

# **NIRSA SERVICES CORPORATION [NSC]**

**A wholly owned for-profit subsidiary of the  
National Intramural-Recreational Sports Association [NIRSA]**

*The Relationship between NIRSA & NSC*

## **Introduction**

The **NIRSA Services Corporation [NSC]** was incorporated in 1999 as a wholly owned for-profit subsidiary of the **National Intramural-Recreational Sports Association [NIRSA]** as recommended by NIRSA's legal counsel. Together with the **NIRSA Foundation\***, the NSC helps complete a circle of service to collegiate recreational sports profession

### **NIRSA Services Corporation [NSC]**

Originally constituted with a four-person board of directors, the NSC has been enlarged to a seven-person board, with one NSC board member also serving on the NIRSA Board of Directors, the parent organization and sole shareholder of the NSC. Each year the appointment of directors to the NSC board is affirmed in the Annual Meeting of the Shareholder (NIRSA).

Staffing is provided to NSC by NIRSA National Center employees through a formal Services Agreement between NIRSA and NSC. NNC employees maintain time sheets and allocate time spent on various NSC projects and activities on a monthly basis. NIRSA invoices the NSC for staff time expended on NSC activities, as per the Services Agreement.

The business of NSC is largely enterprise. In accordance with the NIRSA/NSC Services Agreement and License Agreement, and consistent with NSC policies and strategic vision, NIRSA's Executive Director (or his designee) is authorized to negotiate contracts and execute agreements for and on behalf of the NSC.

Whether nonprofit or for-profit all boards of directors of subsidiaries are responsible to set a strategic vision and establish policies consistent with the parent organization's mission and strategic focus. In this regard, the NSC Board of Directors is no different. As the sole shareholder of the NSC, the NIRSA Board of Directors ultimately determines whether the NSC is conducting its affairs consistent with its interests.

\* *The NIRSA Foundation [Foundation] is an independent nonprofit IRC 501(c)(3) organization established in 1992. Its purpose is to receive donations to support education and scholarly activities that help advance the recreational sports profession. Individual financial contributions to the Foundation are tax-deductible. Led by a nine-person board of directors, corporations that identify with the mission, purposes, or specific activities of the NIRSA Foundation are encouraged to make significant financial contributions to the Foundation.*

## **NSC is a Significant Asset to NIRSA**

NSC helps to protect the non-profit status of NIRSA. It oversees and manages revenues and appropriate tax payments regarding unrelated business income (UBI) from NIRSA sponsored and endorsed programs, and the sale of products with an advertising component. It also helps to protect the assets of the Association in the event of possible litigation directed against the Association due to its sponsorship or endorsement of a sports event. NSC compensates NIRSA through a Services Agreement, License Agreement and optional dividend declaration.

Specifically, NIRSA established the NSC as a useful instrument to account for and pay applicable taxes on unrelated business income (UBI) received by NIRSA and as risk management tool:

- UBI means gross revenues from sponsored or endorsed programs and advertising that may be unrelated to NIRSA's tax-exempt educational function. If unrelated business income contributes a significant percentage of total revenue for an IRC 501(c)(6) organization such as NIRSA, its tax-exempt status can be jeopardized.
- Risk management means providing a significant layer of protection to NIRSA relating to its extramural and sport club championships in the event of a lawsuit that may arise related to one of these events. NSC has very few assets, unlike NIRSA who has considerable reserves, and owns land and a building. While putting the championships in NSC alone will not prevent a potential lawsuit against NIRSA, it adds a 'hurdle' to the process. Other 'hurdles' include participant waivers, liability insurance, and site specific crisis management plans.
- Financial compensation to NIRSA from NSC includes the license agreement, services agreement and potential dividend payment. The license agreement allows NSC to use NIRSA's name and mark in exchange for 7.5% of all gross revenues for any activity in which the mark is used. In addition to the fees paid for staffing mentioned above, NSC also pays NIRSA a fee for rent, administrative services, equipment and communication equipment through the services agreement. Finally, the NSC Board has the option to declare a dividend to its shareholder (NIRSA) from net after-tax profits.

## **Unrelated Business Income (UBI)**

Unrelated Business Income (UBI) is defined by the Internal Revenue Service (IRS). In order to be considered UBI, the revenues must meet three criteria:

1. The source of income is not substantially related to a tax-exempt purpose
2. The source of income is carried on as a trade or business
3. The source of income is regularly carried on

It is necessary to meet all three criteria to qualify as UBI. It is important to note that the criteria apply to how the funds are generated (income), not how the funds are used (expenses). NIRSA's tax exempt purposes are outlined in its Articles of Incorporation and Bylaws. NIRSA qualifies

as tax-exempt organization under section 501(c)(6) of the Internal Revenue Code because of its educational purpose in the area of recreation.

The IRS has carved-out several exceptions to the aforementioned definition. Exceptions relevant to NIRSA include:

1. Investment income (interest, dividends)
2. Royalty income, as long as the organization is not providing services with the royalty agreement
3. Rents received from real property, except debt-financed property
4. The sale of fixed assets or securities
5. The sale of merchandise that is donated
6. If the activity is substantially run by volunteers
7. Trade Shows (with exceptions that don't apply to NIRSA)
8. Sponsorships (see differences between **sponsorship** and **advertising** below)

It is important to understand the differences between **sponsorship** and **advertising** as sponsorship is an exception to UBI and advertising is considered UBI.

- **Sponsorship:** If a company gives the organization money without a substantial return benefit, it is sponsorship. Functionally, this includes sponsorship of a social or education event where the sponsor's name is attached to the event, but it does NOT include an endorsement of the product or service or any inducement to buy. Including "presented by", or providing a link on the website is not a substantial return benefit.
- **Advertising:** Includes an endorsement of the product or service, pricing information, or other information that would create a possible inducement to buy the product or services. On the advice of both NIRSA's outside audit and CPA firm (Moss Adams, LLP) and legal counsel (O'Donnell, Clark & Crew LLC), NIRSA takes a very conservative approach to delineating sponsorships and advertising.

When opportunities for new programs or revenue sources are generated, NIRSA's legal counsel and outside CPA tax advisors are consulted to determine if the activities should be run by NIRSA or NSC. Recent examples include:

- **POWERade:** Sponsor payments subject to the Terms of Agreement are considered UBI because the program includes inducements to buy.
- *National Recreation Facilities Institute by Mondo:* Considered pure sponsorship, therefore not UBI, as it does not include an inducement to buy.
- *NIRSA Health & Wellness Passport* presented by Matrix: Sponsorship of this program would qualify under the pure sponsorship exception to UBI. However, the program itself may not be considered related to NIRSA's tax-exempt purpose given IRS rulings and case law in this area, therefore it is currently considered UBI and run through the NSC.

###