



Jacobson Jarvis is unique: a full-service certified public accounting firm that focuses 100% of its audit capacity on the not-for-profit community.

Our auditors work solely with the NFP community to help clients better achieve their mission.

Our tax specialists serve both nonprofit organizations and individual clients.

Our business advisory consultants provide nonprofit financial health check-ups, internal audit services, System Review and accounting basic training in QuickBooks and Sage MIP Fund Accounting, as well as sales and service of Sage nonprofit accounting, fund-raising and asset management software systems.

- Attentive
- Accessible
- Uniquely Focused

Contact Us
www.jjco.com
206-628-8990

Nonprofit Organizations - Prepare for Stepped Up IRS Compliance Efforts

by Cathy Roe, CPA

The Internal Revenue Service issued a report on its compliance efforts in regard to exempt organizations in November 2008. During fiscal year 2008 it examined 7,861 tax returns from those organizations - a 35% increase over fiscal year 2004. In addition, 80% of those examinations resulted in required changes to the return as opposed to 37% in FY 2004. The IRS also conducted compliance checks with another 7,466 organizations - 5 times as many as in the fiscal year 2004. A compliance check is a review to determine whether an organization is adhering to recordkeeping and information reporting requirements – it is not an examination since it does not directly relate to the determination of tax liability for any particular period. In some cases those compliance checks resulted in the performance of an examination.

We expect to see the number of audits and compliance checks to continue to increase. Lois Lerner, the Director, Exempt Organizations, IRS, announced in an April 6, 2009 speech “we will be hiring additional staff for the EO examination function”.

The IRS determines what organizations to audit through an analysis of tax returns and because of complaints from the general public and Congress. Also, The IRS is monitoring public information about your organization through various media including your own website. While it is impossible to completely avoid an examination because some organizations are chosen at random, it is possible to reduce your chances of being chosen because of some deficiency in your tax reporting or inconsistencies in your public information. Furthermore, if you are chosen for an examination, the process can be less painful if you have properly documented various activities.

Some of the transactions that might trigger an

IRS examination follow. These were topics of discussion at the 2009 AICPA Not for Profit Conference that I recently attended.

Unrelated Business Taxable Income

Form 990-T must be filed by an organization that has \$1,000 of unrelated business gross income whether or not it reports a profit from unrelated businesses. This applies to organizations that file Form 990, 990EZ or 990N. It is important to evaluate those smaller sources of income your organization may have been reporting as other income to determine if your organization needs to file a form 990-T. Fees earned by your organization for administrative and clerical services that are not directly related to your primary purpose are subject to UBIT per a letter ruling issued by the IRS in 2008. The IRS is also questioning why an organization, that year after year reports a loss from unrelated business activities, continues to conduct that business. While there are legitimate reasons in some cases for losses to occur, the IRS believes that many organizations are allocating too many expenses to those activities. *TIP: Be sure to document why your organization is conducting the business and your rationale for the allocations.*

Payroll and Employment Taxes

The IRS believes that many organizations are paying individuals as contract employees when they should really be classified as employees. If it is determined that you have misclassified such employees, the IRS will charge your organization for back payroll taxes that should have been paid. You will also be charged interest and penalties of up to 15% for the failure to deposit payroll taxes on a timely basis. *TIP: The IRS has a 20 question process to help you determine how to classify individuals but if you supervise them, supply them with equipment such as a computer, and determine their schedule, they should be classified as employees. There is additional guidance in IRS Publication 15-A.*

(continued on page 2)

This is a publication of the certified public accounting firm of Jacobson Jarvis & Co, PLLC. Our purpose in publishing this newsletter is to inform our clients and friends of recent and pending developments in the not-for-profit sphere. The material is not a substitute for accounting, legal, or other professional services and we assume no liability for the viewer's reliance on this information. Prior to acting on any of the ideas contained in this issue, consult a professional advisor to determine whether they apply to your individual circumstances.

SERVICES

- Tax
- Audit
- Consulting
- System Review
- Internal Audits
- Financial Health Check-Up
- Software Sales, Training & Support

A sustaining resource for the not-for-profit community

IRS compliance efforts .. (continued from page 1)

If you employ nonresident aliens, there are complicated rules for determining additional taxes that must be withheld from their paychecks. These rules are explained in IRS Publication 15.

It is possible for the IRS to impose personal liability for unpaid payroll taxes on a responsible individual. The Fifth Circuit Court recently upheld a decision holding the chairman of the board of a non-profit hospital personally liable for unpaid payroll withholding taxes. *TIP: Consider requiring the provision of proof of payment of payroll taxes to your board of directors.*

The IRS is also concerned about taxable employee fringe benefits. The most common of these is the personal use of an organization's vehicles or computers. The IRS has temporarily backed down from taxing personal cell phone use but that may not be permanent. *TIP: Be sure you know what benefits your employees are receiving and whether or not they are taxable. If they are taxable the value should be included in the employee's taxable wages.*

Qualified Retirement Plans and Deferred Compensation

The focus of IRS examinations for all types of plans is the eligibility of the employer, the inclusivity of the plan, contributions in excess of contribution limits, timely deposits of contributions by the employer, and plan loans and hardship distributions. *TIP: There are new plan and reporting requirements for 403(b) plans beginning in 2009. Make sure your plan document is up to date and that you are compliant with the tax rules and the rules particular to your plan.*

Charitable Contributions

The IRS is concerned that individuals are taking deductions for contributions that they are not entitled to. They are interested in whether or not you are properly receipting those contributions and filing Forms 8282, "Donee Information Return", and 1098-C, "Contributions of Motor Vehicles, Boats, and Airplanes", when required. *TIP: Cash donations of \$250 or more and all non cash contributions must be receipted in order for the donor to take a tax deduction. You should not provide a value of the non cash donations. See IRS Publication 1771, Charitable Contributions - Substantiation and Disclosure Requirement, for more information.*

Private Inurement

Private inurement occurs when an individual who has significant influence over a nonprofit organiza-

tion receives benefits greater than he or she provides in return. There is a 25% tax on individuals who are overcompensated by their organizations for the services and goods the organization receives from them and an additional 10% tax on organization managers who knowingly participate. The most common example is excess compensation but excess benefit can also occur through sales or rental of property, transfer of debt, or other transactions. *TIP: A transaction is presumed reasonable if it is reviewed by the Board or committee that is independent with respect to the transaction under review, the Board obtains and relies upon appropriate data as to comparability, the Board adequately documents its conclusions in minutes and the Board approves the transaction before any payment is made to the disqualified person under the transaction.*

In most instances the topics covered are an overview and more complexities exist. The non-profit tax specialists at Jacobson Jarvis are here to help you determine what your tax compliance issues, whether Federal or State, may be. Contact us to discuss your specific circumstances - we can develop a plan of action for you and provide the specialized services you need.

About the Author

Tax Manager, Cathy Roe, CPA, joined Jacobson Jarvis in mid-2007 and has over 30 years experience in both the public the not-for-profit sectors. She has directed finance and operations at both the South Carolina Association of Community Development Corporations and the YWCA of Greenville, SC, initiating new programs and growth for those organizations. At different stages of her career she has owned her own full-service accounting firm, and has served as partner in another.



Cathy Roe, CPA

Cathy holds a BA in Mathematics from Duke University, A Masters in Accountancy from the College of Charleston and a second Masters in Mathematics from Rutgers University.

She has taught accounting at the college level at three institutions. Cathy is a past-president of the Greenville, SC chapter of the American Society of Women Accountants. ••