

Panel on the Nonprofit Sector

Convened by INDEPENDENT SECTOR

Work Group Recommendations to the Panel on the Nonprofit Sector
Posted for Public Comment January 24, 2005

#9: Type III Supporting Organizations

I. Legal Framework Work Group Recommendations

A. Statement of Problem

In some cases, donors have inappropriately utilized Type III supporting organizations to circumvent private foundation rules by ceding formal control over contributed assets while maintaining enough de facto control to continue to enjoy various benefits from the contributed property.

B. Recommendations

Instead of eliminating Type III supporting organizations, a targeted anti-abuse rule designed to eliminate (or penalize) abusive use of such organizations should be enacted. The details of such an anti-abuse rule will be addressed in Phase II of the Panel on the Nonprofit Sector process.

C. Rationale

Eliminating Type III supporting organizations would negatively impact those who benefit from the legitimate use of such organizations and move abuses to other types of organizations. For example, a donor wishing to provide substantial long-term support for a particular charity but concerned that the charity's board lacks the specialized expertise to ensure optimum use of the funds can use a Type III supporting organization to vest control over funding in a group of experts independent of the charity's board. Instead of eliminating Type III supporting organizations, it would be better for the sector to take the time to identify specific areas of abuse and tailor new rules to eliminate the abuses.

D. Other Considerations

None.

Note: These recommendations have not yet been reviewed by the Panel on the Nonprofit Sector. They will be part of the deliberations by the Panel as it prepares its interim report.

II. Expert Advisory Group Comments

The Expert Advisory Group agreed with the recommendation of the Work Group and noted in particular the value of a Type III supporting organization in the context of domestic “friends of” organizations that support foreign charitable organizations.