

THE NEWSLETTER OF THE BDO NONPROFIT & EDUCATION PRACTICE

NONPROFIT **STANDARD**



CURRENT TRENDS IN THE NONPROFIT SECTOR

By Lee Klumpp, CPA, CGMA

Six years after the start of the Great Recession, most not-for-profits (NFPs) are still trying to navigate through a troubled economy that continues to loom over most of the nonprofit sector. However, simply keeping the lights on is not the only issue facing NFPs. All nonprofits, including those with deep pockets and reserves for a rainy day, are likely to struggle with some of the following issues and their fallout throughout the remainder of 2014 and going into 2015. The following are the top 10 current trends for NFPs to watch for over the next couple of years:

1. Increased Competition for Financial Resources

This is a trend that began in 2008, with the start of the Great Recession, and has continued throughout 2014 with the scarcity

of financial resources available for nonprofits to meet their programmatic needs. However, it has developed into increased competition for financial resources among nonprofits and has made it more important than ever for boards of directors to participate in their organizations' fundraising activities. We have observed an increasing number of nonprofit organizations adopting a policy of "pay to play," which means that the board members need to either contribute to the organization or get others to contribute in order to be on the board. This works well for some prestigious community organizations, colleges and universities, and healthcare organizations but it doesn't work for all nonprofit organizations.

2. Increasing Service Gap

Over the past couple of years there has been a significant decline in government funding of

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many nonprofit organizations' programmatic activities by state and local governments and the federal government due to the recession. This has created a service gap due to the increased demand for services by communities and individuals that nonprofits provide. In 2013, more than half of the nonprofits surveyed by the *Nonprofit Finance Fund* reported they didn't expect to have enough resources to meet increased community needs that they were projecting. This increased need for services and the lack of resources available to nonprofits has created a service gap for many nonprofits. This is likely to continue to increase until the economy improves.

3. Importance of Advocacy

Due to the changing environment in the nonprofit sector and the significance of the trends noted above, it is important now more than ever for nonprofits to advance their missions through advocacy. Advocacy is not the same as lobbying. Advocacy is the education and promotion of certain ideas, knowledge and needs of the NFP's

constituency to those that are in a position to change or shape current and future policy and legislation. Lobbying, on the other hand, is the act of attempting to influence decisions made by officials in the government, most often legislators or members of regulatory agencies. The difference between the two is that advocacy shares information and educates policymakers on the needs of their communities and constituents.

4. Continued Scrutiny

There continues to be scrutiny and emphasis by stakeholders, regulators, watchdog organizations and donors for organizations to focus on good governance. This scrutiny of nonprofits is often in reaction to sensationalized stories about individuals or groups that abused their organization's tax-exempt status. Therefore, it is more important than ever that NFPs be transparent and adhere to ethical and accountable practices in all programmatic and financial areas including the very sensitive topics of fundraising and executive compensation.

5. Transparency About Outcomes

It continues to be important for nonprofits to be transparent not only about their finances, but also their outcomes. Donors want to know how their money is being spent. There has been a debate in recent years about outcomes and how outcomes should be managed, measured and reported. Part of the debate has been due to the subjectivity of outcomes and the lack of a framework for measuring and reporting outcomes. Outcomes generally relate to how a nonprofit is making progress toward the change it is trying to accomplish related to its programmatic goals and mission.

6. Overhead Myth

The overhead myth dialogue between nonprofits and funders – in which organizations relay how much it really costs to run their operations – remains under pressure by those calling for more effective performance metrics. In June 2014, three of the top watchdog agencies, Charity Navigator, GuideStar and BBB Wise Giving Alliance, announced in an open letter to American donors a joint initiative to shatter "the overhead myth" once and for all, declaring that overhead ratios are not the best way to judge a nonprofit's performance. We anticipate that the growing awareness around the overhead myth will help stakeholders focus on other more important measures about nonprofits' performance.

7. Tell An Organization's Story

We expect to see a continued increase in the use of data visualization, such as infographics, by NFPs and others to convey their story. Through the use of infographics and other such tools, many nonprofits show how they have met their programmatic objectives, outcomes and missions. Using pictures and graphics to tell a story or to get a reader's attention is becoming more popular and organizations must ensure they are using these tools effectively. Additionally, the Financial Accounting Standards Board's project entitled, *Financial Statements of Not-for-Profit Entities* proposes various improvements to financial reporting of not-for-profit entities that focus on how NFPs communicate information about their financial health and performance

WHAT SHOULD YOU DO IF THE MEDIA ASKS QUESTIONS ABOUT YOUR ORGANIZATION'S OPERATIONS?

If you receive inquiries from the media, there are a few basic steps that you should follow:

Be Prepared: Anticipate and prepare responses to questions they may ask. Before the interview, be sure to understand what sources of information that they may have about your organization. Make sure the documents and facts you share are supportable and consistent with published information about your organization, including information on your website and Form 990.

Avoid Financial and Programmatic Buzzwords: Break down your NFP's message into easy-to-understand terms to help avoid potential misunderstandings and misinterpretations by the media. If they don't understand, they may draw the wrong conclusions about your message and what you are trying to convey to them, which may lead to a potential misrepresentation of the facts.

Understand Your Operations: Knowledge of the various aspects of your NFP's operations from programmatic and fundraising to accounting and finance are extremely important.

A general best practice is to develop a policy with regard to handling media inquiries. This should include identification of who should speak to the media, what types of organizational documents can be shared with the media (keep in mind that the IRS Form 990 is required to be made publicly available) and whether these inquiries are to be conducted through written inquiry, interviews, etc.

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through the financial statements to donors, creditors and other stakeholders.

8. Crowdfunding and Online Giving

With the advancements of technology and its increased usage in our everyday life, nonprofits are now receiving donations via text message, mobile apps and various online giving platforms, including social media sites. According to a Pew Research Center study, 60 percent of adults use their phones to browse the internet. Thus, a charitable nonprofit that doesn't have the capacity to receive contributions online and/or through a mobile device is seemingly at a competitive disadvantage. Additionally, there seems to be a trend developing among cause-oriented charities to use social media to attract volunteers. (An example of this scenario is discussed in Laurie Arena De Armond's article on page 4.) Many organizations have revamped their websites to optimize viewing from mobile devices.

Additionally, crowdfunding has become an intensely popular method for small entrepreneurs to raise the funds necessary to make their ideas for products a reality, and has started to migrate over to the NFP sector.

9. Technology Utilization

The cloud epitomizes the rapid increase in technology tools that offer NFPs a place to convene, converse and share/store data. In many cases, migrating to the cloud is less expensive than a new server and provides more protection from data loss. NFPs may need education and/or encouragement to understand the pros/cons of moving to the cloud. It is important for an NFP to understand that not all clouds are created equally. Before an NFP decides to move to the cloud, it is important that it does the appropriate level of due diligence.

When contemplating cloud services, it's critical that organizations keep in mind considerations such as data security, access controls, the ability to update and change software and the ability to implement contingency plans and disaster recovery plans, among many other issues. In trying to ensure that a third-party cloud service provider has the right internal controls in place to meet

your needs, ask them for a report prepared under audit standard SSAE-16. This standard governs reporting on internal controls with a variety of potential objectives in mind. These reports are referred to as Service Organization Controls (SOC) reports and can vary with respect to purpose (financial reporting or internal controls reporting), extent of testing (evaluating design or testing operating effectiveness) and, in the case of internal controls reporting, specific control objectives may be selected depending on the nature of the services provided. Certain service providers may also report against different standards, including international controls frameworks or standards driven by compliance needs related to issues such as privacy or national security. Due diligence is necessary in evaluating potential cloud service providers and consultation with legal and financial experts should be considered.

10. Succession Planning

Several years ago, predictions were that the retirement of baby-boomers would leave a significant void in the leadership and the institutional knowledge of many nonprofits in the United States. As the workforce is infused with Gen Xers/millennials, they are enthusiastic and eager to make their mark on the world, but need to acclimate themselves to their new roles and the nonprofit environment. Cross-generational empathy presents a new challenge. At the core of this trend is the heavy burden placed on staff leaders of any age requiring that they need to be good managers of people, gracious with demanding donors, tech wizards, advocates for their missions, equally savvy with legal issues and social media and, at the same time, strategists able to keep their nonprofit "on mission." On top of all that, they are expected to be world-class fundraisers.

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WHAT ARE THE CHARITY WATCHDOG ORGANIZATIONS LOOKING FOR?

Different organizations examine different factors and metrics. While some, like the IRS, look more closely at an NFP's financial results and reporting, others such as BBB Wisegiving may use more criteria-based factors and metrics as part of their evaluation, which looks at multiple facets of an NFP's operations and activities. These factors and metrics are usually available on the watchdogs' websites.

As resources continue to remain strained due to the economy, it is likely that donors will continue to look for guidance to help make their dollars go further, continuing their reliance on watchdog groups to help them make prudent decisions. Knowing this, NFPs should undertake several key steps to help prepare themselves for review by watchdogs, including:

- Be familiar with the criteria used by various watchdog groups by examining their websites.
- Make sure your reporting is consistent year to year. Consistency may minimize questions.
- Ask yourself, "Would my grandmother be able understand my Form 990?" In other words, avoid embellishing the truth that may later be perceived as dishonest or inaccurate by donors, watchdog groups and others. Use simple and plain English in your Form 990 and financial statements, and avoid excessive programmatic and financial jargon.
- Review Form 990s filed by similar organizations to determine if similar information is being presented in a consistent manner.
- Make sure that all communications (financial statements, IRS Form 990, website, social media communication, programmatic collateral, etc.) related to your NFP's programmatic and mission-related activities are consistent. Lack of consistency can create confusion and raise more questions about your NFP's activities.

THE ALS ICE BUCKET CHALLENGE OFFERS KEY LESSONS FOR NONPROFIT FUNDRAISING MODELS

By Laurie Arena De Armond, CPA



On July 15, golfer [Chris Kennedy](#) was challenged to dump a bucket of ice over his head, post a video to social media and nominate three friends to do the same within a 24-hour period or donate to a charity of their choice. One of Kennedy's nominees opted to donate to the ALS Association in addition to posting her own ice bucket challenge video. Separately, on July 31, [Peter Frates](#), former captain of Boston College's baseball team who lives with ALS, posted his ice bucket challenge video to Facebook. These initial videos went viral on social media, rapidly transforming what began organically as a charitable challenge between friends into an online giving movement through which the [ALS Association](#) has gained unprecedented levels of awareness and donations.

As of Sept. 8, [ALSA.org](#) reported that the organization had received \$111.1 million in Ice Bucket Challenge donations from individuals and corporations from all across the globe. Donations have [ranged from \\$1 to \\$200,000](#), and 10 percent of visits to the organization's site have resulted in donations.

The success of the Ice Bucket Challenge reinforces social media platforms' ability to accelerate and drive fundraising campaigns.

Of course, this online giving mega-success is exceedingly rare, and organizations cannot guarantee their campaigns go viral—indeed, the Ice Bucket Challenge was not even a campaign of ALSA's own design.

Nevertheless, the model and features of the Ice Bucket Challenge may be valuable to other nonprofits as they seek ways to revamp their own fundraising strategies to reach a younger generation of potential donors. Part of the campaign's appeal is its format: It's authentic, [fun, gamified and highly shareable](#), and it conveys a succinct and meaningful message.

Further, the campaign *visibly* demonstrates that [average people can make a difference](#), not just through monetary donations but by using their own voice to promote awareness to their networks. Donors who see a clear connection between their contributions and overall outcomes—in this case, record-setting fundraising levels—are more inclined to spread the word, creating a multiplier effect through social media. While this effect has the primary impact of boosting donations, it also can help organizations resolve one of their biggest fundraising challenges: having to directly ask the same audience for donations year after year. Social media allows donors to more easily become advocates.

Despite the resounding success of this campaign, we encourage organizations to remain cognizant of social media's lack of predictability. As the Ice Bucket Challenge has proven, online charitable campaigns can quickly spiral into far-reaching movements through social platforms. Organizations can, as a result, lose control over their campaign's scope and how it's shared online.

Similarly, nonprofits must also keep their financial responsibilities top of mind. As my colleague Sandra Feinsmith discusses in her article on page 5, the IRS has so far provided limited guidance on the tax implications of nonprofits' social media use. Organizations must be proactive in their efforts to identify potential challenges and maintain compliance.

As nonprofits look to adjust their fundraising strategies for a new generation of donors, online giving campaigns offer significant opportunities for growth. Savvy organizations will look to lessons learned from the one-of-a-kind Ice Bucket Challenge to develop online community support to create sustained, long-term advocacy and financial support for their causes.

Article reprinted from the Nonprofit Standard blog.

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#NONPROFITS #SOCIALMEDIA AND #TAXES: IS YOUR ORGANIZATION PROTECTED?

By Sandra Feinsmith, CPA

SOCIAL MEDIA CAN OFFER COST-EFFECTIVE PLATFORMS THROUGH WHICH NONPROFIT ORGANIZATIONS CAN BETTER COMMUNICATE WITH STAKEHOLDERS AND RAISE AWARENESS OF THEIR CAUSES AND FUNDRAISING EFFORTS.

Following major online giving success stories such as #GivingTuesday and The ALS Association's Ice Bucket Challenge, more nonprofits are actively participating on social media channels to get in front of potential donors: U.S. nonprofits saw 37 percent growth in followers on Facebook in 2013, and 46 percent annual growth in Twitter followers, according to the 2014 eNonprofits Benchmark Study by M+R.

While nonprofit organizations are increasing their use of social media, the Internal Revenue Service (IRS) has so far provided very little guidance to organizations regarding both the use of social media and its potential tax implications. The official IRS stance is to treat online communications—including email, blogs, Facebook, Twitter and the like—the same as printed media, such as periodicals.

The IRS defines a periodical as "any regularly scheduled and printed material (e.g., a monthly newsletter) published on behalf of the organization." When an organization's printed periodical contains editorial information related to the organization's exempt purpose, the IRS treats the sale of advertising in the publication as an unrelated business that exploits an exempt activity. As such, the organization is subject to the rules governing the calculation of Unrelated Business Income Tax (UBIT) for advertising. Of course, these very same rules pertaining to UBIT around advertising income and expenses also apply to online publications and social media, given the current IRS stance.

The sole, distinguishing snippet of IRS guidance regarding online activities and social media is contained in Internal Revenue Code (IRC) Regulations section 1.513-4(f), which describes what constitutes a Qualified

Sponsorship Payment versus advertising in online activities. To illustrate this, let's consider a scenario in which a symphony orchestra maintains a website containing pertinent information about the organization and its performance schedule. A business ("Music Shop") makes a payment to the orchestra to fund a concert series and, in return, the organization adds the business to the list of sponsors it features on its website. It does not promote Music Shop or advertise its merchandise, but the orchestra's website does provide a hyperlink to Music Shop's website. The orchestra's posting of Music Shop's name and Internet address on its website constitutes acknowledgement of the sponsorship. The entire payment is a Qualified Sponsorship Payment, which is not considered income from an unrelated trade or business.

Now, consider how the following scenario differs:

A nonprofit organization tweets that one of its corporate sponsors is running a special on computers and receives a commission based on the number of tweeters who access the sponsor's site. Thus, under current IRS rules and regulations, the tweet may impact the overall corporate sponsorship agreement, the commission would constitute unrelated business income, and the tweet would be considered advertising.

Given such limited and vague guidelines, it is no surprise, then, that exempt organizations may be unsure of their obligations while using social media. We fully anticipate that, in the near future, the IRS will release more thorough guidance for tax-exempt organizations surrounding their social media use. Though this guidance does not yet exist, nonprofits cannot overlook the potential tax liabilities



associated with social and digital media use. IRS agents have been trained to look at and request screenshots of an organization's website and other forms of online communications. Essentially, online platforms provide open access to organizations' information, offering an audit trail for the IRS and states regarding:

- Political and lobbying activities
- Consistency of organizations' online and social media activities with their exempt purpose
- Potential sources of unrelated business income—such as advertising—versus Qualified Sponsorship Income
- Charitable solicitation (which is also of interest to state charity regulators)

A lot of damage can be done in 140 characters. Organizations should take care to accurately report all online activity in order to make sure they are protected. To help organize and implement this process, organizations should develop and enforce social media policies for both the organization as a whole and its individual employees and volunteers. A sound social media policy can help prevent mix-ups between advertising income and Qualified Sponsorship Income long before the issue ever becomes a problem.

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SOCIAL MEDIA

When crafting a social media policy, organizations should think carefully about what they hope to achieve and balance that with how these desired activities may venture into unrelated business. Organizations must also remain cognizant of the laws and regulations associated with social media, including issues related to copyright, fair use and data protection. Some specific considerations organizations should keep in mind as they develop and implement their social media policies include:

- Who has the right and responsibility to post under the organization's name, as well as what is expected of those participating in social media conversations under their own names while publicizing their affiliation with the organization
- The organization's goals for using social media (e.g., is it a fundraising tool, an awareness tool, a community engagement tool or some combination of all three?)
- The types of content that are appropriate for sharing, with an eye toward clearly establishing whether sponsored content could be linked to a Qualified Sponsorship Payment or advertising. The policy should include explanations and examples of each.
- Clear guidelines around what information can be shared and what is confidential
- Protocols for handling breaches of the social media policy by employees and volunteers of the organization
- A resolution plan for any potential social media crises, such as inappropriate postings or negative feedback from social media followers
- Opportunities and processes for organizational employees or volunteers to share their feedback and questions about the policy

As with normal offline activities, organizations should consult their tax advisor and legal counsel to make sure that their online and social media activities are structured correctly and they are fully apprised of the potential tax ramifications of their social presence. This will go a long way in minimizing exposure to regulatory scrutiny, and it will help protect the organization's reputation.

Article adapted from the Nonprofit Standard blog.

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DOES THIS LINK ON YOUR CHARITY'S WEBSITE REQUIRE YOU TO REGISTER AND FILE ANNUALLY IN VARIOUS STATES?

By Paul E. Hammerschmidt, CPA, MS (Taxation) of BDO, USA, LLP and Seth Perlman, Esq. of Perlman & Perlman, LLP

BY HARNESSING THE POWER OF THE WEB, ONLINE FUNDRAISING HAS MADE IT EASIER FOR CHARITIES TO RAISE MONEY.

It's not uncommon for charities to include a "Donate Now" link on their website to encourage and help facilitate contributions from the general public. After all, a person who has accessed the charity's website is likely to be interested in that organization or have some connection to it. This article will explore state regulation of Internet fundraising.

Generally, a charitable solicitation is a request for a contribution, whether expressed or implied, through any medium. Thus, a "Donate Now" website link is a charitable solicitation and, as such, is subject to regulation.

Charitable solicitation is primarily regulated at the state level. There are approximately 40 states, as well as the District of Columbia, that have statutory systems dealing with solicitation activity within their state. These statutory systems typically include registration, filing and disclosure requirements. They are imposed on nonprofits, professional solicitors, professional fundraising counsel and commercial co-ventures. This allows state authorities to monitor the behavior of the organization within the state. While a certain level of regulation can be beneficial to increase donor confidence and fight fraudulent solicitations, the inconsistency in reporting and disclosure requirements among the states can create a significant burden for nonprofits, in particular for smaller charities.

Common State Registration Requirements

Compliance with state solicitation laws often requires an initial registration as well as ongoing responsibilities to which the organization is subject. These are often accompanied by an administrative fee.

The Charleston Principles

In October 1999, members of the [National Association of State Charities Officials \(NASCO\)](#) and the [National Association of Attorneys General \(NAAG\)](#) met in Charleston, S.C., and agreed to adopt a set of principles to clarify the applicability of states' charitable solicitation regulations to Internet fundraising. In March 2001, the "[Charleston Principles](#)" were published as non-binding guidelines. The Charleston Principles are an effort to provide guidance to both charities and state regulators regarding the application of state registration requirements to charities soliciting contributions over the Internet.

In general, the Charleston Principles attempt to define the type and extent of activity that will trigger the duty to comply with a state's registration requirements.

Summary of the Charleston Principles

ACTIVITIES THAT DO TRIGGER A DUTY TO REGISTER:

1. A charity is domiciled in the state and its principal place of business is located in that state.
2. A charity is not domiciled in the state, but its non-Internet activity in that state would

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DONATE NOW!

require registration under existing law (such as mailing, telephoning or non-Internet media advertising).

3. A charity solicits donations through an “interactive website” (such as a “Donate Now” button), and the charity either:
 - “specifically targets persons” located in the subject state for solicitation; or
 - receives contributions from the state on a “repeated and ongoing basis or a substantial basis” through its website (see below).
4. A charity solicits donations through a non-interactive website (such as a simple listing of the organization’s contact information), and the charity either:
 - invites further offline activity to complete a contribution; or
 - establishes other contacts with the subject state (such as by sending e-mail messages or other direct communications that promote donations to the organization).

ACTIVITIES THAT DO NOT TRIGGER A DUTY TO REGISTER:

A charity, operating on a purely local basis or within a limited geographic area, does not target states outside its operating area if the charity’s website makes clear that its fundraising focus is limited to that area even if it receives contributions from outside that area on less than a repeated and ongoing basis or a substantial basis.

Charleston Principles Are Helpful But Less Than Perfect

The Charleston Principles serve as helpful guidelines for determining when charitable solicitations on the Internet trigger charitable registration in a state, but they are less than perfect. One of the problematic standards contained in the Charleston Principles allows states to acquire jurisdiction over an organization that receives contributions from a state on a “repeated and ongoing” or “substantial” basis.” The terms “repeated and ongoing” (i.e., the number of separate contributions) and “substantial” (i.e., the total dollar amount of contributions) lack any definite numbers that nonprofits can use to determine whether they need to register and comply with a state’s regulations.

At this time only two states, Colorado and Tennessee, have formally adopted the Charleston Principles into their charity regulations. Florida specifically does not follow them. Nearly two-dozen states use the principles as a guideline to varying degrees, but have not formally adopted them.

A Practical Approach

Generally, state registration is required if the charity engages in passive solicitation (such as the use of a “Donate Now” button on its website) and receives “substantial” or “repeated and ongoing” contributions from residents of a particular state.

If a charity is using a “Donate Now” button or conducts other passive Internet solicitations, it must register in states in which the organization has a physical presence (i.e., where the principal office is located, where they hold fundraising events and/or where they operate programs). After the “Donate Now” button is active the organization should assess whether a substantial number of donations are being received from certain other states that would require additional registration and annual filing. Charities should be mindful that forms of follow-up via e-mail, letter or phone call do not constitute passive solicitations and will be deemed to specifically target residents of that state subjecting the charity to registration and annual filing requirements.

Many states follow an unwritten rule that typically requires charities to register when it receives (or is expected to receive) charitable contributions in the state of greater than 50 contributors or \$25,000.

A Look to the Future

Most of the charitable solicitation statutes were written prior to the Internet age. In the 15 years since the Charleston Principles were developed, one area that has emerged is solicitation through online social networks, such as Facebook and Twitter, and mobile giving, by cell phone and text message. These new techniques and technologies must also be considered when evaluating the reach of the state registration laws and the application of the Charleston Principles. The same concepts apply: Do donors acquired through social media and other mediums constitute substantial or repeated and ongoing solicitations from the residents of a state?

Keep in mind, state regulation and enforcement has increased significantly. Many states view registration and reporting fees as essential revenue. It is advisable that charities factor the cost of state solicitation compliance into the cost of raising funds across state borders.



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THE LEADERSHIP QUANDARY: COMPETITION FOR TALENT AND CONSTRAINTS ON EXECUTIVE PAY WILL CHALLENGE ALL NONPROFITS... ESPECIALLY HEALTHCARE PROVIDERS

By Steven Shill, CPA, and Mike Conover



With the Affordable Care Act now in full swing, a challenging new normal has emerged for nonprofit healthcare providers: Not only is there continuous innovation across all fronts of care, there's also a constant pressure to contain costs. Now more than ever before, all healthcare providers need senior management with the skills and expertise necessary to navigate this complex and transforming landscape. As the need for dynamic leaders continues to grow across the industry, nonprofit healthcare providers are not exempted from the need to ensure recruiting, retaining and compensating their senior management keeps pace with the competitive market. Heightened competition coupled with strict constraints on executive pay will require successful organizations to explore new strategies for attracting and rewarding successful top talent.

Developing new recruitment and compensation strategies can be difficult under the best of circumstances. In times of change, the difficulty is compounded. With that in mind, here are several important considerations around compensation that nonprofit healthcare providers should keep in mind when preparing to enter the talent hunt:

- **Higher premiums for talent:** Top leadership positions require experienced and highly skilled executives that can manage complex cost control measures, extensive oversight and reporting and the ability to navigate constant innovation in service delivery and

technology. As a result, these leaders are in high demand. Executive compensation levels within for-profit healthcare and other for-profit talent pools are generally higher than nonprofit levels.

- **Limited Pay Vehicles:** Nonprofit organizations are limited in what they can offer their executives. For example, they are precluded from offering any sort of equity-based compensation or revenue/net-profit sharing incentives. Similarly, there are heavy restrictions around long-term incentives, as well as retirement and deferred compensation.
- **Reasonable offerings:** Tax-exempt organizations must also be mindful of the need to ensure that total compensation is reasonable so they do not create an "excess benefit" that might run afoul of Internal Revenue Service (IRS) Intermediate Sanctions or similar constraints at the state level.
- **Complex compliance issues:** Alternative compensation arrangements that are available to tax-exempt organizations (e.g., 457f deferral arrangements, executive-owned life insurance arrangements, etc.) can be structured as attractive compensation components to offset those found only in the for-profit sector. However, careful attention must be paid to how such components are structured, documented and administered. Organizations and executive participants that fail to comply with regulations can face onerous

tax penalties, loss and repayment of compensation and other severe repercussions.

- **Thoughtful Pay Policies and Practices:** Organizations would be well-advised to devote some time researching pertinent pay practices in both the nonprofit and for-profit sectors to fully understand the range of pay levels and methods in the marketplace. Ideally, this should be done in advance of actually finding and/or negotiating with the 'perfect candidate.' Equipped with some context about what is being done in competitive practice, the organization can (and should) then construct a rationale for its own approach to compensation along with some parameters about the pay/benefits/perquisites it is prepared to offer in the search for a qualified candidate. Waiting until negotiations start with the finalist candidate will inevitably lead to disappointment and/or concessions that may later be regretted.

Of course, we are not suggesting that finding, recruiting, motivating and rewarding a qualified executive is a 'Monty Hall – Let's Make a Deal' proposition. Excessive reliance on pay as the primary motivator for recruiting and retaining key executives can produce "coin-operated" leaders, and can inadvertently cause numerous problems. Ideally, an individual's commitment to the organization and its mission is the significant factor in his/her desire to lead. Still, pay will remain a good motivator for nonprofit healthcare executives, and it is therefore critical that organizations and their boards stay abreast of current compensation trends, both in the healthcare sector and among the for-profit organizations that compete for the same talent.

Article was adapted from the Nonprofit Standard blog.

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TREASURY INSPECTOR GENERAL FOR TAX ADMINISTRATION (TIGTA) ISSUES NEW REPORT ON EXEMPT ORGANIZATIONS' PAYROLL TAX NONCOMPLIANCE

By Laura Kalick, JD, LLM



Earlier this month, the Treasury Inspector General for Tax Administration (TIGTA) issued a report indicating that approximately 3.8 percent of tax-exempt organizations owed nearly \$875 million in federal tax debt related to payroll taxes, interest and penalties as of June 16, 2012. The report also provides an in-depth review of 25 section 501(c)(3) organizations, revealing that they collectively owed more than \$25 million in back taxes, interest and penalties. These organizations represent only a small percentage of tax-exempt organizations; however, as the Internal Revenue Service (IRS) renews its focus on reining in payroll tax debt as a way of closing the “tax gap,” it is critical that nonprofits understand the significance of the report’s findings, as well as what may be at stake for organizations that are not compliant with payroll tax laws.

The IRS has a distinct division that addresses only payroll taxes, which covers all taxpayers whether or not they are tax-exempt. The IRS’s Exempt Organization Examination Program can assess payroll taxes and ask for payment of delinquent taxes. But if the exempt organization does not make the payment, the matter is referred to the IRS Small Business/Self-Employed Division (Division) for collection. If the Division finds that an employer has withheld payroll taxes from employee compensation but has not paid those taxes to the government, the organization’s officers can be held personally liable and assessed a civil monetary penalty. If

the actions are willful failures, the government could also bring criminal misdemeanor charges.

One of the issues raised by the TIGTA report was that revocation of exempt status was not an available enforcement tool for the IRS to use for exempt organizations that failed to pay payroll taxes. To be clear, revocation is only available as an enforcement tool by the IRS for cases in which there is a substantial nonexempt purpose or violations of the rules regarding exemption, such as private inurement. Furthermore, revocation has rarely been invoked by the IRS, as it often hurts the organization and the community it serves rather than the individuals who may have been responsible for the wrongdoing. For this very reason, in 1996, Congress enacted [Intermediate Sanctions](#) (IRC 4958) as a way of addressing individual wrongdoing without unduly burdening the full organization.

Based on its findings, TIGTA has made several initial recommendations to the Exempt Organization (EO) Division for addressing the payroll tax issues, including:

1. **Coordinate with Small Business/Self-Employed Division management to determine what information or systems are available from collection cases that would be useful in identifying exempt organizations potentially abusing the tax system.** The EO Division has disagreed with the recommendation, stating that

this information would not be useful in identifying private inurement or issues that are of concern to EO.

2. **Periodically complete analyses to identify tax-exempt organizations with significant unpaid payroll and other federal taxes and that receive funding from government grants and pay large salaries to executives and officers. Evaluate these organizations to determine if there are any issues that may warrant examinations.** The EO Division has disagreed with this recommendation, stating that it already collects sufficient data to identify organizations that are potentially operating to benefit board members, trustees, officers or key employees.
3. **Work with the Treasury Department to evaluate whether a legislative proposal is warranted to strengthen the IRS’s ability to enforce payroll tax compliance.** The EO Division has agreed with this recommendation, and it is very likely we can expect to see legislative proposals emerge in the months ahead.

We know that the IRS already shares information with state charity regulators regarding potential state law violations, and also shares information with the Social Security Administration regarding noncompliance to help target cases and better use resources. As the government’s response to these findings continues to take shape, our team will monitor for new developments. In the meantime, organizations should be aware of the heightened focus on payroll taxes and take steps to ensure that they are in compliance.

Article reprinted from the *Nonprofit Standard* blog.

For more information, contact Laura Kalick, director, National Nonprofit Tax Consulting, at lkalick@bdo.com.

CHARITY AUCTIONS: REPORTING AND TAX RULES

By R. Michael Sorrells, CPA



While neither charity auctions nor the various rules governing them are new, we receive numerous questions about them and observe many examples of inadequate auction procedures by both large and small organizations.

Charity auctions (silent or live) typically sell merchandise or services that are donated to the organization. Thus, the first requirement for the organization is to acknowledge the donation of the item to be auctioned. Often, this step is missed, as the organization is more concerned about reporting to the purchaser and not the donor. If the donated item may have a \$250 or higher fair market value (FMV), then the organization should be sending out acknowledgement letters with certain required language, including that no goods or services were received in exchange for the donation. This acknowledgement is required if the donor is going to take a tax deduction for the donation. For donated items, the organization should not put the value of the item on the acknowledgement letter, even though the donor may have provided it. The donor is responsible for valuing the donated item on his/her tax return and the rules can vary significantly here. For example, if the donation is from the donor's inventory, the donor's deduction may be different than if the donation is from the donor's art collection.

Also, if the appraised value of the gift is greater than \$5,000, the donor may be giving the charity a Form 8283 to sign. If this is the case, when the item is sold at the auction, the charity will be required to file Form 8282 with the IRS that indicates the donated item was sold and the price at which it was sold.

Similar acknowledgement rules apply to the purchasers at the auction when they spend \$250 or more on an item. The organization should send them an acknowledgement for the purchase, but in this case the letter should tell them how much of the purchase price is for the goods and services received (not deductible) and how much is in excess of that amount (deductible).

For examples of acknowledgement letters and for information on gift acknowledgements of all kinds, see IRS Publication 1771: <http://www.irs.gov/pub/irs-pdf/p1771.pdf>.

Often, donors to a charity auction donate use of a vacation home or personal services (for example, cooking a dinner) to be auctioned off. However, donations for use of facilities or services do not qualify as charitable deductions. In this case, it may be prudent for the organization to tell donors in advance that it is their understanding that these types of gifts are not tax-deductible, but that they should consult their tax advisors.

Another rule requires the organization to inform the donor of tax deductibility for event tickets or purchases of \$75 or more (IRC Section 6115(a)). Failure to do this can result in penalties to the organization and disclosure of compliance is one of the questions on the Form 990. Under these "quid pro quo" rules for event tickets or purchases of \$75 or more, the organization is responsible for informing the purchaser as to how much of the purchase price is a donation and how much is for goods and services. In other words, any excess over the FMV of an item is a donation. If the purchase price does not exceed the FMV, then there is no donation by the purchaser (which is often the case). The easiest way to inform auction purchasers of FMV is to provide the

information on the program. The value of each item should be listed and there should be prominent language saying that only the amount paid in excess of value is allowable as a charitable deduction. It is important that the retail value of the item be used on this listing—not simply its cost, as it may have been purchased at a discount or produced by the donor. Often, the donor of the item can provide this information; if not, the organization will have to do some research. The valuation can be a good faith estimate.

Another area often ignored with charitable auctions is sales or local tax. Most states (and some localities) tax sales of merchandise by charitable organizations; having an exemption from paying sales tax is not an exemption from collecting it. Many organizations already are engaged in the sale of merchandise and are already registered with the state where the auction is occurring. However, when an organization does not ordinarily engage in merchandise sales or is conducting an auction in another state, it may be required to register and collect sales tax even for a one-time event. Some states have exclusions from registration and collection of tax for "occasional" sales and for charitable fundraising. So it is important to research sales tax issues well before the planned auction date.

Lastly, for the Form 990, charitable auctions will be reported as a fundraising activity on the revenue section (Part VIII) and, if above certain thresholds, on Schedule G. The donation portion of the receipts is reported on Line 1c for Part VIII as donations, while the value of purchased items (the FMV) goes on line 8a of Part VIII as gross income. Schedule G requires a listing of all fundraising events with a little more detail. The net income of the fundraising event will generally be shown in the "excluded" column of Part VIII, as it usually fits an exclusion from unrelated business income either because of selling donated merchandise, use of primarily donated merchandise in the activity or because the activity is not regularly carried on (once a year or less in frequency). While charity auctions may be lucrative fundraisers, it is important to know and comply with the rules in order to keep the IRS, donors and state taxing authorities happy.

For more information, contact Michael Sorrells, director, National Nonprofit Tax Services, at msorrells@bdo.com.

DECISION PROCESS REGARDING OFFICE SPACE FOR NONPROFITS

By Patrick Gioffre, FD Stonewater

►WHERE TO LOCATE YOUR ORGANIZATION'S OFFICE?

- The location of your office must support your organization's mission and help accomplish its goals. Every nonprofit organization has its own parameters for its office's location. Some of the parameters may include access to the following: members, talented staff, federal, state or local governments, regulatory agencies, public transportation, major highways, airports, hotels and parking.
- Cost of office space is always a factor, but it may not be the driving factor. However, when considering the cost side of the decision process, an organization should not only consider occupancy costs but also other costs such as unemployment taxes, sales and use tax, personal property tax and parking costs. There can be a significant difference in these costs from state to state.

►OWN OR LEASE?

One of the most difficult decisions regarding office space is whether you should own or lease your office space. There are many factors that should be considered when making this decision:

- You most likely should consider a lease if your organization experiences a great deal of growth or contraction both short- and long-term.
- You should also consider a lease if you do not have the cash for a down payment to buy office space or you need the cash to fund current and/or future operations.
- If your organization is very stable and not growing much and has the necessary cash for a down payment, as well as to retrofit the building to meet the organization's needs without risking a cash shortfall to fund future operations, owning your office space may be your best option.

►CONSIDER CURRENT MARKET CONDITIONS

The recent economic and real estate market conditions have created opportunities for organizations to acquire office space with

attractive financial terms. Very high vacancy rates in some areas of the country have caused real estate values to drop, and that, combined with current low interest rates, have made it an ideal time to consider acquiring your office space.

In the past, unless you were willing to take the rental risk for the entire building, the only option was to purchase a small building. Many of those buildings were old and in need of major renovations. With the current high vacancy rate in some of the major metropolitan areas, many landlords are now willing to sell full or partial floors in Class A office buildings. This permits organizations to purchase only what they need without incurring rental risks on excess space.

►OFFICE SPACE DESIGN

Most entities, including nonprofit organizations, normally hire a real estate firm to assist them in finding office space to accomplish their objectives and to negotiate the lease or purchase. This is a perfect opportunity to re-evaluate your office space design to perhaps create a more modern and efficient one. Possible objectives of a new design could be to create a more efficient and collaborative environment for staff, assist in recruiting and retaining talented staff, portray the desired image and perhaps to reduce the amount of space needed.

►FINDING YOUR OFFICE SPACE

A real estate agent (the agent) will most likely use the services of Costar (a multiple listing service for commercial office and retail space), as well as his/her knowledge of the area, to find space or buildings in the desired location that meet your specifications. Organization personnel should visit the available space to narrow the options to no more than five or six. The agent will then request a proposal from each of the options selected. The agent will do a financial analysis of each proposal to determine the net present value of each option.

Based on this analysis, as well as the perceived desirability of each space, the organization

will probably select three to four spaces as finalists. The organization's space designer will prepare a test fit to determine how the space, per the organization's specifications, will lay out as well as to determine the actual amount of rentable space needed. Once the actual rentable square feet is determined for each option, then the net present value for each option is recalculated and two to three options are selected to conduct the final negotiations.

►ADDITIONAL LEASE COST CONSIDERATIONS

The final lease agreement normally includes a base rent, an annual fixed escalator, a tenant improvement allowance and, perhaps, free rent and a pass-through of increases in operating expenses over a base year. For example, a 10-year term commencing Jan. 1, 2015, could have a base rent of \$41 per square foot, which is increased by 2 percent per annum, 10 months of free rent, an improvement allowance of \$60 per square foot to be used by the tenant to build out their space, and a pass-through to the tenant of increases in operating expenses over a base year of 2015. All of the financial components of this sample deal are easy to estimate except the increase in operating expenses over the 2015 base year. These operating expenses include such costs as real estate taxes, insurance and common area maintenance expenses that the landlord incurs to maintain the building, and they can be extensive. In most leases the landlords have great liberties with what they can include in these expenses. The operating expense provision in the lease is often lengthy, including complex mathematical formulas and highly detailed, defined terms running for pages and, consequently, requires adequate focus and negotiation.

For more information, contact Patrick Gioffre, managing director, FD Stonewater, an independent real estate brokerage, investment, development and asset management firm, at 571-214-8532 or pgioffre@fdstonewater.com.

AMERICA GIVES MORE ACT: IS PHILANTHROPIC INCREASE ENOUGH BY ITSELF?

Rebekuh Eley, CPA, MST

THE AMERICA GIVES MORE ACT (AGMA) IS A BILL THAT WAS PASSED BY THE HOUSE OF REPRESENTATIVES IN JULY AND IS PENDING IN THE SENATE.



We provided a summary of the AGMA's provisions in the [Summer 2014](#) issue of the *Nonprofit Standard*. This bill provides incentives for members of the public to increase their philanthropic activities within the community. The bill consists of five proposed laws, three of which were extenders, that in turn could have a positive impact on the nonprofit sector. The bill extended and would make permanent the tax-free charitable distributions from an individual retirement account (IRA), special treatment for conservation easement donations and an increased benefit related to the charitable deduction for food inventory. The two additional components of the proposed legislation include the ability to make contributions for the tax year up to the April 15 filing deadline of the individual tax return and simplified the excise tax rate for private foundations. Each provision offers a unique incentive to different types of donors and has the potential to increase charitable giving. There has been a strong push from nonprofit organizations to contact senators and urge the passing of this bill before the break.

The Ways and Means Committee reported more than \$140 million in gifts as a result of the temporary provisions related to tax-free distributions from an IRA when originally passed in 2006 and 2007. This type of distribution is typically planned in advance of year-end. The delay in the Senate would prevent most taxpayers from taking advantage of this special provision and in turn reduce the amount of charitable gifts for 2014.

Feeding America and other charitable organizations that receive contributions of food are reaching out through a grass roots effort for the passing of the AGMA due to the special provisions related to the donation of food inventory. The Food Donation Connection estimated that since this special provision was expanded to any business in 2006, donations have increased 127 percent.

The other provisions may also lead to a substantial increase in donations. Due to the special tax treatment for conservation easements the number of conservation easements doubled. After hearing testimony from the public, the Ways and Means

Committee concluded that extending the cut-off date for charitable contributions would significantly increase donations. The reduced excise tax rate for private foundations will provide additional resources for grant-making to other charitable organizations.

Overall, the Ways and Means Committee estimated an increase of charitable giving by \$2.2 billion per year if the AGMA is passed. Still, the AGMA must still pass through the Senate, and if it manages to do so, the bill would be subject to veto by the President.

As of the date of publication, the AGMA bill has not been passed by the Senate.

For more information, contact Rebekuh Eley, senior tax director, Central Region Nonprofit Tax Practice Leader, at reley@bdo.com.

Council on Financial Assistance Reform Releases New FAQ Document on Uniform Guidance

On August 29, the Council on Financial Assistance Reform (COFAR) released a new, comprehensive [frequently asked questions document](#) regarding the Office of Management and Budget's "Uniform Guidance on Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards," also known as the Omniscircular or Supercircular. While the COFAR issued an [earlier FAQ](#) on the Uniform Guidance in February 2014, this new document includes additional information pertaining specifically to non-federal entities in areas such as procurement, indirect costs, effective date and distinctions between vendors and contractors.

To note, the document provides further clarification regarding the use of "must" versus "should" within the Uniform Guidance. Additionally, FAQ .110-6 details compliance and documentation requirements surrounding the new procurement standards, for which the federal government is providing a grace period of one full fiscal year after the effective date of the Uniform Guidance.

With the new guidance set to go into effect this December, we encourage all nonprofits to read the new FAQ document in its entirety, especially since many of the considerations it provides will be directly relevant to the single audit process. For additional information and resources to help your organization prepare for and implement the new Uniform Guidance, be sure to check out our [OMB Uniform Guidance Resource Center](#) on the blog

BDO PROFESSIONALS IN THE NEWS

BDO professionals are requested to speak on a regular basis at various conferences due to their recognized experience in the industry. The following is a list of some of the upcoming events where you can listen to BDO professionals. In addition to these external venues, BDO offers both live and local seminars, as well as webinars, on such topics as nonprofit tax and accounting updates, international accounting and business issues, and charitable solicitation registration. Please check BDO's website at www.bdo.com for upcoming local events and webinars.

OCTOBER

Mike Sorrells is presenting a session Oct. 6 - 7 entitled "Top 10 United Way Errors on Form 990" at the United Way Financial and Talent Management Forum in New Orleans, La.

Giacomo Apadula and **Andrea Wilson** are participating in a panel discussion Oct. 17 entitled "Problems with Other People's Money" at the 2014 Opportunity Finance Network Conference in Denver, Co.

Laura Kalick is presenting the session "New Developments on Federal Tax Matters Impacting Associations" on Oct. 30 at the American Society of Association Executives 2014 Annual Association Law Symposium in Washington, D.C.

NOVEMBER

Lee Klumpp is conducting an all-day training Nov. 5 entitled "Analytical Procedures for Nonprofit Organizations" for the Virginia Society of CPAs in Fairfax, Va.

Dick Larkin is conducting a two-day course on general nonprofit accounting, auditing, reporting and tax management

topics for Foxmoor Continuing Education Nov. 6 – 7 in Seattle, Wash.

Rebekuh Eley is presenting two sessions at the Illinois Society of CPAs 2014 Not-for-Profit Conference Nov. 20 in Rosemont, Ill. She will be presenting a session entitled "Not-for-Profit Tax Update" and she will be a member of the panel in the "Ask the Experts" session.

Klumpp is presenting a session entitled "Preparing for the Changing Nonprofit Financial Statement Presentation Requirements" at the 44th Annual Virginia Accounting and Auditing Conference hosted by the Virginia Society of CPAs Nov. 20 -21 in Virginia Beach, Va.

DECEMBER

Klumpp is presenting two separate all-day sessions for the Ohio Society of CPAs in Cincinnati, Ohio. On Dec. 8 he will be presenting the course "Advanced OMB Circular A-133 Issues" and on Dec. 9 he will be presenting the course "Case Studies in Not-for-Profit Accounting and Auditing".

Klumpp is presenting two separate all-day sessions for the Pennsylvania Society of CPAs in Harrisburg, Pa. On Dec. 11 he will be presenting the course "Annual Update for Accountants and Auditors" and on Dec. 12 he will be presenting the course "Financial Reporting Framework for SMEs."

Klumpp and **Larkin** are presenting the topic "Accounting & Auditing Update" at the Greater Washington Society of CPAs (GWSCPA) Not-for-Profit Symposium Dec. 17 in Washington, D.C.

Jeffrey Schragg is presenting the topic "Form 990 Update" at the GWSCPA Not-for-Profit Symposium Dec. 17 in Washington, D.C.

OTHER ITEMS TO NOTE

2014 Data Collection Form (DCF) Status

The Federal Audit Clearinghouse (FAC) announced that it will begin accepting single audit submissions for audits with 2014 fiscal year-end dates on Oct. 20. The delay in accepting the DCFs for 2014 year-ends is a result of the need to ensure the accurate and timely collection of the fiscal year 2013 audit submissions.

OMB Extension Granted

The Office of Management and Budget (OMB) has granted an extension until Nov. 30, 2014, for any 2014 forms due on or before Nov. 30, 2014. The extension is automatic and there is no approval required.

This information has been posted on the Federal Audit Clearinghouse website. In addition, OMB has posted a reminder on the FAC website that all single audit submissions with a Dec. 31, 2013, fiscal year end date are due not later than Sept. 30, 2014, since that due date has not been extended and 2013 submissions are currently accepted in the FAC.

Additional Notices Regarding the 2014 Submissions Posted on the FAC

Standard Audit Finding Reference Numbers Update:

The notice posted on the FAC states that beginning Jan. 2, 2015, all fiscal year 2014 (and later) audit reports and DCF submissions must include a standard audit finding reference number format (2014-001 through 2014-999).

File Formats Update:

The notice posted on the FAC states that beginning Jan. 2, 2015, all fiscal year 2014 (and later) audit submissions must be unlocked, unencrypted and in a text-searchable PDF format.

Summary:

Based on these two notices, the FAC is stating that the standard audit finding format reference numbering and the requirement for unlocked, unencrypted and text-searchable pdfs will not be required for 2014 submissions that are made when the FAC begins accepting the 2014 submissions in late October, but

NONPROFIT FACTS: *Did you know...*

In a survey of members of the [Young Nonprofit Professionals Network \(YNPN\)](#), approximately 79 percent were between the ages of 18 and 34. When asked about critical issues affecting nonprofits and philanthropy, respondents listed leadership, professional development and low wages as top concerns.

About 33 percent of all U.S. nonprofit revenue comes from [government contracts and grants](#), according to data from the Urban Institute. By comparison, private charitable giving made up only 13 percent of all revenue.

Two percent of nonprofits in the United States raised \$10,000 to \$25,000 through Facebook in a 12-month period, and [1 percent raised \\$25,000 to \\$100,000](#), according to a Blackbaud report.

According to the 2013 Cone Communications/Echo Global CSR Study, [87 percent of the more than 10,000 respondents](#) said they make purchases based on what they know about an organization's social, environmental and cause-related engagement.

According to a new study from the Nonprofit Research Collaborative (NRC), organizations with a formal annual fund

were [20 percent more likely to be on track](#) to meet their annual fundraising goals.

Overall giving is up [3.1 percent \(and online giving is up 7.1 percent\)](#) for the first five months of 2014 on a year-over-year basis, according to the Blackbaud Index.

In all, nonprofits in Blackbaud's Most Generous Online Cities 2013 study [raised \\$822 million online](#) last year, a 61 percent increase from 2012's \$509 million.

As of fall 2013, 79 percent of colleges and universities had [activated mobile apps or planned to offer them](#) by the end of the 2014 academic year, according to the 2013 Campus Computing Survey. By comparison, only 60 percent had mobile apps in the fall of 2012, and 42 percent did in 2011.

The median salary for full-time positions at grant-making organizations grew to \$74,061 in 2013, up from \$72,000 the previous year, [according to a new survey](#) by the Council on Foundations.

According to research conducted in 2012 by the Center for Effective Philanthropy, [60 percent of CEOs from the 100 largest foundations](#) did not come from grant-making organizations.

that such information and formatting will be required for fiscal year 2014 (and later) submissions made on or after Jan. 2, 2015.

Nonprofit Sales Tax Exemption, Land Conservation Credits Under Review in Virginia

Virginia legislators are scheduled to review the nonprofit sales tax exemption and tax credits for land conservation as part of an ongoing re-evaluation of many tax credits, deductions, exemptions and exclusions contained in the Virginia Code. Nonprofits from across the Commonwealth are submitting comments in support of the exemption. Some may be calling on the General Assembly to repeal a provision in current law that limits a nonprofit's administrative and fundraising

expenses to no more than 40 percent of its annual gross revenue as a condition for receiving tax exemption. Multiple studies reveal that in nonprofit and for-profit organizations, the usual range of overhead rates is approximately 25 percent to 35 percent, meaning that arbitrary caps like the one in Virginia law have the effect of discouraging essential investments in education, infrastructure and efficiencies that have been shown to improve performance. All interested nonprofits are encouraged to participate and express their views to the Joint Committee to Evaluate Tax Preferences.

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BDO NONPROFIT & EDUCATION PRACTICE

For 100 years, BDO has provided services to the nonprofit community. Through decades of working in this sector, we have developed a significant capability and fluency in the general and specific business issues that may face these organizations.

With more than 2,000 clients in the nonprofit sector, BDO's team of professionals offers the hands-on experience and technical skill to serve the distinctive needs of our nonprofit clients – and help them fulfill their missions. We supplement our technical approach by analyzing and advising our clients on the many elements of running a successful nonprofit organization.

In addition, BDO's Institute for Nonprofit ExcellenceSM (the Institute) has the skills and knowledge to provide high quality services and address the needs of the nation's nonprofit sector. Based in our Greater Washington, DC Metro office, the Institute supports and collaborates with BDO offices around the country and the BDO International network to develop innovative and practical accounting and operational strategies for the tax-exempt organizations they serve. The Institute also serves as a resource, studying and disseminating information pertaining to nonprofit accounting and business management.

The Institute offers both live and local seminars, as well as webinars, on a variety of topics of interest to nonprofit organizations and educational institutions. Please check BDO's web site at www.bdo.com for upcoming local events and webinars.

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To ensure compliance with Treasury Department regulations, we wish to inform you that any tax advice that may be contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or applicable state or local tax law provisions or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.

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