

Legacy Advisor

Summer 2008 Issue No. 08-2

NOT-FOR-PROFIT ORGANIZATIONS

Consent Agendas



Craig Resch, CPA

The efficiency and effectiveness of board meetings are critical to your organization. Board meetings should be used to analyze an organization's current situation and to set the direction for the future, yet often

times the precious minutes (or hours) of board meetings are spent discussing or voting on issues that are strictly administrative in nature that will be approved unanimously. More and more boards are turning to the use of consent agendas to reduce the time allocated to these routine or uncontroversial agenda items.

Consent agendas are an efficient way to approve the last meeting's minutes, accept committee reports, inform the board of any reports or documents that do not necessitate action, or update simple organizational documents that require the board's approval, just to name a few examples.

There are a few cases in which consent agendas should certainly not be used, however. Consideration of the organization's audit and any related findings should never be relegated to the consent agenda. Any committee recommendations that

are not routine should also be kept off the consent agenda, as the whole board should understand and have the opportunity to delve deeper into such decisions.

If your organization elects to use consent agendas as a way to make the board meetings more strategic and less administrative, be certain to educate your board on the necessity of reviewing the agenda and supporting documents prior to the meeting. Also, note in the board meeting minutes that the consent agenda was approved unanimously and also if any items were removed from the consent agenda and dealt with separately. Be sure to save any supporting materials as well.

Consent agendas cover items that are not controversial to your organization or your board members, however, these items are still important actions to your auditor. Be prepared to show your auditor copies of your consent agendas and any supporting documents.

If you have questions on consent agendas, please feel free to contact us.

*By Craig Resch, CPA, Partner
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Legacy News

Rose G. Doherty, CPA, the head of the Firm's Not-for-Profit Practice Group, will once again attend the AICPA National Not-for-Profit Industry Conference. The Conference is the largest, most comprehensive and most advanced national not-for-profit forum, and it will be held this year on June 18-20 at the Gaylord National Hotel in the Washington, D.C. area. Hot topics of this year's Conference include: A-133 Auditing Update, Revised Form 990 – IRS Final Action, New Risk Standards: How Changes Impact Audits, FAS 157 Implementation, and Contract Traps.

Rose Doherty also serves as the Chairperson of the Roundtable Subcommittee of the Illinois CPA Society's Not-for-Profit Committee. The Roundtables create opportunities for financial professionals involved with nonprofit organizations, on both the public accounting and the organization side, to network, learn and share information on current issues impacting nonprofits. Please contact Rose if you have questions about the Roundtables.

Legacy maintains its commitment to Association Forum of Chicagoland as Rose Doherty continues to serve on Forum's Content Committee, and Marketing Director Julie Tucek continues her service on the Holiday Showcase Exhibitor Working Advisory Group. Julie has also joined the Supplier Partner Working Group. Keep an eye out

continued on page 4

On the Inside...

Election Laws for 501(c)(3) Organizations	2
Safeguarding Your Mailing Lists	2
IRS Issues Draft Instructions for Form 990	3
Did You Know...?	3

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Election Laws for 501(c)(3) Organizations



Derek Brown, CPA

Mid-April, the Internal Revenue Service (IRS) announced that its Political Activities Compliance Initiative (PACI) is in effect again for the 2008 election season. PACI works to educate 501(c)(3) organizations (charitable, educational, or religious organizations) that by law, they are not to “participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

According to Lois Lerner, Director of the Exempt Organizations Division of the IRS, PACI will closely monitor areas revolving around: issue advocacy that may be linked to a particular candidate; internet links between a 501(c)(3)'s website and a candidate; political contributions by 501(c)(3)s; and whether political activity of 501(c)(4) organizations (civic leagues and social welfare organizations) is being appropriately taxed.

With respect to internet links, PACI will focus on context and the electronic proximity or number of “clicks” that separate the website from political material. PACI will treat links to related organizations differently than links to unrelated organizations and for now will not pursue cases involving links between 501(c)(3)s and the home page of a related 501(c)(4).

Although 501(c)(3)s have been barred from political campaign activity for over half a century, PACI still makes a considerable effort to ensure that charitable organizations do not jeopardize their tax-exempt status. News releases, letters, and other reminders have been distributed to 501(c)(3)s, political parties, and candidates to ensure compliance with the campaigning laws.

However, it should be noted that 501(c)(3)s are permitted to advocate for or against issues and, to a limited extent, ballot initiatives or other legislative activities.

PACI will continue to use existing enforcement procedures, including utilizing career IRS employees who are considered experts in this area of the tax law to determine which cases should be further investigated. The focus is said to be on egregious violations.

As in past years, the IRS will issue a report on the 2008 election year that will be based on the experience of prior elections. The IRS will solicit the assistance of the 501(c)(3) community to identify which areas need further guidance.

If you have questions on what your 501(c)(3)s can or cannot do in regards to campaigning, visit the IRS's website to read the “program letter” or feel free to contact us.

*By Derek Brown, CPA, Manager, Chicago office
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Safeguarding Your Mailing Lists



Sheila Kennedy

Please be aware that if your organization actively sells its mailing lists, that income is subject to Unrelated Business Income Tax (UBIT). However, if the lists are not sold actively, but rather, passively, then they are not subject to UBIT. The difference is open to interpretation, but actions that make the distribution of the list more active include mentioning that the list is available for sale on your website or in other publications.

Furthermore, we recommend that unless your organization maintains complete control of your lists, you should “salt” your list. “Salting” is done by inserting a few bogus names on a list. Some organizations will use a few employees' contact information and give them a

different middle name, for example. When that employee receives a mailing addressed to the fictitious name from an organization that did not pay for the list, you know that it has been used surreptitiously, and you should contact your lawyer. Any organization would benefit from “salting” mailing lists, since the last thing you want to do is put your good name in jeopardy with unauthorized use of member data.

If you have questions on how to keep your lists from being exploited, or whether or not you have received income that is subject to UBIT, we encourage you to contact us.

*By Sheila Kennedy, Senior Accountant, Chicago office
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IRS Issues Draft Instructions for Form 990



Rose Doherty, CPA

Legacy News Flash 08-3 is reprinted below:

On April 15, 2008, the Internal Revenue Service (IRS) released draft instructions for the redesigned Form 990, which was unveiled in December 2007. Form 990 must be filed annually by tax-exempt organizations, including nonprofit charities, trade and professional organizations, hospitals and universities. The new Form will need to be filed starting with 2008 tax years, and it will require more disclosure about matters such as executive compensation, governance, and program service accomplishments.

The draft instructions include general instructions for Form 990 followed by specific instructions for each part of the Form. There is a list detailing the order in which each of the parts of the Form should be filled out. The draft instructions also outline the types of organizations that have to file a Form 990, a Form 990-N, a Form 990-EZ or none of the aforementioned.

The IRS has also released a list of the highlights of the instructions included with the general draft instructions which can be viewed on the tax-exempt area of the IRS's website at <http://www.irs.gov/charities>. We will keep you

updated on any developments on the redesigned Form 990 and the corresponding instructions. If you have any questions regarding the Form or the instructions, please feel free to contact us.

Update on Form 990-N

The first Forms 990-N are due this year, 2008, for tax years ending on or after December 31, 2007. Form 990-N, also known as the e-Postcard, is due every year by the 15th day of the fifth month after the end of your tax year. So, if your tax year ends June 30, 2008 the e-Postcard is due November 15, 2008. The e-Postcard must be filed by most small tax-exempt organizations with gross receipts that typically total \$25,000 or less. If your organization has chapters or such subordinate groups, this may apply to them. The first Forms 990-N were already due (December 31, 2007 year-ends should have filed the e-Postcard by May 15, 2008), but the IRS's goal is to get these small organizations to file, so do not let this missed deadlines put you into hiding. We can help with late filings or any other questions; just contact us.

By Rose Doherty, CPA, Partner, Chicago office
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Did you know...?



Bob Grogan, CPA

■ Filing for an extension does not increase your likelihood of an IRS audit. Although it is a common misconception that an extension is a bad thing, rather, it can actually save your organization from late filing penalties and possibly having to amend later. Extensions allow for additional time to properly prepare the most complete and correct form.

■ Organizations subject to ERISA may need to have their 403(b) plans' financial statements audited starting with plan years beginning on or after January 1, 2009.

Although not previously required, 403(b) plans with more than 100 eligible participants as of the beginning of the plan year will now have the same annual reporting requirements as any other pension plan.

■ Legacy Professionals LLP also has a significant employee benefit plan practice. Our Firm audits over 300 employee benefit plans, including pension, 401(k), 403(b), and health plans. In addition to our extensive audit practice in the employee benefit area, we also assist our clients in the preparation and filing of Form 5500. So, if your plan needs a qualified firm with decades of experience in employee benefit plan audits, or if you know someone else who does, do not hesitate to speak with us. Please contact our Marketing Director, Julie Tucek, at 312-384-4292 or jtucek@legacypas.com.

By Bob Grogan, CPA, Senior Manager, Chicago office
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Legacy News continued from page 1

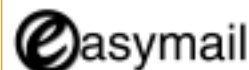
for Legacy's advertisements in *FORUM* Magazine and additional sponsorships of Forum's e-publication, *This Week at Forum*, as well. As always, we plan to exhibit at Association Forum's 20th Holiday Showcase on December 16, 2008.

You more than likely received *News Flash 08-3: IRS Issues Draft Instructions for Form 990* in the mail a few weeks ago. The *News Flash* has also been reprinted in this issue for your convenience. All *News Flashes* and *Legacy Advisor* newsletters are also posted on our website in the *Publications* section for your viewing at any time. If you would like to receive *News Flashes* or the *Legacy Advisor* via email in addition to, or instead of in the

mail, please forward your email address to info@legacycpas.com. Also, if you have changed location or have taken a new position, please forward your new mailing information to us so that you may continue to receive our publications.

This issue was edited by Rose G. Doherty, CPA. Rose can be reached at 312-384-4223 or rdoherty@legacycpas.com.

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