



# AMERICAN CANYON ARTS FOUNDATION

## Board of Director's Policy Manual

### Governmental Compliance Policy

Adopted/Revised:  
October 9, 2013

#### I. Purpose/Intent

Compliance with local, State and Federal laws and regulations are critical to preserve American Canyon Arts Foundation's (ACAF) nonprofit status, not to mention being legally required. The purpose of this policy is to identify the legal reports and forms that need to be completed to ensure such reports and forms are submitted in a timely manner.

#### II. Authority

The Board of Directors has the authority to establish policies under Article 12, Section 2 of the By-Laws, and approved this policy by adopting Resolution 2013-02.

#### III. Policy

##### *Section One: General Guidelines*

1. Electronic Filing. Whenever possible, file online. This expedites the application process and saves postage costs. Also, confirmation copies are usually immediately available that can be printed.
2. Keep Copies. Good recordkeeping is always important, but it is even more important if and when it may be necessary to verify ACAF filed in a timely manner.
3. Rely on Governmental Websites. Although the Government has plenty of informational brochures and guides, online versions are more current. In most cases, the file can be downloaded for future reference or use.
4. Routinely Verify Compliance Requirements. Periodically, governmental filing fees or forms can change; verifying the correct forms by accessing the appropriate website is the best course of action, rather than rely on hard copies that may be out of date.
5. Public Disclosure. As a tax exempt nonprofit corporation, ACAF must also be transparent. ACAF's application for Federal tax exemption, the accompanying "Determination Letter" from the IRS and any State or Federal Reporting requirements, are public information, and must be made available to the general public upon request.
6. Key websites. Below are the most popular sites for governmental compliance:
  - Federal Government/IRS: [www.irs.gov/eo](http://www.irs.gov/eo)
  - Secretary of State: [www.sos.ca.gov/business/](http://www.sos.ca.gov/business/)
  - Attorney General's Office: <http://oag.ca.gov/charities>
  - Franchise Tax Board: [www.ftb.ca.gov/businesses/exempt\\_organizations/](http://www.ftb.ca.gov/businesses/exempt_organizations/)
  - Board of Equalization (Sales Tax): [www.boe.ca.gov](http://www.boe.ca.gov)
  - City Business License: [www.cityofamericancanyon.org](http://www.cityofamericancanyon.org) (Home page)
7. Special Reporting/Compliance Requirements. Certain grants or other funding sources may have their own reporting requirements, which are not covered in this policy.

## **Section Two: One-Time Requirements**

### **1. Federal Requirements**

- **IRS Determination Letter.** Upon incorporation, ACAF must complete an IRS form 1023, *Application for Recognition of Exemption Under Section 501 (c) 3 of the Internal Revenue Code*. This is required in order to be exempt from Federal Income Taxes, and to allow donations to be made on ACAF's behalf. Once applied for and an *IRS Determination Letter* has been received, no further action is required to preserve the tax exempt status, provided ACAF complies with all other Federal requirements. There is a one-time filing fee as well. Currently, it is \$400 for corporations that make less than \$10,000 per year; and \$850 for larger corporations.

### **2. State Requirements**

- **Articles of Incorporation.** ACAF must file Articles of Incorporation to the California Secretary of State in order to be considered a public benefit nonprofit corporation. The actual document is the ARTS-PB, *Articles of Incorporation for a Nonprofit Public Benefit Corporation*. This form can be filled out or retyped, as preferred. It includes a description of the purposes for which ACAF was formed; the name and address of ACAF and its principal officers, and language legally required to qualify. There is a modest filing fee involved and an additional fee to receive a certified copy.
- **Tax Exempt Application.** ACAF must also file a Form 3500 (*Exemption Application*) or 3500A (*Submission of Exemption Request*) with the Franchise Tax Board. This is a one-time application that sets forth the basis for ACAF's tax exempt status, for State Income Tax purposes. The 3500A is an abbreviated form, used when ACAF has already received its IRS Determination Letter. The By-Laws are required to be included with this application. This form is submitted to the Franchise Tax Board, and there is a small filing fee.
- **Attorney General's Registry of Charitable Trusts.** Once ACAF is incorporated, it must file timely with the Attorney General's Office, starting with the initial form CT-1, *Initial Registration Form*. This registers ACAF with the Attorney General's Registry of Charitable Trusts and is required if we intend to use donated assets, including cash.
- **Resale Permit.** Since ACAF sells items subject to sales tax, we must also apply for and receive a Reseller's Permit from the State Board of Equalization (BOE), using form BOE 230, *General Resale Certificate*.

## **Section Three: Ongoing Requirements – Federal Government**

1. **Annual 990 Filing.** Form 990 is the basic tax reporting form for nonprofits. It is the annual report of ACAF's revenues and expenditures, as well as other public information. The specific Form 990 to be filed depends upon ACAF's annual gross receipts.
  - ***Form 990-N, e-Postcard:*** If the amount is under \$50,000, then the electronic postcard is required—an online reporting that acknowledges ACAF made less than \$50,000 in the prior year, and the name and address of the official contact person.

- *Form 990-EZ, Short Form Return of Organization Exempt From Income Tax:* If the amount is more than \$50,000 but less than \$200,000, then the EZ form is required. There is more information to be disclosed, but not as much as is required with the Form 990.
- *Form 990, Return of Organization Exempt From Income Tax:* If the annual gross receipts are more than \$200,000, then the standard 990 form is required. This multi-page form requires detailed information about revenues and expenses; established board policies, and other pertinent information regarding the board and the organization.

Because ACAF's fiscal year is the same as the calendar year, the appropriate report above must be filed by May 15 of the following year.

2. Unrelated Business Income. Just because ACAF is considered a tax exempt nonprofit corporation does not mean all receipts are exempt. Business income unrelated to the Foundation's tax exempt purposes must be treated as taxable income. Generally, revenue from the sale/auction of donated items is exempt, as is any income produced with the help of an all-volunteer staff. Royalties and interest earnings are also exempt, as well as most rental income. And the first \$1000 of any otherwise eligible unrelated business income (UBI) is still exempt from taxation. If ACAF has over \$1000 in UBI, it must file a *Form 990-T, Exempt Organization Business Income Tax Return*, which is due on the same May 15 deadline as the other Form 990's.

### ***Section Two: Ongoing Requirements—State***

1. Form SI-100, Statement by Domestic Nonprofit Corporation. Every two years this report must be filed with the Secretary of State. It basically reports the current contact person and mailing address of the corporation. There is a small filing fee involved. If any major changes occur, such as relocating ACAF's main office, an amended form should be submitted (which does not trigger an additional filing fee). This can be done online at <https://businessfilings.sos.ca.gov/>
2. Annual Tax Reporting. As with the Federal government, the State has tax reporting requirements: 199N, *e-Postcard*, similar to the Federal 990N, which can only be done online; and the 199, *California Exempt Organization Annual Information Return* (similar to the 990). This is required whenever ACAF's gross revenues exceed \$50,000 annually. There is no 199-EZ version at the State level. There is also the State version for Unrelated Business Income, the 109, *California Exempt Organization Business Income Tax Return*. There is generally no filing fees involved.
3. Taxable Sales. ACAF must file and pay any Sales Taxes to the State Board of Equalization, using the form BOE-401EZ, *Short Form Sales & Use Tax Return*. Given the sales volume, we only report annually, but that could change over time. *Note:* ACAF has no exemptions or special arrangements when it comes to taxable sales. Accordingly, even if we have a donated item for a silent auction that would be taxable if purchased somewhere else, then that item is subject to State Sales Tax, and we are obligated to report and pay the related tax (which should be collected from the purchaser at time of sale).
4. Annual Reporting to the Attorney General's Office. We must file an annual form RRF-1, *Annual Registration Renewal Fee Report*, regarding our charitable activities. There is an annual filing fee, based on ACAF's level of annual revenues.

**Section Three: Local Requirements**

1. Business License. As a nonprofit, ACAF is not required to pay the license tax, but it is required to file for a business license along with annual renewals. Contact the City's Finance Department for more.

**Governmental Compliance Table**

Agency/Form Number	Form Name/Purpose	Frequency	Fee
IRS/Form 1023	To establish 501(c) 3 status (IRS Determination Letter) <i>*\$350 if receipts are under \$10k/year; otherwise, \$850</i>	One-time	\$400-850*
Sec. of State (SOS)/ARTS-PB 501(c) 3	Articles of Incorporation, Nonprofit Public Benefit Corp.	One-time	\$30
Franchise Tax Board (FTB), Form 3500	Exemption Application (State Tax)	One-time	\$30
FTB, Form 3500A	Submission of Exemption Request (if IRS has already granted 501(c) 3 status)	One-time	\$0
Attorney General (AG), CT-1	Initial Registration, Registry of Charitable Trusts	One-time	\$30
Board of Equalization (BOE), BOE 230	General Resale Certificate	One-time	\$0
IRS, 990-N	Electronic Tax Filing, if Gross Receipts are under \$50,000	Annual, by May 15	\$0
IRS, 990-EZ	Federal Tax Report, Gross Receipts are between \$50k and \$200k	Annual, by May 15	\$0
IRS, 990	Federal Tax Report for Revenues over \$200k	Annual, by May 15	\$0
IRS 990-T	Unrelated Business Income Tax Report	If amount exceeds \$1000, Annual, by May 15	\$0
SOS, Form SI-100	Statement by Domestic Nonprofit Corporation <i>**Any time there is a change in key officers or business location, a revised SI-100 needs to be filed, but there is no charge for such amendments</i>	Within 90 days after incorporation, and then every 2 years**	\$26 (includes a certified copy)
SOS, Form UA-100	Statement by Unincorporated Association (As long as ACAF remains an Unincorporated Association)	Every five years, or whenever there is a change in key officers and/or business address	\$30 (includes a certified copy)
FTB, 199N	State version of the Federal e-postcard, for receipts under \$50,000	Annually, by May 15	\$0
FTB, 199	State Tax Report for receipts over \$50,000	Annually, by May 15	\$0
FTB, 109	State version of Unrelated Business Income tax report	Annually, by May 15	\$0
BOE-401EZ	Short form for Sales & Use Tax Return, to file/pay our share of taxable sales	Annually, based on sales volume (could also be quarterly or monthly)	\$0
AG, RRF-1	Annual Registration Renewal Fee Report, Registry of Charitable Trusts	Annually, by April 15	Depends of receipts, generally \$25 (up to \$100k/year)
City Business License	Application to conduct business within the City	Annually, by Jan. 31	\$0