

Non-Profit Check List

- Questionnaire Filled Out By Attorney**
- Articles Prepared**
- Articles Filed (Check: **Not to exceed \$50**)**
- FEIN**
- Statement of Information (Check: **Not to exceed \$20**)**
Drafted: _____ Requested: _____
- Form 1023 or 1024 (Check: \$750)**
Drafted: _____ Requested: _____
- Form 3500A or 3500**
Drafted: _____ Requested: _____
- Bylaws**
Drafted: _____ Requested: _____
- Organizational Minutes**
Drafted: _____ Requested: _____
- Conflict of Interest**
Drafted: _____ Requested: _____
- Commercial Lease**
Drafted: _____ Requested: _____
- Minutes Book**
Ordered: _____ Mailed to Client: _____
- IRS Form 2848**
Drafted: _____ Requested: _____
- FTB Form 3520**
Drafted: _____ Requested: _____

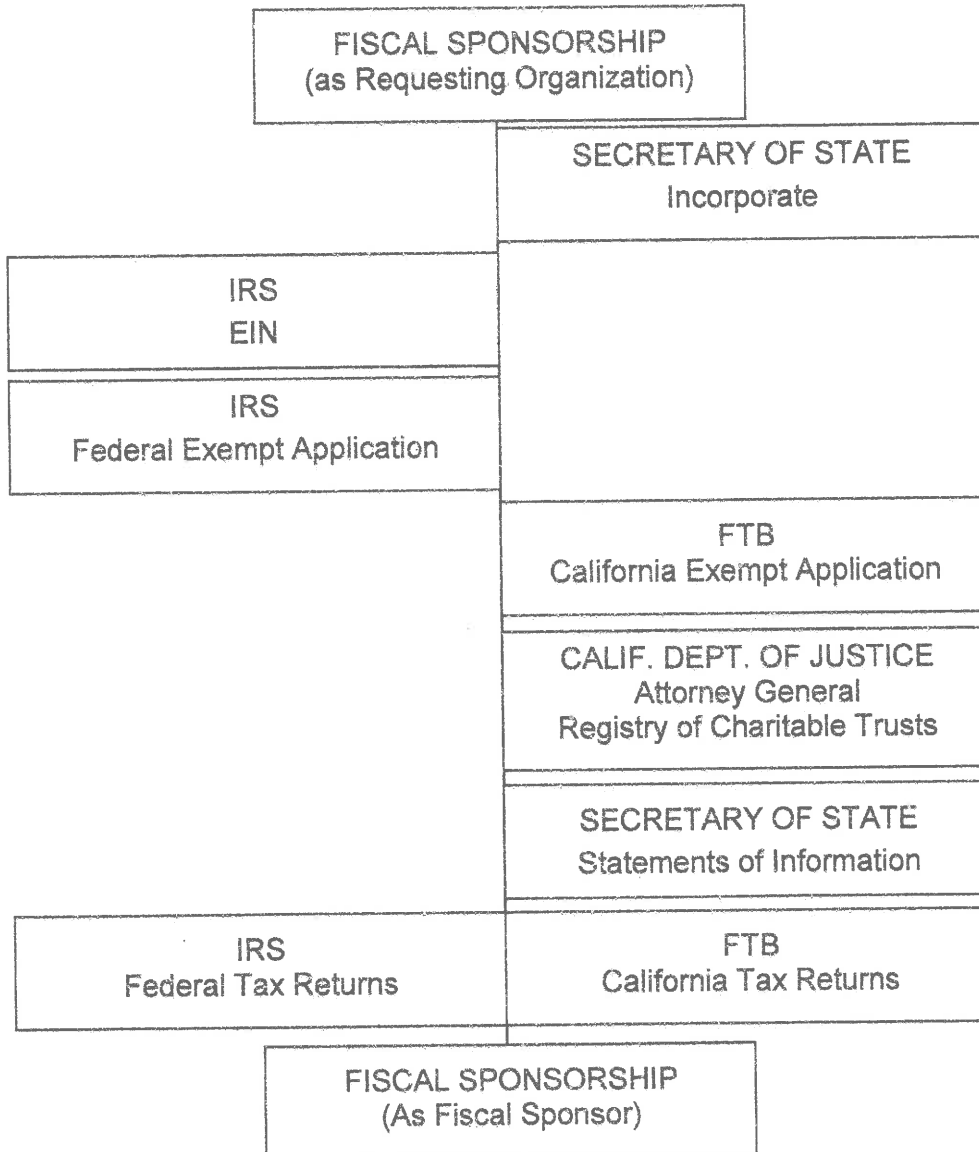
The Law Office of William A. Taylor

September 29, 2015

NON-PROFITS IN CALIFORNIA

FEDERAL GOVERNMENT

STATE GOVERNMENT



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RESPONSIBILITIES OF NONPROFIT DIRECTORS

- A. Federal Exempt Status
 - Exempt Status Letter
 - Electronic Post Card or File 990 past three years
([www.irs.gov/Charities-&-Non-Profits/Annual-Electronic-Filing-Requirement-for-Small-Exempt-Organizations--Form-990-N-\(e-Postcard\)](http://www.irs.gov/Charities-&-Non-Profits/Annual-Electronic-Filing-Requirement-for-Small-Exempt-Organizations--Form-990-N-(e-Postcard)) - PRESS THE BUTTON)
 - Payroll Tax Liability
- B. State Status
 - Secretary of State - Articles of Incorporation + Certificate of Good Standing
(kepler.sos.ca.gov)
- C. Statement of Information
 - Franchise Tax Board - Exempt Status Letter
- File annual tax return
 - Dept. of Justice - Registry of Charitable Trusts - Register and File Annually
(<http://rct.doj.ca.gov/MyLicenseVerification/Search.aspx?facility=Y>)
- D. Articles of Incorporation (filed with Secretary of State)
- E. Bylaws (not filed with anyone)
 - # of Directors
 - Terms of Office
 - Election of Directors
- F. Board Standards of Conduct
 - Duty of Care
 - i. Reasonable
 - ii. Business Judgment Rule
 - iii. Collective Action Only
 - Duty of Loyalty
 - i. Conflict of Interest
 - ii. Corporate Opportunity Rule
 - iii. Confidentiality
 - Duty of Obedience
 - i. Stick to the Corporate Mission/Purpose
- G. Director Liability
 - **Except Payroll Taxes** there should be none
 - Board (and officer) Insurance
 - No liability for Corporate Debts
 - No liability for Corporate Acts (**except Payroll Taxes** or if no reasonable oversight)
 - Dissent by a director

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Non-Profit Organizational Background

<p><u>The Universe of Non-Profits:</u></p> <ul style="list-style-type: none"> ▪ Private Corporations (for-profits) ▪ Public Corporations (e.g., governmental entities) ▪ <u>Non-Profit Corporations:</u> <ul style="list-style-type: none"> ▪ Mutual Benefit Corporations (e.g., labor unions) ▪ Religious Corporations ▪ Charitable Corporations 	<p>http://bpd.cdn.sos.ca.gov/corp/pdf/articles/arts-re.pdf</p> <p>http://bpd.cdn.sos.ca.gov/corp/pdf/articles/arts-pb.pdf</p>
<p><u>Obtaining Exempt Status – for a Religious or Charitable Corp.</u></p> <ol style="list-style-type: none"> A. Determine Religious or Charitable <u>Purpose</u> B. List the <u>Activities</u> (programs) that help achieve that purpose C. Incorporate – File Articles with the California Secretary of State (Religious Articles or Charitable Articles) D. Name Board of Directors – minimum of three adults (The Board <u>absolutely</u> controls the corporation) E. Name Officers – Pres/Corp Secretary/Treas (Pres and Corp Secretary must be different people) F. Budget – Imagine Three (3) Years of Operating Income (sources) and Operating Expenses G. Federal Application (IRS Form 1023 or 1023EZ) H. State Application – later on (FTB Form 3500 or 3500A) I. Calif Attorney General – Registry of Charitable Trusts (Form CT-1 and Charity Search) 	

<p><u>Federal Exempt Application</u></p> <p>IRS Form 1023EZ (Qualifications Worksheet)</p> <p>A. IRS Processing Time – 1 month</p> <p>IRS Form 1023</p> <p>A. IRS Processing Time – 2 to 4 months (feeling lucky)</p> <p>B. IRS Processing Cost - \$850 or \$400</p> <p>C. Application (30+ pages) Part IV – Detailed description of purpose and activities</p> <p>D. Bylaws Religious Corps – Members Charitable Corps – No Members</p> <p>E. Conflict of Interest Policy</p> <p>F. Leases and Contracts of the Corporation</p> <p>G. Expedite Letters (threatening to contribute – seeking early review)</p> <p><u>California Exempt Application</u></p> <p>A. Form 3500 (Don't use)</p> <p>B. Form 3500A (Wait until after receiving federal (IRS) Exempt Letter)</p> <p><u>Attorney General</u> (Registry of Charitable Trusts)</p> <p>Form CT-1</p> <p>Search for Previous Registration</p>	<p>http://www.irs.gov/pub/irs-pdf/i1023ez.pdf (Worksheet pgs 11-17)</p> <p>http://www.irs.gov/pub/irs-pdf/f1023.pdf</p> <p>https://www.ftb.ca.gov/forms/misc/3500a.pdf</p> <p>https://oag.ca.gov/sites/all/files/agweb/pdfs/charities/charitable/ct1-form.pdf?</p> <p>http://rct.doj.ca.gov/Verification/Web/Search.aspx?facility=Y</p>

<p><u>Protecting Non-Profit Status – File:</u></p> <p>A. Sec’y of State – Statement of Information (via computer)</p> <p>B. IRS – Form 990</p> <p>Already revoked? Here’s where to check:</p> <p>C. FTB (State) – Form 199</p> <p>Failure to file tax return for three (3) years because less than \$50,000 Gross Receipts</p> <p>Already revoked? Here’s where to check:</p> <p>D. Attorney General – Annual Report</p>	<p>E-File - https://businessfilings.sos.ca.gov/</p> <p>http://www.irs.gov/pub/irs-pdf/f990.pdf</p> <p>http://apps.irs.gov/app/eos/</p> <p>https://www.ftb.ca.gov/forms/2014/14_199.pdf</p> <p>Electronic Postcard - https://www.ftb.ca.gov/online/199NePostcard/</p> <p>http://kepler.sos.ca.gov/</p> <p>http://oag.ca.gov/sites/all/files/agweb/pdfs/charities/charitable/rrf1_for_m.pdf</p>
<p><u>Fiscal Sponsors</u></p>	<p>https://www.councilofnonprofits.org/tools-resources/fiscal-sponsorship-nonprofits</p>
<p><u>Board of Directors</u></p>	

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NONPROFIT ISSUES OF INTEREST

Fiscal Agents

Go to COMMUNITY INITIATIVES, an IRC 501(c)(3) corporation located at:

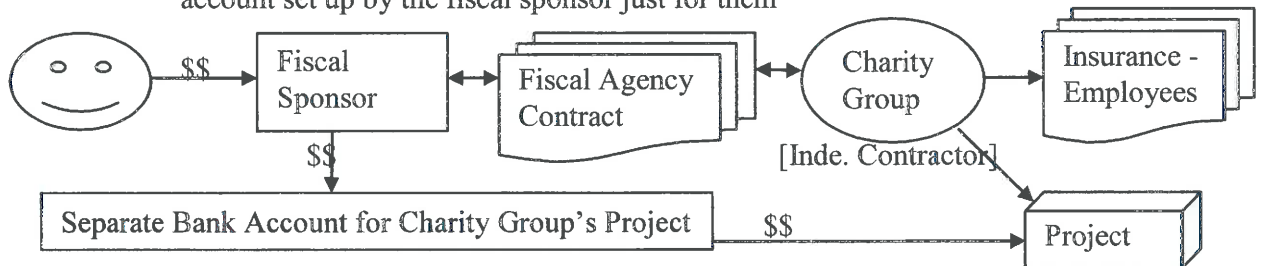
<http://communityin.org/what-is-fiscal-sponsorship/fiscal-sponsorship/>

“Fiscal Agent” Definition - IRC 501(c)(3) corporation that provides oversight (financial and program) to not-incorporated nonprofit projects so that not-incorporated projects can receive money and perform their functions

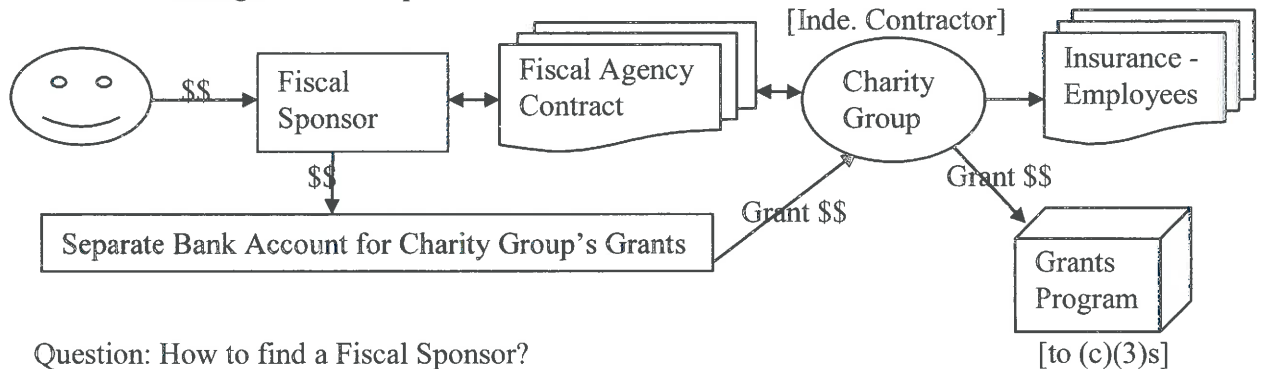
Model A – Direct Financial Fiscal Sponsorship – The not-incorporated nonprofit project becomes part of the fiscal sponsor (employees, bank deposits)



Model B – Independent Contractor Relationship – Person or a group doing charity work; they take on all risks (own insurance) and they are funded through a separate bank account set up by the fiscal sponsor just for them



Model C – Grants Administration - Person or a group making grants from grants they receive through the fiscal sponsor



Question: How to find a Fiscal Sponsor?

Question: How much to pay a Fiscal Sponsor?

[to (c)(3)s]

MOUs – Memorandums of Understanding

Contents:

- a) Parties – Specific identifications (NO Fictitious Business Names)
- b) Project Description – Why the collaboration
- c) Project Activities – Which party does what
- d) Money Flows
- e) Employees – Who employs which workers
- f) Contract Persons (and their titles) – for each party
- g) Term – When start and stop
- h) Renewals (if any)
- i) Partnership (Joint Venture) or not
- j) Indemnifications

Politics and (c)(3)s

OK - Voter Education Activities ((including presenting public forums and publishing voter education guides) conducted in a non-partisan manner)

OK - Other activities intended to encourage people to participate in the electoral process, e.g., voter registration and get-out-the-vote drives - if conducted in a non-partisan manner.

Absolutely Prohibited - from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office.

Absolutely Prohibited - Contributions to political campaign funds

Absolutely Prohibited - Public statements of position (verbal or written) in favor of or in opposition to any candidate for public office

Violating this “political” prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

Mistakes Most Frequently Made by (c)(3)s

California Exempt Status – Form 3500A at <https://www.ftb.ca.gov/forms/misc/3500a.pdf>

Electronic Postcards – IRS Form 990-N - <https://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard>

Statement of Information (Sec’y of State) – via computer – at <https://businessfilings.sos.ca.gov/>

Attorney General – Registry of Charitable Trusts –

- Register on Form CT-1 at <http://oag.ca.gov/sites/all/files/agweb/pdfs/charities/charitable/ct1-form.pdf>?
- Annual Filing (April 15) on Form RRF-1 (possible \$800 tax & penalty) at http://oag.ca.gov/sites/all/files/agweb/pdfs/charities/charitable/rrf1_form.pdf?

Federal Tax Return (May 15) – Form 990-EZ – at <https://www.irs.gov/pub/irs-pdf/f990ez.pdf>

- Form 990-EZ (either: (1) gross receipts less than \$200,000 or (2) total assets less than \$500,000 at the end of the tax year)
- Form 990 (either: (1) gross receipts greater than or equal to \$200,000 or (2) total assets greater than or equal to \$500,000 at the end of the tax year) – at <https://www.irs.gov/pub/irs-pdf/f990.pdf>

An organization **does not have to file** Form 990 or 990-EZ even if it has at least \$200,000 of gross receipts for the tax year or \$500,000 of total assets at the end of the tax year **if it is described below:**

- **Certain religious organizations.**
 1. A church, an interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church as described in Regulations section 1.6033-2(h) (such as a men's or women's organization, religious school, mission society, or youth group).
 2. A church-affiliated organization that is exclusively engaged in managing funds or maintaining retirement programs and is described in Rev. Proc. 96-10, 1996-1 C.B. 577. But see the filing requirements for section 509(a)(3) supporting organizations in A. Who Must File.
 3. A school below college level affiliated with a church or operated by a religious order described in Regulations section 1.6033-2(g)(1)(vii).
 4. A mission society sponsored by, or affiliated with, one or more churches or church denominations, if more than half of the society's activities are conducted in, or directed at, persons in foreign countries.
 5. An exclusively religious activity of any religious order described in Rev. Proc. 91-20, 1991-1 C.B. 52
- **Certain organizations with limited gross receipts.**
 10. An organization whose gross receipts are normally \$50,000 or less. Such organizations generally are required to submit Form 990-N (annually) if they choose to not file Form 990 or Form 990-EZ.

\$50,000 or Less Chart

IN EXISTENCE FOR –	GROSS RECEIPTS & PLEDGES EQUAL
1 year or less	\$75,000 or less
More than 1 year but less than 3 years	\$60,000 or less (average for current year and immediately preceding year)
3 years or more	\$50,000 or less (average for current year and 2 immediately preceding years)

California Tax Return (May 15) –

- Information Return (<\$50,000) – Electronic Postcard - Form 199N – at https://www.ftb.ca.gov/online/199N_ePostcard/
- Information Return – Form 199 – at https://www.ftb.ca.gov/forms/2015/15_199.pdf
- Business Tax Return – Form 109 – at https://www.ftb.ca.gov/forms/2015/15_109.pdf

NORMAL GROSS RECEIPTS	FILE
Gross receipts normally \$50,000 or less*	FTB 199N (Electronic Postcard)
Gross receipts more than \$50,000	Form 199
Private foundations (regardless of gross receipts)	Form 199

*Organizations that are eligible to file FTB 199N may choose to file Form 199

“Normally less than \$50,000” means if the organization has been:

IN EXISTENCE FOR –	GROSS RECEIPTS & PLEDGES EQUAL
1 year or less	\$75,000 or less
More than 1 year but less than 3 years	\$60,000 or less (average for current year and immediately preceding year)
3 years or more	\$50,000 or less (average for current year and 2 immediately preceding years)

Health Check-up of a (c)(3)

- Secretary of State Status – at <http://kepler.sos.ca.gov/>
- State Franchise Tax Board – Call: 916-845-4171 (Exempt) or 916-845-7161 (Revivor)
- IRS - Select Check – at <https://apps.irs.gov/app/eos/>
- California Attorney General (Registry of Charitable Trusts) – at <http://rct.doj.ca.gov/Verification/Web/Search.aspx?facility=Y>
