



Sunrise Table Tennis Club, Inc.

A Not-For-Profit 501(c)(3) Public Charity Organization

EXECUTIVE DIRECTIVE 4

November 16, 2015

THE NITTY GRITTY OF GOVERNMENT COMPLIANCE

Our club is officially registered as a Not-For-Profit Corporation with the State of Florida, and as a tax-exempt 501(c)(3) Public Charity with the IRS under the exempt purpose classification “educational” (the specific classification in our case: Adult Education). We operate under strict laws and regulations for both the state and the IRS in order to achieve and maintain these statuses as nonprofit and tax-exempt.

The “Florida Not For Profit Corporation Act” governs the formation, operation and dissolution of nonprofit corporations in the State of Florida. A nonprofit corporation in Florida is managed by its board of directors and operated by its officers and employees. Instead of shareholders, a nonprofit corporation may, but is not required to, have members. Nonprofit corporations are specifically organized to not earn profits: No part of the income or surplus of a Florida nonprofit corporation may be distributed to its members, directors or officers; however, reasonable compensation may be paid for services rendered.

Internal Revenue Code, part of federal law, along with IRS regulations establish the tax rules which govern the formation and operation of a 501(c)(3) Public Charity. Violations of these tax rules are civil infractions of law and can potentially result in loss of tax-exempt status (rarely) and/or imposition of small financial sanctions.

The most important principles of operation we must maintain as a nonprofit Public Charity are:

1. Our revenues or assets must not inure to the benefit of individuals or of enterprises which are not also a nonprofit 501(c)(3) Public Charity.
2. Our programs and activities must be consistent with our educational purpose.

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Private Inurement

“Private inurement” is when a 501(c)(3) nonprofit's money is devoted to private uses instead of charitable purposes. Payments or salaries to Directors, Officers, employees, volunteers, suppliers or vendors, when within the bounds of reasonable compensation for the services or goods provided, are consistent with the execution of the organization’s charitable purpose (education, in our case) and would not be considered private inurement. Use of organization funds or assets to pay for personal expenses of individuals or to provide funds, goods or services to an entity which is not a nonprofit Public Charity without a commensurate exchange of equal or greater value to our club would be considered private inurement.

We must also be careful not to violate the bounds of insider benefits. “Insiders” include anyone who has an opportunity to control or influence the organization’s policies, decisions or activities, such as Directors, Officers, Advisory Board members, key employees and volunteer Committee chairpersons. Any such person should be excluded from any vote or decision related to the granting of a benefit (e.g., compensation or subsidy) to that person. Also, any person receiving a significant portion of the organization’s revenue as payment or compensation should not hold any insider position.

Subsidies and Sponsorships

Any program we offer which provides subsidies or sponsorships to individuals must pass two criteria to remain within the bounds of our legal restrictions:

1. Is the activity for an educational purpose?
2. Are the funds provided on a non-discriminatory public rather than private basis?

Internal Revenue Code allows a charitable organization to provide funds or services for the “relief of the poor and distressed or of the underprivileged”. However, such charitable works must fall within the exempt purpose of the organization; and must adhere to strict guidelines on the classes of relief, which include such things as housing, healthcare, emergency services, financial stability (job training, childcare for work hours, employment assistance, credit counseling, etc.), legal services and disaster relief.

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While we can provide subsidies for classes of our members, such as subsidized training clinics for all Seniors or subsidized tournament entries for all Juniors, we cannot subsidize individuals for either our programs and activities or any outside table tennis (or other) activities based on financial need. Similarly, while a Public Charity organization is allowed to provide a low- or no-cost transportation service to the aged or infirm population within a community, we cannot subsidize the transportation or travel costs of individuals to table tennis activities even if based on age, financial need or infirmity. It is one thing to run a Meals on Wheels service for the poor and elderly of a community or a Special Olympics organization for all handicapped persons, and quite another to pay the table tennis expenses of a few individual members because they are aged, handicapped or low income. We all feel the laudable desire to help such individuals, but we cannot use our Public Charity funds to do so.

On the other hand, we can offer merit awards such as free memberships or subsidies to individuals based upon table tennis achievements. This requires a pre-determined program and method of determining awards. Also, normal travel expenses for club events and activities, such as gas reimbursements for table moves, equipment repairs or a transport service for donors to a fund-raising event (can't be restricted to just a certain individual), are not forbidden.

Being granted the status of nonprofit by the State of Florida and a Public Charity by the IRS does not mean that we are free to do any and all charitable acts with our funding. We have our Mission and our goals. Let's not let our hearts lead us to losing our government-granted statuses by stepping outside the defined restrictions.

State Sales Tax Compliance

As a 501(c)(3) nonprofit, we are exempt from paying sales tax on our purchases by using our Florida Consumer's Certificate of Exemption (currently #86-8016866089C-5, expiring 10/31/2020), renewable every five years. To qualify for this exemption, the vendor or supplier must be given a copy of the certificate in advance of the purchase and the purchase must be made directly by our organization, not by an individual later to be reimbursed. Such purchases should always be made directly with club funds, by check, debit card or cash. In the case of cash,

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an authorized Officer can make a cash withdrawal in advance from our bank account, which would be tracked in our accounting as a petty cash account. As always, receipts must be gotten to account for all expenditures. The Officer making the cash withdrawal is responsible for tracking the money, reporting all withdrawals and expenditures to our accountant, submitting all receipts to the Treasurer and depositing unused monies back to our bank account.

This certificate does not exempt us from collecting sales tax when we sell or rent merchandise, new or used. Executive Directive 1 explains how we can legitimately avoid this requirement when we divest used equipment, such as old tables, by accepting a donation in excess of the fair market value of the equipment and giving the equipment to the donor as a benefit for the donation. The same principle cannot apply when we are purchasing and reselling merchandise for a profit, or renting out our equipment. In this case, we are required to obtain a Resale Certificate from the state and collect, report and remit sales tax on the sales or rentals. Once we first obtain a Resale Certificate, we must file the sales tax return every reporting period (usually monthly or quarterly) even if no sales tax has been collected for that period. Missing a filing deadline, even by one day and even if no sales tax is due, incurs a \$50.00 penalty.

We can give away merchandise with our logo, such as t-shirts, mugs, etc., as a benefit to a donor without the need to collect and report sales tax. This cannot be used to avoid collecting sales tax by simply calling a sale a “donation”. Buying a batch of t-shirts and giving them away to donors as part of a fund-raising campaign is different than offering them to club members for a fixed price at a small upcharge. (Note: Refer to Executive Directive 1 for details on how to determine if a merchandise give-away to donors is “incidental” or is considered a benefit which reduces the amount of their donation that qualifies for an income tax deduction.)

Business Income Tax

Once we get into sales or rental of merchandise, we must also take into account the IRS laws and regulations on “unrelated business income”. This is defined as:



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“income from a trade or business, regularly carried on, that is not substantially related to the charitable, educational, or other purpose that is the basis of the organization's exemption.”

Even though the revenues of the sales or rentals are used for our tax-exempt purpose (running club programs), the revenues are still considered “unrelated business income” unless it meets one of these exemptions:

- It is not “regularly carried on”. (Selling food at tournaments would be exempt; having a website store for equipment sales would not be.)
- It is done for the convenience of the members. (Selling equipment at club play for the convenience of our members would be exempt.)
- The labor involved is all done by uncompensated volunteers.
- The merchandise is all donated (as in a thrift shop).
- Bingo. (All other forms of gambling are not exempt.)

(These exemptions apply to counting the profits as business income for IRS purposes, but do not exempt us from collecting state sales tax on the sales or rentals.)

If our gross income from “unrelated business income” reaches \$1,000.00 during any accounting year (January 1 – December 31), we are required to file a Form 990-T with the IRS for the year, in addition to our normal Form 990-N, in order to report the unrelated business income and pay corporate income tax on the profits. We also need to file and pay estimated taxes during the year if we expect the income tax liability to reach \$500.00 for the year, to avoid underpayment interest and penalties.

Government compliance can be tricky unless you know the rules and restrictions. “Keep it simple” is a good adage to follow to avoid the complications that come with non-compliance.

Martin Shapiro
President, Sunrise Table Tennis Club Inc.
Approved by the STTCI BOD.

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