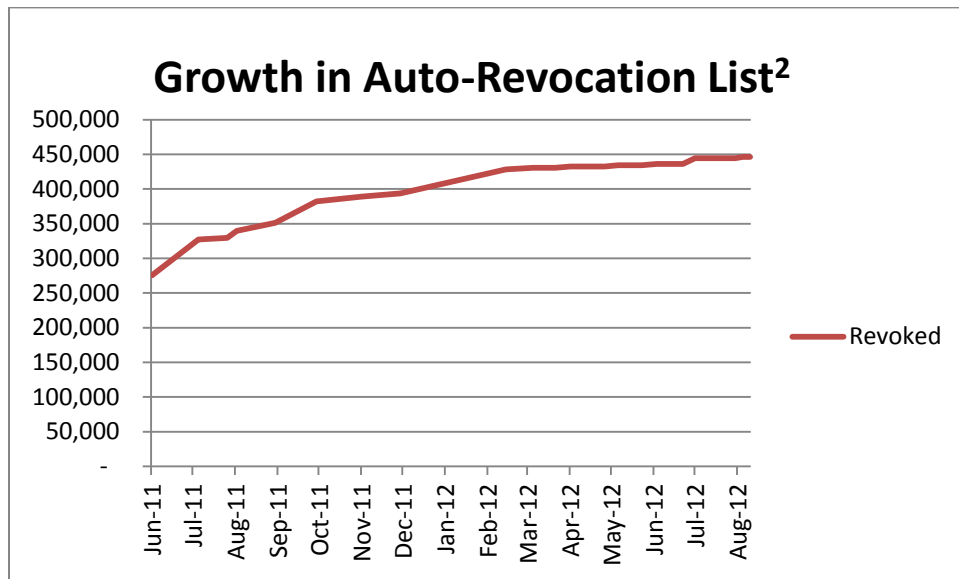


The Comeback Kids: A Look at IRS Reinstatements

By Sandy Deja

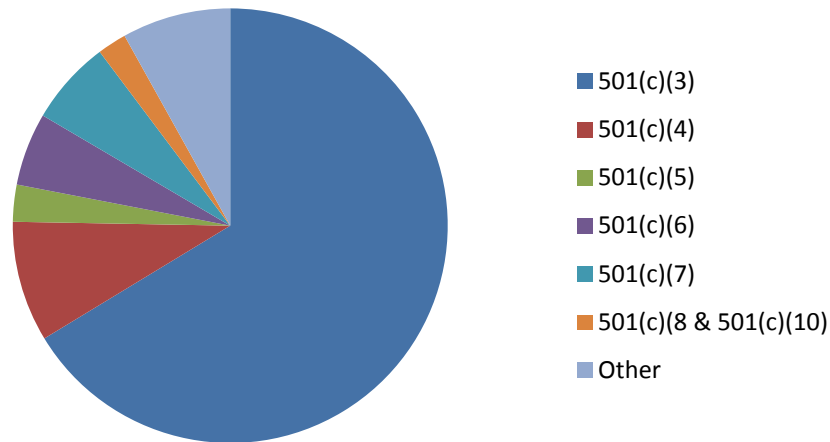
Non-profit organizations that fail to file a required 990-series annual return for three consecutive years must forfeit their Federal tax exempt status. In June of 2011, the IRS began identifying these non-profits, publishing a database with over 275,000 names. Within eight months, the Automatic Revocation list had grown to more than 425,000.¹ In recent months, however, the list has shown signs of leveling off.



When the IRS published the first Automatic Revocation list, they also published procedures for organizations to follow to regain their exempt status. Although both Notice 2011-43 and 2011-44 require a new application and a new User Fee before a nonprofit's exempt status can be reinstated, reinstatements began almost immediately. By the end of June, 2011, six public charities and one trade association already had their exempt status restored. As of mid-August, 2012, more than 9,400 additional organizations had joined them.

By comparing the EINs (employer identification numbers) of revoked organizations with those of recently approved exemptions, it is possible to assemble a complete list of organizations that have had their exempt status reinstated. Here's a portrait of the 9,424 revoked organizations (2.1% of total revocations) that had passed muster under IRS Notices 2011-43 and 2011-44 through August 13, 2011.

Reinstatements Through 8-13-2012



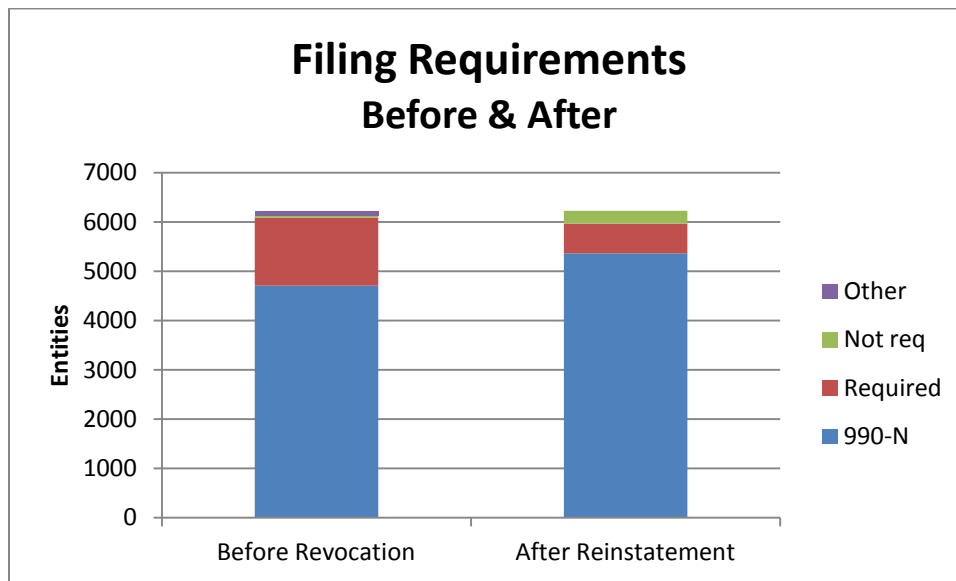
If it looks as if this pie chart has an unexpectedly large "Other" slice, it may be because of a surprising showing by 501(c)(13) organizations. As detailed in the table below (yellow), cemetery companies, only .6% of the exempt universe, get credit for 4.6% of the reinstatements.

Comparison of Reinstatements to Exempt Organizations Overall					
IRC Section	Description	Reinstatements		EOMF*	
		#	%	%	#
501(c)(2)	Title Holding Corporations	39	0.4%	0.3%	4,583
501(c)(3)	Charitable/Educational organizations	6,250	66.3%	74.1%	1,067,778
501(c)(4)	Social Welfare Organizations	845	9.0%	6.0%	86,392
501(c)(5)	Labor and Agricultural Organizations	259	2.7%	3.3%	47,036
501(c)(6)	Trade Associations	511	5.4%	4.5%	64,312
501(c)(7)	Social Clubs	593	6.3%	3.3%	47,320
501(c)(8)	Fraternal Beneficiary	134	1.4%	3.5%	49,769
501(c)(9)	VEBAs	9	0.1%	0.5%	7,088
501(c)(10)	Domestic Fraternal	70	0.7%	1.1%	15,529
501(c)(11)	Teachers Retirement	1	0%	0.0%	8
501(c)(12)	Mutual Organizations	81	0.9%	0.4%	5,213
501(c)(13)	Cemetery Companies	429	4.6%	0.6%	8,326
501(c)(19)	Veterans Organizations	203	2.2%	2.2%	32,180
	Other	0	0.0%	0.3%	4890
	Totals	9,424	100.0%	100.0%	1,440,424

*EOMF stands for Exempt Organizations Master File. Here, it refers to the database of Exempt Organizations which the IRS makes publicly available on its website. The EOMF used was dated 8-13-2012. Information on farmers' co-operatives, political organizations and NECTS not included.

Even more unexpected than the resurrected cemetery companies are the 501(c)(3) charitable/educational organizations (turquoise). The number of new charities has been rising steadily for decades,³ and 501(c)(3) organizations currently amount to nearly three quarters of the 501(c) universe, but charitable organizations represent less than two thirds of all reinstatements.

Automatic Revocation is all about an organization's filing requirement. Organizations that are not required to file are not subject to automatic revocation. Thus, it is no surprise that for many organizations, revocation/reinstatement was an opportunity to secure a filing requirement "upgrade."



Before revocation, more than 22% of the sample⁵ organizations were listed in the IRS database as required to file. After reinstatement, fewer than 10% were required to file. Before revocation, less than 1% of the sample organizations were listed as "not required to file."⁶ After reinstatement, this figure jumped above 4%. At the end of the day, almost 14% of these reinstattees "improved" their IRS filing requirement.

Upgrades of other kinds were not as popular. Less than 1% of revoked organizations opted for a change of subsection,⁷ and only 2.6% of 501(c)(3) organizations changed their foundation status.⁸

We do not know how many organizations were reinstated retroactive to the date of revocation. Although IRS agents generally record an "effective date" for all changes in an exempt organization's status, that information is not disclosed in publicly available IRS databases.

The largest organization revoked and then reinstated, in both the income and asset categories, was a senior care organization with nearly \$150 million in assets and nearly \$100 million in income.

One hundred eighty "group ruling holders" have had their status revoked through August 13, 2012. The 8-13-2012 reinstatement list does not include any group ruling holders.

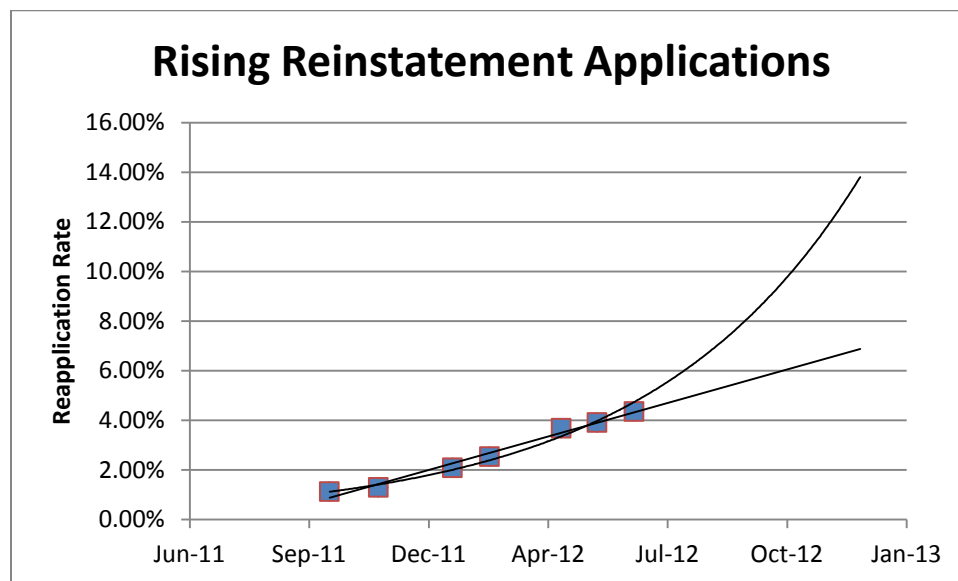
The three states with the highest number of reinstatements are California, Texas and New York, but the state with the highest **rate** of reinstatement is Idaho. Nearly three and a half percent of Idaho revocations have been reinstated. The state with the lowest number of reinstatements is Wyoming, but the prize for the lowest reinstatement *rate* goes to the District of Columbia.⁹

State	Revocations	Reinstatements	% Reinstated
Alaska	1,475	24	1.63%
Alabama	5,753	124	2.16%
Arkansas	4,050	94	2.32%
Arizona	6,592	111	1.68%
California	53,244	940	1.77%
Colorado	8,582	150	1.75%
Connecticut	5,728	85	1.48%
Washington DC	6,026	68	1.13%
Delaware	1,413	31	2.19%
Florida	22,004	523	2.38%
Georgia	11,922	344	2.89%
Hawaii	2,295	35	1.53%
Iowa	4,828	126	2.61%
Idaho	2,167	75	3.46%
Illinois	20,171	439	2.18%
Indiana	9,460	184	1.95%
Kansas	4,724	83	1.76%
Kentucky	5,521	160	2.90%
Louisiana	6,597	152	2.30%
Massachusetts	11,687	243	2.08%
Maryland	9,685	220	2.27%
Maine	2,329	52	2.23%
Michigan	14,455	321	2.22%
Minnesota	7,744	141	1.82%
Missouri	9,909	206	2.08%
Mississippi	3,665	106	2.89%
Montana	2,016	41	2.03%
North Carolina	11,189	299	2.67%
North Dakota	1,257	33	2.63%
Nebraska	2,772	58	2.09%
New Hampshire	1,972	33	1.67%
New Jersey	12,485	240	1.92%
New Mexico	3,523	61	1.73%
Nevada	2,685	52	1.94%

State	Revocations	Reinstatements	% Reinstated
New York	30,997	533	1.72%
Ohio	16,882	294	1.74%
Oklahoma	6,056	125	2.06%
Oregon	6,120	100	1.63%
Pennsylvania	17,364	365	2.10%
Rhode Island	1,717	24	1.40%
South Carolina	5,140	144	2.80%
South Dakota	1,491	33	2.21%
Tennessee	7,691	191	2.48%
Texas	32,612	827	2.54%
Utah	2,955	46	1.56%
Virginia	10,374	245	2.36%
Vermont	1,535	34	2.21%
Washington	11,097	265	2.39%
Wisconsin	8,040	230	2.86%
West Virginia	3,249	90	2.77%
Wyoming	1,102	13	1.18%

What does the future hold for IRS Reinstatements after Automatic Revocation? It is impossible to tell how any trend will play out over months and years. About the only thing we can be sure of is that revoked organizations will continue to apply for reinstatement.

This chart divides the number of IRS-announced reinstatement applications by the total number of automatic revocations as of each announcement date, to yield a "re-application rate." The re-application rate has been rising.



Both linear and exponential trend lines are shown here, but with Transitional Relief for small organizations ending on December 31, 2012, the most likely scenario is that reinstatement applications will drop off dramatically.

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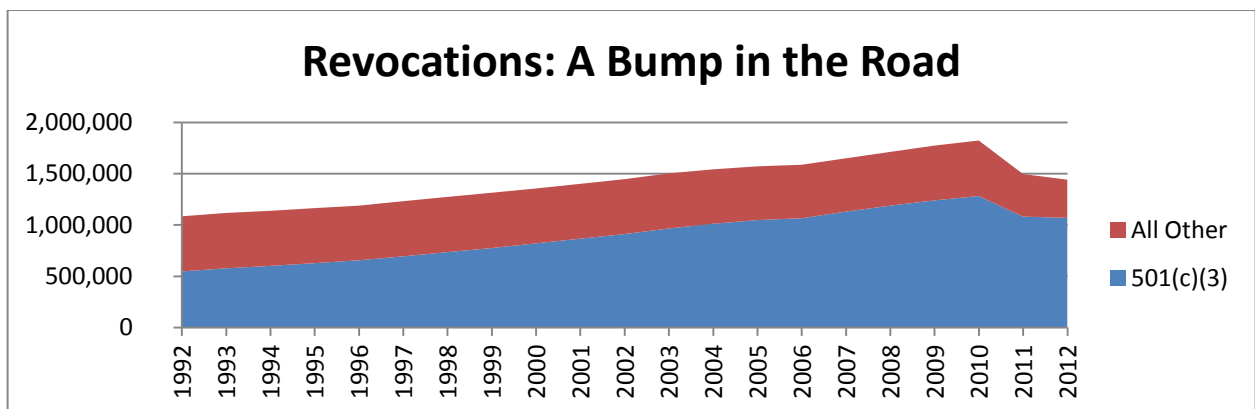
Sandy Deja has worked with not-for-profit tax issues since 1974, first as an IRS Exempt Organizations Specialist, and then as a private tax consultant. The most recent revision of her book [Prepare Your Own 501\(c\)\(3\) Application](#), has three new chapters for organizations seeking reinstatement of exempt status. Email Sandy at ex-empts@aol.com.

The following publicly available IRS databases were used in preparing this article:

- a. The four "Region" files at the bottom of this page of the IRS website: [http://www.irs.gov/uac/SOI-Tax-Stats---Exempt-Organizations-Business-Master-File-Extract-\(EO-BMF\)](http://www.irs.gov/uac/SOI-Tax-Stats---Exempt-Organizations-Business-Master-File-Extract-(EO-BMF)) (dated 8-13-2012). Similar files dated 1-7-2011, saved on my hard drive, have been used for comparison purposes.
- b. The "entire database of organizations whose federal tax exemption was automatically revoked" that appears at the bottom of this page of the IRS website: <http://apps.irs.gov/app/eos/mainSearch.do;jsessionid=xpr3zP2-KxL1+bIdHUM+fQ?mainSearchChoice=revoked&dispatchMethod=selectSearch> (dated 8-13-2012)
- c. IRS Databooks appearing on this page of the IRS website: <http://www.irs.gov/uac/SOI-Tax-Stats---IRS-Data-Book> (Primarily, historical Tables 24 and 25.)

Notes:

- 1. For those who are wondering about the overall impact of the Automatic Revocation program on the exempt universe, here is a chart showing (c)(3) and other totals over the past 20 years:



As you can see, the Automatic Revocation program has only turned back the clock by about 10 years. Note: farmers' co-ops, political organizations and NECTS have not been included.

2. The revocation numbers shown in this chart are actually "net." The IRS has taken names off of the Automatic Revocation List almost every time a new list has been issued. More than 6,500 names have been removed from the list without explanation. My guess is that these removals probably include erroneous revocations, duplicate EINs and, perhaps, terminations/mergers.
3. See the chart in Note 1 above, which shows two decades of growth in (c)(3) organizations.
4. The purple "Other" category at the top of the Before Revocation column includes those organizations with "undocumented" filing requirement codes (no explanation in the EOMF instructions). At least those have now been cleaned up!
5. In order to get the best "Before & After" comparisons, this chart includes only those reinstatements with a matching record in the January, 2011, Exempt Organization Master File. (The last EOMF published by the IRS before they began announcing revocations in June of 2011.) This reduced the number in the sample from 9,424 to 6,229.

Why were there no matching records for one third of the reinstatement organizations? As first reported by Guidestar, in For Whom The Revocations Tolled: An In-Depth Analysis, many organizations listed in the Auto Revocation list "either never appeared on the IRS list of exempt organizations or had not been on it for some time."

My guess is that these organizations were shown in IRS records as "formal exemption not granted," "unable to locate," or some similar category which is not disclosed in the publicly available databases.

6. I do not know why this figure was not zero.
7. I have followed common IRS usage here, and called 501(c)(3), 501(c)(4), etc, "subsections." Hardly anyone uses the proper term - paragraph. 501 is the section, (c) is the subsection, and (3) is the paragraph.
8. 37 of the sample reinstated organizations appear to have been presumed to be private foundations before revocation. 27 of these were still private foundations after reinstatement.

Over the years, I have seen plenty of organizations that have not been able to meet a public charity support test at the end of their Advance Ruling, so I would not have thought anything of this, but I was recently contacted by a fellow who was told that because his organization was presumed to be a private foundation, it could not possibly be eligible for Transitional Relief.

I have not seen anything in writing from the IRS supporting this agent's position. Indeed, Section 7.20.3.5.1 of the Internal Revenue Manual still says, "The private foundation presumption is rebuttable at any time by the organization's submission of data indicating that, in fact, one of the support tests was met."

This may be a situation where IRS handling has been inconsistent.

9. Information on revocations and reinstatements among American territories and foreign organizations is minimal and has been omitted.