

Government regulation of Rotary Clubs

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21 March 2015

Background

- Co-founder Poway High School Redevelopment Foundation 1983
- CPA with 9 years experience in preparation of Federal & California exempt organization information filings
- Former Trustee and current Chief Accountant, Rotary Club of Rancho Bernardo Foundation

Objectives

- Describe the exempt organization environment and regulatory requirements
 - Proposed Attorney General Regulations
- Distinguish Clubs from Club-level Foundations
- Answer questions

- *This presentation is not intended to provide legal or tax advice on specific subjects, but rather to provide insight into general legal and tax principles and issues. You should always consult with legal or tax advisors before taking action on your individual situation.*

The Rotary World



Service Above Self

4 Way Test

Fellowship

Exempt Organization World



Trade or Business
“Tremendous Benefit”
Reporting Requirements
Public Disclosure

Government Entities

- Internal Revenue Service
- California Franchise Tax Board
- California Attorney General Registry of Charitable Trusts
- California Board of Equalization
- California Employment Development Department
- California Sec'y of State (if incorporated)

Rotary Club Reporting Myths

- Clubs are covered by the Rotary International group exemption so they don't need to file anything
- A Club with a Federal exemption is automatically exempt in California
- Exempt organizations are exempt from sales taxes
- All activities of exempt organizations are exempt from tax

Reporting Myths (contd)

- Small Clubs don't need to file returns
- Rotary Clubs, which are not charitable organizations, are not required to register with the California Attorney General or file annual registration renewal forms
- Rotary Clubs are not a trade or business so they don't need to report payments to independent contractors for services

Types of Tax Exemption

- Nearly all Rotary Clubs are exempt social welfare organizations under IRC 501(c)(4)
 - Donations are not tax-deductible as charitable contributions, but may be business expenses
- Club-Level Rotary Foundations need to be exempt as charities under IRC 501(c)(3), to take tax-deductible charitable contributions
 - Or Club can set up a Donor-Advised Fund with TRF or a local community foundation

IRS Reporting Requirements

- Form 990-N ePostcard – filed online
 - Gross receipts “normally” \leq than \$50,000
“Normally” based on latest 3 year average
- Form 990-EZ
 - Gross receipts $<$ \$200,000 and assets $<$ \$500,000
- Form 990
 - Gross receipts \geq \$200,000 or assets \geq \$500,000
- Penalty for late, inaccurate or incomplete returns \$20 per day up to \$10,000

IRS Reporting Requirements (contd)

- Exemption revoked if no filings for 3 consecutive years
- If IRS exemption revoked, must submit new application on Form 1024 and pay \$850 fee.
 - Can't use Rotary International group exemption as 501(c)(4)
- Form 990-T Unrelated Business Income
 - Gross income >\$1,000 from “regularly carried on trade or business activity”

IRS Reporting Requirements (contd)

- Form 1099-MISC
 - Certain payments to non-corporate vendors, accountants and attorneys of more than \$600 in one year
- Fair market value of goods or services
 - Lunches provided to members where not for convenience of Club
- Event planners, auctioneers and others who provide services at fundraisers
- Form W-2G: Raffle prizes of \$600

IRS Reporting Requirements (contd)

- | Gross receipts | Receipts | Cost | Net |
|---------------------|--------------|--------------|------------|
| – Lunch | \$27,502 | \$26,906 | \$ 596 |
| – Dues | 15,794 | 5,600 | 10,194 |
| – Member events | 3,900 | 11,918 | (8,018) |
| – Investment income | 2,680 | | 2,680 |
| – Program service | 800 | | 800 |
| – Grants | <u>3,997</u> | <u>3,000</u> | <u>997</u> |
| – Total | \$54,673 | \$47,424 | \$7,249 |

California Franchise Tax Board

- Separate exempt application required, Form 3500A with copy of Federal tax exemption
- Filing thresholds now conform to Federal thresholds

California Attorney General Registry of Charitable Trusts

- Every charitable (public benefit) corporation, association and trustee holding assets for charitable purposes or doing business in the State of California must register with the Attorney General, except those exempted by California Government Code section 12583. Corporations that are organized primarily as a hospital, a school, or a religious organization are exempted by Section 12583.

California Attorney General Registry of Charitable Trusts (contd)

- Requirement to file is based on facts and circumstances in each case
- Example: Club collects funds for a Rotary International or District grant; it is therefore holding funds for charitable purposes and must register
- Form CT-1 Initial Registration within 30 days of receipt of funds
- Filing fee \$25

California Attorney General Registry of Charitable Trusts (contd)

- Form RRF-1 Registration Renewal
- Filing fee \$0-\$300, based on revenue
- Organizations with total gross revenue or assets \geq \$25,000 must file copy of Form 990 or 990-EZ if one of these Forms is required by Federal regulations
- CT-NRP-1 Application for Registration, Nonprofit Raffle Program

California Attorney General Registry of Charitable Trusts (contd)

- Raffles – 90% of receipts must be used for charitable purpose, annual registration and reporting required of raffle dates required, must be registered as described on previous slide
- CT-NRP-1 Application for Registration, Nonprofit Raffle Program
- CT-NRP-2 Nonprofit Raffle Report

Proposed Regulations from California Attorney General

- Would freeze charitable assets automatically if Federal or California tax exemption is revoked
 - Penalties on directors and officers; cease-and-desist orders
 - <http://www.oag.ca.gov/charities/notice-adoption-amend>
 - May become final by mid-2015, ***so get squared away now!***

California Board of Equalization

- Exempt organizations generally not exempt from sales tax
- Online registration at efile.boe.ca.gov/ereg/index.boe
- Form BOE-401 or BOE-401-EZ
- In most cases, file annually
- Typical sales subject to tax include food, auction items

California Employment Development Department

- Form DE 542 must be filed with EDD within 20 days after hiring an independent contractor to provide services, who is or will be paid at least \$600 (which also will require Form 1099-MISC)
 - http://www.edd.ca.gov/pdf_pub_ctr/de542b.pdf
 - http://www.edd.ca.gov/pdf_pub_ctr/de542faq.pdf

California Secretary of State

- All nonprofit corporations must file a Statement of Information SI-100 every **two** years
 - Due in the month of incorporation; fee \$20
 - Listing 3 officers and contact info; can file free amendment to update that information
 - Must state physical address for service of process
- Delinquent filing => suspension => revocation of FTB tax-exemption
 - Under Proposed Attorney General Regulations, assets would be frozen if delinquent with Sec'y of State

Incorporation

- Advantages: some liability protection for members, officers and directors; statutory framework
 - Rotary International provides some insurance to U.S. Clubs for U.S. activities
 - Attorney General can still penalize officers and directors personally
- Burdens: initial set-up costs and fees; biennial report to Sec'y of State (fee \$20)
 - formalities of elections and keeping minutes (compare the guidelines in Rotary Secretary's Manual)
 - if tax exemption is revoked, risk of \$800 Calif. tax

Disclosures

- All reports described above except Form 1099 and DE 542 are public documents
- A non-501(c)(3) tax-exempt organization must make available for public inspection its exemption application, Form 1024, Application for Recognition of Exemption Under Section 501(a), along with each of the following documents:
 - all documents submitted with Form 1024;
 - all documents the IRS requires the organization to submit in support of its application; and
 - the exemption ruling letter issued by the IRS

Disclosures (cont)

- A tax-exempt organization must disclose its annual information return (Form 990 series) with schedules, attachments, and supporting documents filed with the IRS. The organization may not disclose the names and addresses of contributors listed on Schedule B of Form 990. However, other information on Schedule B is open for public inspection unless it clearly identifies the contributor. Returns need to be available for public inspection for only three years after the due date or filing date of the return (or the filing date of an amended return)

Additional Resources

- <https://www.rotary.org/myrotary/en/document/rotary-clubs-and-irs-frequently-asked-questions>
- For Clubs: <http://www.irs.gov/pub/irs-pdf/p4221nc.pdf>
- Foundations: <http://www.irs.gov/pub/irs-pdf/p4221pc.pdf>
- 1099: <http://www.irs.gov/pub/irs-pdf/i1099msc.pdf>
- Gaming: <http://www.irs.gov/pub/irs-pdf/p3079.pdf>
- <http://oag.ca.gov/charities>
- <http://www.sos.ca.gov/business-programs>
- <https://www.ftb.ca.gov/forms/misc/1068.pdf>
- <http://www.boe.ca.gov/pdf/pub18.pdf>
- http://www.edd.ca.gov/pdf_pub_ctr/de231np.pdf

- <http://www.wexlerlawgroup.com/Rotary> for further resources and updates