

Henderson & Caverly Pum Charney LLP

NONPROFIT ORGANIZATIONS NEWSLETTER

June 2017

CALIFORNIA ATTORNEY GENERAL

OVERSIGHT OF CHARITIES

The Attorney General regulates charities and the professional fundraisers who solicit on their behalf. The purpose of this oversight is to protect charitable assets for their intended use and ensure that the charitable donations contributed by Californians are not misapplied and squandered through fraud or other means. The main elements of the Attorney General's regulatory program are:



- The attorneys and auditors of the Charitable Trusts Section investigate and bring legal actions against charities and fundraising professionals that misuse charitable assets or engage in fraudulent fundraising practices.
- The Registry of Charitable Trusts administers the statutory registration program. All charitable trustees and fundraising professionals are required to register and file annual financial disclosure reports with the Registry. In addition, nonprofit organizations that conduct raffles for charitable purposes are required to register and file an annual financial report. Charitable trustees, see [General Guide for Initial Registration](#). Commercial fundraisers, see [Commercial Fundraiser Forms](#). Nonprofits seeking to hold raffles, see [Nonprofit Raffle Program Forms](#).
- To help charities stay within the law, the Attorney General makes available various guides and publications, including the [Attorney General's Guide for Charities](#). Additional guidance for charities is available on the Attorney General's [Publications](#) and [Resources](#) pages.
- The Attorney General also offers guidance to help Californians make important personal decisions on charitable giving. These resources include the [Guide to Charitable Giving for Donors](#) and searchable databases to learn about specific charities and charitable fundraising professionals in the state. Among the databases are [Registry Search](#), for registrants generally, and [CFR Search](#), which provides information and documents regarding commercial fundraisers for charitable purposes.

Charity Research Resources

The Registry Verification Search tool allows a registrant's public filings to be viewed and downloaded from the Registry database. These public filings include a copy of the annual informational return (Forms 990, 990-PF, and 990-EZ) filed with the Registry, as well as registration forms and documents that organizations are required to file with the Registry of Charitable Trusts.

Notice to Attorney General in Probate Matters

The Attorney General's office must be given notice of any matter involving a gift to charity, assets held in

charitable trust, disposition or gifts of assets to an unnamed charitable beneficiary or property that may escheat to the State of California. For a summary of statutes that require notice to the Attorney General, please refer to the [Notice Requirements](#).

Notice to or Request of Waiver from the Attorney General Before Taking Certain Actions

California law requires directors of charitable corporations to give notice or obtain consent from the Attorney General before taking certain actions. The following are transactions requiring notice or Attorney General approval:

- Voluntary dissolution. See [Guide for Dissolving a California Nonprofit Corporation](#).
- Sale or disposal of all or substantially all corporate assets.
- Merger of a public benefit corporation.
- Conversion of a public benefit corporation to a mutual benefit or business corporation.
- Self-dealing transactions.
- Loans to directors/officers of a public benefit corporation.
- Sale or transfer of nonprofit health facilities.

The [Nonprofit Transactions Requiring Notice or Attorney General Approval](#) publication contains detailed information regarding each of the above-identified transactions and providing notice to the Attorney General's office.

If your nonprofit organization needs assistance in registering with or providing notice to or requesting a waiver from the Attorney General's office, please contact our office.



CALIFORNIA ATTORNEY GENERAL TARGETS POLITICAL NONPROFITS

California Attorney General Xavier Becerra recently announced that he plans to target nonprofit groups that mislead donors or improperly spend their money on political campaigns. "I am tired of seeing people abuse the not-for-profit status for their own benefit or for someone's benefit except for those they say are trying to help when they ask you for charitable contributions," Becerra said.

California law prohibits 501(c)(3) organizations that are tax-exempt under state law from supporting or opposing political candidates and engaging in more than insubstantial lobbying.

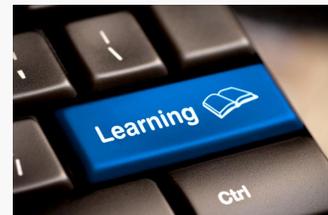
California's campaign finance agency levied \$1 million in fines in 2013 against two secretive nonprofits from Arizona that funneled \$15 million from undisclosed donors into initiative campaigns in California.

"The last thing I think most people want to find out is that all these groups that are getting tax breaks because they are not-for-profit are actually going out there and influencing our political systems," Becerra said. He did not specify which groups he plans to examine.

IRS EXEMPT ORGANIZATIONS UPDATE

In a recent edition of the IRS' Exempt Organization Update, the IRS identified two Podcasts available for viewing by nonprofit organizations. The Podcasts address the following topics:

- **When are Commercial-Type Activities a Substantial Nonexempt Purpose for an IRC 501(c)(3) Organization?** Learn about determining when commercial-type activities further a substantial nonexempt purpose for an IRC 501(c)(3) organization.
- **IRC 501(c)(3) Proposing Denial.** Learn about the five-step roadmap the IRS uses to determine whether proposing denial is appropriate for an organization requesting recognition of tax exemption under IRC 501(c)(3).



An Issue Podcast is a resource the IRS uses for sharing technical knowledge. Each Podcast is a short (approximately 15 minute), on-demand audio and visual presentation that includes:

- A brief summary and analysis of an issue
- Reference to key resource materials

The Podcasts are located on the IRS' [Stay Exempt Issue Podcast](#) website.

MEETING THE NEEDS OF NONPROFITS

The laws governing nonprofit organizations are becoming increasingly complex and specialized. Our attorneys and paralegals are experienced in advising and guiding nonprofit organizations through all stages of development and business needs. Whether you are forming a new nonprofit organization or working for an established organization, our [Nonprofit Organizations Group](#) can assist your organization with its legal needs.



Contact the Chair of our Nonprofit Organizations Group, [Jon Grissom](#), to discuss formation of a charity or legal needs for your existing organization.



For past issues of our Exempt Organizations Newsletter, please visit our [Nonprofit Organizations Practice Group webpage](#).



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