

## New Treasure Trove of EO Guidance

04.25.23 | Linda J. Rosenthal, JD



For the past two years, the Exempt Organizations and Government Entities Division of the IRS has been rolling out the first group of new documents in its [multi-year project](#) to overhaul and improve the agency's guidance hub on the laws and procedures for tax-exempt organizations.

On March 17, 2023, officials published TG 3-3, the latest – and perhaps the most important so far – installment of this brand new Exempt Organizations Technical Guide series. A few months earlier, on December 20, 2022, the agency had released TG 3-4. See:

- *Exempt Organizations Technical Guide (TG) 3-3: Exempt Purposes, Charitable 501(c)(3), Publication 5781* [3-2023] (60 pp. PDF)
- *Exempt Organizations Technical Guide (TG) 3-4: Exempt Purpose, Scientific Organizations 501(c)(3), Publication 5730* [12-2022] (51 pp. PDF)

Both focus on the key statute in the modern American federal tax-exemption scheme: Section 501(c)(3) of the Internal Revenue Code. The discussions describe the most up-to-date interpretations and application of this – remarkably short – provision; it has just over 130 words total. But the critical definitional phrase is just 51 words: “... organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals ....”

These new publications are designed to guide IRS employees, agency officials explain. But tax-exempt organization “employees and governing boards and the tax practitioners who work with them may find them useful” as well. See *Exempt Organizations Technical Guide (TG) 0: Technical Guide Overview, Publication 5729* [12-2022] (13 pp. PDF).

Perhaps TG 3-3 [“charitable”] should have been published ahead of TG 3-4 [“scientific organizations”] but ... whatever. They are both here now.

Undoubtedly, the nonprofit sector will “find them useful” indeed.

### ***Move Over IRMs and Other Acronyms***

What’s this all about?

Long story short: Over many decades, the IRS has created and published a large library of research aids and training tools for its own Exempt Organizations (EO) specialists. All along, though, the intent has been to release this information widely so that exempt organizations, their professional advisors, and the general public can use these resources as well.

Sadly, it’s been presented through a mind-numbing cache of documents named IRMs and TAMs and ARGs and other acronyms familiar only to individuals who eat, sleep, and breathe EO law and procedure. (There is – seriously – a handy chart on page 4 of Publication 5729 of some 14 of these baffling abbreviations.)

That’s why several years ago, the GAO – the General Accountability Office, that is – suggested to the IRS that all of this valuable guidance stockpile be collected and reviewed, updated and revised, and presented in a more manageable, user-friendly, single source.

### ***Several Steps Needed***

The process has taken place in several steps. Some Internal Revenue Manual (IRM) materials were moved to ATGs in 2017, and then other IRM materials were moved to TRGs in the fall of 2019.

“Subsequently, EO began combining the ATGs and TRGs to create comprehensive, issue-specific documents. These combined documents, called Technical Guides (TGs), will replace the corresponding TRGs and ATGs as they are completed.”

Beginning in 2021, the first of the new single-source Technical Guides (TGs) were ready to go: a handful or two of private foundation topics including the excise taxes. Next came the two TGs on 501(c)(3), mentioned here, that were published a year or so later as they were completed. So far, so good.

But the agency’s revamping of the information hub includes plans for several dozen more new Exempt Organizations Technical Guides; see the list at Exhibit A to Publication 5729, the earlier-mentioned new technical guide to the new Technical Guide series.

That means there are many viable TRGs and ATGs still roaming around out in the wild: Disregard them at your peril. See Audit Technique Guides (ATGs) and Technical Guides (TGs) for Exempt Organizations, IRS website (Page Last Reviewed or Updated: 17-Mar-2023).

### ***Conclusion***

The particular significance of the most recently-issued technical guide, *TG 3-3, Exempt Purposes, Charitable 501(c)(3)*, Publication 5781 [3-2023], is its focus on the most important single word in the seminal statute of the American federal tax-exemption scheme.

TG 3-3 explains that “charitable” has been understood and applied over the decades in an expansive way that dates back to the common law well before the adoption of our modern federal tax-exemption laws.

It’s a fascinating and important discussion.

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