



## Insights

# Annual Racial Nondiscrimination Filing Requirement for Exempt Private Schools

**Client Alert**  
**July 2015**

*Client Alert*

Private schools that are exempt from federal income taxation must file an annual information return with the IRS concerning their racial nondiscrimination policies. Schools that file the annual information return, Form 990, Return of Organization Exempt from Income Tax may satisfy this annual filing requirement on Schedule E. However, schools that are affiliated with a church or operated by a religious order are not required to file an annual Form 990, but such schools are still required to file an annual information return with the IRS concerning their racial nondiscrimination policies. Such schools are required to submit an annual filing with the IRS concerning their nondiscrimination policies on Form 5578, Annual Certification of Racial Nondiscrimination for a Private School Exempt from Federal Income Tax.

Failure to timely submit the annual filing may jeopardize a school's federal exempt status. Many schools are unaware of the nondiscrimination filing requirement until they request a legal opinion regarding their tax-exempt status. Such legal opinion is required when a school is seeking to borrow money on a tax-exempt basis in the context of a bond issuance. A failure to file an annual information return with the IRS concerning its racial nondiscrimination policies may therefore, among other things, endanger a school's ability to borrow money on a tax-exempt basis

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## Remedy for Failure to File Form 5578

A school that has failed to timely file Form 5578 generally may be able to preserve its tax-exempt status by entering into an agreement with the IRS promising to, among other things, comply with the annual filing requirements in the future. The IRS does not generally impose fines for noncompliance. We have been successful in obtaining such agreements for schools that have failed to file such forms. We can also review a school's compliance with other IRS racial nondiscrimination requirements and advise them on establishing procedures to ensure future compliance.

## For More Information

For more information with respect to nondiscrimination requirements and the potential resolution for noncompliance, we refer you to our article, published in *Taxation of Exempts*, available [here](#).

You may also contact your primary Chapman attorney, Brent Feller, or Christie Galinski.