



# NON PROFIT GPS

HELPING TO KEEP YOU ON THE RIGHT ROAD



## What Are Donors Doing?

Some donors, especially higher income donors who are more tax-conscious, have changed a few of their strategies with regard to charitable contributions. Unfortunately, some donors are expected to reduce charitable contributions. The Joint Committee on Taxation estimates individuals will reduce charitable giving by \$13 billion annually because it will no longer be deductible. That is a big number, but according to the National Center for Charitable Statistics, that will be roughly 5% of contributions.

Another strategy donors will follow is to “bunch contributions” by making a larger contribution every other year. Charities may note contributions very early in the year and again late in the year with little or nothing from some donors in the following year. Some taxpayers will even increase contributions every third year with minimal contributions in between. This can wreak havoc on your budget.

Some strategies suggested by Sarah Lyon, PhD, in a Tax Advisor article include preparing multi-year budgets and building necessary cash reserves to smooth this volatility, or planning for alternative levels of service, such as running certain programs only every other year.

She also recommends improved communication with donors to explain the uncertainty you face under the new law and to allow you to understand the donors’ intentions. If communications don’t work, you will have the tough job of predicting the timing of contributions.

Some donors have also used tools such as donor advised funds, community foundations, and private foundations to make large contributions in a single year and then distributions to charities over a period of years.

Be alert to how these changes will affect your organization. If you are aware of these tools, consider reaching out to donors to encourage regular distributions.

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## New IRS Search Engine for Eligible Charities

A client's board member recently asked why their nonprofit could not be found in IRS Publication 78. This publication used to be the official listing of charities eligible to receive contributions, and it started out as a hard copy document that made its way to .pdf format. Times have changed and now the IRS is maintaining its entire database electronically.

The new IRS tool called *Tax-Exempt Organization Search* or *TEOS* is the next generation of *IRS Exempt Organization Select Check*, and in addition to checking on the organization's exempt status, you will be able to look at images of forms 990, 990-EZ, 990-PF, and 990-T starting with the 990 forms filed in 2018.

IRS favorable determination letters will start to become available via this site. Eventually, determination letters issued since January 2014 will be available. IRS claims the new search tool is simpler to use, more user-friendly, and easier to search on smart phones and tablets.

Like their predecessor tool, you will also be able to look at organizations that have had their exempt status revoked for failure to file or look for organizations that have filed form 990N.



## Affordable Housing Is Impacted by Recent Federal and State Legislation

Recent federal and New York State tax legislation contains a bit of good news for affordable housing, an industry that has been adversely affected by changes in the tax law.

The recent spending bill contained a provision to increase the number of affordable housing credits for the first time in a decade. Sen. Maria Cantwell of Washington said this, "...will help us deal with the tremendous deficit we have in affordable housing."

However, the affordable housing industry analysts say there is still a long way to go.

Recent New York budget legislation also provides proposed language that is expected to encourage private investment in affordable housing.

Changes to how the state's low income housing tax credits are administered through bifurcation allows the sale of credits among investing partners separately from the assignment of federal credits and is expected to make the credits more appealing.

Fortunately, the new budget did not incorporate a proposal to defer availability of certain credits including some affordable housing credits. That proposal would have strongly discouraged developers seeking these credits.

## The Charities Bureau Moved!

With little fanfare (or else I just missed it in spite of all the nonprofit newsletters I read) the New York State Charities Bureau changed its address.

The new address is:  
**28 Liberty St., New York, NY 10005**

This is the address you should use to submit forms or request information, although the Charities Bureau has a strong preference for electronic communications. See their contact information below.



### Contact information:

#### Questions about charities?

Phone: (212) 416-8401

Email: [charities.bureau@ag.ny.gov](mailto:charities.bureau@ag.ny.gov)

#### Questions about fundraising?

Phone: (518) 776-2160

Email: [charities.fundraising@ag.ny.gov](mailto:charities.fundraising@ag.ny.gov)

#### To Make a Freedom of Information Request:

<https://ag.ny.gov/bureau/foi>

#### To Submit a Complaint:

[www.charitiesnys.com/pdfs/char030.pdf](http://www.charitiesnys.com/pdfs/char030.pdf)  
[charities.complaints@ag.ny.gov](mailto:charities.complaints@ag.ny.gov)

## Charter School Audits: What to Expect from a New York State Comptroller Audit

Charter schools are always subject to scrutiny because they draw money from public schools in the district. Their charters are reassessed every five years, and they are subject to annual financial statement audits, and compliance audits if they use more than \$750,000 in federal funds, as well as agreed-upon procedures audits under some circumstances, including an initial assessment of internal controls, within 120 days of when their charters are issued.

In addition, outside of New York City, the NYS Comptroller randomly audits charter schools. Those audits are based on the New York State Department of Education "Charter School Audit Guide." Heveron & Company partner Jeanne Beutner, CPA, provided some input into the development of that audit guide, so consider contacting Jeanne if you have questions.

Knowing the issues that came up in these audits can help you assess your operations and avoid similar deficiencies. According to a CPA Journal article authored by Marie Blouin, PhD, CPA, and Ronald Huefner, PhD, CPA, 54 charter schools have been audited over the past six years. The article confirms that procurement, payroll and other payments, as well as information technology procedures were common concerns, but contracts with sponsoring organizations, conflicts of interest, space issues, residency and billing issues were most common.

## Check Your Website...the IRS Will

It wasn't that many years ago the IRS seemed confused about the relevance of nonprofit websites. *Could links to for-profits be Unrelated Business Income? Can charities lobby or carry on political activity with links or messages on their website?* Now, the IRS considers your website and social media postings a tool to check your activity and compliance.

They will check these if your organization is selected for audit, if you are applying for exempt status, or changing your status.

It is very likely they will look if they are even considering an audit based on inconsistencies identified in your form 990, or based on referrals from other agencies or from individuals.

The message is clear. Be sure your website and social media is up-to-date and properly describes your activities—and those activities are consistent with your mission. Also, be careful of any links or endorsements that might indicate Unrelated Business Income, political, or improper lobbying activity.

Concerns with respect to sponsoring organizations included: lack of evidence of board review and approval of contracts, lack of evidence of review of payments to sponsoring organizations, inadequate detail about services that were actually being performed (which led to a question about whether the school may be making duplicate payments), lack of documentation that services were actually received, payments based on revenue when that wasn't a reasonable basis for services performed, and lack of evidence that the board performs sufficient oversight for budgeting and finance.

Specific conflicts of interest noted in these audits included two cases of loans from board members to the school. In one case, the board member was a partner in a law firm that provided services to the school. In the other, a board member was an investor in a company that leased a building to the school.

Ten of the 54 audits contained recommendations regarding residency and billing. This is always a challenging issue especially when students move during the school year. In one audit, a student moved three times during the year and the school had no proof of residency. As a result one district refused to pay a bill, in another case, a charter school with students from five districts was initially denied \$300,000 of funding related to 120 students. Most of this was ultimately resolved but not without significant additional effort.

You need to have a strong, ongoing process to determine what school district students belong to and to stay up-to-date

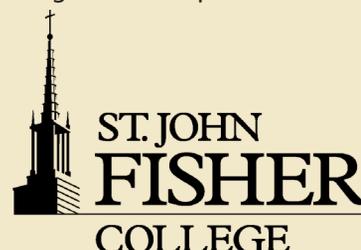
## St. John Fisher's Center for Community Engagement: a Resource for Questions About Sexual Harassment Policies

If you need another good reason to visit St. John Fisher College's Center for Community Engagement, their answer to the question, "*What should our board know about sexual harassment policies for our organization?*," along with the resources and references they provide, may be that reason.

### About CCE:

Their mission is to enhance nonprofit leadership by providing programs and resources that strengthen the capabilities of boards of directors and professional staff.

Special emphasis is placed on the needs of small- and mid-size organizations.



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This Month's WebStar Winner Is:

**Independent Sector**

[Independentsector.org](http://Independentsector.org)



HEVERON & COMPANY  
**WEBSTAR**



We want to acknowledge Independent Sector for some of the special resources they provide; including their compilation of the value of volunteer time.

They recently announced the current average value of volunteer time is \$24.69 per hour. Dig a little deeper and you will find these numbers are regionalized and for NYS the number is \$29.19; although that may be distorted by our downstate charities.

This number may help you convey the true size of your organization including volunteer services. Only necessary, specialized services should be recorded in the body of your financial statements.

It also may be valuable for matching purposes.

Another reason to visit Independent Sector is because a house bill, called the Charitable Giving Tax Deduction Act has been introduced into the House (HR 5771). This bill proposes to make charitable contributions deductible for everyone whether they itemize or not. Independent Sector has guidance about supporting this bill in their Public Policy section.

They also have the awesome "Principles for Good Governance and Ethical Practice Resource Center" with 33 downloadable principles of sound practice for charitable organizations related to legal compliance

and public disclosure, effective governance, financial oversight, and responsible fundraising.

Additionally, the center has detailed information about each of these areas, including relevant state laws.

Independent Sector's Public Policy section has current information about political issues that are important to nonprofits, and guidance about lobbying and political activities, as well as a voter engagement toolkit (certain to be a hot topic as we approach midterm elections).

Independent Sector deserves to be bookmarked as one of your favorites!