

January 2015

## **IRS to Increase Scrutiny of Not-for-Profits' Compensation**

Not-for-Profits (NFPs) continue to receive the brunt of the government's attention as the Internal Revenue Service attempts to identify executive compensation excesses and put limitations on the amount that is paid to senior management.

Over the last 6 years there has been an unprecedented amount of media and public attention placed on excesses in executive compensation, focusing not only on public companies, but not-for-profit organizations as well.

For publicly traded companies, the government's reaction to excessive compensation has resulted in legislation such as Sarbanes-Oxley (SOX), Dodd-Frank, the FASB requirement affecting the expensing of stock options, and the SEC's tightening of executive compensation disclosure rules. Although aimed at public companies, in reality they also impact all companies, including NFPs.

In a recent article in The CPA Journal, the authors indicated, "The IRS intends to aggressively enforce section 4958, and the related regulations." Further it indicated, "...the IRS was 'seeing issues' in the reporting of loans, deferred compensation, and other perks."

\* IRS Examinations starting in 2008 have led to collections of over \$39,000,000 in additional revenue from expanded excise tax assessments to more than 73 disqualified persons or insiders.

It is the organization's responsibility to prove that compensation for the leadership of an NFP is appropriate through a "rebuttable presumption of reasonableness" in which case, the burden of proof then reverts to the IRS. This requires that four conditions be met by the NFP:

1. the compensation decisions were made by an independent body (committee or Board);
2. the Board relied upon competitive information provided by a qualified and independent consultant,
3. the transactions and basis for their determination were appropriately documented.
4. A written and well thought out compensation philosophy exists that provides rational that supports the total compensation and benefits of the disqualified person.

\*According to IRS.gov

 : (480) 477-8051  
 : (480) 393-8985  
 : [www.execompsolutions.com](http://www.execompsolutions.com)

7150, E. Camelback Rd  
Suite 444, Scottsdale, AZ 85251



Executive Compensation Consulting & Advisory Services

Furthermore, the executive compensation structure must reflect compensation levels within the appropriate competitive marketplace, and correlate with the financial viability and performance of the organization.

ExeComp Solutions LLC assists boards in the health care industry, higher education, performing arts and charitable foundations work through these issues so that each organization understands intermediate sanction guidelines and the not exceed levels of total compensation for it's leadership.

If you would like more information on these pressing issues or would like to discuss how ExeComp Solutions can assist your organization, contact Rick Smith Managing Director at 480-477-8051 or email Rick at [richardsmith@execompsolutions.com](mailto:richardsmith@execompsolutions.com) and he will be pleased to discuss your concerns.

Sincerely,

A handwritten signature in black ink that reads "Richard V. Smith".

Richard V. Smith  
Managing Director  
ExeComp Solutions LLC

Executive Compensation Consulting & Advisory Services