

CHECKLIST: Protect Your 501(c)(3) Tax Exemption

This simplified checklist should be used conjunction with advice from your Miller Canfield tax attorney. If you would like more comprehensive guidance, please see our accompanying memorandum: ***Brave New World: A Survival Guide for Tax-Exempt Organizations – How to Prevent and Prepare for IRS Scrutiny***

1

CHECK YOUR DOCUMENTS:

Do your articles have the correct 501(c)(3) language and correctly state a legitimate exempt purpose? You may also want to review your bylaws, conflict-of-interest policy, and other policies.

2

FILE ANNUAL RETURNS:

Your organization must annually file with the IRS and your Secretary of state. You must also file an annual report with all states where you are registered or licensed as a charity with the Attorney General.

3

NO PRIVATE INUREMENT AND NO EXCESS BENEFIT TRANSACTIONS:

Do your articles have the correct 501(c)(3) language and correctly state a legitimate exempt purpose? You may also want to review your bylaws, conflict-of-interest policy, and other policies.

4

PUBLIC BENEFIT:

Your organization should avoid conferring any non-incidental benefits to a private person or entity. Any program which will benefit a private business or individual must be incidental to one of its exempt purposes.

5

LIMITED LOBBYING:

No substantial part of your organization's activities may consist of propaganda or otherwise attempting to influence legislation.

6

NO POLITICAL CAMPAIGNING:

Your organization must not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office.

7

1/3 PUBLICLY FUNDED:

If your organization relies on a 1/3 public funding test to remain a "public charity," at least 1/3 of your organization's income must be from governmental units, contributions from the general public and other public charities ("Good Support"). Contributions from individuals, trusts or corporations count as Good Support only to the extent the total amount from that individual, trust or corporation does not exceed 2% of the organizations total support. However, 100% of contributions from other public charities count as Good Support.

8

EXEMPT PURPOSES:

Review your exempt purposes, as explained in your original application and/or your annual filings and make sure your activities are in line with those exempt purposes.

9

MONITOR YOUR UNRELATED BUSINESS INCOME:

Tax-exempt organizations are allowed a certain amount of profitable business activity – it must be reported annually on Form 990-T and monitored to make sure it does not become substantial enough to threaten your exemption.

10

GRANT AGREEMENTS:

Grant agreements must be reviewed by an attorney.

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