



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Fiscal Sponsorship - How to Make It a Win-Win Situation

What is Fiscal Sponsorship?

Fiscal sponsorship is typically a formal relationship between a nonprofit organization that is recognized by the Internal Revenue Service as 501(c)(3) tax-exempt (the fiscal sponsor) and an organization that may lack exempt status (the sponsored organization or project) to allow the sponsored organization to receive tax-deductible donations. In order for a fiscal sponsorship arrangement to pass muster with the IRS, the fiscal sponsor must: (1) retain supervision and control of funds raised and (2) ensure that funds are used in manner that furthers the fiscal sponsor's own mission. In other words, the fiscal sponsor cannot simply act as a pass-through for donations to the sponsored organization.

Fiscal sponsorship can be a great option for new organizations that are unsure of whether they will be viable or that only intend to operate for a short time (such as those that respond to a disaster or organize a one-time event). Fiscal sponsorship can also be a temporary solution while an organization waits on the IRS to approve its own tax-exempt application.

Any 501(c)(3) tax-exempt organization that is asked to act as a fiscal sponsor should be aware that its own tax-exempt status may potentially be put in jeopardy for the actions of the sponsored project. The fiscal sponsor should therefore have an agreement with the project setting forth how the fiscal sponsor will retain supervision and control of the funds raised. But first the potential fiscal sponsor should make sure that the mission of the sponsored organization is in line with its own mission.

Should You Be A Fiscal Sponsor?

The potential sponsor also needs to consider both the pros and cons of entering into a fiscal sponsorship arrangement, especially considering that its 501(c)(3) status is on the line. Potential benefits include:

- Possibly attracting donors, volunteers, and other supporters to its own organization;
- Sharing benefits and honors from the project's success, including community recognition and favorable media coverage; and
- Advancing its mission by partnering with another organization to accomplish what it might not have the capacity to do on its own.

The potential negatives that the fiscal sponsor should consider include:

- Potential legal responsibility for the project;
- Being held accountable for the use of all donations; and

Dated: 12/17/2019

www.pbpatl.org

© 2019 Pro Bono Partnership of Atlanta, Inc. All rights reserved.

- Possibly having its own tax-exempt status put in jeopardy if the sponsored organization does not handle the funds properly or follow the rules set for the arrangement.

In order to alleviate some of these risks, the fiscal sponsorship arrangement should be spelled out in detail in a written agreement between the parties. The document should provide for the specific roles and responsibilities for each party and should cover:

- How and when funds will be released to the project
- Type and frequency of reporting by program
- Grant proposal and reporting responsibilities
- Any other support provided by sponsor
- Whether project can lobby
- Tax reporting (990 filings)
- Administrative fees paid to the sponsor
- Amount of supervision and control sponsor will retain
- Insurance and liability/indemnification
- Ownership of tangible and intangible assets of project
- Duration and termination of agreement

Acting as a fiscal sponsor requires time and attention. An organization should make sure that it has the capacity to handle the responsibilities of being a fiscal sponsor. And because the fiscal sponsor is committing its own resources (including staff time) to the endeavor, it is appropriate for the fiscal sponsor to be compensated. This is often done by providing for a percentage of the donations to be paid to the fiscal sponsor. A new organization that has only recently received its own 501(c)(3) status or that does not have staff should probably not take on the duties of being a fiscal sponsor.

Should You Seek A Fiscal Sponsor?

Although there are several issues for a start-up organization to consider before deciding to seek a fiscal sponsor, the overall benefits often outweigh the potential drawbacks. The primary reason most organizations seek a fiscal sponsor is the opportunity to receive tax-deductible donations, but fiscal sponsors can provide other services as well. For example, these services may include:

- Bookkeeping
- Insurance
- Human resources administration
- Legal advice
- Grant reporting

For a brand new organization without paid staff, these services can be a tremendous benefit.

Fiscal sponsorship offers other benefits as well. For example, start-up organizations are able to focus on the mission of their organization and not be distracted by a lengthy 501(c)(3) application. They may also have access to funding sources that would otherwise not be available. Some funders that refuse to

Dated: 12/17/2019

www.pbpatl.org

support new organizations without a track record may consider donating to an organization with a fiscal sponsor, especially if the sponsor is established and respected. Finally, a sponsored organization may also be able to benefit from the sponsor's guidance and support.

Keep in mind that the fiscal sponsor must exercise control over any funds that are designated for the project. The sponsored organization will therefore be subject to the fiscal sponsor's oversight and the terms of any fiscal sponsorship agreement. Any project considering a fiscal sponsor should make sure that they are comfortable with the sponsoring organization and with this loss of autonomy.

In selecting a fiscal sponsor, a project should first look for organizations that have a similar mission to the project in order to comply with the IRS requirement that the project further the fiscal sponsor's mission. Projects should also consider the reputation of the organization, whether it has experience acting as a fiscal sponsor, and whether it has the capacity to do the job.

Conclusion

If both parties have a clear understanding from the outset about how the relationship is going to work, they stand a much greater chance of having a successful project and benefitting the communities in which they serve.

For additional information about fiscal sponsorship, contact your PBPA attorney.

Dated: 12/17/2019

www.pbpatl.org

© 2019 Pro Bono Partnership of Atlanta, Inc. All rights reserved.