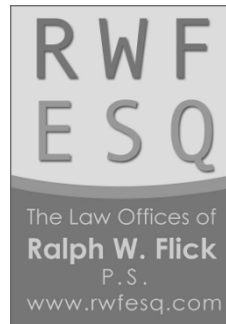


Non-Profit Organizations

Washington Association of Accountants

September 25, 2012

Ralph W. Flick



The Law Offices of Ralph W. Flick, P.S.

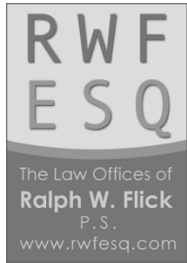
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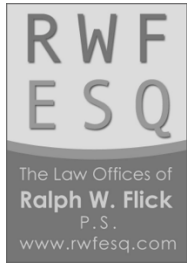
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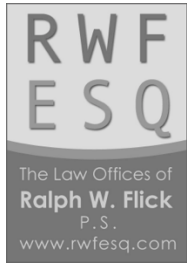
Disclaimer

Nothing in this presentation shall be considered to be legal advice. Please seek the advice of legal counsel and/or tax or financial advisors before making decisions regarding the subject matter of this presentation.



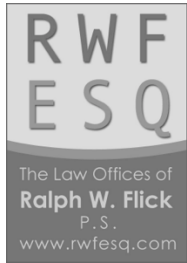
Agenda

- **Forming a Non-Profit**
 - Common Non-Profit Organizational Structures
 - The Washington Non-Profit Corporation Act (Chapter 24.03 RCW)
 - Public Charities and Private Foundations
 - Tax Exempt Status
 - Walk Through Form 1023
- **Non-Profit Management**
 - Fundraising
 - Form 990 and Related Obligations
 - Disclosure Requirements
 - Governance
 - Reserves
- **Unrelated Business Income**
- **Other Legal Issues**
 - Liability
 - Federal Law
 - State Law
- **Top Ten Legal Checklist for Non-Profits**



Forming a Non-Profit

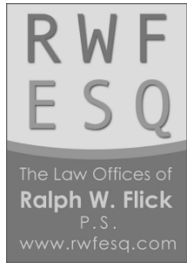
- 1. Common Organizational Structures**
- 2. The Washington State Non-Profit Corporation Act (RCW 24.03)**



Forming a Non-Profit

Public Charities vs. Private Foundations

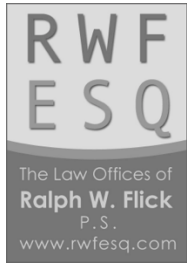
- 1. Concept**
- 2. Disadvantages of private foundations**
- 3. Default rule**
- 4. Four avenues to public charity status**
 - a) Nature of organization and its activities
 - b) Receipt of substantial contributions
 - c) Receipt of substantial exempt function income
 - d) Supporting relationship with other charitable organization(s)



Forming a Non-Profit

Public Charities vs. Private Foundations

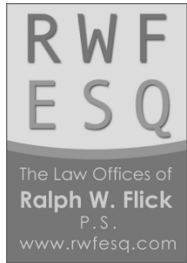
5. **Section 509(a)(1)/170(b)(1)(A)(iii).** Status is based on the nature of the organization (who it is or what it does).
6. **Section 509(a)(1)/170(b)(1)(A)(vi).** Status based on receipt of substantial support in the form of contributions from governmental units or the general public.
 - a) 1/3 support test (mechanical calculation)
 - b) "Normally"
 - c) Alternative facts and circumstances test (10% test)
7. **Section 509(a)(2).** Status based on receipt of substantial support in the form of revenue from conduct of activities in furtherance of exempt purposes ("exempt function income")
 - a) 1/3 support test (mechanical calculation)
 - b) "Normally"
 - c) Negative 1/3 test (investment income and UBI)



Forming a Non-Profit

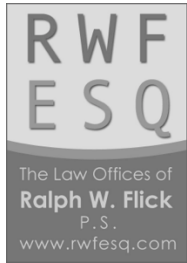
Public Charities vs. Private Foundations

- 8. Section 509(a)(3). Status based on relationship in support of one or more other “publicly supported” organization (i.e., those described in 509(a)(1) or (2).**
- a) Relationship Test
 - b) Organizational Test
 - c) Operational Test
 - d) Control Test



Forming a Non-Profit Tax Exempt Status

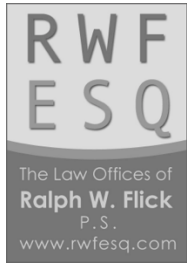
- 1. What is Federal Tax Exempt Status?**
- 2. Determining Appropriate Tax Exempt Status**
 - a) 501(c)(3)
 - b) Other 501(c) Organizations
- 3. 501(c)(3) Status**
 - a) Why Apply for 501(c)(3)
 - b) Eligibility
 - c) Responsibilities
 - d) Filing Requirements



Forming a Non-Profit

Walk Through Form 1023

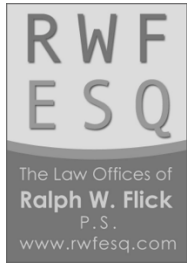
- 1. Introduction**
- 2. Part I – Identification of Applicant**
- 3. Part II – Organizational Structure**
- 4. Part III – Required Provisions in Your Organizing Document**
- 5. Part IV – Narrative Description of Your Activities**
 - a) Extremely Important
 - b) Who, What, When, Where and How
- 6. Part V – Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors**
- 7. Part VI – Your Members and Other Individuals and Organizations That Receive Benefits From You**



Forming a Non-Profit

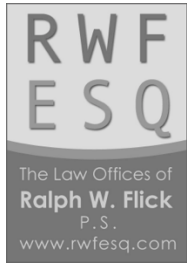
Walk Through Form 1023

- 8. Part VII – Your History**
- 9. Part VIII – Your Specific Activities**
- 10. Part IX – Financial Data**
- 11. Part X – Public Charity Status**
- 12. Part XI – User Fee Information**
- 13. Assembling Your Application**



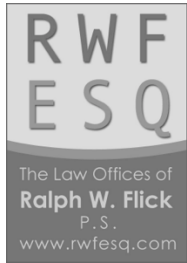
Non Profit Management

- 1. Fundraising**
- 2. Form 990 and Related Obligations**
- 3. Disclosure Requirements**
- 4. Governance**
- 5. Reserves**



Unrelated Business Income

- 1. Concept**
- 2. Purposes**
 - 1. Generate tax revenue**
 - 2. Prevent unfair competition**
- 3. Three-part test**
 - 1. Trade or business**
 - 2. Regularly carried on**
 - 3. Not substantially related to exempt purposes**



Unrelated Business Income

4. Deductions

5. Reporting on Form 990-T

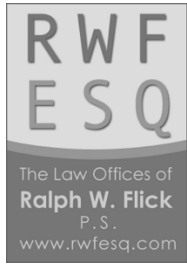
6. Impact of substantial UBI – how much is too much?

7. Modifications

- a) Dividends, interest, royalties, rents, gains, research income
- b) Unrelated debt-financed income
- c) Controlled subsidiaries

8. Exclusions

- a) Volunteer exception
- b) Convenience exception
- c) Sale of items received as gifts or contributions
- d) Small hospital exception
- e) Distribution of low-cost items

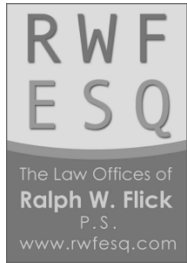


Other Legal Issues

1. Liability

2. Federal Law

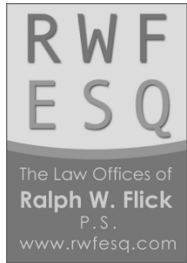
3. State Law



Top Ten List

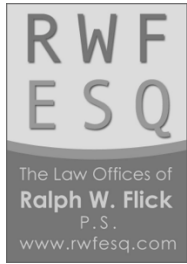
Small Business Issues are Non-Profit Issues

1. I am incorporated so I am not personally liable for the debts of my business.
2. The legal system is designed to make me whole if I am wronged so as long as I follow the law and comply with my contracts, I am covered.
3. I'm incorporated and have a domain name so I have a right to use that business trade name.
4. I am only planning to hire my friends and family so I don't need an employee handbook.
5. Class action lawsuits are for big companies because they have deep pockets.
6. If I get the right lawyer, I can get out of anything.
7. Contracts are in legalease and I can't understand them so I just send them to my lawyer to review and that will protect me.
8. I pay my credit line on time every month so I don't have to worry about the bank calling my loan.
9. I let my bookkeeper pay my taxes and I sign large tax checks every month, quarter and year so I know my taxes have been paid.
10. I don't need an estate and/or succession plan because it's just me and, if my kids want my business when they grow up, they can just have it.



Resources

1. My Website: www.rwfesq.com
2. IRS Documents
 - a) Publication 557, Tax-Exempt Status for your Organization
 - b) Publication 4220, Applying for 501(c)(3) Tax-Exempt Status
 - c) Form 1023
 - d) Instructions to Form 1023
3. Other References
 1. Lin, Albert, "Public Charities, Private Foundations and Supporting Organizations for the Non-Exempt Organizations", Texas Tax Lawyer, May 2009
 2. Richardson, Virginia G and Reilly, John Francis, "Public Charity or Private Foundation Status: Issues under IRC 509(a)(1) - (4), 4942(j)(3), and 507
 3. "Starting Off Right: What New 501(c)(3) Organizations Need to Know.
<http://www.irsvideos.gov/StartingOffRight501c3/>
 4. Washington Nonprofit Handbook.
http://www.sos.wa.gov/_assets/charities/Washington%20Nonprofit%20Handbook.pdf



Thank You!