

# [Exemptions]

[Federal income tax exempt status issued by IRS &/or as declared by Taxpayers]

## 26 U.S. Code § 501 (c)(28)



### 501(c)(28) — National Railroad Retirement Investment Trust



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#### Part 7. Rulings and Agreements

#### Chapter 25. Exempt Organizations Determinations Manual

#### Section 28. The National Railroad Retirement Investment Trust

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##### 7.25.28 The National Railroad Retirement Investment Trust

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##### 7.25.28.1 (08-01-2006)

##### Background

1. The National Railroad Retirement Investment Trust (NRRIT) was established, effective February 1, 2002, by section 105 of the Railroad Retirement and Survivors' Improvement Act of 2001 (RRSIA), P.L. 107-90. The RRSIA amended the Railroad Retirement Act of 1974 (45 USC 231) by adding new subsection 15(j) establishing the NRRIT. Section 202 of the RRSIA amended the Internal Revenue Code by adding new IRC 501(c)(28) to provide for the exemption of the National Railroad Retirement Investment Trust from federal income taxation.
2. The NRRIT's sole purpose is to manage and invest industry-funded Railroad Retirement assets.
3. While the NRRIT is not a department, agency, or instrumentality of the Federal government, the cash and investments held by the NRRIT for the Railroad Retirement Board (RRB) are nevertheless assets of the Federal government.
4. The NRRIT is domiciled in the District of Columbia.
5. The NRRIT is governed by a Board of seven Trustees — three selected from railroad carriers, three selected from railroad labor unions, and an independent Trustee selected by the other six Trustees.
6. The NRRIT's fiscal year ends on September 30.

#### **7.25.28.2 (08-01-2006)**

##### **Statutory Reporting Requirements**

1. Pursuant to section 105(a)(5)(E) of the RRSIA, the NRRIT must submit an annual management report to the Congress not later than 180 days after the end of the NRRIT's fiscal year, and provide a copy of the report to —
  - A. the President of the United States,
  - B. the RRB, and
  - C. the Director of the Office of Management and Budget (OMB).
2. The annual management report must include —
  - A. a statement of the NRRIT's financial position,
  - B. a statement of operations,
  - C. a statement of cash flows,
  - D. a statement on internal accounting and administrative control systems,
  - E. the independent auditor's report resulting from the annual audit of the financial statements of the NRRIT, and
  - F. any other comments and information necessary to inform the Congress about the operations and financial condition of the NRRIT.
3. Pursuant to the RRSIA, the NRRIT's annual audit must be prepared in accordance with Generally Accepted Accounting Principles (GAAP).

#### **7.25.28.3 (08-01-2006)**

##### **Additional Disclosure Obligations**

1. In addition to the statutory reporting requirements described above, pursuant to a four-way Memorandum of Understanding (MOU), the NRRIT must report on a monthly basis to the Department of Treasury, the OMB, and the RRB its —

- A. receipts and disbursements of funds,
  - B. purchases and sales of assets,
  - C. earnings and losses on investment,
  - D. investment values, and
  - E. administrative expenses.
2. The NRRIT posts its annual management reports on a World Wide Web page established and maintained by the RRB ([www.rrb.gov/mep/nrrit.asp](http://www.rrb.gov/mep/nrrit.asp)), thus making them widely available in a manner consistent with the public inspection and disclosure requirements applicable to Form 990 filers, as provided in IRC 6104(d)(1) and Treas. Regs. 301.6104(d)-1 and 301.6104(d)-2.

#### **7.25.28.4 (08-01-2006)**

##### **Information Returns**

1. Pursuant to his discretionary authority under IRC 6033(a)(2)(B) and Treas. Reg. 1.6033-2(g)(6), and reflected in a letter filed with NRRIT's 2003 return, the Commissioner has determined that the reporting of financial information to the Service on Form 990 by the NRRIT would be substantially duplicative of the NRRIT's extensive reporting requirements under the RRSIA and its additional reporting obligations under the MOU. The reporting of such financial information on Form 990 would, therefore, serve no useful purpose and would not be necessary to the efficient administration of the internal revenue laws.
2. Despite such extensive reporting requirements, the NRRIT is nonetheless not required under the RRSIA or the MOU to report to the Congress, or make available to the public, information relating to the *compensation* paid to its officers, directors, trustees, and key employees.
3. Accordingly, as reflected in NRRIT's 2003 return, the Commissioner has determined that the NRRIT is required to file with the Internal Revenue Service annually only so much of Form 990 that relates to the names and addresses of its officers, directors, trustees, and key employees, and their titles, compensation, and hours devoted to their positions (currently reported in Part V of Form 990). Additionally, Form 990, Organization Type (currently Item J), must be completed to indicate that the NRRIT is an IRC 501(c)(28) organization.
4. If at any time the NRRIT ceases to meet the statutory reporting requirements pursuant to the RRSIA or ceases to make its annual management reports widely available for public inspection consistent with IRC 6104(d) and the regulations thereunder, the NRRIT is required to file a *complete* Form 990 for the year it first ceases such reporting or public disclosure, and for all subsequent years.

#### **7.25.28.5 (08-01-2006)**

##### **Unrelated Business Income**

1. If the NRRIT is subject to the tax on unrelated business income under IRC 511, it must also file an income tax return on Form 990-T, *Exempt Organization Business Income Tax Return*.

#### **7.25.28.6 (08-01-2006)**

##### **Exemption Application**

1. There is no provision for an application form for applying for recognition of exemption under IRC 501(c)(28).

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