JACOBSON JARVIS
CERTIFIED PUBLIC ACCOUNTANTS &CO PLLC

What **Not-for-Profits** *Need to Know About* **Tax Compliance**

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I. Introduction

Whether your organization is in its beginning stages or already established and growing rapidly, it is common to become so focused on mission-building that tax compliance is an afterthought. This is certainly understandable – after all, the infectious passion and energy of our not-for-profit community is one of main reasons that Jacobson Jarvis is proud to work exclusively with this sector.

However, many organizations can engage in activities that are done completely in good faith, only to realize that an unintentional oversight has placed the organization at risk. We know this because we have helped hundreds of executives and board members at organizations large and small navigate the complexities of tax laws. We have seen it all, and our experience is what inspired us to develop this resource.

This booklet is designed to educate and inform organizations just like yours about the basics of tax compliance and to help your organization stay aware of the common pitfalls that can carry serious consequences if left unaddressed. It is not intended to be a substitute for professional advice.

This booklet covers a range of tax-related issues that your organization can leverage for directional purposes, including applying for and maintaining tax-exempt status, routine reporting requirements, employer obligations, and special considerations for fundraising and political lobbying activities.

More importantly, this booklet is intended to provide foundational knowledge about tax compliance that can be passed along to board members and other leaders within your organization so that you can more confidently focus on what you do best – your mission.

What is tax-exempt status and why does my organization need it?

To receive tax-exempt status means that, under the U.S. federal income tax code, an organization has been granted an exemption from federal income tax if it is deemed to satisfy a charitable purpose. Organizations must apply for tax-exempt status and it is only granted once an application has been reviewed and approved by the IRS.

Tax-exempt status is not easy to obtain and not every organization that applies is granted tax-exempt status. Even if an organization has an important mission and focuses exclusively on charitable activities covered under a section of the tax code, it may not be approved if its application is not in the proper format or does not include all of the necessary information. For example, merely filing a Form 990 tax return will not give you tax-exempt status. Your organization still needs to file paperwork within a year of formation with the federal government in order to have its not-for-profit status formally approved. If tax-exempt status is not granted, the organization will be subject to federal income tax and contributions made by donors will not be tax deductible.

The section of the code that describes the types of organizations that are exempt from tax, upon acceptance of an application, is section 501. These types of organizations are grouped into sub-sections, such as 501(c)(3), which addresses charitable, religious, scientific, literary, and other charities. Other sections address other types of tax-exempt entities, such as 501(c)(6) trade associations, 501(c)(7) social clubs, and 501(c)(4) social welfare organizations. This booklet focuses primarily on the tax requirements of 501(c)(3) charitable organizations. The primary difference between the 501(c)(3) entities and the other entities is that individuals can receive a tax deduction for donations to (c)(3) organizations on their personal tax returns.

Once the exemption is received, the not-for-profit organization will not generally have to pay federal income taxes on donations and other funds directly related to its charitable purpose. However, it still may be liable for taxes on income that is not considered to be directly related to its charitable purpose. It may also be liable for state and local income, business and/ or property taxes. In addition, the organization is not excluded from payroll taxes, either at the federal or state level. All of these are discussed later on in this booklet.

How does my organization become a tax-exempt entity?

The process to becoming a tax-exempt entity requires filing paperwork with the Washington State Secretary of State and the Internal Revenue Service.

First, an organization must file its articles of incorporation and pay the required application fees for incorporation under state law. In Washington State the creation of not-for-profit corporations is governed by Chapter 24.03 of the Revised Code of Washington (RCW). To file for incorporation in Washington State, the organization must already have articles of incorporation and bylaws. The IRS requires that your articles of incorporation contain two specific paragraphs: a clearly defined purpose clause that meets the qualifications for tax exemption outlined in the tax code, and a dissolution clause that directs how your charitable assets will be distributed if you ever terminate your operations. IRS Publication 557 provides sample language for articles of incorporation. (See our Resources web page for more information on application procedures, Chapter 24.03 of the RCW and IRS Publication 557.)

The second step is to apply for tax-exempt status at the federal level by filing an IRS Form 1023, which can be downloaded from the IRS website. Your application must include the approved articles of incorporation, bylaws, supporting attachments, and an application fee. If the application is approved, the IRS will issue a determination letter confirming the organization's tax-exempt status. Until a favorable determination letter is received, the organization must advise donors that their gifts might not be tax deductible.

***TIP:** Prior to filing the Form 1023, the organization must obtain a federal employer identification number. This is true whether or not the not-for-profit organization intends to have employees. A corporation can apply for a federal employer identification number online or by filing a Form SS-4, which may be downloaded from the IRS website or completed online.*

Once the IRS and the Secretary of State have both approved an organization's charitable status, the organization is officially a tax-exempt entity and subject to certain routine reporting requirements, as described later in this booklet.

Do I need an attorney or CPA to help my organization gain tax-exempt status?

While the IRS website is extremely informative, the process can be complex and rife with traps for the unwary. We suggest working with an experienced not-for-profit attorney to prepare your articles and bylaws, and an experienced not-for-profit CPA to help you with the Form 1023 filing.

Once my organization receives tax-exempt status, how do I maintain it?

Just because an organization is granted tax-exempt status once, doesn't mean that the status will remain indefinitely. There are various reporting documents that must be filed on an annual basis in order to avoid automatic revocation of the organization's tax-exempt status. The IRS is vigilant when observing these rules. In 2011, about 500,000 organizations had their tax-exempt status automatically revoked for failing to file required reporting documents for three years in a row. Once that status is revoked, it's an expensive and time-consuming process to get it back.

In addition to reporting requirements, which are discussed a little later in this booklet, all not-for-profit organizations should be doing the following to ensure they retain their tax-exempt status:

• Abstain from activities that jeopardize the exemption, such as political activity.

Later in this booklet we will explain the difference between politics and lobbying, and ways in which a Political Action Committee can have some political activity and reduce the risk of revocation.

• Remain faithful to the exempt purpose identified in the articles of incorporation.

If an organization has significantly changed their exempt purpose or operations, they must update their articles of incorporation and notify the IRS of any significant changes to their organizing documents. As an example, a significant change would include a change to the number and duties of voting board members, officers or key employees.

• Comply with the public support requirement.

Not-for-profits receive a mix of funding from individual donors, corporations, and foundations. However, the IRS requires that at least 33% of an organization's funding comes from a broad mix of the general public. An organization's percentage is reported on its Form 990, Schedule A, line 14 (more information about Form 990 can be found later in this booklet). The IRS may consider various facts and circumstances if the percentage is low, but failure to meet this percentage may result in a conversion to private foundation status and additional IRS compliance requirements.

• **Avoid direct competition with for-profit entities.**

Given the charitable purpose of a not-for-profit organization, the IRS frowns upon organizations that compete with for-profit businesses. The general rule, referred to as the "commerciality doctrine," is to refrain from operating in an excessively commercial manner in competition with a for-profit counterpart in the marketplace. For example, a not-for-profit drug treatment center once lost its not-for-profit status for having the same rates, hours of operation and advertising as a for-profit center. It is important to monitor the organization's commercial activities and how they align with for-profit entities.

• **Deliver real public benefit.**

A not-for-profit must maintain real and substantial operations that benefit public, not private interests. For example, an organization that provides social welfare services to families in need should not be providing services that personally benefit a board member. A substantial private benefit will nullify tax-exempt status regardless of an organization's other important charitable purpose activities. To avoid this problem, not-for-profits should monitor board structure and who may potentially be benefiting from the organization's activities.

• **Carefully manage related-party transactions.**

No part of the organization's net income can benefit anyone with decision-making authority within the organization. Trustees, directors, officers, members, founders, and major contributors are examples of individuals who are considered decision-making authorities. These types of transactions are referred to as "private inurement" and could lead the IRS to conclude that the organization is acting for the benefit of those individuals rather than for public good. To avoid jeopardizing the organization's tax-exempt status, insiders should not receive a distribution of funds from the organization, except as reasonable payment for goods and services. Furthermore, all payments to third-parties must be determined to be reasonable.

In addition to the above compliance requirements, there are a number of disclosure requirements and "best practices" that all not-for-profits should be following:

•Provide written substantiation for cash and non-cash contributions valued at $250 or more.

For donors to receive a tax deduction, they need a gift acknowledgement from the organization. Later on in the Fundraising section, we will discuss the key acknowledgement language that should appear in a "thank you" letter.

• Understand donor notification rules for gifts made in exchange for goods and services.

Donors get upset when the IRS denies tax deductions, which is why special care is needed to state the value donors received in exchange for their gift, particularly those received at a dinner auction.

• Monitor board independence.

The IRS suggests that the board use a questionnaire to assist in determining if any board member has a conflict of interest from a business or family relationship. (See our Resources web page for the model Independence Questionnaire.)

• Comply with public disclosure requirements.

The IRS requires that an organization respond to public information requests by providing a copy of its exempt application and annual tax return to the general public. The not-for-profit can charge a small fee for copying costs and this public copy can hide donor names and contact information.

Does tax-exempt status mean I am exempt from all taxes?

No. Just because an organization has received tax-exempt status from the federal government does not mean that it is exempt from state and local taxes, property taxes, payroll taxes or other taxes. Later in this booklet we will describe the routine reporting requirements for state and local taxes.

What is Unrelated Business Income and why should I care?

Even if an organization is tax-exempt for federal tax purposes, the organization may be subject to federal income taxes if it has $1,000 or more of gross revenue from an unrelated business activity. These sources of revenue and their associated taxes, called unrelated business income taxes ("UBIT"), generally require that you file an additional tax return called a Form 990-T and make tax payments.

Organizations may often be engaging in activities that constitute unrelated business income ("UBI") without knowing it, so it is important to at least have a basic understanding of what those activities entail. A more detailed discussion of UBIT and UBI can be found later in this booklet.

What are the reporting requirements expected of my organization?

As a not-for-profit corporation, an exempt organization must routinely report activities to the IRS, Secretary of State, City and State Departments of Revenue, payroll taxing authorities, and city and county assessors (for property taxes). With the exception of the first two, the other reporting requirements are the same as they would be for a non-charitable organization.

Why does a tax-exempt organization have to file a tax return?

While a tax-exempt entity is exempt from most forms of income tax, its exempt status is still subject to oversight by the IRS. In order to facilitate that oversight, not-for-profit entities must file a federal Form 990 (or a variation of that form) with the IRS.

What is a Form 990?

The IRS Form 990 is a type of tax return submitted to the IRS that provides an overview of the organization's financial activities, governance structure and public benefit accomplishments over the past year. It is a way for the IRS to ensure that tax-exempt organizations are indeed operating under their tax-exempt purpose.

Does every tax-exempt organization have to file a Form 990?

With few exceptions (churches), most organizations must file some type of Form 990, but the type of form will vary based on the organization's annual revenue and assets. If the organization has gross revenue under $50,000 it will file the Form 990-N, also known as the e-Postcard.

Organizations with gross receipts of $50,000 or more and less than $200,000, and assets of less than $500,000, will file the Form 990-EZ, which is a simplified version of the Form 990. Organizations with $200,000 or more in revenue or $500,000 or more of assets will file the longer Form 990. Organizations, with $10 million or more in assets, must electronically transmit their return to the IRS using "e-file", but the IRS encourages organizations of any size to file electronically.

In addition to the Form 990, Form 990-T must be filed annually by an organization that has $1,000 or more of gross income from business activities that are not related to its mission and are regularly carried on, whether or not it reports a profit from the unrelated businesses. This applies to organizations that file Form 990, 990-EZ or 990-N. Many organizations fail to recognize taxable income. Organizations that willingly or unintentionally fail to report or who underreport UBI may incur substantial penalties. In many cases, these types of income are classified as "other income" on the Statement of Revenues and Expenses. This is a good place to look for potential tax liability.

TIP: *If your organization has an "Other Income" category on its financial statements, then you should ask if it might contain UBI.*

Who typically prepares the Form 990?

Smaller organizations can prepare the Form 990-N on their own but the laws related to tax-exempt entities are complex, and the Forms 990 and 990-EZ can be confusing to the untrained eye. Furthermore, unintended mistakes may result in the risk of a monetary penalty or revocation of your tax-exempt status. Washington State laws recognize the critical nature of this document and specify that not-for-profit organizations with $1 million or more of revenue retain a tax professional who has substantial experience with not-for-profit tax filings.

Where can I obtain a Form 990?

Form 990, along with most other IRS forms, can be downloaded from the IRS website.

What are the key pages in a Form 990?

Due to IRS transparency rules, Form 990 is a public document. This means that it must be made available for public oversight, but it also serves double duty as a marketing tool highlighting your program accomplishments and financial health to potential donors. With that in mind, you should be familiar with four key pages of the return:

- **Snap Shot: Page 1.**

The first page of the Form 990 contains basic information about the organization and a summary of its financial activities. It should provide the reader with a quick look at the organization's mission, organizational structure, unrelated activities, and financial health. In particular, preparers and reviewers should be sure to compare the prior year and current amounts for "big picture" consistency with audited financial statements or internal operating reports.

- **Accomplishments: Page 2.**

The second page of the Form 990 will catch the attention of governmental agencies and potential donors. It describes in more detail the organization's mission, any new programs, its three largest existing programs, and revenue and expenses by program. When preparing this information, it is important to ensure the activities listed are consistent with the charitable purpose for which the organization has received exempt status. Over time, it is not unusual for an organization to accommodate the shifting needs of the community it serves. However, an inconsistency between the exempt purpose and the language in this section may prompt an audit or, in some cases, the revocation of exempt status.

This section is also a significant one for donors. A potential donor can look at any organization's Form 990 on [Guidestar.org](). Organizations should consider the donor's point of view and whether the statement of accomplishments would persuade them to make a contribution.

TIP: *Your fundraising director should review your accomplishment narrative with potential donors in mind.*

• **Checklist of Required Schedules: Page 3.**

A former Director of the IRS Exempt Organizations Division once said that about 30% of Form 990s are filed incomplete or incorrectly. In many cases this is because they fail to file a required form or schedule(s), or to include required information. A quick review of the questions and responses on Page 3 should reassure the organization that the required schedules have been submitted. A "yes" answer on this page means an additional schedule is required.

• **Governance, Management & Disclosures: Page 6.**

The IRS believes that good governance is an indicator of proper tax compliance and uses the responses on this page to evaluate a not-for-profit's risk of non-compliance. When an organization indicates that it does not comply with the best practices, then the board should investigate the reasons why in case the IRS investigates. More significantly, these questions are receiving increasing scrutiny from savvy donors and granting organizations that want more information about how an organization is governed.

What are the reporting requirements if my organization offers a retirement plan?

Organizations that have retirement plans, such as 401(k) and 403(b) plans, are required to file a Form 5500 or 5500-SF annually. Generally, if a plan has 100 or more participants on the first day of a plan year, then the plan is considered a large plan filer for that year and is required to engage an independent certified public accountant to audit the plan's financial statements and attach the audit report to the Form 5500 when filed. The participant count is comprised of (1) all employees who are eligible for the plan (even if they don't have an account balance) and (2) all former employees with remaining plan balances.

The focus of IRS examinations is the eligibility of the employer, the inclusivity of the plan, contributions in excess of contribution limits, timely deposits of contributions by the employer, fidelity bonding and plan loans and hardship distributions. The Form 5500 is due seven months after the end of the plan year and can be extended two and a half months.

TIP: *Organizations should review their retirement plan annually to make sure it is in compliance with all requirements.*

What are the state and local reporting requirements expected of my organization?

Just because an organization has received tax-exempt status from the federal government does not mean that it is exempt from state and local taxes, property taxes, payroll taxes or other taxes. There are also licensing requirements that we will explain below.

• B&O and Sales & Use Taxes

While Washington State does not currently have a corporate income tax, it does have both business and occupation ("B&O"), and sales and use taxes. B&O taxes are levied on gross revenues received by a corporation. Sales taxes are paid by the purchaser of goods and services, and remitted by the collecting corporation. Use taxes are paid on items a corporation purchases that are not subject to sales tax at the time of purchase. This includes purchases made online or out of state, and may include, for example, magazine subscriptions and computer purchases.

With limited exceptions, Washington not-for-profit organizations are generally taxed like any other business. However, revenue is not subject to sales or B&O tax if the revenue was received from donations of money and assets, revenues from fundraising activities, and revenue from youth character building activities. (See our Resources web page for more information about the exceptions set forth by the Washington Department of Revenue.)

Otherwise most not-for-profits, like their for-profit counterparts, must pay B&O tax on gross revenues generated from regular business activities they conduct, such as fees received for services. In addition, not-for-profit organizations must collect and remit retail sales tax on their sales of goods and retail services, unless they are covered by a specific exemption or deduction. Finally, they must pay sales tax on all goods and retail services that they purchase as consumers, such as supplies, lodging, equipment, and construction services unless they are for resale and the organization has a reseller's permit.

- **Property Taxes**

While some not-for-profit organizations in Washington State are subject to property taxes, others may be eligible for an exemption such as schools, churches, cemeteries, hospitals, social service agencies, character-building organizations, nursing homes, museums, and public meeting halls. Exemptions do not include special assessments. In many cases, the organization must apply for an exemption in order to receive it.

- **City Taxes and Licenses**

Most cities in Washington State require a business license for all companies doing business within their limits, including not-for-profit organizations, although there are exemptions for some not-for-profits, such as schools and childcare facilities. In addition to paying an annual license fee, some cities also charge a fee that is calculated based on the square footage of any physical facilities located within the city limits, whether the organization leases or owns those facilities.

Many cities also levy taxes on businesses registered to do business within their city limits, including not-for-profits. For example, organizations must pay B&O taxes on gross revenues generated. Many cities, including Seattle, levy B&O taxes on revenues not generally subject to state B&O taxes and offer exemptions for revenues not exempt from state B&O taxes. Not-for-profits should be careful to review the tax rules that apply in the city or cities in which they operate.

- **Registration with Secretary of State, Charities Office**

Washington not-for-profits must comply with both the Nonprofit Corporation Act and the Charitable Solicitations Act. These state laws require that an organization register with the Secretary of State Charities Program before soliciting any donations, if it exceeds certain thresholds. (See our Resources web page for more information about these thresholds). Exceptions to this requirement are available to political organizations, churches, 100% volunteer-run organizations raising less than $50,000, or appeals made on behalf of a specific individual. Also, the organization must file an annual report on its activities, and the registration must be renewed annually based on the organization's fiscal year. In addition to completing the form in a timely manner, a fee must be paid with the renewal.

i ***TIP:*** *Charitable organizations that are exempt from registration are encouraged to file an optional registration with the Charities Program to have their contact information included in the state's donor tool called "Charity Search."*

• **Federal Payroll Taxes**

Not-for-profits must comply with both federal and state payroll reporting requirements. Federal tax withholding, social security taxes, and Medicare taxes must be deposited through the Electronic Federal Tax Payment System ("EFTPS"). The frequency with which deposits must be made depends on the size of the payroll and may be semi-weekly, weekly, semi-monthly, or monthly. In addition, the organization must file a Form 941 on a quarterly basis.

TIP: *Board members should be especially aware of potential personal liability for payroll taxes. Federal law regarding federal payroll liabilities requires that someone from the organization is considered the "responsible person" and is personally liable for the payroll taxes. This means if an organization fails to remit federal payroll taxes, the IRS can collect these taxes from the "responsible person," which in some cases could be a board member.*

As mentioned earlier in this booklet, your organization will be subject to federal income taxes if it has $1,000 or more of gross revenue from a business activity that is regularly carried on and not related to your exempt purpose. These business activities constitute unrelated business income ("UBI"), and the taxes associated with these business activities are called unrelated business income taxes ("UBIT"). Any organization that engages in such activities is required to file an IRS Form 990-T and possibly make estimated tax payments like any for-profit business. Organizations may often be engaging in activities that constitute UBI without knowing it, so it is important to have at least a basic understanding of what those activities entail. In general, the IRS has three tests for determining taxable income. The activity must (1) constitute a trade or business, (2) be regularly carried on, and (3) not be substantially related to your exempt purpose.

What are common sources of taxable income?

There are some common sources of unrelated business income, such as fees from advertisements in your newsletter or website, rental income from debt financed property, or fees earned for providing administrative or clerical services to another organization.

In many cases, careful tax planning can help a not-for-profit organization benefit from revenues that can fund mission-related activities while minimizing unrelated business income. For example, newsletter advertising is taxable, but qualified sponsor acknowledgments are not. Therefore, carefully crafted sponsorship agreements that separate the taxable income will result in reduced or eliminated taxable income.

i *The IRS has a publication, Publication 598: Tax on Unrelated Business Income of Exempt Organizations, which provides numerous examples of common unrelated business income situations.*

What exclusions are available to reduce tax?

Some forms of income are automatically excluded from UBIT regardless of whether they are regularly carried on. For example, any activity in which 85% or more of the work is performed by unpaid volunteers is exempt from UBIT, such as a thrift store. Also, the sale of donated merchandise is not subject to UBIT. Finally, an activity conducted primarily for the convenience of its members, students, patients, officers, or employees is considered as related to the trade or business. If an activity is partially for the benefit of these parties, but also benefits the general public, such as an employee cafeteria that is open to the public, it may be necessary to report the portion benefitting the general public as unrelated business income.

Can we deduct expenses?

Organizations are allowed to deduct normal business expenses against unrelated business revenues before calculating taxable income. The organization must have solid reasons for allocating expenses between its related and unrelated business activities. If it appears to the IRS that disproportionate expenses are being allocated to taxable income, the IRS may consider the not-for-profit to be evading its tax liability. In general, you should make sure that your business expenses are allocated on a reasonable and consistent basis.

What is meant by "continual losses?"

The IRS will often question why an organization continues to conduct unrelated business if year after year it is reporting a loss from unrelated business activities. While there are legitimate reasons for losses to occur, the IRS believes that many organizations are allocating too many expenses to those activities. Not-for-profits with unrelated business income losses should be sure to document why the organization is conducting the business and their rationale for the allocations.

Exempt organizations are still responsible for most taxes relating to employees, benefits and compensation.

What is the difference between employees and independent contractors?

Misclassification between employees and independent contractors is a common issue for not-for-profits and can hold significant tax penalties related to withholding and other tax deductions. The answer to whether someone is classified as an independent contractor depends on how much control the employer has over the person. According to the IRS, "control" is determined by the extent to which an organization can dictate both the work that needs to be completed and the means by which it should be done. To further determine employment status, the IRS relies on a 20-factor test. However, the importance of each factor depends on the occupation and work environment.

If the IRS determines that persons have been misclassified as independent contractors during an audit, the organization will be liable for back payroll taxes and penalties. Therefore, it is important to have a file on each contractor that contains: a written contract, a copy of their business license, and documentation (20-factor test) on why the persons are considered independent contractors. Finally, make sure they are being issued an IRS Form 1099MISC at year-end. More information about filing Form 1099s can be found on the IRS website.

What if my organization has interns or volunteers?

Under the Fair Labor Standards Act, interns may actually be employees. In order to avoid the requirements to pay them minimum wage and overtime, and to avoid collecting payroll taxes, interns should not be performing anything but nominal work for the organization. The not-for-profit should have policies in place that carve out the tasks that interns are not allowed to perform and what specific education and training staff will be offering to them in exchange for their service.

Volunteers can be considered employees in certain circumstances, so you should carefully consider what services your volunteers are performing and how they are compensated or reimbursed. Volunteers may be able to deduct many out-of-pocket expenses incurred on behalf of the charitable organization, such as mileage at 14 cents per mile and overnight travel (including lodging, airfare and meals) if they can demonstrate that the expenses were incurred primarily for the organization's benefit.

What if my employees use an expense account?

If employees incur expenses on behalf of the organization and are subsequently reimbursed for those expenses, the organization must have a policy called an "accountable expense reimbursement plan." This plan requires that reimbursed expenses: 1) are connected to the organization's business and not personal in nature, 2) must have substantiation, in the form of a receipt or other evidence of payment, before being reimbursed, and 3) that employees are required to return any money paid in excess of actual expenses. If an employee submits expenses that do not meet these three requirements, and the organization pays the employee for them, the reimbursed expenses must be included in the employee's compensation and are subject to withholding and payroll taxes.

i ***TIP:*** *While not required, it is considered good policy to have the accountable plan requirements in writing. We also recommend that you provide a copy of the plan to employees. Many organizations include the plan requirements in their human resource manual.*

Are fringe benefits taxable?

Fringe benefits are extra benefits that supplement an employee's pay, typically by paying an expense the employee would otherwise have incurred personally. For example, the cost of continuing education classes, discounts offered to employees, access to certain cafeteria plans, or the use of a company car or cell phone.

Fringe benefits are not included in an employee's gross income for income tax purposes if it meets the requirements of one of the following:

- Required as a working condition, such as a health care institution that supplies scrubs at no charge to employees;
- Considered "de minimis" or of minimal value, such as the personal use of a company cell phone;
- Qualified employee discounts, such as a discount at the museum gift shop;
- No additional cost to the employer, such as a youth hostel that arranges with other youth hostels to allow employees to stay, if the hostel has unoccupied rooms;
- Employer-provided retirement advice, such as classes offered by the company's 401(k) or 403(b) plan providers.

Other fringe benefits, such as education, childcare, and meals on premises may or may not be taxable, or may be limited relative to some or all employees. The IRS publication 15-B: *Employer's Tax Guide to Fringe Benefits*, available on the IRS website, describes the tax treatment of common fringe benefits.

TIP: *Private schools can offer tax free tuition to their employees' children if it does not discriminate in favor of the highly compensated.*

Some organizations offer a cafeteria plan, also called a flexible spending or Section 125 plan, which provides a menu of non-taxable benefits from which participating employees may select. Cafeteria plans allow employees to receive benefits for which they would otherwise have to pay using after-tax dollars. For example, a cafeteria plan might help with dependent care expenses, health insurance premium costs, or health insurance costs not covered by the organization's health insurance plan. Under a cafeteria plan, the value of the benefits employees receive through the cafeteria plan is not included in their income. However, there are exceptions for highly compensated employees who benefit disproportionately to other employees.

Does the IRS regulate executive compensation?

Yes and no. While there are no official policies from the IRS governing the amount of compensation that an organization may pay its executives, the IRS can charge a 21% excise tax on organizations that it considers to be paying excessive compensation. Compensation decisions can be difficult. Setting the compensation too high may trigger a penalty from the IRS if they deem the amount excessive, and setting it too low may prevent the organization from retaining top talent. Fortunately, the IRS has set out a "safe-harbor" procedure to use in setting compensation. It is called the "rebuttable presumption," and if followed, will minimize the risk that the IRS will sanction the organization for unreasonable compensation.

There are three steps to meet the "rebuttable presumption" safe-harbor provision. First, an independent compensation committee must be responsible for determining and approving executive compensation. Second, compensation should be based on a survey of salaries in comparable positions. Third, the committee must maintain written documentation of the meeting decisions. Because the Form 990 includes questions about the process used to approve executive compensation, we also recommend that a not-for-profit protect itself by adopting an Executive Compensation Policy. Implementing an Executive Compensation Policy is another form of protection against audit and/or penalty risk from the IRS.

Fundraising activities can generate a significant portion of the organization's revenue for the year and typically include a mix of special events, annual and major gift campaigns, raffles, and the use of professional fundraising specialists. It is important to be familiar with the Washington Charitable Solicitations Act rules and the IRS rules on how to report fundraising activities on the IRS Form 990.

Do I need to do anything special relative to fundraising events?

Revenues from fundraising events generating over $15,000 in revenue must be detailed on the Form 990, on Schedule G. To do so accurately, the not-for-profit must track both revenues and direct expenses associated with the event.

In addition to understanding the gross revenue generated from ticket sales, auction proceeds and other revenue sources, the organization must know how much of that revenue represents contributions. Contributions include cash and non-cash revenues including sponsorships, raise the paddle appeals, and other direct donations made at the event. Contributions also include the value of goods donated that were subsequently sold, and the amount paid in excess of the fair market value of the goods or services received. For example, if the organization charges a ticket price for admission to a dinner, the entire ticket price is included in gross receipts and the portion of the ticket price that is greater than the fair market value of the meal would be a contribution. Similarly, if the sale of items donated for an auction exceeds the value of the donated items, the excess of gross revenues represents contributions.

It is also important to track the expenses directly associated with the fundraising event. When tracking expenses, only direct expenses related to the event are considered. These are often thought of as “day of event” expenses. Indirect expenses such as advertising the event and the cost of invitations are not considered special event expenses, and are recorded as fundraising expenses on the functional expense report.

Are there any special licenses or permits required to hold a fundraising event?

Yes. Washington State and many local jurisdictions regulate aspects of fundraising events. It is important to make sure that the organization complies with all state and local laws. For example, many cities require permits in order to host an event. The State's Liquor Control Board regulates events at which liquor will be served and/or sold. Here are three links to Washington State's website that will help regarding special events: Special Occasion Licenses, Online Banquet Permits, and FAQ for Banquet Permits.

If the event is going to involve any type of gambling, such as a casino night or a raffle, the organization will also need to check with the Washington State Gambling Commission to obtain the required licenses. *See "What if we want to hold a raffle?" for more details.*

What if we hire a professional fundraiser to help with our fundraising activities?

It is very common for organizations to seek outside help with their fundraising. In some cases the organization hires an individual consultant or a firm that specializes in fund development or fundraising that gets paid for providing specific advice or services related to an event or campaign. In these cases the revenues are received directly by the organization. In other cases they may use a professional fundraising service, which conducts the fundraising and remits a portion of the proceeds to the organization. In either case, the organization should track both gross expenses and related revenues carefully. Finally, Washington law requires a written contract between the commercial fundraiser and the charity.

The total amount paid to the professional fundraiser must be disclosed on the functional expense report within the organization's financial statements. If this amount is over $15,000, the organization must also file a Schedule G along with the organization's Form 990. Schedule G requires that the organization report both gross receipts related to the fundraising activity and the amount paid to the professional fundraiser. To do so, the organization must track the contributions received as the direct result of the event or campaign.

What if we want to hold a raffle?

Raffles are considered gambling in Washington State and may need to be licensed. An organization may offer two unlicensed raffles to the public per year as long as the combined gross revenue does not exceed $5,000. If the organization has more than two raffles, or the gross revenues exceed $5,000 total, the raffle must have a license. There are also many laws regarding who may sell or purchase raffle tickets, rules of play, advertising, prizes, determining winners, notification of local police, use of raffle proceeds and recordkeeping. Each time you pay reportable winnings, you must complete an IRS Form W-2G. (For more information on raffles please look at JJCo's article on raffles.)

TIP: *Raffles can't be conducted online in Washington State.*

How are membership dues treated from a tax perspective?

Membership dues can fall into one of two categories of revenue. If the membership dues are contributions rather than payments for benefits received, they are considered contributions. This applies to organizations such as museums whose members join in order to support the organization but may or may not receive direct benefits. It also includes fundraising campaigns where an organization uses the concept of membership even without having a formal set of members. If members receive benefits, then membership dues are considered program service revenue. Examples of membership benefits include subscriptions to publications or newsletters (other than one that is only about the organization's activities), free or reduced rate admissions to events, use of an organization's facilities, and discounts on articles or services that both members and non-members can buy. If these benefits are considered "insubstantial," they may be disregarded and the revenue is reported as contributions. Annual membership dues of $75 or less can also be considered contributions if they meet certain tests.

Lastly, membership dues can be a combination of the two. They are considered program service revenue for the amount equal to the fair market value of the benefits received and contributions for amounts in excess of the those benefits.

What is a qualified sponsorship payment?

A qualified sponsorship payment ("QSP") is a sponsorship made by a trade or business in which there is no expectation, informal or contractual, that the business will receive a substantial benefit. QSPs are non-taxable to the not-for-profit organization. If the sponsorship is not qualified, like advertising, it may be considered unrelated business income and be subject to federal income taxes.

Of course, most individuals or companies providing sponsorship dollars to not-for-profits hope that their companies will benefit, either through goodwill or more directly through revenues, as a result of the arrangement. However, in making the commitment, the corporation provides the sponsorship in exchange for certain benefits but without a direct expectation of substantial benefit. Substantial benefit means any benefit other than an acknowledgement of the donor (at an event, for example) or a "disregarded" benefit (a benefit in which the fair market value, if purchased on the open market, would be less than 2% of the sponsorship payment). Examples of benefits include advertising, exclusive provider agreements, or use of facilities, services or intangible assets. In general, organizations should have a written agreement with each sponsor that outlines the sponsorship and specific recognition and associated benefits. The organization should also be careful to allocate revenue appropriately and document it carefully in order to avoid retroactive reclassification of qualified sponsorship payments as unrelated taxable income.

TIP: *Many organizations offer verbal recognition as a sponsorship benefit at their fundraisers. However, the words that are used during the recognition can hold consequences. Offering general gratitude for the sponsor's support is acceptable. However, any comments that overtly endorse their services may result in taxable advertising. Check with a tax professional if you are unsure of how to phrase your remarks.*

What are fiscal sponsorships?

Fiscal sponsorships are a way for new organizations to borrow tax-exempt status from a more established organization until their own tax-exempt status is confirmed. The sponsoring organization, or Grantor, accepts the grants and donations on behalf of the new organization and controls how the money is spent. If you are approached by an organization requesting a fiscal sponsorship or your organization would like to pursue a fiscal sponsorship, we recommend that you consult with a tax professional, as there are many complexities to this type of arrangement.

Is there any special language we need to include in our donor thank-you letters?

A donor can deduct a charitable donation of $250 or more only if they have a written acknowledgment from the charity. This written acknowledgment must contain the following information: (1) the amount of cash received or a description (but not the value) of any property received; (2) a statement indicating whether any goods or services were provided to the donor, and if so, a description and good-faith estimate of the value of the goods or services provided (quid pro quo), or a statement that the goods or services consisted entirely of intangible religious benefits.

In addition to the above requirements, the letter must also be contemporaneous, which means that the donor must have the letter by the date they file their return, or the due date (including extensions) for the return. It is important to note that the courts have disallowed charitable deductions when the donor did not have a written acknowledgment meeting the above requirements, even if they had other documentation to support the donation. Here is a link to a JJCO newsletter article about thank you letter requirements.

VII. Political & Lobbying Activities

Can my not-for-profit become directly involved in political campaigns or other political activities?

501(c)(3) organizations and churches are prohibited from becoming directly or indirectly involved in campaigns of political candidates. Penalties include excise taxes on political campaign expenditures or excess lobbying expenditures, and possible revocation of the organization's exempt status.

A 501(c)(3) organization may invite political candidates to speak at its events if it provides an equal opportunity to all candidates seeking the same office. 501(c)(3) organizations are permitted to conduct voter education and voter registration activities and get out the vote drives if they are carried out in a non-partisan manner. (See IRS Publication 1828: *Tax Guide for Churches and Religious Organizations*, for additional information.)

There are different rules for 501(c)(4), 501(c)(5), and 501(c)(6) organizations. They are allowed to participate in political campaign activity as long as it does not constitute the organization's primary activity. Their primary activity must be furtherance of their exempt purpose.

What is a Political Action Committee?

Most charities are prohibited from being directly involved in political campaigns, but IRS rules allow not-for-profits to form a Political Action Committee ("PAC") under the rules IRC Section 527. PACs may lobby and support political campaigns.

PAC contributions do not qualify for a tax deduction like charities and they have special reporting requirements. For example, the PAC funds must be held in a separate checking account. Charities are not required to make public the names of their donors but a PAC must disclose the names and the amounts contributed. Charities can accept donations from foreign individuals and LLCs, but PACs cannot.

If we're a 501(c)(3) organization, can we lobby for changes that will impact our organization and its mission?

Yes, but in most cases an organization may do so only to a limited extent. Lobbying expenditures are funds paid or expenses incurred for the purpose of attempting to influence legislation. Most 501(c)(3) organizations may engage in some activities to influence legislation, but too much lobbying activity risks excise taxes on excessive lobbying expenditures and potential loss of tax-exempt status. Churches and private foundations are exceptions to these rules. Churches are exempt from excise taxes on excessive lobbying, and private foundations are subject to significantly more stringent taxes and restrictions, which effectively act as a prohibition on lobbying expenditures.

For 501(c)(3) organizations other than churches and private foundations, the

IRS has a burdensome test of whether or not lobbying activity is excessive, so we recommend that most organizations elect to use the more simple expenditure test, commonly called the Section 501(h) election. In this case, the organization does not risk its exempt status unless its expenditures exceed certain thresholds (about 20% for small organizations). In order to elect this method of evaluation, the organization must file a Form 5768. This measurement method provides for a more subjective financial evaluation of lobbying activity. If you engage in lobbying activities, or have a section 501(h) election in effect during the tax year, then you must file Schedule C and here is link to the IRS form 990 instructions.

TIP: *The terms "grassroots" and "direct lobbying" are often used interchangeably. However, from a not-for-profit financial reporting perspective, there are clear distinctions between the two. Accounting records should maintain separate accounts for grassroots and direct lobbying activities. (For a definition of these terms, see the IRS Schedule C instructions).*

VIII. Audits & Inquiries

Not-for-profit organizations are subject to audits by any taxing entity, including the IRS. These may be in the form of a comprehensive audit or an inquiry into a specific filing or report, such as a payroll tax filing for a particular quarter. While audits are sometimes time-consuming and can cause anxiety, careful attention to details when preparing returns and other reports, thorough recordkeeping and friendly cooperation will all improve the audit experience.

How can I minimize my chances of an IRS audit?

The IRS chooses audit targets through random selection and because red flags surface in routine reporting submissions. For example, the fastest way to get audited by the IRS is by making simple mistakes, such as forgetting to sign the tax return or attach required schedules.

Another source of IRS inquiry is from tips from the general public and a routine review of the organization's website. If the website suggests that an organization might have unreported unrelated business income, that it is providing special benefits to select related entities, has extensive lobbying activity, or is pursuing a mission that differs from the one outlined in the articles of incorporation, the organization may be at greater risk for an audit.

We recommend that executives and boards use a checklist to review their tax return and website for potential risks, such as business advertisements, political statements, campaign activities, links to other organizations, and non-exempt activities. We also recommend that the website include a disclaimer that the organization does not endorse any particular candidate for public office or corporate sponsor, and that the organization has no agency relationship with organizations to which it may be linked.

What should I do if I get audited or get a letter from the IRS?

In most cases, audits and inquiries are not a matter of if, but when. Many organizations are well-equipped to handle routine state and local audits, and even federal tax inquiries. However, retaining a CPA who has extensive experience with not-for-profit organizations can provide a measure of security, and serve as an inexpensive insurance policy, when an audit happens.

What happens if I lose my tax-exempt status?

Organizations can lose their tax-exempt status for failing to file a Form 990 for three consecutive years, for excessive lobbying, or for a variety of other reasons.

When an organization loses its tax-exempt status, it typically receives notification in the form of a letter from the IRS. If this happens, the organization is considered to be a taxable corporation, and any income, including donations, are taxable at standard corporate tax rates. The organization must also file a corporate income tax return on Form 1120. The organization will also no longer be considered a charity under Washington State law, and will be subject to B&O and other taxes from which it was previously exempt. Donations and grants that are provided by donors are no longer tax-deductible to those donors.

In order to reinstate tax-exempt status, the organization must file a new Form 1023 (see the first section of this book), applying for tax-exemption. While an organization may request retroactive reinstatement, the IRS rarely approves it and it will add additional time to the approval process. In these situations, it is advisable to hire an attorney or CPA who has expertise working with the IRS on revoked exemptions.

- Are we filing the correct Form 990?
- Do we have $1,000 of gross revenue from unrelated business sources?
- Begin by reviewing pages 1 & 2. Do these pages present a comprehensive and accurate picture of the organization and its mission? Is it consistent with our website?
- Checklist of Required Schedules (Page 3): Are all appropriate boxes checked and are the required Schedules completed? Read all schedules for reasonableness.
- Governance, Mgmt & Disclosure: Did we make a reasonable effort to determine board independence? Are governance documents available for public inspection?
- Are our representations regarding the following written governance policies accurate: conflict of interest, whistleblower, document retention, and joint venture?
- Do we use rebuttable presumption rules in determining executive compensation?
- Did we endorse any candidate for public office?
- Is our lobbying activity, if any, of an insubstantial nature and disclosed on our return?
- Are all employment, B&O, sales and property tax reports filed and paid?
- Are we required to file an annual report with the Secretary of State Charity office?
- Are we providing a written acknowledgement for gifts over $250? And disclosing the fair value of any goods or services provided in exchange for a $75 donation? Any large noncash donations?

- Have we correctly classified employees and independent contractors and filed the required W-2s and 1099s to report their compensation?
- Did our organization make loans to any of its officers or directors?
- Did we do anything to violate our tax-exempt status with the IRS or the State of Washington?
- Is our return signed and complete?
- Have we changed our articles or bylaws recently?
- Schedule A: Is our public support % dropping every year?
- Do we operate like a commercial business?
- Functional expense report: Is our program expense % dropping every year?
- Are our programs real and substantial?
- Are minutes are being kept for all board meetings and other authorized meetings?

X. Glossary

Accountable Plan: A reimbursement or other expense allowance arrangement that satisfies the requirements of section 62(c) by meeting the requirements of business connection, substantiation, and returning amounts in excess of substantiated expenses. See IRS Regulations section 1.62-2(c)(2).

Business Relationship: For purposes of determining a conflict of interest or board independence, a business relationship exists when: (1) a board member is employed by another board member; (2) a board member is transacting business with another (other than in the ordinary course of business) in excess of $10,000 in the aggregate during the organization's tax year; or (3) two persons are each a greater-than-10% owner in the same business or investment entity.

Controlled Entity: An organization controlled by a controlling organization as defined in IRS section 512(b)(13) and is usually only important when a nonprofit organization has business transactions with a for-profit entity that might cause unrelated business income. Control usually means more than 50%.

Covered Employee: Any employee (including any former employee) of a tax-exempt organization if the employee: (A) is one of the 5 highest compensated employees of the organization for the taxable year, or (B) was a covered employee of the organization (or any predecessor) for any preceding taxable year beginning after December 31, 2016. (IRC Section 4960).

Determination Letter: A letter from the IRS that acknowledges the approval of tax-exempt status and charitable type classification, such as church or private school.

Disqualified Person: Any person (including an individual, corporation, or other entity), who was in a position to exercise substantial influence over the affairs of the organization at any time during a five-year period ending on the date of the transaction. Certain powers, responsibilities, or interests allow a person to exercise substantial influence. For example, being a family member of a board member, an owner of a 35% interest in a controlled entity, or a donor advisor to a donor advised fund.

Disregarded Entity: An entity wholly owned by the organization that is generally not treated as a separate entity for Federal tax purposes, for example, a single-member limited liability company of which the organization is the sole member (IRC Reg. 301.7701-2 and 3).

Donor Advised Fund: A fund created by contributions of a donor, that is owned and controlled by a sponsoring organization, and for which the donor has advisory privileges in the distribution or investment of the funds. It does not include a fund that makes distributions only to a single identified organization or governmental entity.

E-filing Requirement: The IRS encourages all exempt organizations to electronically file their tax returns, but only organizations over $10 million or that already file a number of IRS returns (i.e.: 250 Form 1099 or W-2s) are required to file electronically.

Employee: There is no uniform definition, but an individual is generally classified as an employee if the organization has the right to control and direct the job and how it is performed. Organizations that misclassify employees as independent contractors will be responsible for past taxes and penalties.

Excess Benefit Transaction: Any transaction in which an excess benefit is provided by the organization, directly or indirectly to, or for the use of any disqualified person. Excess benefit is measured by the excess of the economic benefit provided to a disqualified person over the value of the consideration received from them. The excess benefit can come from a grant, loan, compensation or similar payments. Disqualified persons are subject to an excise tax equal to 25% of the excess benefit received. If the EBT is not corrected within the prescribed period, a 200% penalty can be imposed. Also, the organization manager is subject to an excise tax equal to 10% of the excess benefit.

Excess Parachute Payment: Beginning in 2018, the IRS imposes a 21% tax on compensation in an amount equal to the excess of any parachute payment over the portion of the base compensation amount allocated to such payment, if (i) such payment is contingent on such employee's separation from employment with the employer, and (ii) the aggregate present value of the payments in the nature of compensation to (or for the benefit of) such individual which are contingent on such separation equals or exceeds an amount equal to 3 times the base amount.

Family Relationship: For purposes of determining a conflict of interest or board independence, the family of an individual includes only his or her spouse, ancestors, brothers and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great grandchildren.

Group Exemption: Tax exemption of a group of organizations all exempt under the same tax-exempt code section, applied for and obtained by a central organization on behalf of subordinate organizations under the central organization's general supervision or control.

Highly Compensated Employee: An employee (other than current officers, directors, trustees or key employees) whose aggregate reportable compensation from the organization and related organizations is greater than $100,000 for the calendar year ending with or within the organization's tax year. The Form 990 only requires organizations to list the five highest.

Independent Contractor: A person who receives compensation for providing services to the organization, but who is not treated as an employee. The organization should have a written contract, ask for a business license, and report payments on a Form 1099. See IRS Pub. 1779.

Interested Person: A substantial contributor, related person or TDOKE (defined below). Business transactions involving interested persons must be reported on Form 990, Schedule L for a single transaction over $10,000, or total payments of $100,000.

Intermediate Sanction: The assessment of an excise tax to punish private inurement (defined below) without revoking an organization's tax exemption. The tax can be 10%, 25% or 200% of the excess benefit amount depending on the facts and circumstances. The IRS can effectively punish private inurement without revoking an organization's tax exemption, which could harm innocent people or the community. Instead of revocation, the IRS can assess an excise tax on the disqualified person and organization management. See IRC section 4958.

Key Employee: An employee (other than an officer, director, or trustee) who receives more than $150,000 of reportable compensation from the organization (and related organizations) and satisfies both the Responsibility Test and the Top 20 test. For the Responsibility Test, the employee must have powerful responsibilities to manage a discrete segment or activity that represents 10% or more of the organization or its budget. For the Top 20 Test, the employee must be one of the 20 employees with the highest reportable compensation.

Lobbying: All activities intended to influence foreign, national, state or local legislation. Such activities include direct lobbying (attempting to influence the legislators) and grassroots lobbying (attempting to influence legislation by influencing the general public). See the IRS instructions for Schedule C for definitions.

Non-Deductible Lobbying: An organization must notify its members of the portion of their membership dues that are non-deductible lobbying expenditures or they must pay a proxy tax on Form 990-T if the amount is over $2,000.

Officer: A person elected or appointed to manage the organization's daily operations at any time during the tax year, such as a President, Vice-President, Secretary, Treasurer, and, in some cases, Board Chair. The officers of an organization are determined by its organizing document, bylaws or resolutions of its governing body, but at a minimum include those officers required by applicable state law. For purposes of Form 990, treat the organization's top management official and top financial officials as officers.

Ownership: For the purposes of determining a business relationship, ownership is measured by stock ownership (either voting power or value) of a corporation, profits or capital interest in a partnership or limited liability company, membership interest in a nonprofit organization or beneficial interest in a trust. Ownership includes indirect ownership (for example, ownership in an entity that has ownership in the entity in question), and there can be ownership through multiple tiers of entities.

Political Action Committee (PAC): A political organization (exempt from federal income tax) that can be associated with a charitable organization. However, contributions to PACs are not deductible as a charitable contribution and the PAC must disclose the lack of deduction to all donors and in its mailings, newsletters, and advertisements.

Private Benefit: A not-for-profit's property cannot be devoted to private use where a for-profit entity secures more than incidental private benefits though direct or indirect control over property. Broader in scope than “private inurement” and includes benefits to unrelated or disinterested individuals or for-profit entities.

Private Inurement: The IRS term for when a not-for-profit organization provides an excess benefit to an insider, disqualified person, or for-profit entity. Inurement and private benefit are similar concepts. See “excess benefit transaction” for more details.

Public Disclosure Copy: A public charity must make available to the general public a copy of its tax return for public inspection. However, it is not required to disclose the names and addresses of contributors listed on Schedule B, and can prepare a special copy of the tax return that hides donor information.

Quid Pro Quo: Contributions are deductible only to the extent they are gifts and no consideration is received in return. The charity must inform the donor of the value of goods or services received in exchange for a gift, known as a quid pro quo contribution. A donor may only take a tax deduction to the extent the donation exceeds the fair market value of goods and services received.

Regularly Carried On: An IRS concept dealing with the frequency and continuity of a commercial activity that generates taxable income. For example, an annual fundraising event will not be treated as regularly carried on but a seasonal activity can be, such as a race track if the racing season is only two weeks per year.

Related Organization: An organization, including a not-for-profit, a stock corporation, a partnership or limited liability company, a trust or a governmental entity, that stands in one or more of the following relationships: parent, subsidiary, brother/sister, supporting/supported, or other similar arrangement at any time during the tax year.

Significant Disposition of Net Assets: A disposition of net assets, consisting of a sale, exchange disposition or other transfer of more than 25% of the FMV (fair market value) of the organization's net assets during the year, whether or not the organization received full or adequate consideration. Whether a significant disposition of net assets occurred through a series of related dispositions depends on the facts and circumstances in each case. The change in composition of publicly traded securities held in a passive investment portfolio is not a significant disposition. Neither is the sale of assets or grants made in the ordinary course of exempt purpose activities or transfers to a disregarded entity.

Supporting Organization: A public charity that is organized to financially support one or more other public charities. The supported organization usually controls the supporting organization by three types of relationships: Type I (parent-subsidiary), Type II (same persons control both organizations), or Type III (integrated).

TDOKE: The abbreviation for the persons included in Form 990, Part VII which includes a Trustee, Director, Officer and, Key Employee. A Trustee or Director must have voting rights to be considered a member of the organization's governing body. The organization's top management official and top financial official are deemed to be officers for Part VII. Officer and Key Employee are defined separately in the glossary.

Top Financial Official: The person who has ultimate responsibility for managing the organization finances, for example, the Treasurer or Chief Financial Officer.

Top Management Official: A person who has ultimate responsibility for implementing the decisions of the organization's governing body or for supervising the management, administration or operation of the organization (for example, the organization's President, CEO or Executive Director).

Unreasonable Compensation: Compensation that is deemed by the IRS to be excessive relative to the job duties or unreasonably benefiting insiders. The board can protect against a penalty by following the IRS safe-harbor three step rule: form an independent compensation committee, use a salary survey, and properly document all decisions.

Unrelated Business Income (UBI): Income from an unrelated trade or business that is regularly carried on for profit. UBI of $1,000 or more must be reported on the IRS Form 990-T. See IRS Pub. 598 for examples of an unrelated trade or business.

Unrelated Business Income Tax (UBIT): A tax that is levied on organizations receiving UBI. The rate as of 1/1/2018 is a flat 21%.

XI. Other Resources

As the largest CPA firm in our region focused exclusively on serving the needs of not-for-profits, Jacobson Jarvis understands the positive impact that financial literacy can have on an organization's health. That's why, in addition to this booklet, we publish two newsletters: On Board, designed exclusively for board members, and Communique, geared towards other not-for-profit leaders. In addition to finance related articles written by our team, we have partnered with investment advisors, attorneys, not-for-profit consultants, and marketing experts to bring you a mix of perspectives about important issues to the not-for-profit community.

Also available is our booklet ***What Board Members Need to Know about Not-for-Profit Finance and Accounting*****,** designed to help you perform your financial responsibilities more effectively. It outlines some of the key indicators that board members sometimes overlook when exercising their fiduciary duties to the organization. Whatever your level of financial expertise as a board member, this informative resource provides an easy-to-understand overview of not-for-profit financials.

To sign up for either of these valuable resources contact us at info@jjco.com or call 206-628-8990.

Contact Us

We hope that the information provided in this booklet has provided an overview of tax issues that are important to your organization. Additional resources can be found at our website www.jjco.com.

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