

Henderson Caverly & Pum LLP

NONPROFIT ORGANIZATIONS NEWSLETTER
August 2017

NEW FIRM NAME!

We are excited to announce that effective July 28, 2017, the Firm changed its name to Henderson, Caverly & Pum LLP. The Firm will continue to operate in its current structure, there is no change in ownership and no change in staff. Our office locations, telephone and fax numbers remain the same.



NONPROFIT ORGANIZATIONS PRACTICE WEBSITE!

Our Nonprofit Organizations Group recently released a website specific to the Firm's nonprofit practice. Check us out at [http://www.californianonprofitlaw.com/!](http://www.californianonprofitlaw.com/)

UNRELATED BUSINESS INCOME TAX

Even though an organization is recognized as tax exempt, it still may be liable for tax on its unrelated business income. For most organizations, unrelated business income is income from a trade or business, regularly carried on, that is not substantially related to the charitable, educational, or other purpose that is the basis of the organization's exemption. An exempt organization that has \$1,000 or more of gross income from an unrelated business must file IRS Form 990-T. An exempt organization must pay estimated tax if it expects its tax for the year to be \$500 or more.



The obligation to file IRS Form 990-T is in addition to the obligation to file the annual information return, Form 990, 990-EZ or 990-PF. Each organization must file a separate Form 990-T, except title holding corporations and organizations receiving their earnings that file a consolidated return under Internal Revenue Code section 1501.

Unrelated Business Income Tax Returns

Due Date: For most organizations, Form 990-T is due annually by the 15th day of the 5th month after the end of its tax year. For more detailed information about filing requirements and procedures, see the [Form 990-T instructions](#).

Rate of Tax: All organizations subject to UBIT, except trusts, are taxable at corporate rates on that income. All exempt trusts that are subject to these provisions, and that, if not exempt, would be taxable as trusts, are taxable at trust rates on unrelated business taxable income. However, an exempt trust may not claim

the deduction for a personal exemption that is normally allowed to a trust.

Public Disclosure: An organization exempt under Internal Revenue Code section 501(c)(3) must make available for public inspection and copying any Form 990-T filed after August 17, 2006. These returns are also available from the Internal Revenue Service. Returns must be made available for a three-year period beginning with the due date of the return (including any extension of time for filing). For this purpose, the return includes any schedules, attachments, or supporting documents that relate to the imposition of tax on the charity's unrelated business income (and not to a form filed for another purpose, such as to obtain a refund of erroneous back-up withholding or a small business health care credit). See Public Inspection and Disclosure of Form 990-T for more information.

Filing of Form 990 and Form 990-T: The IRS advises exempt organizations and persons who prepare returns for them that an organization's annual return and its unrelated business income tax return should be mailed in separate envelopes.

Unrelated Business Income Tax Exceptions and Exclusions

The Internal Revenue Code contains a number of modifications, exclusions, and exceptions to unrelated business income. For example, dividends, interest, certain other investment income, royalties, certain rental income, certain income from research activities, and gains or losses from the disposition of property are excluded when computing unrelated business income. In addition, the following activities are specifically excluded from the definition of unrelated trade or business:

- **Volunteer Labor:** Any trade or business in which substantially all the work is performed for the organization without compensation is excluded. Some fundraising events, such as volunteer operated bake sales, may meet this exception.
- **Convenience of Members:** Any trade or business that is carried on by an organization described in section 501(c)(3) or by a governmental college or university primarily for the convenience of its members, students, patients, officers, or employees is excluded. A typical example of this type of business is a school cafeteria.
- **Selling Donated Merchandise:** Any trade or business that consists of selling merchandise, substantially all of which the organization received as gifts or contributions is excluded. Many thrift shop operations of exempt organizations would meet this exception.
- **Bingo:** Certain bingo games are not unrelated trade or business.

For additional information, see IRS Publication 598 Tax on Unrelated Business Income of Exempt Organizations, and the IRS' Internal Revenue Manual regarding Unrelated Trade or Business and Taxation of Unrelated Business Income. You may also visit the IRS' Stay Exempt website to view the Unrelated Business Income Course.

If you have questions regarding unrelated business income tax and your nonprofit organization, please contact our office.



ATTORNEY GENERAL CHARITY REGISTRATION ONLINE RENEWAL SYSTEM

Charities may now use the Attorney General's registration online renewal system. The renewal system may only be used by charity registrants in current (good) standing with the Registry of Charitable Trusts to submit annual renewal data and supporting documentation in lieu of mailing Attorney General Form RRF-1 and supporting documentation. Organizations with delinquent status must complete and file Form RRF-1 via U.S. mail and submit any other delinquent forms to the Registry. For information to cure a delinquency, please see the Attorney General's website.

The online renewal system may not be used for initial charity registration, raffle nor fundraising professional registrations, nor to satisfy the renewal or reporting requirements of raffle registrants or fundraising professionals. Raffle registrants and fundraising professionals must register, renew and report

by U.S. mail.

All charitable corporations, unincorporated associations, trustees, or other persons holding assets in trust for charitable purposes must register with the Attorney General's Registry of Charitable Trusts within 30 days of initially receiving assets (funds, property, etc.) in/from California. For additional information and registration forms, see the [Attorney General's website](#).

If your organization needs assistance in registering or curing a delinquency with the Attorney General's office, please contact our office.



To access our past newsletters, visit <http://www.hcesq.com/hcesq/exempt-organizations-newsletters/>.



San Diego (Main office): 12750 High Bluff Drive, Suite 300, San Diego, CA 92130

Rancho Santa Fe (by appointment): 16236 San Dieguito Road, Suite 3-10, Rancho Santa Fe, CA 92067

Los Angeles (by appointment): US Bank Tower, 633 W. 5th Street (26th Floor), Los Angeles, CA 90013

Phone: (858) 755-3000 | Email: JGrissom@hcesq.com | Fax: (858) 755-9900

Visit our Nonprofit Organizations Practice website

Legal Disclaimer: This newsletter is prepared for informational purposes only and should not be construed as legal advice. Its contents should not be acted upon without specific professional advice from legal counsel. Transmission of this information is no intended to create, and receipt does not constitute, an attorney-client relationship.