

Nonprofit Notes

NYS CHAR500 Compliance Alert: Why GAAP-Compliant Financial Statements Matter

By Melissa Modelson, CPA, Partner

Nonprofit organizations that are registered with the New York State (NYS) Attorney General's office and file a CHAR500 annual report must ensure that their audited financial statements fully comply with NYS regulations and accounting principles generally accepted in the United States of America (GAAP). Deviations from GAAP on the financial statements, such as a qualified audit opinion or review conclusion, will not be acceptable to NYS.

Background of the Directive

NYS requires most tax-exempt organizations that solicit donations, hold assets for charitable purposes or do business in the state to register and file a CHAR500 annually with the **Attorney General's Charities Bureau**. This reporting helps ensure transparency, accountability and public trust.

In accordance with New York Consolidated Laws, Executive Law § 172-b, organizations that exceed certain revenue thresholds are required to submit financial statements that have been either audited or reviewed by an independent certified public accountant, with a copy of their Form 990, 990-PF or 990-EZ, along with the CHAR500.

If an organization's gross annual revenue and support received in their fiscal year is:

- Less than \$250,000 in annual revenue: No annual review or audit report required.
- Greater than \$250,000 in annual revenue, but not more than \$1,000,000: The nonprofit must include GAAP-based financial statements accompanied by an independent accountant's review report or an independent auditor's report.
- More than \$1,000,000 in annual revenue and support: The nonprofit must include GAAP - based financial statements accompanied by an independent auditor's report.

The CPA audit/review report must contain an opinion that the financial statements prepared using GAAP are presented fairly in all material respects or the review report contains a conclusion that the accountant is not aware of any material modifications that should be made to present the financial statement in accordance with GAAP. Therefore, an organization that receives a qualified opinion or conclusion due to a GAAP departure would not be able to submit those financial statements to NYS.

Consolidated Financial Statements

A common example of a qualified audit opinion relates to consolidated financial statements. When an organization serves as the parent of multiple entities, NYS regulations require that the consolidated financial statements include all related entities. If the consolidation is incomplete and results in a qualified opinion due to a GAAP departure, the resulting financial statements will not be in compliance with NYS requirements.

Similarly, parent-only financial statements that receive a qualified opinion are also not compliant with NYS regulations. In either situation, the organization risks having its annual CHAR500 filing rejected if submitted with non-compliant financial statements.

To comply with NYS regulations, the nonprofit must issue consolidated financial statements with an unmodified audit opinion. Additionally, NYS requires supplementary consolidating schedules to accompany the financial statements, showing the balances and totals of each of the related parties be included within the financial statements. The schedules must present separately:

- A balance sheet
- An income statement
- A statement of cash flows

This requirement ensures transparency and allows the Attorney General to clearly identify the financial position and results of operations of the entity responsible for the CHAR500 filing. If consolidated financial statements are submitted to NYS without the appropriate consolidating schedules, they would not be in compliance with NYS regulations.

Qualified Opinions or Conclusions and Waivers

In cases where an organization has already submitted financial statements with a qualified opinion or conclusion, it may be possible to request a one-time waiver from the NYS Attorney General. However, several important factors apply:

- There is no guarantee that a waiver will be granted.
- Even if approved, the waiver applies only once.
- The organization must comply with NYS requirements on a go-forward basis, including issuing GAAP-compliant financial statements with an unmodified opinion.

Because of this uncertainty, relying on a waiver should be discussed internally to determine if that is the best course of action. The waiver request is submitted with a copy of the CHAR500 and Form 990 at the time of filing.

Planning Ahead

These requirements underscore the importance of early planning when preparing for nonprofit audits or reviews, particularly for organizations with complex structures or affiliated entities. While these complex structures can enhance mission delivery and operational efficiency, they can also create additional financial reporting considerations. Management should work closely with auditors to ensure that all NYS-specific presentation requirements are met in the issued financial statements.

Contact Us

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