



"Giving" Advice



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ABOUT YOUR FOUNDATION

Since 1973, the **Toledo Community Foundation** has provided individuals, families and businesses interested in the well-being of our community with an *efficient, effective, low-cost, professionally managed* mechanism to achieve their charitable goals.

For philanthropists wishing to maximize the impact and life of their charitable gifts, the Foundation provides *resources for thoughtful giving*. Using its expertise and personalized services, **Toledo Community Foundation** helps donors transform their philanthropic impulse to measurable

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Charity Board Members Focus on Taxes

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NEW YORK (Dow Jones)--Charity board members who don't pay attention to their organization's compliance with the law could end up paying a price.

A recent federal appeals court decision supported a \$409,000 IRS penalty against a nonprofit hospital board chair in Texas for unpaid payroll and related taxes, and shows the extent to which board members can be held personally liable for a charity's decisions.

Nonprofit organizations have been put under financial stress by the slumping economy. Add to that the increased oversight of the tax-exempt sector by the Internal Revenue Service and there's a greater chance of a charity's slip-ups and misdeeds falling onto a board member's shoulders.

"This stuff is starting to spread like wildfire in boardrooms, and people are starting to get nervous," says Michael Peregrine, a partner in the Chicago office of McDermott Will & Emery LLP who specializes in nonprofit law.

It can be difficult for a board member to determine what they must account for and what can be left to a charity's staff. Above all, issues of tax compliance cannot be ignored. They also are not typically covered by insurance policies for directors and officers.

All businesses, including tax-exempt charities, are required to withhold Medicare, Social Security and income taxes from employees' wages and turn them over to the government in a timely manner. They also must pay the employer's share of Social Security and Medicare.

community impact. Beyond the gifting of assets, the Foundation helps donors identify issues of importance to them and *inspires engagement* with community organizations addressing these issues, thereby maximizing the impact of charitable gifts and creating a greater sense of fulfillment.

The IRS can impose a penalty equal to the unpaid amount on any responsible person. This is typically someone who oversees the tax collecting and accounting, but it can include board members who sign off on tax forms, participate in everyday financial operations or know about a failure to comply.

In the case of the Groves (Texas) Community Healthcare Foundation, the appeals court upheld a previous judgment that the board chairman was responsible. Factors included his 26 years of board service, his signing of tax forms, his wife's employment as chief operating officer of the hospital and his paid work as a consultant to the organization, according to court documents.

According to court documents, he was aware of past missed payments and "has not presented evidence that any measures were taken ... to ensure the satisfaction of the outstanding liability" other than "urging the executive director to pay the taxes."

When board members make requests to staff, they can be responsible for following through by asking for documentary proof or using auditors to check compliance. Board chairs who sign the nonprofit tax Form 990 take on a greater responsibility for the organization's financial situation and general decisions.

Board members shouldn't micromanage an organization's paid staff, and the Texas case presents some other questions regarding oversight and conflicts of interest. But there is a moral to the story: "Board members can't just take what management is saying at face value, they must have evidence supporting certain actions they're taking," says Frank Kurre, national managing partner at the not-for-profit industry practice at Grant Thornton LLP.

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