NONPROFITS: CALIFORNIA FRANCHISE TAX BOARD

# CA Nonprofits Get Extra Time to File Information Returns

12.29.16 | Linda J. Rosenthal, JD

Directors and officers of tax-exempt organizations around the nation generally breathe a sigh of relief when the coveted determination letter from the IRS granting the exemption is received.
But that's just the start of the paperwork and record-keeping required by the federal government as well as state and local authorities. Failure to follow these filing requirements and deadlines can result in penalties and – sometimes – even harsher consequences. For instance, failure to file Form 990 information returns for 3 years can result in automatic revocation of the federal tax exemption. Similarly, failure to file the required registration with the California Attorney General for a single year will result in the nonprofit's tax-exempt status being suspended, and a 3-year failure will result in automatic revocation of status.

## Automatic Extension for CA Information Returns

The California Franchise Tax Board recently sent out FTB Notice 2016-04 (11/4/16) with guidance on automatic extensions of time for various corporate entities in this state to file tax returns.
Included in this notice were instructions for California organizations exempt from tax under California Revenue & Taxation Code section regarding Form 199, Exempt Organization Annual Information Return and Form 109, Exempt Organization Business Income Tax Return.

**Form 199:** Most California charities that exceed a certain gross receipts threshold are required to file an annual Form 199 (or an alternate version for smaller groups – the 199N). Certain categories of organization – including private foundations and nonexempt charitable trusts – must file regardless of gross receipts. Other categories are exempt from the filing requirement; these include churches

and religious order, for instance.

**Form 109:** Under California Revenue & Taxation Code section 23771, most exempt organizations that have income in excess of $1,000 from a trade or business unrelated to the exempt purposes – even if the profits are used for exempt purposes – must file an annual Form 109. There are some exceptions to this filing requirement.

## *Filing Deadlines and Extensions*

Ordinarily, these two returns are due on the 15th day of the 5th month after the end of the close of the organization's fiscal year. For example, a calendar year exempt organization, the two forms are due on May 15th.
For years beginning January 1, 2016, there is a substantial extension of time available in certain cases.

***Good Standing Automatic Extension***: For taxable years beginning on or after January 1, 2016, if Form 199 (or 109) cannot be filed by the 15th day of the fifth month, the organization has an additional six months to file without filing a written request for extension. This automatic extension is extended to organizations that are in good standing with the Franchise Tax Board on the original due date. The granting of the extension is also conditioned on the filing of a return within the automatic extension period. The extended due date will be the 15th day of the 11th month after the close of the tax year. For example, a calendar year exempt organization, the extended due date would be November 15th.

***No Automatic Extension if Not in Good Standing*:** If an organization is not in good standing with the FTB, neither the 199 return nor the 109 return will be given an extension of time to file. With respect to Form 109 to avoid late payment penalties, the organization must pay 100% of the tax liability by the original due date of the return.

## Conclusion

The above discussion is limited to the Form 199 and 109 returns filed by exempt organizations. Please also note that this information is for taxable years beginning on or after January 1, 2016 and not for earlier tax years.