

# Lambrides

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## **Decoding the IRS's definition of "related organizations"**

How many branches does your organization's family tree have? If you're just a trunk with no branches — or a group with no ties to any of what the IRS calls "related organizations" — you aren't required to acknowledge any special relationships on your federal Form 990. But before you consider yourself off the hook, be sure you understand how the IRS defines these relationships.

### **Eight ways to relate**

The IRS created confusion among many nonprofits when it added a question about related organizations to the 2005 Form 990. Nonprofits were asked to report if any current officers or the top five compensated employees who received compensation of \$50,000 or more from the organization itself also received compensation from related organizations. If they did, they had to report how much.

Because the request wasn't well understood by responding organizations, in 2006 the IRS issued definitions to clarify what situations create such relationships. If any of these scenarios describe your organization and another, your family tree is considered by the IRS to have a branch:

1. One organization owns or controls the other organization.
2. The same person — or group of people — owns or controls both organizations.
3. The organizations use a common paymaster.
4. One organization pays part of the compensation that the other organization would otherwise be contractually obligated to pay.
5. The organizations are partners in a partnership or members in an LLC or other joint venture (other than a publicly traded partnership).
6. The organizations conduct joint programs or share facilities or employees.
7. One or more persons exercise "substantial influence" over both organizations.
8. The organizations have a relationship as supporting and supported organizations under Section 509(a)(3).

The IRS further defines supporting organizations as “public charities that carry out their exempt purposes by supporting one or more other exempt organizations, usually other public charities.” There are a few exceptions, including bank or financial institution trustees and certain common independent contractors such as those that don’t exercise substantial influence.

### **Organizational and individual responsibility**

The eight criteria above should be used to answer the question in Line 75c of Form 990. If you answer “yes,” you will need to fill out an attachment detailing the name of the person receiving the payment, the name and Employer Identification Number (EIN) of the related organization, a description of the relationship and, for relationships 1 through 6, the amount paid by the related organization.

Individuals receiving payments also must report the income on their individual tax returns. Anything less is considered tax evasion.

### **Relatively simple**

Individuals may spend years researching their ancestors, but a nonprofit’s organizational family tree is diagrammed for it by use of the IRS’s related organizations guidelines. Review the IRS definitions carefully and report accordingly. •