RARICK
FINANCIAL GROUP
Investment and Tax Specialists
56913 Yucca Trail, Ste A Yucca Valley, CA 92284
PH 760-228-1829 FAX 760-369-7360
www.raricktax.com

The Do's and Don'ts for Non-Profit Organizations

IRS Statistics:

	2009	**2016**	**Increase**
Form 990 informational Returns Filed	**398,800**	**455,200**	**2.2%**
Form 990T "UBIT" Returns Filed	**96,200**	**117,000**	**2.8%**

- **Acquire an EIN prior to filing the 1023 to apply for tax exempt status**
- **Once you have your tax exempt status timely file all informational and tax returns**
  - In 2011, about 500,000 organizations had their tax-exempt status automatically revoked for failing to file required reporting documents for three years in a row. Once that status is revoked, it's an expensive and time-consuming process to get it back.
- **Abstain from activities that jeopardize the exemption, such as political activity**
- **the IRS requires that at least 33% of an organization's funding come from a broad mix of the general public. i.e. foundations, business entities cannot provide more that 67% of your funding**
- **Avoid direct competition with for-profit entities: referred to as the "commerciality doctrine"**
  - For example, a not-for-profit drug treatment center once lost its not-for-profit status for having the same rates, hours of operation and advertising as a for-profit center
- **Remain faithful to the causes described in your mission statement**
  - This will be referred to in many of the issues that arise with the IRS
  - If there are significant changes to your organization, update the IRS. such changes would be changes to the number of board members and the duties of a voting board member, officers, and/or key employees

- **Deliver real public benefit**
  - A not-for-profit must maintain real and substantial operations that benefit the general public, not private interests. For example, an organization that provides social welfare services to families in need should not be providing services that personally benefit a board member

- **Carefully manage related-party transactions**
  - No part of the organization's net income can benefit anyone with decision-making authority within the organization. These types of transactions are referred to as "private inurement," and could lead the IRS to conclude that the organization is acting for the benefit of those individuals rather than for public good. insiders should not receive a distribution of funds from the organization except as reasonable payment for goods and services.

- **Provide written substantiation for cash and non-cash contributions valued at** $250 or more

- **Comply with public disclosure requirements.**
  - IRS requires that an organization respond to public information requests by providing a copy of its exempt application and annual tax return to the general public. The not-for-profit can charge a small fee for copying costs and this public copy can hide donor names and contact information.

- **Does tax-exempt status mean I am exempt from all taxes?**
  - No. Just because an organization has received tax-exempt status from the federal government does not mean that it is exempt from state and local taxes, property taxes, payroll taxes or other taxes.
- **Unrelated Business Income**
  - the organization may be subject to federal income taxes if it has $1,000 or more of gross revenue from an unrelated business activity. If the organization has unrelated business income tax "UBIT" generally require that you file an additional tax return called a Form 990-T and make tax payments.

- **What are common sources of taxable income?**
  - There are some common sources of unrelated business income, such as fees from advertisements in your newsletter or website, rental income from debt financed property, or fees earned for providing administrative or clerical services to another organization. In many cases, careful tax planning can help a not-for-profit organization benefit from revenues that can fund mission-related activities while minimizing unrelated business income. For example, newsletter advertising is taxable, but qualified sponsor acknowledgments are not. Therefore, carefully crafted sponsorship agreements that separate the taxable income will result in reduced or eliminated taxable income.
  - For more information on Unrelated Business Income Situations and for more common example refer to the IRS Pub 598.

- **What is a Form 990?**
  - The IRS Form 990 is a type of tax return submitted to the IRS that provides an overview of the organization's financial activities, governance structure and public benefit accomplishments over the past year. It is a way for the IRS to ensure that tax- exempt organizations are indeed operating under their tax-exempt purpose.

- **Do all tax exempt organizations have to file for 990?**
  - With few exceptions (churches), most organizations must file some type of Form 990 but the type of form will vary based on the organization's annual revenue and assets.

- **Can I be under the umbrella of another non-profit?**
  - Yes, you must provide income and expenses in a timely manner. You must have your financial included in the parent non-profits 990 and 990-T

- **Fundraisers**
  - Any fundraiser that raises over $15,000 must be detailed the 990.to do so accurately all revenue and expenses related to the activity must be separately tracked.

- **Does the IRS regulate executive compensation?**
  - Yes and no. While there are no official policies from the IRS governing the amount of compensation that an organization may pay its executives, it can fine organizations that it considers to be paying excessive compensation. Compensation decisions can be difficult. Setting he compensation too high may trigger a penalty from the IRS if they deem the amount excessive, and setting it too low may prevent the organization from retaining top talent. Fortunately, the IRS as set out a "safe-harbor" procedure to use in setting compensation. It is called the "rebuttable presumption," and if followed, will minimize the risk that the IRS will sanction the organization for unreasonable compensation. There are three steps to meet the "rebuttable presumption" safe-harbor provision. First, an independent compensation committee must be responsible for determining and approving executive compensation. Second, compensation should be based on survey of salaries in comparable positions. Third, the committee must maintain written documentation of the meeting decisions. Because the Form 990 includes questions about the process used to approve executive compensation, we also recommend that a not-for-profit protect itself by adopting an Executive Compensation Policy. Implementing an Executive Compensation Policy is another form of protection against audit and/or penalty risk from the IRS.

For additional guidance on Non-Profit compliance

Go to

www.stayexempt.irs.gov

under In-Depth Topics you will find many helpful web-based mini courses