

DESK REFERENCE MANUAL

**FOR NONPROFIT & SOCIAL SERVICE
ORGANIZATIONS**

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WILENTZ, GOLDMAN & SPITZER, P.A.

Founded in 1919 by David T. Wilentz, Wilentz, Goldman & Spitzer, P.A. ("WG&S"), today has approximately 150 attorneys, with offices in New Jersey, New York City, Philadelphia and Pittsburgh. WG&S is one of the largest law firms in the State of New Jersey. Among the professionals at WG&S are a former justice of the New Jersey Supreme Court, and former Superior Court judges, judicial clerks, prosecutors and deputy state attorney generals. WG&S has been at the forefront of numerous landmark cases and precedent-setting decisions, and continues to be involved in drafting important legislation.

WG&S is a full service firm providing legal expertise in numerous areas, such as corporate and business law, securities, commercial and public finance, land use, environmental, construction, real estate, redevelopment, healthcare, tax, utilities, commercial litigation and appellate practice. WG&S provides the legal services and advice to a broad range of clients in both the public and private sector, including a variety of nonprofit organizations. Given the firm's broad range of legal capabilities, WG&S is able to not only satisfy the legal needs generally required of nonprofits, such as corporate and tax, but also those needs unique to the particular non-profit entity, such as a non-profit undertaking the construction and financing of a particular project.

Although the firm has grown substantially since its beginnings almost 90 years ago, the firm's culture and core values have not changed; competent, effective and practical legal advice, for each and every client, remain the focus of the firm.

For further assistance, please contact Peter R. Herman, Esq. at (732) 855-6046 or Brett R. Harris, Esq. at (732) 855-6122.

JPMORGAN CHASE BANK

With a legacy dating back to 1799, Chase is one of the largest institutions in the world dedicated to serving not-for-profit organizations nationwide. Our dedicated Chase Not-For-Profit team understands your operating challenges and financial needs like no one else. We have helped cultural, social services, educational organizations and associations across the country. We offer a multitude of customized financial solutions to help expand your capabilities, reallocate necessary funds and streamline your processes with less expense. We provide you with business experience and insights so you can focus energy on what you know and do best – helping and inspiring others.

With a team of professionals solely dedicated to service not-for-profits around the country, our collective expertise in the industry is unprecedented. Our team will help you optimize the results of your capital campaigns and work with you to evaluate your operations. We will provide you with real options and deliver exceptional business solutions that evolve with your ongoing needs.

Whether you are a local not-for-profit or part of a national network, the consequence of each choice you make directly impacts your organization, and ultimately the services you are able to provide to your community. At Chase, we can provide you with the resources to help make the most of each decision. We offer the kinds of innovative financial solutions that can turn each choice into an opportunity, and each opportunity into a reality.

With a host of services created specifically to help your organization maximize efficiencies, we can deliver more value to your business, allowing you to focus your energies outward. As experts in not-for-profit businesses of all kinds, your banking team and Chase product partners bring our resources right to your desk. Whether it's helping to reduce costs, accelerating cash flow, or synthesizing your fundraising efforts, we'll work together with you to help meet your goals.

For further information, please contact:
Christine Flora, Vice-President
Phone: 973-439-5109; E-mail at Christine.flora@chase.com

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Welcome To Our Readers

It is our pleasure to publish this Desk Reference Manual for the Nonprofit and Social Services sector.

In today's competitive market, *knowledge provides a significant advantage*. The more you know, the more value you add to your organization, your staff, your donors and your colleagues. For those who are involved with the nonprofit and social service sector in any capacity, whether serving within an organization, on a board, or as advisor or consultant to nonprofits, we are confident that the information gathered here will be invaluable for you.

We have worked diligently to fill these pages with high quality, meaningful and relevant information – but after reviewing the manual, if you think of additional information you believe should be included, please let us know so that we can continue to update and improve this manual periodically.

We look forward to hearing from you. We encourage you to share your feedback, insights and suggestions with us.

Special Acknowledgment

As the publishers of this Desk Reference Manual, we would like to take this opportunity to thank Goldenberg Rosenthal, LLP, a public accounting and consulting firm located in Jenkintown, PA, and a member firm of PKF North America Network, for sharing their insights and knowledge as well as serving as an inspiration for this manual. Their willingness to contribute resources and ideas is much appreciated by us all.

Dated: October, 2007

Structure of Desk Reference Manual

Nonprofit and social service organizations provide invaluable services that make a difference in our local communities. Although nonprofits are generally thought to benefit the needy, senior citizens, disabled persons, or other specialized segments of the general population, the truth is that all of us can reap the benefits of the various social, environmental, healthcare, religious, educational, and cultural programs nonprofits provide. In order to maintain their nonprofit status and continue to help others, these organizations constantly face unique financial, legal, and tax concerns.

The Desk Reference Manual For Nonprofit and Social Service Organizations outlines the basic financial, accounting, tax compliance, organizational and legal issues regarding the ongoing operations of nonprofit and social service organizations and provides resources to address these concerns. Critical issues such as obtaining federal recognition of nonprofit status, charitable solicitation registration, and basic financial statements, including statement of activities, statement of financial position, cash flows and functional expenses, are addressed. A complete overview of nonprofit board responsibilities and financing requirements are also discussed. In addition, taxation and payroll requirements for nonprofit organizations with or without employees are included, as well as an information directory of the various agencies involved in the nonprofit sector.

Disclaimer

This guide has been designed to present business and tax information of a generalized nature for nonprofit organizations. The information expressed herein should be regarded as indicative and for illustrative purposes only. It is not designed to be legal, tax, regulatory, accounting or other advice. The information herein is not designed to reflect appropriate procedures or advice that should be followed in any particular set of circumstances; the information herein should not be acted upon without prior consultation with appropriate professional advisors.

Each contributor to this guide has individually prepared its portion of the guide. No contributor is responsible for the content prepared by the other contributors.

Sobel & Co. LLC

For more than 50 years, Sobel & Co. has set the standard in serving nonprofit organizations. We currently work with more than 100 nonprofit and social service organizations, delivering the services and solutions they need to survive and thrive.

We have accomplished this by offering a combination of specialized technical skills, industry credentials and an ongoing commitment to remain at the cutting edge of the nonprofit and social services sector.

Our impeccable credentials, responsive professionals and proven track record ensures that our clients receive the highest level of service possible delivered by a dedicated team with a depth of industry experience.

To ensure our clients' success, we work closely with their Boards of Directors, audit and finance committees and executive directors. In doing so, we make sure they receive accurate and timely financial reports and, as importantly, relevant and practical strategic advice.

Our first concern is our clients and we are committed to helping them reach their goals.

At Sobel & Co., we know our nonprofit clients have unique requirements based on the specific demands and regulations of their industry. As such, we have tailored our services to fit their critical needs. We offer:

- Accounting and auditing (HUD, A133, private school, operations, etc.)
- Budgeting
- Competitive analysis
- Compensation studies
- Cost certifications
- Cost containment reviews
- Fraud vulnerability studies
- Grant compliance reviews
- Internal control reviews
- LIHTC projects
- REAC electronic filing
- Strategic planning
- Tax planning and compliance

For further assistance, please contact Ron Matan, Partner in Charge of the Nonprofit and Social Service Group, at 973-994-9494 or by e-mail at Ron.Matan@sobel-cpa.com.

Nonprofit World Magazine
www.nonprofitworld.org

Nonprofit World is a bi-monthly magazine – published since 1983 – that provides busy nonprofit leaders with concise and practical articles whose advice can be easily implemented. In addition to current issues, members also receive access to an online archive of over 700 searchable and printable articles dating back to 1996 – an indispensable resource for any nonprofit leader or board member.

Introduction to Nonprofit Organizations

Nonprofit organizations come in many forms, from the purely volunteer Parent Teacher’s Association serving school children, to the Pro Golfers Association, to the American Lung Association. An understanding of the differences amongst these organizations can be helpful to understanding the world of nonprofits.

Nonprofit. “Nonprofit” is a concept of state law, which means that an organization may not pay dividends or otherwise pass any surplus revenue, or “profits,” from the enterprise on to shareholders, members, or other individuals. Although a nonprofit may pay reasonable compensation for services actually rendered to it, in general, any surplus generated by the organization must stay within the organization and be used for its stated mission or purpose. A nonprofit corporation is not “owned” by anyone. It may be controlled by individuals or other entities, but those who control the nonprofit do not have an ownership interest in the organization.

Tax Exempt. Most, but not all, nonprofit organizations are exempt from paying federal income tax on their earnings. Section 501(c) of the Internal Revenue Code (the “Tax Code”) now spells out 27 separate categories of exempt organizations. These categories include Section 501(c)(2) title holding companies, Section 501(c)(4) civic associations, Section 501(c)(5) agricultural or labor organizations, Section 501(c)(6) business leagues, professional and trade associations (including Public Relations Society of America and the National Football League), and Section 501(c)(7) social clubs. The largest category, and the one most people usually think of when they hear the terms “nonprofit” or “tax exempt,” is Section 501(c)(3) which exempts “charitable” organizations (including the volunteer soup kitchen).

Charities. Under the Tax Code definition, a Section 501(c)(3) charitable organization is one which is “organized and operated exclusively for religious, charitable, scientific, testing for public safety, literacy, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals.” In addition, no part of the net earnings may inure to the benefit of any private shareholder or individual, no substantial part of the activities may consist of carrying on propaganda, or otherwise attempting, to influence legislation (“lobbying”), and the organization may not participate in any political campaign for or against any candidate for public office (“electioneering”).

The critical distinguishing feature of charities, as opposed to almost all other types of federally exempt organizations, is that individuals and corporations may make charitable contributions to charitable organizations and claim a charitable contribution deduction on their own federal income tax returns.

Public Charities and Private Foundations. Section 501(c)(3) charities are further subdivided under Section 501(a) of the Tax Code between those that are considered publicly supported, such as a church, hospital, school, United Way or a nursing home, and those that are considered private foundations because essentially all of their income has come from a single individual, family, or corporation and income on their investments. Private foundations are subject to more stringent regulations.

State Tax Exemption. State tax exemption is an entirely separate issue from the federal exemption that usually defines nonprofits in the public mind. In New Jersey essentially any nonprofit corporation not conducted for personal profit is exempt from state income tax and corporate franchise taxes.

In addition, there are two other state taxes that can have a significant effect on the budget of a nonprofit organization. These are the sales tax and real estate tax. Charitable organizations may be exempt from paying sales tax on the goods and services they purchase and real estate tax on their real estate holdings if they meet the state law definition of a charity. New Jersey generally exempts organizations of the kind traditionally deemed to be charitable under Section 501(c)(3). Nonprofit organizations must apply for exemption from paying or collecting sales tax to the Division of Taxation by completing Form REG-1E.

The Management Assistance Program for Nonprofits

2233 University Avenue West, Suite 360

St. Paul, MN 55114-1629

General phone: (651) 647-1216, Fax: (651) 647-1369

The Management Assistance Program for Nonprofits' web site contains the Free Management Library, a complete, highly integrated library of resources for nonprofit AND for-profit businesses.

CompassPoint Nonprofit Services

San Francisco Office

706 Mission Street, 5th Floor

San Francisco, CA 94103 USA

General Info: (415) 541-9000, Fax: (415) 541-7708

www.compasspoint.org

Providing nonprofits with the management tools and concepts necessary to best serve their communities. Web site contains, "The Nonprofit Development Library" which is free to the public, with over 900 books, 15+ periodicals, and Internet access to help nonprofit staff & volunteers find the fundraising and management information they need.

GuideStar.com

Philanthropic Research, Inc.

www.guidestar.com

GuideStar is a national database of information on nonprofit organizations produced by Philanthropic Research, Inc., a 501(c)(3) public charity founded in 1994. The mission of the organization's web site is to "revolutionize philanthropy and nonprofit practice with information." You can look up detailed results, financial, and programmatic information on most nonprofit agencies.

Charity Navigator

1200 MacArthur Boulevard, 2nd Fl.

Mahwah, NJ 07430

(201) 818-1288, Fax: (201)818-4694

www.charitynavigator.org

Charity Navigator works to guide intelligent giving. They help charitable givers make intelligent giving decisions by providing information on over five thousand charities and by evaluating the financial health of each of these charities. They ensure their evaluations are widely used by making them easy to understand and available to the public free of charge.

Helpful Web Sites

National Center for Charitable Statistics

2100 M St, NW
Washington, DC 20037
(202) 261-5801
nccs.urban.org

The National Center for Charitable Statistics (NCCS) is the national repository of data on the nonprofit sector in the United States. Its mission is to develop and disseminate high quality data on nonprofit organizations and their activities for use in research on the relationships between the nonprofit sector, government, the commercial sector, and the broader civil society.

For information and technical assistance for local 990-NACs please contact:

Local 990-NAC Project Office

c/o National Society of Fund Raising Executives
1101 King Street, #700
Alexandria, VA 22314
Phone: (800) 666-3863 ext. 481, Fax: (703) 684-0540
E-mail: form990@nsfre.org
www.qual990.org

For information about National 990-NAC, please contact:

The National Center for Charitable Statistics at the Urban Institute

2100 M Street, NW
Washington, DC 20037
Phone: (202) 261-5790, Fax: (202) 833-6231
E-mail: NCCS@ui.urban.org
www.qual990.org

The Quality 990 (qual990.org) web site encompasses a number of projects and activities to improve the quality of IRS Form 990 reporting by nonprofit organizations. www.dol.gov/elaws

Elaws Advisors help you understand your rights and responsibilities under the employment laws and regulations administered by the Department of Labor (DOL).

Financial Reporting for Nonprofit and Social Service Organizations

The Basic Financial Statements

The key objectives for financial reporting by nonprofit organizations relate to the ability of nonprofit organizations to provide services. Information in the financial statements should help readers:

- Evaluate the nonprofit organization's services and its ability to continue to provide these services.
- Evaluate management's administration and other aspects of its performance.
- Understand the organization's resources and obligations.
- Judge the performance of the organization by evaluating the changes in its net resources.
- Evaluate the organization's liquidity and use of cash.
- Understand the financial information presented through explanations and interpretations of the data in the financial statements.

Financial reporting should be sensitive to the needs of the users. Users of nonprofit financial statements include funders, donors, grantees, creditors, regulatory agencies, vendors, management and board members. Organizations receiving funding from governmental sources (federal, state or local sources) either directly or indirectly (subrecipient) may be subject to the OMB Circular A-133 standards or to certain other "agreed upon procedures" determined by the funding agency. For these reasons, management of nonprofit organizations has a fiduciary responsibility to provide accurate, reliable financial information.

Changes in financial reporting standards and principles (FASB Nos. 116 - *Accounting for Contributions Received and Contributions Made*, 117 - *Financial Statements of Not-for-Profit Organizations* and 124 - *Accounting for Certain Investments Held by Not-for-Profit Organizations*) now require nonprofit organizations to report contributions on the accrual basis of accounting; investments at fair market value and financial information based on net assets classified solely on the basis of donor restrictions. These changes are intended to make the financial statements consistent and similar to "commercial type" financial statements and more readable by the financial community and public.

In addition, accounting principles generally accepted in the United States of America now require nonprofit organizations to account for derivative and hedging transactions (FASB Nos., 133 - *Accounting for Derivative Instruments and Hedging Activities* and 138 - *Accounting for Certain Derivative Instruments and Certain Hedging Activities*). They must also report assets received from donors, with instructions to disburse these assets to a specific beneficiary, as a liability instead of revenue, unless the nonprofit organization has the ability to redirect the donation to

another beneficiary (variance power) (FASB No. 136 - *Transfer of Assets to a Not-for-Profit Organization or Charitable Trust That Raises or Holds Contributions for Others*).

Financial statements prepared in accordance with generally accepted accounting principles typically follow rules promulgated by the American Institute of Certified Public Accountants. These standards have resulted in several new names for financial statements, however, no particular statement titles or formats are required or prohibited.

Net Asset Model

Statement of Financial Position

Statement of Activities

Statement of Cash Flows

Statement of Functional Expenses

Fund Accounting Model

Balance Sheet

Statement of Support,
Revenue and Expenses and
Changes in Fund Balances

Statement of Cash Flows

Statement of Functional Expenses

The reporting standard requires that certain totals and disclosures be presented relating primarily to net assets, liabilities and changes in net asset totals. There is flexibility in presenting certain information either in notes to the financial statements or in the statements themselves.

Nonprofit organizations' statements should include consolidation of for-profit entities in accordance with the equity method of accounting and other nonprofit organization entities in which the organization has voting control and economic interest, if other than temporary. If consolidation of support or affiliated nonprofit organizations is not required, disclosure of the organization, nature of related party transactions and summarized financial information should be presented.

Nonprofit organizations' financial statements should be prepared on the accrual basis of accounting to more accurately report revenues and expenses.

Where to Obtain Additional Information

FEDERAL

General Information
(877) 829-5500
TE/GE Division, Customer Service
P.O. Box 2508
Cincinnati, OH 45201
www.irs.gov

NEW JERSEY

General Information
(609) 292-9292
www.state.nj.us

Center for Nonprofit Corporations
1501 Livingston Avenue
North Brunswick, NJ 08902
(732) 227-0080
www.njnonprofits.org

Charitable Organizations
Information
(973) 504-6200

Requirements of New Employers

New employers must have a Federal Identification Number. Application is made by filing Form SS-4. Apply to:

Internal Revenue Service
600 Arch Street
Philadelphia, PA 19106
www.irs.gov
1-800-839-1040

Where to Mail the Forms

FEDERAL FORMS

Mail to:

Forms W-3 and W-2's:
Social Security Administration
Data Operations Center
1150 E. Mountain Drive
Wilkes-Barre, PA 18769-0001

Forms 941 & 940EZ – if no tax is due with return:
Internal Revenue Service
Philadelphia, PA 19255

Form 941 if tax is due with 940(V)
Internal Revenue Service
PO Box 8786
Philadelphia, PA 19162-8786

Form 940-EZ if tax is due with 940-EZ(V):
Internal Revenue Service
PO Box 8738
Philadelphia, PA 19162-8738

Forms 990:
Internal Revenue Service
Ogden, Utah 84201-0027

NEW JERSEY FORMS

Mail to:

Registration of Charitable Organizations
Division of Consumer Affairs Charities Registration Section
1100 Raymond Boulevard, Room 507
Newark, NJ 08732

Statement of Financial Position

The primary focus of the statement of financial position is on the liquidity and equity of the organization as a whole. The statement should provide relevant information about an organization's total assets, liabilities and net assets and about their relationship to each other. The statement should provide information regarding (a) the organization's ability to continue to provide services; (b) the interrelationship of the organization's assets and liabilities; and (c) the organization's liquidity and financial flexibility, so it can respond to unexpected needs and opportunities.

One or more of the following can provide information about liquidity:

Sequencing Assets are listed in order of their nearness to being converted into cash. Liabilities are listed in order of their maturity and expected use of cash resources.

Classification Assets and liabilities are classified as either current or noncurrent in the statement of financial position.

Disclosure Information regarding the liquidity of assets and liabilities, including any restrictions, is presented in the notes to the financial statements.

Equity Unrestricted, temporarily and permanently restricted net asset balances must be reported. These amounts may be segmented to provide further detail.

Temporarily restricted net assets represent net assets resulting from contributions and other inflows of assets whose use by the organization is limited by donor-imposed restrictions that either expire by passage of time or can be fulfilled and removed by actions of the organization in accordance with those restrictions.

Permanently restricted net assets represent net assets resulting from contributions and other inflows of assets whose use by the organization is limited by donor-imposed restrictions that neither expire by passage of time nor can be fulfilled or otherwise removed by actions of the organization.

The details about temporarily and permanently restricted net assets are required to be reported. This information should include descriptions and dollar amounts of the restricted net assets, which are generally disclosed in the notes to the financial statements. The descriptions may include the purpose of various donor restrictions and when restrictions will lapse.

Unrestricted net assets represent net assets that are neither permanently nor temporarily restricted by donors. Board designated or appropriated assets are legally unrestricted assets, which the Board has set aside for specific purposes. Unrestricted net assets may be separately identified within the class or designated for specific purposes. Board designated net assets can be redesignated in the future for other purposes.

Statement of Activities

The primary areas of focus for the *statement of activities* are:

- ♦ Types and amounts of revenues received
- ♦ Dollar values and types of programs and supporting services provided
- ♦ Changes in each class of net assets during the period

The *statement of activities* should provide relevant information about how the organization's resources are used in providing various programs or services.

This information is communicated to the user by reporting:

- ♦ Revenues as increases in unrestricted net assets, unless the use of the assets received is limited by donor-imposed restrictions or by law
- ♦ Expenses as decreases in unrestricted net assets
- ♦ Realized and unrealized gains and losses on investments and other assets or liabilities as increases or decreases in unrestricted net assets, unless the related gains or losses are restricted by donor stipulation or by law
- ♦ Net gains or losses resulting from incidental transactions or special fundraising events
- ♦ Events that simultaneously increase one class of net assets and decrease another

The *statement of activities* summarizes the nonprofit organization's operating results and is similar to an income statement of a for-profit entity. Under FASB No. 117 - *Financial Statements of Not-for-Profit Organizations*, the statement of activities may be prepared based on the types of revenues received by the nonprofit organization – unrestricted, temporarily restricted, or permanently restricted. The segregation of revenues is based upon the contributor's, grantor's or donor's intent – not on how the nonprofit organization intends to use the revenue received. Exchange transactions – performing services in exchange for funding, i.e., cost reimbursement or fee for service contracts – are considered unrestricted revenues to the extent expenses are incurred. Generally, all activities of nonprofit organizations are shown as unrestricted net assets. Revenues which are time or purpose restricted are transferred to unrestricted net assets when the restriction has been met. Custodial (Agency) transactions are not shown in the statement of activities as they represent "pass through" transactions. Instead, they are reported in the statement of financial position.

How to Obtain the Necessary Forms

FEDERAL

Forms Distribution Center
P.O. Box 85074
Richmond, VA 23261-5074
(800) TAX-FORM (1-800-829-3676)

All Forms: Via Fax 1-973-368-9694r
All Forms: Via E-mail www.us.gov/formspubs/index.html

NEW JERSEY

Registration of Charitable Organizations
Division of Consumer Affairs Charities Registration Section
124 Halsey Street – 7th Floor
Newark, NJ 07102
(973) 504-6200

New Jersey Division of Consumer Affairs
Charitable Registration and Investigation Section
124 Halsey Street
Newark, NJ 07101
(973) 504-6215

New Jersey Division of Taxation
PO Box 269
Trenton, NJ 08646-0269
(609) 588-2200
(800) 323-4400

2. Is exempt from long form registration by reason of any of the following status:

- a. A fraternal, patriotic, social or similar organization.
- b. Persons requesting contributions for the relief of a specified individual, whose contributions are turned over (without any deductions) to the named beneficiary; and
- c. A local post, camp, chapter or similarly designated element.

All other "organizations" should file Long Form CR1-3001. An audited financial statement must accompany this form if gross revenue is more than \$250,000.

Filing fees for gross contributions are as follows for short form filers:

less than \$10,000	\$0
more than \$10,000 and less than \$25,000	\$30

Filing fees for gross contributions are as follows for long form filers:

less than \$100,000	\$60
\$100,000 to \$500,000	\$150
more than \$500,000	\$250

Combining items that have similar characteristics into reasonably comparable groups provides information about revenues and expenses.

In recording the change in a class of net assets from the beginning to the end of a period, the nonprofit organization should use descriptive terms such as *change in net assets* or *change in equity*. The terms *fund balance* or *changes in fund balances* are not used because those terms refer to separate groups of assets and related liabilities rather than to an entity's net assets or changes in net assets taken as a whole.

Classifying revenues, expenses, gains, and losses within classes of net assets does not preclude incorporating additional classifications within a *statement of activities*. Within a class or classes of changes in net assets, an organization may classify items as:

- ♦ Operating and nonoperating.
- ♦ Expendable and nonexpendable.
- ♦ Recurring and nonrecurring.

Statement of Functional Expenses

All organizations must report expenses by functional categories (program types, management, general and administrative and fund raising). Voluntary health and welfare organizations must also report expenses by natural classification (salaries, benefits, rent, and contract services) in a matrix format in a statement of functional expenses. The *functional* expense categories become the expense categories in the statement of activities. Gains, losses and other nonrecurring events should not be shown on the *statement of functional expenses*. The types of functions reported will vary by nonprofit organization and generally correspond to the types of services for which funding is received.

Statement of Cash Flows

The *statement of cash flows* is a required part of the complete set of basic financial statements for nonprofit organizations. Its primary purpose is to provide relevant information about the nonprofit organization's cash receipts and cash payments. This statement reports an organization's cash inflows and outflows from operating, investing and financing activities during the reporting period and the net effect of these activities on cash balances.

Operating Activities – Operating activities consist of all activities not defined as investing or financing activities. Operating activities as defined for the *statement of cash flows* is a broad term and may not correspond to operations as presented in the *statement of activities*. Operating activities under the indirect method relate to changes in net assets.

Financing Activities – Financing activities for nonprofit organizations include proceeds from borrowing or issuing debt and principal repayments. The following transactions unique to nonprofit organizations are also included in the *statement of cash flows* as financing activities:

- ♦ Receipt of investment income restricted for reinvestment.
- ♦ Contributions restricted for long-term investment.
- ♦ Contributions restricted for acquisition of plant and equipment.

Investing Activities – Nonprofit organizations report purchases and sales of investments and long-lived assets as investing activities.

Cash and Cash Equivalents – Cash is defined as currency, demand deposits with banks and other institutions, and other accounts with the general characteristics of demand deposits.

Cash equivalents are defined as highly liquid investments that are both:

- ♦ Readily convertible to known amounts of cash.
- ♦ So near their maturity they present insignificant risk of changes in value because of change in interest rates.

Non-cash Financing and Investing Activities – The financing of capital purchases through financing or leasing arrangements, the receipt of donated long-lived assets, or investment securities are examples of transactions that should be disclosed in the *statement of cash flows* as supplemental information.

Financial Statement Disclosure

Notes to the financial statements are intended to add clarity to, and additional information about, the financial information presented. In addition to disclosures required by accounting principles generally accepted in the United States of America about financial activities during the reporting period(s), external factors affecting the nonprofit organization should be discussed, if not readily apparent from the financial statements. Such disclosures could include information on funding sources, future events, uncertainties, concentrations of risk, commitments, related party transactions, volunteer activities and accounting estimates used in the financial statements. Such information adds to a reader's understanding of the nonprofit organization's activities.

Form 1096. This form is a transmittal or cover form, which must accompany all copies of the 1099 Forms filed. A Copies of the 1099 forms are to be mailed with a 1096 no later than February 28th of the following year. A separate 1096 must be used for each type of 1099 (i.e., 1099-MISC, 1099-INT, etc.).

Form 4720. This form is used by a private foundation, foundation manager, or disqualified person if subject to penalty taxes. The filing due date is the 15th day of the fifth month after close of taxable year.

Form 1120POL. This form is used by political organizations. The filing due date is the 15th day of the third month after close of taxable year.

Form 1120H. Homeowner's associations use this form. The filing due date is the 15th day of the third month after close of taxable year.

NEW JERSEY FORMS TO BE FILED

Charities Registration and Investigation Section

Every charitable organization – except those listed in (2) below – which intends to solicit contributions in New Jersey, from individuals or from governmental agencies, must file a registration statement with the State's Charities Registration and Investigation Section prior to any solicitations.

Religious organizations and educational institutions (approved by the State Department of Education) and certain local units of a parent organization are exempt from registration requirements.

Prior to soliciting contributions, organizations should fill out **Questionnaire Form CRI-100** to have the State of New Jersey determine the registration requirements.

Filing of Annual Reports – in every case an affidavit or an annual report must be filed as follows:

- File **Short Form CRI-200** if the organization:

1. Did not solicit or intend to solicit and did not, in fact, receive contributions in excess of \$25,000, and if all the fundraising functions are carried on by persons who are unpaid for such services;

Small tax-exempt organizations, whose gross receipts are normally \$25,000 or less, are not required to file Form 990, *Return of Organization Exempt From Income Tax*, or Form 990-EZ, *Short Form Return of Organization Exempt from Income Tax*. With the enactment of the Pension Protection Act of 2006 (PPA), these small tax-exempt organizations will now be required to file electronically Form 990-N, also known as the e-Postcard, with the IRS annually. Exceptions to this requirement include organizations that are included in a group return, private foundations required to file Form 990-PF, and section 509(a)(3) supporting organizations required to file Form 990 or Form 990-EZ. In addition, this filing requirement does not apply to churches, their integrated auxiliaries, and conventions or associations of churches.

The IRS began mailing educational letters in July 2007 notifying small tax-exempt organizations that they may be required to file the e-Postcard. The IRS is developing an electronic filing system (there will be no paper form) for the e-Postcard and will publicize filing procedures when the system is completed and ready for use.

The PPA requires the IRS to revoke the tax-exempt status of any organization that fails to meet its annual filing requirement for three consecutive years. Therefore, organizations that do not file the e-Postcard (Form 990-N), or an information return Form 990 or 990-EZ for three consecutive years, will have their tax-exempt status revoked as of the filing due date of the third year.

Form 8282. This form must be filed by donee organizations who sell, exchange, consume or otherwise dispose of (with or without consideration) charitable deduction property within two years after the date the original donee received the property. This form is due within 125 days after the date of disposition.

Form W-2-G. This form is used to report gambling winnings of \$600 or more. Form 5754 should be used if more than one person is entitled to any part of the winnings.

Form 1099-MISC. When an organization pays more than \$600 in any calendar year to an individual who is not a direct employee (i.e. to a consultant), Form 1099-MISC must be filed. Form 1099-MISC is the Statement for Recipients of Miscellaneous Income. Federal Circular E (publication 15) may be consulted for information on who is and who is not considered a direct employee. Copy A of the 1099 is mailed with Form 1096 to the Internal Revenue Service by February 28th of the following year. Copy B is to be given to the recipient by January 31st of the following year. Copy C of the 1099 is kept for the organization's records.

Other Required Financial Statements Unique to Nonprofit Organizations – In addition to the “basic financial statements” described in the preceding pages, nonprofit organizations that receive federal, state or local funding may be subject to additional reporting rules under OMB Circular A-133 or *Government Auditing Standards*. Generally, those nonprofit organizations expending \$500,000 or more of federal awards, either directly or indirectly, are subject to the reporting requirements of OMB Circular A-133 and will have additional reports rendered on the following:

- Expenditures of federal awards.
- Compliance with laws and regulations and internal control over financial reporting.
- Compliance with requirements applicable to each major program and internal controls over compliance.

Recipients of federal and other funding have a fiduciary responsibility to maintain financial and other records as required by their contracts with funding agencies.

Legal Issues in Establishing Nonprofit Organizations (A Primer on 501(c)(3) Status)

Background

The principal vehicle for formation of a nonprofit organization under New Jersey law is incorporation under the New Jersey Nonprofit Corporation Act (the "Act"), codified at Title 15A of the New Jersey Statutes. The Act became effective in 1983 and was the product of a comprehensive revision of the New Jersey laws regulating nonprofit corporations. Nonprofit organizations had existed in the state since colonial times. Until the late 1800's, there had been no comprehensive body of law governing nonprofit corporations generally. In 1898, a statute was enacted to address associations organized as not-for-profit. Over the next 80 years, such statutory framework and case law developed on a piecemeal basis. As a result, there was no coherent body of law to provide guidance for those operating as nonprofit organizations. The main purposes of the Act when adopted in the early 1980's were to provide a general corporate form for the conduct of nonprofit activities and to make the law governing nonprofit corporations as nearly compatible with the New Jersey Business Corporation Act as practicable. The Act, as it has been amended and interpreted in cases over the years, provides a broad and flexible legal context for the governance and operation of New Jersey nonprofit organizations.

Formation of Nonprofit Corporations

New Jersey nonprofit corporations are formed under the Act by filing a certification of incorporation with the New Jersey Department of the Treasury. The Act provides that corporations may be organized for any lawful nonprofit purpose and includes a broad non-exhaustive list of examples of purposes which are for other than pecuniary profit. N.J.S.A. §15A:2-1(a). Unlike business corporations, nonprofit corporations shall not have or issue capital stock or shares. N.J.S.A. §15A:2-1(d). The Act provides for nonprofit corporations either with or without members. Although the concept of membership is similar to the status of shareholders of for profit corporations, they are distinguishable in that no dividends or income or profit are distributed to members of nonprofits. Nonprofit entities with members are sometimes referred to as mutual benefit organizations, being those which serve their designated members, such as labor unions, trade associations and condominium associations.

The Act sets forth the requirements for the certificate of incorporation. N.J.S.A. §15A:2-8. For example, the filing must state the purpose, indicate whether or not the corporation will have members, and identify the initial trustees. Upon incorporation and at all times thereafter, New Jersey nonprofit corporations must have at least three trustees constituting the board. N.J.S.A. §15A:6-2. After filing the certificate of incorporation, the board shall conduct an organizational meeting in

Form 990PF. Private foundations are required to file Form 990PF annually.

*If an organization that normally does not have gross receipts in excess of \$25,000 is sent a 990 package by the Internal Revenue Service, it should file the form by doing the following:

Attach the preprinted label to page 1 of the form and check the box in the area under Section k. Sign and mail the form to the Internal Revenue Service Center.

Both the 990 and 990PF must be filed with the Internal Revenue Service by the 15th day of the fifth month after the end of the organization's fiscal year. An automatic three-month extension to file the 990 and 990PF can be requested by completing Form 8868 by the due date of the return. If necessary, an additional three-month extension may be granted by the IRS by filing another Form 8868.

The following schedule should be used to determine the date when the 990 is due.

<u>IF THE FISCAL YEAR ENDS</u>	<u>DUE DATE</u>
January 31	June 15
February 28/29	July 15
March 31	August 15
April 30	September 15
May 31	October 15
June 30	November 15
July 31	December 15
August 31	January 15
September 30	February 15
October 31	March 15
November 30	April 15
December 31	May 15

Form 990T. This is the Exempt Organization Business Income Tax Return. This form must be filed by any tax-exempt organization which receives, within its fiscal year, gross income of \$1,000 or more from an unrelated trade or business. This form must be filed with the Internal Revenue Service by the 15th day of the fifth month after the end of the organization's fiscal year (See previous schedule.)

Form 990-N. Beginning in 2008, small tax-exempt organizations that previously were not required to file returns may be required to file an annual electronic notice, Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations not Required To File Form 990 or 990-EZ*. This filing requirement applies to tax periods beginning after December 31, 2006. Organizations that do not file the notice will lose their tax-exempt status.

Copy D of the W-2 is kept for the employer's files.

Copies B, 2 and C of the W-2 are given to the employee no later than January 31st of the following year.

Form W-3. Form W-3 is the "Transmittal of Income and Tax Statements." The wages paid and taxes withheld for all employees, in total, are reported on this form. It is sent to the Social Security Administration with all A Copies of all the employees' W-2 Forms. The W-3 must be filed no later than February 28th of the following year.

Form W-4. When an employee is newly hired, the new employee must complete the Form W-4, Employee's Withholding Allowance Certificate. The W-4 reports the employee's marital status and the number of allowances the employee wishes to claim for income tax purposes. An allowance may be claimed for the employee, the employee's spouse, and dependents of the employee, for blindness and for being age 65 or over. Any time an employee's marital status or number of allowances changes, a new W-4 must be filled out by the employee and given to the employer. Employers may be requested to send to the Internal Revenue Service copies of any Form W-4 on which an employee has claimed 10 or more withholding allowances. Also, if any employee is expected to earn more than \$200.00 per week and claims exemption from all income tax, the employee's W-4 must be sent to the Internal Revenue Service. These W-4s are to be mailed with the Form 941 at the end of the quarter.

Form I-9. When an employee is hired he/she must also complete Section 1 of Form I-9, Employment Eligibility Verification. The employee must provide a form of identification from the list of acceptable documents found in the instructions to Form I-9 to prove that he/she is eligible to work in the United States. The employer is responsible for ensuring that Section 1 is timely and properly completed by the employee before completing Section 2 of Form I-9. The employer must complete Section 2 by examining the evidence of identity and employment eligibility within three business days of the date of employment.

Form 990. Organizations exempt from taxes under the Internal Revenue Code (IRC) Section 501(d) are required to file a Form 990 annually, except the following types of organizations:

- A church, an association of churches, or a church auxiliary
- An exclusively religious activity of any religious order
- An organization which normally does not have more than \$25,000 in gross receipts or the year*
- A mission society sponsored by, or affiliated with, a church
- A school which is affiliated with a church and is below college level
- A state institution
- A corporation organized under an Act of Congress

order to adopt bylaws, elect officers, provide for initial members, if there are to be members, and attend to such other matters as the board may determine. N.J.S.A. §15A:2-9. Bylaws are critical to the corporation as they govern its internal procedures and operations. Certain of the Act's provisions on governance and operations are mandatory. However, the majority are written to provide a general corporate form for the conduct of the entity's activities; drafted to permit for variations and modifications from the form to the extent the particular corporation may agree upon in its organizational documents, subject only to overriding interests of the State and of third parties.

While the Act provides for the certificate of incorporation and bylaws as the main operating instruments for nonprofit corporations, in practice, a trend has evolved for a third critical document, the mission statement. The mission statement is without the legal formalities and technicalities of the other corporate organizational documents. The mission statement is often the public face of the organization - communicating to supporters, beneficiaries and the public at large a concise presentation of the essential purposes of the nonprofit.

Exemption from Federal Taxation

Exemption from Federal income taxation is a privilege and not a right. In order to be eligible for such exemption, the entity must demonstrate compliance with the Internal Revenue Code of 1986, as amended (the "Code"), and its underlying regulations, and bears the burden of proving eligibility for exemption. Section 501(c) of the Code outlines a variety of types of entities which are exempt from taxation ranging from charitable foundations to social welfare organizations to political organizations to governmental entities. Section 501(d) of the Code relates to religious organizations which are beyond the scope of this article. Entities qualifying under Section 501(c) are known as exempt entities, as they are generally exempt from Federal income tax.

The most recognizable form of tax exempt entities are charitable organizations, which are addressed under Section 501(c)(3) of the Code. A Section 501(c)(3) charity is defined as an entity "organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals." The Code further provides that no part of the net earnings of a charitable organization may inure to the benefit of any private individual, no substantial part of the activities may consist of carrying on propaganda or otherwise attempting to influence legislation (typically referred to as lobbying), and the organization may not participate in any political campaign for or against any candidate for public office (referred to as electioneering).

The significant effect of being classified as a charitable organization under the Code is that, in addition to being exempt from Federal taxation, charitable status permits it to accept tax-deductible charitable contributions. In other words, those individuals or corporations making contributions to such entities are eligible to claim a deduction on their Federal income tax returns for the amount of cash or in-kind contributions.

In order to qualify as a charitable organization under the Code, the entity must meet both the organizational and operational tests. The organizational test requires that the entity be organized "exclusively" for one or more permissible exempt purposes, whereby the entity's certificate of incorporation and bylaws must identify its exempt purpose(s) and, upon dissolution, its assets must be dedicated to an exempt purpose. To satisfy the operational test, an entity will be regarded as "operating exclusively" for one or more exempt purposes if it engages "primarily" in activities to accomplish the purposes identified in Section 501(c)(3) of the Code. The Code does accommodate certain activities by organizations which are unrelated to the exempt purposes, as long as they are insubstantial. A critical aspect of Federal exemption is that the entities serve a public, rather than a private, interest. In recent years, Congress has paid particular attention to the issue of private insiders inappropriately benefiting from their association with charitable organizations. These instances of private inurement are referred to as excess benefit transactions. Congress has enacted intermediate sanctions to penalize both the insiders who engage in such transactions and those board members approving such transactions.

The Code divides Section 501(c)(3) charitable organizations into two classes, namely private foundations and public charities. Most organizations are presumed to be private foundations unless they notify the Internal Revenue Service (the "IRS") that they are not. In order to be a public charity, an entity must qualify under one of the specific categories of exclusion under the Code. Several categories relate to the nature of the organization, such as churches, educational organizations such as a school or college, hospitals or medical research organizations operated in conjunction with a hospital, endowments for the benefit of state and municipal colleges and universities, or governmental units. If the entity is not able to achieve public charity status by virtue of the nature of its organization, it must be what is referred to as a "publicly supported organization." The underlying concept of a publicly supported organization is that a minimum percentage of its support must be broad-based rather than from concentrated sources. This is measured by the one-third support test, which refers to the fact that one-third of the total support for the organization is "qualifying public support". Public support is that which comes from the general public, the government and other publicly supported nonprofit organizations. While all public support is included in the calculation of the total support, there are limits as to how much of such contributions are treated as "qualifying public support" (i.e., no more than 2% percent of the organization's total support). Given the presumption of being a private foundation,

Next Day Deposits

- Employers with an accumulated liability of \$100,000 or more on any day must deposit the tax within one banking day.
- If over \$100,000 is accumulated in one day for a semiweekly depositor, stop accumulating at the end of that day and begin to accumulate new totals on the next day and continue to follow the regular semiweekly schedule (see above).
- If over \$100,000 is accumulated in one day for a monthly scheduled depositor, stop accumulating at the end of that day and begin to accumulate new totals on the next day, BUT follow the semiweekly deposit schedule for the rest of the calendar year and for the following calendar year.

Electronic Deposits

- Taxes must be paid using the Electronic Federal Tax Payment System (EFTPS) if:
 1. The total deposits of the taxes in 1999 was more than \$200,000
Or
 2. Use of EFTPS was required in 2000.
- Transactions for EFTPS must be initiated one business day before the date the deposit is due.

For more information or to enroll in EFTPS, call 1-800-555-4477.

Federal Tax Deposit Coupons

- These coupons are used for all deposits, except for those done by EFTPS. Use Form 8109, Federal Tax Deposit Coupon to make the deposit at a financial institution that is authorized to accept Federal tax deposits.
- New employers will automatically receive the coupon book 5-6 weeks after receiving an employer identification number.
- All other employers will be sent the coupon books automatically, when the previous book is used up. (The IRS keeps track of the number of FTD coupons used.)

FORM W-2. This form is the "Wage and Tax Statement." It summarizes the gross compensation paid to, and the taxes withheld from, an employee. At the end of each calendar year, a W-2 is prepared for each employee, reporting the employee's wages (salary) for that year.

- Copy A of the W-2 is mailed with Form W-3 to the Social Security Administration.

Copy 1 of the W-2 is mailed with Form NJ W-3 to New Jersey.

Take the deposit, along with the coupon, to an authorized financial institution or a Federal Reserve Bank or branch. If preferred, you may mail your coupon and payment to the address listed on page 46. The frequency of these deposits depends on the amount of taxes due in a given pay period.

Summary of Current Regulations for FICA, Medicare and Federal Withholding Taxes:

Making Payment

Employers with less than a \$2,500 tax liability during the quarter may make a payment with Form 941. If unsure whether tax liability will be less than \$2,500, make the appropriate deposit to avoid deposit penalties.

Deposit Schedules

There are 2 deposit schedules

- Monthly
- Semiweekly

These schedules determine which set of deposit rules must be followed when an employment tax liability arises. The deposit schedule is not determined by how often employees are paid, but are based on the date wages are paid.

Lookback Period

- The deposit schedule used is based on the total tax liability reported on Form 941 during a four quarter lookback period.
- The lookback period begins July 1 and ends June 30
Ex: For calendar year 2001, the lookback period is

Quarter 1	07/01 – 09/30
Quarter 2	10/01 – 12/31
Quarter 3	01/01 – 03/31
Quarter 4	04/01 – 06/30

Scheduled Deposits:

- If the tax liability is under \$50,000 for the entire four quarter lookback period, you are a monthly depositor and your taxes are due by the 15th day of the month following the month for which you are making the deposit. If the tax liability is \$50,000 or more for the lookback period, you are a semiweekly depositor and should follow the schedule below:
- If an employer's payday falls on a Wednesday, Thursday or Friday, taxes must be deposited by the following Wednesday.
- If an employer's payday falls on a Saturday, Sunday, Monday or Tuesday, taxes must be deposited by the following Friday.

those failing to meet these tests will be characterized as private foundations for Federal tax purposes. Such entities maintain the benefit of exemption from Federal taxation and the ability to provide the benefit of a tax deduction to contributors, but private foundations are subject to more restrictive rules than public charities.

Application for Recognition of Exemption

Typically, after a nonprofit corporation has filed its certificate of incorporation and attended to its corporate organizational matters, a filing is made with the IRS in order to request recognition of exemption from federal taxation. The application process provides for submission of required forms which vary depending upon the subsection under Section 501(c) of the Code applicable to the organization. Further, for Section 501(c)(3) organizations, the application gives the entity the opportunity to prove that it qualifies as a public charity as opposed to a private foundation. If the application is acceptable to the IRS, a letter of determination will be issued to the organization recognizing its exemption. Such letter often serves as the basis for the entity seeking exemption or relief from certain state or local taxes. The Code provides for ongoing compliance necessary in order to maintain exempt status, including recordkeeping requirements and filing of annual informational returns or electronic notices in the case of small charitable organizations.

New Jersey Charities Registration and Certain Other Filings

Upon filing of a certificate of incorporation for a nonprofit corporation, the New Jersey Department of Treasury provides a copy of such filing to the Office of the Attorney General, which refers the matter to the New Jersey Division of Consumer Affairs ("DCA"). Pursuant to the Charitable Registration & Investigation Act of 1994, all charities must file initially and annually with the Charities Registration Section of the DCA. The Charities Registration Section's purpose is to protect the public from fraud and deceptive practices in charitable fundraising. Thus, the annual filings required of charities provide for financial disclosures to be available to the general public. Professional fundraisers are also required to make annual filings, and all contracts between charities and professional fundraisers must be in writing and filed with the Charities Registration Section. One type of fundraising often pursued by charitable organizations is charitable gaming, which includes raffles and other games of chance. In order to engage in such activities in the State of New Jersey, municipal and state registrations must be obtained.

As of the time of publication of this Desk Reference Manual in October of 2007, the application of Pay-to-Play regulations to nonprofits was under review by the New Jersey Election Law Enforcement Commission. The rule specifically under review would require nonprofits receiving \$50,000 or more annually in government contracts to complete a filing disclosing reportable individual political contributions made by their board members, officers and respective spouses.

Responsibilities of the Board

The primary responsibility of the board of any corporation, whether profit or nonprofit, is to oversee the operations of the organization to assure effective governance and management. This includes ensuring that the provisions of the organizational documents are carried out and providing for the election of officers, hiring an Executive Director and staff, and the establishment of committees to assist in carrying out the board's functions. In the case of a business corporation, one of the Board of Directors' primary responsibilities is to maximize profits for the benefit of the shareholders. Conversely, the trustees of a nonprofit corporation are not acting for private benefit, but rather in pursuit of the organization's purpose, which is essentially a public purpose. While fiscal oversight and financial responsibility are critical roles of any type of governing body, the board of trustees of a nonprofit is often also charged with hands-on responsibility to engage in fundraising activities for the benefit of the organization. As a result of high-profile scandals in the private sector over the past decade and the enactment by Congress of the Sarbanes-Oxley Act of 2002, boards have been called upon to improve their management and corporate governance, including closer scrutiny on self-dealing transactions and compensation-related issues, and the enactment of codes of ethics and business conduct.

The Act sets forth the standard of care required by trustees and members of board committees; that they shall discharge their duties in good faith and with that degree of diligence, care and skill which ordinary, prudent persons would exercise under similar circumstances in like positions. The provision in the Act mirrors that in the New Jersey Business Corporation Act, and both are a codification of the historical principles that the duties of care and loyalty guide actions of boards. In carrying out such responsibilities, the trustees must have a clear understanding of the organization's purposes and mission. In order to effectively support the carrying out of such purposes and mission, the board members must stay involved and informed as to matters affecting the entity. This is to be accomplished by regular attendance at meetings, keeping apprised as to financial status of the organization and reviewing, and insuring receipt of, information and documents critical to the operations of the organization. To the extent that the organization engages in grant making activities, the board is often responsible for monitoring that the grants are awarded to organizations within the purposes outlined in the mission statement. In addition, to the extent that the organization is funded by grant funds, the board must provide oversight to insure that the funds are in fact used in accordance with any restrictions imposed by the grant.

It is imperative that trustees exercise independent judgment in making corporate decisions, and that such judgment be exercised with full disclosure to the entire board of any personal interest or other facts or circumstances which may give rise to a perceived or actual conflict of interest. In the case of the intermediate sanctions imposed by the IRS for excess benefit transactions, organizational managers may

Payroll and Nonprofit Tax Reporting

Federal Forms to be Filed

Every nonprofit organization paying wages to its employees is required to withhold from the employees' gross earnings specified amounts of Federal Income, Social Security, and Medicare taxes under the Federal Contribution Insurance Act (FICA).

Federal Income Tax is a prepayment of the employee's personal income tax obligation. The amount of tax withheld from the employee's compensation is based on the pay period, the employee's marital status and the number of exemptions the employee has claimed on Federal Form W-4. The amount to be withheld is determined from the tables in the Federal Circular E published by the Internal Revenue Service.

Wages are subject to the FICA tax, which is really made up of two taxes:

- 1) Social Security tax of 6.2% up to a maximum amount of annual compensation, and
- 2) Medicare tax of 1.45% on all compensation.

FICA taxes are withheld from employee compensation and matched by the employer. The Federal forms relating to these taxes are Form 941 and Form 8109.

Form 941 – is the "Employer's Quarterly Federal Tax Return." It summarizes and reports to the IRS the amount of Federal Withholding, Social Security, and Medicare withheld from all the employees, and the employer's portion of the Social Security and Medicare taxes.

For the Quarter:
Jan-Feb-March
April-May-June
July-Aug-Sept
Oct-Nov-Dec

The Due Date is:
April 30
July 31
October 31
January 31

If you deposit taxes (see Form 8109 on next page) on a regular basis, you have 10 additional days at the close of the quarter to file Form 941. For example, if you deposited all of the required taxes for the quarter ended March 31, the Form 941 for that quarter will be due on May 10 instead of April 30.

Form 8109. This is the Federal Tax Deposit Coupon Book containing fifteen coupons for depositing all types of taxes. Check the box marked "941" and use this coupon to deposit Income, Social Security (FICA), and Medicare taxes withheld from employees' wages and the employer's FICA and Medicare taxes.

Type II - Organizations that are supervised or controlled in connection with the supported organization (Brother-Sister relationship)

Type III - Organizations that are operated in connection with the supported organization. Since this is the least formal relationship, a type III organization must also meet other tests to determine responsiveness.

The Pension Protection Act of 2006 changed requirements for supporting organizations and included the new Type III - Fully Integrated as qualified distributions for private foundation's contributions.

Type III - Fully Integrated - Newly defined in section 4943(f) of the Pension Protection Act as an organization which is not required under regulations established by the Secretary to make payments to supported organizations due to the activities of the organization related to performing the functions of, or carrying out the purposes of, such supported organizations.

Donor Advised Funds

When a separate account or fund is set up by a charity in order to receive contributions from a donor or a group of donors, this maintained fund is called a donor advised fund. Payments to a donor advised fund may only qualify as a completed gift to the charity if the charity has final say-so over how the fund's assets are invested and distributed in furtherance of its exempt purposes. Donors may recommend charitable distributions from the account but the charitable organization must have the autonomy to accept or reject the donor's recommendations and make its own decisions.

According to IRS Guidance Notice 2006-19, The Pension Protection Act of 2006 (PPA) also treats as a taxable distribution any distribution from a donor advised fund to a Type II supporting organization that is not functionally integrated or to any other supporting organization if the fund's donor or donor advisor (and any related parties) directly or indirectly controls a supported organization of the grantee if the sponsoring organization does not exercise expenditure responsibility with respect to such distribution.

Donor advised funds are coming under greater scrutiny and regulatory control due to certain abusive arrangements that have been found to be set up primarily for the donor's own benefit. Exempt organizations that participate in these types of arrangements may jeopardize their tax exempt status. Please speak to your tax advisor immediately if you are unsure about your organization's donor advised fund activities.

be liable for excise taxes to the extent that they have approved an excess benefit transaction.

Aside from nonprofit corporations with members, nonprofit boards are self-perpetuating; the existing trustees are responsible for insuring that the board is equipped to continue to carry out the organization's purposes and mission. This involves periodic self-evaluation by the board as to its continued objectivity, vitality and suitability to adapt to the organization's evolving needs. An aspect of board involvement is the constant effort to both conduct internal assessments and recruitment to identify productive and contributing board members. At times, this is manifested by rotation of board members on and off boards or effectuated with staggered board terms. Orientation of new board members is critical to insure that they become familiar with the obligations of board members in general, as well as the particularities of the mission statement, and are integrated into the board and committee structures.

An Overview of Nonprofit Board Responsibilities

What is the “Reasonable Person” Standard?

Widely cited in United States legal precedent, the reasonable person’s philosophy is:

- Prudence is the guide
- Look before you leap
- Record details in all financial dealings
- Scrupulously follow process
- Rely on knowledge of experts when needed
- Investigate action taken as exhaustively for the organization as one would for one’s own life
- Seek a firm and objective basis for knowledge and governance (e.g., the truth)

You need to apply a standard of “reasonableness” – of what is fair and just.

The reason is simple – the term “fiduciary responsibility” is misunderstood by many who serve on nonprofit boards.

Contrary to popular understanding, “fiduciary” does not merely refer to financial responsibility.

The term fiduciary means, “Of, relating to, or involving, confidence or trust; owing another the duty of good faith.”

This obviously extends far beyond the world of finance alone.

There are six basic areas of governance for which a nonprofit board, and, therefore, each individual board member, is ultimately responsible.

- 1) Strategic Planning: determining the nonprofit’s mission and purpose, approving overarching goals and objectives of all programs, monitoring achievements and outcomes against those established goals.
- 2) Financial Accountability: ensuring that the nonprofit is properly managed that financial control systems are in place, and that proper judgment is used in all business and financial transactions.

for a payment that is more than the direct cost of those goods or services. When reporting special event income on Form 990 or 990-EZ an organization must distinguish between:

- Gross revenue - the *retail value* of the goods or services; and
- Contributions - any amount received that exceeds the retail value of the goods or services given.

For example, an organization hosts a golf outing as a special event. The retail value of a round of golf at the chosen course is \$100. Each participant pays \$250 to participate in the outing. The organization reports \$100 per ticket as gross revenue and \$150 per ticket as contribution.

In addition, expenses relating to each event should be maintained separately in the organization’s records. Direct expenses are reported on page one of Form 990 while indirect expenses are reported as fundraising on the Schedule of Functional Expenses. For example, in the instance of a golf outing, the course fees would be a direct expense of the event while printing and mailing of the invitations would fall under fundraising. When considering what expenses are direct think about the retail value of the goods or services provided. In this example, what would an individual person purchasing a \$100 round of golf be paying for? It would pay for the use of the greens, a caddy, or perhaps a golf cart rental. It would not pay for the printing of invitations.

Supporting Organizations

Supporting organizations are public charities that carry out their exempt purpose by supporting one or more other exempt organizations, usually other public charities. This classification can be important to an organization that would otherwise be a private foundation, which is subject to many more rules and regulations. A supporting organization must have a strong relationship with the organization it supports in order to avoid classification as a private foundation. This relationship would allow the organization that is being supported to oversee the operations of the supporting organization.

In addition to being organized exclusively for exempt purposes, a supporting organization must be organized and operated exclusively to support specified supported organizations. There are three relationships that are defined by the IRS and are all intended to ensure that the supporting organization is responsive to the supported organization. The types of supporting organizations are:

- Type I - Organizations that are operated supervised or controlled by the supported organization. (Parent-Sub relationship)

Change in Purpose or Activities

Once an organization is recognized as tax exempt by the IRS, it must notify the IRS of any changes to its organizing documents, by-laws, activities or exempt purpose. An organization that is required to file an annual return must report the changes on its return. If it does not have to file an annual return, the organization must report the changes to the Exempt Organization Determinations Office. For example, if an organization decides that it will start offering scholarships as one of its program activities, the organization must include the same information that would have been requested on an initial application for exemption about its scholarship program to the IRS.

Providing Scholarships, Fellowships, etc.

In general, payments made to individuals may further an organization's educational purpose if the selection was racially non-discriminatory, based on need and/or merit, or to a charitable class rather than to pre-selected individuals.

When completing Form 1023, Application for Exemption or when notifying the IRS of scholarship activity at a later date, the organization must submit the following information:

- A description of the different grant programs and the purpose of each program
- An explanation of how the programs will be publicized and whether they will be to the general public or another group of recipients. This information must include specific information about the geographic area and the means by which the programs will be publicized.
- The basis and procedure for how recipients will be determined
- Samples of any solicitation materials or announcements of award winners must be submitted.
- An explanation of how records and case histories will be maintained.

Special Events

Many organizations run special events such as dinners, golf outings, raffles, carnivals, etc. as a way to raise money for their exempt purpose. These special events only incidentally accomplish an exempt purpose and their primary purpose is to raise funds to finance the organization's exempt activities. Record keeping for special events should be meticulous in order to avoid any misclassification of income.

Sponsorship income, as described in the section on UBI, should be recorded separately from gross revenue and contributions. Gross revenue and contributions is earned by offering the goods or services that have more than a nominal value

- 3) Fund Development: identifying and approving fund development goals and plans; participating in fundraising activities, especially in the cultivation and solicitation of individual donors.
- 4) Public Relations: enhancing the public image of the organization.
- 5) Appraising the Executive Director: selecting, supporting and conducting an annual performance review of the Executive Director.
- 6) Maintaining the Board: selecting, recruiting and nurturing new board members, developing and reviewing the performance of board members, assessing its meetings and its own performance as a board.

In order to accomplish these duties, board members need to understand that there are four distinct "roles" they can play in their nonprofit organization:

1. Board members govern the nonprofit by making policies in partnership with staff
2. Board members actively fundraise on behalf of the nonprofit
3. Board members provide free advice when asked by management on business and programmatic areas within their expertise
4. Board members volunteer in the service delivery of the organization

What role a board member plays at any given time may vary depending upon the stage of development of the nonprofit organization. For example, an organization in its early stage of development – or to use the terminology of Karl Mathiason of the Management Assistance group in Washington, D.C., the "Phase of Creativity" – may require that board members spend much of their time playing roles two through four above, and spend less time on the first role. An organization that has a more established staff and infrastructure will require that board members concentrate on the first two roles above. Thus, while all roles are important, emphasis changes with the developmental life cycle of the nonprofit organization.

One of the more novel contributions to board theory of the last decade has been from John Carver, a board consultant from Indiana. In watching what most boards actually do, Carver observed that many board members feel their major job is watching over, scrutinizing and approving organizational behavior. Staying on top of things is, of course, important in managing or governing anything. But, Carver contends, a big mistake is made if we believe that "watching over" and "approving" are the central responsibilities of a governing board. They are not. The central function of a governing board is to lead, according to Carver. "Watching over" and "approving" are not leading. They are, however, crucial activities for ensuring that board committees, staff and volunteers are, in fact, following the dictates and directions of the leading body.

Thus, the board must first identify and clarify those dictates and directions. This is done through the setting of goals and objectives. As Carver says, “Board governance is about creating the future, about carving what can be out of what is, and about creating community by linking leadership to leadership.” Once a governing board has done its job of leading, it is then ready to monitor, as it now has the objectives by which to judge. The clearer a board is about what it wants, the easier it is to tell if that goal has been achieved. Following this line of reasoning, then, strategically planned outcome goals are the most important part of a governing board’s work. Outcome goals identify the dream—the desired and ultimate impact the organization wishes to achieve. Outcome goals are usually found in the mission statement and overarching goals of a strategic plan.

When the board meets as a whole body to lead and govern, the focus of board governance meetings needs to be devoted to the long term. Meetings need to be primarily concerned with creating the future, rather than passively reviewing the past. The focus is external (i.e., What has changed out there? What is our positioning in the community and how do we compare to other similar organizations? How will that trend affect our ability to provide services?), and not internal. To facilitate this process, some organizations have turned to using a strategic agenda, as opposed to the traditional agenda. Whereas a traditional agenda is simply a series of seemingly disconnected reports from individuals and committees, a strategic agenda is organized topically around the strategic goals a board has identified. In this model, committees and individuals report piecemeal on their work as it relates to a particular strategic topic on the agenda.

Board governance results in policy making. However, it is not always clear to board members how to make policy or what a policy actually is. Policies are ways for nonprofits to set limits and to develop systems for how things should be done within the organization. Policies serve as management guidelines so that when implemented, they accomplish the day-to-day running of the organization without constant board approval or interference. By Webster’s dictionary definition, policies are, “A definite course or method of action selected from among alternative and in light of given conditions to guide and determine present and future decisions.”

There are several levels of policies:

Major policies are always a board governance responsibility. They deal with questions such as: “What is our mission?”; “To what ends are we working?” “What is going on out there and how will it impact our organization?” and “How does something align with our values and key operating principles?”

Secondary policies and **functional** policies are a shared governance and management responsibility. They deal with areas including: “Who do we serve and with what range of services?” “How do they access our services?” and “How much money will it cost and how will we get it?”

2. A charitable organization is required to provide a written disclosure to a donor who receives goods or services in exchange for a single payment in excess of \$75. This usually is in the form of a payment that is partially a contribution and partially for goods or services, otherwise known as a quid pro quo contribution. For example: a donor writes a check to an organization for \$200 in order to attend its annual benefit concert. The concert ticket has a fair market value of \$50. The donor’s tax deduction may not exceed \$150 because the donor’s payment of \$200 exceeds \$75.

The written disclosure should contain the same information describe in 1. above but is not required when the goods or services meet certain exceptions such as for token (low cost) goods, membership benefits, or intangible religious benefits or where there is no donation element involved in the transaction.

Failure by charities to provide timely written disclosure can result in penalties of \$10 per contribution, not to exceed \$5,000 per fundraising event or mailing.

Public Disclosure Requirements

Generally, an exempt organization must have certain documents available for public inspection and provide copies of such documents to individuals requesting them. These documents include Form 990, 990-EZ, 990-PF, and applications for exemption including Form 1023, Form 1024 and others. After August 17, 2006, the Form 990-T, Exempt Organization Business Income Tax Return is also subject to public disclosure.

IRS regulations specifically exclude the name and address of any contributor so a tax-exempt organization is generally not required to disclose the names or addresses of its contributors on its annual return, including Schedule B (Form 990, 990-EZ, or 990-PF). However, any contributors’ names and addresses listed on an exempt organization’s exemption application are subject to disclosure. This general exclusion for contributor information on annual returns does not apply to private foundations, or to political organizations described in section 527.

Since an organization does not have to comply with individual requests for these documents if it makes the documents widely available, many organizations post the documents on a readily accessible worldwide web site. To qualify, the documents must be posted in a format that meets certain criteria. One format that currently meets the criteria is Portable Document Format or PDF.

Organizations may elect to have their lobbying activities measured under an expenditure test, known as the 501(h) election. Under this election, a 501(c)3's lobbying activity will not jeopardize its exempt status so long as its expenditures related to lobbying remain under the amount specified in Code section 4911. For more information on this election, please contact your Sobel advisor.

Political Campaign Activity

501(c)3 organizations are ***strictly prohibited*** from engaging in any political campaign activity. This includes any activity that is directly or indirectly participating or intervening in any political campaign either on behalf of or in opposition to any candidate for public office. This includes, but is not limited to, making contributions, making public statements or endorsing a candidate. ANY political campaign activity may jeopardize the organization's exempt status and may cause the organization to become subject to excise taxes on its political expenditures. Organizations should also note that this prohibition applies to all levels of candidates from local to national level.

Excessive Unrelated Business Income

If an organization receives an excessive amount of its support from unrelated business income it may be jeopardizing its exempt status. Please review the section for Unrelated Business Income (UBI) to learn more about this topic.

Substantiation of Contributions

There are two rules that must be followed in order to meet IRS substantiation and disclosure requirements:

1. A donor is responsible for obtaining a written acknowledgement from a charity for contributions they claim as a deduction on their income tax return. An exempt organization can assist a donor by providing a timely written statement that includes:
 - The name of the organization
 - The amount of the cash contribution
 - A description of the non-cash contribution
 - A statement that no goods or services were provided by the organization in return for the contribution (if applicable)
 - A description and good faith estimate of the value of any goods or services that were provided in return for the contribution
 - A statement that any goods or services provided consisted entirely of intangible religious benefits (if applicable)

Minor policies, standard operating procedures and rules are a management responsibility, including areas such as, "How do we do this on a daily basis?"; "What's the process for that?"; and "What rules need to be instituted?"

To be effective, policies should be developed with staff, approved by the board, distributed to everyone affected by them, consistently enforced, regularly reviewed and updated, and be consistent with by-laws, mission, and articles of incorporation.

Today, many boards are doing a good job in assuming their responsibilities to plan strategically, appraise the executive director, oversee financial accountability and even help raise funds (generally, the least liked responsibility, and therefore, often the least assumed!). There is, however, one area of responsibility where boards appear to be falling short: boards need to be better at both monitoring their own activities and accomplishments and developing board members and leadership succession plans. Recent research suggests that boards that engage in periodic self-assessment and reflection are the leaders of stronger, healthier organizations. Thus, boards should be sure to do the following:

- Set boundaries through job descriptions for the board as a whole
- Establish Board committees and committee chairs; include individual board members and the executive director. (The executive director is responsible for other staff job descriptions, but may ask the board for input.)

Make sure the board has enough people doing the right things. This means that the Board Development Committee must develop and maintain profiles of what the board should ideally "look like" compared to what it is, and then it must identify the discrepancies. This requires that the Board Development Committee looks closely at the organization's purpose and strategic goals, and then reflects on the qualities, skills, experiences, interests, relationships, and connections that board members need to bring to the board room. Asking each board member to write and sign a letter of agreement each year that identifies just what it is he/she can commit to that year is one way of introducing a level of accountability. This letter will also help to identify gaps on the board that will need to be filled.

Make sure the content and process of its board meetings are appropriate and meet the needs of the board. From time to time, the board needs to take a few moments to answer the following questions, and then decide to make the necessary modifications:

- Are our board and committee meetings effective? Should we change our agenda style to a strategic agenda, consent agenda or reverse agenda (an agenda that moves the routine, reporting pieces of the agenda to the end

and brings to the front the work that requires creative and high energy levels, such as new business)?

- Are we talking about the right things?
- Are we making major policy or meddling and micro-managing?
- Do we have too much / too little / enough information to make informed decisions?
- Is there too much / adequate discussion and participation?
- Is committee work done in committee, and recommendations and outcomes brought to the board for approval, or is the board redoing the work of the committee?
- Are overarching issues discussed by the full board?

In sum, a board can and must help the nonprofit if the nonprofit is to thrive. Board members must be committed to the mission; they must participate by asking questions and analyzing answers, and they must participate in everything from decision making to fundraising to support the nonprofit. As Karl Mathiason says, "A board is not a simple mechanism to be kept running smoothly by an occasional oiling. On the contrary, a board is a complex organism, requiring care and nurture to make it effective." In the best nonprofits, a healthy governing board provides a strong competitive advantage that is well worth the effort needed for its creation and maintenance.

Board Policies

Does your board actively shape policies that are best for your organization, or simply try to fit your organization into someone else's politically correct mold?

Truth is the biggest driver of change....

A 501(c)3 organization can lawfully conduct gaming if it is not a substantial part of the organization's activities and the funds raised are used for the organization's exempt purpose.

An exempt organization may still be responsible for filing W-2G, Statement for recipients of certain gambling winnings, when prizewinners receive over certain dollar amounts. The organization may also be required to withhold federal income tax from the amount won. This includes prizes that are non-cash (such as a vacation or big screen television) where the fair market value of the item won is the amount of the winnings. In this case, the winner would have to pay the withholding tax to the organization which should be collected when the prize is awarded.

The IRS discusses gaming and reporting requirements in its publication 3079, Gaming Publication for Tax-Exempt Organizations.

Jeopardizing Exemption Status

Once an organization receives its IRS determination letter stating that it qualifies for exempt status, the organization must continue to act in accordance with that ruling in order to retain its status. There are four ways that an organization can lose its exempt status. These are:

Private Inurement/Benefit

A 501(c)3 must not conduct any activity that will substantially benefit a private interest of any individual or organization. A public charity must serve the public interest. The code further states that "no part of an organization's net earnings may inure to the benefit of a private shareholder or individual." This means that no part of the exempt organization's assets or income can accrue to insiders. The most common infraction in this area is in paying unreasonable compensation to insiders or transferring property to them at less than fair market value. ANY amount of inurement is grounds for losing the tax exempt status and, even in cases where the IRS does not revoke the exempt status, the insider involved may be subject to large excise taxes.

Lobbying

Activities that are conducted in an effort to influence legislation are severely restricted for 501(c)3 organizations. Lobbying includes contacting, or encouraging the public to contact, a member or employee of a legislative body in order to propose, support or oppose legislation. If lobbying is a substantial part of the organization's activities, it may be jeopardizing its exempt status.

Volunteer workforce - If 85% or more of the work is performed by uncompensated volunteers, the income is exempt from UBIT.

Convenience of members - If the trade or business activity is run primarily for the convenience of members, students, patients, employees, or officers, the income is exempt from UBIT.

Sale of donated merchandise - Income earned from the sale of goods that substantially all of which was donated, is exempt from UBIT.

Distribution of low-cost articles - If the organization distributes items that the cost to the organization qualifies as low cost (currently \$8.60), and then receives a donation in return, the income received is considered a full contribution and is exempt from UBIT calculations.

Convention or trade show activity - The IRS recognizes that many organizations regularly conduct activities in conjunction with an annual meeting, trade show or convention. The regulations state in order to qualify as exempt from UBIT the activities must be either to promote and stimulate interest in the products and services of the exempt organization and/or its community; or to educate attendees about issues of the organization's industry. For example: At their annual convention, an exempt organization charges exhibitors a rental fee for space to set up their display. This income may be excluded from the UBIT calculation if the display meets the above standards.

Sponsorship - Many times an exempt organization will seek sponsors for its fundraising events. To qualify as exempt from UBIT the payment can only buy an acknowledgement of the contributor's name, logo or product line and it cannot be used to advertise the contributor's products or services.

A complete list of the exceptions and exclusions to UBIT can be found in IRS publication 598, Tax on Unrelated Business Income of Exempt Organizations, which can be downloaded at <http://www.irs.gov/pub/irs-pdf/p598.pdf>.

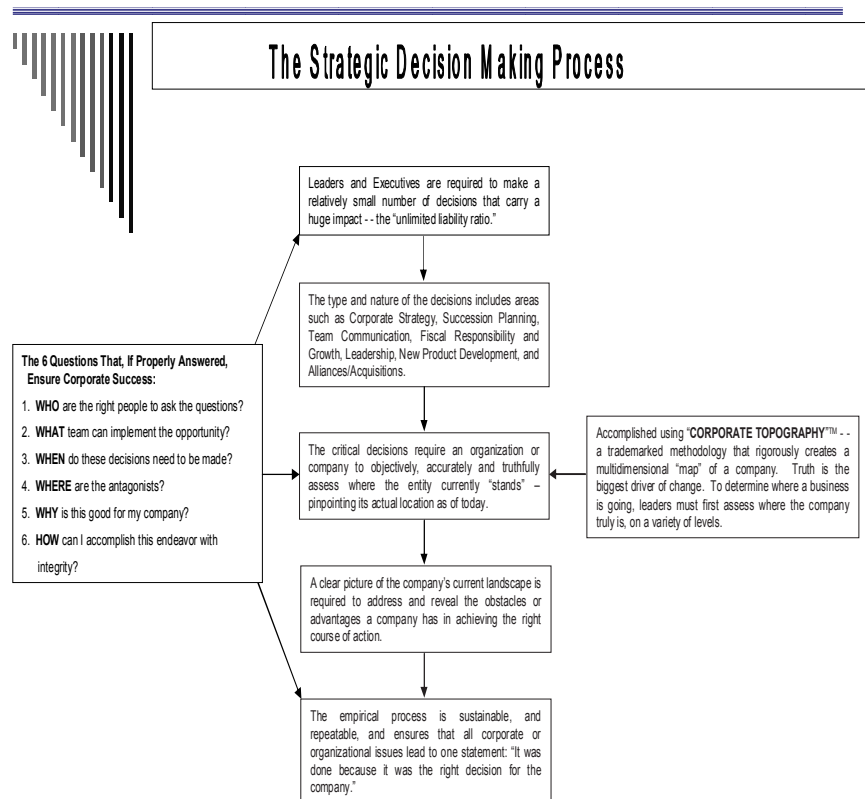
Charitable Gaming

Many organizations conduct some sort of gaming in order to raise income. Gaming activities include: bingo, keno, slot machines, beano, raffles, 50/50s, lotteries, pull-tabs, scratch-offs, pickle jars, punchboards, tip boards, tip jars, paramutual betting, Calcutta wagering and certain video games. In almost every case, gaming activities do not further an exempt purpose and will therefore generate unrelated business income (UBI) unless exceptions or exclusions apply (as in the exception for traditional bingo).

**WHAT'S THE DIFFERENCE?
AUDIT COMMITTEE VS. FINANCE COMMITTEE**

AUDIT COMMITTEE	SHARED RESPONSIBILITIES	FINANCE COMMITTEE
The audit committee is authorized to consider matters related to (a) the financial statements of the organization and other official financial information provided to the public;	The finance committee ensures that budgets and financial statements are prepared; the audit committee has oversight for ensuring that reports are received, monitored, and disseminated appropriately.	The finance committee shall oversee the preparation of the annual budget and financial statements.
(b) the systems of internal controls, including overseeing compliance by management with applicable policies and procedures and risk management (e.g., for organizations that are part of a national network, annually reviewing whether the organization meets the re-chartering requirements of its national organization);	The finance committee monitors financial transactions; the audit committee makes sure things are done according to policy and with adequate controls.	The finance committee shall oversee the administration, collection, and disbursement of the financial resources of the organization.
and (c) the annual independent audit process, including the recommended engagement of and receiving of all reports from the independent certified public accountants. The audit committee shall have such other duties as may be delegated to it by the board.	The finance committee provides guidance about what can be done; the audit committee ensures that independent oversight occurs.	The finance committee shall advise the board with respect to making significant financial decisions.

Source: Nonprofit Risk Management Center Website



Nonprofit Tax Issues

Unrelated Business Income Tax (UBI)

Tax exempt organizations may still be liable for income tax if it receives income from activities unrelated to its exempt purpose. An exempt organization that earns more than \$1,000 of **gross** unrelated business income must file 990-T and pay tax (UBIT) on any net income.

UBI is income which meets three tests:

1. It is from a trade or business
2. It is regularly carried on
3. It is not substantially related to an organization's exempt purpose

In addition, UBI may not be taxable if it falls into certain categories of exceptions and exclusions.

Generally speaking, if your organization sells goods or services to generate income, even if it is conducting the activity as part of a larger group of activities related to its exempt purpose, the activity is a trade or business. In most instances, an activity is considered regularly carried on if it is conducted in the same manner and frequency as a for-profit organization would conduct the activity. The IRS gives this example:

A hospital auxiliary operates a health food stand for one week at a preventative health education conference. Because the activity is a one-time occurrence and is unlikely to compete with for-profit health food stores that operate year-round, the activity is not "regularly carried on." However, if the hospital auxiliary operates a health-food stand daily at the hospital, that is likely the **regular** conduct of a trade or business.

If the activity meets the above two tests, the last item to consider is if the activity is substantially related to your organization's 501(c)(3)'s exempt purpose. The important thing to remember here is that the generation of money to support your exempt purpose does not qualify as a "substantially related" activity.

Common Exceptions and Exclusions to UBI:

The IRS code specifically excludes certain types of income from UBIT. Some income excluded includes interest and dividend income, rents from real property, royalty income and gains or losses from the sale of property. Additionally, some types of income are exceptions to UBIT, a few common exceptions are:

Financing for Nonprofit Organizations

Pledge loans advance rates are based on the estimated quality of the pledges. Heavy concentration of pledges with a small group of individuals or lesser-known organizations may further limit the amount the bank will advance. This is due to concerns of negative impact if a particular pledge should become impaired. Pledges by their nature are not strong collateral, so a great deal of subjective analysis is undertaken by the bank to determine a comfortable advance level. Well-known donors, breadth of pledgors and prior success in an organization's campaign efforts can substantially contribute to the advance percentage the bank will allow.

All of the collateral segments in the preceding outline match collateral to specific facilities. A lender will also do an analysis of aggregate loan exposure to the aggregate collateral. A shortfall in a particular collateral segment can then possibly be offset by excess collateral in another segment. It is typical that all of a lender's loans are cross-collateralized.

Loan pricing. This is one of the earliest questions any borrower asks of a lender. It is a question that a lender cannot fairly answer until the lender is in receipt of the preliminary financial information as outlined earlier in this section. Among the factors that go into pricing of loan facilities are:

- Historical excess revenues
- Historical cash flow
- Strength of balance sheet
- Balance sheet liquidity
- Ability to service present and proposed debt
- Overall collateral strength
- Industry trends
- Level of monitoring required

Financing for Nonprofit Organizations

What Nonprofit Organizations Offer Commercial Banks

Nonprofit organizations offer commercial banks the opportunity to grow loans and deposits in a very competitive market. Doing business with nonprofits also offers the bank a chance to enhance its image in the community through exposure to the organization's board of directors, who are often people of significant stature in the community. These relationships have proven themselves to be profitable endeavors for banks due to the deposit account generation and financing opportunities they often provide.

Questions You Should Ask Before Choosing a Bank to Provide Services for Your Organization

- Does the bank make a market in my specific industry?
- What geographic area does it serve?
- How does my organization compare, in terms of revenue size and loan needs, to similar existing clients of the Bank?
- Does the bank understand my organization's funding sources and any cyclicity of payments?
- Does the bank have a dedicated relationship management and customer service team or do you have to rely on an 800 number?
- Does the bank offer deposit accounts and supporting cash management services? What is the availability of deposited funds? Does my organization have direct access to a cash management representative? Can the bank demonstrate their cash management services and capabilities?
- Will the bank provide me with a cost analysis compared to my existing deposit services provider?
- Can the bank provide my organization with industry references to verify its performance and capabilities?
- What is the account officer turnover rate?
- How responsive is the bank?

Financing for Nonprofit Organizations

Initial Background Information a Lender Will Need

History of Organization: Services provided and how they have evolved since inception

Management Team: Titles and functions of senior management; Length of tenure with organization and time in present position; Backgrounds prior to joining organization

Board of Directors: Complete list of members with background information and length of time on Board

Funding Sources: Major funders/grantors or sources of revenues

Components of Loan Request: Amount; Working capital line; Equipment financing; mortgage debt; Pledge loan; Credit enhancement for bond issuance, etc.

Accounting Information: Name of CPA firm and name of partner at CPA firm who handles your engagement

Number of Employees: Full-time; Part-time; Union or non-union; Length of current union contract

Internal Financial Reporting: Frequency; Listing of reports prepared (to include cash flow projections/budget)

Initial Package of Financial Information Needed by the Lender on Loan Request

Minimum of three (3) years audited financial statements

Most recent interim financial along with prior year period for comparison

Current budget

Information on funding sources

List of Board members

Description of services provided by the organization

Description of the project to be financed

Structuring of Loans for Nonprofit Organizations

There are a number of primary considerations each bank addresses when structuring financing packages:

Matching loan to purpose: Current assets, primarily receivables when lending to nonprofits, are financed via a working capital line of credit. This line would be expected to reduce in tandem with reductions in receivables, and thereby be available to support cash needs when receivables increase due to timing of revenue receipts. Typically, the line would include an annual 30 day period where there are no outstandings.

Financing for Nonprofit Organizations

Fixed asset purchases such as equipment and furniture are financed through term debt or leasing, which is based on the useful life of assets. Working capital lines should not be used for fixed asset acquisitions.

Real estate acquisition and renovations are financed on a longer amortization of debt based on the extended useful life of this asset. Pledge receivables (typically through capital campaigns) to support real estate acquisition/renovations can be considered for financing based on term of the pledges and the anticipated payment of such pledges. Typical repayment is interest payable monthly with minimum annual principal reductions. The repayment matches the preponderance of pledges being collected. Financing for real estate acquisition/renovations can also be considered through a tax exempt bond issuance. In certain cases, the bond issuance is supported by a letter of credit issued by a bank.

The above is a general outline of loan structuring which serves the purpose of matching the loan repayment to the expected sources of cash. The structuring helps to maintain the integrity of an organization's balance sheet, which is of vital importance to lenders and the various organizations that supply grants and contributions to nonprofits.

Supporting loans with collateral. Each type of loan is typically supported by a specific match of collateral which by its nature is best suitable to short, intermediate or long term financing. The following collateral and ratios usually support the aforementioned loan facilities when banks lend to nonprofits:

Working capital lines are secured by receivables.

Term debt and leasing facilities are supported by fixed assets.

Mortgage debt amortization/bond issuance is secured by a first mortgage lien at up to 75% of the lower of cost or appraised value.