

# NON PROFITGPS

HELPING TO KEEP YOU ON THE RIGHT ROAD

Published by Heveron & Company CPAs

## This month's WebStar Winner is: Nonprofit Hub

<https://nonprofithub.org>

Here's one for all of you who are feeling overwhelmed these days by the deluge of email and other requests for your time.

Go to the search section from the main page at Nonprofit Hub and type in "websites", then scroll down to the article titled "9 Secretly Awesome Websites to Boost Productivity and Nonprofit Work Life."

This is just an example of the tools Nonprofit Hub provides. This particular article has tools for organizations for sharing experiences, and for reducing Facebook and email intrusions.

They focus on fundraising and marketing and look for set-up tools to make your life easier.



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## NYS Workers Compensation and Unemployment Guidance for Charities

There is a lot of confusion about the need for workers compensation, as well as federal and New York State unemployment by charities and other nonprofits. This article provides a summary of the rules. We will start with workers compensation because the penalties for lapses in coverage can be extreme.

You don't have to cover board members or other volunteers with workers compensation—but remember volunteers are individuals who aren't paid salary, stipends or perks that have monetary value. Additionally, board members who receive compensation from a charitable organization are also exempt as long as they aren't performing manual labor.

Paid clergy and members of religious orders are exempt from mandatory coverage, but can elect coverage. Similarly, paid individuals teaching for a religious, charitable or educational institution are also exempt from mandatory coverage. Paid individuals who perform non-manual services are exempt from mandatory coverage, but keep in mind manual labor includes everything from filing and playing musical instruments to shoveling snow and mowing lawns.

Individuals receiving rehabilitation in a sheltered workshop and those in similar circumstances, who receive aid from a charity and perform work in return for such aid, are exempt from coverage.

**Federal Unemployment**—charities exempt under Internal Revenue Code section 501(c)(3) are automatically exempt from federal unemployment. They are subject to New York State Unemployment, but they may elect to opt out of payment of quarterly unemployment tax and alternatively reimburse the state for unemployment claims that are made. The registration is made on form NYS-100N.

In addition, certain nonprofit employees are exempt from NYS unemployment including:

- ordained clergy members
- members of religious orders
- lay members of religious orders engaged in religious functions
- caretakers for religious organizations
- sheltered workshop, rehabilitation, and youth service program participants, but they all must meet certain requirements.

Call us or check New York State Department of Labor website for more information. Be sure you are clear on the rules before you exclude individuals from coverage, the penalties can be extremely high.

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## Gaming Rules for Charities

With all of the pressure on funding and fundraising, gaming is becoming an option for some charities. Whether it involves an annual raffle as part of your major event or bingo that happens throughout the year, if you consider gaming you need to know the rules.

There are both federal and state rules about charitable gaming. Federal rules are primarily about what kinds of activities constitute unrelated business income and what reporting is required. The New York State Gaming Commission regulates gaming activity and requires you to register with New York State Wagering and Gaming and in your local county. In addition, NYS has guidance and regulations for raffles, bingo, bell jar tickets (a.k.a. pull tab tickets) and Las Vegas Nights or casino games.

Some of the key rules that you need to be aware of are:

- You need to apply for registration and an ID number with NYS. You can find this form if you Google "New York State 1A Application for Registration and Identification Number."
- You may also need a games-of-chance license and supplemental forms.
- For bingo, you need a special bingo license, and there are several reports to fill out, including cash control and quarterly statements of bingo operations.

Reporting is simpler for charities that have less than \$30,000 in raffle profits for a calendar year. If you are over that limit more extensive reporting is required.

IRS focuses on whether activities are subject to Unrelated Business Income (UBIT) reporting and taxation. Raffles are generally exempt from UBIT, and bingo is exempt from UBIT in NYS (because for-profits cannot carry on bingo in NYS). However, bingo requires winners be determined and prizes be distributed in the presence of all persons with wagers in that game.

Several games such as pull tabs and scratch offs, as well as instant bingo and internet bingo, don't meet the IRS definition of bingo. These games are not automatically exempt from unrelated business income taxation, although they may be exempt if substantially all activities related to these games are carried on by volunteers. Substantially all means at least 85% are volunteers who don't get regular compensation, tips, goods or services or other benefits that are proportional to the services they provide. Even contributions to another exempt organization in exchange for volunteer labor provided will violate the volunteer exception.

IRS also has regulations about reporting winnings. Specifically, when a winner receives at least \$600 and that amount is at least 300 times the wager, this must be reported on form W-2G. For example, someone who wagered \$5, and wins \$750 would not be subject to this reporting requirement because \$750 is not 300 times the wager. However, bingo winnings are only reported once they total \$1,200.

Withholding is generally required when winnings are more than \$5,000 or more than 300 times the amount wagered. This doesn't apply to bingo, but does apply to raffles and poker tournaments. More information can be found in IRS' recent publication 3079. This publication also points to other resources for gaming.

One final note: IRS and the state share information about charitable gaming. IRS wants to make sure it is being properly reported and NYS wants to be sure that registrations and reporting are complete.

Charitable gaming can be a useful source of additional unrestricted revenue, as long as you understand and follow the rules.

## Reducing the Possibility of Fraud in Your Organization

The annual *Report to the Nations* by the Association of Certified Fraud Examiners contains sad, but true, facts about the impact of fraud. This year is no exception, organizations lose about 5% of revenues to fraud each year, and it is clear that our smaller organizations aren't exempt. In fact, they are the hardest hit—about 30% of the reported cases occurred in firms with fewer than 100 employees. And, the median losses suffered by those firms was \$150,000.

What's different this year, is the optimistic news that the likelihood of fraud will be greatly reduced if your organization takes certain actions. The main actions mentioned in the report were: management reviews, fraud training for employees, codes of conduct and antifraud policies, and telephone hotlines.

The study showed organizations with anti-fraud controls uncovered fraud in half the time and reduced the loss by more than 50%. The median went from \$200,000 down to \$92,000.

Interestingly, three quarters of organizations with over 100 employees have fraud hotlines, but only one quarter of organizations with fewer employees do.

Google ACFE *Report to the Nations* for more information.



## Dashboard Reporting for Nonprofits

As CPAs who are very focused on good controls, we advocate for complete reports directly from your accounting system to your board and finance committee; but we understand the value of financial highlights that can be found in a dashboard report.

Some people have the personality for a dashboard report "give me the big picture and let's move on", some just don't like the detail and avoid it at all costs, and still others find dashboard information to be a very useful supplement and interpreter of more detailed information.

What should be in your dashboard? There are books on the topic, for example, *boardsource.org* has a publication available in print and PDF versions called "The Nonprofit Dashboard: Using Metrics to Drive Mission Success." They also have four member resource PDFs on dashboards.

Dashboards can address financial information, program activities and program service accomplishments.

*What financial information is important to your organization?* If cash is tight, cash account balances will be key. It will be useful to compare them to the prior month and, if your activity is seasonal, compare them to the same month one year ago.

Total income, total expenses, and year to date surplus or shortfall can be an important alert.

*What about client statistics?* The total number of clients you are currently serving and the first-time clients served this month can be helpful to review.

If volunteers are a key part of your service delivery, *What about the number of volunteers or volunteer hours?*

Other significant events that occurred since the last report can be listed. Examples might include renewal of a large grant or approval of a new grant or program, or funding source that was discontinued.

One of the objectives of dashboard reports is to provide information so you can make adjustments before a problem arises. Just like the way your car's dashboard tells you gas is low or you better slow down, your business dashboard should warn you about deficits, cash flow challenges, funding changes, or additional demands for service and support.

It's healthy and can be fun to brainstorm about what key information will keep the organization and its board informed about the organization's direction and progress.

## NYS Charities Bureau Registration and Annual Filing Requirements

We have talked about registering and filing with charities bureaus in other states where you carry on activities, but are you clear on the rules for NYS registration and filing? Here is an overview.

First, NYS Charities Bureau administers two laws affecting charities' registration and filing. They are Article 7A of the Executive Law (Article 7A), and the Estates, Powers and Trust Law (EPTL).

Registration requirements for Article 7A apply to all charities that solicit contributions from NYS residents, foundations, corporations, government agencies and other entities with certain exceptions. The exceptions can be found in Charities Bureau Schedule E.

### Key exceptions include:

- Contributions are less than and will continue to be less than \$25,000 per year; and the organization does not use the services of a fundraising professional or counsel.
- Organizations that receive substantially all of their contributions from a single governmental agency to which it provides a financial report.
- Organizations that receive substantially all of their contributions from a federated fundraising agency such as United Way, and don't use professional fundraisers.
- Certain religious entities including religious corporations, or organizations with a religious purpose and those operated, supervised or controlled by religious organizations.
- Educational organizations that only solicit from certain, related parties.
- Educational organizations, libraries or museums that file annual reports with Board of Regents or SUNY.

Registration requirements for the EPTL apply to all charities that are incorporated or formed in New York State or conduct activity in New York State. The exceptions can also be found in Schedule E.

### Key exceptions include:

- Organizations that aren't incorporated in this state and have minimal activity in the state.
- Religious corporations, charities with a religious purpose, and organizations operated, supervised or controlled by or in connection with religious organizations.
- Volunteer firefighters or ambulance service organizations.
- Historical societies chartered by Board of Regents or SUNY.
- Certain cemetery corporations.
- Parent-teacher associations affiliated with educational institutions subject to the jurisdiction of the NYS Department of Education.

However, even if you need to register, you may not need to file anything other than a notification of exemption. Be sure you understand the registration and filing requirements to be compliant and also to avoid unnecessary filing. If your gross receipts from contributions and other sources did not exceed \$25,000 and your total assets did not exceed \$25,000 at any time during the fiscal year, you are exempt.