

NON PROFIT GPS



HELPING TO KEEP YOU ON THE RIGHT ROAD

Stephanie Annunziata and Other Panelists Update Nonprofits on Current Issues

Nonprofit Financial Management Session Sponsored by the Ad Council of Rochester



Our very own Heveron & Heveron partner Stephanie Annunziata presented about nonprofit financial management recently at the Ad Council of Rochester.

She was joined by: Anita Pelletier, Associate at Nixon Peabody, Dana Miller VP, Development, Rochester Area Community Foundation, and Mike O'Donnell Business Development Officer, Canandaigua National Bank and Trust.

Stephanie's presentation covered recent proposals for revisions to nonprofit financial statements from the FASB Nonprofit Advisory Committee.

Participants generally welcomed the idea of being able to tell their story as part of their financial statements. They agreed changes were needed and some participants expressed their intention to be proactive in providing additional information about their programs, services and outcomes to accompany their financial statements.

The Ad Council's Academy Session focused on keeping participants aware of the most current financial management trends in the nonprofit world, which allow organizations to operate efficiently while supporting their missions.

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Election-Year Lobbying Refresher

Lobbying Rules for Charities

There are number of restrictions for nonprofits that lobby. If charities do any lobbying they are permitted to register and come under a safe harbor. This allows them to spend a certain percentage of their total expenditures on lobbying each year, although certain activities are prohibited.

Advocacy, which can include lobbying, may be able to help advance your cause and increase your visibility. Here is more detailed information.

Lobbying is defined as:

- Attempting to influence legislation;
- supporting or opposing candidates for political office;
- any attempt to influence the general public, or segments of the public, with respect to elections, legislative matters, or referendum.

Lobbying expenses include amounts for research, preparation, planning or coordination of any activity related to lobbying as well as direct lobbying costs.

Political Parties and Candidates

Unlike lobbying, certain involvement with political candidates or political parties is strictly prohibited and can lead to revocation of your exempt status. Charities need to avoid supporting or opposing candidates for public office.

Charities cannot allow paid employees to work on behalf of a candidate or political organization while receiving compensation.

Independent Sector (www.independentsector.org) provides an informative outline for interacting with policy makers. For example, charities may invite members of Congress and their staff and families to attend fundraising events free of charge, as long as the invitation comes from the charity, the primary purpose of the event is to raise funds for the charity, and members don't receive special benefits.

Safe Harbor Registration

If a charity will be spending any resources on lobbying they should elect to come under the safe harbor of code section 501 (h).

Electing organizations can spend a portion of their total expenditures for lobbying. They must pay an excise tax if they exceed those limits; and they can face loss of exemption if they exceed limits by more than 150%.

When they go to the general public and conduct grassroots lobbying, the dollar limits are reduced by 75% (to one fourth of the regular limits).

If a Charity has elected the safe harbor, they cannot expend more than \$1,000,000. The maximum they can expend is based on their total expenditures as follows:

If the amount of exempt purpose expenditures is:	Lobbying nontaxable amount is:
≤ \$500,000	20% of the exempt purpose expenditures
>\$500,00 but ≤ \$1,000,000	\$100,000 plus 15% of the excess of exempt purpose expenditures over \$500,000
> \$1,000,000 but ≤ \$1,500,000	\$175,000 plus 10% of the excess of exempt purpose expenditures over \$1,000,000
>\$1,500,000	\$225,000 plus 5% of the exempt purpose expenditures over \$1,500,000

Only 25% of the above amounts are allowable for grassroots lobbying (with the general public).

Continued on the following page.

Does Your 990 Invite a UBIT Audit?

The IRS has found many inconsistencies on completed forms 990 and 990T that they receive. For example, the explanation of revenue sources on page 9 of form 990 may indicate that the organization is carrying on unrelated activities in spite of the fact that it is not currently filing form 990T.

A question on page 5 of that form asks whether the organization had unrelated business gross income of \$1,000 or more during the year. Some organizations have answered yes to that question but haven't filed form 990T because, for example, their expenses exceed their income. A 990T filing is triggered based on gross receipts, regardless of whether an activity is profitable.

The rules are not the same for all nonprofits. Some revenue sources, such as interest and dividends, are specifically exempt for charities and most other nonprofits—but not for social clubs and certain other organizations.

Several aspects of unrelated business income are truly confusing; such as real property and rents, which are normally exempt except when the property is "debt-financed." There are several other exceptions and qualifiers with rental property, so it pays to understand the rules and make sure your 990 is accurate and does not invite an audit.



How to Avoid Penalties and Problems

Here is a short list of things to help you avoid the penalties and problems that we hear about most frequently.

- **Be sure you know when to charge sales tax on your sales and your events.** New York State has a publication just for charities. Just Google *New York State publication 843* to download the publication or call us with questions.
- **Don't let your workers' compensation policy lapse.** Some insurers have discontinued providing workers' compensation in New York State. You need to be sure that you have the necessary coverage or you will be subject to very large penalties.
- **Make sure that your payroll tax deposits are timely.** Penalties for late deposits are very substantial, even when you are only a day or a few days late.
- **Be sure that you properly classify your workers as employees or independent contractors.** The IRS is on a mission to make sure there is proper worker classification. The New York State Department of Labor can be very aggressive.
- **If you carry on gaming activities, make sure they are proper and properly reported.** There are state and county registration requirements. In addition, gaming activities other than bingo can be unrelated business income.
- **Avoid any excess benefit transactions.** The IRS position is that any employee benefits that are not properly reported are automatic excess benefits subject to penalties for the person receiving the benefit and also for board members that approve excess benefit transactions.
- **Finally, be sure your retirement plan is compliant.** Rules differ for each type of plan but even Simple IRA plans require that you take and document certain actions each year.



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New IRS Tool Helps You Check the Status of Charities

The tool, called “Exempt Organizations Select Check,” is an online search tool located on the IRS.gov/charities website, that allows you to quickly select an exempt organization and check its status. This includes their eligibility to receive tax-deductible contributions, whether their tax-exempt status has been automatically revoked for 3 years of nonfiling, and whether they have filed a form 990N.

If you do nothing else, check the status of your own organization. You will also find it helpful for researching organizations that you are considering partnering with or supporting in any other way.

This new website locates all of the information centrally, which makes finding it much easier.



IRS Audits of Charities for 2012

The IRS has recently publicly announced its plans for audits of—and other initiatives for—charities.

For this year, they will be looking at organizations exempt under section 501(c)(4), 501(c)(5), and 501(c)(6) that file with IRS but have not submitted an application for exemption.

These organizations have established their own classification and the IRS wants to be sure that they agree that the classification is the right one.

Stage I of the process is to send out a lengthy questionnaire to discover more about the organizations' actions. Some of the questions indicate that IRS has an interest in the extent to which they carry on political activities.

Not surprisingly, the IRS will be looking at unrelated business income, including analyzing unrelated business income returns that have been filed. They will also be assessing whether organizations that have not filed form 990T should have.

The IRS has also stated that they will be looking at international activities. Once again, the new 990 gives them much more information about the nature of activities of an organization. The IRS will try to determine whether organizations have adequate documentation that assets are being used for charitable purposes, and whether the charity has a proper level of control of activities outside the US, they are also looking to determine that those activities further the donor charity's purpose.

IRS doesn't keep their work plan a secret. Like the cop sitting on the side of the highway, they would rather have a lot of compliance than a few fines. You can find their entire work plan on the charities page of the IRS.gov website.

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WEBSTAR Winner

Every quarter, we highlight an online resource that we think you will find particularly useful. This quarter we are highlighting the Ad Council of Rochester (web address: www.adcouncilroch.org).

Since 1950, the Ad Council of Rochester has worked with nonprofits to help them improve their image, messaging, marketing while working toward the betterment of the Rochester community as a whole.

Their small, experienced staff and large bank of volunteers help charities in several ways. They work with nonprofits via strategic roundtables, planning, and brand development, as well as marketing and communications planning. They also provide educational programs for nonprofits on topics of current interest. The Ad Council is especially known for leveraging community resources to increase the core management capacities of Rochester's non-profit community.

They are a special asset to our community and if you are not familiar with their services, take a moment to learn about them online.

