

## **Fiscal Sponsorship**

by Sarah Sexton, Law Clerk

Fiscal sponsorship is a contractual relationship between an organization that intends to carry out charitable or otherwise exempt programs and an exempt sponsoring organization.<sup>1</sup> The sponsoring organization receives grants and donations to support the sponsored organization's activities, which must further the sponsoring organization's exempt purpose.<sup>2</sup> Fiscal sponsorship allows an organization that does not currently have 501(c)(3) tax-exempt status to receive grants, charitable contributions and other tax-deductible donations.

Fiscal sponsorship is often used during the period when a new organization is awaiting its tax exemption. Fledgling organizations that need start-up assistance often benefit from fiscal sponsorship, because many fiscal sponsors provide financial and other services to their sponsored organizations.<sup>3</sup> Fiscal sponsorship is also used on short-term or small projects where obtaining tax exemption would not be efficient, and can be useful for groups based or operating outside of the United States.<sup>4</sup>

It is important to note that a fiscal sponsor does not simply function as a pass-through, which would violate the Internal Revenue Service's rule against conduits. An organization acts as a conduit if it receives funds earmarked by a donor for a particular person or non-exempt entity, and uses them to benefit that interest. In these circumstances, the gift is made to the ultimate recipient, rather than the exempt organization.<sup>5</sup> In a fiscal sponsorship, the tax-exempt sponsoring organization must have "complete discretion and control" over the funds, and is responsible for ensuring that any funds passed to the sponsored organization are used to further its own tax-exempt purposes.<sup>6</sup>

### **How to use it?**

An organization seeking sponsorship must find an organization with 501(c)(3) and public charity status that is willing to serve as its fiscal sponsor. Many community foundations and other public charities have fiscal sponsorship programs that essentially incubate new organizations.

These programs normally charge a fee that is based on the funds they receive on behalf of the sponsored organization.

There are a variety of ways to structure a fiscal sponsorship relationship, with varied levels of control by the sponsor. As explored in detail in Colvin's "Fiscal Sponsorship: Six Ways to Do It Right," these include total control, contractor relationships and subordinate organizations. An organization may choose to become a subordinate of an existing tax-exempt organization and receive 501(c)(3) tax status via the group exemption process.<sup>7</sup>

The most important element of any fiscal sponsorship arrangement is a clear, written agreement between the sponsor and the sponsored organization. The agreement should assert the fiscal sponsor's control of funds received on behalf of the sponsored organization and accountability for ensuring the funds are used for charitable purposes. The agreement should also define in detail the responsibilities of both parties regarding the receipt and disbursement of funds, filing taxes, covering expenses, purchasing insurance, payment of administrative costs, record keeping, reporting, and control over termination of the project or the results of the project.<sup>8</sup>

Sample Fiscal Sponsorship agreements are available at

<http://www.insightcced.org/index.php?page=legalpubs#sfssa> .

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<sup>1</sup> Colvin, G. (2006). "Fiscal Sponsorship," Western Conference on Tax Exempt Organizations. Nov. 17, 2006.

<sup>2</sup> Colvin, G. (1993). "Fiscal Sponsorship: Six Ways To Do It Right- A Synopsis". *The Exempt Organization Tax Review*. April 1993 Vol. 7 No.4, pp.604.

<sup>3</sup> Nober, J. (2004). "Fiscal Agent versus Fiscal Sponsor", *Foundation News and Commentary*. Nov./Dec. 2004, 45(6). <http://www.foundationnews.org/CME/article.cfm?ID=3069>

<sup>4</sup> Rev. Rul. 66-79; 1966-1 C.B. 48.

<sup>5</sup> <http://www.irs.gov/pub/irs-tege/eotopice96.pdf>

<sup>6</sup> Rev. Rul. 68-484, 1968-2 C.B. 105; G.C.M. 39003; Rev. Rul. 72-369; 1972-2 C.B. 245.

<sup>7</sup> Rev. Proc. 80-27; 1980-1 C.B. 677.

<sup>8</sup> Nober (2004).