

TAX ALERT

**CHARITABLE ORGANIZATIONS UPDATES
AND REMINDERS FOR 2011**

Federal Filing Requirements Every 501(c)(3) organization is required to file an annual information return with the Internal Revenue Service. The type of return to be filed is dependent upon the annual receipts of the organization for the year of filing. The following table contains the guidelines for tax years ending on or before December 31, 2010:

<i>2010 Tax Year and later (Filed in 2011 and later)</i>	<i>Form to File</i>
Gross receipts normally \leq \$50,000	990-N
Gross receipts $>$ \$50,000 and $<$ \$200,000, and Total assets $<$ \$500,000	990-EZ or 990 (Must include Schedule A, and all other relevant Schedules)
Gross receipts \geq \$200,000, and/or Total assets \geq \$500,000	990 (Must include Schedule A, and all other relevant Schedules)

The IRS no longer mails tax packages, however, you may obtain the correct form by going to the IRS website: www.irs.gov. The 990-N is not a form, but is rather an electronic postcard that is filed only through the IRS website.

The form or e-postcard is due every year by the 15th day of the 5th month after the close of your tax year. For example, if your tax year ended on December 31, the e-Postcard is due May 15 of the following year. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.

An organization that fails to file for three consecutive years will automatically lose its exempt status. In addition, the Organization may also have to file (i) Form 990-T, Exempt Organization Business Income Tax Return, if it has unrelated business income, and (ii) payroll tax returns, if it has employees.

State Filing Requirements.

Solicitation Registration. If your organization is soliciting donations in Pennsylvania then your organization must make an annual charitable registration filing with the Pennsylvania Bureau of Charitable Organizations if it solicits and receives gross contributions (nationwide) in excess of \$25,000 in any one year¹. Once the registration is filed, it must be renewed each year. Registrations and renewals are due at the same time as your applicable federal filing. Additional requirements may apply if a professional fundraiser is utilized.

¹ Some specific types of organizations such as religious, hospital and educational institutions are exempted from the registration requirements if they meet particular criteria.

TAX ALERT

You can find additional information, including a Registration Packet at <http://www.portal.state.pa.us/portal/server.pt/community/charities/>.

Note: You may need to provide financial statements audited by an independent certified public accountant as part of your registration. Please refer to the following table.

Gross Contributions	Type of Financial Statements Required
less than \$50,000	Internally Prepared, Compiled, Reviewed, or Audited
\$50,000 to less than \$100,000	Compiled, Reviewed or Audited
\$100,000 to less than \$300,000	Reviewed or Audited
Greater than \$300,000	Audited

If your organization is registered, then on every printed solicitation or written confirmation, receipt and reminder of a contribution, the following statement must be conspicuously printed verbatim:

The official registration and financial information of (insert the legal name of the charity as registered with the department) may be obtained from the Pennsylvania Department of State by calling toll free, within Pennsylvania, 1 (800) 732-0999. Registration does not imply endorsement.

If active solicitation is occurring in states other than Pennsylvania, the laws of those states should be examined for any solicitation registration requirements. You can find additional information, including forms at www.multistatefiling.org

The following information should be disclosed in any solicitation materials:

- The organization's legal name and address as it appears on the Articles of Incorporation, and, if different, the legal name and address of the charitable organization on whose behalf the solicitation is being conducted. Any use of a project or program name in a solicitation must be immediately followed by a disclosure of the legal name of the charitable organization.
- The name and address or telephone number of a representative to whom inquiries could be addressed.
- A full and fair description of the charitable purpose or purposes for which the solicitation is being made, and a source from which written information is available.

Purely Public Charity Registration. If your organization is not soliciting contributions in Pennsylvania, but is located in Pennsylvania you are required to file an "Institution of Purely Public Charity Registration Statement" unless your organization receives contributions of

TAX ALERT

less than \$25,000 per year and provided that the organization's program service revenue does not equal or exceed \$5,000,000². The form is available at the website noted above.

Annual Report and Change of Address. On or before April 30 of each year where there has been a change in corporate officers during the preceding calendar year, an Annual Report form should be filed with the Pennsylvania Department of State.

In addition, if your organization has changed its location, you may need to update your registered office with the Secretary of State.

These and other corporate forms may be found at:

www.dos.state.pa.us/portal/server.pt/community/corporations/.

Other States: Generally, any nonprofit conducting a charitable solicitation within the borders of a state, by any means, is subject to that state's law and is therefore required to register (and must do so before soliciting). Also, generally, the operative terms "charitable" and "solicitation" are defined very broadly and could include, for example, a website posting by an environmental organization inviting contributions from the public. Most states have registration and annual filing requirements similar to those of Pennsylvania described above. You can locate the website to review the filing requirements for your state by going to: http://www.multistatefiling.org/index.html#yes_states and choosing your state. The Multi-State Filer Project attempts to keep all website links up to date, however, if you cannot locate the necessary information, please contact us for assistance.

Substantiation Requirements. Your donors will not be able to deduct contributions made to your organization, unless there is compliance with certain substantiation requirements. A donor cannot claim a tax deduction for any single contribution of \$250 or more unless the donor obtains a contemporaneous, written acknowledgment of the contribution from the recipient organization. An organization that does not acknowledge a contribution incurs no penalty; but, without a written acknowledgment, the donor cannot claim the tax deduction. Although it is a donor's responsibility to obtain a written acknowledgment, an organization can assist a donor by providing a timely, written statement containing the following information:

1. the name of organization;
2. the amount of any cash contribution;
3. a description (but not the value) of any non-cash contribution; and
4. a statement that no goods or services were provided by the organization in return for the contribution, if that was the case **or** a description and good faith estimate of the value of goods or services, if any, that an organization provided in return for the contribution, as the case may be.

² There is also an exception for religious institutions that meet specific criteria.

TAX ALERT

It is not necessary to include either the donor's social security number or tax identification number on the acknowledgment.

A separate acknowledgment may be provided for each single contribution of \$250 or more, or one acknowledgment, such as an annual summary, may be used to substantiate several single contributions of \$250 or more. There are no IRS forms for the acknowledgment. Letters, postcards, or computer-generated forms with the above information are acceptable. An organization can provide either a paper copy of the acknowledgment to the donor, or an organization can provide the acknowledgment electronically, such as via an e-mail addressed to the donor.

Separate contributions of less than \$250 will not be aggregated. An example of this could be weekly offerings to a donor's church of less than \$250 even though the donor's annual total contributions are \$250 or more.

A good rule of thumb is to send written acknowledgments to donors no later than January 31 of the year following the donation. For the written acknowledgment to be considered contemporaneous with the contribution, a donor must receive the acknowledgment by the earlier of: the date on which the donor actually files his or her individual federal income tax return for the year of the contribution; or the due date (including extensions) of the return.

The acknowledgment must describe goods or services an organization provides in exchange for a contribution of \$250 or more. It must also provide a good faith estimate of the value of such goods or services because a donor must generally reduce the amount of the contribution deduction by the fair market value of the goods and services provided by the organization. Goods or services include cash, property, services, benefits or privileges. However, there is an exception for "insubstantial goods or services." Good and services are considered to be insubstantial if the payment occurs in the context of a fund-raising campaign in which a charitable organization informs the donor of the amount of the contribution that is a deductible contribution, and:

1. the fair market value of the benefits received does not exceed the lesser of 2 percent of the payment or \$96, or
2. the payment is at least \$48, the only items provided bear the organization's name or logo (e.g., calendars, mugs, or posters), and the cost of these items is within the limit for "low-cost articles," which is \$9.60.

Free, unordered low-cost articles are also considered to be insubstantial. For example: if a charitable organization gives a coffee mug bearing its logo and costing the organization \$9.60 or less to a donor who contributes \$48 or more, the organization may state that no goods or services were provided in return for the \$48 contribution. The \$48 is fully deductible. (The dollar amounts are for 2010. Guideline amounts are adjusted for inflation. Contact IRS Exempt Organizations Customer Account Services at (877) 829-5500 for annual inflation adjustment information.)

An annual membership benefit is also considered to be insubstantial if it is provided in exchange for an annual payment of \$75 or less and consists of annual recurring rights or privileges, such as: (i) free or discounted admissions to the charitable organization's facilities or events; (ii) free or

TAX ALERT

discounted newsletters and publications; or (iii) free or discounted admission to member-only events sponsored by an organization, where a per-person cost (not including overhead) is within the “low-cost articles” limits. For example: if a charitable organization offers a \$75 annual membership that allows free admission to all of its weekly events, plus a \$20 poster, a written acknowledgment need only mention the \$20 value of the poster, since the free admission would be considered insubstantial and, therefore, would be disregarded.

IRA Charitable Rollover Included in Final Tax Bill: Included in the “Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010,” (the “Act”) signed by President Obama on December 17, 2010 is the provision for the IRA (Individual Retirement Account) Charitable Rollover. Individuals over age 70 ½ may continue to make direct contributions from their IRA to qualified charities without owing any income tax on the distribution for 2010 and 2011. The distribution may be used to satisfy any applicable minimum required distribution, and is limited to a maximum amount of \$100,000 per year. Individuals who make IRA charitable rollover gifts in January 2011 may count those gifts toward the 2010 tax year.

State Associations of Nonprofit Organizations: The National Council on Nonprofits has a national network of thirty-eight state membership organizations serving and advancing the charitable nonprofit sector through leadership, advocacy, education and other services in order to improve the overall quality of life in Pennsylvania. If you have not already done so, we would encourage you to become a member of the organization in your state. You can locate your state association by going to <http://www.councilofnonprofits.org/find-your-sa>.

We hope you find this general information useful. If you have any questions about your annual filing requirements or any other matter of general administration, please do not hesitate to contact a member of our Nonprofits Group.

*This Update is intended to keep readers current on matters affecting charitable organizations and is not intended to be legal advice. If you have any questions, please call **Jennifer L. Rawson** at 412.566.678, **Roberta Jacob-Meadway** 215.851.8522, **Clifford A. Pastel** 412.566.618, **Gregory H. Teufel** 412.566.597, **Michael J. Herzog** 412.566.6130 or any other attorney with whom you have been working.*

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