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Volunteer Lawyers Strengthening Nonprofits & Our Communities

Filing, Reporting and Disclosure Requirements for CT Nonprofits

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What is the Pro Bono Partnership?

- Pro bono legal assistance for nonprofit organizations through the services of our staff and corporate and private attorneys
- To be eligible, the organization must be:
 - Nonprofit, tax-exempt (or seeking 501(c)(3) status);
 - Primarily serving the poor and disadvantaged or enhancing the quality of life in neighborhoods in CT, NJ, and NY;
 - Focusing on health and human services, community development, affordable housing, neighborhood revitalization, environmental protection, and the arts; and
 - Unable to pay for legal services without significant impairment of program resources.

More information at www.probonopartner.org

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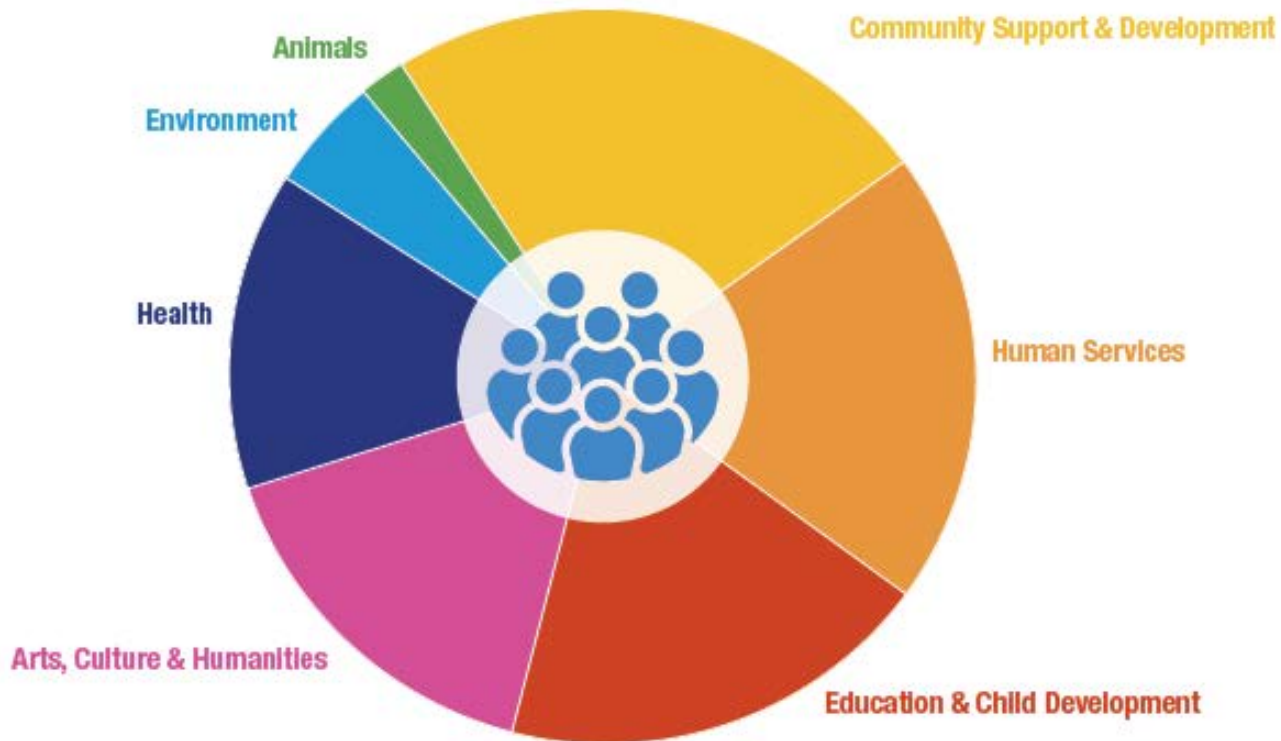


What Assistance is Available?

- Non-litigation, business law matters, in areas such as:
 - Corporate structure and governance
 - Contracts
 - Employment law
 - Environmental law
 - Intellectual property law
 - Real estate (including lease reviews)
 - Regulatory compliance (e.g., registration, annual reporting, charitable solicitation, lobbying)
 - Tax law and tax exempt status



98% of the Partnership's clients serve low-income individuals & provide important services in our communities



Overview of Program

- Why are tax-exempt nonprofits subject to so many requirements?
- From a governance standpoint, why are these filings important?
- What are the filings and reports your nonprofit must provide?
 - To the IRS?
 - To donors?
 - To the Connecticut Department of Revenue Services?
 - To the Connecticut Department of Consumer Protection?
 - To the Connecticut Secretary of the State?
- What would you do if someone requested a copy of your organization's IRS filings?
- We will answer these questions and more, advising you about ongoing compliance requirements
- For other general information questions that we are not able to address, please consider using our Legal Resource Helpline – you can call or submit questions through our website. More information [here](#).



Why are tax-exempt nonprofits subject to so many requirements?

- The filing, reporting, and disclosure obligations enable the public to easily obtain information about tax-exempt nonprofits
- Good governance and transparency provide assurance to the public that tax-exempt entities are operating with integrity and in ways that are consistent with their missions
- Government protection against fraud



From a governance standpoint, why are these filings important?

- Directors of CT nonstock corporations have fiduciary duties to those corporations; those fiduciary duties broadly:
 - Duty of Care – must be ***reasonably informed***, participate in decisions, and do so in good faith and with the care of a prudent person
 - Duty of Loyalty – must act in the ***best interests of the corporation***, not in directors' own interests or the interests of another person or org
 - Duty of Obedience – must act ***within the bounds of law generally***, and with the intent of achieving the org's mission
- These are important, and the duties of care and obedience in particular have an impact on our discussion today



Registrations, Filing and Disclosure – IRS

FORM 990 or 990-EZ

Who: 990: Exempt Organizations (EOs) with either annual gross receipts greater than or equal to \$200K or total assets greater than or equal to \$500K.

990-EZ (or 990): EOs with annual gross receipts less than \$200K and total assets less than \$500K.

When: 15th day of 5th month following end of fiscal year (e.g., May 15 for Dec 31 FYE)

Fees: None

“Gross receipts” means total amounts the EO received from all sources during its annual accounting period, without subtracting any costs or expenses.

- **Penalties start at \$20/day if fail to file, extensions available**
- **Automatic revocation of status if fail to file 3 years in a row**



Registrations, Filing and Disclosure – IRS

FORM 990-N (e-Postcard)

Who: EOs with annual gross receipts normally less than or equal to \$50,000

When: 15th day of 5th month following end of fiscal year (May 15 for Dec 31 FYE)

Fees: None

- **No penalties for late filing, but automatic revocation of status if fail to file 3 years in a row**



Registrations, Filing and Disclosure – IRS

FORM 990 or 990 EZ (continued)

- Available to public
- Key information provided (in addition to income & expenses)
 - program service accomplishments
 - compensation of officers, directors, key employees, contractors
 - changes in organization documents
 - relationship of activities to accomplishment of exempt programs
 - lobbying expenditures
 - transactions with “insiders”
 - arrangements with other non(c)(3) nonprofits
 - Schedule B (Schedule of Contributors) – ***although note that, for 501(c)(3) public charities, names and addresses of contributors aren’t required to be made available for public inspection***
 - Other info in Schedule O
 - Consider posting on EO’s website all sections required to be made available for public inspection



Registrations, Filing and Disclosure – IRS

FORM 990T – Exempt Organization Business Income Tax Return

Who: EOs that generate more than \$1,000 gross income from unrelated businesses
When: Same as 990

- **Also estimated tax payments quarterly if EO expects unrelated business income tax (UBIT) to be \$500 or more**
- **Penalties for late filing and late payment of tax**
- **Note that, if an EO is required to file a Form 990T for a trade or business carried on in CT, it will have to file a Form CT-990T (Connecticut Unrelated Business Income Tax Return) as well**
- For most organizations, an activity is an “unrelated business” (and subject to UBIT if it meets three requirements: (1) it is a trade or business; (2) it is regularly carried on; and (3) it is not substantially related to furthering the exempt purpose of the organization.
- For questions on this topic, we suggest speaking with an accountant or an attorney.



Registrations, Filing and Disclosure – IRS

IRS Public Disclosure Requirements

Who: All 501(c)(3) organizations

What: EO's Form 1023 (exemption application) and annual returns for three years after the due date (this includes returns like the Form 990, 990-EZ, and any Forms 990-T), along with all Form 990 schedules (except portions of Schedule B), attachments and supporting documents

Obligation:

- Provide immediately in the case of in-person requests and within 30 days in the case of written requests.
- OK to charge reasonable copying fee plus actual postage, if any (must provide notice of charges)
- These requirements are in addition to making the documents available for public inspection.



Registrations, Filing and Disclosure – IRS

IRS Public Disclosure Requirements (continued)

Exceptions:

- If Form 1023 application was filed before July 15, 1987, EO does not have to make it available. (If EO filed Form 1023 application after July 15, 1987, but you are unable to find a copy, submit Form 4506-B to the IRS to request a copy of the application)
- Do not have to comply with individual requests for copies if the documents are *widely available*. *Example:* posting the documents on a readily accessible web page, either EO's own or database maintained by another organization. But still have to make documents available for public inspection.



Registrations, Filing and Disclosure – IRS

IRS Public Disclosure Requirements (continued)

Penalties:

- Responsible persons of EO subject to a penalty of \$20 per day for as long as the failure continues.
- Maximum penalty of \$10,000 for each failure to provide a copy of an annual information return.
- No maximum penalty for the failure to provide a copy of an exemption application.

While requests are rare, it is important to be prepared for them (and the requirements are straightforward and easy to follow).



Registrations, Filing and Disclosure – Gifts

Rules regarding Donations:

Three general disclosure rules:

- Donor must have *bank record* or *written statement* from charity for any cash donation
- Donor must obtain a *written acknowledgment* from a charity for any single contribution of \$250 or more before the donor can claim a charitable contribution on the donor's federal income tax return
- Charitable organization must provide a *written disclosure* to a donor who makes a payment in excess of \$75 partly as a contribution and partly for goods and services provided by the organization

See [IRS Publication 1771](#) for more information, and consider taking the [IRS Stay Exempt “Required Disclosures Course.”](#)



Registrations, Filing and Disclosure – Gifts

The *written statement* from the organization should include:

- the amount of the donation, if cash
- a description of the item or property donated, if not cash (organization is **not** required to estimate the value)
- a statement of whether the organization provided any goods or services in return for the payment, and
- if goods or services were provided, a good faith estimate of value of the goods/services supplied

Note that:

- Special rules apply to car donations
- Special rules apply for noncash donations over \$5,000 (unless publicly traded securities are donated)



Break Time!

Let's take a 5 minute break!



Registrations, Filing and Disclosure – State of Connecticut

What:	Sales tax exemption
Agency:	Connecticut Department of Revenue Services (DRS)
Form:	CERT 119, CERT 112, etc.
Fee:	None
When:	To obtain sales tax exemption for organization

- Separate forms for goods and services vs. meals and lodging
- No such thing as “tax-exempt number” (unless issued before 1995)
- CERT 119 – For goods and services. Fill out form and attach IRS Determination Letter. Bring to retailer. Can check “blanket certificate” box and have retailer keep on file. Does not get filed with DRS
- CERT 112 – For meals and lodging (for a single event). Gets submitted to DRS in advance
- CERT 123 – For meals and lodging (for repeat qualifying exempt purchases if certain conditions are met). Gets submitted to DRS in advance



Registrations, Filing and Disclosure – State of Connecticut

Note – Remember – obligation to **pay** sales tax is different than obligation to **collect** it. Status of purchaser is what matters.

- Nonprofit organizations that make sales of goods or services are generally required to obtain a Connecticut Sales and Use Tax Permit and collect sales tax on those sales
- BUT there is an exception: A nonprofit organization may make sales at up to 5 fundraising events per year without collecting sales tax

Also – property tax and other tax obligations more complicated. Speak with accountant and/or DRS



Registrations, Filing and Disclosure – State of Connecticut

What:	Charitable Solicitation Registration
Agency:	Dept. of Consumer Protection
Form:	Full Requirement Initial Charitable Organization Registration Application
Fee:	\$50
When:	Prior to fundraising and annually (see next slide)

- Applies to all organizations soliciting funds in Connecticut unless meet exemption (see later slide). “Soliciting” very broadly defined.
- Initial registration lasts one (1) year; must be renewed annually
- The Full Requirement Initial Charitable Organization Registration form can be submitted online or via paper filing
- Existing 501(c)(3) organizations must submit a copy of the most currently filed 990, 990-EZ or 990-N
- There is also a requirement to submit a copy of the organization’s audit if annual gross revenues exceed \$500,000 (excluding state and local grant funding)



Registrations, Filing and Disclosure – State of Connecticut

What:	Annual Charitable Solicitation Registration Renewal
Agency:	Dept. of Consumer Protection
Who:	All nonprofits registered with the DCP
Fee:	\$50
When:	Annually

- DCP will contact EO at the proper time
- At renewal, EO must confirm that EO filed the current year's 990 or 990-EZ with the IRS, but EO is no longer required to submit a copy of the 990 or 990-EZ
- If current 990 shows annual gross revenue over \$500,000 (excluding state and federal grant funding), EO must submit independent audit report
- Penalty for late filings is \$25 per month
- Make sure to renew annual registration within six (6) months of the expiration date, otherwise EO will have to submit a Connecticut Charitable Organization Reinstatement Notice
- Filing the Reinstatement Notice requires submitting 990s for all years since last expiration date in which solicitations were conducted, an audit report if the 990 showed more than \$500,000 in gross revenue for all the years being provided, a \$50 filing fee, AND an additional \$25 for each full month that the reinstatement notice is late after the last expiration date (maximum late fee of \$300)



Registrations, Filing and Disclosure – State of Connecticut

What:	Charitable Solicitation Registration <i>Exemption</i>
Agency:	Dept. of Consumer Protection
Form:	CPC-54 – Claim of Exemption from Registration
Fee:	None
When:	Prior to fundraising

- In relevant part: EO's with less than \$50K in annual contributions AND no paid fundraiser
- Registration is available online only; you must create an account on the State of Connecticut's eLicense Website
- No annual renewal required – the exemption lasts until EO above situation changes; EO must then submit a Full Requirement registration (prior slide)
- Important to monitor EO's continued ability to qualify for exemption; if EO no longer qualifies, it must file Full Requirement registration



Registrations, Filing and Disclosure – State of Connecticut

What:	Fund Raising Counsel Registration
Agency:	Dept of Consumer Protection
Forms:	If applicable, Form CPC-56 Fund Raising Counsel Registration Statement and Form CPC-57 Fund Raising Counsel Bond
Fee:	If Fund Raising Counsel Registration Statement is required, \$120
When:	Prior to effective date of project

- “Fund raising counsel” is a defined term in the CT Solicitation of Charitable Funds Act
 - One who plans, manages, or otherwise advises an organization with respect to a fund-raising effort but who does not directly solicit contributions and who does not hire someone else to do soliciting
- Fund Raising Counsel must submit to DCP a copy of the contract between it and the charitable organization.
 - The exception is in the unusual circumstance where the Fund Raising Counsel has custody or control of contributions. In that event, the Fund Raising Counsel must submit Form CPC-56 and post a surety bond (Form CPC-57) with DCP



Registrations, Filing and Disclosure – State of Connecticut

What:	Paid Solicitor Filings
Agency:	Dept of Consumer Protection
What:	Contract with paid solicitor
Forms:	Solicitation Notice, Paid Solicitor Registration Statement, Paid Solicitor Bond Form, Solicitation Campaign Report
Fee:	\$500 for Paid Solicitor Registration
When:	Prior to effective date of project

- “Paid Solicitor” is a defined term in the CT Solicitation of Charitable Funds Act
 - One who is hired by the charitable organization to solicit contributions on its behalf
 - Generally, the litmus test of whether someone is a Paid Solicitor is whether there is person-to-person or voice-to-voice contact between the solicitor and the prospective donor
 - Thus, a person or firm hired by the charitable organization to make telephone solicitations would be a Paid Solicitor, whereas a firm hired by the non-profit to prepare a solicitation solely by mail would be considered a Fund-Raising Counsel (see prior slide)



Registrations, Filing and Disclosure – State of Connecticut

What: Paid Solicitor Filings (continued)

- Solicitation Notice must be filed prior to the start of the solicitation campaign
- Contract between charitable organization and paid solicitor must be in writing and must be filed with the Solicitation Notice
- Paid Solicitor Registration Statement must also be filed along with fully-executed Paid Solicitor Bond Form
- Solicitation Campaign Report must be submitted online
- DCP is particularly interested in phone solicitation “programs” where solicitor retains % of revenues



Registrations, Filing and Disclosure – State of Connecticut

Be aware of further requirements regarding fundraising activities:

- **Games of Chance (raffles, bingo, etc.)** – very highly regulated, and organizations must apply for a permit with the municipality where the game of chance is to be conducted
 - Exception: Sealed Ticket Permits must be obtained from DCP (<https://portal.ct.gov/DCP/License-Services-Division/License-Division/Charitable-Games---Sealed-Tickets>)
- **Commercial Co-Ventures** – when a commercial enterprise offers to donate to a charitable organization a portion of the revenue derived from the advertised sale of a product or service (i.e., a restaurant offers to donate a percentage of its sales of a particular item on the menu to benefit a nonprofit)
 - DCP requires that the Commercial Co-Venturer must have a contract with the charitable organization and file a copy of it with the DCP prior to the start of the promotion
 - The contract must contain certain provisions (see DCP website for more information): <https://portal.ct.gov/DCP/Charities/General-Information-on-the-Connecticut-Solicitation-of-Charitable-Funds-Act>
- Also – may need to register for charitable solicitations in other states – depending on what your fundraising plans are, consider discussing with an attorney



Registrations, Filing and Disclosure – State of Connecticut

What: Annual Report

Agency: Secretary of the State

Who: All corporations, including nonstocks (nonprofits)

When: Annually

Fee: \$50

- Go to Secretary of the State’s website and fill out form; pay by credit card
- List of current directors and officers
- No penalty, but will affect “good standing” – no certificate of existence available if behind on annual filings
- Failure to file annual reports could result in administrative dissolution of corporation
- Due annually on the anniversary of the corporation’s submission of its Organization and First Report to the Secretary of the State



Registrations, Filing and Disclosure – State of Connecticut

What: Business Filings (Certificate of Amendment, Change of Agent, Change of Business Address, Interim Notice of Change of Officer/Director, etc.)

Agency: Secretary of the State

Who: All corporations, including nonstocks (nonprofits)

When: As Needed

Fee: \$20 – \$50

- If the EO amends or amends and restates its certificate of incorporation, it will need to file a Certificate of Amendment (for example, if EO changes its name)
- Keep in mind that whenever the EO experiences a change (the ED who was the registered agent has departed from the EO, business address has changed, a director resigns and another director is appointed to fill the vacancy on the board), a filing may be necessary



Thank you!

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