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## Practice 2A: Compliance with Laws

- The land trust complies with all applicable federal, state and local laws.
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Federal, state and local agencies establish laws and regulations applicable to nonprofit, tax-exempt organizations. They also establish reporting requirements to monitor compliance with statutes. A few of these requirements are detailed below.

A good understanding of and compliance with the basic legal requirements of becoming and remaining a nonprofit, tax-exempt organization are necessary to operate a sound organization. A land trust that fails to comply with these requirements can face financial penalties and fines, and even revocation of its tax-exempt status. Knowing and following the law is important for all land trusts.

There are many laws that govern land trust activities. The most basic of these are filing requirements for nonprofit and tax-exempt organizations, charitable solicitation laws (see standard 5), and for land trusts with staff, labor laws. There are also provisions in other laws that relate to a nonprofit's work. The [Sarbanes-Oxley Act](#), for instance, requires document destruction policies. Working with experienced attorneys and accountants, and attending workshops offered by the Land Trust Alliance, local nonprofit service entities and others will help a land trust meet this practice.

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### IRS 990 Tax Returns

Although land trusts (that have received a determination of exemption from the IRS) are exempt from federal income tax, they still generally must file yearly financial information returns ([Form 990](#) or [990EZ](#)) with the IRS. The filing requirement depends on the land trust's annual income.

- **\$25,000 or less (filing not required, but advisable): Form 990EZ.** Organizations with gross receipts not normally more than \$25,000 are not required to file annually with the IRS, but it is still good practice to do so. All the land trust needs to do is check a box to indicate that its gross receipts are below the \$25,000 filing minimum, sign the form and return it. This lets the IRS know that the land trust still is in existence, what its current address is and that its gross receipts are still less than \$25,000.
- **More than \$25,000 up to \$100,000: Form 990EZ.** As long as the land trust's receipts are \$100,000 or less, total assets are \$250,000 or less and it is not required to file the long form for other reasons, it may file this simplified version of Form 990.
- **More than \$100,000: Form 990 and Schedule A.** These larger organizations are

required to make a full, detailed reporting.

Form 990 and 990EZ must be filed by the 15th day of the fifth month after the end of the land trust's annual accounting period (i.e., May 15 for land trusts on a calendar fiscal year). The IRS should send the forms to the land trust at the address on IRS records, but the land trust is responsible for obtaining and filing them on time regardless. The IRS will assess a late fee of \$10 per day for every day a filing is late.

**Unrelated business income: [Form 990-T](#)**

The land trust must file Form 990-T, "Unrelated Business Income", if it had more than \$1,000 in income from business activities unrelated to its exempt purpose.

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## IRS Disclosure Requirements

All public charities, which includes most land trusts, are required to make specific tax exemption and return information available for public inspection and to provide copies on site or by mail upon request. This information includes:

- A copy of the annual information returns on Form 990 or Form 990EZ, including Schedule A and salary information but not including Form 990T. Any names and addresses of contributors to the organization given in the return may be omitted from disclosed materials.
- A copy of the application for tax exemption on [Form 1023](#).
- A copy of any supporting materials and IRS response to the tax-exempt application.

Many organizations meet these requirements by posting their Form 990 on a public website, such as [GuideStar](#), a national database of nonprofit organizations.

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## State and Local Filings

Every state differs in its filing requirements. A land trust should make a thorough search of the filing requirements for its state by contacting the state secretary of state, attorney general and/or other offices with jurisdiction over nonprofit organizations, or by contacting an attorney or accountant familiar with the state's rules.

Many states closely mirror the federal reporting requirements. In many states, for example, public charities must file annual financial reports similar to the federal Form 990. Typical reporting requirements include the following:

- **State and local sales taxes** on items the land trust sells to nonexempt parties.

- **Unrelated business income tax** at the state level.
- **State and local property taxes on realty and personal property.** In some states, a land trust may be able to be ruled exempt from certain property taxes, but if not, it must make the required payments.
- **Excise taxes.** Special taxes may be levied on gasoline, telephone service, admissions to events, etc., at the federal, state or local level. Again, a land trust may or may not be exempt from these taxes.
- **Charitable solicitation registration.** Organizations intending to solicit contributions from the public may be required to register and file annual reports with the state.

Most states (usually through the secretary of state or the state attorney general's office) will furnish a "certificate of good standing" to nonprofit organizations that meet all the required state and local filing requirements, and against which no complaints are pending. Grant-making entities and other funders will frequently request a certificate of good standing that attests to the organization's "good standing" in its state.

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## Payroll/Employment Requirements

If a land trust has staff, it may have a number of required filings related to its employees, including:

- Federal income tax withholding
- Social Security (FICA) tax and withholding
- State income tax withholding
- W-2s
- State unemployment taxes
- State disability benefits taxes (workers compensation)

In addition, certain fees, commissions, payment of rent, and payment of interest may need to be reported on IRS Form 1099.

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## Links to Helpful Resources and Publications

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- [The American Association of Fundraising Counsel publishes a brief annual survey of state solicitation laws.](#)
- [GuideStar](#) – the national database of nonprofit organizations. GuideStar focuses on facilitating access to information about the finances and operations of nonprofit organizations.
- [Independent Sector](#) has an excellent website with an [Accountability Checklist](#). One

section of that is to have a whistleblower policy. See a [sample policy from them and one from the National Council of Nonprofit Associations](#).

- [IRS Form 990 – Return of Organization Exempt from Income Tax](#)
- [IRS Form 990EZ – Short Form Return of Organization Exempt from Income Tax](#)
- [IRS Form 990-T – Unrelated Business Income Tax Return](#)
- [IRS Form 1023 – Application for Exemption](#)
- [The Sarbanes-Oxley Act of 2002](#).
- [The Sarbanes-Oxley Act and Implications for Nonprofit Organizations](#), published jointly by BoardSource and Independent Sector in 2003.

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***To Fully Implement this Practice, LTA Recommends...***

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- That the land trust obtain and retain federal tax-exempt status.
- That IRS Form 990 is filed annually (if applicable) and that the public support test is met.
- That state nonprofit corporation papers and bylaws are complete and up to date.
- That state reporting requirements are met, and a certificate of good standing received, if applicable.

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◦ This example can be used as a starting point to create a policy or other document for your own land trust, but should be altered as necessary to reflect your organization's unique circumstances using guidance found in the *Land Trust Standards and Practices Guidebook* text and corresponding Standards and Practices Curriculum. This material is designed to provide accurate, authoritative information in regard to the subject matter covered. It is provided with the understanding that the Land Trust Alliance is not engaged in rendering legal, accounting, or other professional counsel. If legal advice or other expert assistance is required, the services of competent professionals should be sought.