

Do You Know Where Your Bank Statements Are?

May 31, 2017

If you're like me, you're saying, "Yeah, they're somewhere in the cloud." While that may work just fine for the average consumer, it's a problem for nonprofit organizations and for fiduciaries seeking to fulfill their duties. So why is it so important to download or print your electronic bank statements?

It's the Law

Under Oregon law, nonprofit corporations must "maintain appropriate accounting records." ORS 65.771(2). Accounting records are all of the documentation and books involved in the preparation of financial statements or records relevant to audits and financial reviews. If your organization has a bank account –which it should! – that means "appropriate accounting records" include your bank statements.

When we seek an organization's records, we are sometimes told that bank statements more than six months old are no longer available online – and that requesting copies from the financial institution is too expensive for the organization. When that happens, we'll subpoena the statements directly from the bank and then ask the Court to order the organization to pay the costs of getting the statements. The organization ends up not only paying what it said was too expensive but incurring additional legal expenses.

How can you avoid that outcome? When your organization gets an email from its bank saying its monthly statements are ready, follow the link, and print out or download the statements and any other available documents, such as cancelled check images. If in the unfortunate circumstance you are asked to produce those documents, all you'll need to do is open a file cabinet or click on an electronic folder. What you won't have to do is pay hundreds of extra dollars to your financial institution for access to your own bank records or end up fighting about them in court.

It Shows That You're Fulfilling Fiduciary Duties

Oregon DOJ: <https://www.doj.state.or.us/charitable-activities/laws-guides-for-charities/tips-for-charities/know-bank-statements/>

In almost every case we've had involving embezzlement, we hear some variation of this: "I haven't done anything wrong, I'm just a bad record-keeper!" But if you owe fiduciary duties to an Oregon nonprofit corporation, failing to keep records means you've breached those duties. That counts as "doing something wrong," and you can end up with a judgment against you personally.

Fiduciaries owe a duty of care to act as a reasonable person would under the same circumstances. If you're not regularly maintaining your organization's bank records, you're probably not acting reasonably under the circumstances. Fiduciaries also owe the duty of obedience, which means they must comply with the organization's governing documents and with the law. Because Oregon law requires nonprofit organizations and their fiduciaries to keep appropriate accounting records – and many organizations adopt bylaws that require the Treasurer or other fiduciary to maintain certain financial records – if you're not printing out or downloading bank statements each month, you might be breaching that duty.

If a breach of fiduciary duty causes financial loss to the organization, the fiduciary can be held financially responsible for that loss. And under certain circumstances you might end up having to prove that you met that duty. That can be a pretty daunting task if you don't keep records such as bank statements. Why risk it when it's simple to print out or save your organization's bank statements as they become available?

It's Just a Good Idea

If you're not downloading or printing out bank statements, what are you doing with them? Is someone reviewing them each month to make sure there aren't suspicious charges or unknown vendors? How do you know that the bank didn't make a mistake or assess an unfair fee? Is someone reconciling the bank statements with the organization's books and records?

Failing to examine your monthly bank statement exposes your organization to unnecessary financial risk. Bank statements show where an organization gets its money and what it does with it. If you are not vigilantly monitoring and maintaining that information, your organization is vulnerable to fraud, embezzlement, and other financial losses.

Keeping monthly bank statements has other benefits. It will make preparation of financial statements and your year-end reporting easier. It will help you budget and see

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how your organization is performing compared to the budget, which can help you improve your financial position. And if you're accused of wrongdoing, it will help you show that your organization and its fiduciaries are complying with their duties.

Downloading or printing your monthly bank statements only takes a few moments, but it can save your organization a lot of time, angst, and money. That means your organization can do more of what it's there for: charity.