

Henderson Caverly & Pum LLP

NONPROFIT ORGANIZATIONS NEWSLETTER

May 2018

IRS FORM 990 PROCESSING CHANGES & REMINDERS



Form 990 Processing Changes

As of January 8, 2018, the IRS is returning Form 990 series returns filed on paper – and rejecting electronically filed returns – when they are incomplete or the wrong return. IRS.gov answers the question What happens if my Form 990 is missing information or a schedule, or is the wrong return?

Form 990-EZ Reminders

Tax-exempt organizations with annual gross receipts under \$200,000 and assets under \$500,000 (at the end of the reporting period) can use Form 990-EZ, Short Form Return of Organization Exempt from Income Tax, to meet their annual filing requirement. This means an organization will submit less information and fewer schedules than the “full” Form 990, Return of Organization Exempt from Income Tax.

Form 990-EZ includes “assistive” features designed to make filing easier, quicker, and more accurate. These 29 “help buttons” do not replace the instructions, but they do alert the filer to traditionally troublesome areas and have decreased the error rate for paper-filed returns.

The IRS encourages exempt organizations to file electronically, noting the error rate for electronically-filed returns was only 1% for 2017. A list of companies providing this service is on IRS.gov.

Form 990-series returns are due on the 15th day of the fifth month after an organization’s tax year ends. For organizations using the calendar year as their tax year, May 15 is the deadline to file. If you need an extension of time to file, use Form 8868, Application of Extension of Time to File an Exempt Organization Return.

For victims of Hurricane Maria in Puerto Rico and the Virgin Islands, the IRS has postponed the Form 990-series returns filing deadline until June 29.

Form 990 Overview Course

Maintaining 501(c)(3) tax-exempt status is crucial to the success of a charitable organization and most need to submit an annual Form 990-series return. The IRS offers a Form 990 overview course. The course identifies which forms to file and when they are due, and provides tips to help prepare each form.

CONSEQUENCES OF FORGETTING TO FILE CALIFORNIA'S STATEMENT OF INFORMATION

The California Secretary of State imposes a penalty for failure

to file the Statements of Information for the following types of business entities:

- Corporations - annually (statement due once a year)
- Nonprofit Corporations - biennially (statement due once every two years)
- Limited Liability Companies - biennially (statement due once every two years)



These forms are also known as Statement of Officer filings and can be completed online on the SOS website. Statements of Information may be filed online at <http://www.sos.ca.gov/business-programs/bizfile/>.

Penalty Amounts

The Franchise Tax Board will assess the penalty after the business is notified by the Secretary of State of late filing or failure to file. The penalty amount varies depending on the entity.

- Domestic and foreign corporations - \$250 penalty
- Domestic nonprofit corporations - \$50 penalty; applies for any entity incorporated as a nonprofit corporation, whether or not the corporation is tax-exempt
- Domestic and foreign limited liability companies - \$250 penalty

Penalty Waiver or Dispute

Only the Secretary of State can waive the penalty. The Franchise Tax Board is only responsible for the collection of the penalty.

Disputing a Penalty Assessed to a Business Entity

A request to waive the penalty for failure to file the Statement of Information can be submitted in writing to the Secretary of State, Statement of Information Unit – Attention: Penalties, P.O. Box 944230, Sacramento, CA 94244–2300, or you may submit a request online at [Email Penalty Waivers](#).

The waiver request must include an explanation of the reasonable cause or unusual circumstance supporting the business entity's failure to file the required statement timely. Failing to receive a reminder notice to file does not excuse an entity from filing the required statement. Note: If a current statement has not been filed, the waiver request must be accompanied by a completed statement and the applicable filing fee. Online services for submitting the required Statement of Information for all LLCs and for most corporations are available at <http://bizfile.sos.ca.gov> using a credit card. When submitting online, a free PDF copy of the filed Statement of Information will be returned electronically to the submitter following confirmation of payment if an email address is provided at the time of submission.

FTB Suspension or Revocation of Tax Exempt Status

Beyond assessing a penalty, the Franchise Tax Board may suspend your organization, and worst yet, they may revoke your organization's tax exempt status for failure to file. You can check on the status of your organization by visiting the Secretary of State's website. You may search using your corporation name or entity number. The California Business Search provides online access to information for corporations, limited liability companies and limited partnerships of record with the California Secretary of State.

If your organization needs assistance in filing its Statement of Information, correcting a suspended status, or reinstating tax exempt status, please contact us.

FRANCHISE TAX BOARD FILING COMPLIANCE INFORMATION LETTERS

Your organization may receive a reminder, information, or educational letter from the California Franchise Tax Board if the organization has a filing requirement, but did not file.



The FTB receives and processes millions of tax returns each year. In certain circumstances, the FTB proactively contacts taxpayers who appear to have a filing requirement, but have not filed a tax return. As mentioned in the FTB's Tax News articles for December 2017 and March 2018 "Information Letters" and "Informational Letters Continue," the FTB issued information letters as a part of a campaign to bring certain taxpayers into compliance. The letters offer assistance to help taxpayers understand their filing obligations and provide information on

where to go to file.

In early March and April 2018, California—How You Can Help contact letters were sent to certain taxpayers who have not filed a return but may have a filing requirement based on economic indicators.

In mid-April 2018, 2017 Information Returns informational letters and California Filing Requirements educational letters were sent.

- 2017 Information Returns -- Entities who may not have filed required information returns with the FTB.
- California Filing Requirements -- Nonfiling entities, who may not be aware of California law changes.

If your organization received a letter from the FTB and needs assistance in responding, please contact our office.

AUTHORITY OF THE CALIFORNIA ATTORNEY GENERAL'S REGISTRY OF CHARITABLE TRUSTS

Our April newsletter provided a reminder regarding the deadline for the annual Form RRF-1 filing requirement with the California Attorney General's office.

Charitable organizations should be aware that California regulations provide that the Attorney General may refuse, suspend or revoke registration for:

- misuse of charitable assets
- false or misleading statements and/or conduct in connection with a solicitation for charitable purposes
- false or misleading statements in a required filing with a government agency, including the Attorney General, IRS, or Franchise Tax Board ("FTB") - note that the omission of material information in a required filing, like a redacted schedule of contributors (Schedule B, Form 990) filed with the Attorney General's office, constitutes a false or misleading statement
- failure to comply with statutory Standards of Conduct applicable to directors and managers



Registration is automatically suspended for:

- nonprofit's tax exempt status is suspended or revoked by the IRS or the FTB
- nonprofit fails to file with the Attorney General an annual registration renewal (Form RRF-1), together with a copy of its Form 990, for 3 consecutive years
- nonprofit corporate status is suspended or revoked by the California Secretary of State

Registration is automatically revoked if a nonprofit has been suspended for one year.

California Code of Regulations section 999.9.4 provides that a person or entity subject to the registration requirements of Government Code section 12580 et seq., must be registered and in good standing with the Attorney General's Registry of Charitable Trusts to operate or solicit for charitable purposes. A registration that is delinquent, suspended or revoked is not in good standing and is prohibited from engaging in conduct for which registration is required, including, but not limited to, solicitation for charitable purposes.

Organization's may check the status of their registration by visiting the Attorney General's Registry of Charitable Trusts [Registry Verification search tool](#) and search using the organization's name, employer identification number (EIN), or California Secretary of State entity number.

If your organization requires assistance in curing a delinquency, revocation, or suspension with the Attorney General's Registry of Charitable Trusts, please [contact](#) our office.

NEWS FROM THE IRS



The IRS recently announced that it updated its [Charities and Nonprofits website](#). The EO Select Check received a makeover and is now named the [Tax-Exempt Organizations Search](#). The IRS believes the name change better describes the purpose of the database.

In addition to changing the name, the IRS will expand the information available on the Tax-Exempt Organizations Search. Information from all approved [Form 1023-EZ applications](#) will be made available. The IRS will be adding determination letters approved from all applications dating back to January 1, 2014. Additionally, the IRS will also add the paper-filed Form 990 series images and the XML data from the electronically filed returns for those filed beginning January 18, 2018.

Users will be able to search for specific organizations and there will also be a bulk download available.

- [Visit our Nonprofit Organizations Group Website](#)
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