



**SMITH MARION & CO.**  
CERTIFIED PUBLIC ACCOUNTANTS



**Welcome**

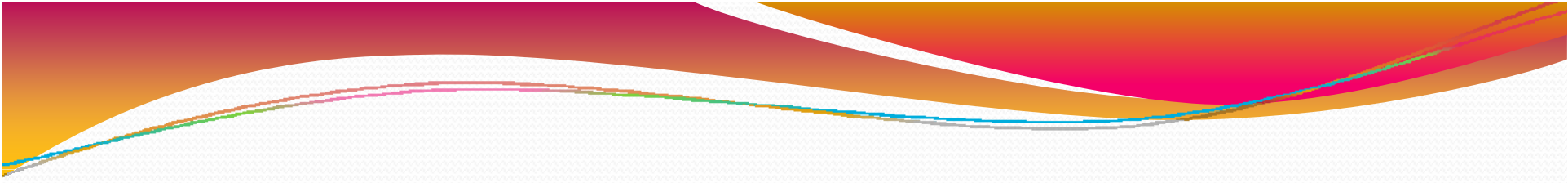
Third Annual Smith Marion &  
Co. Client Workshop

# Form 1360, 1361 & 1362

Presented by Janet Smith

Enrolled Agent

Smith Marion & Co.



What is the 1360 and why is it important?

- Smith Marion document
- Questionnaire
- Forms 990, 199 & RRF-1



# Why is the 990 Important?

- Form 990 is a public document
- Filed with the IRS
- Used by donors
- Reflects the organizations:
  - Mission
  - Programs
  - Policies
  - Financial health



## Every Year?

- Policies
- Environments
- Board Members
- IRS Guidelines



Please fill the form out completely

- If it does not apply to you please indicate with a zero (0) or N/A
- Questions or problems?
  - Call or send and email



**1360**

Please refer to the form we have  
provided for you.





Part I & II

Summary



## General Information

- Type of Organization-Corporation, Trust, Association, Other
- Year of Formation
- Website & Email Address
- Name and title of the person signing the tax return



## General Information

- Number of W-2s, W-2Gs, & 1099s issued at December 31.
  - W-3
- Number of Volunteers during the year – Estimates are fine.



## Part III

# Mission & Program Service Accomplishments



# Mission Statement

- Review prior year statement
  - Make changes as necessary
- Clear, concise
- This is your place to shine



# Service Accomplishments

- Check your service accomplishments from prior year tax return
  - Make changes as necessary
    - Clear & concise
      - Number of clients served
      - Specific goals achieved
      - Service area changed
- Remember this a public document



# Service Accomplishments

- Did you add a new program? Terminate an existing one?
  - Identify the program
  - Identify and describe the specific service accomplishments (# of clients served, specific goals achieved, etc.)
  - Be clear, concise, and complete in the description



# Part IV

## Checklist of Required Schedules





# Schedule B

- Contributions of \$5,000 or more from one donor
  - Individual
  - Private
  - Corporate
  - Government
- Require
  - Name
  - Address
  - Total Contributions
  - Cash or non-cash



# Schedule B

- No anonymous donors
- Non-cash contributions
  - Description of property given
  - Fair Market Value, cost or other
  - Date Received



# Schedule C

- Direct or Indirect Political Activities
- Lobbying – Trying to influence legislation
  - Direct Lobbying – contact with legislators or government officials directly
  - Grassroots Lobbying – influence legislation indirectly by attempting to mold the general public’s opinion on an issue
- Lobbying is allowed but limited
  - Not a substantial part of activities
  - Federal Grant money cannot be spent on lobbying
  - Can elect an expenditure test under Section 501(h)



# Schedule C

- Political Activity

- Electioneering – participating or intervening in political campaigns for or against a candidate for public office.
  - **Strictly forbidden.**
  - No money from the organization should be paid to support a candidate.
  - No board member or employee should attend any fundraiser for a candidate as a representative of the organization.
- Nonpartisan voter involvement – give voter registration assistance without screening voters – Voter education.
  - This is allowed but there are **strict** guidelines that must be followed.



# Schedule D

- Maintain any donor advised funds, conservation easements or endowments (term, permanent, or quasi)?



# Donor Advised Fund or Account

- That is separately identified by reference to contributions of a donor or donors;
- That is owned and controlled by a sponsoring organization; and
- For which the donor or donor advisor has or reasonably expects to have advisory privileges in the distribution or investment of amounts held in the donor advised funds or accounts because of the donor's status as a donor.



# Conservation Easements

- Land that remains in the name of the owner but the use has been turned over to an entity for a specific purpose.



# Endowment

- A fund established to provide a source of income for the organization.





# Permanent (true) Endowment

- A fund established by donor-restricted gifts that is maintained to provide a permanent source of income, with the stipulation that principal must be invested and kept intact in perpetuity, while only the income generated can be used by the organization.



## Term Endowment

- A fund established by donor-restricted gifts and maintained to provide a source of income for either a specified period of time or until a specific event occurs.



# Quasi Endowments

- Funds established by the governing board to function like an endowment fund but which may be totally expended at any time at the discretion of the governing board.



# Schedule G

- More than \$15,000 in fundraising activities
  - This is Gross Revenue from Fundraising
  - If so the 990 requires the following information
    - Event Type
    - Cash Prizes
    - Noncash Prizes
    - Rent/facility costs
    - Food & Beverages expenses
    - Entertainment expenses
    - Other expenses



# Schedule I

- Provide assistance to individuals of \$5,000 or more.
  - If so, the 990 requires the following information:
    - Type of grant or assistance
    - Number of recipients
    - Amount of cash grant
    - Amount of noncash assistance
    - Method of valuation (cost, FMV, appraisal, other)
    - Description of noncash assistance



## Schedule L

- Provide a grant, loan or other assistance to an individual who is a current or former board member or key employee.



# Schedule M

- If you receive more than \$25,000 in non-cash contributions:
  - Even if the items were sold immediately
  - More information will be required
  - Do not report donations of services
  - Do not report use of facilities



# Schedule R

- Related entity is an organization that is:
  - Parent
  - Subsidiary
  - Brother/Sister
  - Supporting/Supported





## Schedule R (cont)

- Transaction between any related tax-exempt or taxable entity.
  - Transactions include but are not limited to:
    - Gifts
    - Grants
    - Loans
    - Asset purchase or sale
    - Lease of facilities
    - Sharing of assets
    - Etc.



## Part V

# Statements Regarding Other IRS Filings & Tax Compliance



# Tax Compliance

- Filed all required federal employment tax returns?
  - 940
  - 941



# Tax Compliance (Cont)

- Unrelated business income of \$1,000 or more?
  - Any trade or business not related to exempt function.
  - UBI – all of the following must apply
    - Be regularly carried on;
    - Constitute a generally recognized trade or business; and
    - Be substantially unrelated to the organization's tax-exempt purpose.
  - If so was 990-T filed?



## Tax Compliance (Cont)

- Any tax shelter transactions?
  - These are transactions that shelter individuals and other entities from paying taxes.
  - Example: Donated Art



# Contributions

- If you solicited contributions that are not tax deductible
  - You must provide the donor with an express statement that such contributions were not tax deductible. (Usually pre-printed on ticket)
- If you provide goods or services in exchange for any contribution of \$75.00 or more
  - You must notify the donor



# Personal Benefit Contracts

- Is when you receive funds from a donor, directly or indirectly, to pay a personal benefit contract.
  - A personal benefit contract generally is any life insurance, annuity, or endowment contract that benefits, directly or indirectly, the transferor, a member of the transferor's family, or any other person designated by the transferor.



# Contributions of Vehicles

- Contributions of cars, boats, airplanes, or other vehicles.
  - Must file a 1098-C
    - Provide 1098-C to the donor
    - Report to the IRS





# Taxable Distributions

- Pertains to organizations making distributions from a donor advised fund to a donor, donor advisor, or related person.



# Part VI

## Governance, Management & Disclosures



## Governing Body & Management

- Significant changes to the by-laws
  - Provide a copy
  - Changes should be significant not minor



# Board Minutes

- Contemporaneously document every meeting of the governing body (includes committees with authority)
  - Documentation
    - approved minutes, email, or similar writings
      - explain the action
      - when taken, and
      - who made the decision.
  - Contemporaneously means by the later of;
    - The next meeting; or
    - 60 days after the date of the meeting or action.
  - If no minutes, explain the policies/practices of the organization.



## Local Chapters, Branches, Affiliates

- There should be written policies & procedures governing the activities of any Local Chapter, Branches or Affiliates.



# Approving the 990

- “Each board member receives, reviews and approves the return”
  - Is this an accurate statement for your organization?
    - If not, what procedure do you use?
  - It is recommended that you email the 990 to all of your board members for approval before it is signed and submitted.



# Policies

- Conflict of Interest
- Whistleblower
- Records retention and destruction
- Compensation
- IRS provides samples on their website.



# Written Conflict of Interest Policy

- What is a conflict of Interest?
  - When a person in a position of authority over an organization (officer, director, manager) can benefit **financially** from a decision he or she could make in such capacity, including indirect benefits such as family members or businesses with which the person is closely associated.
- Every organization should have a policy.
- Conflict of Interest are not necessarily a detriment.
- Annual memos should be distributed and signed.





# Written Whistleblower Policy

- Encourages staff and volunteers to come forward with credible information on illegal practices or violations of adopted policies.



# Written Records Retention & Destruction Policy

- Document destruction policies provide guidelines for the proper disposal of records & prevent destruction of relevant documentation if the organization is involved in litigation.



# Compensation

- “Statistical data for the surrounding area is gathered and reviewed to determine average salary for specific job requirements & responsibilities”
  - Is this an accurate statement? If not please provide one.
  - Executive compensation over \$100,000 is public knowledge – **without exception.**
  - Compensation includes salary and benefits from reporting organization & all related organizations.



# Disclosures

- How do you make documents available for public inspection? “Upon written request the organization will make available the governing documents, policies and/or financial statements”
  - Is this statement correct for your organization? If not please provide a statement of how your documents are made available.
  - Is the tax return posted on your website? Another website?



# Disclosures

- Person responsible for the books and records
  - Name
  - Address
  - Telephone Number
- This is the person who the IRS will contact if questions arise



# Part VII

Compensation of Officers,  
Directors, Trustees, Key Employees



# Directors and Key Employees (1361)

- ANY compensation paid to current officers, directors and trustees.
- \$150,000 of reportable compensation paid to key employees from the reporting organization and any related organizations.
- \$100,000 of reportable compensation paid to five highest compensated employees. Exclude those listed above.
- \$10,000 of reportable compensation paid to former director or trustee who performed services in the capacity of a board member.



# Directors and Key Employees (1361)

- If any officers, directors, trustees, key employees are related to one another.
  - List names of each person
  - List how they are related





## Independent Contractors (1362)

- List all Independent Contractors paid more than \$100,000
  - Name
  - Address
  - Type of Service
  - Amounts paid



## RRF-1

- Funds used to pay penalties, fines or judgments
  - Explain reason and how much paid
- Theft, embezzlement, diversion or misuse of charitable funds
  - Explain circumstances and how much money involved
- Professional or commercial fundraisers used
  - Provide name, address, phone number



## RRF-1

- Governmental Funding
  - Name of Agency
  - Mailing Address
  - Contact Person
  - Phone Number



# RRF-1

- Vehicle donation program
  - Nature of the program
- Raffle
  - Was permission granted from Attorney General?
- Opportunity drawing
  - no permission from AG necessary
  - Every person in attendance has to receive one ticket
  - But attendees may purchase more tickets



Questions?



Thank you for your attention



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