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About Seiler LLP

For more than 50 years, Seiler LLP has provided tax, advisory and accounting services to some of the world's most affluent individuals, families, closely held businesses and non-profit organizations. Our clients include prominent business, community and philanthropic leaders, as well as high-net-worth multi-generational families and successful entrepreneurs. Based in Silicon Valley and San Francisco, we deliver the sophisticated solutions, innovative thinking, global capabilities and highly personalized service our clients require to navigate the complexities of their financial worlds, not only for today but for many years to come. Our goal is to exceed our clients' expectations in every way.

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Meet Our Non-Profit Team

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David has over 25 years of experience with non-profit organizations, affluent individuals, and closely held businesses. He has particular expertise with advising families and individuals on their philanthropic goals; and working with advising private foundations and public charities.

Non-Profits Going Global

Don a sleuthing cap before expanding internationally

Many non-profits today look beyond U.S. borders to boost revenue. They recruit members, sell products, promote conferences and solicit donations. Before you “raise your flag” in a foreign country, though, take stock. Here are five areas to research before putting both feet in the water.

1. **The market for your services and products.** Before investing funds, make sure that the need for your non-profit’s services or products is robust enough to justify the costs of doing business in the target country. What will the competition be like? A specialized teachers’ association, for example, may find no counterpart in that country, but a burgeoning number of teachers who are hungry for specialized information. Ample market research is essential before making a decision.

2. **Laws and regulations.** Of course, you’ll need to be aware of relevant laws and regulations before penetrating the target country. And if you plan to sell products or services there, investigate sales and tax issues thoroughly first. If the country engages in free trade, it may be easy enough to do business there. But if the country isn’t a party to a free trade agreement, high tariffs or taxes might scare you away. Consult with your legal and financial advisors as you chart your business plan. Foreign activities also may require analysis to ensure that your contributors retain their tax deductions and that you don’t jeopardize your organization’s own tax-exempt status.

3. **Relationships.** Strong relationships are at the heart of any not-for-profit’s success. And your understanding of the target culture will be a key to that goal. Setting up an advisory committee in the United States, which includes expatriates, is one way to develop insights into your new market.

   If English isn’t the spoken language in the target country, it may be advantageous to bring your own translator during your initial visits — ideally someone from the advisory committee or elsewhere in your organization. This person should understand the nuances of the other culture, and also have your interests in mind. During your visits, be ready to learn from the local residents. They are the experts on their turf.

4. **Representation.** Opening up membership to individuals in other countries is often the first global step of a membership organization. If you go this route, use your advisory committee to discuss the needs and interests of the target country, and for ideas about translating published materials for the new members. Some organizations hold seminars and conferences in target countries and even open offices to establish roots.

   If you appoint a member from the target country to your board, be willing to accept different approaches to issues. Board meetings usually continue to be held at U.S. headquarters. A board portal (collaborative software) will allow your board members to securely access board documents from any location. And Skype can be used to visually include the new member at meetings.

5. **Currency exchange.** What is the value of the U.S. dollar compared to the currency of the target nation? If U.S. currency is weak, it could work to your advantage in selling products and services. But, naturally, a strong dollar here will go further in all your business transactions in that country, such as leasing property or compensating foreign staff.

   There's also the practical issue of how potential customers will pay for your goods and services, or make donations. Many non-profits now use PayPal to handle foreign payments, which can all be made in U.S. dollars. The online payment company provides a discount on their processing rates for donations to qualifying charities. Additionally, some accounting software can address various currencies and make the necessary conversions.

IRS Reviews Vary Widely

IRS reviews of charities and other non-profits were once relatively rare. For example, only the largest non-profits would find an IRS audit team at their door. But in recent years the agency has put an emphasis on enforcement in all areas for all sizes of tax-exempt organizations.

Not all IRS reviews are created equal, however. Here's a rundown of the three main types.

Fielding an Audit

If your initial contact letter schedules an agent to visit your premises, the IRS is conducting a **field audit** or in-person examination. Field audits are done at a non-profit's location, their representative's office or an area IRS office. The audit usually happens where the organization's books and records are located.

Field audits fall into two categories. A **general program exam** typically is conducted by a single IRS agent. A **Team Examination Program** audit focuses on large, complex organizations and may involve a team of examiners.

There are many areas an audit can cover. An audit might explore, for example, whether your organization filed all returns and forms as required by law on time and whether they're complete and accurate. Or it might delve into whether your activities were consistent with your tax-exempt purpose, or whether any tax liabilities (for instance, employment taxes or unrelated business income tax) were properly paid.

During the audit the IRS will examine various records. The IRS provides a listing of records it's likely to want to see at http://www.irs.gov/Charities-&-Non-Profits/Information-Document-Request%E2%80%94Exempt-Organizations-Audit.

Corresponding with the IRS

If the initial letter asks you to deliver documents to an IRS office by mail, you are undergoing an **office or correspondence audit**. An agent generally conducts the audit using letters and phone calls to work with the organization's officers or a representative.

But a correspondence audit can expand to become a field audit if the issues grow more complex or the not-for-profit doesn't respond. Both correspondence and field audits can expand to include prior and subsequent tax years.

Checking 1, 2, 3

The initial contact letter might indicate that the IRS is conducting a **compliance check**. This isn't an audit but may include a checklist with specific questions. Or it may ask about information and forms that your non-profit is required to file or maintain, such as Forms 990, W-2 or W-4.

A compliance check is made to determine whether an organization is adhering to record-keeping and information reporting requirements. This is usually related to a specific issue — Form 990 disclosures, for example — and whether the non-profit's activities are consistent with its tax-exempt purpose.

Compliance checks are an accountability tool, like audits, but are simpler and less burdensome and don't directly determine a tax liability for any particular period. They can, however, lead to an audit.

Becoming a Target

Non-profits are chosen for reviews for several reasons. The igniting spark might be an IRS examination initiative or project. Or the agency may have received complaints about potential noncompliance at your organization.

Other reasons for a review include risk modeling from the revised Form 990; related examinations of other taxpayers, such as business partners, clients or vendors, whose returns were selected for audit; and document matching — when payer records, such as Forms W-2 or 1099, don't match the information you've reported. Additionally, certain claims for refunds or requests for abatements also can bring about further review.

In general, though, Form 990 plays a strong role in the selection process. In its *FY 2012 Annual Report & FY 2013 Workplan*, the IRS delivered this bottom-line message to non-profits: "The IRS uses the Form 990 responses to select returns for examination, so a complete and accurate return is in your best interest."

Following the Rules

The IRS says its job is to review exempt organizations for a number of reasons, including ensuring that they're truly operated in the public interest and aren't engaged in any substantial nonexempt (taxable) activities. If your organization is following the rules, you have nothing to fear from a review. Your CPA can give you advice along the way to help make sure your organization is compliant.

The IRS Review Processes in a Nutshell

The process differs depending on the type of IRS review a non-profit undergoes.

An audit begins with the initial contact and continues until audit findings are discussed in a closing conference (in person or by phone) and a closing letter is issued. An officer, your representative and the agent will discuss the agent's conclusions at the closing conference. Both the conference and the letter will explain your appeal rights.

Compliance checks and compliance questionnaires also start with the initial contact letter. IRS personnel will review requested items submitted via mail and follow up as needed. They may request additional information. The IRS likely will contact your organization again if you don't respond.

At the end of a compliance check, the agent typically issues a closing letter. But if you've received just a compliance questionnaire, once you have provided the requested information, you may never hear from the IRS again.

Fiscal Oversight: Is Your Board Making the Grade?

Non-profits may not face the same government regulations or public scrutiny as for-profit public companies do. But that doesn't mean your board can afford to get slack about financial governance. Donors and watchdog groups are paying increased attention to organizations' Forms 990 and the media is quick to pounce on rumors of fraud or other financial wrongdoing in the non-profit sector.

If you don't already do so, consider regularly evaluating your board's financial oversight. Whether you have a finance or audit committee — or both — how well their members carry out their duties is critical to your organization's continued well-being.

Assigning Responsibility

Unlike for-profit public companies, non-profit boards aren't required to have an audit committee, but many non-profits have added one anyway. Finance committees are still more common in the non-profit world, but they're generally concerned with financial operations and the practical details of funding their organizations' missions. For their part, audit committees focus on internal controls and financial compliance matters. (See the sidebar "The difference between finance and audit committees.") Together, these committees — along with the rest of your board — should ensure that your non-profit has reliable operating cash flow, avoids unnecessary risk and adheres to commonly accepted accounting policies.

Because your board's financial decisions trickle down to every function of your organization, try to hone in on activities that your finance and audit committees have the most direct influence on. For example, does your non-profit have an operating reserves policy and are your reserves adequate? Does your outside auditor always issue clean reports? If not, how have auditor concerns been addressed? Are Forms 990 and other government reports filed on time? Is your executive director's compensation "reasonable" compared with compensation offered by your organization's peers?

If you start spotting negative patterns, dig deeper. In most cases, audit and finance committee members aren't intentionally negligent. They may not have the time or energy that your organization's financial governance requires. More likely, they don't know enough about the complex tasks they've been assigned. Some simply may not have a relevant background, while others may not have received a proper orientation when they joined your board.

Staffing Your Committees

If your non-profit's central problem is finding qualified board members to sit on financial committees, you're not alone. But it's important to have at least a few qualified people on your board. Good candidates understand and can interpret financial statements and have at least a basic knowledge of accounting principles. They should also be able to recognize key nonfinancial indicators that measure the success of your mission — such as paid hours vs. volunteer hours and grants applied for and received. What's more, they should be willing to ask questions and use financial information to establish economically sound policies that further your non-profit's mission.

Financial professionals such as CPAs, bankers and company controllers or CFOs usually fit the bill. But you might also look to attorneys who specialize in financial transactions or insurance professionals, who, after all, have extensive risk-management experience.

Once you've found new board members who meet your criteria, train them on your organization's issues. If they're new to non-profit governance, you may need to explain such concepts as the differences between restricted and unrestricted funds and accounting rules for pledges, endowments and charitable gift annuities. Also, cover areas such as the function of the audit committee and financial management team, cost-benefit analysis and tax-exempt status.

Hiring an Advisor

If your board's fiscal oversight is failing to make the grade and you're having trouble finding qualified individuals to staff your finance or audit committee, there's another option. Consider contracting with a CPA to act as your board's independent advisor. This expert can provide financial expertise and act as a liaison between your finance or audit committee and the full board of directors or staff. To ensure independence, your advisor shouldn't work for the same accounting firm that provides you with audit or other significant accounting services.

The Difference between Finance and Audit Committees

If your non-profit board already has a finance committee, does it also need an audit committee? Both work to ensure that an organization operates in a fiscally responsible manner. But their objectives and responsibilities can be quite different.

Finance committees primarily oversee the financial elements of running an organization and supporting its mission. They prepare operating budgets guided by long-range objectives, and develop and monitor plans to meet their non-profit's current and future needs. In addition, finance committees are responsible for:

- Setting investment policies,
- Overseeing income-generating activities,
- Authorizing large expenditures,
- Managing cash,
- Negotiating debt, and
- Presenting regular financial reports to the full board of directors.

Audit committees, on the other hand, set and enforce the controls needed to run an organization according to the finance committee's policies. They're responsible for establishing internal control policies and monitoring compliance with them. Audit committees also appoint and oversee external auditors and approve their compensation and retention. If necessary, committee members investigate allegations of financial wrongdoing.

A good finance committee makes the job of the audit committee easier. And a diligent audit committee allows the finance committee to function more efficiently and focus on its non-profit's mission.

Is Your Non-Profit Ready to Pass the Baton?

Baby boomer non-profit leaders continue to retire in vast numbers nationwide. Does your organization have key people who are nearing retirement? If so, is there a concrete plan to replace them? A succession plan can be the difference between a non-profit carrying on its mission without interruption and its operations grinding to a halt.

Choosing a Strategy

Three approaches to succession planning are common among non-profits, and one may best fit your needs. The strategic leader development approach focuses on identifying talented individuals who have, or are capable of developing, skills to carry on your organization's goals before the top executive or another key person has left. As soon as a successor is identified, the executive director (ED) should begin delegating some leadership duties to this individual. This approach gives the ED time to train and assist the incoming leader until he or she can competently handle the new duties.

Preparing for an Emergency

Emergency succession planning emphasizes continuing to achieve the organization's goals and carry out its mission after an unforeseen event, such as death or disability. In preparation, the top executive or executives should develop a list of their duties and step-by-step details on fulfilling them. They should ask themselves: How was I trained for this position? How have my responsibilities changed over time? What did I learn later that I wish I'd known from the start?

Board members should be involved in any type of succession planning, but especially in emergency planning, because they're obliged to see that the organization is competently led without interruption. A small non-profit, even if it has limited capacity for strategic planning, should have an emergency succession plan for its ED.

Planning for a "Defined Departure"

A defined departure plan is appropriate when the key person has announced his or her retirement one to two years in advance. The goal is to build leadership strength: The key person wants to know that the organization can function well after his or her retirement, and the non-profit requires the same degree of assurance. Setting a target departure date with the board of directors is typically the first step because it prompts those involved to develop a timeline.

No matter which approach you use, consider forming a succession planning committee if more than one key person eventually will be replaced. This will allow members of the organization with various types of expertise to provide feedback in the areas most affected by the departures.
It's also important to document the succession plan. Although it might take some time away from other duties now, it could prevent a host of problems later.

Transitioning Leadership

Having both individuals work at the same time is one of the most effective ways to transition duties. Consider: Your ED announces nine months in advance that he will be retiring, and your succession plan names a successor. While the two work together, have the successor assume some of the ED's duties, such as creating the organization's policies, reviewing financial reports and meeting with key people from your community. Gradually shift more work from the ED to the successor.

If the successor isn't already in the organization, consider hiring him or her a few months before the targeted transition date. To make the process run smoothly, again it's important that the two individuals work together. The successor, for instance, might be unfamiliar with your ED's work with the board of directors. So hands-on training by the exiting leader would be helpful.

The role of Key Person Insurance

There is another step your non-profit can take to prepare for an ED's unanticipated departure. Key person insurance can protect an organization in the event of a sudden death or disability. This type of plan can help ensure that the non-profit's operations and mission are still carried out without major disruptions due to the loss of a key employee.

For example, let's say the ED — suddenly disabled by heart surgery — had been the non-profit's chief administrator and its primary fundraiser. Temporarily hiring two individuals with these critical skills is likely to be more expensive than the cost of finding a permanent replacement. But key person insurance proceeds could provide for this while the search is underway.

Start Today

In the scheme of everyday activities, putting together a succession plan for your top executive may end up on the back burner. Don't let it happen. Charting the future of your non-profit's leadership is too important of a responsibility to be left to circumstance.

Tools to Choose

If you find yourself struggling over how to start a succession plan, you can find numerous free or low-cost planning toolkits online, as well as others that are more costly. Many of them will walk you through the process step by step. Some also offer templates and worksheets to help you keep track of goals and tasks and gauge timelines.

Some websites to check out include:

- Foundation Center (http://www.foundationcenter.org)
- National Council of Non-profits (http://www.councilofnon-profits.org)
- BoardSource (https://www.boardsource.org/eweb).

Your financial advisor also can assist with your final plan.