

1 **Partial Checklist: ANNUAL COMPLIANCE FOR 501 (c)(3) ORGANIZATIONS**

2 **This form for internal use only**

3 or for use in seeking legal advice from attorney of the organization.

4  
5 Date of checkmarking this sheet was \_\_\_\_\_ Each question or  
6 item checkmarked should have a specific Y/N response or other response made..

7  
8 Name of Organization \_\_\_\_\_

9  
10 **ORGANIZATIONAL ISSUES**

- 11
- 12  Articles of Incorporation and corporate status OK? Have you read the original articles  
13 and any articles of amendment? Are the articles clear, or do they need to be restated to  
14 eliminate unclear language or to incorporate confusing later amendments?
- 15
- 16  Do articles of incorporation eliminate or limit the personal liability of a director of the  
17 corporation to the extent allowed by state law? If “no” consider an amendment of articles  
18 of incorporation.
- 19
- 20  Are the Bylaws OK? Have you read the original bylaws and all amendments? Are they  
21 clear or do they need to be restated to eliminate unclear language or to incorporate  
22 confusing later amendments?
- 23
- 24  Was an IRS advance ruling of 501c status received?
- 25
- 26  Was an IRS final determination of 501c status received? Have you actually seen it? What  
27 was the date of it?
- 28
- 29  If the organization does not have 501c exempt status, is organization a private supporting  
30 foundation or a private foundation?
- 31
- 32  Has the organization applied for and received state determination that income is not  
33 subject to state income taxes? (In some states automatic status is granted if it is  
34 determined by IRS that organization is exempt under 501© of Internal Revenue Code, but  
35 your state may not be one of those.)
- 36
- 37  Are state sales tax exemptions in place?
- 38
- 39  Are state real property tax exemptions in place?
- 40
- 41
- 42  Where are the corporate records kept and who keeps them? .
- 43
- 44  Where are minutes of Board of Director’s meetings kept?
- 45

## OPERATIONAL ISSUES

- 46
- 47
- 48  Were there transactions by corporation with board members, officers, or other insiders?
- 49
- 50  Is the compensation of board members, officers, and other insiders only a reasonable
- 51 compensation/expenses for duties.?
- 52
- 53  If so, did private inurement occur?
- 54
- 55  Are activities in furtherance of exempt purposes?
- 56
- 57  Do new activities need to be reported to IRS?
- 58
- 59  Are files maintained to document nature of activities? Who is responsible to maintain
- 60 them? Where are such files kept?
- 61
- 62  Does the organization lobby?
- 63
- 64  Does the organization engage in any political activity?
- 65
- 66  Is there excessive unrelated business income?
- 67
- 68  Are there plans to increase/decrease staff in the immediate future?
- 69
- 70  Are there plans to change physical facilities in the immediate future?
- 71
- 72  Are there plans to address any income shortfalls that presently exist?
- 73
- 74  Does a procedure exist for keeping backup copies of personnel lists at a safe location
- 75 outside of the premises, so that if there is a fire or other disaster the person who needs to
- 76 have them promptly may locate all personnel? extend help? and resume business ASAP?
- 77
- 78  Does a procedure exist for keeping backup copies of financial records, contributors, et
- 79 cetera, et cetera, at a safe location outside of the premises, so that if there is a fire or
- 80 other disaster business may be resumed?
- 81
- 82  Is there an emergency / disaster plan? Does everyone know what to do?
- 83
- 84  How are electronic files backed up and safe-kept off-site?
- 85
- 86  If there was litigation which required “a hold” of electronically stored information, what
- 87 would the organization do?
- 88

## FILING REQUIREMENTS

- 89  
90  
91  Is Federal Form 990 required to be filed annually? A penalty may be imposed for late filing  
92 or failure to file Form 990, and such penalty can be imposed upon directors and officers  
93 of the corporation.  
94  
95  If so, can and should EZ be filed? (Less than \$100,000 gross receipts?)  
96  
97  Have changes in corporate structure (such as amended bylaws or articles) been submitted  
98 to I.R.S. with Form 990?  
99  
100  Has Form 990 been filed?  
101  
102  Is Form 990 for last three years available (as required by federal law) for public inspection  
103 and to be provided on payment of reasonable fee for copying?  
104  
105  Has informational tax report been filed with the state Department of Revenue?  
106  
107  Are payroll and information returns filed?  
108  
109  Has change of accounting method occurred?  
110  
111  Should tax filing year be changed?  
112  
113  Does a standard operating practice exist to give contributors tax receipt substantiation for  
114 charitable contributions?  
115  
116 [ A 501 (c)(3) charity receiving charitable cash donations of \$\_\_\_\_\_ or more must give  
117 written receipt. Receipt given by charitable organization must describe any goods or services  
118 provided in exchange for the donation and must estimate value. If no goods or services, receipt  
119 must so state. (While not required, sending letters acknowledging small gifts builds good will  
120 and is good business practice.) In addition , a charity that receives in excess of \$75 as payment  
121 partly as a contribution and partly in consideration for goods or services must give written  
122 statement to donor.) [Trigger amounts may be subject to law change since this checklist was  
123 prepared - have you checked on the amount this year?]  
124  
125  Is Form 8283 due to donor for non-cash tangible gifts over the IRS specified amount of  
126 \$\_\_\_\_\_?  
127  
128  If donated non-cash item over \$\_\_\_\_\_ is disposed, charity may also have to report  
129 disposition of donated asset on Form 8282. Is it necessary for last tax year?  
130  
131  
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133

- 134  Do fund solicitations reveal fair market value or nondeductibility of benefits to donors?  
135 Charity receiving contribution which is part donation and part quid pro quo must give a  
136 written statement either when soliciting a donation or when receiving it which values the  
137 goods or services given to the donor (exception for intangible religious benefits).  
138
- 139  If organization is part of a group, should group exemption be obtained?  
140
- 141  .Has there been an IRS audit?  
142
- 143  Has there been any state audit?  
144
- 145  Has there been registration by charitable organizations with the states in which the  
146 organization operates? The definition of “charitable organization” in many states is very  
147 broad, and may require registration within as short as three days after any solicitation (also  
148 broadly defined). Violation can be a felony in some states which are vigorous in attacking  
149 fraud.  
150
- 151  Has there been Annual Report filed with the state? In most states the annual report  
152 requirement for for-profit corporations also applies to non-profits. This may include a  
153 separate certificate of disclosure of various items (e.g., officer convicted of crime during  
154 the period).  
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### CONFLICT OF INTEREST

- Have all officers and directors been polled re conflicts of interest?  
[Such polling is needed to give information required on Certificate of Disclosure.]
- Is there a conflict of interest policy? Does the state require it to be filed?
- Has there been compliance with the conflict of interest policy? Documentation of same?.

A member or director with a conflicting economic interest does not necessarily void a transaction if the conflict is disclosed and the transaction is approved by disinterested persons, or the transaction is fair and reasonable to the corporation based on known circumstances at the time the transaction was approved.

### EMPLOYMENT LAW ISSUES

- How many employees does the organization have?
- Does this number of employees trigger reports, or allow exemption, for federal or state employment laws?.
- ADA prohibits discrimination based on disability.
- TITLE VII Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, pregnancy, or national origin
- FMLA requires 12 weeks leave for eligible employees

### EMPLOYMENT LAW ISSUES –

- What is the standard operating procedure regarding payment of wages to terminated or terminating employees?
- State civil rights act may prohibit discrimination like federal civil rights act, but also includes disability and define it differently than the federal ADA..
- Is the organization aware of the sexual harassment laws? And have given employees and officers training regarding expected behavior?.
- Are there written contract, or common law contract, claims that might be on the horizon?

- 204  
205  Are there tort claims on the horizon?  
206  
207  Are there volunteers who regularly do work for the organization?  
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209  If so are any of them given benefits which they would expect to receive if organization  
210 was not fiscally able to provide them?  
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### INSURANCE ISSUES

- 215  
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217  Who has reviewed the actual casualty (e.g., fire) insurance policies, to see that they are  
218 adequate?  
219  
220  Are there Directors and Officers insurance policies?  
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222  Who has reviewed the actual liability insurance policies, to see that they are adequate?  
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### BOOKKEEPING / ACCOUNTING ISSUES

- 225  
226  
227  Who does the bookkeeping?  
228  
229  Are those persons bonded?  
230  
231  What computer program is used for the bookkeeping and physically where is the primary  
232 computer located?  
233  
234  Who does any auditing?  
235  
236  Who prepares the profit and loss and balance sheets?  
237  
238  Does each member of the Board of Directors understand the P&L and Balance Sheets?  
239  
240  Where are copies of the annual P&L and Balance Sheet records kept?  
241  
242  Is payroll tax withholding required?  
243  
244  Are procedures in place for payment of payroll taxes?  
245  
246  Has payroll tax been properly deposited and paid?  
247  
248  Are procedures in place for payment of other taxes?

- 249
- 250  IN what financial institution are the bank accounts? Money Market accounts? Other cash
- 251 accounts? Investment accounts?
- 252
- 253  Have bank / investment account signature cards been updated to reflect terminations and
- 254 changes in authorized persons?
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- 256  Have check signing procedures always been complied with this year?
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- 258  Should changes be made in check signing procedures?
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