

## APPENDIX B SUPPORTING ORGANIZATIONS

The draft proposal recommends eliminating “Type III” supporting organizations. We share the Senate Finance Committee’s concern about the abusive transactions reported in the *Chronicle of Philanthropy* and elsewhere that involved the misuse of Type III charities. However, we also believe that the Type III supporting organization structure offers institutions and donors valuable flexibility. Most supporting organizations — including Type IIIs — operate in full compliance with federal and state law and provide significant funds to academic institutions, health care organizations, and community foundations for their charitable work.

We believe the abuses identified by the Committee should be addressed through targeted reforms. We do not support elimination of Type III supporting organizations. If Congress does adopt legislation removing this version of public charity status, we believe that existing organizations should be grandfathered, perhaps after demonstrating their continued qualification under Section 501(c)(3).

The basis of all three types of supporting organization structures is the involvement of the supported organization in overseeing or monitoring the operation of the supporting organization. Accordingly, we believe an important means of addressing any systemic tendency toward abuse in this area is to require greater demonstration of involvement by the supported organization. We offer the following non-exclusive list of possible reforms:

- At the application stage, the IRS could require new Type III organizations to attach a statement to Form 1023, signed by an officer of the supported organization(s), that it/they have received copies of the applicant’s governing documents and that they agree to be named as a supported organization. In addition, an officer of the supported charity that will actively participate in overseeing the applicant’s activities should confirm its agreement to do so.
- Existing Type III organizations could be required to attach a similar signed statement, updated annually, to their Form 990.
- For Type III charities organized as corporations, this statement might require a description of the frequency with which the supported organization’s representative participated in board meetings or otherwise exercised a significant voice in how the supported organization operated during the year. Less than a threshold level of actual involvement would be grounds for loss of public charity status.
- All Type III charities, whether organized as trusts or corporations, should be required to report annually to each named supported public charity with a description of their activities. The report should include narrative and financial detail sufficient to allow a supported public charity to determine whether it wishes to separate itself from the Type III organization, to become more actively involved in overseeing it, or to take other appropriate action.

- The IRS should consider issuing a Revenue Procedure or information letter that sets forth how a supported organization may properly notify the IRS of its withdrawal of consent to be named as a supported entity. This notice, of course, is important because of its bearing on the public charity status of the Type III organization.