TaxViews

A tax periodical for the private club community

November 2024

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The Importance of Board Review and Timely Filing of Form 990

From time to time, we receive inquiries from private clubs asking, "[w]hat's the big deal if we do not file our federal Form 990, Return of Organization Exempt from Tax ("Form 990"), on time or at all?" As outlined below, a late filing or complete failure to file can have a significant and lasting impact on a tax-exempt organization. Moreover, as the Form 990 is a document which is open to public inspection, it is critically important that those charged with governance implement a official review process prior to filing with the Internal Revenue Service ("IRS"). Therefore, we urge private clubs to take appropriate steps to ensure tax returns are not only filed on a timely basis, but undergo an appropriate review process.

Importance of Board Review

Does your private club answer "Yes" to Form 990, Part VI, Governance, Management, and Disclosure, Section B. Policies, which asks, "[h]as the organization provided a complete copy of this Form 990 to all members of its governing body before filing the form? If the answer is "No", those charged with governance should take action to establish a review process to ensure the private club may answer yes in a future period.

While the Form 990 does not actually require board review, a private club may answer "Yes" only if a complete copy of the club's Form 990 (*including all required schedules*), as ultimately filed with the IRS, was provided to each person who was a voting member of the governing body at the time the Form 990 was provided. Being that the Form 990 is open to public inspection, it may benefit the private club to advise the public that those charged with governance performed a review of the Form 990 prior to filing.

Late Filing and the Applicable Penalties (*as of November 2024*)

If a private club whose gross receipts are less than $1,208,500 for its tax year files its Form 990 after the due date (including any extensions), and the organization doesn't provide reasonable cause for filing late, the IRS will impose a penalty of $20 per day for each day the return is late. The maximum penalty is $12,000, or 5 percent of the organization's gross receipts, whichever is less. The penalty increases to $120 per day, up to a maximum of $60,000, for an organization whose gross receipts exceed $1,208,500.

Please note that late filing penalties may also apply to the late filing of Form 990-T, Exempt Organization Business Income Tax Return, and any state filings, as applicable.

In closing, we urge private clubs to implement a review process for the Form 990 at the board level and ensure such filings are made on a timely basis with the IRS. By undergoing such process, a private club may avoid unnecessary penalties and expense.

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