



NON PROFITGPS



HELPING TO KEEP YOU ON THE RIGHT ROAD

Our 100th Issue: Celebrating Twenty-five Years of Bringing You Our Best Advice, News and Tips

This issue marks twenty-five years of quarterly non-profit newsletters our firm has authored to keep the non-profit community informed about current issues.

We are proud of this accomplishment, thankful for the opportunity to tell our community about our commitment to non-profits—and we are also appreciative of the opportunity the newsletter creates for us. We continuously evaluate non-profit releases from non-profit regulatory, leadership, and other sources to determine whether they are important to our readers.



Cheers, and here's to 100 more!

Nonprofit Nexus—Not Limited to Charitable Solicitation

John Heveron, Jr. CPA and attorney Anita Pelletier of Nixon Peabody presented a program on Nexus for non-profits at the annual Bar Association-CPA Society Tax Institute this past November. Here is a summary of key information from our presentation.

Charities and other nonprofits may need to register for exemption from sales tax, register as a vendor, and possibly pay, or collect and remit, sales and use tax. Some states, like New York, have exemptions for very limited sales by charities. New York State Publication 843A provides sales tax guidance for charities.

Unrelated business income filings are required by IRS, New York State and certain other states. This is an area that should be investigated if you are regularly carrying on revenue-generating activities that don't further your mission other than by providing funds.

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New York and a few other states require non-profits to apply for exemption from state income and franchise taxes. Of course, if you have employees performing duties in other states, you will have payroll registration and filing issues.

New York and some other states require disclosures by charities that solicit in their state. This is another area of widespread non-compliance. New York State requires a disclosure stating that a copy of your annual report is available in your office and at the Charities Bureau. This disclosure should be on all solicitation materials and on your website.

Many other states require disclosures as well, and the specific information to be disclosed varies.

We have resources concerning filing requirements for all of the states that require registration. Contact us if you have questions. Watch for more on charitable solicitation in our spring 2017 newsletter.

Are You Liable If You Don't Have An EMV Chip Card Reader?

Our IT consultants recently provided us guidance on the importance of adopting chip technology for credit card machines. Here is more information for you from Capstone IT's Co-CEO, Sitima Fowler.

The tiny EMV credit card microchip is bringing new liability concerns and questions to the forefront of organizations who process payments using credit cards. Let's go through the questions we hear the most, one-by-one.

What are EMV chips/card readers?

EMV stands for Europay/MasterCard/Visa and represents the three companies that created the first credit card security standard in 1995 as well as, more recently, the microchips embedded in debit and credit cards. These chips, and the machines that read them, were created in an attempt to combat the security flaws that arise from outdated magnetic strip technology that is easy to replicate and exploit.

Just over one year ago, liability costs for stolen or cloned cards shifted from the financial institution that issued the card to the least compliant party in the transaction chain.

Who is the "least compliant party?"

There are essentially three players in the transaction chain:

- **Credit card companies:** However, because the MasterCard, Visa, Discover and American Express created the EMV chips and compliance standards that go with them,

they will never be liable unless criminals find a way to exploit the technology inherent to the chips and compliance standards.

- **The bank that backs the card:** Both credit and debit cards



need a financial institution to vouch that you're good for the money. For example, I opened an account with Citibank nearly a decade ago. If Citibank didn't provide me the option to upgrade to a card with a chip, it would be liable for losses incurred from magnetic strip fraud.

- **The merchant:** If the two entities above provided a Rochester consumer with an EMV chip card, but the merchant has yet to adopt the technology, the business is financially liable.

So, if we process credit/debit cards at my organization but don't have EMV chip readers, are we liable for fraudulent purchases?

Yes, that is the case.

What happens if I don't become EMV chip card compliant?

Well, the governing body that grants PCI compliance certificates still considers implementing this technology voluntary, so if you skip it, you won't be fined or lose your certification. However, if you don't have EMV readers, but you swipe a customer's EMV card and they experience some sort of fraud due to your negligence, you are required to repay 100% of whatever the customer loses.

What if most of my business is conducted via online transactions?

EMV chips will not change anything about e-commerce transactions. But we encourage you to upgrade to EMV chip readers if even a fraction of your business is derived from in-person card scanning.

If you have questions regarding the chip readers or any other computer IT related issues, you can reach me, Sitima Fowler, at sfowler@capstoneitinc.com or visit us at www.capstoneitinc.com.



IRS Non-profit Focus for 2017

Like a police car on the side of the highway, the IRS would rather "be visible" to a lot of people than catch a few. In fact, they have been more visible and transparent with their new non-profit leadership. (You may remember the prior IRS exempt organization head was fired for what might be called a lack of transparency with certain non-profits).

Audits of non-profits will continue, but the approach will be different. IRS's testing confirmed that their "modeling" (that's their word—I would call it profiling) has been effective. They announced that 90% of the returns selected, based on modeling information from forms 990, required changes. Their modeling is designed to identify organizations at risk for improper benefits to individuals or companies, and anomalies with private foundations.

In addition to their modeling selection, they are going to do some statistical sampling to assess overall compliance. The important message here is to be sure that your 990 is properly prepared, and if it indicates weaknesses in governance, explain your circumstances in schedule O or implement improvements. They also have some initiatives that should help nonprofits. One of these initiatives is to prevent exempt status revocations without proper notification.

IRS's entire work plan for nonprofits can be found by googling "Tax-Exempt and Government Entities FY 2017 Work Plan".

Another initiative was to decrease the fee required with form 1023 EZ from \$400 to \$275. This is currently effective, and the IRS noted that through their third quarter of 2016, they had in excess of 33,000 1023 EZ exemption applications.

IRS also announced a new process for 501(c)(4) organizations to notify IRS of their exempt status using new form 8976.

A not-so-helpful new policy was also recently implemented. The IRS is now returning form 1023 applications for exemption if they determine that the application is incomplete.

Procurement Policy for Non-profits with Federal Funding

Uniform Guidance requires non-profits that receive and spend federal monies to have a procurement policy. There are several specific requirements for that policy which made the process cumbersome, so the due date was deferred—twice. But, as of December 2016, there are no more deferrals. Your policy should be board approved and available. Staff involved with procurement for your federal programs need to be familiar with the policy, so training is in order.

Contact us if you would like information about what must be in your policy.

Overtime Rules Suspended for Nonprofits

In late November a federal District Court judge issued a preliminary injunction blocking the Department of Labor's new overtime pay mandate. These were scheduled to go into effect December 1 and would have required the payment of overtime to more workers based on their pay level.

As a result of this injunction, nonprofits and others will not be required to implement these new rules. Once this case is decided, implementation may be required, so watch for updates if this impacts your organization.



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This month's WebStar Winner is: The Association of Fundraising Professionals, Genesee Valley Chapter

www.afpgv.org

In this newsletter we salute The Association of Fundraising Professionals, Genesee Valley Chapter.

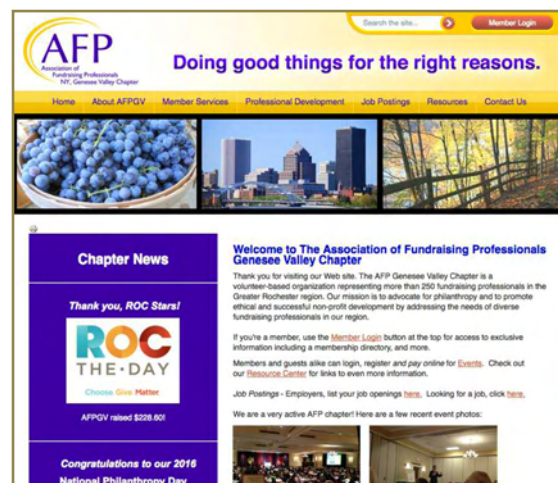
They represent more than 250 fundraising professionals and provide networking, education and other resources.

Their newsletter is full of useful guidance such as:

- Articles like—"Five Tips for Engaging Your Program Staff" with advice about engaging your entire staff in promoting your organization
- "Pearls from the Pros"—fundraising professionals share their best ideas for creating a successful fundraising event.

They also have a strong section devoted to fundraising ethics where virtual advisor, Ethical Ethel, will answer your questions about fundraising ethics.

This is a wonderful local resource for charities.



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