**RIPPED FROM the EO HEADLINES**

State Registration Portal Update

For charitable organizations receiving donations from residents of states other than their home state, such charitable organizations very likely could have a legal requirement to register to solicit contributions in each applicable state. Especially for larger charitable organizations (receiving donations from residents of many different states), the administrative burden of complying with each state’s registration rules can be daunting; this burden is exacerbated because most states have their own version of their registration forms. In an attempt to somewhat mitigate this burden, a number of state Attorneys General have created the Multistate Registration Filing Portal, Inc. (“MRFP”). In an attempt to bring some uniformity to the state registration process.

It has been reported that MRFP is about to release a Request for Information regarding the Portal. Over the past several months, the MRFP Board has sought to draft a Request for Information that meets industry standards and seeks input from all interested stakeholders.

MRFP has been in discussions with the Mott Foundation, Gates Foundation and NAAG regarding possible grant funds for a project manager and input during development and launch from both stakeholders and users. Also, MRFP will consult with the Urban Institute through its Regulation of Nonprofits and Philanthropy Program for facilitation of input from all public and government stakeholders during testing and launch of the anticipated platform. Finally, the twelve Pilot States have been engaged in a diligent data mapping project to identify the common data sets each collect.

A single internet portal for charity registration and renewal has been something the nonprofit sector and professional fundraisers have requested for years. Hopefully, the MRFP is making strides for that to become a reality.
RIPPED FROM the EO HEADLINES

What a Shock: Exempt Org Sales Tax Confusion

In our neck of the woods (or more appropriately, the beach), folks who adopted a pet from the Orange County Humane Society in the last several years may have overpaid sales tax according to an audit by the city of Newport Beach.

The audit, the results of which were released a couple of months ago, alleges that the Orange County Humane Society animal shelter in Huntington Beach was, amongst other things, improperly charging sales taxes on pet adoptions. Here in California, the tax law states that nonprofit animal-welfare organizations, such as the Orange County Humane Society, are exempt from sales tax. The audit recommended that the shelter stop charging sales tax on adoptions and either return the money to pet owners who were overcharged or provide the city with proof that the money was given to the California Board of Equalization.

Please make sure to be aware of your particular state’s sales tax laws as applicable to exempt organizations since each state is very different. Here in California, we certainly have identified a sales tax blind spot for exempt organizations conducting fundraising auctions (silent or live).

The Opaque Super Bowl Fundraiser

Back in February, the Broncos bested the Panthers in Super Bowl 50 to provide Peyton Manning with a proper send off. Prior to the playing of the game, the Super Bowl 50 Host Committee (the organization charged with raising money for Bay Area charities) had raised approximately $50 million from Bay Area corporations. Since the NFL requires its host committees to be organized as nonprofits, the Super Bowl 50 Host Committee is not required to identify its donors since Schedule B of the Form 990 is not subject to public disclosure (other than for private foundations).

This led to some consternation from various political figures who accused the NFL of being opaque by not identifying the Bay Area corporations who contributed to the Super Bowl 50 Host Committee. But quite honestly, this situation is not even close to being akin to the dark money instances where certain exempt organizations are utilized to shield political donors from identification. So at the end of the day, at least from our perspective, this is a situation of much ado about nothing.

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.

Hospital Reaches Tax Settlement

In another example of the importance of an exempt organization having knowledge regarding the indirect taxes imposed by their particular state of residence (for example, sales or property taxes), in a recent tax settlement, a New Jersey hospital recently agreed to pay the Town of Morristown more than $15 million over the next decade for unpaid property taxes.

Morristown has challenged the hospital’s property tax exemption, arguing that the Hospital had relied on for-profit doctors charging high fees for treatments and no longer served its charitable purposes as a result of deriving a significant amount of their revenue from gift shops, restaurants and cafes and other facilities seemingly outside their charitable mission.

In regards to the actual property assessment, it was determined that approximately 25% of the hospital’s property should be subject to tax; this was calculated since the gift shops and restaurant/cafes, etc. took up about one quarter of the hospital’s total square footage.

It is interesting to note here that, from an unrelated business income perspective, the revenue from the gift shops and the restaurants/cafes would not be subject to taxation as a result of fitting within the convenience exception of Section 513 of the Internal Revenue Code.
FOCUS on the IRS TE/GE DIVISION

2016 IRS Dirty Dozen Tax Schemes

Yet again, an exempt organization tax issue has made the big time: being listed on the IRS’s Dirty Dozen Tax Schemes for 2016. At the beginning of each year, the Internal Revenue Service issues a listing of their Dirty Dozen Tax Schemes for the coming year. For 2016, one of the schemes identified on such list referenced the proliferation of fake charities (groups masquerading as charitable organizations to attract donations from unsuspecting contributors).

“Fake charities set up by scam artists to steal your money or personal information are a recurring problem,” said IRS Commissioner John Koskinen. “Taxpayers should take the time to research organizations before giving their hard-earned money.”

Please find following tips which the Internal Revenue Service has set forth regarding fake charities.

1. Be wary of charities with names that are similar to familiar or nationally known organizations. Some phony charities use names or websites that sound or look like those of respected, legitimate organizations. IRS.gov has a search feature, Exempt Organizations Select Check, which allows people to find legitimate, qualified charities to which donations may be tax-deductible.

2. Don’t give out personal financial information, such as Social Security numbers or passwords to anyone who solicits a contribution from you. Scam artists may use this information to steal your identity and money. People use credit card numbers to make legitimate donations but please be very careful when you are speaking with someone who has called you and you have not yet confirmed they are calling from a legitimate charity.

3. Don’t give or send cash. For security and tax record purposes, contribute by check or credit card or another way that provides documentation of the gift.

Legitimate charities will provide their Employer Identification Numbers (EIN), if requested, which can be used to verify their legitimacy through EO Select Check. It is advisable to double check using a charity’s EIN.

Recently Issued/Revised EO Guidance

Substantiation Proposed Regulations - in the Winter ’16 edition of the YH Exempt Org Advisor, we mentioned that Proposed Regulations had been issued which would implement a statutory exception to the “contemporaneous written acknowledgement” requirement for substantiating charitable contribution deductions of $250 or more. In the opinion of most exempt org commentators and professionals, it was good news when it was announced that those Proposed Regulations had been withdrawn.

Section 506 of the Internal Revenue Code – pursuant to this new Section of the Internal Revenue Code, Sec. 501(c)(4) social welfare organizations are now required (as of December 18, 2015) to notify the IRS of their intent to operate under as a Section 501(c)(4) organization within 60 days from their formation. This notification requirement is necessary since Sec. 501(c)(4) organizations are not required to complete a federal Tax Exemption Application (Form 1024) in order to be considered tax-exempt. Section 506(b) provides that the notification must include: (1) the name, address, and taxpayer identification number of the organization; (2) the date on which, and the State under the laws of which, the organization was organized; and (3) a statement of the purpose of the organization. Section 506(c) requires the IRS to send the organization an acknowledgement of the receipt of its notification within 60 days.
FOCUS on the IRS TE/GE DIVISION

National Taxpayer Advocate Report Critical of IRS

National Taxpayer Advocate Nina Olson recently submitted her 2015 Annual Report to Congress; one section of such scathingly criticized the review of Forms 1023-EZ (or lack thereof) by the Internal Revenue Service. The following paragraph from the Executive Summary of the report details key findings:

TE/GE’s Exempt Organization (“EO”) function approves 95 percent of applications submitted on Form 1023-EZ. EO’s own pre-determination review program shows that EO approves applications much less frequently — 77 percent of the time — when it reviews documents or basic information from the applicants, rather than relying only on the attestations contained in the form. EO rejects some applications simply because the applicant was not eligible to use Form 1023-EZ, but the pre-determination review also showed that almost 20 percent of Form 1023-EZ applicants, despite their attestations to the contrary, did not qualify for exempt status as a matter of law.

The report recommends revising Form 1023-EZ generally to require applicants to submit to the IRS their organizing documents, a description of their actual or contemplated activities, and relevant financial information. The report further urges the IRS to determine exempt status only after reviewing the application and the recommended supporting materials.

Summary of Recent EO PLRs / TAMs

As of September 2015, the IRS Business Master File reported a total of 1,535,234 exempt organizations in United States; this was an increase of approximately 75,000 exempt organizations since September 2014. Of these total exempt organizations operating in the United States, approximately 76% of exempt organizations are charitable organizations (Sec. 501(c)(3)).

Additionally, as of September 2015, there were over 620,000 auto revocations and almost 64,000 reinstatements of tax-exemption.

PLR 201601014 – the Internal Revenue Service denied recognition of tax-exemption for a Sec. 501(c)(3) farmers’ market applicant because the Internal Revenue Service determined that the market operated too much like a commercial enterprise, thus resulting in more than incidental private benefit to the farmers’ market vendors.

PLR 201604018 – the Internal Revenue Service denied recognition of tax-exemption for a stock car racing association because such organization failed both the organizational and operational tests of section 501(c)(3) of the Internal Revenue Code as a result of not being operated exclusively for charitable, religious, educational, scientific, or religious purposes. This was so since the IRS stated that stock car racing is not educational or charitable. Additionally, the Articles of Incorporation for the entity did not contain the requisite dissolution clause.

PLR 201606033 – a private foundation’s set aside request was approved by the Internal Revenue Service under Internal Revenue Code section 4942(g)(2) as long as the set aside amount is to be paid within the 60-month period after the date of the first set-aside.

PLR 201608016 – the Internal Revenue Service approved a grant by a charitable organization as being an unusual grant under section 1.170A-9(f)(6)(ii) and related provisions of the regulations.

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.
**Expenditure Responsibility**

This will be a new and continuing feature of the YH Exempt Org Advisor, at least for the next 21 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 E, it provides the opportunity to define “expenditure responsibility”.

Expenditure responsibility is essentially akin to due diligence. For example, when a private foundation makes a grant to a foreign charity, these must exercise expenditure responsibility in order for such grant to not be considered a taxable expenditure subject to an excise tax.

The process of exercising expenditure responsibility involves the following:

- Undertaking pre-grant due diligence before the grant is made by the private foundation to the foreign charity to best ensure that the recipient would be considered a charitable organization under United States law.
- Ensuring that there is a written grant agreement between the private foundation and the recipient foreign charity which sets forth exactly how the foreign charity should expend the granted funds received from the private foundation.
- Requiring that the foreign charity provide the private foundation with periodic financial reports which report exactly how the recipient foreign charity expended the granted funds received from the private foundation.
- Ensuring that the required disclosures are made on the private foundation’s annual Form 990-PF filing.

**YH Case Studies**

Starting a Charitable Organization

Within the past couple of months, we have helped form over a dozen new charitable organizations. While the formation process is rather straightforward, there are numerous potholes and hurdles which need to be successfully navigated. The charitable organization formation process generally includes the following steps:

1. Incorporating of organization
2. Obtaining of federal Employer Identification Number
3. Opening of corporate bank account
4. Selecting of initial Board of Directors
5. Drafting the initial Bylaws for the organization
6. Drafting of a conflict of interest policy for the organization
7. Preparing of the federal Tax Exemption Application
8. Preparing of the state Tax Exemption Application (if applicable, for example, such is required in California)
9. Registering to solicit contributions in “home” state
10. Setting up of accounting infrastructure

Common mistakes when forming a charitable organization include the following:

- Assuming that raising funds for the new charitable organization will be an easy process
- Not understanding what type of public charity the new charitable organization should be
- Not properly composing the initial Board of Directors for the new charitable organization
- Not preparing an initial budget for the new charitable organization
- Not understanding what it means to operate charitably
- Not understanding that a new charitable organization needs to be operated very similarly to a small business
- Not determining whether there is a true need for the new charitable organization
- Underestimating the amount of paperwork and filings necessary to form a new charitable organization

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at byacker@yhadvisors.com if you have any questions regarding the formation of a charitable organization.
**Preparing the Form 990-N**

Regarding the logistics of filing the Form 990-N for smaller exempt organizations, please be aware that an external source (the Urban Institute) had been hosting the 990-N filings up until February 28, 2016. As of March 1, 2016, the Internal Revenue Service has been hosting the Form 990-N filing website. All filers of the Form 990-N are now required to undertake a one-time registration process with the IRS prior to filing their first Form 990-N on the Internal Revenue Service’s web site. Once the filer is registered, the same login information can be used every time Form 990-N is filed in subsequent years. Practitioners can sign-up as “preparers” and file the Form 990-N for clients using the same login information.

Most small tax-exempt organizations whose annual gross receipts are normally $50,000 or less can choose to file the Form 990-N instead of the Form 990 or Form 990-EZ. All Forms 990-N must be completed and filed electronically. Form 990-N is due every year by the 5th day of the 5th month after the close of the tax year. It cannot be filed until after your tax year ends. Additionally, the Form 990-N due date cannot be extended and there is no penalty assessed for filing a Form 990-N late. However, organizations that fail to file the required version of the Form 990 for three consecutive years will automatically lose their tax-exempt status.

**So Now You Know…**

To the surprise of some, it is certainly possible for an exempt organization to change their legal name. Exempt organizations that wish to change their name can either formally do so by amending their Articles of Incorporation or by securing a trade name or by doing business under a fictitious name (“DBA”).

Regarding the formal name change procedures, such is generally a rather straight-forward process (usually involving the amending of the exempt organization’s Articles of Incorporation), even taking into consideration that the applicable name change procedures vary from state to state. Since the formal name change procedures are generally not too burdensome, we generally prefer such over going the DBA route. This is because, in our professional opinion, an exempt organization doing business under a different name can oftentimes dilute the value of their “charitable brand.” Additionally, we have found that some exempt organizations operating under a DBA have trouble opening bank accounts, securing discounts (such as free or highly discounted rent) and obtaining insurance.

Please note here that the exempt organization will probably need to possess the patience of Job as they wind through the Byzantine process of getting the Internal Revenue Service to recognize the exempt organization’s new name.

So now you know what the name change procedures for exempt organizations are all about.

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Please do not hesitate to contact Ruby Pradhan at (310) 982-2833 or at rpradhan@yhadvisors.com if you have any questions regarding the foregoing or if you need any additional information whatsoever regarding the exempt organization compliance services which YH Advisors provides.
of transparent reporting of liquidity on the Statement of Financial Position and related footnote disclosures can also be expected to change. It is our expectation that these items will not affect as broad of a range of exempt organization financial statements as many EOs do not have long-lived assets or underwater endowments.

The next phase of the deliberation process is expected to include further discussions by the FASB Board of Directors regarding the Accounting Standards Codification (ASC) definition of “management and general activities”. Additional guidance over functional expense allocations is also expected to be discussed in great deal during phase two of the deliberation process.

The effective dates of new reporting standards are expected to be coordinated with effective dates of other significant GAAP alterations, such as Revenue Recognition standards.

The PATH Act (Protecting Americans from Tax Hikes), signed in December 2015, gives exempt organizations increased fundraising opportunities. The Act is generally being considered an extension of previous bills but it also made permanent various incentives which promote charitable giving. Exempt organizations looking for alternative means to incite giving should be familiar with some of the provisions of the PATH Act. Please find below some highlights from the PATH Act provisions that we expect to affect a good number of exempt organizations:

- **IRA Charitable Transfers**: individuals age 70.5 and older with investments in an IRA are required to withdraw a minimum distribution each year, which are generally taxable. However, individuals can meet their minimum distributions tax-free by transferring amounts up to $100,000 annually directly to qualified charitable organizations. Tax-free giving, you read that right. Additionally, by transferring withdrawals directly to charitable organizations, individuals are also reducing their adjusted taxable income (AGI) which affects other deductible limits, credits and taxes.

- **In-Kind (Non-Cash) Charitable Contributions of Food**: both corporate and non-corporate donors can take advantage of a heightened deduction now made permanent by the PATH Act. Beginning in 2016, contribution limits for food inventory to qualifying charitable organizations have been increased from 10% to 15% of net income for the year and comes with a 5 year carryover for qualifying contributions that exceed the 15% limit.
CALIFORNIA CORNER

On September 30, 2015, California Governor Brown signed into law Assembly Bill No. 557 making amendments to the laws governing the dissolution of California nonprofits. The amendments (first effective on January 1, 2016) create two processes for the dissolution of a California nonprofit; an automatic dissolution process and a streamlined dissolution process.

Regarding the automatic dissolution procedures of AB 557, a nonprofit corporation whose powers have been suspended or forfeited by the Franchise Tax Board for 48 consecutive months or more shall be subject to administrative dissolution or surrender. Prior to such automatic dissolution, the Franchise Tax Board will send a notice of the impending dissolution to the nonprofit and will also send the name of the nonprofit to the Secretary of State and the Attorney General’s Registry of Charitable Trusts. The Secretary of State is then required to provide notice of the planned dissolution on its website for at least 60 days, as well as instructions for how a nonprofit may submit a written objection to the dissolution. If no written objection is received by the Franchise Tax Board within the 60-day notice period, the nonprofit will be dissolved.

The automatic dissolution procedures are intended to assist the Franchise Tax Board in clearing its records of nonprofits that are no longer operating but have not gone through the formal legal process of dissolving.

Regarding the streamlined dissolution procedures set forth in AB 557, such are unfortunately only available to a small amount of nonprofits and are unlikely to change the dissolution process for the great majority of California nonprofits seeking to legally dissolve. The streamlined dissolution procedures may only be used if the corporation was created in error (whatever the heck that means).

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 California laws and regulations applicable to exempt organizations operating within California.

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 the 2015 IRS Data Book for 2015. The IRS Data Book is published annually by the Internal Revenue Service and contains a wealth of statistics compiled by the Internal Revenue Service. For example, as relevant to exempt organizations, there are statistics contained in Tables 22-25 that may be of interest.

The 2015 IRS Data Book can be accessed here:


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):

July 14, 2016
Most Glaring Form 990 Core Form Errors

August 2016
Most Glaring Form 990 Schedule Errors

October 2016
EO Reporting: GAAP v. Form 990

December 2016
Contributions Revenue
YH RESOURCES, NEWS & UPDATES

Upcoming Presentations

Please find following a listing of the presentations which YH Advisors has presented, or will present, during the April 2016 – August 2016 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.

Apr 12, 2016  
Nonprofit Fundraising Basics  
(Orange Coast)  
Costa Mesa, CA

Apr 20, 2016  
Ratios + Benchmarking for Nonprofits  
(AICPA)  
Webinar

May 12, 2016  
Finance 101 Workshop  
Long Beach, CA

May 12, 2016  
Fundraising Legal Issues (OneOC)  
Tustin, CA

May 23, 2016  
Tax Issues for Schools  
(Texas Nonprofit Conference)  
Dallas, TX

Jun 2, 2016  
Form 990 Basics (Board of Equalization)  
Murrieta, CA

Jun 8, 2016  
Form 990 Beginner (AICPA)  
Detroit, MI

Jun 9, 2016  
Form 990 Intermediate (AICPA)  
Detroit, MI

Jun 20, 2016  
Nonprofit Accounting (AICPA)  
Eugene, OR

Jun 21, 2016  
Nonprofit Accounting (AICPA)  
Portland, OR

Jun 23, 2016  
What Your Charity Board Needs to Know  
(AAA-CPA)  
Maui, HI

Jun 28, 2016  
UBI War Stories (AICPA)  
Washington DC

Jun 29, 2016  
To Amend or Not (AICPA)  
Washington DC

Jun 29, 2016  
Acknowledging Charitable Contributions (AICPA)  
Washington DC

July 12, 2016  
Financial Acumen  
Long Beach, CA

Aug 18, 2016  
Form 990 Basics (AICPA)  
Missoula, MT

Onsite 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 2015, YH Advisors conducted a full-day Form 990 presentation for a CPA firm located in Virginia. 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

Additionally, we 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:

- Reporting of Special Events
- The Schedule A Public Support Test
- What Charity Board Members Need to Know
- How to Avoid the Ire of the IRS + Attorney General

Where to Find YH Advisors in the Social Media World

@YHAdvisors

YHAdvisors

Please connect with Brian Yacker and Stacey Bergman

Next Issue of the YH Exempt Org Advisor

The Summer 2016 edition of the YH Exempt Org Advisor will be published in August, probably soon after we get past the August 15 deadline for filing extended information tax returns for calendar-year exempt organizations.
To date, we have conducted 25 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:

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<tr>
<th>#</th>
<th>Webinar Title</th>
<th>Date Conducted</th>
<th>Duration (Minutes)</th>
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<td>The Essential Documents for any Exempt Organization</td>
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