


## Tricks, Tips & Traps

Jill J. Goodwin, CPA  
Waugh & Goodwin, LLP  
jgoodwin@waughgoodwinllp.com  


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## Non-Profit Publications

- › Publication 557, Tax-Exempt Status for Your Organization
- › Publication 598, Tax on Unrelated Business Income of Exempt Organizations
- › Publication 1771, Charitable Contributions, Substantiation and Disclosure Requirements
- › Publication 4220, Applying for 501(c)(3) Tax-Exempt Status
- › Lots of information at [www.irs.gov](http://www.irs.gov)

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## Reporting Requirements

- › Non-Profit Status
  - Clubs - file Form 1023 application with the IRS
  - Fee required, based on anticipated gross receipts
  - Due within 27 months of formation to be effective as of the date of formation
  - If after 27 months after date of formation, exemption is based on postmark date
  - Advance Ruling period has been eliminated
- › LSCs - Included with USA Swimming's non-profit status through a Group Exemption

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## LSC Reporting Requirements

- › LSC Bylaws
- › Requirements, including the bylaws template and transmittal form are available in the LSC section of the USA-S website
- › Form 990
- › Attested financial statements
  - Independent audit
  - Reviewed by audit/finance committee

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## Form 990

- › File Form 990, 990-EZ, or 990-N by the 15<sup>th</sup> day of the 5<sup>th</sup> month following year end
- › Form 990-N, Electronic Notification for Tax-Exempt Organizations Not Required to File Form 990 or 990-EZ (e-Postcard), may be filed at [www.irs.gov](http://www.irs.gov)
- › Any organization which fails to file 3 years in a row will automatically lose its exempt status and have to reapply to be recognized as an exempt organization

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## Form 990 - Continued

- › Significant changes to Forms 990 and 990-EZ for 2008
- › For 2008 returns, if gross receipts are less than \$1,000,000 and total assets are less than \$2,500,000, the organization may file Form 990-EZ
- › !! Caution !! - These amounts change for 2009 and 2010
- › TIP: Gross receipts = total receipts, not net of expenses

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## Form 990 Penalties

- ▶ \$20 per day if gross receipts are less than \$1,000,000
- ▶ \$100 per day if gross receipts are more than \$1,000,000
- ▶ If the organization is required to file electronically, but fails to do so, the return is deemed to have not been filed
- ▶ Penalties begin on the due date for the return
- ▶ If information is not furnished within the time the IRS allots, the person failing to comply will be charged a penalty of \$10 per day

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## Form 990-T

- ▶ Unrelated Business Income Tax (UBIT)
  - Trade or business income
  - Not substantially related to the organization's exempt purpose
  - Advertising in which a sponsor receives a substantial return benefit
  - In excess of \$1,000
  - Open to public inspection

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## State Reporting

- ▶ Approximately 40 states have enacted charitable solicitation statutes
- ▶ Usually require organizations to register with the state before they solicit contributions
- ▶ Some exemptions - vary state by state
- ▶ Some states accept Form 990 - need to check specific state requirements

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## State Reporting – continued

- › National Association of State Charity Officials website has links to state offices which regulate charitable organizations and charitable solicitations
- › [www.nasconet.org/agencies](http://www.nasconet.org/agencies)

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## Forms 1099 & W-2

- › Form 1099:
  - Payments made to non-corporate entities or individuals – \$600 and over per calendar year
  - TIP: Form W-9, Request for Taxpayer Identification Number and Certification, should be requested from payees prior to disbursing funds to insure that you have the required information when it is time to prepare the 1099 forms
  - 1099 forms must be distributed to the payee by January 31<sup>st</sup> each year
  - Send to the IRS with Form 1096 transmittal by February 28<sup>th</sup> each year
  - Penalties apply for failure to prepare and send the returns to the IRS on a timely basis

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## Forms 1099 & W-2 – continued

- › Form W-2
  - Report employee compensation and withholdings on Form W-2 to employees by January 31<sup>st</sup> each year
  - Send to the Social Security Administration with Form W-3 transmittal by February 28<sup>th</sup> each year
  - TIP: Small businesses may file up to 20 W-2s online instead of paper filing – due by March 31<sup>st</sup>
  - TIP: Form W-4, Employee's Withholding Allowance Certificate and Form I-9, Employment Eligibility Verification, should be requested from employees upon hiring
  - Other quarterly reporting requirements apply

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## Disclosure requirements

- › Form 1023
- › Form 990 or 990-EZ
- › Form 990-T
- › Other information that is widely available
  
- › Must provide copies to individuals requesting either in writing or in person
  - Usually must provide immediately if requested in person
  - Within 30 days if requested in writing
  - May charge reasonable copy charges and actual postage
  - Penalties of \$20 per day imposed against the person failing to provide the documents

check is not  
enough

## Donation Acknowledgements

- › Contributions in excess of \$250 require a written acknowledgment which includes:
  - Name of organization
  - Amount of donation or description of non-cash items received
  - Statement that no goods or services were received OR description and estimated value of goods or services received

need to ✓ this  
for facility fund

## Donation Acknowledgements - continued

- › Contributions in excess of \$75 that involve a "quid pro quo"
  - Must include a statement that the deduction is limited to the amount over the value of goods or services received in exchange for the contribution
  - No requirement if the value of goods or services received is inconsequential
  - Penalty for failure to comply with the regulation is \$10 per contribution up to a maximum of \$5,000 per event

### Donation Acknowledgements - continued

- ▶ New rules are effective for all cash, check, or other contributions of any amount made in taxable years beginning after August 17, 2006. The donor must obtain and keep a bank record or a written communication from the donee as a record of the contribution in order to claim a deduction.
- ▶ Special rules apply to non-cash donations valued in excess of \$5,000
- ▶ Charities that knowingly provide false written substantiation to contributors may be subject to penalties.

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### Donation Acknowledgements - continued

- ▶ Volunteer donations
  - Unreimbursed expenditures in excess of \$250 must obtain written acknowledgement in order to deduct as a charitable contribution
  - No personal expenses allowed
  - No "vacation" expenses allowed - must be directly related and incurred to support the organization's mission
  - Mileage may be deducted if substantiated

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### Internal Controls

- ▶ The typical US business loses 6% of its annual revenue due to fraud each year
- ▶ The underlying causes have been either material weaknesses or significant deficiencies in internal controls
- ▶ Tone of control consciousness needs to be set at the top of the organization

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### Internal Controls – continued

- ▶ Fraud risk factors
  - Weak internal controls
  - Inadequate oversight
  - External pressures
  - Fraud Triangle
    - Opportunity
    - Motivation
    - Rationalization

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### Internal Controls – continued

- ▶ Cash Controls at Events
  - Two individuals should always be present when cash is handled
  - Both individuals should count the cash receipts at the end of the event
  - All cash receipts should be deposited intact
  - Review anticipated cash receipts to actual cash receipts – significant variations could indicate missing cash

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### Internal Controls – continued

- ▶ Bank Reconciliations
  - The bank account should be reconciled in a timely manner
  - Someone independent of cash collections and disbursements should perform the reconciliation
  - Reconciliation needs to be tied to the accounting records
  - Should be reviewed by a member of the audit committee

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### Internal Controls – continued

- › Bank accounts should be set up in the name of the LSC/Club
- › Authorized signers should be updated with the financial institution whenever a change is made
- › Online access to bank accounts is available at most financial institutions which facilitates monitoring of account transactions
- › NEVER sign blank checks – you have effectively given your approval for a disbursement that you have not reviewed

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### Internal Controls – continued

- › Disbursements
  - All disbursements should be made by check, wire, automatic debit or credit card, never with cash
  - A clearly defined approval process should be in place and followed
  - Pay from original invoices/receipts only
  - Access to blank check stock should be tightly controlled
  - Dual signatures, where required

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### Internal Controls – continued

- › Travel reimbursements
  - May use actual costs or "per diem" rates
  - IRS Publication 1542 or "Per Diem Rates" link on [www.gsa.gov](http://www.gsa.gov)
  - Actual costs
    - Should obtain original receipts to substantiate expenditures
    - Receipts should be marked paid after reimbursement
  - Per Diem Rates
    - High-low rates
    - Federal rates for each city

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## Internal Controls – continued

### › Inventory

- Periodic physical counts should be taken by individuals who don't have responsibility for distributing inventory items
- Access to inventory items limited to those with responsibility over the inventory
- Valuation should be consistent

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## Internal Controls – continued

### › Financial Statements

- Prepared at least semi-annually
- Distributed to board or audit committee
- Should use the budget as a monitoring tool and periodically compare the budget versus actual results, significant variances should be reviewed
- Fiduciary responsibility to review and question any area of concern

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## Internal Controls – continued

### › LSC Crime Insurance Coverage requirements

- Dual signatures are required on checks written for \$5,000 or more
- The individual issuing checks cannot be the same individual who reconciles the bank statement
- An audit committee must be formed and they must review the LSC books at least semi-annually

NOTE: If a loss occurs in the LSC and these controls were not in place, the insurance company will deny the claim.

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Investment Policy - part of  
Written Policies of USC

### Tax Tips & Traps

- ▶ Employee vs. Independent Contractor
  - Degree of control
    - Behavioral
      - Training & instruction
    - Financial
      - Risk of loss
      - Unreimbursed expenses
      - How the worker is paid, i.e. hourly, weekly, etc. or flat fee
  - Type of relationship
    - Written contracts
    - Permanency of the relationship

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### Tax Tips & Traps - continued

- ▶ Payments to an employee are subject to withholding and reported on Form W-2
- ▶ Payments to an independent contractor are not subject to withholding and are reported on Form 1099-MISC
  
- ▶ Significant penalties for misclassification
- ▶ More information on worker classification can be found in IRS Publication 15-A

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### Jeopardizing Exemption

- ▶ A 501(c)(3) organization must not be organized or operated for the benefit of private interests
- ▶ No part of the net earnings may inure to the benefit of any individual
- ▶ Refrain from participating in political campaigns of local, state or federal candidates
- ▶ Restrict lobbying activities
- ▶ Failure to satisfy annual filing requirements

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