

YH EXEMPT ORG ADVISOR

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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

New York AG Report re Bad Apple Professional Fundraisers

In a press release dated December 22, 2016, the New York Attorney General publicized a report ("Pennies for Charity") which they had prepared identifying many professional fundraisers operating within New York that had kept a substantial portion of the charitable dollars which they had raised. Specifically, the New York Attorney General found that professional fundraisers (operating within New York) overall had retained more than 33% of all the charitable donations which they had raised. Please note here that we typically advise our charitable clients to not agree to transactions with professional fundraisers where the professional fundraiser retains more than 20% of the total donations which they raise for the charitable organization.

The professional fundraisers covered by the New York AG's report included fundraisers conducting telemarketing, direct mail, e-mail and other internet fundraising campaigns. For the year covered by the

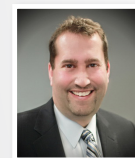
report (2015), New York residents gave a total of \$17.2 billion in reported donations, the second highest giving level in the nation, after California. Of that total, more than \$1 billion was raised through over a thousand fundraising campaigns conducted by professional fundraisers on behalf of charities. Please access www.charitiesnys.com to access the "Pennies for Charity" report and a searchable database that contains the data underlying the report.

The "Pennies for Charity" report aggregates information from fundraising reports filed with the New York Attorney General for campaigns conducted by professional fundraisers on behalf of charities in the previous year. Similar to many other states, professional fundraisers operating in New York must register with the New York Attorney General and provide closing statements that break down the revenue raised and the expenses generated by the charitable campaign.

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RIPPED FROM *the* EO HEADLINES

New York AG Report re Bad Apple Professional Fundraisers (continued)

In 2015, the New York Attorney General secured a \$100,000 penalty against the founder of the National Vietnam Veterans Foundation and barred him from ever again serving as a Director of any New York nonprofit or charitable organization after finding that nearly 90% of revenue was spent on fundraisers and supporting his lavish lifestyle. And in the largest multi-state charity fraud action to date, the Attorney General, 49 other states, and the Federal Trade Commission secured a \$75 million settlement (\$3 million of which came to New York) against two affiliated sham cancer charities which allocated only 3% of proceeds for their intended charitable purposes.

Surprise: Inactive Organization Loses Tax-Exemption

In something of a surprise, an educational foundation recently had its tax-exemption revoked for inactivity. While certainly the correct result from a technical legal perspective, the revocation was a surprise since revocations for inactivity rarely occur.

In this particular circumstance, as set forth in T.C. Memo 2016-223 (12/12/16), the Community Education Foundation ("Foundation") was incorporated in 2001; at the time of formation and throughout its existence, it only had one Director. In its Tax Exemption Application which the Foundation filed with the Internal Revenue Service (which the Internal Revenue Service approved in 2001), the Foundation stated that it had an ambitious educational program; for example, they represented that they would hold a minimum of 20 town hall meetings on university campuses each year discussing reformation of tax, education, social security and other public policies; 20 national workshops on similar issues; quarterly Congressional forums; and a public awareness campaign through billboards, radio and television.

However, between the time of formation in 2001 and 2008, the Foundation stipulated that they were inactive. The Foundation claimed they tried to organize some events, focusing primarily on veterans, in 2009 and 2010, however, those efforts were unsuccessful.

In rendering their decision, the Tax Court noted that an exempt organization must be both organized and operated exclusively for charitable purposes to qualify as a charitable organization. The key here was that the Foundation was never really "operated" as a charitable organization throughout its 15-year existence. The Tax Court agreed with the Internal Revenue Service's contention that the Foundation never engaged in any activities in furtherance of its charitable purposes. As the Tax Court set forth, the Foundation "did not over time meaningfully organize or allocate resources to any of the activities it said it would do and failed to satisfy the operational test because it did not engage in any activity that accomplished one or more of the exempt purposes of section 501(c)(3)."

RIPPED FROM *the* EO HEADLINES

Yet Another IRS Acknowledgement Case Winner

Yet again, in a recent case, the Tax Court sustained the Internal Revenue Service's strict interpretation of the charitable contribution acknowledgement laws set forth in §170 of the Internal Revenue Code. Pursuant to §170(f)(8) of the Internal Revenue Code, the donor of \$250 or more to a charitable organization must receive a contemporaneous written charitable contribution acknowledgement from the recipient charitable organization in order to take a charitable contribution deduction related to their contribution. Such written charitable contribution acknowledgement is required to include the following information:

- The amount of cash and a description (but not value) of any property other than cash contributed
- Whether the recipient charitable organization provided any goods or services in consideration, in whole or in part, for any contributed funds or property
- Description and good faith estimate of the value of any goods or services provided to the donor in exchange for their contribution

In this particular case (*15 West 17th Street LLC v. Commissioner*, 147 T.C. No. 19), the recipient charitable organization did not include the "no goods and services" language cited immediately supra when they prepared the charitable contribution acknowledgement for the donor. That being said, the Internal Revenue Service denied the charitable contribution deduction for the donor in an amount of \$64,490,000. Yes, seriously, a deduction of over \$64 million was denied because the charitable contribution acknowledgement prepared by a recipient charitable organization lacked one essential sentence.

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

Taxpayer Advocate Critical of the Form 1023-EZ Process

Recently, the 2016 Taxpayer Advocate Service Annual Report ("Report") to Congress was released. Such Report (which is annually prepared by the Taxpayer Advocate) identifies at least 20 of the most serious problems facing taxpayers and offers recommendations to fix them.

One of the problems addressed in such Report (Problem #19) was the Internal Revenue Service's introduction and usage of the Form 1023-EZ. First effective on July 1, 2014, the Form 1023-EZ is a streamlined Tax Exemption Application which takes little time to prepare because it is significantly scaled down from the full federal Tax Exemption Application (Form 1023). The Form 1023-EZ is essentially just available for very small exempt organizations.

A couple of months previous to the issuance of the Report, the Taxpayer Advocate sought immediate changes to the Form 1023-EZ application process; for example they suggested that the Form 1023-EZ include a brief narrative statement of an applicant's actual or planned activities, summary financial information, and in some cases, organizing documents. In response, the Internal Revenue Service agreed to soon begin requiring Form 1023-EZ applicants to submit a brief narrative statement of their actual or planned activities, but not to require Form 1023-EZ applicants to submit summary financial information and organizing documents.

In the Report, the Taxpayer Advocate's primary problem with the Form 1023-EZ centered around their belief that the Internal Revenue Service's reliance on the Form 1023-EZ causes it to erroneously grant §501(c)(3) tax-exempt status to unqualified organizations at an alarmingly unacceptable high rate. For example, according to the Internal Revenue Service's pre-determination reviews of a portion of Form 1023-EZ applicants, 25% did not qualify for exempt status because they did not meet the organizational test of §501(c)(3). Additionally, according to a 2015 Taxpayer Advocate study of a representative sample of approved Form 1023-EZ applicants in 20 states that make Articles of Incorporation viewable online at no cost, 37% of Form 1023-EZ applicants did not meet the §501(c)(3) organizational test and therefore did not qualify as a charitable organization as a matter of law.

You can access the Report here when such is available: taxpayeradvocate.irs.gov/reports

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Prairie Meadows Gets to Keep its Exempt Status

After much time and effort, a §501(c)(4) social welfare organization, Prairie Meadows, based in Iowa has learned that they will not have their tax-exempt status revoked by the Internal Revenue Service. Prairie Meadows, which has operated as a tax-exempt social welfare organization since 1989, was on the brink of losing its tax-exempt status after the Internal Revenue Service concluded an audit of the organization in May of 2016. During the course of such audit, the Internal Revenue Service had initially determined that Prairie Meadows was operating more as a business than exclusively for social welfare purposes. Soon thereafter, Prairie Meadows decided to go to Appeals because they contended they continued to be a valid social welfare organization. Within the Appeals process, the Internal Revenue Service relented and agreed not to pursue the revocation of the tax-exempt status of Prairie Meadows.

Prairie Meadows happens to be one of two casinos in the United States organized under §501(c)(4) of the Internal Revenue Code. The theory behind their social welfare organization status is that they annually provide millions to government entities, community groups and philanthropic causes. Prairie Meadows' appeal of the attempt to revoke its tax-exempt status was partially based on its argument that its operations are in place to reduce the burdens of government. Their charitable contributions have in recent years funneled millions of dollars to economic development and to charities such as the United Way. Additionally, their lease payments to the County are used to pay debt associated with the construction of the Iowa Events Center.

New Lineup for TE/GE

In late November of 2016, the Internal Revenue Service made a number of leadership announcements which directly affected the TE/GE world. First off, Donna Hansberry was selected as the Chief, Appeals for the Internal Revenue Service. In such position, she is responsible for the Appeals office. Donna was previously the Deputy Commissioner for TE/GE. Replacing Donna as Deputy Commissioner of TE/GE, was David Horton. In such position, he is now responsible for administering the tax law governing employee retirement plans, tax-exempt organizations, tax-exempt bonds, Indian tribal governments, and federal, state and local governments.

After these moves, please find following the new lineup for TE/GE:

LEADERSHIP TEAM

Sunita Lough, Commissioner
P (202) 317-8400 / F (877) 803-0515

David Horton, Deputy Commissioner
P (202) 317-8500 / F (202) 317-8812

Nanette Downing, Assistant Deputy Commissioner, Government Entities/ Shared Services
P (202) 317-8977 / F (202) 317-8563

Robert Choi, Director, Employee Plans
P (202) 317-8700 / F (202) 317-8808

Margaret Von Lienen, Acting Director, Exempt Organizations
P (202) 317-8989 / F (877) 814-2234

Issued EO Guidance

Annual Revenue Procedures

Yippee !!!! The annual revenue procedures are out. These annual revenue procedures (which can easily be accessed by searching for "Internal Revenue Bulletin 2017-1") are not the most exhilarating read, however, exempt organizations need to be aware of many of the provisions contained in these revenue procedures.

For example, an exempt organization needs to be quite familiar with Rev. Proc. 2017-1 if they are seeking a private letter ruling from the Internal Revenue Service. Please be aware that exempt organization letter rulings are now the province of the Associate Chief Counsel (TEGE). Please find following the Internal Revenue Service's list of significant changes to Rev. Proc. 2017-1:

- Section 2.01 was amended to clarify that letter rulings may be subject to exchange of information under U.S. tax treaties or tax information exchange agreements.
- Section 10.07(3) was amended to provide that taxpayers generally should submit a statement of whether the issue that is the subject of a request is an issue on which a letter ruling is ordinarily issued and a draft of the letter ruling request or other detailed written statement explaining the proposed transaction, issue, and legal analysis, before scheduling the pre-submission conference.
- Section 15.07 was amended to clarify and expand when the reduced user fee for substantially identical letter rulings applies.
- Section 15.08 was amended to reflect that the Internal Revenue Service is transitioning towards making www.pay.gov the exclusive means for making payments for certain guidance.

Rev. Proc. 2017-2 would be relevant for an exempt organization seeking technical advice from the Internal Revenue Service. Rev. Proc. 2017-3 addresses those matters which the Internal Revenue Service will

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Summary of Recent EO PLRs / TAMs

NOT rule upon. Rev. Proc. 2017-5 addresses exempt organization Determination Letter procedures. More specifically, Rev. Proc. 2017-5 sets forth procedures for issuing determination letters on issues under the jurisdiction of the Director, Exempt Organizations (EO) Rulings and Agreements. The Rev. Proc. explains the procedures for issuing determination letters on exempt status (in response to filed Tax Exemption Applications), private foundation status and other determinations related to exempt organizations.

IRS Notice 2017-10

With the recent issuance of Notice 2017-10, the Internal Revenue Service is now poised to crack down on conservation easement donation abuse. The typical situation which the Internal Revenue Service is attempting to address here is when promoters identify real property which might be a candidate for a conservation easement and then looks for “investors” who want to obtain a super-charged charitable contribution deduction.

Fractions Rule Regulations

The Internal Revenue Service recently released Proposed Fractions Rule Regulations under §514(c)(9)(E) of the Internal Revenue Code. Section 514(c)(9)(E) of the Internal Revenue Code applies to partnerships that hold debt-financed real property and have one or more (but not all) qualified exempt organization partners within the meaning of §514(c)(9)(C) of the Internal Revenue Code. The Proposed Regulations amend the current Regulations under §514(c)(9)(E) to allow certain allocations resulting from specified common business practices to comply with the rules under §514(c)(9)(E).

PLR 201701020 – §501(c)(3) applicant was denied recognition of tax-exempt status based upon finding of private inurement and private benefit; the Internal Revenue Service concluded that the applicant’s activities promoted business transactions with related entities.

PLR 201701002 – the Internal Revenue Service ruled that fees received by a private foundation for providing technical assistance services will not cause the private foundation to be engaged in the operating of an unrelated trade or business; the Internal Revenue Service based their conclusion on their finding that the provided services had a substantial causal relationship to the furthering of the private foundation’s exempt purposes.

PLR 201652029 – applicant for tax-exempt status under §501(c)(3) of the Internal Revenue Code was denied recognition as a charitable organization because of a finding by the Internal Revenue Service of prohibited private inurement; in this particular situation, the applicant proposed paying for the tuition of the Founder’s child (and only the Founder’s child), obviously not a broad enough charitable class.

PLR 201648020 – similar to PLR 201652029, the applicant addressed in this PLR was denied recognition of tax-exemption under §501(c)(3) of the Internal Revenue Code as a result of private inurement; in this particular situation, the applicant sought to restore the Founder’s personal residence as a historic landmark.

PLR 201648019 – in another private inurement denial, here, the Internal Revenue Service denied recognition of tax-exemption under §501(c)(3) of the Internal Revenue Code based upon the fact that the explicit purposes of the organization were to meet the substantial financial requirements of a relative of the Founder who required medical care in their battle with cancer.

PLR 201645017 – a downtown coffee shop with a religious element was denied recognition as a §501(c)(3) organization by the Internal Revenue Service (notwithstanding the fact that they planned to “give away” 100% of their profits); it appears that the basis for their decision was that the proposed operation of the coffee shop would have been considered an unrelated business (commercial) activity to the applicant.

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.



EXEMPT ORGANIZATIONS A TO Z

Hospital

This is a continuing feature of the **YH Exempt Org Advisor**, at least for the next 18 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 H, it provides the opportunity to inform exempt organizations regarding the definition of “hospital” from an Internal Revenue Service perspective.

Pursuant to the Glossary contained within the Form 990 Instructions, from an Internal Revenue Service perspective, a hospital is:

“For purposes of Schedule H (Form 990), Hospitals, a hospital, or hospital facility, is a facility that is, or is required to be, licensed, registered, or similarly recognized by a state as a hospital. This includes a hospital facility that is operated through a disregarded entity or a joint venture treated as a partnership for federal income tax purposes. It does not include hospital facilities that are located outside the United States. It also does not include hospital facilities that are operated by entities organized as separate legal entities from the organization that are taxable as a corporation for federal tax purposes (except for members of a group exemption included in a group return filed by an organization).”

It is essential to understand the definition of a hospital from an Internal Revenue Service perspective since hospitals have distinctive filing requirements with the Internal Revenue Service, including the preparation of Schedule H, the preparation of a CHNA and the attachment of their audited financial statements to the Schedule H.

YH CASE STUDIES

Name Changes

We previously did an article in the YH Exempt Org Advisor regarding name changes for exempt organizations, however, since we receive so many questions regarding such, and since we just undertook name change procedures for three separate clients, we decided to address names change procedures for exempt organizations again.

Changing an exempt organization’s name requires several formal steps. Generally, the procedures are similar between various states, but it is recommended that an organization consult with an expert to ensure proper effectuation of the name change.

First, review the exempt organization’s Bylaws regarding how to go about changing the exempt organization’s name. For example, determine if the Bylaws specifically restrict the name change or require a simple or super majority vote of the Board of Directors to change the name.

Before the name can be changed, the organization needs to check with their state of residence regarding name availability. If their proposed name is available, the exempt organization can proceed in amending the exempt organization’s Articles of Incorporation to reflect the new name.

Separately, after amending the Articles of Incorporation, the exempt organization needs to notify the Secretary of State and/or Attorney General in their state of domicile to inform them of their new name. An exempt organization generally does NOT need a new federal Employer Identification Number when changing their name.

Finally, after notifying the applicable state officials regarding the name change, the exempt organization will need to notify the Internal Revenue Service of the name change. The exempt organization can do so in one of two alternative ways, first, by informing the Internal Revenue Service of the name change on a timely filed Form 990 (by checking the appropriate Box in the Form 990 Heading). Or second, by reporting the change of name by sending a letter or fax to “IRS Customer Account Services” accompanied by a copy of the amended Articles of Incorporation and proof of filing.

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at byacker@yhadvisors.com if you have any questions regarding the name change procedures for exempt organizations.

YH QUICK TIPS

Form 1099 Filing Requirements / 2017 Payroll Update

Did your exempt organization make any payments during the 2016 calendar year which would require the organization to file a Form 1099 with the Internal Revenue Service? An exempt organization is required to file a Form 1099-MISC for each service provider payee if all of the following four conditions are satisfied:

- The payment was made to a nonemployee
- The payment was made for services rendered by the nonemployee to the exempt organization
- The payment was made by the exempt organization to an unincorporated entity (e.g. individual, partnership, LLC); please note that medical and health care payments and attorney fees must be reported even if the service provider is incorporated
- The payment or payments made by the exempt organization to the non-employee service provider totaled \$600 or more for the whole year

Please be aware that there has been a change in the filing deadline for the Form 1099-MISC beginning January 1, 2017. If the exempt organization is filing Form 1099-MISC and reporting amounts in Box 7 (Nonemployee Compensation), then the exempt organization will need to file Form 1099-MISC by January 31, 2017 for both paper and electronic filings. If the exempt organization is not reporting amounts in Box 7, then the filing deadline remains February 28 for paper filings and March 31 for electronic filings.

In addition to satisfying their Form 1099-MISC filing requirements, exempt organizations also need to keep in mind the following updated payroll tax rates for 2017:

	2017		2016	
	Employee Portion	Employer Portion	Employee Portion	Employer Portion
Social Security	6.20%	6.20%	6.20%	6.20%
Social Security Maximum Taxable Wages	127,200.00	127,200.00	118,500.00	118,500.00
Medicare	1.45%	1.45%	1.45%	1.45%
Medicare Maximum Taxable Wages	No Limit	No Limit	No Limit	No Limit
Additional Medicare for wages over \$200K	0.90%	None	0.90%	None
FUTA		0.60%		0.60%
FUTA Maximum Taxable Wages		7,000.00		7,000.00
SUI		1.5%-6.2%		1.5%-6.2%
SUI Maximum Taxable Wages		7,000.00		7,000.00
ETT		0.10%		0.10%
ETT Maximum Taxable Wages		7,000.00		7,000.00
SDI	0.90%	None	0.90%	None
SDI Maximum Taxable Wages	110,902.00	None	106,742.00	None

501(c)(3) entities are exempt from the Federal Unemployment Tax Act (FUTA).

Beginning January 1, 2017, employers with 10 or more employees will be required to electronically submit employment tax returns, wage reports, and payroll tax deposits to the Employment Development Department (EDD). Penalties will incur for non-compliance of this mandate.

To avoid the substantial penalties, enroll in e-Services for Business, at website www.edd.ca.gov/Payroll_Taxes/

All remaining employers will be subject to this requirement beginning January 1, 2018.

Any employer required under existing law to electronically submit wage reports and/or electronic funds transfer to the EDD will remain subject to those requirements.

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 payroll and compliance services which YH Advisors provides.



YH PRESENTS

“So Now You Know...”

Over the past couple of months, we have been asked numerous times whether an exempt organization may support or oppose any of President Trump’s nominees for a Cabinet post? Our response was, and still is, “it depends”. What does it depend upon? First off, it depends whether the exempt organization is a §501(c)(3) charitable organization or not. If so, there could be substantial limits on how much (if any) lobbying and political activities that can be undertaken.

As is well known, a §501(c)(3) organization cannot undertake any amount of political activities (for example, endorsing or opposing a candidate for public office), however, a charitable organization can undertake a limited amount of lobbying activities. Regarding attempts to influence the Senate confirmation of a federal judicial nominee, the Internal Revenue Service has concluded that such does not constitute participation or intervention in a political campaign (please see Notice 88-76). This is because the Internal Revenue Service has concluded that attempting to influence Senate confirmations is a lobbying activity which a §501(c)(3) organization is permitted to do so long as such is not a substantial part of its activities.

So now you know that exempt organizations (even §501(c)(3) organizations) can voice their opinion regarding nominees for Cabinet posts without unduly jeopardizing their tax-exemption.

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 services which YH Advisors provides.

THE EO ACCOUNTING SPOTLIGHT

ASC 740

Whenever the term “tax” is brought up, it is easy for management or a member of the Board of Directors of an exempt organization to brush it off as something that is not applicable, and therefore, does not require their time or attention. However, that is not the case with the Financial Accounting Standards Board’s (FASB) ASC 740, Income Taxes. This standard is applicable to both organizations that have taxable income, such as excise taxes imposed on net investment income or income taxes imposed on unrelated business income, as well as for organizations who do not have taxable income (most exempt organizations).

Included within the provisions of ASC 740 is Section 10, Accounting for Uncertain Tax Positions, which requires organizations to evaluate their tax positions. This includes the position that no activities have taken place that would threaten their tax exempt status, that any unrelated business income tax has been reported and properly calculated and that all applicable state and federal filing requirements have been satisfied. Common examples of uncertain tax positions in the exempt organization world which we see as we conduct our audits of nonprofits include an organization’s activities being conducted outside the scope of their organizational documents (for example, their Tax Exemption Application) and organizations receiving payments for corporate sponsorships that include an element of advertising, and as such, were not reported as unrelated business income.

When an exempt organization undergoes a financial statement audit, pursuant to ASC 740, the auditor is required to evaluate the tax positions of the organization. This is done through inquiry of management and evaluation of the activities of the organization. For organizations with excise or income tax liabilities, all tax related balances must be presented on the face of the financial statements and disclosed in the footnotes.

If an uncertain tax position is present, then the related expense and liability must be recorded, presented on the face of the financial statements and disclosed in the footnotes and on Schedule D, Part XIII of the Form 990. Finally, if an organization has no excise or income tax due nor any uncertain tax positions, they are still required to disclose that they have evaluated their tax positions and believe that all positions most likely would be sustained if they were examined by federal or state taxing authorities.

Management and the Board of Directors must continue to be aware throughout the existence of the exempt organization of any tax-related issues of the exempt organization. This will allow them to thoroughly evaluate any new programmatic or fundraising activities they are considering, as well as properly report and disclose any activities for which excise or income taxes are due.

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.

THE WORLD

According to GAAP

Common Financial Statement Deficiencies

Financial statements are critical management and marketing tools in the exempt organization sector. Please find below a listing of the most common financial statement shortcomings that we see all too often with work performed by non-experts in the exempt organization area:

1. Net assets do not properly roll forward from prior year ending balances
2. Lack of or improper recognition of in-kind (non-cash) contributions
3. Multi-year pledges not recognized in full in the year pledged
4. Methodology supporting functional allocation of indirect expenses does not meet standards
5. Net assets reported in incorrect categories (unrestricted, temporarily restricted and permanently restricted)
6. Investment balances not reported at fair market value
7. Missing recognition of depreciation expense and accumulated depreciation
8. Special event revenues reported gross as opposed to net of direct special event expenses
9. Improper classification of contribution revenue versus exchange transactions
10. Erroneous recognition of conditional revenue or agency transactions as revenue

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 compliance services which YH Advisors provides.

PRIVATE FOUNDATION FOCUS

Minimum Distribution Requirements

A private foundation, that is not a private operating foundation, is required to expend a certain minimum amount of money or property for charitable purposes annually. This distributable amount for a non-operating private foundation is defined as the private foundation's minimum investment return with certain adjustments. The minimum investment return of a private foundation is 5% of the private foundation's average monthly fair market value of its total noncharitable assets (taking into consideration certain minor adjustments).

A private foundation's distributable amount must be distributed as "qualifying distributions". "Qualifying distributions" are amounts spent or set aside for religious, educational, or similar charitable purposes. These can include any grants made by the private foundation to accomplish the charitable purpose of the foundation plus any reasonable and necessary administrative expenses and amounts paid to carry out the private foundation's charitable purposes. Depreciation expense, excise taxes and investment expenses are generally not to be treated as qualifying distributions.

A non-operating private foundation may set aside funds for up to 60 months for certain major projects as long as certain requirements are satisfied. Any unused or excess qualifying distributions from the current year may be carried forward for a period of five tax years immediately following the tax year in which the excess distributions were created.

If the private foundation possesses any undistributed income at the end of an applicable year, then such private foundation does not satisfy their minimum distribution requirements and they will be subject to a 30% excise tax pursuant to §4942 of the Internal Revenue Code. This excise tax is imposed for each year or partial year that the distribution situation remains uncorrected. Additionally, a 100% excise tax could be triggered if the private foundation fails to satisfy their minimum distribution requirements within 90 days of receiving notification from the Internal Revenue Service for any such deficit.

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 private foundation compliance and consulting services which YH Advisors provides.

CALIFORNIA CORNER

On September 27, 2016, California Governor Brown signed into law Assembly Bill No. 1887. This new law prohibits the use of state (California) funds for travel to states that have passed a law after June 26, 2015, that (1) authorized discrimination based on sexual orientation, gender identity, and gender expression; or (2) repealed existing state or local protections against such discrimination. For example, North Carolina would be one of these states.

AB 1887 expressly identifies the University of California as an entity covered by the law, and campus departments must comply with this new rule effective January 1, 2017. The list of the states where travel restrictions apply can be found on the State Attorney General's website: oag.ca.gov/ab1887. AB 1887 provides a number of exceptions and does not affect travel that is paid for or reimbursed using non-state funds. It also does not apply to travel expenses that were incurred before January 1, 2017.

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 state and local exempt organization services which YH Advisors provides.

EO COMPLIANCE TIDBITS

Two due date changes for exempt organizations to be aware of:

- First effective for tax years beginning on or after January 1, 2016, filers of the Form 990 (or Form 990-EZ) and Form 990-PF will now be permitted an automatic 6-month extension if they cannot file their applicable return within 4.5 months of their year-end. The existing extension form (Form 8868) will be revised to reflect this change. Please be aware that the Form 990-N still is not permitted to be extended.
- The new annual due date for filing Reports of Foreign Bank and Financial Accounts (FBAR) for foreign financial accounts is now April 15 (moved from June 30). This date change was mandated by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the "Act"). Specifically, section 2006(b) (11) of the Act changes the FBAR due date to April 15 to coincide with the federal income tax filing season. The Act also mandates a maximum six-month extension of the filing deadline. To implement the statute with minimal burden to the public and FinCEN, FinCEN will grant filers failing to meet the FBAR annual due date of April 15 an automatic extension to October 15 each year. Accordingly, specific requests for this extension are not required. Please note that the due date for FBAR filings for foreign financial accounts maintained during calendar year 2016 is April 18, 2017, consistent with the federal income tax due date.

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 payroll and compliance 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 a very helpful audit guide if an exempt organization possess interests in conservation easements. To access the entire IRS Conservation Easement Audit Techniques Guide, please use the following link:

www.irs.gov/pub/irs-utl/conservation_easement.pdf

YH RESOURCES, NEWS & UPDATES

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 annual USD Governance Symposium which we recently participated in.

YH Advisors, represented by Brian Yacker, Stacey Bergman and Melissa Roshnaye, recently presented at the 13th Annual Nonprofit Governance Symposium held at the University of San Diego this past January. The theme of this year's Symposium being "What Can I Do?" Attendees from exempt organizations around the nation enjoyed coveted keynote presentations and 18 practical breakout sessions supporting further growth of their exempt organizations. The three day event sold out as it has in prior years.

YH Advisors was on site to support the legal, compliance and accounting development of various levels of exempt organization management. From Board members to Executive Directors and CFOs, all ranks were

represented and took part in this worthwhile and impactful program. At the Symposium, Brian presented on financial transparency for Board members and Stacey/Melissa presented on common exempt organization financial statement deficiencies.

Revenue earned from the Governance Symposium each year go towards the scholarship fund for the students attending the Masters in Nonprofit Leadership and Management program at USD. Over the past 12 years, the Symposium has provided 125 scholarships to students and connected with thousands of nonprofits both locally and globally. A truly impactful and valuable event!!

YH Presentations

Please find following a listing of the presentations which YH Advisors has presented, or will present, during the January 2017 – May 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.

Jan 13, 2017 | San Diego, CA
Common Financial Statement Deficiencies

Jan 13, 2017 | San Diego, CA
Financial Transparency (GAAP v. Form 990 Reporting)

Feb 7, 2017 | Long Beach, CA
How to Read Your Form 990

Feb 23, 2017 | Baltimore, MD
EO Roundtable: Hot Topics

Mar 16, 2017 | Chicago, IL
Legal Hot Buttons and Traps for Associations

May 23, 2017 | Hattiesburg, MS
Form 990 Core Form Basics

May 24, 2017 | Hattiesburg, MS
Nonprofit Financial Statements



YH RESOURCES, NEWS & UPDATES

Upcoming YH Webinars

YH Advisors will continue to periodically conduct (about 6 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):

April 2017
2017 EO Update

June 2017
Unrelated Business Income

August 2017
The New Way the IRS Audits Exempt Orgs

October 2017
25 Ways to Lose Your Tax Exemption

December 2017
Contributions Revenue

February 2018
Private Foundations

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 Spring 2017 edition of the **YH Exempt Org Advisor** will be published in May, most probably soon after we get past the somewhat busy May 15 deadline for filing fully 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 29 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
29	Reporting Disparities: GAAP v. Form 990	01/11/17	100	\$189

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