

Fiscal Sponsorship

The relationship of a sponsoring public charity to a project, typically an unincorporated group, is often described as “fiscal agency”. Public charities (501(c)(3) groups) undertake these relationships as a way to encourage fledgling organizations or to further their mission through another group’s activities. However, public charities have an affirmative duty to maintain complete discretion and control over any donations or grants accepted. In a fiscal agent relationship there is a possibility that a charitable contribution to a public charity could be used in an improper way by the pass-through recipient project. If this were to happen, the public charity could be held liable for the misuse of funds and could face intermediate sanctions or even revocation of its charitable status. The IRS prohibits public charities from such agency relationships.

Defining Fiscal Sponsorship

The term fiscal sponsorship more accurately describes the required relationship of a sponsoring public charity to a project carried out by another entity. The most common situation where this relationship may arise is when an unincorporated group is applying for a foundation grant to undertake a project. The foundation may not want to oversee the grant directly itself, so it requires that the project find a fiscal sponsor. Before agreeing to such an arrangement, a public charity needs to undertake a thorough review of the proposal. When considering a fiscal sponsorship, the objective of the project should fall within the general exempt purpose of the public charity.

Determining A Relationship

An important step is determining the exact relationship between the public charity and the project. If the project will be carried out as a direct part of the public charity’s activities, it is possible that the members of the project should be classified as employees. The project might also be treated as an independent contractor of the public charity. As an independent contractor, the project will need to adopt an appropriate legal structure for tax reporting purposes. The project could be a

proprietorship of one of the members, it could be a partnership or it could decide to incorporate. The sponsoring group needs to be aware of the resolution of this issue so that it can issue a form 1099 if needed. In both of these scenarios, as employees or as independent contractors, the control over the contribution is clear. The public charity is responsible for fulfilling the grant terms while the project is providing the expertise needed.

Creating A Structure

Perhaps the most common structure for a fiscal sponsorship is for the sponsoring agency to re-grant the award to the unincorporated group. The ideal structure is for the unincorporated group to first apply to the public charity for a grant to carry out an activity that furthers the public charity’s mission. A formal grant agreement should be written which includes provisions for progress reporting and for repayment of the grant in the event the money is used improperly by the project. With this grant agreement negotiated, the project should seek funding from an outside group such as a private foundation. The foundation grant would be earmarked for this activity of the public charity. When the public charity receives the foundation grant, it can authorize the project to begin operating.

Additional Information

This topic is covered in much more detail in, *Fiscal Sponsorship: 6 Ways To Do It Right* by Gregory L. Colvin, a well-known attorney for nonprofit groups. It is available from www.studycenter.org for about \$20. In addition to the topics outlined above, he also discusses creative uses of group exemptions, sponsoring organizations and technical assistance to achieve tax-exempt purposes.

If you would like more information, contact:

Bruce Mayer, CPA, CFP®
Wegner LLP, CPAs & Consultants
(608) 274-4020 or
Bruce.mayer@wegnercpas.com