Self Regulation as the Bridge to Nonprofit Sustainability

Minnesota Council of Nonprofits
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Attention Drawn

- High profile charity scandals rock the sector each decade
- The 90s and 00s versions included
- Bill Aramony / United Way of America, Nature Conservancy, Hersey Foundation
- Getty Museum, Smithsonian
Beginnings of Government Regulation of Charities

- The Federal Government had no interest in regulation of charities until the Twentieth Century.
- Not until 1954 was a charity required to complete an exemption application. It was one page.
- In 1965 Congress added complicated private foundation rules to the Code.
The Changing Legal Landscape

- In 1996 the Intermediate Sanctions regulations were added to the Code, allowing imposition of excise taxes for bad behavior.
- In 2003-2010 Senator Chuck Grassley changed the exempt organizations scene.
Can Government respond?

- Proposals considered by Congress in 2004-05 included mandatory review of tax exempt status every five years;
- Limitations on administrative expenses
- Doubling excise taxes, increasing charitable spending percentages
Can Government respond?

- Congress passed the Pension Protection Act of 2006, which doubled certain excise taxes, and impacted supporting organizations and DAFs, credit counseling organizations and non-cash donations.
- From 1995 through 2005, there was an increase of nearly 50 percent in the number of exempt organization returns filed, yet IRS staffing of the EO function steadily declined.
Out of an EO universe of 1.8 million entities, 1.2 million are (c)(3)s

In 2011, approximately 2,000 charities per year will be subject to IRS audit and 1,000 are subject to compliance checks. This is a .2 percent audit rate
The IRS announced it could only impact the sector through transparency, and the new IRS form 990 became reality.

Upon his departure, Marcus Owens calls for establishment of an additional regulatory agency, independent of the IRS, to regulate charities.
State Regulators

- State Attorneys General have traditionally been solely charged with oversight of charitable assets.
- Registration laws are enforced in varying degrees.
- In 2005, Marcus Owens said “there are probably fewer than 15 states that even have one attorney charged with monitoring nonprofits full time.”
- Priorities and Politics
In Asia many governments contract with private nonprofit organizations to require and fund accreditation of nonprofits.

- Found to disadvantage newer, less tested and less popular organizations.
- Autonomy of the sector limited.
2009 EU Study

- Public and self-regulation initiatives go hand-in-hand and there is no blueprint to determine which would more effectively address certain areas of regulation.

- Newly emerging co-regulatory models are notable, whereby authorities rely on self-regulatory bodies to effectively implement regulation (UK, Ireland, Netherlands, Estonia).

- Recommendation: Establish a Centre governed jointly by the NPO sector and EU/member states – established on the foundations of a broad agreement and buy-in from all interested parties.
U.S. Waves of Self regulation

  - Mandatory Accreditation like JHACO and many education associations had market and enforcement power
In 2005, Voluntary accreditation models were found to be weaker and less common
- Independent Sector
- National Council of Nonprofit Associations
- Charities Review Council of MN
- MN Council of Foundations
U.S. Waves of Self regulation

- Council of Michigan Foundations
- BBB Wise Giving Alliance Standards
- Charity Navigator
- American Association of Museums
- Association of Fundraising Professionals
“Hand in hand with government enforcement of a strong framework of laws and regulations, the nonprofit community has a responsibility and opportunity to regulate itself,”

Diana Aviv, Panel on the Nonprofit Sector
Panel Participants

Brad Kruse, Program Director, SRI/Hugh J. Andersen Foundation, Bayport, MN

Armando Camacho, President, Neighborhood House, St. Paul, MN

Patty Wilder, Faculty, University of St. Thomas, St. Paul, MN

Robert Pickering, Vice President of Finance and Administration, Lifetrack Resources, Inc, St. Paul, MN
Thank you.

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