

ROTARY CLUB FOUNDATIONS

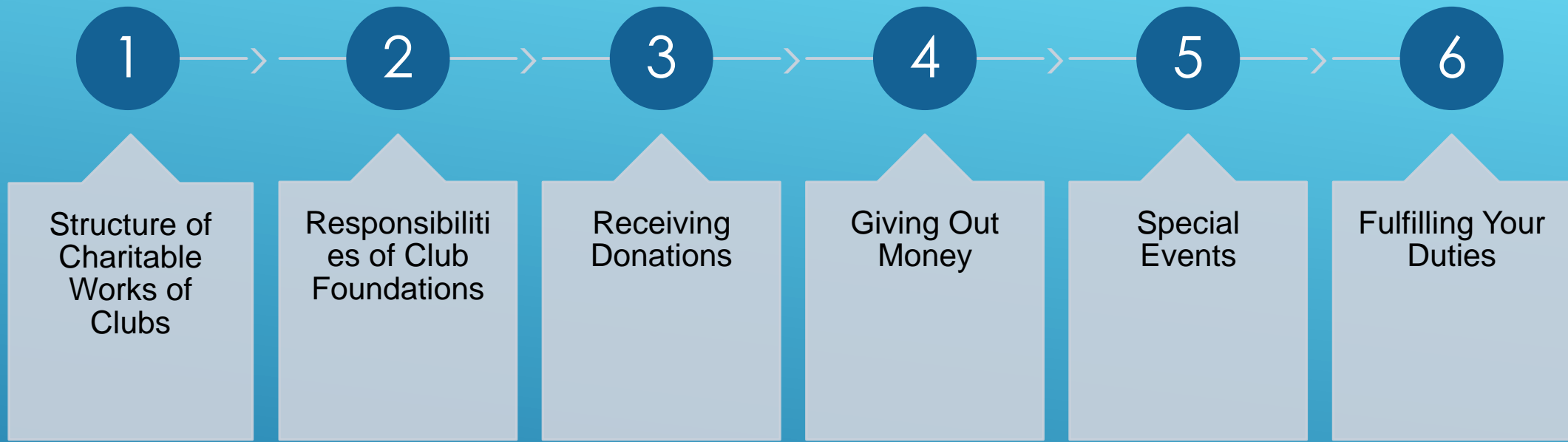
Staying in Compliance

Rotary District 5240 Webinar

October 24, 2017

**Disclaimer: This presentation does not provide legal advice.
You are encouraged to consult your professional advisors.**

ROTARY CLUB FOUNDATIONS



TOPICS TO BE COVERED

- ▶ 29 different types of 501c organizations – Clubs are typically 501c4s and Club Foundations are 501c3s
- ▶ Only 501c3s can offer a receipt to document a charitable gift
- ▶ Even though both a club and a club's foundation are 501c organizations, they are legally separate and incorporated separately. Both need to keep their own records and accounts.
- ▶ The California Corporations Code allows for-profits AND non-profits to exist

STRUCTURE OF CHARITABLE WORKS

Incorporating

- ▶ Must incorporate in California first

<http://www.sos.ca.gov/business-programs/business-entities/faqs/#form>

- ▶ \$30.00 filing fee
- ▶ Must file CT-1 with California Attorney General's office within 30 days of receiving first donation \$25.00 filing fee

STRUCTURE OF CHARITABLE WORKS

Incorporating

- ▶ After incorporating in California, must apply for tax exempt status from IRS
 - ▶ IRS Publication 557 is your source for information
<https://www.irs.gov/charities-non-profits/applying-for-tax-exempt-status>
- ▶ IRS Form 1023 is the full application (\$850 filing fee)
- ▶ IRS Form 1023ez is the short form for new organizations that do not expect to receive gross receipts of \$50,000 or more in any of its first 4 years of operations***** (\$400 filing fee)
- ▶ Thou shalt not use any form of the word “**advocate**” any where in an application
- ▶ Must keep copy of original application to IRS as part of corporate records (can be electronic)

STRUCTURE OF CHARITABLE WORKS

Alternatives to Incorporating

- ▶ Rotary District 5240 Charitable Foundation
- ▶ Donor Advised Fund of Rotary Foundation
- ▶ Your local community foundation

(Fees vary)

STRUCTURE OF CHARITABLE WORKS

- ▶ Board fulfills duties of care, obedience and loyalty
- ▶ Abiding by the bylaws of the corporation
- ▶ Preserving corporate records and accountings, annual filings, at least one meeting of the Board of Directors annually
- ▶ Knowing and complying with Local, State and Federal Laws
- ▶ Preventing fraud

RESPONSIBILITIES OF CLUB FOUNDATIONS

Annual Filings <http://www.calnonprofits.org/resources/nonprofit-compliance-checklist>

▶ IRS

- ▶ Return of Organizations Exempt from Income Tax [if June 30 fiscal year end, due November 15]
 - ▶ If revenue less than \$50,000, file Form 990N (postcard return)
 - ▶ If revenue \$50,001-\$200,000, or total assets >\$500,00, file Form 990EZ
 - ▶ If revenue >\$200,000, or total assets >\$500,000

***Exemption revoked if no filings for three consecutive years

***\$20 per day penalty if filed late

RESPONSIBILITIES OF CLUB FOUNDATIONS

Annual Filings

<http://www.calnonprofits.org/resources/nonprofit-compliance-checklist>

▶ California

▶ Attorney General's Office

- ▶ Annual Registration Renewal (RRF-1) no later than four (4) months + 15 days from end of fiscal year [e.g., June 30 fiscal year end, RRF-1 due November 15]. If revenue greater than \$25,000, must attach copy of IRS 990 or 990EZ
- ▶ Exempt Organization Annual Information Return (FTB Form 199)
 - ▶ If revenue \geq \$50,000, due 15th day of fifth month after fiscal year end [e.g., June 30 fiscal year end, FTB 199 due January 15] \$10 filing fee if on time, \$25 if late
 - ▶ If revenue $<$ \$50,000, file FTB Form 199N, no filing fee

▶ Secretary of State

- ▶ Statement of Information (Form SI-100) due every two years

RESPONSIBILITIES OF CLUB FOUNDATIONS

- ▶ If a club foundation has “long-term” money, must comply with UPMIFA. Interestingly, UPMIFA does not specifically define “long-term”, thus a safe definition is any money held for longer than a year.
 - ▶ Investment Policy: UPMIFA specifies 7 standards of care
 - ▶ Spending Policy: UPMIFA specifies 7 standards of care

[https://www.adlercolvin.com/pdf/planned_and_charitable_giving/UPMIFA%20The%20Law%20of%20Endowments%20\(00641396xA3536\).pdf](https://www.adlercolvin.com/pdf/planned_and_charitable_giving/UPMIFA%20The%20Law%20of%20Endowments%20(00641396xA3536).pdf)

RESPONSIBILITIES OF CLUB FOUNDATIONS

- ▶ There are 3 components for a gift to be a gift
 - ▶ Donative Intent
 - ▶ Transfer of Asset
 - ▶ Acceptance
- ▶ Documenting and honoring donor intent
 - ▶ Written by donor
 - ▶ Method of solicitation
- ▶ Variance Power

RECEIVING DONATIONS

- ▶ All donations of \$250 or more require documentation of receipt. This can be a letter to the donor that includes the following:
 - ▶ Name of recipient organizations with tax ID number (FEIN)
 - ▶ Name of donor (e.g., who signed the check?)
 - ▶ Date of donation [if check receive in mail, the date of the postage or postage cancellation is the date of gift]
 - ▶ Description of property received
 - ▶ Method of payment (i.e., cash, check, etc.)
 - ▶ Amount received only if cash or check
 - ▶ Disclosure of any goods or services received by the donor, such as the good faith fair market value of the item bought in the silent auction or live auction, or the value of the dinner provided.
 - ▶ Best Practice: include a statement that the Board of Directors of the charity accepts full responsibility and authority of the donations use.

RECEIVING DONATIONS

Non-cash donations

Gift by Credit Card: date *charge* is made

Stocks & Bonds:

- ▶ If electronic, date shares/bonds when ownership transferred out of donor's account
- ▶ If paper, date signed shares with POA physically received

Auction Item or Raffle Item: date item is received by organization/volunteer

Non-cash asset, such as real estate, boat, etc.: if worth more than \$500, donor must provide a qualified appraisal dated with 60 days before date of donation or by the end of the tax year.

- ▶ Special rules for non-cash assets, "Tattle-Tale" forms, IRS forms 8282 & 8283

RECEIVING DONATIONS

- ▶ Distributing money
- ▶ Scholarships & Awards
- ▶ Sending money overseas

GIVING OUT MONEY

Distributing Money

- ▶ Each distribution of club foundation funds that is not a reimbursement or payment of expenses is a grant.
- ▶ Cross check your bylaws, may be able to give to other 501c3s only
- ▶ Due diligence must be performed: at a minimum, verify that the intended recipient is in good standing thus eligible to receive the grant by checking on guidestar.org

GIVING OUT MONEY

Scholarships & Awards

- ▶ These are grants to individuals
- ▶ Must have policies and procedures approved prior to fiscal year in which these grants are made
- ▶ If a check is given to an individual and not a qualified organization, include a IRS Form 1099

Penalties vary depending on circumstances, the organization and the CEO may both be penalized

GIVING OUT MONEY

- ▶ *The scholarship must be awarded on an objective and nondiscriminatory basis. The group of applicants from which the recipients are selected must be sufficiently broad as to be considered a charitable class. The donor of a scholarship cannot take a charitable deduction for a scholarship that is earmarked for the benefit of a specific individual, not even if that individual is unrelated to the donor. Moreover, donors may not circumvent this restriction by tightly delineating the selection criteria. No grants may be awarded to an officer, manager or trustee of the organization, nor to a member of the selection committee, nor to a substantial contributor, nor to certain US government officials. Family members of these individuals are also not eligible to receive grants. (IRS)*

GIVING OUT MONEY

- ▶ *The group of individuals that may properly receive assistance from a charitable organization is called a charitable class. A charitable class must be **large or indefinite** enough that providing aid to members of the class benefits the community as a whole. Because of this requirement, a tax-exempt disaster relief or emergency hardship organization cannot target and limit its assistance to specific individuals, such as a few persons injured in a particular fire. Similarly, donors cannot earmark contributions to a charitable organization for a particular individual or family. When a disaster or emergency hardship occurs, a charitable organization may help individuals who are needy or otherwise distressed because they are part of a general class of charitable beneficiaries, provided the organization who selects who gets the assistance. (IRS Pub 3833)*

GIVING OUT MONEY

Sending Money Overseas

- ▶ Expenditure Responsibility:

<https://www.guidestar.org/Articles.aspx?path=/rxa/news/articles/2007/international-giving-by-public-charities.aspx>

- ▶ Rotary Foundation policies and procedures force you to comply with expenditure responsibility requirements
- ▶ Make grant to Rotary Foundation and let it transfer money overseas

GIVING OUT MONEY

- ▶ Disclosure of Fair Market Value of goods and services offered
 - ▶ Disclose on event invitation, or ticket, and at check-in table
- ▶ Gift receipt for true charitable portion.

- ▶ Taxes: <http://www.boe.ca.gov/pdf/pub18.pdf>

SPECIAL EVENTS

- ▶ Lobbying: save yourself major headaches by just NOT doing it
- ▶ “But the money was just sitting there!”
- ▶ “Close enough for charity work”
- ▶ “Why does he invest the money and not her?”
- ▶ “I hired my spouse to run the big event”

FULFILLING YOUR DUTIES

If you don't have a CPA or business law attorney in your club, recruit one
ASAP!

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CONTACT INFORMATION