



Issued November 22, 2010

Nonprofit Issues Newsletter Winter 2010 / 2011

8 Tips for Running a Valid Accountable Plan

If you're like many nonprofits, you probably have an accountable plan for employee business expense reimbursements. If you don't, you're at risk for having to add reimbursements to your employees' wages for income tax and Social Security tax purposes. But do you have the necessary policies and procedures in place to comply with IRS requirements? Here are eight tips for making sure that your plan is beyond reproach.

- 1. Make sure it's truly a plan.** Just because employees submit business expense records, it doesn't mean the employer can reimburse them tax free. But a nonprofit isn't required to report the reimbursed expenses as earnings on the employee's W-2 form if it has an accountable plan in place. The IRS requires that all expenses covered in the plan have a business connection and be "reasonable."
- 2. Put it in writing.** While an accountable plan isn't required to be in writing, a formally established plan makes it easier for the nonprofit to prove its validity to the IRS if ever challenged. A written plan also gives the organization a structure for describing its requirements for expense reimbursement.
- 3. Reimburse correctly.** If an expense qualifies as a business deduction for an employee, it also can qualify as a tax-free reimbursement under an accountable plan. For meals and entertainment, the plan may reimburse expenses at 100% that would be deductible by the employee only at 50%. You must identify the reimbursement or expense payment, and keep these amounts separate from other amounts, such as wages. For 2010, you can reimburse employees up to 50 cents for every mile they put on their vehicles for business purposes.

An accountable plan must reimburse expenses in addition to an employee's regular compensation. No matter how informal the nonprofit, it can't substitute tax-free reimbursements for compensation the employees otherwise would have received. For example, assume an employee receives \$200 for a day's work - whether traveling or not - and on a

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The Value of a Paid Coordinator

In a down economy, organizations typically cut back on staff. But you probably don't want your volunteer coordinator to be one of those let go. This valuable staff member can help ensure that you're using the dozens, hundreds or thousands of volunteers you have on the books.

According to Urban Institute research, the percentage of time a paid staff volunteer coordinator devotes to volunteer management is positively related to the capacity of an organization to take on more volunteers. And the best prepared and most effective volunteer programs are those with paid staff members who dedicate a substantial portion of their time to volunteer management.

A good coordinator will help ensure that your potentially valuable volunteers are used to their fullest, that well-intended newcomers and veterans aren't forgotten, and that "deadbeats" are plucked from the rosters. And if you don't have a volunteer coordinator position, now may be the time to create one.

business trip incurs \$50 in reimbursable expenses. The employer can't treat \$50 as tax-free reimbursement and report \$150 as taxable income.

Even if you give your employees a budget for expenses, if the funds aren't used for qualified expenses it will invalidate the plan. And an invalid plan means that the employees' legitimately documented reimbursed business expenses would be taxable.

4. **Make sure the expense is reasonable.** This begs the question, what *isn't* reasonable? Let's say an organization reimburses an employee at 70 cents per mile, rather than the allowed 50 cents per mile. The IRS would consider the extra 20 cents excessive and treat it as taxable income. Also, an employer can't reimburse the employee more than what he or she paid for any business expense.
5. **Satisfy the criteria for traveling expenses.** The IRS provides three conditions that must be satisfied in an accountable plan. The expense must be 1) ordinary (reasonable) and necessary, 2) incurred while away from the general area of the employee's tax home for a substantial period, and 3) incurred in the pursuit of business.
6. **Account adequately for the expenses.** The IRS requires that the nonprofit keep these records for business expenses that are reimbursed:
 - The amount of the expense and the date
 - The place of the travel, meal or transportation,
 - The business purpose of the expense, and
 - The business relationship of the people entertained or fed.

IRS Publication 463, Travel, Entertainment, Gift, and Car Expenses , provides more details on this topic.

7. **Keep proper documentation.** Document all lodging expenses with a receipt, unless your nonprofit uses a per diem plan. Require employees to submit receipts for any other expenses of \$75 or more and for all lodging. Credit card statements may be used to provide key elements of your documentation, such as the place and date of the expense, and employees must supplement the statement with documentation of other elements.

The IRS has set standard per day amounts that taxpayers may use as an optional deduction for meal expenses incurred while away from home on business travel. U.S. rates are available in IRS Publication 1542, *Per Diem Rates*, which also includes the IRS per day amounts for combined meal and lodging expenses. When using a per diem for travel - or mileage for vehicle usage - an employer may adopt a lower amount than the IRS maximum.

8. **Keep track of mileage.** An account book, diary, log, trip sheet or similar record may be used to substantiate a vehicle's business use. This is the best way for the employee to maximize and protect this deduction.

Lobbying by the Book

If your nonprofit chooses to engage in some lobbying, make sure that you follow IRS rules. Straying from the requirements could jeopardize your tax-exempt status. In addition to tax issues, federal and some state governments regulate organizations that lobby. While there are exemptions for some nonprofits and small amounts of lobbying, consult with your attorney about your specific requirements.

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Lobbying differs from advocacy

Part of playing it safe is knowing the difference between lobbying and advocacy. Lobbying is defined as a communication that attempts to change particular legislation. Advocacy, on the other hand, promotes general causes and issues. Nonprofits may do unlimited advocacy work, but the IRS limits the extent of lobbying activities.

Lobbying always involves advocacy, but advocacy doesn't necessarily involve lobbying. The key to determining whether an activity is considered lobbying or advocacy depends in part on whom you're trying to influence: Does the audience of your lobbying efforts make the laws or simply follow and enforce them? Do you want these individuals to vote a certain way on proposed legislation or simply be more aware of issues?

If your audience makes laws and you're attempting to change legislation by encouraging these lawmakers to vote a certain way, it's lobbying. If, on the other hand, you're speaking with an administrative official or other non-lawmaking individual or group about a broad policy change, it's advocacy.

Keep in mind that promoting a point of view and providing public education aren't considered lobbying activities - even if you're speaking with a public official. The discussion crosses the line only when specific legislation is discussed or you urge a particular vote.

Nonprofits play it safe

Nonprofits often shy away from lobbying for fear of losing their tax-exempt status. And some organizations worry they don't have the proper resources, time or qualifications to lobby.

But the fact is that nonprofits can lobby without endangering their tax-exempt status and without major financial resources or expert assistance. The Center for Lobbying in the Public Interest suggests that even small nonprofits can make an impact by devoting as little as three hours a week to the endeavor.

Lobby law set the rules

The IRS evaluates lobbying based on whether a nonprofit chooses to report its activities under the 1976 lobby law or uses the "no substantial part" test. The lobby law provides nonprofits with a clearly defined set of rules, and requires organizations to file Form 5768, known as the "h" election. The "no substantial part" rule is more vague and subject to interpretation.

If, for example, an organization chooses to use the lobby law, it may spend 20% of its first \$500,000 in annual expenditures on lobbying tax free. This percentage decreases as annual expenditures increase, and annual nontaxable lobbying expenses are capped at \$1 million. An excise tax will apply when spending limits are exceeded.

If a nonprofit doesn't report lobbying under the 1976 law, it must meet the "no substantial part" test, which stipulates that nonprofits can spend only an insubstantial amount of their resources on lobbying. The specific dollar amount isn't defined, but courts have ruled that more than 5% of an organization's budget, time and effort is substantial. Most organizations, therefore, aim for a percentage below 5%.

We Can Help!

The staff at CapinCrouse LLP works with hundreds of churches and not-for-profit organizations. This experience base allows us to quickly identify areas for improvement in many organizations. If your organization desires to improve its efficiency, please contact your Capin Crouse representative or one of our offices to discuss how we may help you.

About CapinCrouse LLP

With more than 700 not-for-profit organizations and 1,500 tax clients, CapinCrouse is the country's leading accounting and advisory firm primarily serving the Christian not-for-profit community.

Since 1972, CapinCrouse has been serving not-for-profit entities including megachurches, institutions of higher education and secondary schools, and international missions agencies by providing a full range of audit, review, tax, and advisory services.

CapinCrouse is dedicated to helping our clients operate with financial integrity so that they can dedicate themselves to fulfilling their mission.

Lobbying raises public awareness

Lobbying can help you get your organization's voice heard and raise public awareness of your mission. Some social goals can only be fully addressed by changes in law, which may be encouraged by lobbying. If you strictly follow IRS rules, you can accomplish these goals without putting your tax-exempt status in danger.

Managing Volunteers

A formal policy and set procedures pay off

Volunteers can be a lifeline for a nonprofit, especially in a down economy. But finding reliable volunteers, evaluating their work and retaining the best and the brightest is an ongoing management challenge. Having a well-formed policy and procedures in place for your volunteer program will help you reach these goals.

Why have a policy?

Your organization already makes decisions about its volunteer program. So, why not put them in writing? It's easier for staff and volunteers to comply with the decisions that you and your board make about your volunteer program if a formal policy is in place. An official policy, although not required, fosters sound management. Especially when there's turnover with a nonprofit's board of directors and key staff members, a policy gives an organization a way to maintain consistency. A policy also helps ensure all volunteers are treated fairly.

What should the policy cover?

Your policy should spell out the values and expectations that your nonprofit has for its volunteer program. Consider it a statement of intent. In broad terms, it should discuss how your organization recruits, screens, welcomes, trains, supervises, evaluates and works to retain volunteers. And it should clarify the volunteers' roles and responsibilities, and the expenses for which they'll be reimbursed, if any.

A policy also should protect your nonprofit, its staff, clients or patrons, and volunteers. For example, a volunteer policy for a crisis intervention center could state that volunteers must respect the confidentiality of the clients it serves. In addition, your policy should address health and safety issues when applicable. It might refer to other documents, such as a volunteer handbook, for instance, or a diversity policy that addresses your methods of recruitment and the messages you use to attract a pool of volunteers. The policy also should clearly indicate any mandates, such as requiring a background check before a volunteer can begin to serve.

What about procedures?

While the policy should describe the nonprofit's volunteer program in broad terms, your related procedures should be specific. They typically are direct, refer to step-by-step courses of action that bring the policy to life, and instruct everyone involved with the program. The crisis center mentioned above, for example, might require all volunteers to sign a confidentiality agreement that prohibits them from discussing details of any client calls with anyone outside of the agency.

In another example, a social service nonprofit's policy could state that volunteers will be reimbursed for the mileage they put on their cars while delivering meals to the disabled. Related procedures would tell the volunteers how to make a claim for reimbursement, spell out the amount or percentage of the reimbursement, and describe any required paperwork.

Where can you get help?

When it comes to developing policies and procedures for your volunteer program, don't reinvent the wheel. An Internet search will turn up examples of how other organizations have handled these management issues. Your CPA or attorney also may be able to provide you with suggestions or even a policy template. Also consider getting professional advice regarding Department of Labor and IRS concerns about using volunteers (and interns) to avoid labor and tax laws.

Review your policy often

If you're developing a policy for the first time, consider forming a committee that represents staff, volunteers, management, board and clients. Volunteers are often pivotal to an organization, and you'll want to make sure the feedback is wide-ranging. And once a policy is in place, review it regularly to make sure that it's still meeting your organization's needs.

Newsbits

Cell Phones De-Listed

The Small Business Jobs Act of 2010, signed by President Obama on September 27, eliminates cell phones (and similar telecommunications equipment) from the category of "listed property". Because listed property requires a much higher degree of substantiation than other business expenses, this has long been a thorn in the side of not-for-profit organizations in terms of accounting for these devices.

Historically, employees were required to provide the employer with a complete cell phone bill and give the business purpose, cost, who was called, and date of call - for every call - to substantiate the business use of a cell phone or PDA. This caused most employers to include some or all of the value of the cell phones they provided employees in the employee's wages. With the "de-listing" of these devices this level of detail will no longer be required. However, we feel some substantiation will be required to authenticate the business use of cell phones.

The IRS is expected to provide further guidance in coming months. The hope is that cell phones can be considered a "working condition fringe benefit" (much like the phone on an employee's desk) and not require any of the value of the phone to be included in an employee's W-2. The effective date of the law is January 1, 2010, thus you may want to review the treatment of cell phone costs to employees for this year as well as future treatment of these costs.

Health Care Tax Credit for Small Employers

The Small Business Health Care Tax Credit can provide a great opportunity for a "rebate" for tax exempt organizations that meet certain criteria. A qualifying employer must:

- Cover at least 50 percent of the cost of health care coverage for some of its workers based on the single rate
- Must have less than the equivalent of 25 full-time workers (for example, an employer with fewer than 50 half-time workers may be eligible)
- Must pay average annual wages below \$50,000

The credit is worth up to 25 percent of a small non-profit's premium costs in 2010-2013. On Jan. 1, 2014, this rate increases 35 percent for tax-exempt employers. The credit phases out gradually for firms with average wages between \$25,000 and \$50,000 and for firms with the equivalent of between 10 and 25 full-time workers. Qualifying non-profits will fill out the new Form 8941 to calculate the credit and then Form 990-T to claim it. Information on the credit, how to qualify, and how to file can be found by visiting www.irs.gov and searching for "Health Care Tax Credit for Small Employers," or by clicking [here](#).

Form 990: Are you delinquent?

The IRS plans to publish early in 2011 a list of organizations that will lose their tax-exempt status for failing to file Form 990 for three years in a row. Thousands of nonprofits currently fail to meet the filing requirements, according to the agency.

If a nonprofit loses its exemption, it must reapply to regain it. Moreover, any income received between the revocation date and the renewed exemption may be taxable.

You can find out if your nonprofit is on the preliminary list by visiting www.irs.gov and searching for "List of Organizations at Risk of Automatic Revocation of Tax-Exempt Status." The IRS indicated it will remove the list before the final list is published. If your organization is in jeopardy, contact your tax advisor immediately for advice about your situation.

Get snail mail fundraising tips online

E-mails may have replaced traditional letters for many kinds of communication, but nonprofits still rely heavily on fundraising by mail. GuideStar, an information service for nonprofits, offers "15 Tips to Help You Raise More Money by Mail" at <http://www.guidestar.org>. (Click on "News" and then "Articles" to find this September 2010 article.)

Here are some of the suggestions:

- Use the same appeal message in your mail solicitations, your website's "call to action" and your e-mail communications to repeatedly reinforce your message.
- Tell a story in your fundraising communication - narrative is a far more powerful tool than a set of statistics and organizational accomplishments.
- Solicit past donors only after showing them what results you've accomplished with their first gift.

Remember: Don't wait until you're in the midst of fundraising to communicate with donors. Contact them often in between appeals, to make sure they're up-to-date and feel connected to your organization.

For the cause!

Nearly half (41%) of consumers in a new study said they've purchased a product in the past year because it was associated with a social or environmental cause. That's up from 20% in 1993, when Cone LLC, a strategy and communications agency, began its benchmarking study on cause-marketing attitudes and behaviors. And a whopping 83% of those polled in the 2010 Cone Cause Evolution Study wanted more of the products, services and retailers they use to benefit causes.

The study also indicated that the economy hasn't affected consumers' social sentiment - 81% said companies should financially support causes at the same level or give even more during an economic downturn. You might use this as ammo the next time you ask for a corporate endorsement.