Fiscal Sponsorship vs. Fiscal Agency

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Fiscal sponsorship arrangements are increasingly popular tool in Arizona and elsewhere; however, there is widespread misunderstanding regarding the proper use of fiscal sponsorships.

Fiscal Sponsorship. The term "Fiscal Sponsorship" describes an arrangement between a non-profit organization with 501(c)(3) tax exempt status and a project, often a new charitable effort, conducted by an organization, group, or an individual that does not have 501(c)(3) status. Fiscal sponsorship permits the exempt sponsor to accept funds restricted for the sponsored project on the project's behalf. The sponsor, in turn, accepts the responsibility to ensure the funds are properly spent to achieve the project's goals. This arrangement is useful for new charitable endeavors that want to "test the waters" before deciding whether to form an independent entity as well as temporary projects or coalitions that are looking for a neutral party to administer their funds.

Fiscal Agency. The term "Fiscal Agency"similarly refers to an arrangement with an established charity to act as the legal agent for a project, but a fiscal agent does not retain the discretion and control that is a required element of a fiscal sponsorship. Under agency law, the agent (tax-exempt organization) acts on behalf of the principal (project) who has the right and legal duty to direct and control the agent's activities. This arrangement makes sense when a small nonprofit that has its own tax-exempt status wishes to contract with another organization to provide back office or administrative support. The important distinction between a fiscal sponsorship and a fiscal agency arrangement is that funds contributed to a non-exempt project that has a fiscal sponsor are tax deductible to the donor and those that are contributed to a project with a fiscal agent are not. Many organizations intend to form fiscal sponsorships so that they can raise tax-deductible contributions but fail to establish a relationship with the sponsor that meets the IRS criteria for a fiscal sponsorship.

Elements of Fiscal Sponsorship. The IRS criteria are as follows:

Grants/donations are given to a 501(c)(3) tax exempt organization (the sponsor) that acts as a guardian of the funds for a project that does not have 501(c)(3) status
The funds received by the sponsor must be used for specific charitable projects that further the sponsor's own tax exempt purpose.
The sponsor must retain discretion and control as to the use of the funds.
The sponsor must maintain records that establish that the funds were used for 501(c)(3) purposes.
The project should either be short term or the non-exempt organization should be actively seeking its own tax exempt status.
The IRS has a strict policy against the use of "conduits". If the elements of fiscal sponsorship are not present, then a donation of funds to a fiscal sponsor earmarked for the project will be treated as a donation from the donor directly to the project and will not be tax-deductible to the donor if the project is not tax-exempt.

To avoid this result, the sponsor must have “complete discretion and control” over the funds. This means the sponsor must be legally responsible for the funds to ensure that payment of funds to the sponsored project are made to further the sponsor’s own tax-exempt purposes. There are several models of fiscal sponsorship. Accordingly, it is important for a sponsor and its project to understand the exact nature of their relationship and to memorialize the terms in a written agreement.

Finding a Fiscal Sponsor. To find a fiscal sponsor that is a “fit” for your project you will need to do your homework. Start by making a list of organizations familiar with your work and add any that appear to have a similar purpose to yours. You need to confirm the organization’s 501(c)(3) status. Meet with someone from each of those organizations and discuss your project and desired fiscal sponsorship relationship. In Arizona, Atwood Health, an affiliate of St. Luke’s Health Initiatives, acts as a fiscal sponsor to projects that meet its criteria. Organizations that are willing to serve as fiscal sponsors typically do so for a modest fee. Fees can vary widely and are typically higher if the organization is administering government grants or other funds with significant reporting obligations.

Resources.

1. The book, Fiscal Sponsorship: 6 Ways to Do It Right by Gregory L. Colvin (San Francisco: Study Center Press, 2005).

2. The Tides Center, a non-profit organization that provides fiscal sponsor services to projects that “promote social change”. http://www.tidescenter.org

3. Nonprofit Genie: A set of Frequently Asked Questions on Fiscal Sponsorship written for the GENIE by David Barlow, CPA, Executive Director of the San Francisco Foundation Community Initiative Funds, a fiscal sponsorship organization. http://www.compasspoint.org/askgenie/index.php

4. San Francisco Study Center, Inc.’s Fiscal Sponsor Directory at: http://www.fiscalsponsordirectory.org/

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