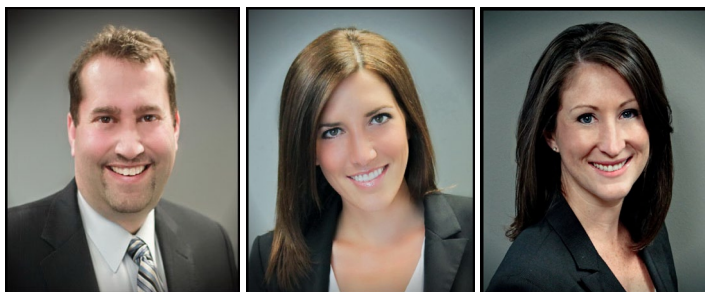




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YH ADVISORS IS PROUD TO PUBLISH AND DISTRIBUTE THE YH EXEMPT ORG ADVISOR A QUARTERLY PUBLICATION FOCUSED EXCLUSIVELY ON THE TAX, LEGAL AND ACCOUNTING ISSUES OF ALL DIFFERENT TYPES OF EXEMPT ORGANIZATIONS.



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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.

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Ripped from the EO Headlines

church loses \$2 million backing Broadway flop

According to the Los Angeles Times, the Foursquare Church, located in Los Angeles, lost \$2 million on their investment in a Broadway musical (which was written by celebrity Kathie Lee Gifford) based on the life of the founder of the Foursquare Church, evangelist Aimee Semple McPherson. The show ran on Broadway for less than one month, leading to the Foursquare Church's loss of their investment.

Since it appears that this was a passive investment by the Foursquare Church (and not the operation of a trade or business), it appears that if the performance had made money on Broadway, it would not have been considered unrelated business income. However, this investment could still be looked upon unfavorably by governmental regulators (e.g. Internal Revenue Service / Attorney General) since \$2 million of the "general public's" money was risked on a non-exempt purpose endeavor

another challenge to the property tax exemptions of eos

Add Allegheny County in Pennsylvania to the growing list of counties across the United States challenging the property tax exemptions of exempt organizations located in their particular jurisdictions. According to the Pittsburgh Post-Gazette, as a result of significant budget shortfalls, Allegheny County will soon require all exempt organizations located therein to do more to justify the property tax exemptions which they have previously been able to take advantage of. In such regard, Allegheny County has announced plans to send correspondence to all 9,000 non-governmental exempt organizations within their boundaries demanding that these exempt organizations provide definitive proof that they deserve the property tax breaks which they have previously been able to take advantage of.

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

new regs issued for supporting organizations

The IRS and Treasury Department, after hearing from many practitioners and exempt organizations that imposing a 5% minimum payout rate for non-functionally integrated Type III supporting organizations would be overly burdensome to those organizations (by eroding the supporting organization's assets too rapidly), promulgated a lower minimum payout rate of 3.5% in Temporary Regulations recently made public.

Under these Temporary Regulations, non-functionally integrated Type III supporting organizations (those supporting organizations not functionally integrated into the operations of their supported organizations) would have to distribute each year an amount equal to the greater of 85% of their adjusted net income or 3.5% of the fair market value of their non-exempt-use assets.

planned focus for the IRS in 2013

The IRS has announced that they will launch examinations of the governance practices of hundreds of charities and social welfare organizations during 2013. That being said, the IRS plans to expand its study of exempt organizations' governance practices by examining a statistically valid sample of exempt organizations so that broader observations and conclusions can be made. Specifically, the IRS, during 2013, plans to examine 200 section 501(c)(3) organizations and an equal number of section 501(c)(4) organizations.

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Additionally, in 2013, the Internal Revenue Service also plans to expand its charitable spending initiative, a project it initially launched in 2010-2011. The goal of this initiative from the IRS's perspective is to review the sources and use of funds in the exempt organization sector and their relationship to the accomplishment of exempt purposes. Specifically, the IRS is looking at organizations that have very high fundraising expenses, high unrelated trade or business activity, or high insider compensation in relation to their program service expenditures.

2012 form 990 + instructions issued

The Form 990 (including the Core Form and all 16 Schedules) and all related Instructions were recently issued by the Internal Revenue Service. Everything is now available to be downloaded on the Internal Revenue Service's web site. We have examined the 2012 version of the Form 990 and have noted that there are, not surprisingly, not many significant changes to the Form 990 as compared to 2011. However, there are still a multitude of revisions to the Form 990 that the Form 990 preparer needs to be aware of. That being so, the 2012 changes to the Form 990 will be the subject matter for our next YH EO Webinar to be conducted in early May.

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.

Auto Revocation Scoreboard

DATE	November 12, 2012
REVOKED EO'S	453,405
ESTIMATED REINSTATED EO'S	23,000

The Auto Revocation Scoreboard has not been updated since the last issue of the YH Exempt Org Advisor. This is because the Internal Revenue Service has not issued new statistics regarding automatic revocations for the past couple of months. We will certainly update the Auto-Revocation Scoreboard when the Internal Revenue Service resumes their provision of the relevant statistics.

YH Case Study

Amending the form 990

We were recently approached by a prospective exempt organization client with a problem. A big problem. The preparer of their most recently-filed Form 990 had reported the organization's lengthy schedule of contributors on Schedule O as opposed to on Schedule B. This was a big problem because Schedule B is not subject to public inspection whereas anything that is reported on Schedule O is subject to the public inspection rules. Since neither the Internal Revenue Service nor GuideStar can legally redact anything which is reported on Schedule O of the Form 990, the exempt organization's donor list was out there for the world to see and the exempt organization had publicly disclosed the personal addresses of all of their significant donors.

The only real solution was to amend the return with the inadvertently disclosed "private" information as quickly as possible and then wait until the amended return was posted on GuideStar. Not perfect, but really the only way to address the problem.

From a general perspective, other than in the inadvertent disclosure situations, we rarely recommend amending an exempt organization's information tax return. That being said, please find following the rare circumstances where we have seen it fit to amend an information tax return for an exempt organization client:

- Significant overstatement or understatement of unrelated business income
- Significant overstatement or understatement of lobbying expenditures
- Significant errors on the Schedule A public support test calculation tables
- Significant overstatement or understatement of insider compensation
- Omission of related party compensation on the Form 990, Part VII compensation table

Please do not hesitate to contact Brian Yacker at 310-982-2803 or at byacker@yhadvisors.com if you have any questions regarding the amending of an EO's information tax returns.

YH Quick Tips

state charitable solicitation registrations

- Always check whether a particular state's registration rules or procedures have recently changed before effectuating a filing in a particular state.
- Make sure that signatures on registration or renewal forms are notarized when required by a particular state.
- Certain states require registration and/or renewal submissions to be made electronically and will not accept any "paper-filed" submissions.
- Certain states do offer registration and/or renewal filing exemptions for certain types of charitable organizations.
- Make sure you have satisfied the registered agent rules for certain states which require charitable solicitation registrations.
- Ensure that the proper fee amount is submitted with the initial registration or annual renewal form.

segregation of duties

The AICPA's auditing standards set forth that the objective of segregating duties within an organization is to reduce the opportunity for any one person to be in a position to both perpetrate and conceal errors or fraud. Having an internal control framework that is built on a strong set of segregated duties is optimal, but achieving adequate segregation of duties in a small exempt organization can be difficult. That being said, please find following some measures that can help reduce the gap in internal controls inherent in most smaller exempt organizations:

- If checks or cash are received in the mail by the exempt organization, it is ideal if the person receiving/opening the mail is separate from the person making the bank deposits. Whoever opens the mail should make a listing of all cash or checks received each day and should reconcile that back to deposit records to ensure no items are misplaced in transit.
- Once a check is signed, it should not be returned to the preparer by the signor but mailed directly out. This will reduce the risk of any alterations being made to the check after it has been signed.
- Reconcile all cash accounts to the periodic bank or investment statements received by the exempt organization on a timely basis. Any reconciling items identified should be questioned.
- Reconciliations should not be completed by anyone who has signing authority on the account being reconciled. If it is unrealistic to have checks signed by someone other than the bookkeeper or accountant, there should be a threshold over which an additional signature would be required.
- If possible, the top management individual of the exempt organization should review the financial reports prepared or reviewed by the top financial individual on a regular basis.

Fraud will never be entirely preventable, especially with a small exempt organization, however segregating duties when possible helps to create a system of checks and balances which can help reduce the risk that fraud will occur within an exempt organization.

Please do not hesitate to contact Stacey Bergman at (310) 982-2805 or 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 which YH Advisors provides.

YH EO Accounting Spotlight

accounting for non-cash contributions

Most charitable organizations will receive non-cash (in-kind) contributions at one point or another. Non-cash contributions can take the form of goods, securities, supplies, or services. Properly accounting for the receipt of non-cash contributions is something where we notice a lot of confusion from a bookkeeping perspective.

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Before an exempt organization can record the receipt of a non-cash contribution, the proper accounts need to be in place on the organization's Chart of Accounts, which should include both a revenue and expense account for non-cash contributions. One may ask: if my charitable organization is only receiving non-cash contributions, why do we need to also have a related expense account?

Had those supplies or services not been donated to the organization, the charity would have incurred the expense to purchase those items, and as such, the use of the contributed goods or services needs to be expensed. In addition, when budgeting and forecasting, it is important to include all expenses incurred by the charitable organization, even if there was not a cash outlay. If a charity is processing a high volume of non-cash transactions, it is advisable that a separate non-cash expense account be set up for contributed goods, supplies and services so as to provide greater transparency into the nature of the charitable organization's expenses.

Recording the contribution of supplies or services is simply a debit to the non-cash expense account and a credit to the non-cash revenue account. Purchases of new supplies by a donor will have a clear fair market value, however, the donation of used items may not. Determining the value of some items may be difficult as the fair market value may not be readily ascertainable. The IRS states that charitable organizations may estimate this value as long as it is done on a reasonable and consistent basis.

The receipt of contributed inventory goods will trigger a slightly different treatment since an inventory account will need to be utilized. Upon receipt of the contributed goods, the charity will need to determine the value of the goods for internal reporting purposes and record a debit to an inventory account and a credit to the non-cash revenue account.

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

YH EO Blog Feature

churches and the form 990

It was recently reported by Giving USA that, in 2011, individuals and corporations donated almost \$100 billion dollars to churches and religious organizations. For most, such amount is beyond comprehension. Even more amazing are the two tiers of tax benefits surrounding donations to religious organizations; donors are able to take a charitable contribution deduction when contributing to religious organizations, and secondly, religious organizations do not have to pay income tax on any contributions revenue they receive.

Churches, as being directly referenced in §501(c)(3) of the Internal Revenue Code, are exempt from payment of income taxes because they generally operate in a charitable manner. Additionally, on top of tax-exemption, churches unlike other exempt organizations have been graced with several additional benefits.

For instance, churches are not required to:

- file a Tax Exemption Application with the IRS upon formation,
- prepare and file an annual information return with the IRS (Form 990), and
- report the identities of their significant donors to the IRS.

Churches also have the benefit of:

- not being as susceptible to IRS audits as compared to other exempt organizations as a result of Sec. 7611 of the Internal Revenue Code, and
- the parsonage allowance which permits church ministers to essentially receive tax-free housing.

Since churches are not required to file a Tax Exemption Application or a Form 990, the government as well as the general public has limited visibility into a church's finances. This is very concerning to many, including Senator Chuck Grassley (R-Iowa), who has always been a vocal proponent of stringent transparency requirements for exempt organizations, with much of his focus on church reporting (or the lack thereof). In 2011, he issued a report on the financial practices of mega-churches, pressing for greater accountability for churches. However, there has not been

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much progress on the legislative front since the issuance of the Grassley report.

Times might be a changing. In recent months, three separate lawsuits have been filed against the IRS, challenging the IRS's "preferential treatment" of churches and certain religious organizations. Each lawsuit focuses on the significant advantages bestowed on churches which are not generally available to secular exempt organizations.

It was previously noted that churches are not required to complete a federal Tax Exemption Application to be recognized as tax-exempt by the IRS. As long as a church satisfies a preponderance of factors set forth by the IRS to qualify as a church, such church will be considered tax-exempt without the burden of having to file a Tax Exemption Application or Form 990. Preparation of a Tax Exemption Application is time consuming and costly. Additionally, the annual preparation and filing of a Form 990 is also a burdensome and costly process for most exempt organizations.

In such regard, two exempt organizations, the [American Atheists Inc.](#) and the [Freedom from Religion Foundation](#) filed lawsuits in December 2012 against the IRS directly related to the Tax Exemption Application and Form 990 filing exclusions available to churches. The lawsuits are each very similar; each argues that since churches are receiving the filing exclusions from the IRS, this violates both the Establishment Clause of the First Amendment of the Constitution as well as equal protection rights mandated by the Due Process Clause of the Fifth Amendment. Additionally, these suits argue that churches also receive additional benefits in addition to the aforementioned benefits, including the parsonage allowance and the reduced susceptibility to IRS audits.

Furthermore, while churches are subject to the same rules and requirements regarding "red flag" exempt organization issues like lobbying, political activities and unrelated business income, churches are less likely to fall onto the IRS's radar screen because they are not required to file the Form 990. Another lawsuit recently filed relates directly to this "special" treatment. In November 2012, the Freedom from Religion Foundation filed a lawsuit against the IRS (Freedom from Religion Foundation vs. Shulman) over the IRS's alleged failure to enforce electioneering restrictions against churches and other religious organizations.

The genesis of this lawsuit could have been sparked by numerous news outlets (including [Bloomberg News](#)

and the [Associated Press](#)) reporting that the IRS has not conducted any audits of churches for a good number of years, despite many reports of clergy and churches engaging in political activities and electioneering. Per the Freedom for Religion Foundation's [press release](#), the lawsuit that was filed requests that the court orders the IRS "to authorize a high-ranking official within the IRS to approve and initiate enforcement of the restrictions of §501(c)(3) against churches and religious organizations, including the electioneering restrictions, as required by law."

While these lawsuits have only been filed at this juncture, they bring up important questions regarding the perceived and real "preferential" treatment granted to churches by the IRS. Many believe that the IRS is wary to heavily monitor the activities of churches because doing so may be a perceived as a violation of religious civil liberties under the First Amendment. But these lawsuits have flipped this concept, alleging that because the IRS does not require an annual Form 990 to be filed by churches, that this violates the religious civil liberties of non-church exempt entities. As best stated by Annie Laurie Gaylor, FFRF Co-President, "having tax-exempt status is a great privilege, and in exchange for that privilege, all other groups must file a detailed report annually to the IRS and the public on how we spend donations. Why should churches be exempt from basic financial reporting requirements? Equally important, why would churches not wish to be accountable?"

Please do not hesitate to contact Lauren Havelock at 310-982-2804 or at lhavelock@yhadvisors.com if you have any questions regarding churches and religious organizations or the exempt organization services that YH Advisors provides

The YH EO Resource Alert

This feature highlights different EO resources which are available free of charge in the public domain.

This quarter we are highlighting the "IRS Exempt Organizations FY 2012 Annual Report & FY 2013 Workplan". You can access this resource by following this link:

http://www.irs.gov/pub/irs-tege/FY2012_EO_Annual-Rpt_2013_Work_Plan.pdf

This is a great resource to help ascertain what the EO division of the IRS plans to focus upon in the coming year.

YH EO Conference

YH Advisors is excited to announce the launch of our two-day comprehensive exempt organization educational conference titled, "YH EO University". More information will be forthcoming, but in the meantime, please save the date for one of the following locations:

July 18 - 19 | Santa Monica, California

October 17 - 18 | San Francisco, California

The conference will provide 16 units of continuing education credits and will offer an in-depth look at exempt organization tax and legal issues faced by all types of exempt organizations. Topics discussed will include the following:

- Non-charitable exempt entities, including social welfare entities, labor unions, business leagues, social clubs, and title holding entities
- Unrelated business income
- Indirect taxes (sales, use and property taxes) imposed on EOs
- Most prominent EO "red-flag" issues
- Comprehensive Form 990 & Form 990-PF Case Studies
- Lobbying and political activities

Space is limited! If you would like more information on the two-day conference or would like to sign up, please email info@yhadvisors.com or call 310-982-2806 for more information.

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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 our annual [Form 990 Update](#) to be presented on May 8, 2013 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. Visit yhadvisors.com for more information.

YH Presentations

Please find following a listing of the various presentations which YH Advisors has presented, or will be presenting, during the February 2013 – May 2013 time period.

- | | |
|-----------------|---|
| Feb 11, 2013 | Advanced EO Tax & Legal Issues (CalCPA) Webcast |
| Feb 12, 2013 | Ask the EO Experts Webinar |
| Feb 26, 2013 | Fundraising Rules and Regulations (LBNP) Long Beach, CA |
| Mar 14, 2013 | What Your Charity Board Must Know (OCBA) Newport Beach, CA |
| May 16-17, 2013 | California Not-for-Profit Conference (CalCPA) Los Angeles/San Francisco |

Next Issue of the YH Exempt Org Advisor

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