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Fiscal Sponsorship: Six Ways to Do It Wrong

By Gene Takagi (<http://www.nonprofitlawblog.com/author/gene-takagi/>) on February 20, 2009

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Gene Takagi is the managing attorney of the NEO Law Group. Follow Gene on Twitter @GTak (<http://twitter.com/GTak>).



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(<http://www.nonprofitlawblog.com/assets/Wrong1.jpg>)

Fiscal sponsorship is the term used to describe a set of relationships between (1) an individual or group desiring to run a project that advances a tax-exempt purpose; and (2) a tax-exempt organization that is willing to serve as the project's fiscal sponsor by conferring upon the project the benefit of its tax-exempt status. It's important to note that fiscal sponsorship is not defined under state or federal law and there are several possible models that may be used to accomplish the parties' goals. But it's more common than not to see fiscal sponsorship agreements drafted in a way that fails to accomplish the parties' goals, is inconsistent with applicable laws, creates exposure to liability for one or both parties, and jeopardizes the donors' ability to take a charitable deduction.

Greg Colvin's book "Fiscal Sponsorship – Six Ways To Do It Right" (available here (<http://www.fiscalsponsorship.com/>)) is an indispensable resource for an individual or group considering fiscal sponsorship as an alternative to forming a nonprofit and existing organizations that either serve or are considering serving as a fiscal sponsor. The most common way to do it right is referred to by Colvin as a Model A (or comprehensive) fiscal sponsorship, where the sponsor takes the project in-house, and the project has no separate legal existence. Another popular form of sponsorship is referred to as a Model C (or pre-approved grant relationship) fiscal sponsorship, where the sponsor and the project have a grantor-grantee relationship that enables the project to obtain proceeds of a grant and donations through the sponsor (i.e., the sponsor essentially regrants the initial gifts to the project).

Because it's sometimes easier to learn from others' mistakes, here's our list of six ways to do fiscal sponsorship wrong:

1. Sponsor organization fiscally sponsors a project without adequate due diligence/review of the project; its mission; its founders and steering committee; and their past, present and planned activities. The Model A sponsorship is akin to a merger and acquisition. The sponsor must treat such a transaction with appropriate care and ensure that the sponsorship furthers the sponsor's own charitable purposes.
2. Project gets fiscally sponsored by a sponsor without adequate due diligence/review of the sponsor; its mission; its reputation; its previous experience with fiscal sponsorship; its sponsorship policies; and its fees.
3. The fiscal sponsorship arrangement is created without a written agreement. All sorts of room for misunderstandings, harsh feelings, and disputes. The sponsor is likely to have ultimate control and discretion over all terms where there was no mutual assent if a Model A structure was contemplated.
4. The fiscal sponsorship agreement does not include clear exit provisions. Can the project spin off? Can it be moved to another fiscal sponsor, and if it can, what are the qualifications of the successor sponsor? What assets (including intellectual property assets) follow the project and what assets stay with the sponsor?
5. The sponsor does not provide sufficient oversight over the project. In a Model A structure, the sponsor may be entirely liable for any and all debts and obligations incurred by the project.
6. A Model C-like fiscal sponsorship is structured in a manner that has the sponsor serving as a conduit for donations to go to the project. As Colvin states in this article (http://www.fiscalsponsorship.com/images/WCTEO_Gregory-Colvin.pdf): "If there is a "trap for the unwary" among fiscal sponsorship arrangements, Model C is it. If the control mechanisms are not administered properly, Model C can collapse into a "conduit" or "step transaction" in which the IRS will disregard the role of the sponsor and declare that the funding source has, in effect, made a payment directly to a non-501(c)(3) project. For funding sources, the result will be that the donor cannot take a charitable deduction, or the the private foundation must now observe the strictures of "expenditure responsibility." The project will find that funding has disappeared. The sponsor may

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lose its tax exemption for failure to exercise sufficient control over its grants, allowing those funds to be used in a noncharitable manner.”

Additional Resources:

Fiscal Sponsorship Basics (http://www.nonprofitlawblog.com/home/2006/12/fiscal_sponsors.html)

Fiscal Sponsorship Revisited (<http://www.nonprofitlawblog.com/fiscal-sponsorship-revisited/>)

National Network of Fiscal Sponsors (<http://www.fiscalsponsors.org>)

Best Practices for Fiscal Sponsorship (<http://www.fiscalsponsors.org/pages/best-practices-fiscal-sponsorship>)

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-  Rob N says:
February 20, 2009 at 6:27 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-468>)
My colleague is interested in starting a performing arts organization, and we're exploring options for its organization. He has a 501(c)3 organization established in another state, but that group has been dormant for almost a year – its board has dissolved, and it is not producing. Two questions, at least, arise:

 1. Can a fiscal sponsor operate in a different state than its sponsoree? (Can that 501(c)3 be his fiscal sponsor?)
 2. Can a dormant 501(c)3 be a fiscal sponsor, or must it be actively working on charitable activities?
-  Marvin Klein (<http://MSK-NonProfitInsurance.com>) says:
February 26, 2009 at 12:51 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-469>)
Another way to “Get it Wrong” is to sponsor and brand name an event from a small non profit, without checking to see that the event is properly insured. Without insurance, and with limit assets in the nonprofit, the sponsor may wind up holding the bag in the event of an accident. In certain cases (check with your insurance broker), the Sponsor should request that the Non Profit add the Sponsor as an additional insured for the event. Yours, Marvin Klein, McManus Serra & Klein, Insurance Brokers to the Non Profit Community
-  Gene Takagi (<http://profile.typepad.com/gtak>) says:
March 6, 2009 at 11:48 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-470>)
Rob, a fiscal sponsor may be based in a different state from one of its projects. However, it may need to qualify to operate in the state where the project is based. It may further need to register in such state to engage in charitable solicitations.
The board of the fiscal sponsor must provide oversight over the project. So, the sponsor cannot truly be dormant. Note that the sponsor's board must ensure that sponsoring another organization is actually in furtherance of its own charitable purposes. Generally, what you are considering does not look like a sound strategy.
-  Francesca says:
March 30, 2009 at 5:54 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-471>)
Hello,
What happens if the organization that the 501 (c) (3) is sponsoring engages in political activity in violation of the rule? Is there are revenue ruling on this issue?
-  Gene Takagi (<http://profile.typepad.com/gtak>) says:
March 30, 2009 at 11:02 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-472>)
Francesca, the fiscal sponsor's 501(c)3 status may be at jeopardy if its Model A project engages in prohibited political activity. Remember that the Model A project has no separate legal existence so the violation is the sponsor's violation of IRC Section 501(c)3.
-  Dara (<http://f4dc.org>) says:
May 12, 2009 at 1:16 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-473>)
Can a for-profit business have a fiscal sponsor for a program or community project affiliated with the business, but not generating profit?

7.  Tandra Sbrocco says:
May 29, 2009 at 6:26 am (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-474)
Are there any examples of the Model D agreement for fiscal sponsorship?
8.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
June 8, 2009 at 8:09 pm (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-475)
Dara, a for-profit's officers may serve as the advisory committee for the project. However, the project and for-profit assets should not be commingled.
9.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
June 8, 2009 at 8:14 pm (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-476)
Tandra, re: Model D: look for affiliation agreements between independent chapters and national organizations that have included the chapters in a group exemption. The IRS has published important information re: group exemptions as well (see Publication 4573).
10.  Tony Martires says:
July 22, 2009 at 10:35 am (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-479)
are there legal requirements (like, notice/application filing or amendments to articles of incorporation) from the irs and state of california, other than the financial and project management responsibilities, when a non-profit organization decides to act as fiscal sponsor?
11.  PJ Heller says:
August 19, 2009 at 10:47 pm (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-480)
Under a Model A and B, I have read that the sponsor owns the result of the project. Is it possible to write into an agreement for Model A or B that the ownership belongs to the project?
12.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
September 6, 2009 at 11:18 am (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-481)
PJ, the Colvin models of fiscal sponsorship are well thought out constructs to help people understand the possibilities of fiscal sponsorship. But variations of the models are absolutely possible.
In a strict Model A or Model B framework, the sponsor must be the owner of the project. But you might include a Model C component in which the founders of the project might retain some ownership of certain assets that can be funded by the sponsor. This can get complicated, may increase the sponsor's exposure, and may generate tax liabilities for the founders. For all these reasons (and some others), to my knowledge, such structures are not very common.
13.  allison (<http://www.bikesaviours.org>) says:
September 26, 2009 at 10:21 am (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-482)
What paperwork must be submitted (and to whom) in order to formalize the sponsor agreement?
Is this even necessary?
14.  Samantha says:
October 7, 2009 at 11:43 am (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-483)
Is it possible to have two or more fiscal sponsors for the same project? Are there any resources or articles you can point me to that may answer this question? Thanks.
15.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
October 9, 2009 at 6:38 pm (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-484)
Allison, the fiscal sponsorship agreement should be a written contact approved by the board of the sponsor and the "project committee" agreeing to manage the project subject to oversight of the sponsor. It does not need to be submitted with an information return (e.g., Form 990), but there may be reporting requirements associated with the project activities.
16.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
October 9, 2009 at 6:42 pm (/fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-485)
Samantha, your question is a tricky one to answer. Generally, it is not appropriate to have two sponsors for the same project (unless the two sponsors have agreed to a joint venture or partnership to oversee the project). But a "project committee" might have two separate projects, each run under a different sponsor. Or the "project committee" might be an entity involved in a Model C sponsorship with the sponsor and be delegated with managing a Model A project of the sponsor. You need to review Colvin's book to understand the terminology. And you should have a lawyer to explain such hybrid arrangements.
17.  Binny says:

November 6, 2009 at 11:17 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-486>)
Help. The executive director of the fiscal sponsoring agent we have an agreement with is making decisions outside of the agreement we have in place, and those decisions are affecting our ability to move forward with our own stand alone organization. We have given her notice of our intent terminate our agreement, we have filed our incorporation papers, and the 501(c)3 is in process. Even though our contract termination language specifically states that upon invoking the termination clause, all funds will be remitted to our agency, she is now refusing to abide by the contract and transfer the funds our project has raised. She is citing 501(c)3 tax codes which she claims states that she has the duty to ensure the dollars raised by our project are spent appropriately, and thus cannot release the funds we have raised and "parked" in an account at her agency. Her agency is already receiving 10% of all incoming donations specified for our project. We have worked so hard to get our organization off the ground, and we hope we won't have to resort to hiring attorneys to protect our interests.

18.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
November 10, 2009 at 10:35 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-487>)
Binny, you should confer with an attorney to see what rights you actually have under the agreement. It would not be unusual for the agreement to prohibit a transfer of assets to your corporation until it receives a favorable determination of 501(c)(3) status. Note also that fiscal sponsorship does not mean an agreement to "park" funds temporarily. The funds all belong to the sponsor, which remains responsible and potentially liable for any misuse of such funds. However, the funds may be restricted to furthering the project's mission, and your nonprofit may be delegated with the authority to manage the project subject to the sponsor's board's oversight and control.
19.  Nitin Mishra (<http://www.childrenfirst.co.in>) says:
November 15, 2009 at 6:29 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-488>)
my orgisation is registerd in india want fiscal sponsorship
please help me
<http://www.childrenfirst.co.in> (<http://www.childrenfirst.co.in>)
20.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
November 15, 2009 at 9:52 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-489>)
Nitin, try contacting an organization like Give2Asia. Sponsors generally do not fiscally sponsor foreign projects unless they (the sponsors) have a presence in such country. Also, note that sponsors generally do not fundraise on behalf of their projects and may require a minimum amount committed to the project before they will sponsor it.
21.  Matt says:
December 4, 2009 at 8:25 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-490>)
What should I require of an organization who wants rent my facility using my non-profit rate structure. Many organizations do not have their own 501-c 3 status, but state they are sponsored by a non profit organization.
22.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
December 4, 2009 at 2:25 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-491>)
Matt, this may involve issues that go beyond fiscal sponsorship. With respect to organizations that state that they are fiscally sponsored, if it is important to verify that you are renting to a 501(c)(3) entity, you'll probably want the sponsor to sign the lease and review a copy of the fiscal sponsorship agreement.
23.  Mauricio says:
December 5, 2009 at 8:45 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-492>)
We are located in Costa Rica and would like to have a fiscal sponsor so that we can fundraise in the U.S. – what would you recommend?
24.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
December 12, 2009 at 10:16 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-493>)
Mauricio, it may be difficult to find a fiscal sponsor for a foreign organization because of the due diligence required of the sponsor and the laws and recommended practices regarding international charitable activities. You'll probably need a connection to a U.S. charity that

already operates or makes grants to organizations in Costa Rica.

25.  K. Linden (<http://stepbystepnews.org>) says:
February 1, 2010 at 8:27 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-494>)
I started a non-profit in 1997. Our mission is to bring hope and health to mom, babies and families. We work primarily with low income men in women who are expecting a baby or in early years of parenting. A group of people in my community would like to build a much needed athletic facility in my community. They would like to operate under the umbrella of our 501 c 3 status. Can we be their fiscal sponsor until they can get established.?
26.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
February 2, 2010 at 8:52 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-495>)
K, you may be able to fiscally sponsor another organization, but only if it furthers your own organization's charitable purposes. Even if your missions are aligned (and they seem pretty different to me), I strongly recommend not entering into a fiscal sponsorship of another group without having a full understanding of the legal relationship created and your responsibilities as the fiscal sponsor, a well-drafted agreement that reflects the mutual understanding of the parties and compliance with applicable laws, and a solid projection of the financial benefits and costs associated with the sponsorship. If you don't have deep knowledge of this area, I think you should purchase Greg Colvin's book on fiscal sponsorship available at <http://www.fiscalsponsorship.com> (<http://www.fiscalsponsorship.com>).
27.  nola says:
February 9, 2010 at 2:18 pm (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-496>)
My group is in the process of obtating 501(C)(3) status but have a pending fundraiser planned. Since it takes a while for approval (2-6 months), is it possible to get a fiscal sponsor for a one time event?
28.  Gene Takagi (<http://profile.typepad.com/gtak>) says:
February 13, 2010 at 11:16 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-497>)
Nola, it is possible to get a fiscal sponsor for a single event. But you may need to shop around a little to find a willing sponsor organization.
29. Fiscal Sponsorship Basics - Nonprofit Law Blog (http://www.nonprofitlawblog.com/fiscal_sponsors/) says:
January 25, 2015 at 1:12 am (</fiscal-sponsorship-six-ways-to-do-it-wrong/#comment-28131>)
[...] different models of fiscal sponsorship possible, there are only a few ways to do it right and several ways to do it wrong. Accordingly, it is important for a sponsor and its project to understand precisely their [...]



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I need some various clarity on for profits obtaining Fiscal Sponsorship.

Say a performing arts organization for youth ages 6-18 who offers voice, acting, dance, piano, musical productions & etc. Wants to obtain a Fiscal sponsor with an organization they already help out. The performing arts organization is NOT a nonprofit, but is in dire need of funds so the program can continue to exist. Currently the program is being funded 90% by owner & 10% annual membership fees for those youth involved. Is a fiscal sponsorship legal in this case?

[Reply](#) · [Like](#) · 1 · [Follow Post](#) · January 21 at 8:36am**Kelea K. Levy** · [Follow](#)

You can do three possible things here....1) you, as a for profit business, can be contracted by the nonprofit to provide services. In other words, the organization you are helping can write a grant to create a program around your services and they just pay you as a contractor for those services. They will keep the bulk of the funding for running their whole program, but you get a big chunk free and clear for providing specific services as a for profit contractor. In this case, DO write a contract with the nonprofit organization. Do not include anything in the contract about the grant - the grant's not really your business in this situation. 2) Yes - you can just write a grant under the nonprofit and they can sponsor your organization as long as the nonprofit retains complete control over the project for which you write the grant. Complete control means they will manage all the funding and how it's spent, and the actions you take to fulfill the objectives of the grant. In this case DO write a contract, and do talk about how much funding will go directly to your project and how much will be taken by the organization for managing your grant. 3) Start your own nonprofit. If payments from participants are only covering 10% of expenses, and considering the type of work your organization does, you are probably a nonprofit sort of organization anyway.

[Reply](#) · [Like](#) · 1 · February 18 at 6:55pm**Shawn Theloveofmusic Dean** · Owner at The Love of Music

Thank you so much!!!!!!

[Reply](#) · [Like](#) · 1 · February 18 at 7:31pm**Doc Gibraltar** · [Follow](#) · Managing Director at RISE Now

Our non profit is considering sponsoring a Playground building charity with a very similar mission to ours. They are based out of Australia and we are very familiar with their work and have already collaborated in various ways. They have interested donors in the United States and we would like to help them. They would like to use the funds they raise in the US to pay a staff member that lives in the United states. As a sponsoring organization are we responsible for the payroll tax liabilities? Should we 1099 their employee as a subcontractor? Where might I get more information about this? thank you

[Reply](#) · [Like](#) · [Follow Post](#) · February 19 at 11:00pm**Iлона Lantos** · [Follow](#)

With our project we entered into fiscal sponsorship but without written agreement. Now that we are getting ready to establish our own non-profit, I wonder if there is any way to get our money transferred if the sponsor agree or is it illegal for the sponsor? Is it possible to request the sponsor to establish a written agreement now? They have been sponsoring us for about 8 months now.

[Reply](#) · [Like](#) · [Follow Post](#) · July 15, 2014 at 12:05am**Kelea K. Levy** · [Follow](#)

Your fiscal sponsor has signed a legal agreement directly with the grantor organization saying that it will maintain complete fiduciary and financial management responsibility for your grant. With that said...there are two ways to undo that: 1) if the grant is the type of grant where funding has to be re-approved, say yearly, this can be a chance to communicate directly with the grantor and let them know you are a separate organization now and that you want the funds (and responsibility) tied directly to you. When the agreement comes up for resigning, the grantor can simply sign with you instead of your fiscal sponsor. You can work with your fiscal sponsor to help you set this up which is what you should try to do first, but if all else fails, under this arrangement there's the option to bypass the fiscal sponsor. 2) For al... [See More](#)

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Kelea K. Levy Thanks so much for your extensive explanation. In the mean time the sponsor transferred the remainder of the fund to our 501c3.

[Reply](#) · [Like](#) · 1 · February 18 at 7:29pm**Iлона Lantos** · [Follow](#)

How should it be listed on the 990?

[Reply](#) · [Like](#) · February 18 at 8:54pm**Jason Hayes** · New York, New York

What resources are available for me to learn more about the due diligent processes as a project looking to partner with a sponsor?

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