

YH EXEMPT ORG ADVISOR

7755 Center Avenue, Suite 1225, Huntington Beach, CA 92647 | Tel 310.982.2806 | Fax 323.320.4366 | yhadvisors.com

YH Advisors is very proud to continue to publish and distribute the **YH Exempt Org Advisor**, a quarterly publication focused exclusively on the tax, legal and accounting issues of all types of exempt organizations. **YH Advisors**, located in Huntington Beach (California), is solely focused on providing value-added services to their exempt organization clientele. The firm's Shareholders, Brian Yacker and Stacey Bergman, have cumulatively worked with exempt organizations for almost 35 years.

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RIPPED FROM *the* EO HEADLINES

Charitable Organization Allegedly Used for Tax Evasion

Following a California Franchise Tax Board investigation, it was recently alleged in September of 2016 that a California accountant (Jimmy Chen) was utilizing a charitable organization which he formed (Chen-Sung Family Foundation) for the purposes of tax evasion. Such Foundation, which was set-up in 2004, never made donations to any organizations in pursuit of its stated goals to provide scholarships to children in rural Taiwan. Instead, it is alleged, that the charitable organization used charitable donations to finance an array of personal and other expenses. It is believed that the Foundation's funds were used to finance a luxury condo furnished with an indoor golf driving range and a karaoke room. It is also believed that the Foundation's funds were used to purchase and maintain a life insurance policy for Mr. Chen's wife. In total, it is alleged by the California Franchise Tax Board that Mr. Chen evaded over \$60,000 in California state income taxes by improperly operating the Foundation.

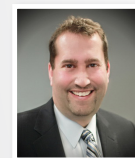
What is even more concerning is the possibility that Mr. Chen recommended this type of tax evasion scheme involving a sham charitable organization to many others in the Southern California region. In fact, it is alleged, that Mr. Chen actually conducted seminars on the topic of creative uses of charitable organizations.

Situations such as this one highlight some of the unintended consequences of the Internal Revenue Service's relatively recent introduction of the streamlined Tax Exemption Application, the Form 1023-EZ. Since the first effective date of such (July 1, 2014), it has certainly been easier for new sham charitable organizations to be created and approved for recognition of tax-exemption by the Internal Revenue Service than prior to the introduction of the Form 1023-EZ.

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BROUGHT TO YOU BY:



BRIAN YACKER

Partner, YH Advisors
byacker@yhadvisors.com



STACEY BERGMAN

Partner, YH Advisors
sbergman@yhadvisors.com

RIPPED FROM *the* EO HEADLINES

The University of Louisville: Case Study in Bending Over Backwards for a Donor

Pursuant to a story authored by WFPL's Kentucky Center for Investigative Reporting, the University of Louisville Foundation (a 501(c)(3) public charity) bought an empty factory in Oklahoma at the specific request of a substantial donor to the University. This particular factory was owned by the substantial donor in a company which was in bankruptcy. The factory was up for sale, but the donor could not identify a potential buyer. That is when the donor approached the Foundation with his request to purchase the factory to help him out and the Foundation agreed to such purchase of a factory (more than 660 miles from campus) in order to keep the donor "happy".

Ever since the Foundation purchased the factory from the donor, they (not surprisingly) have been unable to sell the factory. All of this illustrates the lengths certain charitable organizations will go to in order to keep substantial donors content. This is important to charitable organizations because they are always looking to receive that next potential contribution from a donor who has previously supported the organization. In this particular instance, the donor had previously made gifts in the millions to the University's scholarship programs.

Form the Foundation's perspective, if this substantial donor was legally deemed to be a "substantial contributor", then the Foundation could be jeopardizing its tax-exemption by undertaking a private inurement transaction with an insider (the "substantial contributor").

Uh Oh, Missouri Gubernatorial Candidate Could Have Crossed Political Line

According to the Associated Press, Missouri gubernatorial candidate Eric Greitens has capitalized on the connections he made as the founder of a charity for military veterans to help finance his Republican campaign. That being said, Mr. Greitens denies charges that he used a charity donor list from his charity for political purposes in potential violation of federal laws. Financial records analyzed by The Associated Press show Greitens received nearly \$2 million from donors who previously gave significant amounts to The Mission Continues, the charity which Mr. Greitens founded.

Section 501(c)(3) of the Internal Revenue Code expressly prohibits charitable organizations, such as The Mission Continues, from intervening in political campaigns on behalf of candidates. The Internal Revenue Service has previously ruled that charitable organizations cannot give donor lists to politicians but can rent them at fair market value if made available to all candidates. That does not appear to be the case in the present situation.

If it is found that the donor list for The Mission Continues was just provided to the Greitens campaign or did not charge fair market value for such list, then the tax-exemption for The Mission Continues would be severely jeopardized.

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at byacker@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization tax, legal and accounting services which YH Advisors provides.

FOCUS *on the* IRS TE/GE DIVISION

Fiscal Year 2017 TE/GE Work Plan

Every year, when the leaves start to turn all sorts of vibrant colors (well, except here in Southern California), the TE/GE division of the Internal Revenue Service issues their Work Plan for the coming fiscal year. In such regard, what follows are the highlights from the Fiscal Year 2017 Work Plan for TE/GE.

In the Examinations area, in fiscal year 2016, the Internal Revenue Service embarked on an overarching compliance strategy to ensure organizations enjoying tax-exempt status complied with the requirements for exemption and adhered to all applicable federal tax laws. That being said, they implemented a data driven case selection process with a goal of identifying and addressing existing and emerging high risk areas of noncompliance. They utilized a variety of compliance treatments including educational efforts, compliance reviews, compliance checks and correspondence and field examinations.

Additionally, in fiscal year 2016, the Internal Revenue Service continued post-determination compliance examinations of 1,400 exempt organizations that filed Forms 1023 or 1024 and were approved pursuant to the streamlined process. As of June 30, 2016, they closed 1,051 examined returns with 61% closing as no change. The remaining 39% had changes ranging from amendments to organizational documents and failure to file returns. In addition, five (5) organizations were revoked or terminated. The Internal Revenue Service also began post determination compliance examinations of exempt organizations that were granted tax-exempt status through submission of a Form 1023-EZ. A statistically valid random sample of 1,182 organizations has been selected and as of June 30, 2016, 36 examined returns have closed with 34 closing as no change and the remaining 2 requiring amendments to their organizing documents.

FOCUS *on the* IRS TE/GE DIVISION

Fiscal Year 2017 TE/GE Work Plan

For fiscal year 2017, the Internal Revenue Service plans to continue their compliance strategy and utilization of data driven decisions. They will leverage the feedback received from field employees to make improvements to the Form 990, 990-EZ and 990-PF case selection models. They will also develop a Referral Model which will aid in integrating the next best referral case into the work stream.

In Fiscal Year 2017, it is anticipated that the Internal Revenue Service will utilize data sources to identify organizations at risk for inurement and private benefit issues and to identify anomalies on returns filed by private foundations. During fiscal year 2017, they will include 400 returns in the work plan identified for high risk of private inurement and private benefit issues and 100 private foundation returns with anomalies detected.

In the Rulings and Agreements area, in Fiscal Year 2016, EO Determinations focused on its objectives to improve processing of applications and enhance customer satisfaction. They implemented several programs to accomplish these goals.

Erroneous Revocation Prevention: On May 3, 2016, EO Rulings and Agreements formalized procedures to identify and prevent erroneous automatic revocation before the organizations are notified and before the revocations are posted to EO Select Check. Preventing these erroneous revocations eliminates adverse impact to organizations and removes the burden from organizations to identify and notify the IRS of the error. Since March 2015, the Internal Revenue Service has reviewed 13,933 potential auto-revocations and prevented 3,202 erroneous revocations (through June 2016).

Rejection of Incomplete Applications: On November 18, 2015, the Internal Revenue Service began rejecting incomplete applications. Rejected application packages, along with any user fees paid, are returned

to applicants along with a letter explaining why the application was rejected. Rejecting incomplete application submissions in this manner educates applicants as to the requirements of a complete application and ensures that once the application is assigned to a revenue agent for review, it can be reviewed in a more efficient and expeditious manner. Since they began this process in November 2015, we have rejected 2,588 incomplete applications (through June 2016).

Form 1023-EZ, Chief Counsel issued Rev. Proc. 2016-32 on May 31, 2016, which reduced the user fee for Form 1023-EZ listed in Rev. Proc. 2016-8. The user fee change was implemented on July 1, 2016. Through the third quarter of FY 2016, EO received 33,549 Form 1023-EZ cases (58% of overall Form 1023 cases) and closed 33,909 Form 1023-EZ cases, including 31,840 (94%) cases approved and 1,705 (5%) cases rejected. It is anticipated that the reduction of the user fee will result in an increase in the percentage of 501(c)(3) applicants using Form 1023-EZ.

Fiscal Year 2016 Determinations Results: Through the third quarter of FY 2016, EO Determinations continued to close more applications than it received. The average age of the open inventory (73 days) as well as the percentage of cases over 270 days old (one percent) continued to decrease, while the quality of the work remained consistent. EO Determinations approved 93.6% of all closed cases and denied less than one percent. The most common reasons for denial were private benefit and inurement, substantial non-exempt purposes, and commerciality issues.

In FY 2017, EO Determinations will continue to improve processing of applications and the new Form 8976 (applicable for 501(c)(4) organizations). The Form 1023-EZ adoption rate is expected to slightly increase due to user fee changes, resulting in a shift of

application receipts from the Form 1023 to the Form 1023-EZ. Although projections point to an increase in total application receipts in FY 2017, TE/GE expects that the increase will almost entirely occur in the Form 1023-EZ workstream while Form 1023 receipts are projected to slightly decline, due in large part to the Form 1023-EZ user fee reduction in July 2016. Other form receipts, such as the Forms 1024 and 8940 [Request for Miscellaneous Determination], are projected to increase slightly in FY 2017 for a total receipts projection of just over 88,000 applications. The resulting projected end-of-year open inventory would net a minimal increase of approximately 400 cases, which will be absorbed through continuous improvement in case processing.

Limited resources are expected to continue to impact the program. To mitigate the anticipated decline in resources, management is committed to a strategy of continuous improvement in further streamlining case processing as well as repositioning staff resources as needed to balance and maintain closures to keep pace with receipts.

The Form 8976 notification is a new workstream. Internal Revenue Code section 506 was added by the PATH Act and requires organizations that intend to operate under IRC section 501(c)(4) to notify the Service within 60 days of formation. TE/GE anticipates receiving approximately 2,500 notifications in FY 2017. EO Determinations tax examiners will process this work.

In the Knowledge Management area in Fiscal year 2017, TE/GE will continue preparing and presenting approximately three to four live technical events or CPE sessions each quarter. Event topics will be based on requests from Rulings and Agreements and Exam personnel as well data gathered by the Knowledge Networks (K-Nets).



FOCUS *on the* IRS TE/GE DIVISION

Fiscal Year 2017 TE/GE Work Plan

TE/GE continues to prepare and post technical Issue Snapshots for EO employees and the general public. TE/GE completed five issue snapshots (including Electronic Health Records or Regional Health Information Organization, Abatement of Chapter 42 First Tier Taxes due to Reasonable Cause, and IRC Section 4946 Definition of Disqualified Person) and currently has over 20 Snapshots in development based on issues raised. In process snapshots include private foundation qualifying distributions, conservation easements, limited liability companies, trusts and IRC 508(a), requirements for community health needs assessment (CHNA), 501(c)(4) and determining primary activity, and a VEBA non-discrimination overview. Completed TE/GE Issue Snapshots are posted to the Electronic Reading Room on IRS.gov. TE/GE will supplement issue snapshots with new "Issue Casts," quick and flexible (15-20 minute) virtual recordings focusing on identified training topics for employees to access at their convenience. These recordings may also be shared as educational outreach for the general public.

IRS Reports Form 8976 Processing Delays

As set forth immediately above in the article regarding TE/GE's Work Plan for Fiscal Year 2017, there is a new notification requirement, set forth in Section 506 of the Internal Revenue Code, for new tax-exempt organizations which intend to operate as a 501(c)(4) social welfare organization. This new notification requirement involves the filing of the Form 8976. This notification requirement applies only to certain organizations that intend to operate as a 501(c)(4) social welfare organization and had not submitted a Form 990, 990-EZ, 990-N, or Form 1024 prior to July 8, 2016. Organizations operating under any other 501(c) section, such as 501(c)(3), need not file this notice.

Unfortunately, the Internal Revenue Service experienced some system outages that affected the filing of the Form 8976. If a 501(c)(4) organization was unable to submit the Form 8976 to the Internal Revenue Service due to a system outage, such organization should submit their Form 8976 as soon as possible now that the Internal Revenue Service has resolved the issue. The IRS will of course take any system outages into consideration when evaluating the statutorily imposed penalties for the late filing of the Form 8976.

Additionally, if an organization experienced a problem submitting the Form 8976, they should contact the Internal Revenue Service at (877) 829-5500 to ensure that they are not subjected to any penalties as a result of system outages.

Proposed EO Guidance

In late September of 2016, two House of Representatives members introduced a bill called the Free Speech Fairness Act which aimed to fix the Johnson Amendment, a 1954 addition to the Internal Revenue Code which gives the Internal Revenue Service the ability to censor the speech of charitable organizations on issues related to political candidates and elections. Please find following some important elements regarding this proposed legislation:

1. The bill does not repeal the Johnson Amendment. Instead, it amends the law to allow for speech that is made "in the ordinary course of the organization's regular and customary activities." For example, a church, in carrying out the mission of the church, would have the right to speak freely on all matters of life, including candidates and elections, and would not have to fear IRS censorship or punishment for simply exercising their right to free speech and freedom of religion.
2. The bill is applicable to all different types of 501(c)(3) organizations, not just religious organizations.
3. The bill would NOT permit 501(c)(3) organizations to contribute funds to candidates or campaigns for public office. The bill only allows for speech in the "ordinary course of the organization's regular and customary activities" so long as the organization does not incur "more than de minimis incremental expenses" for the speech.
4. The bill removes a very unconstitutional restriction on speech that has existed for over 60 years; the introduction of the bill is the first step toward fixing the unconstitutional Johnson Amendment.

FOCUS *on the* IRS TE/GE DIVISION

TE/GE Tidbits

Please find following some tidbits regarding exempt organizations from the TE/GE Gulf Coast webcast conducted on October 25, 2016 with Tammy Ripperda from the Internal Revenue Service:

- ▶ The data driven approach (which utilizes a Form 990 case selection model) to selecting which exempt organizations to audit is proceeding along smoothly.
- ▶ TE/GE is currently making the examination Information Document Request process more transparent and streamlined for exempt organizations under Internal Revenue Service audit.
- ▶ EO Rulings & Agreements is currently approving over 90% of the Tax Exemption Applications being filed with the Internal Revenue Service.
- ▶ EO Rulings & Agreements is looking into the group ruling process.
- ▶ The Internal Revenue Service is currently considering automatically rejecting incomplete Forms 990 filed with them.
- ▶ TE/GE has the authorization to hire 10 enforcement personnel specifically for EO (exempt organizations).
- ▶ In February of 2017, TE/GE is planning to issue a Form 990-EZ with interactive help aids for the preparer of such.
- ▶ TE/GE is updating their video education library.
- ▶ Tammy will be transferring from TE/GE to the Small Business division within the Internal Revenue Service in the middle of November.

Summary of Recent EO PLRs / TAMs

PLR 201641027 – The Internal Revenue Service denied tax-exemption for an organization based upon their finding of a commercial purpose, more than incidental private benefit and private inurement. In this particular Ruling, the Internal Revenue Service distinguished Rev. Rul. 73-313 which held that an organization formed by residents of a community could operate an enterprise which looks more commercial.

PLR 201641025 – The Internal Revenue Service denied to recognize an applicant organization as being tax-exempt as a result of their conclusion that the entity was proposing to conduct a commercial business. In this particular situation, the organization proposed to operate food hubs across a state to receive locally grown food and then to sell such.

TAM 201633032 – The Internal Revenue Service found that an exempt organization's sale of merchandise through its online store, printed catalogs and at various retail outlets constituted an unrelated trade or business and as such, the net income from such was subject to taxation; the key in this particular situation was that the merchandise being sold did not directly further the charitable purposes of the exempt organization.

PLR 201638028 – The Internal Revenue Service denied recognition of tax-exemption for a social club applicant under Section 501(c)(7) of the Internal Revenue Code because the organization was not operated substantially for pleasure or recreation; in this particular situation, the organization provided substantial non-recreational services (road maintenance, landscaping and clean drinking water) to members.

PLR 201635022 – The Internal Revenue Service approved a private foundation's scholarship program which focused on awarding scholarships to native-born or naturalized American who met certain criteria, such as a high-enough GPA.

EXEMPT ORGANIZATIONS A TO Z

Gaming

This is a continuing feature of the **YH Exempt Org Advisor**, at least for the next 19 editions. Each quarter, we will define an exempt organization term, starting with A and moving all the way to Z. As we have now reached the letter **G**, it provides the opportunity to inform exempt organizations regarding the definition of "gaming" from an Internal Revenue Service perspective.

Pursuant to the Glossary contained within the Form 990 Instructions, gaming activities include, but are not limited to bingo, pull tabs/instant bingo (including satellite and progressive or event bingo), Texas Hold-Em Poker, 21, and other card games involving betting, raffles, scratch-offs, charitable gaming tickets, break-opens, hard cards, banded tickets, jar tickets, pickle cards, Lucky Seven cards, Nevada Club tickets, casino nights/Las Vegas nights (other than events not regularly carried on in which participants can play casino-style games but the only prizes or auction items provided to participants are noncash items that were donated to the organization, which events are fundraising events), and coin-operated gambling devices.

It is important for an exempt organization to identify the gaming activities which they conduct since they need to separately report the income and expenses from such on Part VIII, Line 9 and Schedule G, Part III of the Form 990. Please see **Internal Revenue Service Publication 3079** for more information regarding gaming activities.

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at byacker@yhadvisors.com if you have any questions regarding recent IRS activities in the exempt organizations sector.



YH CASE STUDIES

Considering a Trip to Tax Court

A couple of years ago, one of our clients was informed that the Internal Revenue Service would be auditing their Form 990 for the tax year ending December 31, 2013. After the completion of their field work by the Revenue Agent, the Internal Revenue Service proposed a significant adjustment related to the alleged under-reporting of unrelated business income. We disagreed with such proposed adjustment and decided to go to Appeals. Unfortunately, at the Appeals level, the Appeals Officer concluded that the Internal Revenue Service Revenue Agent had proposed a proper adjustment. We still disagreed. What now?

The option to now consider is whether to proceed to U.S. Tax Court ("Tax Court") or not. The process begins when the Internal Revenue Service sends the organization a Notice of Deficiency or Notice of Determination ("Notice"); this formal Notice grants the Tax Court jurisdiction over the case. It is crucial that the organization then timely files a petition with the Tax Court within 90 days from the date of the Notice to begin the case. Failure to timely file deprives the organization the right to have the Tax Court hear the case.

The advantages of proceeding to Tax Court are many, including: (1) an independent review by a neutral judicial body where the organization may provide additional documentation and testimony once viewed negatively by the IRS; (2) an opportunity for further negotiations with the IRS because the negotiation will likely be with an IRS attorney and not the previous Revenue Agent or Appeals Officer; and (3) allows the organization time to regain financial stability before required to pay the proposed tax liability because the case will unlikely be heard for at least six months. The only disadvantage of Tax Court is that it may take at least than six months to resolve the matter, if not much more.

After filing the Tax Court petition, the organization will receive an acknowledgement of receipt from the Tax Court. This acknowledgement will include

a docket number, instructions for eAccess for document review and instructions on how to proceed. The Tax Court will issue a Standing Pretrial Order with information on the location/time/date of the Trial and also a requirement for the organization to file a pretrial memorandum.

Within 45 days of filing the petition, the IRS, through its attorney, will file an answer; this answer will typically deny all the allegations the organization sets forth. If no answer is filed, then the allegations are deemed to be fully denied. Generally, prior to trial, the IRS attorney will try to schedule a conference or meeting with the organization in an attempt to settle the case or to exchange information to stipulate on the uncontested facts that both sides agree to be used during trial.

At this point, either the organization or the IRS may file a slew of motions, but the most important motion to be aware of are the Motions for Disposition without Trial (including the Motion for Summary Judgment). The Motion for Summary Judgment allows either party to argue that there is no genuine issue of material facts to continue with the trial because the law does not support the opposing party thus allowing the Tax Court to rule in favor of the party filing the motion. If possible, the organization should file this motion demonstrating that the IRS cannot win under the facts and law of the case. If the IRS filed the motion, the organization needs to fervently oppose it and get the chance to bring the case to trial.

All court appearances are crucial to the success of the organization's case. On the first day of trial, in what is known as "Calendar Call," the organization and the IRS must appear to check-in and schedule a specific time for trial during the trial session. If the parties contact the clerk two weeks prior to the start of the trial session to schedule a particular date/time and if the Tax Court can accommodate, then there is no need to show up during Calendar Call. However, if no time is scheduled before Calendar Call, either party's failure to appear

without a legitimate reason may bring an end to the case in favor of the appearing party.

During the trial, the Judge will decide the case in what is known as a bench trial (there will be no jury). The organization will have the opportunity to put on its case first and then the IRS will have a chance to put on its case. The organization may call witnesses and present evidence while the other party may cross-examine the witnesses and object to the admission of evidence. At the end of the trial, the record is deemed closed and no further information may be submitted to the court.

After the trial, the Judge may require the parties to file a post-trial brief before the Judge makes a decision in one of three ways: (1) Bench Opinion, (2) Summary Opinion, or (3) Tax Court Opinion / Memorandum Opinion. A Bench Opinion is when the Judge orally states the opinion at the end of the trial session. A Summary Opinion is an opinion issued for a small case. For the typical case, the Court will provide either a Tax Court Opinion or Memorandum Opinion. For a case with important legal issues or principles, a Tax Court Opinion will be issued discussing the legal issues or principles; for a case not involving novel legal issues, a Memorandum Opinion will address the settled law and facts from the case.

Tax Court is a daunting endeavor, knowing the process will allow an organization to focus on the real tax issues and come up with successful arguments.

Please do not hesitate to contact Hai Phan at 310-982-2776 or at hphan@yhadvisors.com if you have any questions regarding the Tax Court process.



YH QUICK TIPS

Accounting for Year-End Donations

As the calendar year nears to yet another rapid close, many exempt (charitable) organizations gear up for donor drives, year-end appeals and campaigns for planned giving. As charitable organizations prepare for year-end development efforts, please find following a few tips to keep in mind to ensure a successful, and well accounted for, fundraising endeavor:

- Ensure the verbiage included in the appeal letter is relatively generic, do not build in unnecessary constraints for funding
- Revenue should be recognized based on the date of the pledge or promise; if one is not present, use the date the check was received (not necessarily the date it was cashed)
- Monitor any restrictions imposed by donors
- Be mindful of multi-year pledges that may come in as part of the campaign; if any donors pledge to give additional funds in future fiscal periods, such should be recognized as revenue as of the date of the pledge
- Matching gifts are a great way to encourage additional giving but should only be recognized as revenue once the condition inherent in the original arrangement is satisfied

A calendar year-end push for additional contributions is a great way for charitable organizations to increase giving and awareness. Ensuring that the above noted tips are followed will ensure that revenues associated with donor drives and year-end campaigns are recognized and booked in the proper accounting period.

Please do not hesitate to contact Stacey Bergman at (310) 982-2805 or at sbergman@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization accounting and attestation services which YH Advisors provides.

YH PRESENTS

“So Now You Know...”

Of all the advantages of being classified as an exempt organization under Section 501(a) of the Internal Revenue Code, probably the least well known of such is the potential ability for certain exempt organizations to benefit from preferred postal rates.

Certain exempt organizations can qualify for preferred postal rates when using Standard Mail if they qualify with the United States Postal Service (“USPS”). Eligibility is based on both the eligibility of the organization and the content of the mail pieces as established by federal statutes. The preferred rates are applicable only for domestic mail, not for international mail.

Please find following the eight categories of exempt organizations which potentially qualify for the preferred postal rates:

- Religious (501(c)(3))
- Educational (501(c)(3))
- Scientific (501(c)(3))
- Philanthropic (501(c)(3))
- Agricultural (501(c)(5))
- Labor (501(c)(5))
- Veterans (501(c)(19))
- Fraternal (501(c)(8))

The applicable Regulations provide that state, county, and municipal governmental organizations are generally not eligible for the preferred postal rates. However, a separate and distinct state, county, or municipal governmental organizations that meets certain criteria may be eligible. Examples include school districts, public libraries and soil and water conservation districts.

Some of the examples of ineligible organizations (although exempt under 501(a) of the Internal Revenue Code) are listed below.

- Automobile clubs
- Business leagues
- Chambers of commerce

- Citizens’ and civic improvement associations
- Mutual insurance associations
- Political organizations
- Service clubs
- Social and hobby clubs
- Trade associations
- Associations of rural electric cooperatives

Exempt organization applicants for the preferred postal rates can complete and file PS Form 3624 and submit the Form, including any required supporting documentation, to the Post Office where the exempt organization intends to conduct the mass (bulk) mailing. The exempt organization applicant should always request a copy of the date stamped application. This application is available on the USPS website as well as in print at any Post Office or business mail location.

So now you know that many exempt organizations can qualify for preferred postal rates when undertaking bulk mailings.

Please do not hesitate to contact Ruby Pradhan at (310) 982-2833 or rpradhan@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization services which YH Advisors provides.

THE EO ACCOUNTING SPOTLIGHT

Operating Budgets

The role of the annual budget within an exempt organization is to use “numbers” to tell a story about how the organization is going to utilize its scarce resources to best accomplish its mission in the coming year. It is important to first communicate to individuals in other areas of the organization to get a general sense of what within the organization will likely remain the same and what will be changing in the coming year. Most people are intimidated when they hear the word “budget” and so conversations are best approached in a casual context with the purpose of gathering information. The most important areas to address from a budgetary perspective are programmatic and development/fundraising,

When creating the annual budget, from a practical perspective, the exempt organization should certainly examine historical trends. If the exempt organization uses QuickBooks, they should run a Statement of Activities (Profit & Loss) report, including all dates available and then changing the columns to display fiscal years. The exempt organization should go through each line item to determine which accounts (revenue and expenses) remain relatively constant and which ones are more volatile. For example, if there was a decrease in facility repairs and maintenance expense during the past three years the exempt organization should query whether there are likely repairs that will need to be made in the coming year. The exempt organization should plan ahead for those types of items so that funds originally budgeted for programmatic purposes do not have to be re-directed mid-year to repair a broken air conditioning unit.

The exempt organization should format their budget to mirror their Statement of Activities (Profit & Loss) with lists or worksheets to support what is being booked in each account. This will help ensure proper recording of transactions during the year

and enable the exempt organization to quickly identify why there are variances when it is time to prepare budget versus actual reports in the following year. The exempt organization should input all the information they've been gathering and then re-evaluate the end results and make changes as needed. While almost all exempt organizations are exempt from paying income taxes, they are not exempt from trying to build a substantial reserve fund so that the exempt organization can be sustainable well into the future.

Please do not hesitate to contact Melissa Roshnaye at (619) 600-5310 or mroshnaye@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization accounting and attestation services which YH Advisors provides.

GAAP v. FORM 990 SHOWDOWN

Related Party Transactions

Reporting requirements from a Generally Accepted Accounting Principles (“GAAP”) and Form 990 perspective quite often differ in accounting treatment for exempt organizations. However, defining who constitutes a related party for exempt organizations is one area where the reporting requirements substantially align.

The Form 990 Instructions define “control” in three separate categories: parent, subordinate and brother/sister relationships. Each of these three classes considers common control, whether it is from another organization with overarching control (parent) or where the filing exempt organization controls another organization (subordinate). The concept of the brother/sister relationship takes into account the Board of Directors of both organizations to determine if they essentially control each other. Board overlap of more than 50% typically indicates control in the form of a sibling relationship.

GAAP defines related party transactions via six different bullet points outlining various degrees of association. When an exempt organization, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with another entity, related party transactions result. While both definitions are wordy in their own way, the overarching theme to defining related parties is control.

Where the Form 990 and GAAP differ is in the reporting of related party transactions. Form 990, Schedule R reporting requirements include general disclosure of all transactions with related parties and detailed disclosure of those related party transactions above a \$50,000 threshold. However, for financial statement reporting (GAAP) purposes, requirements can range from a mere footnote disclosure all the way to consolidation of the entities. Determining where on that spectrum a specific

GAAP v. FORM 990 SHOWDOWN

Related Party Transactions

transaction will land includes an analysis of the facts and circumstances surrounding the transaction as well as an assessment of materiality. According to the standards, only material related party transactions are required to be disclosed on the financial statements.

Ultimately, the exempt organization must question whether or not their financial statements would be misleading to readers if the related party transactions were not disclosed. This is where judgment plays such a strong role in the financial reporting framework. We have encountered numerous instances where the standards do not require disclosure or consolidation of related party transactions because they are not considered material to the financial statements as a whole. We must then ask our clients if the financial reporting framework tells the true and accurate picture of the exempt organization's operations. Optional disclosure of related party transactions not considered material is allowed.

Once an exempt organization has defined and identified related parties, the next step is ensuring the accounting infrastructure is in place to properly track and report such transactions. As with all exempt organization reporting requirements, understanding the "story" being told by the financial statements and Form 990 is imperative in ensuring proper recognition of transactions.

Please be aware that the topic of our next webinar, to be conducted in December, will be the different reporting requirements pursuant to GAAP and the Form 990.

Please do not hesitate to contact Stacey Bergman at (310) 982-2805 or at sbergman@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization accounting and attestation services which YH Advisors provides.

YH RESOURCES, NEWS & UPDATES

The YH EO Resource Alert

As a regular feature of the **YH Exempt Org Advisor**, we continue to highlight different exempt organization resources free of charge in the public domain. This quarter we are highlighting two new fact sheets released by the Internal Revenue Service's Office of Appeals.

www.irs.gov/PUP/individuals/factsheet.pdf

www.irs.gov/PUP/individuals/FAQs.pdf

The YH Blog Highlighted Posting

Please check out the web site for YH Advisors (www.yhadvisors.com) to read our most recent blog post addressing the private foundation legal transgressions of the Trump Foundation.

Upcoming Presentations

Please find following a listing of the presentations which **YH Advisors** has presented, or will present, during the October 2016 – January 2017 time period. Please do not hesitate to contact us for more information if you have interest in receiving the presentation materials or attending any of the upcoming presentations.

Oct 18, 2016 | Las Vegas, NV
Common Form 990 Errors

Oct 19, 2016 | Las Vegas, NV
Election Year Issues for EOs

Oct 28, 2016 | Sioux City, IA
Nonprofit Accounting Issues

Nov 1, 2016 | Tustin, CA
Fundraising Legal Issues

Nov 4, 2016 | Boise, ID
Advanced Form 990 Issues

Nov 8, 2016 | Eau Claire, WI
Nonprofit Accounting Issues

Nov 9, 2016 | Milwaukee, WI
Advanced Form 990 Issues

Dec 15, 2016 | Kansas City, MO
Advanced Form 990 Issues

Dec 16, 2016 | Kansas City, MO
Nonprofit Accounting Issues

Jan 6, 2017 | San Diego, CA
Common Financial Statement Deficiencies

Jan 6, 2017 | San Diego, CA
GAAP v. Form 990 Reporting



YH RESOURCES, NEWS & UPDATES

Upcoming YH Webinars

YH Advisors will continue to periodically conduct (about 8 times per year) 100-200 minute interactive technical webinars focusing on the tax, legal and accounting issues most relevant to exempt organizations. Please find following our upcoming YH Webinar schedule (please be aware that this is of course subject to change):

January 2017

EO Reporting: GAAP v. Form 990

February 2017

Contributions Revenue

April 2017

2017 EO Update

June 2017

IRS Audits

August 2017

How to Lose Your Tax Exemption

October 2017

Private Foundations

December 2017

Other Exempts

Offsite Presentations

Approximately a half dozen times a year, YH Advisors is engaged to provide customized exempt organization tax, legal and/or accounting presentations to a firm, association or company. For example, in July of 2016, YH Advisors conducted a full-day nonprofit accounting presentation for a CPA firm located in Northern California and also conducted a two-hour presentation for a California private foundation regarding how to interpret an exempt organization's financial statements and Form 990.

Additionally, in the past, we have conducted full-day customized presentations (for which CPE can be awarded) for firms, associations or companies in the following subject areas:

- Form 990: What Your Need to Know
- Form 990: The Schedules
- Form 990-PF Primer
- Advanced Private Foundations Issues
- The Unrelated Business Income Tax
- Advanced Exempt Organization Issues
- Nonprofit Accounting, Part I
- Nonprofit Accounting, Part II

Finally, we can conduct shorter presentations (half-day, 2 hours, 60 minutes) for which CPE can be awarded for firms, associations or companies in the following subject areas (certainly not an all-inclusive listing):

- Reporting of Special Events
- The Schedule A Public Support Test
- What Charity Board Members Need to Know
- Tax & Legal Issues for 501(c)(6) Business Leagues
- How to Avoid the Ire of the IRS + Attorney General

Next Issue of the YH Exempt Org Advisor

The Winter 2017 edition of the **YH Exempt Org Advisor** will be published in February, most probably soon after we get past the somewhat busy February 15 deadline for filing extended information tax returns for June 30 year-ends.

Where to Find YH Advisors in the Social Media World



@YHAdvisors



YHAdvisors



Please connect with Brian Yacker and Stacey Bergman



YH RESOURCES, NEWS & UPDATES

YH Webinar Recordings Available to Purchase

To date, we have conducted 28 different exempt organization webinars. We record each of the webinars which we conduct and we are now making each of our webinar recordings available for purchase. Please find following a listing of each of the different webinar recordings which we have available for purchase:

#	Webinar Title	Date Conducted	Duration (Minutes)	Recording Cost
1	The Essential Documents for any Exempt Organization	03/08/12	60	\$99
2	Charity Fundraising Special Events: A Case Study Approach	05/08/12	100	\$179
3	2011 Form 990 Update: What's New, What's Not & What's Hidden	07/19/12	100	\$179
4	The Hottest "Hot Button" Issues in EO Compensation	10/04/12	100	\$179
5	The Most Perilous Traps & Pitfalls for Private Foundations	12/18/12	100	\$179
6	Ask the EO Experts	02/12/13	60	\$99
7	2012 Form 990 Update	05/08/13	100	\$179
8	Tips and Tricks to Avoid the Unrelated Business Income Tax	12/10/13	100	\$179
9	Demystifying the Public Support Test	01/22/14	100	\$179
10	Dirty Dozen Transgressions of Private Foundations	02/27/14	100	\$179
11	EO Tax/Legal Update: The Good, Bad & Ugly	05/06/14	100	\$179
12	Guided Tour of the Form 990 Core Form	07/08/14	200	\$249
13	Form 990: The Schedules	07/15/14	200	\$249
14	Form 990-PF Primer	07/22/14	200	\$249
15	Private Foundation Excise Taxes	07/29/14	200	\$249
16	A Case Study Approach to the Unrelated Business Income Tax	10/01/14	100	\$179
17	Avoiding Trouble when Conducting Charitable Gaming Activities	12/09/14	100	\$179
18	Best Practice Tips for Exempt Organizations re Internal Controls	01/20/15	100	\$179
19	2015 Exempt Org Update (Form 990 + A Whole Lot More)	04/29/15	100	\$179
20	Revealing the Hidden Elements of the Form 990 + EO Financials	06/14/15	100	\$179
21	Functional Expense Allocations + Joint Costs	08/13/15	100	\$179
22	The Unrelated Business Income Tax from an Internal Controls Perspective	10/28/15	100	\$179
23	The Schedule A Public Support Test Made Easy	12/17/15	100	\$179
24	The Essential EO Ratios + Benchmarks	02/10/16	100	\$179
25	Exempt Organization Tax, Legal & Accounting Update	04/21/16	100	\$189
26	The Most Glaring Form 990 Core Form Errors	07/14/16	100	\$189
27	The Most Glaring Form 990 Schedules Errors	09/07/16	100	\$189
28	Common EO Financial Statement Deficiencies	10/02/16	100	\$189

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