The 501(c)(3) tax-exempt status of a non-profit is conditioned on many requirements and restrictions. The following list summarizes some of the items that such an organization must keep in mind in its day-to-day operations and may serve as a convenient checklist to guide an organization through important tax requirements.

**Unrelated Business Taxable Income.** A tax-exempt organization may not regularly carry on business that is substantially unrelated to its exempt purpose. Unrelated business taxable income ("UBTI") creates two main issues. First, although a 501(c)(3) is not generally taxed on its income, its UBTI is subject to tax. Second, too much unrelated business activity threatens the tax-exempt status of the organization. Unfortunately, there is no clear threshold level of unrelated business that compromises tax-exempt status. Note that generating income to support the tax-exempt purpose of the organization is not sufficient to show relationship to its purpose.

**Sponsorship versus Advertisement.** Non-profits often solicit and receive sponsor payments that do not typically constitute UBTI. However, tax-exempt organizations must be careful not to cross the line from sponsorship to advertisement, as the latter triggers UBTI. Sponsorship is payment by someone engaged in a trade or business without expectation of substantial return. A tax-exempt organization may generally acknowledge a sponsor through the use of logos or distribution of the sponsor's contact information but may not advertise the sponsor's goods or services without triggering UBTI issues.

**Lobbying and Political Campaigns.** Tax-exempt organizations are strictly prohibited from participating in any political campaign activity and are not allowed to engage in more than an insubstantial amount of lobbying. Lobbying includes any attempt to influence legislation, grassroots or otherwise. 501(c)(3)s should exercise caution in discussing proposed legislation, advising a governmental body, speaking to legislators, or encouraging others to contact a legislator. Employees should exercise caution if participating in political/lobbying activity during their personal time, to avoid the appearance of acting on the organization's behalf. Excessive lobbying may trigger excise taxes or threaten tax-exempt status. An "(h) election" offers some predictability on allowable lobbying amounts.
Private Inurement. Tax-exempt organizations are subject to an absolute prohibition against private inurement and must operate exclusively to further a public rather than a private interest. The private inurement prohibition generally applies to any payment by a tax-exempt organization that is not reasonable compensation for services actually rendered or property actually provided. In addition, a tax exempt organization may not make a payment similar to a dividend paid to shareholders. If any part of a tax-exempt organization's net earnings inure to a private individual, the non-profit's tax-exempt status may be compromised.

Excess Benefit Transactions. An excise tax of up to 225% may be imposed on certain "disqualified persons," usually directors and officers, who benefit from an excess benefit transaction with a tax-exempt organization. A disqualified person receives an excess benefit when he or she receives a benefit from the organization that is greater in value than what the person gives in return, as may occur when an officer receives a salary that is greater than what is reasonable for the services performed or when a director purchases property from a non-profit at a price below fair market value. Though the excise tax is imposed on the disqualified person and not on the tax-exempt organization, an excess benefit transaction may compromise the organization's tax-exempt status. In addition, a 10% excise tax may be imposed upon an officer or director of the tax-exempt organization who knowingly participates in or approves the transaction. Tax-exempt organizations should take special care in preventing excess benefit transactions, including setting certain organizational policies, properly reviewing proposed transactions, and establishing appropriate compensation procedures. For additional information, please see:

- Establishing a Presumption that Compensation Is Not an Excess Benefit Subject to Excise Taxes
- Effects of Excess Benefit Transactions on Tax-Exempt Status

IRS Form 990. In recent years, the IRS has significantly changed its Form 990 and now focuses on items such as governance, compensation, relationships of key players, policies, and 990 review. It is not advisable to treat the 990 as a simple financial reporting form. The IRS, donors, and other interested parties are paying close attention to 990s, which are publicly available documents. Given that, the 990 should be used as a sword rather than a shield, an opportunity to convey key information about the organization. It should be reviewed by an organization's board, officers, development team, and other key departments in addition to those responsible for financial oversight. For additional information please see:

- Don't File Your 2011 Form 990 before Reviewing Significant Changes to Form and Instructions.

The IRS also uses the 990 to determine what policies and procedures an organization has in place. Tax exempt organizations should determine whether they have policies such as Conflict of Interest, Joint Venture, Document Retention, and Whistleblower in place and whether such policies meet IRS standards. The organization must also make a reasonable effort to solicit certain information regarding its directors and officers. It may meet this burden by developing and periodically distributing an appropriate questionnaire to such individuals.
**Public Charity Test.** 501(c)(3) organizations are either private foundations or public charities. Private foundations are subject to several restrictions and limitations that do not apply to public charities. Public charities must generally meet certain public support tests in order to preserve that status. These tests should be reviewed periodically.

**Gift Acceptance Policies.** A "gift acceptance policy" has three main goals: (1) tax rule compliance, (2) internal controls and governance, and (3) donor relations. This policy guides members of a non-profit, such as the development team, who may not be aware of tax rules, by offering policies they can follow to identify certain tax issues. Non-profits may also find it helpful to point to such a policy when dealing with donors, such as when a restricted or non-standard contribution must be turned down. A gift acceptance policy is also a useful guide for staff on good stewardship, timely use of donations, following donor preferences when possible, recognition of donor generosity, and respecting anonymity where requested. Including such provisions and sharing with donors often increases donor confidence.

**Tax-Exempt Bonds.** Any non-profit with outstanding tax-exempt bonds should have a written post issuance compliance policy ("PICP") in place. Numerous and complex rules that apply to the issuance of bonds continue to apply throughout the life of the bonds. Non-profits are responsible for the difficult task of continued compliance with those rules in their day-to-day operations. A written PICP will help to ensure that bonds remain tax-exempt the entire time they are outstanding, to ensure compliance with IRS guidance, and to provide guidance to employees responsible for compliance. The IRS is focusing on and looking for written PICPs among tax-exempt borrowers, may request on audit, has included PICP questions on its 990 and 8038 forms, and is offering more favorable treatment in the event of a violation where written PICPs are in place. For additional information, please see:

- [Tax-Exempt Issuers and Borrowers Need Written Post-Issuance Compliance Policies](#)

**Reviews, Training, Policies.** Periodic review of an organization's operations, in light of such tax rules, can go a long way in ensuring compliance. Similarly, training and policies for employees not typically focused on tax rules can help prevent unintended tax rule violations and threats to tax-exempt status. For example, development employees may benefit from UBTI training. Certain employees may benefit from lobbying/political campaign training.

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