Conference Commissioners Association Workshop

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April 22, 2013

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Incorporation

Benefits

1. Protects members from liability.
2. Limits liability of officers and directors.
3. Provides a structure.

Incorporation

Requirements

1. Articles of Incorporation.
2. Bylaws.
3. Registered office and registered agent.
4. Annual Report.

Incorporation

General Purposes

1. Permitted purposes.
2. Must act within the scope of purposes.
3. Prohibition on distribution of any earnings or profits for private purposes (no inurement).

Incorporation

Corporation Acts

1. Creates structure and provides operating rules.
2. Varies from state to state.
3. State of incorporation vs. location of principal office.

Incorporation

Bylaws

1. Purpose
2. Membership
3. Governance
4. Amendment
5. Indemnification

Tax Exempt Status

Tax Exempt v. Nonprofit

1. Exemption not automatic – granted upon review and approval by IRS.

2. Nonprofit, taxable corporation?

3. Form 990 – Publicly available.

Tax Exempt Status

Unrelated Business Income Tax

1. Even if tax exempt, associations must pay tax on income from activities which are unrelated to the purposes for which their tax exemption was granted.

2. UBIT will not jeopardize tax-exempt status unless unrelated income becomes “primary” portion of the association’s total receipts.

Tax Exempt Status

Unrelated Business Income Tax

3. Examples: Income from advertising, group insurance program, rental of membership lists.

4. Associations with more than $1,000 in unrelated business income must file Form 990-T.

Tax Exempt Status

Unrelated Business Income Tax –
Qualified Sponsorship Payment

Definition:

Any payment of money, transfer of property, or performance of services by any person engaged in a trade or business with respect to which there is no arrangement or expectation that the person will receive any substantial return benefit.

Tax Exempt Status

Unrelated Business Income Tax – Qualified Sponsorship Payment

A "substantial return benefit" is defined as any benefit other than: (i) goods, services or other benefits of "insubstantial value" or (ii) a "use or acknowledgment".

Use or Acknowledgment does not include advertising, but may include:

1. sponsor logos and slogans that do not contain qualitative or comparative descriptions of the sponsor's products, services, facilities, or company;
2. a list of the sponsor's locations (e.g., addresses), telephone numbers, facsimile numbers, or Internet addresses;
3. value-neutral descriptions (including displays or visual depictions) of the sponsor's product line(s) or services; and
4. sponsor brand or trade names and product or service listings.

Tax Exempt Status

Unrelated Business Income Tax – Qualified Sponsorship Payment

Exclusivity Arrangements

1. Exclusive sponsor. An arrangement that acknowledges the sponsor as the exclusive sponsor of a tax-exempt organization's activity, or the exclusive sponsor representing a particular trade, business or industry, generally will not, by itself, result in a substantial return benefit.

2. Exclusive provider. An arrangement that limits the sale, distribution, availability, or use of competing products, services or facilities in connection with a tax-exempt organization's activity generally will result in a substantial return benefit.

Lobbying

Definition

1. influence legislation through any member or employee of a state or federal legislative body, or through any government official or employee who may participate in the formulation of legislation;

2. participate or intervene in a political campaign on behalf of a candidate;

Lobbying

Definition

3. attempt to influence the general public with respect to elections or legislative matters (grass-roots lobbying); or

4. any direct communication with covered executive branch official.

Lobbying

Limitations - 501(c)(3)

1. Must be “insubstantial”.
2. 501(h) election – lesser of $1 Million or formula based on percentage of expenditures.

Liability

1. Indemnification (should be backed by insurance and/or adequate reserves).

2. Insurance – GCL/D&O.

3. State laws.

Contracts

1. Proper party.
2. Authority to sign.
3. Sign in representative capacity