitations made after January 31, 1988.

3. Section 501(c)(3) Organizations—Charitable, Religious, Educational, Scientific, Etc., Organizations

Important Changes

Excise taxes on political expenditures. New law imposes excise taxes on certain political expenditures of section 501(c)(3) charitable organizations that are not private foundations. A two-tier tax is imposed on both the organizations and the managers of the organizations that are not private foundations.

Tax on disqualifying lobbying expenditures. A new excise tax is imposed on the lobbying expenditures of certain organizations that lose their exempt status due to those expenditures.

Managers of these organizations may also be liable for a tax on these expenditures.

An organization may qualify for exemption from federal income tax if it is organized and operated exclusively for one or more of the following purposes: charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment; however, see *Amateur Athletic Organizations*, discussed later), or the prevention of cruelty to children or animals. The organization must be a corporation, community chest, fund, or foundation to qualify. A trust is a fund or foundation and will qualify. However, an individual or a partnership will not qualify.

Examples of qualifying organizations are non-profit old age homes, parent-teacher associations, charitable hospitals or other charitable organizations, alumni associations, schools, chapters of the Red Cross or Salvation Army, boys' clubs, and churches.

Child care organizations. The term "educational purposes" includes the providing of care of children away from their homes if substantially all the care provided is for the purpose of enabling individuals (the parents) to be gainfully employed and the services are available to the general public.

Instrumentalities. A state or municipal instrumentality may qualify under section 501(c)(3) if it is organized as a separate entity from the governmental unit that created it and if it otherwise meets the organizational and operational tests of section 501(c)(3). Examples of a qualifying instrumentality might include state schools, universities, or hospitals. However, if an organization is an integral part of the local government or possesses governmental powers, it does not qualify for exemption. A state or municipality itself does not qualify for exemption in any event.

Separate fund—contributions to which are deductible. An organization that is exempt from federal income tax other than as an organization described in section 501(c)(3) may, if it desires, establish a fund, separate and apart from its other funds, exclusively for religious, charitable, scientific, literary, educational purposes, fostering national or international amateur sports competition, or for the prevention of cruelty to children or animals.

If the fund is organized and operated exclusively for such purposes, it may qualify for exemption as an organization described in section 501(c)(3), and contributions made to it will be deductible as provided by section 170. A fund with these characteristics must be organized in such a manner as to prohibit the use of its funds upon dissolution, or otherwise, for the general purposes of the organization creating it.

Contributions to domestic organizations described in this chapter, except organizations testing for public safety, are deductible as charitable contributions on the donor's federal income tax return.

Fundraising events. If the donor receives something of value in return for the contribution, a common occurrence with fundraising efforts, part or all of the contribution may not be deductible. This may apply to fundraising activities such as charity balls, bazaars, banquets, auctions, concerts, athletic events, and solicitations for membership or contributions when merchandise or benefits are given in return for payment of a specified minimum contribution.

If the donor received some benefit in return for a contribution to your organization, the donor can only deduct the portion of the contribution, if any, that is more than the fair value of any benefit or merchandise to be given to contributors. You should determine in advance the fair value of any

benefit or merchandise to be given to contributors and tell them when you publicize the fundraising event or solicit their contributions how much is deductible and how much is for the benefit or merchandise.

This topic is discussed in more detail in Publication 1391, *Deductibility of Payments Made to Charities Conducting Fund-Raising Events*. You can ask IRS to send you a copy.

Commercial-type insurance. An organization described in section 501(c)(3) or (4) shall be exempt from tax only if no substantial part of its activities consist of providing commercial-type insurance.

Application for Recognition of Exemption

This discussion describes certain information to be provided upon application for recognition of exemption by all organizations created for any of the purposes described earlier. See the organization headings for specific information your organization may need to provide.

The application for recognition of exemption must be filed on Form 1023. See Chapter 1 and the instructions accompanying Form 1023 for the procedures to be followed in applying. Some organizations are not required to file Form 1023. These are discussed later.

Most organizations described in this chapter that were organized after October 9, 1969, will not be treated as tax exempt unless they apply for recognition of exemption by filing Form 1023 with their key District Director. Such organizations will not be treated as tax exempt for any period before they file Form 1023, unless they file the form within 15 months from the end of the month in which they were organized. If the application is filed within this 15-month period, the organization's exemption will be recognized retroactively to the date it was organized. Otherwise, exemption will be recognized only for the period after the application is received by the Internal Revenue Service. The date of receipt is the date of the U.S. postmark on the cover in which an exemption application is mailed or, if no postmark appears on the cover, the date the application is stamped as received by the Service.

If an organization is required to alter its activities or to make substantive amendments to its enabling instrument, the ruling or determination letter recognizing its exempt status will be effective as of the date the changes are made. If only a nonsubstantive amendment is made, exempt status will be effective as of the date it was organized, if the application was filed within the 15-month period, or the date the application was filed.

Extension of time. An extension of time for filing Form 1023 may be granted by the key District Director if your request is submitted before the 15-month period has passed and you demonstrate that additional time is needed.

If the 15-month period for filing Form 1023 has passed, an extension of time to file it may be granted by the Commissioner of the Internal Revenue Service under section 1.9100 of the Income Tax Regulations if you can show good cause. Since the 15-month period, in which time an organization must file a Form 1023, is fixed by the regulations, rather than by statute, an extension may be granted if the request meets certain conditions.

The following factors will be taken into account in determining if good cause for granting the extension has been shown.

- 1) Due diligence of the taxpayer.
- 2) Prompt action by the taxpayer.
- 3) Intent of the taxpayer.
- 4) Prejudice to the interests of the government.

5) Statutory and regulatory objectives.

Specific questions are to be answered for each of these factors. These questions can be found in Revenue Procedure 79-63, 1979-2 C.B. 578, which is available from the Internal Revenue Service. The information and other documents submitted must be specifically responsive and relevant to answering these questions.

The information submitted by the organization should include a chronological account of the events leading to the failure to make the application, names and current addresses of each person having knowledge or information about the events, affidavits or statements from such persons, and any other information bearing on the Service's consideration of the request. The request must be signed under penalties of perjury by an officer of the organization who has knowledge of the facts. Supporting affidavits or statements must also be signed under penalties of perjury.

The request for an extension must be sent to the appropriate key District Director.

Some organizations are not required to file Form 1023. These include:

Churches, interchurch organizations of local units of a church, conventions or associations of churches, or integrated auxiliaries of a church, such as a men's or women's organization, religious school, mission society, or youth group.

Any organization (other than a private foundation) normally having annual gross receipts of not more than \$5,000 (see *Gross receipts test*, later).

These organizations are exempt automatically if they meet the requirements of section 501(c)(3). However, if the organization wants to establish its exemption with the Internal Revenue Service and receive a ruling or determination letter recognizing its exempt status, it should file Form 1023 with the key District Director. By establishing its exemption, potential contributors are assured by the Service that contributions will be deductible. A subordinate organization covered by a group exemption letter does not have to submit a Form 1023 for itself.

If organizations that have a statutory requirement to apply for recognition do not comply with the requirements relating to exemption applications, deductions for charitable contributions will not be allowed for any gifts or bequests made to those organizations.

Private foundations. See *Private Foundations and Public Charities*, in Chapter 3 for more information about the additional notice required from an organization in order for it not to be presumed to be a private foundation and for the additional information required from a private foundation claiming to be an operating foundation.

Gross receipts test. For purposes of the gross receipts test, an organization normally does not have more than \$5,000 annually in gross receipts if:

- 1) During its first tax year the organization received gross receipts of \$7,500 or less;
- 2) During its first 2 years the organization had a total of \$12,000 or less in gross receipts; or
- 3) In the case of an organization that has been in existence for at least 3 years, the total gross receipts received by the organization during the immediately preceding 2 years, plus the current year, are \$15,000 or less.

An organization with gross receipts in excess of the amounts in the gross receipts test, unless otherwise exempt from filing Form 1023, must file a Form 1023 within 90 days after the end of the period in which the amounts are exceeded. For example, an organization's gross receipts for its first tax year were less than \$7,500, but at the end of its second tax year its gross receipts for the 2-year period were more than \$12,000. The

organization must file Form 1023 within 90 days after the end of its second tax year.

If the organization had existed for at least three tax years and had met the gross receipts test for all prior tax years but fails to meet the requirement for the current tax year, its tax-exempt status for the prior years will not be lost even if Form 1023 is not filed within 90 days after the close of the current tax year. However, the organization will not be treated as a section 501(c)(3) organization for the period beginning with the current tax year and ending with the filing of Form 1023.

Example. An organization is organized and operated exclusively for charitable purposes and is not a private foundation. It was incorporated on January 1, 1985, and files returns on a calendar year basis. It did not file a Form 1023. The organization's gross receipts during the years 1985 through 1988 were as follows:

1985	\$ 3,600
1986	2,900
1987	400
1988	12,600

The organization's total gross receipts for 1985, 1986, and 1987 were \$6,900. Therefore, it did not have to file Form 1023 and is exempt for those years. However, for 1986, 1987, and 1988 the total gross receipts were \$15,900. Therefore, the organization is required to file Form 1023 within 90 days after the end of its 1988 tax year. If it does not file within this time period, it will not be exempt under section 501(c)(3) for the period beginning with tax year 1988 and ending when the Form 1023 is received by the Service. The organization, however, will not lose its exempt status for the tax years ending before January 1, 1988.

The Service will consider applying the Commissioner's discretionary authority to extend the time for filing Form 1023. See the procedures for this extension discussed earlier.

Form 1023 and accompanying statements must show that:

- 1) The organization is organized exclusively for, and will be operated exclusively for, one or more of the purposes (charitable, religious, etc.) specified earlier;
- 2) No part of the organization's net earnings will inure to the benefit of private shareholders or individuals; and
- 3) The organization will not, as a substantial part of its activities, attempt to influence legislation (unless it elects to come under the provisions allowing certain lobbying expenditures) or participate to any extent in a political campaign for or against any candidate for public office. See *Lobbying Expenditures*, later.

You must establish also that your organization will not be organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests.

Political activity. If any of the activities (whether or not substantial) of your organization consist of participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for public office, your organization will not qualify for tax-exempt status under section 501(c)(3). Such participation or intervention includes the publishing or distributing of statements.

Whether your organization is participating or intervening, directly or indirectly, in any political campaign on behalf of (or in opposition to) any candidate for public office depends upon all of the facts and circumstances of each case. Certain voter education activities or public forums conducted in a non-partisan manner may not constitute prohibited political activity under section 501(c)(3); while other so-called voter education activities may constitute prohibited activity. If your organization is uncertain as to the effect of its

voter education activities, you should request a letter ruling from the Internal Revenue Service. Such requests should be sent to: Internal Revenue Service, Assistant Commissioner (Employee Plans and Exempt Organizations), Attention: E:EO, P.O. Box 120, Ben Franklin Station, Washington, DC 20044.

Organizations filing Form 1023 and satisfying all requirements of section 501(c)(3) will be notified of their exempt status in writing.

Articles of Organization

Your organization must include a conformed copy of its articles of organization with the application for recognition of exemption. This may be its trust instrument, corporate charter, articles of association, or any other written instrument by which it is created.

The articles of organization must limit the organization's purposes to one or more of those described at the beginning of this chapter and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities which are not in furtherance of one or more of those purposes. These conditions are referred to as the *organizational test*.

Section 501(c)(3) is the provision of law that grants exemption to the organizations described in this chapter. Therefore, the organizational test may be met if the purposes stated in the articles of organization are limited in some way by reference to section 501(c)(3).

The requirement that your organization's purposes and powers must be limited by the articles of organization is not satisfied if the limitation is contained only in the bylaws or other rules or regulations. Moreover, the organizational test is not satisfied by statements of your organization's officers that you intend to operate only for exempt purposes. Also, the test is not satisfied by the fact that your actual operations are for exempt purposes.

In interpreting an organization's articles, the law of the state where the organization was created is controlling. If an organization contends that the terms of its articles have a different meaning under state law than their generally accepted meaning, such meaning must be established by a clear and convincing reference to relevant court decisions, opinions of the state attorney general, or other appropriate state authorities.

The following are examples illustrating the organizational test.

Example 1. Articles of organization that state that an organization is formed exclusively for literary and scientific purposes within the meaning of section 501(c)(3) of the Internal Revenue Code appropriately limit an organization's purposes.

Example 2. An organization that, by the terms of its articles, is formed to engage in research without some further description or limitation will not be properly limited as to its purposes since all research is not scientific.

Example 3. A stated purpose in an organization's articles to receive contributions and pay them over to organizations that are described in section 501(c)(3) and exempt from taxation under section 501(a) is sufficient.

Example 4. If a stated purpose in the articles is the conduct of a school of adult education and its manner of operation is described in detail, such a purpose will be satisfactorily limited.

Example 5. If the articles state the organization is formed for *charitable purposes*, without any further description, such language ordinarily will be sufficient since the term *charitable* has a generally accepted legal meaning. On the other hand, if the purposes are stated to be *charitable, philanthropic, and benevolent*, the organizational requirement will not be met since the terms *philanthropic* and *benevolent* have no generally accepted legal meaning and, therefore, the stated purposes may, under the laws of the state, permit