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The Southwest's leading gathering of executives, attorneys, accountants, trustees, CEOs and CFOs of private foundations and nonprofit organizations

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January 15, 2014

INSTITUTE
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NONPROFIT ORGANIZATIONS PRIMER

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WEDNESDAY AFTERNOON, JAN. 15, 2014

Presiding Officer:
Frances Leos Martinez, Texas C-Bar and Entrepreneurship and Community Development Clinic, The University of Texas School of Law, Austin, TX

3:00 p.m. Registration Opens

Includes light refreshments.

3:25 p.m. Welcoming Remarks

3:30 p.m. .75 hr

Nonprofit Governance 101

An overview of governance issues common with nonprofit organizations, including fiduciary duties of officers and directors.

Jeffrey T. McClean, Fizer, Beck, Webster, Bentley & Scroggins, Houston, TX

4:15 p.m. .75 hr

Considerations in Applying for and Maintaining Exemption

The basics of applying for tax-exemption from the IRS, including practical tips to make the process smoother, the types of filings that may be made with the IRS regarding obtaining and maintaining exemption, working with the IRS in Cincinnati TE/GE and with the IRS National Office, along with annual reporting requirements and automatic revocation.

Tricia Johnson, EY, Cincinnati, OH

5:00 p.m. .75 hr

Basic 501(c)(3) Compliance

A broad look at some of the fundamental principles that govern charitable tax-exempt organizations, including organizational and operational tests, private inurement/benefit issues, lobbying/political activities, UBIT and the IRS view on governance.

Michaela J. Cromar, Sanford, Baumeister & Frazier, LLP, Fort Worth, TX

5:45 p.m. Break

WEDNESDAY EVENING

Concurrent Sessions

PRIVATE FOUNDATION BASICS

Presiding Officer:
Frances Leos Martinez, Texas C-Bar and Entrepreneurship and Community Development Clinic, The University of Texas School of Law, Austin, TX

6:00 p.m. .75 hr

Private Foundation Basics and Common Issues

Overview of key issues and risks commonly encountered by private foundations and private foundation managers, with an examination of the private foundation excise tax rules from the Internal Revenue Code Sections 4940 through 4945 and a discussion of ways to avoid some of the most common causes for excise tax issues.

Kelli Archibald, EY, Phoenix, AZ

6:45 p.m. Adjourn to Reception

PUBLIC CHARITY BASICS

Presiding Officer:
Michaela J. Cromar, Sanford, Baumeister & Frazier, LLP, Fort Worth, TX

6:00 p.m. .75 hr

Public Charity Basics

Examination of legal issues common across the spectrum of public charities with special attention given to organizational and qualification concerns for the various categories of public charities, common legal matters arising in the context of operations, tax compliance issues including excess benefit transactions and intermediate sanctions, fundraising for the organization including the use of fiscal sponsor relationships, and use of affiliated and subsidiary entities.

Darren B. Moore, Bourland, Wall & Wenzel, P.C., Fort Worth, TX

6:45 p.m. Adjourn to Reception

WELCOME RECEPTION

6:45 p.m. – 7:45 p.m.

Join us for a networking opportunity with faculty and colleagues.

PRIMER FACULTY

KELLI ARCHIBALD
EY
Phoenix, AZ

MICHAELA J. CROMAR
Sanford, Baumeister & Frazier, LLP
Fort Worth, TX

TRICIA JOHNSON
EY
Cincinnati, OH

JEFFREY T. MCCLEAN
Fizer, Beck, Webster, Bentley & Scroggins
Houston, TX

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Program Level: Overview
Advance Preparation: None

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THURSDAY MORNING, JAN. 16, 2014

Presiding Officer:
Tomer Inbar, Patterson Belknap Webb & Tyler LLP, New York, NY

7:30 a.m. Registration Opens
Includes continental breakfast.

8:10 a.m. Welcoming Remarks

8:30 a.m. .75 hr

The Pulse of the Nonprofit Sector
Overview of the current challenges facing charitable, philanthropic and other exempt organizations, and how they may be impacted by ongoing public policy debates in Washington.
Geoffrey Plague, Independent Sector, Washington, DC

9:15 a.m. .75 hr

Disaster Relief
Disaster relief—what nonprofits need to know when disaster hits home.

Moderator:
MariBen Ramsey, Austin Community Foundation, Austin, TX

Panelists:
Ashley Allison, Waco Foundation, Waco, TX
Carolyn O. "Morey" Ward, Ropes & Gray LLP, Washington, DC

10:00 a.m. Break

Concurrent Sessions

LOBBYING AND POLITICAL ACTIVITY

Presiding Officer:
Tomer Inbar, Patterson Belknap Webb & Tyler LLP, New York, NY

10:15 a.m. .75 hr

Lobbying and Effective Advocacy
Advocacy as part of an effective program and the rules that govern public policy advocacy activities, including federal tax, ethics, and lobbying disclosure laws.
Katherine L. Karl, American Cancer Society, Inc., Washington, DC
Alexander L. Reid, Morgan, Lewis & Bockius LLP, Washington, DC

11:00 a.m. .75 hr

Regulation of Political Campaign Activity of Tax-Exempt Organizations
Nonprofits face an array of restrictions on their political activity. This session addresses the ability of various types of tax-exempt organizations to engage in candidate-related activities, both partisan and non-partisan, with an emphasis on the activities of 501(c)(3) charities and 501(c)(4) social welfare organizations. The impact of the Supreme Court's decisions in *Citizens United* and other recent cases, the continuing controversy over the Internal Revenue Service's processing of tax-exemption applications, and some proposals to fix perceived problems with the current legal and regulatory framework are also considered.
Rosemary E. Fei, Adler & Colvin, San Francisco, CA
William H. Minor, DLA Piper LLP US, Washington, DC

11:45 a.m. Pick Up Lunch

INVESTMENT AND FINANCE

Presiding Officer:
Richard W. Meyer, Attorney at Law, Austin, TX

10:15 a.m. .75 hr

Investment Oversight
Volunteer board members often find that managing foundation and endowment assets effectively can be a challenging undertaking. The essential components of a successful investment strategy are addressed from an interdisciplinary framework.
Christopher E. Blume, Goldman Sachs Institutional Client Solutions, New York, NY
Karey Dubiel Dye, Goldman Sachs & Co, Houston, TX
Robin Krause, Patterson Belknap Webb & Tyler LLP, New York, NY

11:00 a.m. .75 hr

View from the Accounting Side
Reading and understanding nonprofit audited financial statements and identifying trends in liquidity and restrictions on assets. An interactive session with examples of hidden secrets in the financial statements.
Kay Walther, Blazek & Vetterling, Houston, TX

11:45 a.m. Pick Up Lunch

THURSDAY AFTERNOON

Presiding Officer:
Nicola Fuentes Toubia, Fuentes Toubia, PLLC, Houston, TX

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LUNCHEON PRESENTATION

12:00 p.m. .75 hr

What's Coming from a Tax Policy Standpoint
A view from the Treasury Department.
M. Ruth M. Madrigal [Invited], U.S. Department of Treasury, Washington, DC

12:45 p.m. Break

"Kudos to the individuals who design the schedule—the flow of the information is very smooth and the choices of topics for the time period throughout the days are excellent.

Always informative. Top notch speakers. Variety of topics.

Enjoyed high-quality speakers discussing high-level management topics.

Love the Wednesday afternoon through Friday mid-day format. Primer sessions on Wednesday are appreciated."

PRIVATE FOUNDATION

Presiding Officer:
Joyce Hellums, EY, Austin, TX

1:00 p.m. 1.00 hr

What Is and Isn't a Taxable Expenditure?

Private foundations have many opportunities to accomplish their missions, including gifts to public charities that lobby but don't electioneer, ER grants to non-public charities, support for foreign entities (including equivalency issues and new rules on reliance), programs conducted by a PF itself, grants to individuals, and program-related investments. Sample forms and checklists provided.

Jody Blazek, Blazek & Vetterling, Houston, TX

2:00 p.m. 1.00 hr

Generational Transition, Planning and Strategic Philanthropy

Explore various aspects of private foundations and compare them to other charitable vehicles. Issues discussed include promoting young generation involvement and preserving founder intent.

Tyree Collier, Thompson & Knight LLP, Dallas, TX
David M. Rosenberg, Thompson & Knight LLP, Dallas, TX

3:00 p.m. Break

3:15 p.m. 1.00 hr

Re-structuring a Not-So-New and Not-So-Compliant Private Foundation: Who Needs Lawyers and Accountants Anyway?

The impulse to create a private foundation to fulfill one's philanthropic goals is not always followed by the care and planning necessary to ensure success. Unfortunately, good intentions and rules of thumb are not enough to avoid legal pitfalls. Examine common trouble spots such as formalizing processes for grantmaking and expenses, dealing with founders, and navigating intersections between the foundation and the family office.

Andrew Schulz, Foundation Source, Washington, DC

4:15 p.m. 1.00 hr

Open Discussion: Step Inside this House: A General Counsel's View

In-house counsel share their respective experiences and management tools by presenting a "Top Ten" list of the things that could keep you awake at night.

Beverly Jones, American Society for the Prevention of Cruelty to Animals, New York, NY
Angela F. Williams, YMCA of the USA, Chicago, IL
Ellen D. Willmott, The Susan G. Komen Foundation, Inc., Dallas, TX

5:15 p.m. Adjourn to Reception

POTPOURRI

Presiding Officer:
Nicola Fuentes Toubia, Fuentes Toubia, PLLC, Houston, TX

1:00 p.m. 1.00 hr

"Thank You Very Much, But..."

Discussion of charitable solicitation issues and donor care. Learn when to accept, how to keep your alliance with donors alive and well, and how to avoid the legal pitfalls and traps for the unwary with gift-receipt policy and acknowledgement best practices.

Lyn Berman, Attitudes & Attire, Dallas, TX
Melody Timinsky, Volunteers of America, Euless, TX
Susan Jeter Wommack, Baylor University, Waco, TX

2:00 p.m. 1.00 hr

The Increasingly Virtual Nonprofit: Legal Traps for the Unwary

Explore the next generation of legal issues being created by modern technology in the workplace. From privacy concerns created by enhanced monitoring capabilities to FLSA issues created by mobile workers, and from the application of the Stored Communications Act to employee email and social media usage, to the evolving scope of employer liability for remote-employee safety and third-party injuries, this session provides a look at the latest cases and trends and provides practical considerations for corporate professionals and employees alike.

Jason Boulette, Boulette & Golden L.L.P., Austin, TX
Tracy-Elizabeth Clay, Teach For America, Inc., Chicago, IL

3:00 p.m. Break

3:15 p.m. 1.00 hr

Intellectual Property Issues for Nonprofits

Intellectual property is an essential component of many charitable organizations' missions and programs. A look at the unique legal issues facing charitable organizations in the creation, use, protection and commercialization of their intellectual property, as well as practical considerations in deciding whether or not to assert rights in certain types of intellectual property.

Laura E. Butzel, Patterson Belknap Webb & Tyler LLP, New York, NY
Nancy A. Kopans, ITHAKA, New York, NY

4:15 p.m. 1.00 hr

Open Discussion: Social Media

Explore how the explosion of social media platforms are transforming how foundations, public charities and social welfare organizations accomplish their good work. Discussion includes the rules and legal risks regarding nonprofit advocacy, fundraising and voter registration on the web.

Karen Bantuveris, VolunteerSpot, Austin, TX
Kelli King-Jackson, The Simmons Foundation, Houston, TX
Lawrence K. Mendenhall, Humanity United, San Francisco, CA

5:15 p.m. Adjourn to Reception

FRIDAY MORNING, JAN. 17, 2014

Presiding Officers:
Lucille DiDomenico and Pamela Jamieson, Conference of Southwest Foundations, Inc., Dallas, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. 1.00 hr

Year in Review

Review current developments, including legislation, regulations, IRS rulings and court opinions with emphasis on: qualification for exemption, application process, public charity rules, IRS audit and compliance check activity, governance, unrelated business, joint ventures, private inurement and private benefit, intermediate sanctions, legislative and political activity, supporting organizations, donor-advised funds, endowments, and planned and other charitable giving.

Bruce R. Hopkins, Polsinelli PC, Kansas City, MO

9:30 a.m. .75 hr

Executive Compensation

As a result of greater stakeholder scrutiny and the proliferation of publicly available data, determining compensation levels for nonprofit executives is more important than ever. A focus on the reporting practices and processes that can help your organization set competitive yet defensible compensation levels.

Larry Brauer, EY, Washington, DC
James F. Wynn II, Quatt Associates, Washington, DC

10:15 a.m. Break

GOVERNANCE AND RESTRICTED FUNDS

Presiding Officers:
Lucille DiDomenico and Pamela Jamieson, Conference of Southwest Foundations, Inc., Dallas, TX

10:30 a.m. .75 hr

The Not-So-Well-Governed Charity

It has been demonstrated that boards who use appropriate governance training tools have a greater ability to help their nonprofit achieve organizational excellence and mission impact. Gain practical tips and hear real-life examples of how a lack of good governance strategies can hamper the nonprofit in performing its best work and meeting community needs.

Johnny R. Buckles, University of Houston Law Center, Houston, TX
Cynthia B. Nunn, Center for Nonprofit Management, Dallas, TX

11:15 a.m. .75 hr

Nonprofit Workout

Nonprofits do not always operate as expected. When this happens, strategies are necessary to address the situation. Discussion of various nonprofit shortcomings and strategies to rectify them.

Michael V. Bourland, Bourland, Wall & Wenzel, P.C., Fort Worth, TX
Susan K. Staricka, Office of the Attorney General, Austin, TX

12:00 p.m. .75 hr

Endowments

The Uniform Prudent Management of Institutional Funds Act (UPMIFA), now the law in 49 states, affects virtually every charitable organization. Learn about some of the practical issues of life under UPMIFA—decision-making about the annual endowment draw and its allocation among different endowment funds, documentation of that decision-making process, and the crafting of endowment restrictions.

John Sare, Patterson Belknap Webb & Tyler LLP, New York, NY

12:45 p.m. Pick Up Lunch

COMMERCIAL/BUSINESS ACTIVITIES

Presiding Officer:
Coleith Molstad, The Roy F. & Joann Cole Mitte Foundation, Austin, TX

10:30 a.m. .75 hr

UBIT:
Advanced Issues and Practical Applications

Using case studies, walk through several real-life examples and learn how to take a great money-making idea from inception to fruition. Each case presents and discusses both the critical business and legal issues, and offers unique ideas to address potential UBIT concerns. Licensing, corporate sponsorships, unrelated debt financed income, commercial services and internet activities are also considered.

Greg D. Lee, LIVESTRONG, Austin, TX
Nicola Fuentes Toubia, Fuentes Toubia, PLLC, Houston, TX

11:15 a.m. .75 hr

Unrelated Business Activities:
Strategies for Coping

How much is too much? Explore options for dealing with unrelated activities as they start becoming substantial, including structuring a spin-off of an unrelated activity, equity and other forms of compensation. On-going relationships and other issues are also addressed.

William H. Caudill, Norton Rose Fulbright LLP, Houston, TX

12:00 p.m. .75 hr

De-Mystifying Program-Related Investments

Overview of the legal requirements for making program-related investments, with practical advice on how to use PRIs as part of your grant-making strategy.

Christine Looney, Ford Foundation, New York, NY
Kenneth T. Monteiro, Ford Foundation, New York, NY

12:45 p.m. Pick Up Lunch

FRIDAY AFTERNOON

LUNCHEON PRESENTATION

1:00 p.m. 1.00 hr ethics

Privilege and Managing an Internal Investigation

The attorney-client privilege and the attorney work-product doctrine offer valuable protections that enable attorneys to advise clients and prepare for litigation. However, in practice, establishing and preserving that privilege while conducting an internal investigation can be difficult or impossible. Learn when to use an attorney to conduct the investigation.

Frank Sommerville, Weycer, Kaplan, Pulaski & Zuber, P.C., Arlington, TX

2:00 p.m. Adjourn

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Earn up to 15.00 credits in Taxes
Delivery Method: Group-Live
Program Level: Overview
Advance Preparation: None

CFP CREDIT

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“I like how within each topic, speakers address both large and small scale nonprofits, and the breadth of information and the representation of speakers from different aspects of the nonprofit process.

It is a well thought out program that addresses topics applicable to many areas.

This is an excellent course! Topics are timely with minimal overlapping. Speakers are overwhelmingly excellent.”

INSTITUTE FACULTY

ASHLEY ALLISON
Waco Foundation
Waco, TX

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VolunteerSpot
Austin, TX

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AUSTIN
January 15, 16–17, 2014

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Reserve room at www.fourseasons.com/austin
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Parking:
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KEY DATES
January 8, 2014
last day for early registration
add $50 for registrations
received after this time

January 10, 2014
last day for cancellation (full refund)

January 13, 2014
last day for cancellation (partial refund)
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January 15, 2014, 3:25 p.m.
Primer begins

January 16, 2014, 8:10 a.m.
Institute begins

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