

WHAT A “NONPROFIT” NEWSPAPER WOULD MEAN

By Henry Bogdan, Managing Director of Public Policy and Advocacy

Many of us who work for nonprofits feel that the term ‘nonprofit’ is often misleading, confusing the public and sometimes the media about the real nature of our organizations.

Senator Ben Cardin’s recent legislative proposal to allow the operation of community newspapers as **nonprofit** institutions, exempt from taxation under section 501(C)(3) of the Internal Revenue Code, is a case in point. It’s also an opportunity for us to think about the real differences between ‘exempt’ or ‘nonprofit’ groups and those in the “for profit” world.

In qualifying as a tax-exempt organization, the term “nonprofit” does not mean that the organization’s revenue cannot exceed expenses. The current economic crisis is showing us all too well what happens when that is the case, or worse.

We know that in tax-exempt organizations, “nonprofit” means that **profits are not distributed** to anyone – they are retained for the benefit of the organization and its public service mission. (“Nonprofit” is really a contraction of “non-distribution of profit”) There are **no** owners, shareholders or investors. Beyond ‘reasonable compensation’ for services rendered, no individual or entity is entitled to the proceeds of the organization’s activities.

I have already seen bloggers complaining that if a newspaper becomes a “nonprofit” it is being ‘bailed out’ by the government and its owners and managers will be approving wild bonuses for themselves. They obviously never met their friendly, local, neighborhood IRS agent. This is one case where the prohibitions and penalties missing for AIG are already in place and enforced by the IRS.

Not only must our tax exempt nonprofits adhere to this principle of no private benefit, sometimes referred to as “non-inurement”, they must also be devoted to some activity recognized in the tax code as promoting the benefit of the public, rather than private interests. Groups seeking 501(C)(3) status (as proposed in Senator Cardin’s bill) must qualify as serving charitable, educational, research, or other special purposes benefiting the general public. Because contributions to these groups are deductible for income tax purposes, 501(C)(3)’s are reviewed more carefully by the IRS, their lobbying activity is limited, and they may not support or oppose candidates for public office.

Senator Cardin has advanced the proposition that community newspapers provide an important educational benefit to the public – their networks of reporters are the primary original source of the news available through all news media, including those electronic sources that now make the printed daily newspaper seem obsolete. In depth investigation and research of public affairs is a critical function to effective democracy – but he notes that these services may no longer fit well in a sustainable, profit-making business model.

Conversion of a privately or investor-owned newspaper to an educational 501(C)(3) organization would legally donate ownership of the business to an independent board that will act as trustees for the public interest that the new organization must serve. That

board, and the management and staff of the organization would be subject to conflict of interest, compensation, and the other rules that govern all charities and similar 501(C)(3) groups.

As with other nonprofit institutions, the newspaper would become in effect a community asset. Its annual tax form – an IRS Form 990 – would be a public document. In case of any future sale or dissolution, the proceeds or value of its assets would be transferred to another charitable or educational institution or foundation for the community’s benefit.

The nonprofit, tax-exempt structure has allowed the development and survival of many services and institutions that are important to our quality of life and the welfare of families and communities. Their ‘return on investment’ is the benefit they provide to society, not dividends or personal wealth. Thorough and accessible oversight, analysis, and reporting on business and public affairs that affect our lives may be a service worth keeping. At least in concept, public media for public benefit would be an interesting idea.

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