

Board Duties, Fiscal Checklist

☐ Tax Returns

Associations must file a federal and state tax return or exemption statement by the 15th day of the third month after the fiscal year ends. Since requirements can vary, it is best to consult the association's CPA or tax advisor regarding applicable filing or reporting requirements.

☐ Annual W-2 and 1099 Forms

Associations that have their own employees (regardless of compensation paid) or that have non-incorporated independent contractors (paid \$600 or more during the year) must file appropriate forms with the state and federal government at various intervals during the year. Consult the association's CPA, tax advisor, manager or payroll contractor to be sure all forms are being processed. Calling employees independent contractors does not make them independent contractors any more than calling a cow a horse makes it a horse.

☐ Use Tax Payments and Returns

California law requires any individual or business to pay "use tax" on merchandise bought from an out-of-state vendor for use in California, if that vendor does not charge sales tax. This is frequently the case with mail order and internet purchases. The State Board of Equalization is now sending notices to businesses, including CIDs, to register to pay use tax on such purchases. See www.boe.ca.gov, Publications 123-TG and 126 and Form BOE-404-A. [R&T Code §6225].

☐ Annual Review or Audit

Within 120 days after the fiscal year ends, a CPA must prepare at least a "review" (or an audit, if the governing documents call for it), and the association must distribute it to the members, if the association's gross income exceeds \$75,000. [CC §5305] However, any incorporated association which had at least \$10,000 in gross revenue, must make available a balance sheet, income statement and statement of changes in financial position which is (1) accompanied by report from a CPA or (2) an officer's certificate that its balance sheet was prepared without audit. [Corp. Code §8321] The annual report must also contain a statement of where the names and addresses of the current members are located [§8321(a)(2)]. It must also contain a statement of any corporate "indemnifications or material financial transactions" between

the corporation and any officer, director or holder of 10% or more of the voting power. The statute contains many details. [Corp. Code §8322]

☐ Director Financial Interest in Contracts

The 2014 Davis-Stirling Act added a section identifying specific actions on which directors have a conflict and may not vote. [CC §5350] Under the Corporations Code, directors must disclose any contract or other transaction between the corporation and (1) the director or (2) any entity in which the director has a material financial interest. Detailed rules apply for proper ratification of any such transactions. [CC §5350 & Corp. Code §7233]

☐ Distributions to Members

Corporations may not make any distributions of funds to members except upon dissolution. [Corp. Code §7411]

☐ Reconciling Bank Accounts

On a monthly basis, review a current reconciliation of the association's operating and reserve accounts. [CC §5500(a)&(b)]

☐ Review of Budget

On a monthly basis, review the current year's actual operating revenues and expenses compared to the current year's budget. [CC §5500(c)]

☐ Review of Income Statement

On a monthly basis, review an income and expense statement for the association's operating and reserve accounts. [CC §5500(e)]

☐ Review of All Bank Statements

On a monthly basis, review the latest account statements from each financial institution where the association has its operating and reserve accounts. [CC §5500(d)]

☐ Review of Check Registers and Monthly General Ledger

On a monthly basis, review the check registers from each financial institution where the association has its accounts as well as the association's monthly general ledger. [CC §5500(f)]

☐ Review Delinquent Assessment Receivable Reports

On a monthly basis, review the delinquent assessment receivable reports. [CC §5500(f)]

☐ Bank Signature Cards

Be sure that the signature cards on all reserve accounts require at least two signatures. All signatures must be either board members, or one may be an officer who is not on the board. [CC §5510(a)]

☐ Proper Reserve Expenditures

Do not spend reserve funds except for reserve items, or for litigation involving the repair, restoration, replacement or maintenance of major components which the association is obligated to maintain. The board may borrow money from a reserve fund for operating expenditures following the procedures in the law. However, any borrowed funds must be restored within 1 year from the date of the first transfer, with limited exceptions. [CC §§5515 & 5520]

☐ Operating or Reserve Account Transfers

The transfer of funds from the operating or reserve account of more than \$10,000 or 5% or more of an association's total combined reserve and operating account deposits, whichever is lower, requires the written approval of the board. [CC §§5502, 5380(b)(6)]

☐ Good Samaritan Law and Liability Exemption

California amended its "Good Samaritan" statute to provide additional protection for persons who, in good faith without compensation give emergency medical or nonmedical care at the scene of an emergency. [H&S §1799.102]

☐ Common Area Taxes

We have found that some associations are paying real estate taxes on their common areas. Most, if not all, associations should be exempt. Check with legal counsel or your CPA. [R&T Code §2188.5]

☐ Common Area Tax Bill Addresses

If the association owns common area lots, be sure the county assessor has your correct mailing address, even if you do not normally get tax bills. If a tax bill appears for any reason, or if you become subject to a mechanic's lien, the only address may be the address in the public records. You want to be sure you know about any tax liens or

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other liens against the property. Many of these mailing addresses are still old addresses for the developer.

☐ Water Meter Errors

Associations regularly pay water bills on meters that serve other properties, or they encounter claims to pay water bills that someone else has been paying. It is critical for boards and managers to know that the water bills match up to a meter serving the association and that meters serving the association have a water bill coming to the association.