

## Update on 4-H Tax Exempt Status & the IRS

[Received 7/23/08]

### Action Needed

1. Please communicate to your chartered 4-H clubs and qualified affiliate groups earning less than \$25,000 **that there will be no penalties for those who do not file** an ePostcard in 2008. [Those earning more than \$25,000 will continue to be subject to the 990 requirements for filing]. We anticipate having more details from the IRS to be shared through State 4-H Program Leaders when the IRS has completed processing the database.
2. Please communicate to your chartered 4-H clubs and qualified affiliated groups that as subsidiaries under GEN 2704 they **should be contacting your State 4-H Program Office** for all tax exempt issues and not National 4-H Headquarters or the IRS. The IRS has requested that any information and direction be provided from them to National 4-H Headquarters as the parent organization. National 4-H Headquarters then has the responsibility to provide updates, assistance, and respond to questions from State 4-H Program offices. Having qualified subsidiaries come through your State 4-H Program offices ensure that at the federal level, we are dealing with duly authorized 4-H groups, and that these groups are under the control and guidance of your Cooperative Extension program- as well as ensuring that they are receiving consistent responses. For all issues about status under GEN 2704, whether the group is requesting an EIN (SS-4 form) or inclusion under GEN 2704, or questions related to filing requirements, determination letters, or general status questions, all state and local groups should start with the State 4-H Program Office. Again, National 4-H Headquarters will provide instructions and technical assistance to the State 4-H Program Offices to assist in responding to state and local questions and issues.
3. Please also be advised that the previous guidance provided for 4-H tax exempt status, the 1993 4-H Tax Exempt Guidance booklet (or previous versions) and the previously used "Kirby" letter dated from 1973 which served as a determination letter in the past, **are no longer in effect and should be removed from state and county** websites and/or discarded from your files.

### IRS Encountering Delays in Processing Lists:

Last year, we began the process of clarifying the 4-H entities that were authorized for inclusion under the national 4-H tax exempt status (GEN 2704). We began this as a response to questions from the IRS regarding authorized 4-H subsidiaries under the exemption of the national 4-H organization, and our system's ability to communicate and enforce new filing requirements which would impact subsidiary groups. In March 2008, National 4-H Headquarters forwarded to the IRS the listings we had received at that time, of all authorized 4-H entities from your programs and we have been waiting for the IRS to finish updating the list. As we have previously reported, **the IRS has encountered delays in completing the processing of our lists for several reasons** including: 1) there are far more entities requesting inclusion as subsidiaries than the IRS anticipated; 2) there continue to be significant errors with Employee Identification Numbers (EIN) listed for thousands of the 4-H entities certified; 3) the IRS is questioning the inclusion of some affiliated organizations which typically are considered independent

organizations rather than program groups; and 4) there are questions on both the part of the IRS and National 4-H Headquarters regarding which requirements apply to 4-H, given that 4-H is a unique entity unlike any other organization.

Clarification of 4-H Tax Exempt Status:

**The IRS is working to both clarify the actual tax exempt status for 4-H, and to identify ways to coordinate the lists of 4-H entities more efficiently and effectively in the future.** In the meantime, we anticipate further delays with the existing data set. Since our current ruling dates back to the 1970's and was based on a 1946 ruling that referenced the Internal Revenue Code of 1939, much of which is no longer in current law, regulations, or records, National 4-H Headquarters has requested a new ruling from the IRS. Our unique status has caused much confusion in our system- as volunteers and others mistakenly assume that either 4-H is a 501(c)3 organization or it's just a governmental entity- neither which is true from an IRS perspective. Local 4-H representatives have interpreted the tax code for either of these entities as being applicable to 4-H in their local situation which has meant some 4-H subsidiaries are not compliant with IRS expectations for our group. **We anticipate that the Cooperative Extension System will continue to be subject to requirements to certify the lists of subsidiaries, and that all subsidiaries will be required to electronically file,** however, 4-H entities may not be subject to other requirements of 501(c)3 entities.

Due to the delays in processing the 4-H listings for groups requesting inclusion, and the data cleaning that will need to take place in partnership with all of you to correct the EIN's, **National 4-H Headquarters has negotiated with the IRS that there will be no penalties for 4-H subsidiaries earning less than \$25,000 who do not electronically file for the remainder of 2008.**

We greatly appreciate everything that you, your colleagues, and volunteers have done as we transition to meet the IRS' requirements and increased accountability at the national and state levels for those authorized groups under Cooperative Extension raising money in the name of 4-H. We appreciate that clear guidance is critical in managing your 4-H Youth Development Program, and we will provide additional information as soon as we can. Thank you.

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