

Fall/Winter 2013



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Nonprofit News

Indemnification of Trustees, Officers and Employees: What Do You Have? What Should You Have?

By Warren J. Casey

The chairman of the board of trustees has lunch with a prospective trustee, or the board is looking to bring in a new executive director, and the candidate asks, "What are my indemnification protections?" How do you respond? [Read more](#)

Proposed Regulations Provide Guidance on Political Activity for Social Welfare Organizations

By Jennifer M. Pagnillo

On Tuesday, November 26, the Internal Revenue Service and the Treasury Department released proposed new guidance that would affect Section 501(c)(4) organizations – those that are required to have social welfare as a primary purpose. Under the existing rules, such organizations are permitted to engage in an unlimited amount of lobbying and some lesser amount of political activity and are not required to disclose their donor lists, thus permitting wealthy donors to anonymously spend money to influence political campaigns. [Read more](#)

New Personnel File Requirements for Connecticut Employers

By Daniel L. Schwartz

On October 1, amendments to the Connecticut Personnel Files Law went into effect, imposing new requirements on Connecticut employers, including nonprofit organizations, with respect to (a) providing current and former employees with access to their personnel files; (b) notifying employees of discipline and termination documents; and (c) informing employees of their right to submit rebuttals to any performance, disciplinary or termination documents. [Read more](#)

Form 990 Schedule K: Difficult Even for Accountants

By Linda L. D'Onofrio

The accountants or accounting firms hired by nonprofits typically handle nonprofit tax returns — Form 990 and Form 990-T — completely and efficiently. But Form 990's Schedule K: Supplemental Information on Tax-Exempt Bonds often stumps even the best accountants at the best accounting firms. Accountants often send the schedule back to the nonprofit, asking the person responsible for the nonprofit's bond issues to

complete it. The language of and questions asked on the schedule presume a complete understanding of the tax law and vocabulary of tax-exempt bond financing, which is a highly specialized and esoteric area most accountants have not studied, and of all relevant information about the organization's bond issues. [Read more](#)

New York's Non-Profit Revitalization Act of 2013: What You Need to Know

By Brooke Pollak

In the first major overhaul of New York's Non-Profit Corporation Law since 1970, in June the New York State Legislature passed the Non-Profit Revitalization Act of 2013 (the "Act"). The drafters of this piece of legislation were motivated by a desire to (i) modernize and ease the administrative burdens associated with both setting up and running a nonprofit corporation in New York state, and (ii) strengthen and streamline corporate governance, oversight and accountability. [Read more](#)

A Shift in the New Jersey Affordable Housing Landscape?

By Craig M. Gianetti

The New Jersey affordable housing world received some much-needed guidance on the status of the Council on Affordable Housing's (COAH) Third Round regulations, which used a "growth share" methodology to calculate municipal affordable housing obligations. [Read more](#)

IRS Compliance Sale for 403(b) Plan Document Failures Ends December 31

By Liza J. Hecht

Earlier this year, the Internal Revenue Service's (IRS) updated Employee Plans Compliance Resolution System (EPCRS) went into effect. EPCRS provides several procedures under which employers sponsoring retirement plans, e.g., 401(k) plans and 403(b) plans, can correct errors in their retirement plans. Some errors may be corrected without formal submission to the IRS, while others may require formal application and payment of a compliance fee or payment of a negotiated sanction amount. The IRS will not disqualify a retirement plan for an error that is corrected in accordance with EPCRS. [Read more](#)

Applying for Tax-Exempt Status: The New 'Interactive' Application

By Jennifer M. Pagnillo

On September 27, the Internal Revenue Service published a new "interactive" Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. The new interactive guide first asks prerequisite questions to ensure an organization has all of the required information to apply for tax-exempt status. Depending on how an organization answers the prerequisite questions, additional IRS forms will be generated for the organization to complete. For example, if an organization answers "yes" to the question "Have you authorized, or do you plan to authorize, an individual to represent your organization or obtain copies of documents on your behalf?" then Form 2848, Power of Attorney, will be available for the organization to download. Only after an

organization has correctly answered the threshold questions can it proceed to the completion of the interactive Form 1023. [Read more](#)

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