

**Directions for completing this form:** Place the title of your workshop in the space indicated, followed by the name and contact information for the presenters. Provide a brief description by placing the cursor on the line below "Brief Description" and commence typing. To complete the "Topical Outline", place cursor next to each Roman numeral and begin typing. Then place the cursor next to the "a." to begin listing sub-topics. To list more than one sub-topic, push "Enter" and "b." should appear on the next line, and so on. Place the cursor on the line under "Notes" to begin providing your notes. To list bibliographic information, place the cursor next to "1." and start typing. Push "Enter" to move on to "2." and etc.

## ABA/ NLADA 2007 Equal Justice Conference

### **Running a Nonprofit in Today's Changing Environment: What You Don't Know That Can Hurt You**

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**Biography:** Andrew M. Grumet is an associate with Herrick, Feinstein LLP. He concentrates his practice in tax law with an emphasis on personal tax planning and tax-exempt organizations, including trust and estate planning, probate administration, charitable giving and philanthropy. Andrew received his undergraduate degree from Syracuse University, his J.D. from Quinnipiac College School of Law, and his LL.M. in Taxation from Villanova University School of Law. He is admitted to practice in New York and New Jersey. Andrew serves as a Director of the Gift Planning Council of New Jersey, and is a member of the American Bar Association, the New York Bar State Association's Trust and Estates Section, and the National Committee on Planned Giving. Andrew frequently speaks to professional and non-professional groups on various topics relating to his practice. Among these groups are the National Committee on Planned Giving, the American Association of Grant Professionals, the New Jersey Gift Planning Council and the Association of Fundraising Professionals of New Jersey. In addition, Mr. Grumet annually records educational audio tapes for continuing education courses at the College of Financial Planning. These courses have included Using Charitable Trusts for Clients Who Are Not So Charitable and Tax Efficient Funding of Large Life Insurance Policies. Andrew has also authored several articles, which have appeared in Estate Planning, Practical Tax Strategies, Tax Notes, Trusts & Estates, and Charitable Giving and Solicitation. In 2003, he authored a chapter for the Life Insurance Answer Book, published by Aspen Publishers.

#### **Topical Outline:**

- I. Introduction
- II. The Intersection of Federal and State Law
  - a. What is a Nonprofit?

- i. State law definition
    - ii. Who are the players?
  - b. What does it mean to be tax-exempt?
- III. Public Charities
  - a. Section 509(a)(1) organizations
    - i. The 33-1/3 percent of support test
    - ii. Alternative test
  - b. Section 509(a)(2) organizations
- IV. Private Foundations
  - a. Chapter 42 prohibitions and excise taxes
    - i. Excise tax on net investment income
    - ii. Excise tax on acts of self-dealing
    - iii. Excise tax on failure to distribute the minimum return
    - iv. Excise tax on excess business holdings
    - v. Excise tax on jeopardy investments
    - vi. Excise tax on taxable expenditures
  - b. Termination of private foundation status
- V. Federal Recognition of Tax Exemption
  - a. Private Foundations
  - b. Public Charities
- VI. Grantmaking
  - a. Public Charities
  - b. Private Foundations
    - i. Grants to individuals
    - ii. Grants to organizations
    - iii. Expenditure responsibility
- VII. Fiduciary Duties
  - a. Duty of Care
  - b. Duty of Loyalty
  - c. Duty of Obedience
  - d. Duty of Oversight
- VIII. Fiduciary Duties in the Real World – What Needs to be Done
  - a. Corporate Formalities
    - i. Corporate Documents
    - ii. Meetings
  - b. Returns and Reports
    - i. Federal Returns
    - ii. Other Federal Filings
    - iii. Financial Report to Board
  - c. Financial
    - i. Policies
    - ii. Ledgers and supporting documentation
    - iii. Investment responsibility and stewardship

- iv. Receipt of Contributions
  - d. Transactions
    - i. Conflicts of interest
    - ii. Best interest of the corporation
    - iii. Excess benefit transactions and compensation
  - e. Employees
    - i. Written policies
    - ii. Salaries and withholding
    - iii. Oversight
  - f. Fundraising
    - i. State registration and renewals
    - ii. Professional fundraisers and fundraising counsel
    - iii. State disclosure
    - iv. Fundraising on the internet
    - v. Do-not-call lists
    - vi. Collection of sales tax on charitable fundraisers
- IX. Liabilities
- X. Staying on track
  - a. Board Orientation
    - i. Board books
    - ii. Initial orientation
    - iii. Continuing education
  - b. Keeping accurate records
  - c. Seeking professional advice

**Notes:**

**Bibliography & Website Links:**