

February 3, 2026

Supporting Organizations FAQ

1. What is a supporting organization under Internal Revenue Code (IRC) §509(a)(3)?

Supporting organizations (SOs) under IRC §509(a)(3) carry out their exempt purposes by supporting one or more other tax-exempt organizations, usually other public charities. Organizing as an SO allows the organization to avoid being classified as a “private foundation,” which would subject the organization to a more restrictive regulatory regime. To qualify as a SO, an organization must meet certain organizational, operational, control, and relationship tests. In addition, SOs are subject to the 501(c)(3) restrictions around permissible activities, including the prohibition against private benefit and political campaign activity and limits on allowable lobbying.¹ The Internal Revenue Service (IRS) released final regulations on SOs (the Regulations) in 2023.²

2. What are the required tests that supporting organizations must pass?

A. Organizational Test

SOs must be organized “exclusively for the benefit of, to perform the functions of, or to carry out the purposes of” one or more specified organizations qualifying as a public charity under §509(a)(1) or §509(a)(2).³ In most cases, the organization’s articles must state the name of the publicly supported organization(s) that the SO supports.⁴ In addition, the organization’s articles must not expressly empower the organization to engage in activities not in furtherance of these purposes or to operate to support or benefit any organization other than its specified supported organization(s).⁵

B. Operational Test

An SO must only engage in activities that support or benefit its supported organization(s). In addition to making direct grants to its supported organization(s), an SO generally may make grants or provide services or facilities to individual members of the charitable class benefited by its supported organization(s), another SO that supports the same supported organization(s), or a state college or university described in IRC §511(a)(2)(B) (i.e., colleges or universities which are government

¹ *Exemption Requirements - 501(c)(3) Organizations*, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-501c3-organizations>, (Accessed Feb. 2, 2026).

² Treas. Reg. §1.509(a)-4.

³ IRC §509(a)(3).

⁴ *Organizing Documents: Charity*, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/organizing-documents-charity> (Accessed Feb. 2, 2026).

⁵ *Supporting Organizations: Requirements and Types*, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/supporting-organizations-requirements-and-types> (Accessed Feb. 2, 2026). A Type I or II may designate its supported organization(s) by class or purpose, but a Type III may not. Subject to certain requirements, a Type I or II may support an organization not organized in the United States, but a Type III may not.

instrumentalities). However, any such grants or provision of services or facilities must support or benefit the supported organization(s), not just the direct recipients.⁶

C. Control Test

SOs may not be controlled, directly or indirectly, by a “disqualified person,” a term that is explicitly defined in IRC §4946. Included in the definition of “disqualified persons” are substantial contributors (and if they are a corporation, their owners), foundation managers, and family members of these people. There are other entities that are defined as disqualified persons.⁷ However, foundation managers who are disqualified persons only because they are foundation managers (and not because they are substantial contributors or family members) are not treated as disqualified persons for purposes of this control test.⁸

Control is defined as “the practical ability to require the organization to perform any act which significantly affects its operations, or to prevent any such act.”⁹ The Regulations specify that the governing body of a supported organization will be considered to be controlled directly or indirectly by one or more disqualified persons if (i) the disqualified persons have 50% or greater voting power of the governing body or (ii) one or more disqualified persons have the right to exercise veto power over the actions of the governing body of the supported organization. Even if the disqualified persons hold less than 50% of the voting power or do not have a veto power, all pertinent facts and circumstances will be taken into consideration in determining whether control exists.¹⁰

D. Relationship Test

SOs must satisfy the relationship test by maintaining one of three types of relationships with its supported organization, described in detail below.

3. What are the three types of supporting organizations?

IRC §509(a)(3)(B) lists three distinct clauses that give rise to three distinct types of SOs.

I. Type I

A Type I SO must be “operated, supervised or controlled by” the supported organization(s). According to IRS guidelines, “control” in this instance can be thought of as a parent-subsidiary relationship, with the “parent” being the supported organization. According to IRS guidelines, this relationship typically exists where the supported organization elects or appoints a majority of the SO's officers or directors. The supported organization would have a majority voting interest in its SO, and therefore, under applicable accounting guidelines, may be required to consolidate financial reports (Form 990, etc.). An example of a Type I organization is a University Press that supports a university. The Trustees of the university

⁶ *Id.*

⁷ *Disqualified Persons*, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/private-foundations/disqualified-persons> (Accessed Feb. 2, 2026); 26 U.S. Code §4946.

⁸ *Supporting Organizations: Requirements and Types*, Internal Revenue Service, <https://www.irs.gov/charities-non-profits/charitable-organizations/supporting-organizations-requirements-and-types> (Accessed Feb. 2, 2026).

⁹ *Id.*

¹⁰ *Id.*

appoint or elect the majority of the directors and officers of the Press, and the Press carries out a program of the University on its behalf.

II. Type II

Type II SOs must be “supervised or controlled in connection with” a public charity. The relationship between a Type II SO and its supported organization is described by the IRS guidelines as a “brother-sister relationship:” the same people must control or manage both the SO and the supported organization. It is also very likely that a Type II SO would have to consolidate financial reports with the supported organization.

III. Type III¹¹

Type III SOs must be “operated in connection with” the supported organization(s). With Type III SOs, the supported organization need not be given any power to appoint any member of the board of the SO, and the SO and its supported organization are not necessarily required to have any common board members. However, it may be advisable to have one common board member to meet the “responsiveness” test referred to below. Because Type III relationships are less formal, Type III SOs have a notification requirement and must also meet a responsiveness test and an integral part test. See §1.509(a)-4(i)(2) and (3) of the Treasury Regulations. These additional tests are designed to ensure that the supported organization oversees the operations of the SO—particularly since the Type III organization does not require control of the board.

A. Notification Requirement

A Type III SO must initially provide a copy of its governing documents to its supported organization. If it amends those documents, it must send amendments to the supported organization.

In addition, the Type III SO must provide written notice describing the type and amount of support it provides to the supported organization during the taxable year preceding the year in which the notice is sent, along with a copy of the SO’s most recent Form 990 or 990-EZ. This information must be postmarked or electronically transmitted by the last day of the fifth month following the close of the taxable year to which the information pertains.

B. Responsiveness Test¹²

1. Relationship Requirement: The SO will pass this test if the supported organization is adequately represented in the governing body of the SO because the supported organization may appoint at least one officer, director, or trustee of the SO; at least one member of the governing body of the supported organization also serves as an officer, director, or trustee of the SO; or the officers, directors, or trustees of the SO and of the supported organization maintain a close and continuous working relationship; **and**
2. Significant Voice Requirement: Because of this relationship, the supported organization has a significant voice in how the SO manages and uses its assets.

¹¹ Type I and III SOs may not receive gifts from persons who control the governing body of a supported organization, or from certain related individuals or entities. Treas. Reg. §1.509(a)-4(f)(5)(i).

¹² Treas. Reg. §1.509(a)-4(i)(3)(ii) and (iii).

C. Integral Part Test

Based on the integral part test, Type III SOs are further classified as functionally integrated or non-functionally integrated. This distinction is important because additional restrictions apply to contributions and certain grants made to non-functionally integrated SOs.¹³

A Type III organization must satisfy one of three alternative integral part tests to be treated as functionally integrated: 1) meeting an activities test, 2) serving as the parent of its supported organization, or 3) supporting a governmental entity. Read more about the three alternative tests from the IRS [here](#). If the SO does not pass any of the three tests, it is non-functionally integrated and subject to the following requirements.

D. Requirements for Non-Functionally Integrated Supporting Organizations

1. Distribution Requirement: Type III non-functionally integrated SOs must annually distribute the greater of (1) 85% of the organization's adjusted net income for the prior taxable year or (2) 3.5% of the aggregate fair market value of the organization's non-exempt use assets, with certain adjustments, to one or more of its supported organizations.¹⁴
2. Attentiveness Requirement: Distributions must be sufficiently important to the supported organization to ensure that the supported organization has reason to pay attention to the SO's role in its operations. Distributions to a particular supported organization are sufficient to ensure such attentiveness if the amount of support:
 - Equaled at least 10% of the supported organization's total support for the prior year;
 - Was necessary to avoid interruption of the carrying on of a particular substantial function or activity of the supported organization; or
 - Based on all facts and circumstances (including actual evidence of attentiveness), was sufficient to ensure attentiveness.

At least one-third of the SO's distributable amount must be distributed to supported organizations (1) that meet this attentiveness requirement and (2) to which the SO is responsive.

4. What are the filing requirements of a supporting organization?

SOs must file information returns (Form 990 or 990-EZ). The Pension Protection Act of 2006 (PPA) changed the filing requirements for small §509(a)(3) SOs. The PPA requires all §509(a)(3) organizations to file paper or electronic Form 990 or Form 990-EZ for tax periods ending after August 17, 2006, even if

¹³ Type III non-functionally integrated SOs are also subject to excess business holding rules under §4943 and must meet annual payout requirements. In addition, distributions from private foundations to non-functionally integrated SOs are not qualifying distributions for purposes of satisfying a private foundation's required annual distributions under §4942(g)(4) and may be taxable expenditures under §4945.

¹⁴ In particular, a Type III non-functionally integrated SO must distribute a certain amount annually to or for the benefit of its supported organization(s). That amount is equal to the greater of 85% of the organization's adjusted net income and 3.5% of the fair market value of the organization's non-exempt-use assets (with certain adjustments). Treas. Reg. §1.509(a)-4(i)(6). Certain excess amounts may reduce the distributable amount in subsequent years (for up to five years after the excess amount is generated).

the annual gross receipts are normally \$50,000 or less. Certain §509(a)(3) SOs that support religious organizations are exempted from the above requirement.

5. Are gifts to supporting organizations tax deductible?

Yes. Gifts are tax-deductible to SOs to the same extent as gifts made to 501(c)(3) public charities. Further, the “excise tax” imposed on private foundations does not apply to §509(a)(3) SOs. However, keep in mind that an SO’s tax-exempt status is tied to the status of the supported organization. If the supported organization dissolves or loses its tax-exempt status, the SO will lose its tax-exempt status.

6. Can a private foundation become a supporting organization?

Yes, but an existing private foundation may be required to amend its purposes in order to satisfy the organizational test described above for SOs. The private foundation can request determination as to whether it is a Type I, II, or III SO, and it must file [Form 8940, Request for Miscellaneous Determination](#). Even if deemed an SO, the private foundation is required to file 990-PF for five years after the initial determination as to its SO status.

7. Can a supporting organization convert to a standalone public charity?

Yes, but as above, it may need to amend its purposes. SOs can show that its purposes are sufficient to meet the standard 501(c)(3) organizational test and that its contributions meet the public support test by filing [Form 8940, Request for Miscellaneous Determination](#), when it files its annual 990.

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