



The National Economic Development & Law Center

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Legal Compliance Checklist

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The corporation should regularly assess its compliance with legal formalities.

A. Monitoring

Standards:

- (1) The corporation furnishes each director and officer with a written list of all federal and California legal filing and reporting requirements.
- (2) The corporation has assigned to appropriate directors and staff the responsibility for meeting all filing and reporting requirements.
- (3) The board or a board committee regularly determines that all filing and reporting requirements have been met in a timely manner, or that appropriate and timely corrective action has been taken.

B. Personnel

Standards:

- (1) The corporation has applied for and been assigned a federal employer identification number by the Internal Revenue Service (IRS).
- (2) The corporation has registered with the California Employment Development Department (EDD) and secured an EDD account number.
- (3) The corporation withholds federal and state income taxes and federal social security (FICA) taxes from taxable wages paid to employees, pays the employer share of FICA taxes, and deposits all such funds in a timely manner and with the appropriate IRS and EDD forms.
- (4) The corporation withholds state disability insurance from taxable wages paid to employees, and deposits all such funds in a timely manner with EDD, or establishes a state-approved private disability insurance plan.

- (5) The corporation purchases workers' compensation insurance through an authorized insurance company or from the State, or secures consent to self-insure. The Board of Directors has declared that the corporation's volunteers are employees for workers' compensation purposes, and the corporation has so notified its insurance carrier.
- (6) The corporation pays state unemployment insurance or elects the reimbursement method.
- (7) The corporation pays any local city-imposed payroll tax.
- (8) The corporation obtains a completed federal Form I-9 from all new employees.
- (9) The corporation reports all newly hired employees to the EDD.
- (10) The corporation notifies employees about the Earned Income Credit.
- (11) The corporation obtains a completed IRS Form W-4 and state Form DE 4 from each employee.
- (12) The corporation furnishes each employee with a completed IRS Form W-2 by January 31 for the previous calendar year.
- (13) The corporation posts or provides to its employees the required employment notices.
- (14) The corporation complies with wage and hours laws, workplace safety laws, and nondiscrimination laws.
- (15) The corporation complies with its employee benefit plan requirements.
- (16) The corporation complies with its written personnel policies and procedures.
- (17) The corporation prepares proper documentation of all independent contractor arrangements, and reports compensation to independent contractors on IRS Form 1099 MISC.

C. Annual Income Tax and Financial Filings and Reports

Standards:

- (1) The corporation files annual tax information returns (IRS Form 990 or 990-EZ and Franchise Tax Board (FTB) Form 199). If the corporation has unrelated business income, it files IRS Form 990-T and FTB Form 109.
- (2) The corporation files the bi-annual Statement by Domestic Nonprofit Corporation with the California Secretary of State (filing fee \$20).
- (3) The corporation files Form RRF-1 annually with the California Attorney General (AG) Registry of Charitable Trusts (filing fee \$25), and files the IRS Form 990 or 990-EZ with the Registry.

- (4) The corporation sends an annual report to its directors and members, if any, within 120 days after the close of its fiscal year with the required financial information and an accountant's report, if prepared.

D. Other Filings and Reports

Standards:

- (1) The corporation has applied for and maintained a property tax exemption with the county assessor.
- (2) The corporation has obtained a sellers permit to sell property subject to the state sales and use tax, and remits all collected sales and use taxes in a timely manner.
- (3) The corporation has obtained a local city business license if required.
- (4) The corporation has obtained other federal, state, or local licenses as required for its activities.
- (5) The corporation has obtained a nonprofit mailing permit to use special bulk third-class postal rates.
- (6) The corporation has filed amendments to its Articles of Incorporation (after certification by the California Secretary of State) and its Bylaws with the IRS, FTB, and AG.
- (7) The corporation makes appropriate filings to protect its intellectual property (trademarks and service marks, copyrights and patents).
- (8) The corporation makes appropriate filings to comply with lobbying registration, disclosure, and reporting requirements.
- (9) The corporation makes annual benefit plan filings (IRS Form 5500) as required.

E. Liability Protection

Standards:

- (1) The corporation maintains appropriate commercial general liability insurance, with reasonable exclusions and limitations.
- (2) The corporation maintains appropriate bonding for those persons who handle its fund, with reasonable limitations and exclusions.
- (3) The corporation maintains appropriate errors and omissions or other professional liability insurance, with reasonable exclusions and limitations.
- (4) The corporation maintains appropriate directors' and officers' liability insurance, with reasonable exclusions and limitations, or annually reviews the affordability of such insurance.

F. Other Requirements for Tax Exempt Organizations

Standards:

- (1) The corporation engages legal counsel to conduct an annual review of its past year's operations and coming year's proposed operations, to identify conflicts and inconsistencies with the information previously provided to the IRS and FTB, and for an opinion on whether the corporation is or will be engaged in unrelated business activity.
- (2) The corporation complies with disclosure, substantiation, and reporting requirements for contributions received.
- (3) The corporation observes the prohibition on political campaign activities.
- (4) The corporation conducts an annual review to determine its compliance with public charity status requirements, and obtains a final ruling on its public charity status from the IRS in a timely manner.
- (5) The corporation observes the limitations on its lobbying activities, and maintains appropriate records to document its lobbying expenditures and activities.

G. Operations

Standards:

- (1) The corporation has selected a bank after comparing and negotiating rates and fees. The corporation has authorized at least two persons as check signers.
- (2) The corporation appropriately invests its assets that are held for investment.
- (3) The corporation maintains an up-to-date copy of its Articles of Incorporation and Bylaws at its principal office.
- (4) The corporation maintains adequate and correct books and records of account.
- (5) The corporation prepares and maintains minutes of board, committee, and member meetings.
- (6) The corporation maintains copies of notices of board and member meetings, written waivers of notice, consents to the holding of meetings, approvals of minutes, and unanimous written consents for board and member meetings. The corporation maintains copies of written director and officer resignations, written member ballots and proxies, and similar documents.
- (7) The corporation maintains an alphabetized list of members (if any), with name, address, and class of membership.

- (8) The corporation makes available for public inspection a copy of its federal tax exemption application, IRS tax exemption determination letter, and IRS Form 990 for the previous three years, and provides a copy on request.
- (9) The corporation complies with its Bylaws, including the provisions on term of office of directors, election of officers, and obtaining member approval for certain actions. The corporation holds all meetings it is required to hold, and collects all required member dues.
- (10) The corporation complies with the state and local charitable solicitation laws and ordinances.

H. Transactions

Standards:

- (1) The corporation conducts appropriate investigations to ascertain that loans, leases, and other transactions are at fair market value or are favorable to the corporation.
- (2) The corporation complies with securities laws by registering or securing an exemption from registration for its debt instruments.
- (3) The corporation prepares appropriate documentation in support of all transactions with directors, officers, or other insiders, and to demonstrate the reasonableness of all compensation. The corporation meets all requirements for approval of self-dealing transactions or transactions with corporations that have interlocking directorships with the corporation (including corporations under its control).
- (4) The corporation engages legal counsel to review proposed contracts and agreements to identify issues of liability not already handled by insurance, corporate obligations to perform acts that might jeopardize its tax exempt status, and whether there are appropriate safeguards to assure that corporate funds granted to other organizations are being used for tax exempt purposes.
- (5) The corporation receives the benefits of, and meets its obligations under, all leases, loans, contracts, partnerships, joint ventures, or similar agreements.
- (6) If the corporation controls any subsidiary nonprofit or for-profit corporations, it monitors their performance and their compliance with all corporate formalities.