
REPRESENTING NONPROFIT ORGANIZATIONS

Tax Practice Series

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DEDICATION

To Harold

ABOUT THE AUTHOR

Marilyn E. Phelan has written extensively on the subject of nonprofit enterprise. She is the author of the three-volume treatise, *Nonprofit Organizations: Law and Taxation*, published by Thomson Reuters. She is a co-author of *Art and Museum Law, Cases and Materials* published by Carolina Academic Press, the author of *Museum Law, a Guide for Officers Directors, and Counsel*, published by Kalos Kapp Press, and the editor and co-author of *The Law of Cultural Property and Natural Heritage*, published by Kalos Kapp Press. She is co-author of the casebook *Nonprofit Organizations Law and Policy*, published by Thomson Reuters. She is the author of *Museum Law—A Guide for Officers, Directors, and Counsel*, published by Rowman and Littlefield in 2014. She also is author of numerous articles in the field of nonprofit law and tax law. Ms. Phelan is the Paul Whitfield Horn Professor of Law Emeritus at Texas Tech University School of Law and is a recipient of the ABA Outstanding Academic Award in Nonprofit Law. Professor Phelan is a member of the State Bar of Texas, the American Bar Association, the American Institute of Certified Public Accountants, and is certified by the Texas Board of Legal Specialization in the field of tax law. She also is a member of the American Law Institute and is a Texas Commissioner to the Conference of Commissioners on Uniform State Laws where she served as a division chair. She also is a lifetime member of the American Law Institute and a lifetime Texas Commissioner to the Uniform Law Commission. Professor Phelan received her B.A., M.B.A., and Ph.D from Texas University and her J.D. degree with honors from the University of Texas School of Law.

PREFACE

Operation as a nonprofit organization is advantageous for many enterprises; the hospital, the day care center, the performing arts, the research organization, the country club, the professional organization, the homeowners' association, the family foundation, are examples. Organization and operation as a nonprofit can present problems; the possible loss of exempt status is a continuing concern. While nonprofit organizations benefit significantly from tax-exempt status, managers and advisors will encounter substantial problems if they do not understand the complicated federal tax laws confronting such entities. With the growth of nonprofit organizations, attorneys and accountants have recognized the importance of being cognizant of the law relating to nonprofit organizations. This book is designed to provide an overview of the law as well as specific information needed to meet routine problems facing directors of nonprofit organizations. It is intended to provide needed expertise for the sophisticated advisor as well as for one who only occasionally delves into issues relating to nonprofit and tax-exempt organizations.

The text contains a general discussion and a summarization of procedures to form and operate a nonprofit organization. It includes an explanation of how to organize a nonprofit organization, how to obtain and maintain federal tax-exempt status, the types of organizations that qualify for exempt status, how charitable organizations can avoid being classified as private foundations, and the consequences of private foundation status. The tax consequences to donors are discussed, and some methods of deferred giving are demonstrated. The concept and reporting of unrelated business taxable income is discussed in detail. Forms for obtaining tax-exempt status and tax return forms for annual reporting purposes are illustrated. The text includes a detailed discussion of lobbying provisions. One chapter includes a discussion of the potential liability of officers and directors of nonprofit organizations. Another chapter contains a discussion of generally accepted accounting principles applicable to nonprofit organizations. A final chapter incorporates procedures to dissolve and liquidate a nonprofit organization. The book provides a foundation for accountants, lawyers, and directors of nonprofit organizations to understand law and regulations applicable to nonprofit enterprises and to meet reporting requirements for tax-exempt organizations.

Marilyn E. Phelan



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