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## **MEMORANDUM**

### **General Federal and State Filing Requirements for § 501(c)(3), § 501(c)(4) and § 501(c)(6) Organizations**

#### **Federal Filing Requirements**

##### **A. Federal Information Returns**

Although an Organization is exempt from federal and state *income* taxation, it must still file federal information returns. The type of return an Organization must file is based on the amount of its gross receipts:

- \$50,000 or less: if the Organization's gross receipts are normally less than \$50,000 per year, it must file Form 990-N (also called the "e-postcard"). It can be filed at the following website: [http://www.irs.gov/Charities-&-Non-Profits/Annual-Electronic-Filing-Requirement-for-Small-Exempt-Organizations-Form-990-N-\(e-Postcard\)](http://www.irs.gov/Charities-&-Non-Profits/Annual-Electronic-Filing-Requirement-for-Small-Exempt-Organizations-Form-990-N-(e-Postcard))
- \$50,000 - \$99,999: Form 990-EZ
- \$100,000 and greater: Form 990

The information return for an Organization's fiscal year is generally due by the following *May 15* (or 5 and one half months after the end of the Organization's fiscal year end). Failure to file an information return may result in penalties and loss of tax-exempt status.

##### **B. Colorado Information Returns**

Colorado does not require a tax-exempt organization to file an annual information return.

##### **C. Employment-Related Returns**

If an Organization has employees or independent contractors, it must generally file the same forms with the IRS as a regular business. State and federal income tax withholding and FICA (Social Security and Medicare taxes) must be withheld from the Organization's employees' paychecks and the Organization must pay its share of FICA. A 501(c)(3) is automatically exempt from federal unemployment taxes, but it is not from state unemployment taxes. However, in Colorado, a nonprofit with three or fewer employees may be exempt from state unemployment taxes under

some circumstances. Please contact me if the Organization intends to hire employees or retain independent contractors so we can discuss its filing requirements.

#### **D. Miscellaneous Returns**

There are other federal tax returns the Organization may need to file if it ever receives income from a business it operates which is unrelated to its charitable purpose. Again, please contact me if the Organization thinks it may be operating what is called an "unrelated trade or business."

#### **State Filing Requirements**

- *Annual Report:* the Organization is a Colorado nonprofit corporation. In order to remain in good standing with the Secretary of State and maintain its corporate status, it must file an "Annual Report" with the Secretary of State. The Secretary of State will send out a notice to the Organization's registered agent when it is time to file its annual report.
- *Registering as a Charity Under the Colorado Charitable Solicitations Act:* if an § 501(c)(3) or § 501(c)(4) organization seeks and receives donations from the general public in excess of \$25,000 during a fiscal year, it must register with the Secretary of State. Government grants and grants from tax-exempt 501(c)(3) organizations are excluded when considering the \$25,000 gross revenue threshold. An organization can register on line at: <http://www.sos.state.co.us/pubs/charities/charitable.htm>

*\*\*please note that 501(c)(4)s that solicit donations from the general public must also register with the Secretary of State under the Charitable Solicitations Act even though they are not charities!*

- As noted above, Colorado does not require the filing of any annual information returns similar to a Form 990.
- *Employees:* If an Organization has employees, it must file Form CR 100, Colorado Business Registration, with the Department of Labor and insure it pays applicable employment taxes, including unemployment insurance. As noted above, in Colorado, a nonprofit with three or fewer employees may be exempt from state unemployment taxes under some circumstances.

#### **Other Exemptions from State Taxation**

Section 501(c)(3) organizations may also register for sales tax exemption, property tax exemption, and can receive a reduced postal rate from the post office.

- the form for property tax exemption can be found at: [http://dola.colorado.gov/dpt/exemptions/docs/Schools\\_and\\_Charitable/2008APPSC-2.pdf](http://dola.colorado.gov/dpt/exemptions/docs/Schools_and_Charitable/2008APPSC-2.pdf)
- the form for sales tax exemption can be located at: [http://www.colorado.gov/cs/Satellite?c=Document\\_C&cid=1185353127590&pagename=Revenue%2FDocument\\_C%2FREVX](http://www.colorado.gov/cs/Satellite?c=Document_C&cid=1185353127590&pagename=Revenue%2FDocument_C%2FREVX)