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Handbook for Alumni and Other Related Organizations Under the General University's 501(c)(3) Umbrella

The purpose of this handbook is to assist the various alumni and other constituent organizations sponsored by Brigham Young University in maintaining their inclusion under the university's 501(c)(3) tax-exempt status. This inclusion was established by decision of the President's Council on 25 October 1993, effective for fiscal years beginning 1 September 1994. This handbook does not apply to individual organizations or units which have separately filed for and received tax-exempt status.

◆ Significance of 501(c)(3) Status

In order to be recognized as a tax-exempt entity, an organization must file for and be formally recognized as tax exempt by the Internal Revenue Service. BYU has enjoyed that status under Internal Revenue Code 501(c)(3) for many years. This status allows the general public to make tax deductible contributions to the university in furtherance of its educational purposes and the university to operate its educational and closely related activities without assessment of corporate income taxes.

To maintain this status, BYU must meet certain organizational and operational tests and is required to file an annual information return with the IRS (Form 990), which includes a summary of all financial transactions and other required non-financial information. Any organization or unit that wishes to take advantage of BYU's tax-exempt status must comply with general university policy and provide sufficient and timely information to be included in the annual tax report.

Certain activities may be subject to income tax. These may include regularly carried on business-like activities that are not closely related to the general educational purpose of the university, sales of advertising space in publications, and certain lease and rental transactions, etc.

In addition, tax-exempt organizations, their officers, and employees are prohibited from engaging in certain activities: political campaigning in opposition to a candidate, lobbying to influence legislation (except as practiced by a legally authorized lobbyist), self-dealing for personal increment, etc.

Donations of cash and non-cash assets are regulated by IRS regulations. BYU must advise donors and potential donors of these regulations and related restrictions on tax deductibility. Solicitation and receipt of donations is coordinated closely with LDS Philanthropies to assure compliance with these regulations.

In addition to being exempt from federal income taxes, BYU is also exempt from payment of sales taxes in the States of Utah, Idaho, and Hawaii and from property taxes in local jurisdictions that recognize the federal exemption. BYU is required, however, to collect and remit state sales taxes for consumer sales of goods or services that are not clearly exempted under state law.

BYU employees are subject to federal and state employment and personal income tax laws, and BYU must withhold and remit such taxes and file related tax reports. In addition, BYU must file reports on certain expenditures subject to reporting on forms 1042-S (foreign student scholarships) and 1099 (payments to independent contractors, royalty payments, etc.)

Policies and Procedures for Law Society Chapters

◆ Accounting Records and Reports

Each unit should provide adequate internal reporting to make certain that those in management positions within the organization have the necessary information to control and direct the operations of the unit. The University Financial Services Office can assist with analyzing and developing the necessary reporting (phone 801-422-3661). For those some distance from the Provo campus, local accountants may provide those services.

Each unit that has received and/or disbursed cash during the current year (1 January to 31 December) is required to maintain an appropriate accounting record of those receipts and disbursements, and to provide a summary of those receipts and disbursements on the annual report of remote cash receipts and disbursements by 20 January each year (See Appendix A). In order to prepare this report, a detailed record of all cash transactions needs to be maintained. If there are relatively few transactions, the unit's check register may be adequate. If there are numerous transactions, it is recommended that the unit's treasurer establish and maintain an appropriate financial recording system to keep the accounting records of the unit. Local accountants may be recommended to assist in this process.

Cash receipts—All cash receipts must be recorded in the accounting records and deposited promptly in the unit's bank account. Any delay in depositing receipts exposes the unit to potential losses. Cash receipts should be segregated in the accounting records into at least the following categories:

- Association membership dues
- Donations with tax receipts issued by LDS Philanthropies (gifts to BYU, scholarship fund receipts, special fundraising revenues, etc.)
- Project/activity receipts (such as payments for meals, event ticket sales, sponsorship income, etc.)
- Other (breakdown if significant)

Each cash deposit should be traced to the monthly bank statement.

Generally, units should avoid "sales" transactions (T-shirts, memorabilia, etc.) Such transactions are probably subject to local sales tax and could trigger other business taxes. Any decision to engage in sales activities should be supported with assistance from local accountants and/or attorneys to assure that local tax issues are handled correctly.

Cash disbursements—Cash disbursements should generally be made by check from the unit's bank account if one is maintained, with two authorizing signatures. If the unit does not maintain

a separate bank account, then regular BYU disbursement procedures should be followed. All disbursements must be supported by documents that indicate the nature and business purpose of the goods or services purchased (vendor invoices, cash register receipts, etc.)

Sales taxes paid in the state of Utah must be reported to BYU in order for such taxes to be refunded. BYU will reimburse the unit for all sales tax refunds received. Some vendors will honor agreements with the BYU Purchasing Department not to assess sales taxes. Anyone buying merchandise or other taxable items should check with the vendor before the transaction is completed to see if sales taxes may be exempted.

Units in Utah are welcome to use the university purchasing and disbursing tools and procedures, which are automatically oriented toward Utah tax compliance (see purchasing section).

All cash disbursements must be traced to the monthly bank statement if a bank account is maintained.

◆ Applicability of Local Laws

Each organization must become familiar with and comply with local laws at each of its operating locations. Some matters that should be reviewed, include, but are not limited to the following:

1. Requirements to register or license the organization by city, county, or state governments.
2. Tax permits required by government entities. These could include sales, franchise, income, and other taxes. BYU does not intend to file for exemption from sales taxes in all states in which related organizations are active. The relatively small volumes of retail business expected do not justify the effort involved in obtaining and maintaining exemptions. Chapters outside Utah are advised to pay applicable sales taxes.
3. Type of business organization and activities permitted for the type of entity being operated.

Since these regulations can be quite complex, it may be necessary to obtain assistance from local accountants or lawyers.

◆ Bank Accounts

Each unit may establish local bank accounts to facilitate its operation. Information about the account(s) must be on file at the Marriott School. Send the executive director the following information (see Appendix C—Constituent Society Bank Account Information):

- Name on account
- Account number
- Bank name
- Bank address
- Bank routing number

Whenever possible, the account established should require two signatures on each check written.

To verify that bank transactions have been recorded properly, monthly bank reconciliations should be performed. An annual reconciliation of banking activity (See Appendix A—Annual Report of Remote Cash Receipts and Disbursements and Appendix B—Annual Bank Reconciliation) must be submitted by 20 January of each year to the Law Society executive director.

◆ Contracting and Otherwise Obligating the University

Care must be taken when contracting with vendors that appropriate purchasing procedures are followed. Generally, the BYU Purchasing Department has been authorized to sign contracts and otherwise obligate the university. Some exceptions are allowed for alumni and other related organizations.

University policy requires competitive quotes for purchases of \$2,000 or more. Expenditures of \$5,000 or more must be approved in advance by the BYU Purchasing Department in Provo.

Alumni and other related organizations may, however, arrange for facilities rental and food purchases without clearance from the Provo office.

Units may use the BYU purchasing office to obtain price quotes, negotiate purchases and process payments for goods or services obtained. The Purchasing Department may be contacted at:

BYU Purchasing Department (801-422-3471)
P.O. Box 21116
Brigham Young University
Provo, UT 84602-1116

Organizations may make purchases using funds obtained by the unit. Organization representatives may not commingle personal and university related purchases. When making personal purchases, university representatives may not imply they represent BYU or in any way use their BYU affiliation as a means of coercing suppliers to give special discounts or extend tax-exempt status to the purchase.

◆ Contributions: Soliciting, Receipting, and Reporting

In part, the general welfare of BYU is supported through philanthropy of alumni and friends. BYU alumni contributions and alumni cultivation of BYU friends adds significantly to the success of fund-raising efforts.

LDS Philanthropies, which functions under the direction of the Presiding Bishopric, is the official agency of the church empowered by the First Presidency to cultivate, solicit, receive, and process charitable gifts on behalf of BYU. The foundation is the only agency authorized to supervise or conduct fundraising functions in behalf of the church and BYU.

Organizations desiring to conduct promotional activities such as providing box lunches, dinners, celebrations, sale of any goods or services, etc. should contact the office of their sponsoring university unit before proceeding. Instructions will be given for the deposit and use of funds and general guidelines provided for sponsoring a function. In some cases, state and local sales taxes may need to be collected at such activities and remitted to local taxing authorities.

Any activity or promotion that has fund-raising as its purpose, including scholarships or other student financial assistance, must be cleared through LDS Philanthropies (see section “Student Scholarships”). All receipts for any charitable contributions received by the organization must be issued by LDS Philanthropies in order for the university and donors to properly comply with income tax laws.

The J. Reuben Clark Law Society as a whole is not a fund-raising entity and does not solicit contributions for BYU. Law Society chapters are primarily professional, service-oriented organizations devoted to providing service to chapter members, BYU, and the local community.

Law Society chapters are not fund-raising arms of BYU. It is not appropriate for Law Society chapters to have fund-raising goals set for the chapter by the BYU Law School, BYU, or any other representative of these organizations.

Some Law Society chapters have chosen to initiate a scholarship program or in other ways conduct activities that result in the chapter calling upon its members for contributions. These programs are to be developed with local needs and interests being of primary importance. The guidelines of this handbook and of the Management Society Handbook should be followed carefully. Again, the emphasis of the law Society is that of a professional organization, not a fund-raising organization. All funds donated for scholarship activities should be forwarded to the Law Society executive director who will work with the LDS Philanthropies to be sure they are properly receipted and deposited.

The Law School must have the ultimate/final approval in the selection of scholarship recipients under the BYU 501(c)(3) umbrella.

◆ Employment and Employees

Alumni and other related organizations generally will not hire employees. In the rare circumstance that an individual is to be employed by the unit, even for a short time, the hiring must be processed through the University Employment Services offices. This is necessary to make certain that all legal and tax requirements are met and that the hiring complies with university policy. You may obtain more information and instructions by calling Human Resource Services at 801-422-3563.

If organizations are hiring or contracting with a non-U.S. citizen, special rules may apply. Contact BYU's Payroll Office at 801-422-2623 for additional information.

◆ Entertaining

Under certain circumstances, it may be appropriate to pay expenses related to entertaining or hosting others. University policy permits the payment of these expenses under the following guidelines:

1. Such entertaining or hosting is recognized as a deductible expense by the IRS. This usually requires that:
 - The activity is held for a legitimate business purpose.
 - Appropriate matters of business were discussed.
 - Proper documentation of the expenses were obtained and reported to the organization. The required information includes the names of those hosted, business reason, and amount of expense.
2. Generally, non-employees of the university are in attendance.
3. Expenses are reasonable and comply with other university policies.

◆ Lobbying and Other Political Activities

All lobbying and other political activities are strictly prohibited. Such activities can jeopardize the tax status of the university and must be avoided. You cannot allow individuals running for public office to speak, etc. without allowing opponents to do the same. All campaigning should be avoided.

◆ Payment to Independent Contractors

Generally, the university considers most individuals hired to be employees. However, individuals providing services, who meet qualifying requirements, may have the classification of independent contractors. Examples include speakers paid an honorarium, entertainers hired for an event, or a person hired temporarily to remodel an office. Payroll taxes are not withheld from payments made to independent contractors and no matching FICA taxes are paid.

Organizations may use the common law test to define an independent contractor. An individual is an employee if the employer controls who performs the job, what is to be done, with what tools and supplies, how it is to be done, where it is to be done, and when it is to be done.

Although an employee may not be expressly directed in the manner to accomplish an employment task, this alone does not cause the person to be an independent contractor. Usually, where the organization retains the right to discharge, furnishes tools and supplies, sets the location of work, sets hours or trains the individual, the status of the individual is more likely to be that of an employee. In addition, where work performed is similar to that of other employees, it is less likely the individual will be classified as an independent contractor. Normally, contracting work out to an independent contractor is done to achieve something ordinarily not within the usual functions of regular employees and completion of the work is dependent upon the unique skill of the independent contractor.

Potential risk of making an improper designation intentionally or unintentionally can result in payment of retroactive employment taxes and late tax penalties.

Organizations may not contract with full-time, part-time, or student employees as independent contractors. Rare exceptions may occur when all of the following criteria are met:

1. An employee meets the requirements to be an independent contractor, as explained above.
2. The work is substantially different from regular BYU work.
3. The employee owns a private business and has been approved by the Purchasing Department to sell to the university.

If an independent contractor receives payments from the university of \$600 or more within a calendar year, a Form 1099 must be filed with the Internal Revenue Service. For this reason, all payments to independent contractors must be reported to the University Accounts Payable Office at D-208 ASB, Provo, Utah 84602 by 10 January of the following year.

Information that must be obtained from the contractor and reported to BYU include 1) name, 2) address, 3) social security number or employer identification number, and 4) amount paid to the contractor. For assistance call Human Resource Services 801-422-6923.

◆ Postage and Mailing

Mail Services provides postal, UPS, and Express Mail services and consultation for university departments, faculty, and staff. In addition to handling the delivery of the university's incoming, outgoing, and intra-campus mail, Mail Services will provide assistance to campus units to determine the carrier that will best meet specific shipping needs. Organizations may utilize these services and take advantage of any special rates or contracts the university maintains as long as federal postal regulations are satisfied. Call 801-422-3658 for more information.

◆ Risk Management

The university is self insured for most activities carried on by university departments and organizations. The coverage includes liability protection for property damage and/or injury. Some coverage is also provided for replacement of certain university owned capital assets (i.e. buildings, equipment, etc.).

If the organization is sponsoring an unusual activity or involving large numbers of people, the BYU Risk Management and Safety Office should be informed. Risk Management can help determine if additional insurance is required for the activity and can verify safety procedures.

This office can also provide letters or certificates of insurance sometimes required when renting halls or facilities for activities. They can also address questions about environmental safety and chemical hazards.

If an employee or a participant in any organization activity is injured, notification must be made to the Risk Management and Safety Office as soon as possible.

Additional information can be obtained from:

BYU Risk Management & Safety
206 TOMH
Provo, UT 84602
801-422-4468

◆ Standards for University-Related Activities

All university units must comply with general university standards and the standards of The Church of Jesus Christ of Latter-day Saints. This includes moral, ethical, honor code, legal, and other standards set by these two bodies, except for those which specifically apply only to students on campus (i.e. dress and grooming).

◆ Travel (Paid or Reimbursed from Chapter/University Funds)

All units may use the University Travel Management Services Office (801-422-3872) to arrange for travel. All travel costs must be approved, reported, and substantiated through proper documentation. Failure to do so could result in additional taxable income to employees and others, and additional tax may be required to be paid by the organization. Travel must be related to university business needs to be reimbursed by the organization.

As a convenience, that office may also make travel arrangements for family, or others, who will be traveling with the BYU organization representative.

The University Travel Management Services Office can assist in setting up appropriate reporting processes to make certain tax consequences are kept at a minimum.

◆ Using Other University Services

Organizations may use university services when available. Contact the appropriate university department to make arrangements for assistance. Some of the services that may be most helpful include:

Purchasing	C-144 ASB	801-422-3471
Financial Services	A-153 ASB	801-422-4701
Legal	A-357 ASB	801-422-3089
Travel	C-141 ASB	801-422-3872
Print and Mail Production Center	Lobby UPB	801-422-2741
Banking (Treasury Services)	A-153 ASB	801-422-4701
Human Resource Development	2001 JKB	801-422-5011
Human Resource Services	D-238 ASB	801-422-3861
Risk Management and Safety	207 TOMH	801-422-4468
Law School Dean's Office	348A JRCB	801-422-6384
Law Society Executive Director	404 JRCB	801-422-1407

Appendix

◆ Appendix A

Due January 20 each year

BRIGHAM YOUNG UNIVERSITY
Annual Report of Remote Cash Receipts and Disbursements
For the Year Ended 31 December _____

REPORTING UNIT: _____

Preparer: _____

Address: _____

Phone: _____

BEGINNING CASH BALANCE ON 1 JANUARY LAST YEAR: \$ _____ (c)

SUMMARY OF ANNUAL CASH RECEIPTS:

Membership dues _____ (b)

Donations with tax receipts
issued by LDS Philanthropies _____ (b)

Project/activity receipts (describe):
(dinners, event tickets, etc.)

_____ (a)

_____ (a)

_____ (a)

_____ (a)

_____ (a)

Other (attach explanation) _____ (a)

Interest income on bank account _____ (a)

Total project/activity receipts [total (a)'s] _____ (b)

TOTAL CASH RECEIPTS [total (b)'s] _____ (d)

Appendix A continued

SUMMARY OF ANNUAL CASH DISBURSEMENTS:

Honoraria to speakers, etc. (attach detailed list)	\$ _____	(f)
Expense reimbursements to officers (attach detailed list including business purpose)	_____	(f)
Travel (attach detailed list including business purpose)		
Supplies		
Printing		
Postage		
Telephone, fax		
Project/activity costs (describe): (dinners, event tickets, etc.)		
_____	_____	(e)
_____	_____	(e)
_____	_____	(e)
_____	_____	(e)
_____	_____	(e)
Other (attach explanation)	_____	(e)
Bank account service charges	_____	(e)
 Total project/activity costs [total (e)'s]	_____	(f)
 TOTAL CASH DISBURSEMENTS [total (f)'s]:	_____	(g)

ENDING CASH BALANCE AS OF 31 DECEMBER THIS YEAR: \$ _____
(c) + (d) - (g) =====

Mail to: J. Reuben Clark Law Society Executive Director
404 JRCB
Brigham Young University
Provo, UT 84602

◆ Appendix B

Due January 20 each year

BRIGHAM YOUNG UNIVERSITY

Annual Bank Reconciliation

(Attach photocopy of 31 December bank statement)

For the Year Ended 31 December _____

Reporting Unit: _____

Preparer: _____ Phone: _____

Address: _____

Bank Name: _____ Acct. Number: _____

CURRENCY OF BANK ACCOUNT (U.S. dollar or other) _____

BEGINNING BALANCE PER BANK STATEMENT

1 SEPTEMBER LAST YEAR

Add Deposits in Transit at 31 December _____ (attach detail)

Less Outstanding Checks at 31 December _____ (attach detail)

(_____)

Other Adjustments (list and describe on attached sheet):

Total Other Adjustments

ADJUSTED BANK BALANCE (beginning cash balance)

1 JANUARY LAST YEAR

(a)

Add Current Year:

Deposits

Interest Income

Bank Corrections (attach detail)

Total Cash Receipts

Less Current Year:

(a)

Checks Issued

Bank Service Charges

Bank Corrections (attach detail)

Total Cash Disbursements

(_____)

(a)

Less Deposits in Transit at 31 December this year (attach detail)

(_____)

Add Outstanding Checks at 31 December this year (attach detail) _____

Appendix B continued

Other Adjustments (list and describe on attached sheet):

Total Other Adjustments _____

ENDING BALANCE PER BANK STATEMENT
31 DECEMBER THIS YEAR _____

(a) Should agree to total on "Annual Report of Remote Cash Receipts and Disbursements"

Mail to: J. Reuben Clark Law Society Executive Director
404 JRCB
Brigham Young University
Provo, UT 84602

◆ Appendix C

Constituent Society Bank Account Information

Prepared By: _____ Date: _____

Society (or Club) Name _____
Executive Officer _____
Address _____

Officer Telephone Number _____ - (_____) _____ - _____
Country Code Area Code

Bank Name _____
ABA# (9 digit) or SWIFT # _____
Account Officer _____

Bank Address _____

Bank Telephone Number _____ - (_____) _____ - _____
Country Code Area Code

Name on Account _____

Account Number _____

Type of Account Checking _____
 Savings _____
 Other _____ (describe below)

Federal ID Number for Account _____
(if BYU's Fed I.D., leave blank)

Authorized Persons
to Sign on Accounts
(and titles): _____

◆ Appendix D

SAMPLE LETTER OF 501(c)3 AFFILIATION

[Date]

To whom it may concern:

BYU Law Society chapters are constituent organizations sponsored by Brigham Young University and the J. Reuben Clark Law School. As such, they are included under the general Brigham Young University tax exempt status (Tax ID Number 87-0217280). This inclusion was established by decision of the President's Council on 25 October 1993. A copy of the IRS letter granting BYU tax-exempt status is attached.

The _____ Chapter of the BYU Law Society is a recognized official chapter of the society. Currently, _____ is the president of the chapter. It is included under the BYU umbrella.

If you have further questions regarding this status, please contact me at the following:

Scott W. Cameron
404 JRCB
Brigham Young University
Provo, UT 84602
801-422-1407

For your information, BYU can help with risk management and insurance coverage for an event venue for associated chapters. Please contact Glen Johns of the BYU Risk Management and Safety Office (801-422-4461) for more information.

Sincerely,

Scott W. Cameron
Associate Dean, J. Reuben Clark Law School
Executive Director, J. Reuben Clark Law Society

Enclosure