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TAX-EXEMPT ENTITIES

Individuals seeking to benefit the community through charitable giving face a bewildering variety of means by which they may do so, from simply making a cash contribution to a worthy cause to establishing tax-exempt organizations through which they can maintain control over their contributions. With proper planning, charitable giving may allow one to obtain multiple desired goals; however, one must take care to comply with numerous laws and regulations to avoid losing even the most basic benefits.

We counsel clients at all levels of philanthropic activity. We assist individuals in the establishment of public charitable organizations and private foundations, and advise established organizations with their ongoing operations. The efficient formation of a non-profit entity calls for special knowledge and experience in preparing the legal documentation necessary to satisfy the requirements of the Internal Revenue Code and accompanying regulations governing tax-exempt organizations. For example, different rules apply depending on whether the organization is an operating organization or a supporting organization (of which there are three types), and different rules may apply depending on the type of activity in which the organization is engaged. Thus, selecting the structure of the entity at the outset is a critical task, one which should take into account such considerations as the extent of involvement of the board and the nature of the sources of funding for the entity.

Once the entity is established in accordance with state law requirements, it must complete a detailed application with the IRS to obtain tax-exempt status, which not only shelters its income from taxation, but also may allow donors to obtain a deduction for their contributions.

Even after tax-exempt status is granted by the IRS, numerous tax issues arise in the normal course of operations. The organization will need to file special income tax returns and tax may have to be paid on income arising from unrelated business activities (as defined by the tax law). Depending on the type of entity, numerous punitive provisions may apply to discourage the entity from engaging in conduct frowned upon by Congress, such as accumulation of income or self dealing between the charity and its officers and directors. Ownership of real property, sales of goods, fund-raising activities and board membership by vendors can raise thorny issues for a charity seeking to preserve its tax-exempt status, and experienced counsel can provide valuable assistance in the formation and execution of strategies designed to allow the organization to pursue its charitable goals in the most efficient manner possible.

NOTICE - This information is not legal advice or counsel absent an extant attorney-client relationship with the recipient; this information does not create an attorney-client relationship. Seek legal counsel before taking any action on the matters referenced above.