

NJ Charities Division Requirements for an Audit of a Private Foundation

DECEMBER 15, 2008

BE IN A POSITION OF STRENGTH

New Jersey tax laws with respect to charities do not speak directly to the concept of a “private foundation”. Nonetheless the State is interested in regulating soliciting and reporting of contributions received by a tax exempt entity, i.e. protecting the public interest. Despite the fact that a “private foundation” is granted tax-exempt status by the IRS, the State’s position is that the funds donated to a private foundation by its grantor (s) are **NOT** from publically solicited sources, rather from the founder(s)-a private family affair. An exception arises when a private foundation receives contributions from third party entities of \$25,000 or more. The rule is that when more than \$10,000 is raised from the public, the tax-exempt entity is required to register with the NJ Charities Division subjecting the entity to the registration and reporting requirements. Although the “third party entities” contributing may be related to the grantor, contributions from these sources are deemed “public support”. If there is public support of \$25,000 or more and total gross revenue of \$250,000, then an audit must be performed. The third parties are the related entities such as Subchapter S, partnerships, regular corporations and trusts in which the grantor has any level of ownership.

Illustrations

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|---|-------------------|
| • \$250,000 contributed by the grantor | no audit required |
| • \$250,000 contributed by the grantor, and
\$24,999 from third party entities | no audit required |
| • \$250,000 contributed by the grantor, and
\$25,000 from third party entities | audit required |

If you have any questions, please contact the WS+B tax department.

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WATCH OUT FOR AUDIT REQUIREMENTS OF A PRIVATE FOUNDATION

Questions or comments?
E-mail us at taxbriefs@withum.com



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