

PRODUCT PREVIEW

Expenditure RESPONSIBILITY

SITUATION

Legal requirements exist for private foundations that make “direct cross-border” grants to non-U.S. organizations that are not recognized by the IRS as a public charity. These grants require additional steps to ensure that the grant serves a charitable purpose and that they do not go—even accidentally—to a terrorist organization. While these steps are legally required for private foundations, there are instances when they are also recommended for public charities. Private foundations that make international grants must follow one of two options provided in the tax code:

1. Determine that the non-U.S. grantee is the “equivalent” of a U.S. public charity (“equivalency determination”); or
2. Monitor the use of grant funds to ensure that they are used for a charitable purpose (“expenditure responsibility”).

In most cases, a private foundation can choose between these two options. There are advantages and disadvantages to each; however, we often recommend expenditure responsibility because it is generally more straight-forward and less costly to implement.

MARKET

This product is designed for private foundations that make direct cross-border grants and do not have the internal capacity to handle the administrative burden required by the expenditure responsibility process. Church mission departments or public charities can also use this product to ensure that funds under its control are used for charitable purposes. International grantmakers who currently use a “fiscal agent” that does not fully comply with IRS regulations, can use this product as a reliable alternative.

DESCRIPTION

Expenditure Responsibility begins with a pre-grant inquiry to understand the grantee’s project and capacity for compliance with U.S. regulations. A Memorandum of Understanding is negotiated to spell out all grant and reporting terms; this includes cash management procedures during the life of the project to ensure the grant funds are spent only for the specified charitable purpose. Then, due diligence steps are implemented during the life-cycle of the grant. Progress reports are required annually from the grantee until all funds have been expended; these are reviewed for reasonableness and accuracy. If necessary, further investigation is conducted with the grantee; see, for example, the *Product Preview: On-site Grant Review* which would be a suitable product for additional assessment of grant performance. The donor is provided periodic updates

on grant progress and compliance with federal regulations until all funds are expended.

PRODUCT USES

Likely uses include helping donors:

1. Complete the full due diligence steps required by the IRS for foreign grants.
2. Ensure that foreign grant funds are spent only for the specified charitable purpose.
3. Track project progress against funds disbursed.

DELIVERABLES & FEES

Product deliverables include a 3-5 page due diligence checklist, plus attachments, completed on the foreign grantee, and a signed Memorandum of Understanding between the grantor and the grantee that outlines the compliance steps to be taken during the life of the grant. For those grants that require monitoring over a period of years, we will provide an annual written update of monitoring results.

A flat fee is quoted for each engagement. For the first grant, fees range from \$2,000 to \$5,000 depending on whether a single-year or multi-year

grant is made. *Expenditure Responsibility* for subsequent grants to a foreign grantee for which we have previously conducted *Expenditure Responsibility* has a lower fee in the range of \$1,500 to \$3,500. Translation costs and international express mail, if applicable, are additional.

CONTACT US

For more information on *Expenditure Responsibility* or other products and services for committed and reflective philanthropists, please contact us at the address below.

BENEFITS

- ✓ Keeps the grantor in legal compliance with IRS guidelines for foreign grants.
- ✓ Removes the administrative and technical burden associated with complying with IRS guidelines.
- ✓ Peace of mind! Lets the grantor remain focused on programmatic issues.

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