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NON PROFITGPS

HELPING TO KEEP YOU ON THE RIGHT ROAD



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IRS Audits and Additional State Filing Requirements for Nonprofits

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Because we prepare several hundred annual filings for nonprofits each year, and have been preparing such forms for more than 40 years, we are a good barometer concerning issues affecting nonprofits. Two things we've noted recently are an increase in IRS audit activity and more "noise" about charity registration and filing in states other than their home state. IRS audits are generally not a problem but they are distracting, time-consuming, and can be intimidating.

About Audits

The audit process starts with an interview where the agent will gather history and background information about the nonprofit and then pull together additional information about governance and independence of the directors and other "interested parties". Next the auditor reviews internal controls to determine the risk of monies being used improperly. The auditor asks questions about controls over receipts, disbursements, check writing, payroll and also about matters such as write-off of receivables to determine whether the organization has been responsible with its follow-up.

The multi-state filing issue for charities is similar to what is happening with many for-profit organizations. State and local taxation (SALT) issues involving for-profit organizations are primarily sales tax, payroll tax, and corporate tax. For charities, charitable registrations and annual filings are the primary issue, but there can also be sales tax and even unrelated business income tax issues for charities that operate in other states.

Charities soliciting contributions from states where they do not operate need to carefully evaluate whether they have created a connection with those states and therefore are required to register and file.

The most helpful set of guidelines are the "the Charleston principles". The most useful website for information about the various state filing requirements is the "unified registration statement" at <http://multistatefiling.org/>.

Contact us if you have questions about your responsibilities.

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This month's WebStar Winner is: Compass Point compasspoint.org



This issue's WebStar Winner is compasspoint.org.

They believe nonprofit organizations and leaders need relevant support and have created a website to help do just this!

Their resources page contains several useful items such as a downloadable training tool for new board members. This tool was funded with the foundation grant and is free to users.

The site also provides templates for fiscal policies and procedures, internal controls, a dashboard of performance indicators and some sample governing documents. There are also templates that will help you create a development plan.



Internal Controls Over Federal Awards

In our previous newsletter, we provided an overview of the federal requirement for internal controls over federal awards and we provided a list of possible monitoring activities.

These typical internal control procedures may be appropriate for your agency:

- Management needs to demonstrate an attitude of integrity and commitment to competence—proper hiring and training practices, and attention to compliance requirements such as maintaining complete and up-to-date personnel files, appropriate background checks, etc.
- Board members and management should review and sign a conflict-of-interest policy annually.
- Have a written code of conduct describing proper business practices and be sure everyone is familiar with the code.
- Show no tolerance for improper practices. Even minor improprieties should be addressed.
- Question unusual activities. This doesn't have to sound accusatory but will demonstrate your commitment to avoid improprieties.
- Develop a good budget and look at variances from this budget. Update the budget throughout the year as appropriate for changes in funding or programs. When you do, variances are red flags deserving your attention. Typically, the board and management review a financial statement comparing budget to actual expense and provides notes from the management to the board with the reason for variance if it exceeds an agreed upon percent or amount (15% above or below would require an explanation, for example.).
- Communicate your whistleblower protection policy regularly—some organizations post it prominently in the workplace. Employees uncover most wrongdoing.

Separation of Duties, Verifications and Reconciliations

Generally, responsibilities for recordkeeping for assets and custody of those assets should be separated.

Vouchering and Billing

- Vouchers should be prepared from information in your accounting system.
- An independent person should review vouchers and other billings before they are submitted or uploaded.

Receipts

- Someone not involved with billing or accounting should initially receive customer payments and list them on a deposit ticket or in a separate place.
- Checks should be stamped "for deposit only" as soon as they are received.

Reconciliations

- All bank accounts should be reconciled on a timely basis. This typically occurs at least monthly.
- The monthly bank statement should initially be received and checks, electronic payments, and transfers should be reviewed by someone who isn't involved with preparing checks.

Disbursements

- After checks are prepared, they should be submitted to the check signor with original invoices.
- Invoices should be canceled by marking them paid.
- Checks should be sent out without being returned to the check preparer after signing.
- Documentation for all credit card charges and for all employee expense reimbursements should be reviewed by an independent person.
- Access to blank checks should be limited to authorized signers.

Payroll

- There should be documentation for time worked and for what was worked on.
- Someone other than the person entering payroll information should review completed payrolls to verify rates and hours are proper.

Retirement Plans

- IRS requires periodic updates of all retirement plans and imposes harsh penalties for noncompliance.
- Someone should be assigned responsibility to make sure your retirement plan is up to date.
- Verify that a summary plan description is distributed to all employees each year.
- Be sure there is an investment policy for pooled accounts and that employees have access to guidance about their retirement plan investments for their individual accounts.



Internal Controls Over Federal Awards, Continued.

Securing Your Electronic Data

- There are constant threats to your confidential electronic information and to bank and investment accounts that can be accessed electronically. You should consider contracting with an outside IT organization to assist you with backups, software upgrades, review of error logs, and security.
- Regular backups should be made and stored off-site periodically. (Verify your backups are working).
- Shut down or log off computers at night.
- Anti-virus software should be continuously updated.
- You should have an ISCA certified firewall and use anti-spam software.
- Passwords should be used wherever appropriate. They should be strong and be changed periodically—usually every 90 days.
- Mobile devices that have access to your server (email, calendars, etc.) should be password-protected and set so that confidential information can be deleted remotely.
- Hard drives on computers and copiers should be destroyed or reformatted when you dispose of the equipment.
- Your organization should have a policy for computer, Internet, and email use. Policies should cover what happens with access when someone leaves or is terminated.

Other Procedures

- Make sure your personnel manual is up to date, and everyone knows how to access it.
- Consider developing an accounting procedures manual to confirm accounting procedures and internal controls.
- Consider Fidelity bond coverage for employee dishonesty. Use a carrier other than your general liability carrier to reduce the likelihood of countersuits.
- Talk to your banker about controls your bank can provide including verification of checks you send and restrictions on electronic transfers.

Gifts to Foreign Charities

US charitable organizations making gifts to foreign charities must follow certain rules or donor gifts will not be deductible, and the US charity's exempt status can be at risk.

Whether the US charity is a "friends of" a foreign charity, a religious organization, or other charity it must retain discretion over all funds received. If a donor specifies a contribution must go directly to a foreign charity, then the US charity becomes an agent for the foreign charity not the recipient of the contribution. This makes the contribution nondeductible because contributions to foreign charities are not deductible. The donor can request or suggest the money be used for a foreign charity, and as long as the US charity retains final decision-making responsibility, the contribution should qualify.

The US charity also has a responsibility to be sure that gifts to foreign charities are being used for charitable purposes. The best way to do this is to follow the guidelines for grants to foreign organizations which include:

- A grant request from the foreign charity describing how funds will be used.
- A written grant agreement from the US charity requiring an accounting for funds received and used.
- An annual or periodic report with a financial summary and narrative description about how funds were used.
- Repayment or authorized repurposing of funds that are not used in accordance with the grant agreement.

The board of the US charity should be an independent board of US citizens. And, that board should document their approval of grants to the foreign organization.

Careful attention to these procedures will help assure the deductibility of contributions and the exempt status of the US charity.



HUD is Requiring Repayment of Residual Receipts Held by Affordable Housing Projects

HUD recently announced residual receipts exceeding \$250 per unit must be remitted to HUD's accounting center each year. This applies to all section 202 and 811 projects and is effective now. These projects continue to be required to make deposits to residual receipts accounts within 90 days after year end.

The intention is for these amounts to be used in support of current programs.

HUD has provided guidance about how checks should be paid or wire transfers sent. Form HUD-9250 will be used for the release of amounts exceeding \$250.