

Arizona Non-Profit (Tax-Exempt) Organizations

Registration & Reporting

by John E. McEnroe, Jr.

Introduction

Arizona non-profit organizations may need to look in the rear view mirror. You may have passed a registration or filing requirement without realizing it! For example, charities operating in Arizona must be registered and file annual reports with the Office of the Arizona Secretary of State. The reports were due in September. Being tax-exempt doesn't diminish the paperwork. Let's take a look at some of the non-payroll requirements.

Does Non-Profit Really Mean Tax-Exempt?

'It depends'. Generally, 'non-profit' doesn't automatically mean 'tax-exempt'. Organizations desiring tax-exempt status must apply for exemptions, file reports, and expect public scrutiny. Even if considered 'tax exempt', there are varying degrees of tax exemption.

The Internal Revenue Service

Non-profit, charitable organizations seeking tax-exempt status for federal income tax purposes under Section 501 (c)(3) of the Internal Revenue Code must apply to the Internal Revenue Service (IRS) www.irs.gov/eo and receive a favorable letter of determination. Tax-exempt organizations must file annual returns such as Form 990 'Return of Organization Exempt from Income Tax', Form 990 Schedule A and B, and possibly Form 990 T if the organization has 'unrelated business income'. Unrelated business income (UBI) is a very complex subject and is an example of 'tax exempt' not meaning 'exempt from taxes'. Most information in the returns is public information.

The Arizona Department of Revenue

For information on Arizona tax-exempt organizations, the Arizona Revised Statutes (A.R.S.) www.azleg.state.az.us, Title 43-Taxation of Income, Chapter 12-Tax Exempt Organizations, is a good place to start. A.R.S. 43-1201 and 43-1242 cover organizations exempt from tax and requirements for information returns. A.R.S. 43-1231 and 43-1241 discuss the taxation of unrelated business income. Organizations exempt from federal income tax under Section 501 of the Internal Revenue Code are exempt the tax imposed under Title 43. Arizona also exempts other organizations listed in 43-1201.

The Arizona Department of Revenue (Department) www.revenue.state.az.us does not generally require that a non-profit organization also apply to the Department to confirm exemption from state income tax; however, organizations must have a favorable determination letter from the IRS. Organizations exempt under 43-1201 (exceptions listed in 43-1242) must annually file Arizona Form 99, 'Arizona Exempt Organization Annual Information Return' or they may file IRS Form 990. In another example of 'tax-exempt' not always meaning 'exempt from taxes', organizations exempt from taxation under 43-1201 with unrelated business income (Section 512 of the Internal Revenue Code) are subject to the tax imposed under 43-1111 and need to file Arizona Form 99-T, 'Arizona Exempt Organization Business Income Tax Return' and pay any taxes due.

Non-profit organizations, exempt from federal and state income tax, are not automatically exempt from Property Tax, state or city Transaction Privilege tax (sales tax), county Excise Tax, or state or city Use Taxes.

Arizona imposes a Transaction Privilege and Use Tax on seventeen separate business classifications. Certain tangible personal property and retail sales transactions are exempt from the state's Transaction Privilege tax. In general, sales made to churches, schools, and other non-profit organizations are taxed. Organizations may need to apply to the Department for exemption from Arizona's Transaction Privilege Tax. They may need to re-apply annually for a letter of exemption. Information can be found in the A.R.S., Title 42, Chapter 5 and in Title 15, Chapter 5 of the Arizona Administrative Code.

The Office of the Arizona Secretary of State, Charitable Organizations

The Office of the Arizona Secretary of State (Secretary) www.sos.state.az.us and www.sos.state.az.us/business_services/Charities.htm provides the public with specific information on charities and on organizations or individuals that solicit for charities. The public can also obtain information on tax credit contributions to Section 501 (c)(3) organizations or designated community action agencies.

A.R.S. 44-6552 requires that a charitable organization file a registration statement with the Secretary prior to soliciting its first contribution. At the time of the initial registration, a Section 501 (c)(3) organization must also submit a copy of the IRS's written determination. The statute requires charitable organizations to file registration statements annually each September. These filings are public information.

A.R.S. 44-6552 also requires that 501 (c)(3) organizations file annual financial disclosure information with the Secretary. Section 501 (c)(3) organizations may either file a copy of the organization's annual (IRS) information return or provide the Internet address where the return is available. The Secretary has also made available a financial disclosure form. Religious institutions are required to file a registration statement. Those meeting requirements in A.R.S. 44-6552 do not need to file financial disclosure information.

Failure to file registration statements may result in penalties. A.R.S. 44-6552 further authorizes the Secretary to deny applications for registration of the name of a charitable organization and the Secretary may also deny or revoke registration of a charitable organization.

A.R.S. 44-6553 provides certain exemptions from the registration requirements of A.R.S. 44-6552 including exemption of the State of Arizona and counties or municipalities in Arizona. It also exempts political parties, candidates for federal, state, or local office and campaign committees.

Non-profit organizations need to be very vigilant when using contracted fundraisers. A.R.S. 44-6554 requires that Contracted Fundraisers be registered and re-register annually. Contracted Fundraisers must also file campaign financial reports, be bonded, and file solicitation notices with the Secretary prior to a campaign. Don't expect, inspect.

Arizona Counties & Municipalities

Some governmental or charitable organizations may qualify for Property Tax Exemptions. Take the initiative and contact your county assessor. Organizations seeking information on city Transaction Privilege and Use taxes must contact the appropriate city.

Other Auditing and Reporting Requirements

Non-profit organizations may be subject to other auditing and reporting requirements. Many non-profit organizations require independent audits. These audits are normally conducted in accordance with auditing standards generally accepted in the USA. Some organizations will be audited using the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. In general, SFAS No. 117, *Financial Statements of Not-for-Profit Organizations* is the basis for financial statement presentation.

The source of the organization's funding may dictate reporting requirements. Organizations receiving government grants may need to have annual audits including special audit reports on compliance and internal controls. These organizations may also have to file data collection forms and a reporting package with the Federal Audit Clearinghouse, Bureau of the Census. Organizations accepting contributions should comply with SFAS No. 116, *Accounting for Contributions Received and Contributions Made*.

Non-profit organizations receiving grants from charitable foundations are usually required to submit proposals and budgets and to provide periodic financial and operating reports. Lenders may dictate certain auditing and reporting requirements. Agencies partnering with the United Way must meet several responsibilities to participate and receive funds.

Summary

Arizona non-profit organizations face a multitude of federal, state, and other registration and filing requirements. Organizations must be diligent in monitoring compliance and should seek outside assistance if in-house staff is not familiar with the myriad of responsibilities. The Arizona Society of CPAs Not-For-Profit Special Interest Section has posted website links at www.ascpa.com.

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