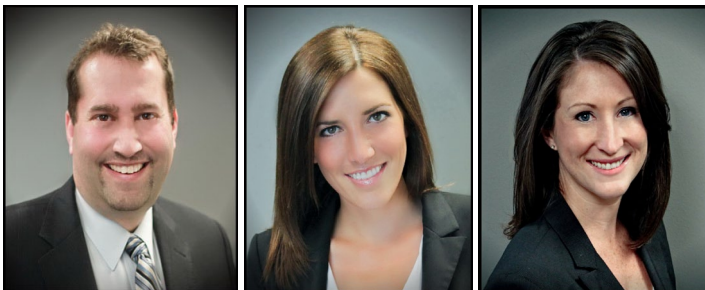




7755 CENTER AVENUE, SUITE 1225 HUNTINGTON BEACH, CA 92647  
OFFICE 310.982.2806 • FAX 323.320.4366 • YHADVISORS.COM

## YH ADVISORS IS PROUD TO PUBLISH AND DISTRIBUTE THE YH EXEMPT ORG ADVISOR A QUARTERLY PUBLICATION FOCUSED EXCLUSIVELY ON THE TAX, LEGAL AND ACCOUNTING ISSUES OF ALL DIFFERENT TYPES OF EXEMPT ORGANIZATIONS.



Brian Yacker

Lauren Haverlock

Stacey Bergman

**YH Advisors, located in Huntington Beach, California, is solely focused on addressing the tax, legal and accounting needs and issues of exempt organizations.** The firm's Partners, Brian Yacker and Lauren Haverlock, have cumulatively consulted with exempt organizations for almost 30 years.

The YH Exempt Org Advisor is electronically available on a complimentary basis to anyone who is included in our e-mail database. If you happen to be forwarded a copy of this publication and would like to receive future copies, please contact us with your e-mail address at [info@yhadvisors.com](mailto:info@yhadvisors.com).

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## Ripped from the EO Headlines

### homeless in costa mesa

The city of Costa Mesa, California is unfortunately taking a novel approach to addressing a typical Southern California issue. The mayor of Costa Mesa has sparked an investigation of two exempt organization social-service groups that he believes are attracting homeless people to Costa Mesa. Mayor Eric Bever believes that Costa Mesa could help resolve complaints about vagrants in public parks and facilities if it puts Costa Mesa soup kitchens out of business. Specifically, the Mayor referenced Someone Cares Soup Kitchen (a §501(c)(3) public charity) which provides services to the homeless.

If you are interested in reviewing the most recent Form 990 for the Someone Cares Soup Kitchen, you can access this by searching the organization on Guidestar or [clicking here](#).

### nfl pink

For the past number of years, the NFL has done their best in October to support Breast Cancer Awareness month. This past October was no different as all the NFL teams sported pink aspects to their uniforms throughout the entire month. Notwithstanding the fact that the NFL's efforts provide great awareness to the American Cancer Society, according to the Business Insider, the unfortunate reality of this situation is that the NFL actually does not turn over substantial profits to the American Cancer Society. This is because it is reported that of all the NFL pink products that are sold, only **5% of the gross sales** are donated to the American Cancer Society, with the remainder of the profits remaining with the NFL.

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at [byacker@yhadvisors.com](mailto: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

### group return questionnaires

In October of 2012, the Internal Revenue Service sent out questionnaires to approximately 2,000 exempt organizations whom the Internal Revenue Service believed were filing group returns. A reference copy of the Group Rulings Questionnaire (IRS Form 14414) can be accessed here (<http://www.irs.gov/pub/irs-tege/F14414.pdf>) on the Internal Revenue Service's web site.

The Group Rulings Questionnaire asks for information concerning an exempt organization's group exemption ruling, including their relationship with subordinates and the manner in which the parent and the subordinates satisfy applicable Form 990 filing requirements. The Group Rulings Questionnaire asks about a range of practices that some group ruling holders engage in with their subordinates.

### updated irs eo web site

The Internal Revenue Service recently updated their web site and the exempt organizations portion of such was included in the updating. The quickest way to access the EO portion of the Internal Revenue Service's web site is via [www.irs.gov/charities](http://www.irs.gov/charities) or to select "Charities & Non-Profits" in the "Information For" drop-down menu in the top right corner of the home page of the IRS web site.

### irs delays in processing tax exemption applications

We annually prepare and file with the Internal Revenue Service many Tax Exemption Applications. That being so, we have certainly noticed, within the past year, a significant delay by the Internal Revenue Service in processing and approving Tax Exemption Applications. The likely explanation for this is that the Internal Revenue Service has been deluged with filings of Tax Exemption Applications from exempt organizations who had their exemptions automatically revoked and are seeking retroactive reinstatement.

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In reaction to these approval delays, the Internal Revenue Service recently prepared the following list of the top 10 reasons for delay in the approving of Tax Exemption Applications which the exempt organization can control:

1. Not including the correct Form 1023 user fee.
2. Not submitting a copy of the applying exempt organization's Articles of Incorporation.
3. Not submitting a copy of the applying exempt organization's Bylaws.
4. Not properly signing the Form 1023.
5. Not completing all required pages of the Form 1023 core form.
6. Not completing all required Schedules of the Form 1023.
7. Not adequately describing the exempt purpose activities of the applying exempt organization.
8. Not providing the required information for the Board of Directors of the applying exempt organization.
9. Not adequately providing the tax year end for the applying exempt organization.
10. Not providing sufficient financial data to complete Part IX of the Form 1023.

## irs priority guidance plan for 2012-13

In November of 2012, the Internal Revenue Service made public their Priority Guidance Plan for 2012-13. In regards to exempt organizations, the Internal Revenue Service identified the following guidance projects which they anticipate completing over the next year:

1. Revenue Procedures updating grantor and contributor reliance criteria under §170 and §509 of the Internal Revenue Code.
2. Revenue Procedure to update Revenue Procedure 2011-33 for EO Select Check.
3. Regulations under §501(r) on requirement for community health needs assessments by charitable hospitals.

4. Final regulations under §501(r) and §6033 on additional requirements for charitable hospitals.
5. Final regulations under §509 and §4943 regarding the new requirements for supporting organizations.
6. Additional guidance on §509(a)(3) supporting organizations.
7. Additional guidance under §4942 and §4945 regarding reliance standards for making equivalency determinations.
8. Final regulations under §4944 on program-related investments.
9. Regulations regarding the new excise taxes on donor advised funds and fund management under §4966.
10. Regulations under §6033 on group returns.
11. Revenue Procedure under §6033 to update and consolidate all non-regulatory exceptions from filing.
12. Final regulations under §6104(c).
13. Final regulations under §7611 relating to church tax inquiries and examinations.

## fast track settlement program for eo's

In IRS Announcement 2012-34, the Internal Revenue Service made permanent the Fast Track Settlement program for exempt organization taxpayers that had previously been operated as a pilot program. The Fast Track Settlement program is utilized by exempt organizations to expedite case resolution. Specifically, the Fast Track Settlement program enables exempt organizations that currently have unagreed issues in at least one open period under examination to work together with the IRS TE/GE division and the IRS Office of Appeals to resolve outstanding disputed issues while the case is still in the TE/GE division's jurisdiction. That being said, the Fast Track Settlement program can be utilized by an exempt organization under audit before they decide to take an unresolved case to Appeals.

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

## Auto Revocation Scoreboard

<b>DATE</b>	November 12, 2012
<b>REVOKED EO'S</b>	453,405
<b>ESTIMATED REINSTATED EO'S</b>	23,000

In the month of October 2012, it is estimated that approximately 1,600 entities had their tax-exemptions automatically revoked as a result of not filing anything with the Internal Revenue Service for three consecutive years.

## YH Case Study

### reasonable cause letters

We are often approached by exempt organizations to help them in their attempts to have a Form 990 / Form 990-PF late filing penalty abated. These late filing penalties, imposed by the Internal Revenue Service, can either be \$20 or \$100 for every day late, depending upon the size of the filing exempt organization.

Notwithstanding the fact that the abatement of late filing penalties is not specifically addressed in the Internal Revenue Code, it is well established that the Internal Revenue Service will abate late filing penalties for an exempt organization if the exempt organization had not previously been imposed with a federal late filing penalty within the past ten years.

Generally, if the exempt organization has been imposed with a federal late filing penalty within the past ten years, it is very difficult to have a late filing penalty then abated. However, we have experienced a good degree of success having a second late filing penalty abated within the past ten years with the preparation of a reasonable cause letter. We have found that such reasonable cause letter needs to contain a legal basis for having the second late filing penalties abated.

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at [byacker@yhadvisors.com](mailto:byacker@yhadvisors.com) if you have any questions regarding public charities or if you would like more information regarding the reasonable cause letters which YH Advisors regularly prepares.

## YH Quick Tips

### form 990-pf

- There are no minimum filing thresholds for the Form 990-PF, accordingly, even a dormant private foundation needs to annually file the Form 990-PF.
- A certain amount of indirect expenses should not be allocated either to column (b) nor column (d) of Part I of the Form 990-PF.
- For reporting on Part VII-B, make sure to respond negatively if the private foundation satisfies an applicable exception.
- The Part XIII, Line 4c election cannot be utilized to extend the useful life of excess distribution carryovers.
- Part XIV of the Form 990-PF should only be completed by private operating foundations.
- Column (E) of Part XVI-A should generally only be completed by private foundations actually conducting charitable activities on their own behalf.

### bookkeeping

Proper financial recordkeeping is the foundation for any healthy organization, but getting an exempt organization's books and records in suitable shape can be overwhelming. Accordingly, please find following a few quick tips for maintaining best practices when it comes to an exempt organization's accounting functions:

- Schedule time on your calendar to tend to the accounting needs of your exempt organization on a regular basis. Accounting tasks are often brushed aside, resulting in a monumental task to be undertaken at year end.
- Take the time to get organized. Create a filing system to segregate paid invoices, unpaid invoices, deposits, and statements.
- Contact your bank and request a statement with a month-end cut-off date. This will reduce the amount of time and effort required to reconcile the books at month end.

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- Don't over-complicate the Chart of Accounts for the exempt organization. Keep accounts simple but meaningful to the organization.
- Keep a well documented audit trail – whether or not your organization currently needs an audit. Documentation is essential to a strong accounting infrastructure and it is much easier to collect data as you work through it than it would be to attempt to accumulate such upon closing of your organization's accounting year.
- Cash is king. Monitor cash flow and projected expenditures before shortages arise.

## YH "Plain English" EO Dictionary

### political activities

Political activities are defined by the Internal Revenue Service as "directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office." While that definition seems straightforward enough, so much more goes into determining what a "political activity" truly is.

The term "political activity" is narrowly defined in the exempt organization context. By simply participating in the political arena, an exempt organization is not necessarily undertaking a political activity. Organizations are permitted to "be political", as long as they concentrate on broad issues and remain non-partisan. Organizations are permitted to educate people on political issues. Subject to certain IRS restrictions, exempt organizations are permitted to lobby (i.e. influence current legislation and acts of Congress). They are permitted to encourage people to vote, even helping people register. They are also permitted to educate voters about candidates, provided that the education is non-partisan and inclusive of all viable candidates.

From an Internal Revenue Service perspective, support of a particular candidate or groups of candidates for elective office is the core of the political activities definition. Support can come in a variety of manners. The most obvious and quantifiable is monetary support—whether

direct contributions to a politician or indirectly through a Political Action Committee (PAC). Another type of support we often see are verbal or written statements supporting or opposing a particular candidate for public office. Political activities can also manifest in more indirect forms, including, but not limited to, voter education or registration activities that favor one candidate or party over another.

From an Internal Revenue Service perspective, the second prong of the definition of political activities focuses on "elective public office." When is a candidate considered to be a candidate for elective public office? In such regard, the IRS has stated that endorsing a candidate who is appointed to office (e.g., a judge or cabinet member) would not be considered a political activity. So when does an individual become a "candidate?" The IRS has taken a very conservative stance on this, stating that the moment a person 'throws their hat in the ring' for an elected public position, they are a candidate. Per this definition, any individual in a party primary would be considered to be a candidate for public office.

However, the courts have taken a different stance regarding when a person becomes a candidate for public office in respect to primary elections, stating that primaries are simply an internal mechanism for solving intra-party differences, and candidates for a primary election are not considered to be candidates for elective public office. Once an individual enters candidacy in the general election, they are considered to be a candidate for elective public office.

So which organizations can undertake political activities? Some types of exempt organizations are permitted to undertake political activities (with certain limitations), namely organizations exempted from taxation under IRC §501(c)(4), 501(c)(5) and 501(c)(6). Conversely, public charities and private foundations (both exempt under §501(c)(3)) are strictly prohibited from any type of political activity. Violating this prohibition may result in the imposition of certain excise taxes or, even worse, the revocation of tax-exempt status.

Please do not hesitate to contact Lauren Havelock at 310-982-2804 or at [lhavelock@yhadvisors.com](mailto:lhavelock@yhadvisors.com) if you have any questions regarding political activities or if you need any additional information whatsoever regarding the exempt organization services that YH Advisors provides in the lobbying and political area.

# The EO Accounting Spotlight

## financial statement audits

Most people hear the word “audit” and instantly feel the hairs on the back of their neck stand at attention, but many do not truly know what a financial audit is really all about. Unlike an IRS audit, a financial audit should not be antagonistic. A financial statement audit is the authentication of an organization’s accounting books and records by a Certified Public Accountant (CPA). An auditor’s task is to express an opinion as to whether or not the financial statements present fairly, in all material respects, the financial position of the organization in conformity with accounting principles generally accepted in the US. A common misconception is that the purpose of an audit is to “clean up” the organization’s books; however, that task needs to be completed BEFORE the audit commences so that the auditors can adequately test ending balances and form an opinion.

A financial audit is typically conducted in two phases. First, the organization’s internal controls are tested. The results of those tests determine the amount of test work that will need to be completed to verify the financial balances are accurate. This is considered “risk based auditing.” In essence, having a strong set of internal controls reduces the risk that fraudulent or inaccurate transactions may occur, thus the auditor can place some reliance on those controls and reduce the amount of financial testing that must be conducted.

The second phase of the audit process involves testing the financial balances presented. Auditors review supporting documentation, perform analytical procedures and confirm specific balances to gain assurance that the amounts being reported are appropriate. As discrepancies are identified, the auditors will discuss these with the organization’s accounting team and potentially propose adjusting journal entries to correct said variances.

Another common misconception is that auditors are looking to find fraudulent activity or expose inappropriate accounting transactions. That simply is not the case. Auditors have a responsibility to adhere to auditing

standards and uphold the integrity of the accounting profession. Stating in an audit report that a set of financial statements is accurate and complete without having truly performed adequate test work can expose an auditor to serious fines, penalties and license revocation.

So how can an organization best prepare for a financial statement audit? The most effective strategy is to contemporaneously maintain adequate documentation for all accounting transactions during the year. Upon receipt of the auditor’s request list, the organization should begin gathering the required documents either electronically or by making copies of originals.

In many exempt organizations, the top financial individual is often already overcommitted. To reduce strain on the organization, audit preparation services can be outsourced. In doing so, a quicker, more efficient audit would most likely follow, resulting in reduced audit fees. As part of this audit preparation, adjusting journal entries can be identified before the audit so as to save time on the back end of test work and allow the auditors to receive a clean set of books and records.

Having this extra set of eyes can help the organization in more ways than audit preparation as efficiencies are often identified as part of this process. Additionally, if audit preparation services are outsourced to the firm that also prepares the organization’s Form 990, this will very likely reduce the preparation time for the Form 990 and allow for valuable suggestions as to how to set up the organization’s financial statements so that they “speak” directly to the organization’s Form 990.

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

## The YH EO Resource Alert

This is a new regular feature of the YH Exempt Org Advisor which will highlight different exempt organization resources which are available free of charge in the public domain.

First up, is a California resource (CA Publication 48) which is prepared by the California Board of Equalization titled "Property Tax Exemptions for Religious Organizations". This resource provides guidance to religious organizations located in California when applying for California property tax exemptions. A copy of this resource can be accessed by following this link:

<http://www.boe.ca.gov/proptaxes/pdf/pub48.pdf>

## Upcoming Webinars

YH Advisors will continue to periodically conduct (about once every 2.5 months) 100-minute interactive technical webinars focusing on the tax, legal and accounting issues most relevant to exempt organizations. Next up will be "The Most Perilous Traps & Pitfalls for Private Foundations" to be presented on December 18, 2012 at 11:00 AM Pacific time. As with all the webinars conducted by YH Advisors, 2 hours of CPE credit will be available to all registered attendees.

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LinkedIn	Click to connect with <a href="#">Brian Yacker</a> , <a href="#">Lauren Haverlock</a> and <a href="#">Stacey Bergman</a>

## YH Presentations

Please find following a listing of the various presentations which YH Advisors has presented, or will be presenting, during the November 2012 – January 2013 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.

Nov 8, 2012	Community Philanthropy Summit Lodi, CA
Nov 13, 2012	Form 990 Update (National CPA Asso'n) Webcast
Nov 27, 2012	Advanced Private Foundations (CalCPA) Webcast
Nov 28, 2012	Advanced Private Foundations (Strafford) Webcast
Dec 4, 2012	Form 990: What You Need to Know (CalCPA), Orange County, CA
Dec 6, 2012	Advanced EO Legal Issues (CalCPA) San Mateo, CA
Dec 13, 2012	Advanced Private Foundations (CalCPA) Orange County, CA
Jan 18, 2013	Form 990 Update (Ventura County Community Fdn), Ventura County, CA
Jan 23, 2013	Private Foundations Tax Primer (CPA Firm), Los Angeles, CA
Jan 24, 2013	Small Exempt Organization Workshop (ABA), Orlando, FL
Jan 26, 2013	What Your Charity Board Must Know (AAA-CPA), Austin, TX

## Next Issue of the YH Exempt Org Advisor

The Winter 2013 edition of the YH Exempt Org Advisor will be published after the very busy February 15, 2013 exempt organization information and tax return filing deadline.