



## Governance of Exempt Organizations

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IRS is attempting to modify the behavior of Non Profits with the release of the new Form 990 in order to restore the public confidence. By supporting IRS Congress has made it very clear that it will act to increase the assurance for the donors that rely on these organizations that their money is being used as it was intended.

October 29, 2009

Dear Nonprofit Member,

We have observed that your charity registration status with **California Attorney General** and Registry of Charitable Trusts is **delinquent**. You can verify the status by conducting a registry search online at <http://ag.ca.gov/charities.php>. We can help you restore that status to active or dissolve the organization if it is inactive. Your exempt status is very valuable and give us a call to preserve it. Following is some general information on filing requirements of an exempt organization.

IRS has revised the **Form 990** for the first time since **1979** in an effort to provide **transparency** and **accountability** and to keep pace with changes in the law and with the increasing size, diversity, and complexity of the tax-exempt sector.

To increase reporting compliance, the revised Form 990 replaces existing un-structured attachments with formal schedules and adds new schedules for reporting foreign activities, non-cash contributions, hospitals and collecting information not previously required.

For the tax year **2008** this newly revised form is required for the organizations whose gross receipts and assets are over **\$ 1 million** and **\$ 2.5 million** respectively. For the tax year **2009** the thresholds are lowered to **\$ 500,000** and **\$ 1.25 million** and for the tax years **2010** and later the thresholds will be again lowered for the gross receipts and assets over **\$ 200,000** and **\$ 500,000** respectively.

Organizations that are below the above thresholds may file **Form 990-EZ** Short Form Return of Organization Exempt from Income Tax.

Organizations with normal gross receipts less than \$25,000 are exempt from the filing requirement, but are required to submit annual electronic notice **Form 990-N (e-postcard)** to IRS. Only a few organizations qualify for exemption from the Form 990 annual return requirement. They include churches, inter-church groups or associations, integrated auxiliaries of a church, as well as any exclusively religious activity of a religious order.

Form 990 must be filed on or before the 15th day of the fifth full calendar month after the close of the annual accounting period. An automatic three-month extension of time is available upon filing Form 8868 by the due date. An organization may apply for another three-month extension of time to file those returns and IRS will generally grant the extension. For calendar year organizations, original due date is **May 15** and an organization will only be allowed a total extension of six months for a return for a tax year so the final deadline is **Nov 15**.

An exempt organization's failure to file the information return required (Form 990) for **three consecutive years** will result in the revocation of the organization's exempt organization status. The same rule applies to small nonprofits who fail to submit the electronic notice required (Form 990-N).

A penalty of \$20 a day (to a total of \$ 10,000) is imposed on an organization and its manager for failure to file an information return, unless reasonable cause is shown. The IRS has held that failure or inability (e.g., inadequate records) to comply its regulations may lead to termination of exempt status. There are also penalties for willful failure to file a return and for filing fraudulent returns and statements.

California exempt organization filing requirements are now identical to those for filing IRS Form 990, except for homeowner associations exempt under section 23701(t) that file IRS Form 1120 or 1120H. These associations are still required to file FTB Form 199 if gross receipts are more than \$25,000.

Most of the California Nonprofits are required to file Registration/Renewal Fee Report RRF-1 and pay the filing fee annually with Attorney General's Registry of Charitable Trusts.

The new Form 990 includes questions about an organization's governance structure, policies, and practices, as well as additional schedules that call for information concerning the internal and external operations of the charity. Organizations should take several steps to prepare for the redesigned Form 990 and to ensure that they have proper policies and procedures in place to comply with stricter guidelines. First and foremost, all organizations should move quickly to educate their board members and key employees about the new requirements.

NOTE: This newsletter is issued to provide you with information to comply with IRS and other filing requirements. Be aware that the tax laws contain varying effective dates and numerous limitations and exceptions that cannot be summarized easily. Do not apply this general information to your specific situation without additional details. For details and guidance in applying the above rules to your individual circumstances, please contact us.

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