



## GF WC CALIFORNIA FEDERATION OF WOMEN'S CLUBS HANDY HINTS FOR MEMBER CLUBS

Status as a tax-exempt entity provides your club with significant benefits and enables your club to dedicate its financial resources towards its purpose and goals. However, maintaining your status as a tax-exempt organization is not automatic, and there are some important dos and don'ts to keep in mind to help your club retain its status:

1. **DO Adopt a Conflict of Interest Policy:** Your club was granted its tax-exempt status to benefit the public, not private parties or interests. No part of a 501(c)(3) organization's earnings or equity can benefit individuals, such as the club's officers or board members... or even their family members. A conflict of interest policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to tax-exempt organizations. If your club does not presently have a conflict of interest policy in place, the Internal Revenue Service provides a sample policy in its Appendix A to the Instructions for Form 1023 (<https://www.irs.gov/pub/irs-pdf/i1023.pdf>), which can be modified as needed.
2. **DO Ensure Employee Compensation is Reasonable and Approved Through a Formal Process:** The IRS requires that all compensation for employees of a tax-exempt organization be *reasonable*. What is *reasonable* compensation is not always clear, but factors to consider are the job description, required experience or education level, compensation for similar positions in the area, number of hours worked, and overall budget of the charity. The best practice is to have a formal method which is used to determine the compensation of each employee, and have each employee's compensation approved by a compensation committee or by the board.

### NEW

*The California Supreme Court came down with a new ruling recently and I wanted to make sure all of our clients were aware of this, as it's impacted many of our clients who use independent contractors.*

*On April 30, 2018 the California Supreme Court issued an opinion that makes California one of the least hospitable jurisdictions in the nation for utilization of independent contractors. As a result, many companies that were in compliance with the labor laws in California related to independent contractors yesterday may be out of compliance today.*

*The ruling came in a case originally filed in Los Angeles County Superior Court by a worker named Charles Lee. Lee claimed that Dynamex Inc. improperly classified him as an independent contractor. The case drew attention from the media and legal minds alike because it involved the hot-button issue of independent contractor versus employee. The distinction being that an employee is subject to wage and hour laws and entitled to benefits such as workers' compensation.*

*Until yesterday, the general test for determining whether a worker could be properly classified as an independent contractor involved a number of factors which focused primarily on the degree of control that the company had over workers, but no one factor was determinative of independent contractor status.*

*In its 82-page decision, the California Supreme Court rejected the continued use of its well settled multi-factor test in favor of a more rigid "ABC" test. The new test presumptively considers all workers to be employees, and permits the classification of a worker as an independent contractor only if the hiring business satisfies the following conditions:*

*(a) That the worker is free from the control and direction of the hirer in connection with the performance of the work, both under the contract for the performance of the work and in fact;*

*(b) That the worker performs work that is outside the usual course of the hiring entity's business; and*

*(c) That the worker is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.*

*Businesses operating in California will need to reevaluate their use of workers classified as independent contractors and, if needed, quickly restructure the business and relationships to comply with this decision.*

3. **DO Comply with Annual Reporting Obligations:** There are annual filings required for tax exempt organizations. In addition, each tax-exempt organization is required to file some type of IRS Form 990 annually. Failure to comply with these reporting obligations may jeopardize your club's tax-exempt status.
4. **DO Make Tax Returns Available for Inspection:** Tax-exempt organizations must make their tax returns, including any schedules, attachments and supporting documents, available for public inspection and copying. The records should be made available at the organization's office to accommodate in-person requests.
5. **DO Maintain Books and Records:** Tax-exempt organizations must maintain books and records, which show all sources of receipts and expenditures. Good recordkeeping systems assist your organization in monitoring its budget and preparing financial reporting documents. Certain records, including but not limited to, organizing documents, by-laws, and board minutes, must be maintained permanently. A best practice before destroying any record, is to review any applicable retention requirements for the specific type of record prior to destruction.
6. **DO Ensure Membership Decisions are Non-Discriminatory:** The law prohibits organizations from discriminating against members or potential members on any illegal basis. This prohibition also applies in situations of the removal of members. A best practice before a member is removed is to ensure that a hearing process is in place which allows both sides of a dispute to be heard before the board votes on the issue.
7. **DON'T Engage in Political Campaign Activities or Substantial Lobbying:** In general, no organization may qualify for tax-exempt status if it engages in any political campaign activities or if a substantial part of its activities is attempting to influence legislation (i.e. lobbying). Political campaign activities include making contributions to a political campaign fund or making public statements for or against a candidate. To determine whether lobbying activity is 'substantial', the IRS considers a variety of factors, including the time devoted by workers (both volunteer and paid) and the expenditures devoted by the organization to the activity – this is a complicated and subjective analysis by the IRS. If the club engages in political campaign activities or excessive lobbying, the result will be the IRS revoking your tax-exempt status or imposing additional taxes.

## NEW

HACKLER FLYNN & ASSOCIATES IS AVAILABLE TO CFWC CLUBS & DISTRICTS AT THEIR OWN COST FOR SERVICES THAT DO NOT CONFLICT WITH GFWC OR CFWC

**HACKLER FLYNN & ASSOCIATES, APC** created this document for GFCW California Federation of Women's Clubs, however, this document is not intended as legal advice. Additional facts or future developments may affect subjects contained herein. Seek the advice of an attorney before acting or relying upon any information herein. Hackler Flynn & Associates, APC may be contacted at (323)247-7030 or found at [www.hacklerflynnlaw.com](http://www.hacklerflynnlaw.com).

*Last Update July 2018*