

National Club Association

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Club Director Reference Series

**National Club Association
1201 15th Street NW
Suite 450
Washington, DC 20005**

Club Director Reference Series



Capital Budgeting Guidelines for Private Clubs

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

Introduction	4
I. The Planning Process	5
II. Program Oversight.....	7
III. Role of the Board, Planning Committee, General Manager, and Controller	8
IV. Capital Replacement vs. Expansion	10
V. Capital Expansion Programs	12
VI. Financing	15
VII. Guidelines for Capital Campaigns	18
VIII. Preparing the Economic Analysis	19
IX. Communicating Capital Programs to Members	20
Appendix	21

Club Director Reference Series

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Employment Practices Liability

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. What Is Employment Practices Liability?	4	VI. Risk Management	12
II. What is Discrimination and Harassment?	5	EPL Insurance	12
Discrimination	5	Evaluating Risk	12
Harassment	5	Purchasing EPLI	13
III. Federal Equal Employment Opportunity (EEO) Laws	6	VII. Employment Policies	14
Title VII of the Civil Rights Act of 1964.	6	Selection and Hiring Policies	14
Pregnancy Discrimination Act of 1978 (PDA)	6	Termination Policies	16
Civil Rights Act of 1991	6	Harassment Policies	18
Americans With Disabilities Act of 1990 (ADA)	7	Same-Sex Harassment Policy	18
Age Discrimination in Employment Act of 1967 (ADEA)	7	Sexual Orientation Discrimination Policy	18
Equal Pay Act of 1963 (EPA)	8	Retaliation Policies	19
IV. The Equal Employment Opportunity Commission (EEOC)	9	VIII. Workplace Policies	20
Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA)	9	IX. Responding to Employment Practices Complaints	23
V. Other Federal Labor Laws	10	Prevent Retaliation	23
Employee Polygraph Protection Act of 1988 (EPPA)	10	Selecting an Investigator	23
Employment Retirement Income Security Act of 1974 (ERISA)	10	Conduct an Investigation	23
Family and Medical Leave Act of 1993 (FMLA)	10	Make a Determination	24
Fair Labor Standards Act of 1938 (FLSA)	10	Review Policies and Procedures	24
The Immigration Reform and Control Act of 1986 (IRCA)	10	X. Conducting an Employment Law Audit	25
Occupational Safety and Health Act of 1970 (OSHA)	10	Audit Goals	25
Section 1981 of the Civil Rights Act of 1866	11	The Audit Team	25
Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA)	11	EEO Laws and Applicability	25
Worker Adjustment Retraining Notification Act of 1988 (WARN)	11	Organize the Audit Process	25
		Hiring and Recruitment Policies	26
		Workplace Policies	26
		Termination Policies	26

Club Director Reference Series



The Federal Tax Treatment of Private Clubs

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. Introduction	5		
II. Not-for-Profit Taxable Clubs	6		
A. Tax-Exempt vs. Taxable Status	6		
1. Civil Rights Act of 1964	6		
2. Salient Questions: Taxable or Tax-exempt Status	6		
B. Establishing Taxable or Tax-Exempt Status	7		
1. The Form 1024, Application for Recognition of Tax-Exempt Status	8		
2. Tax Implications of Conversion from Taxable to Tax-Exempt Corporation.	8		
3. Retroactive Qualification.	9		
C. Nonprofit Club Which is No Longer Tax-Exempt – IRC Section 277	9		
D. Nontaxable Capital Contributions to Taxable Clubs	11		
1. Assessments	11		
2. Initiation Fees	12		
3. Transfer Fees	12		
E. Summary – Not-for-Profit Taxable Clubs	14		
III. The Tax-Exempt Club: Purpose and Structure	15		
A. The Concept of the Exempt Club	15		
B. The Exempt Purpose	16		
1. Fellowship	16		
2. Business or Pleasure	16		
3. The Club as a Subterfuge for Business.	17		
4. Other Nonprofitable Purposes.	18		
5. Earnings Inuring to Benefit Members ..	18		
6. Dealings with the General Public	19		
7. Nontraditional Income	21		
■ Factual Question			
		■ Sales-to-Go Activities	
		■ Rental Activities	
		■ De Minimis Exception	
		C. Organization and Structure	22
		1. Organizational Test	22
		2. Classes of Membership	23
		3. Membership Policies and Tax Exemption	24
		■ Prohibited Discrimination	
		■ Discrimination on Religious Grounds	
		■ First Amendment Right of Expressive Association	
		■ Freedom of Association and Privacy	
		4. Corporate Governance and Compensation	25
		IV. Perspective on Unrelated Business Taxable Income.	31
		A. Historical Overview	31
		1. Revenue Act of 1950	31
		2. Tax Reform Act of 1969	31
		3. Revenue Procedure 71-17 (1971)	32
		4. Public Law 94-568 (1976)	32
		B. Income from the General Public after PL 94-568	33
		C. IRS Audit Guidelines	34
		D. Sale of Club Property	36
		E. Reciprocal Income	37
		F. Unaccompanied Guests	38
		G. Advertising	38
		V. Computation of Unrelated Business Taxable Income.	40
		A. Deductions	40

B. Exclusion of Exempt Function Income.	41
C. Set-Asides	41
D. Gain or Nonrecognition of Gain on the Sale of Club Property	42
1. Direct Use.	42
2. Buffer Land, Contiguous Land and Land for Possible Future Use	42
3. Sale of Property: A Cogent Decision.	43
4. Exchanging Leasehold Property for Real Property	43
5. Sale of Property and Repayment of Debt.	44
6. Sale of Painting.	45
7. Liquidation	45
E. Summary of Exempt Function Income and Deductions.	46
F. Examples – Computation of Unrelated Business Taxable Income (“UBTI”)	46
1. Simple Illustration of Computation of UBTI	47
2. Illustration of Computation of UBTI Where There Is a Set-Aside of Income	47
3. Illustration of Nonrecognition of Gain on Sale of Property.	48
4. Illustration of Cost Allocation for UBTI	48
Appendix A: Digest of Published Rulings and Procedures.	49
Appendix B: Sample Forms.	54
Endnotes	55

Club Director Reference Series

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Fitness Facility Management and Liability

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I.	Introduction	4
II.	Planning for the Fitness Facility	5
III.	Youth Fitness Programs	8
IV.	Staffing the Facility	10
V.	Equipment and Warranties	11
VI.	Risk Management	13
VII.	Emergency Planning	16
VIII.	Medical Certification	18
IX.	Fitness Profile	18
X.	Liability Waivers	19
	Appendix A: Physical Activity Readiness Questionnaire (PAR-Q)	21
	Appendix B: Fitness Appraisal Profile	23

Club Director Reference Series



Independent Contractor Compliance for Clubs

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I.	Introduction	4
II.	History of IRS Enforcement	4
III.	Definition of Independent Contractor	5
IV.	General Rule – Twenty Factor Test	6
V.	Safe Harbor – Section 530 Relief	7
VI.	Golf and Tennis Pros	8
VII.	Caddies	9
VIII.	Dual Status	10
IX.	Employer Status/Tax Liability	10
X.	Contracts	10
XI.	1099 Reporting	11
XII.	Consequences of Misclassification	11
XIII.	When the IRS Conducts an Audit	12
XIV.	Summary	12

Club Director Reference Series



Job Descriptions for Management Staff

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

Introduction	4
I. How to Use Job Descriptions	5
II. Legal Considerations	6
III. Analysis of Job Functions	8
IV. Writing the Job Description	10
V. Approval and Periodic Revision	11
VI. Model Job Descriptions	12
Athletic Director	12
Caddie Master/Cart Attendant	13
Catering Manager/ Special Events Director	14
Clubhouse/Operations Manager	15
Controller/Office Manager	17
Executive Chef/Chef	18
Food & Beverage Director/Manager	19
General Manager/COO/ Executive Director	20
Golf Course/Grounds Superintendent	22
Golf Professional	24
Harbor/Dock Master	26
Head of Housekeeping	27
Human Resource Manager	28
Membership/Admissions Director	29
Rooms/Front Desk Manager	30
Steward	31
Tennis Professional	32
Appendix A—Club Organizational Charts	33
Golf/Country Club	34
City Club	35
Racquet/Yacht/Beach Club	36
Appendix B—Directory of Professional Associations and Societies	37

Club Director Reference Series



Model Club Rules

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

1.0 Alcohol	4	46.0 Helicopter	9
2.0 Amendments	4	47.0 Holiday Fund	9
3.0 Animals	4	48.0 Hours of Operation	9
4.0 Attire	4	49.0 Indebtedness	9
5.0 Automobiles	5	50.0 Indemnity	9
6.0 Behavior	5	51.0 Infractions	9
7.0 Billing	5	52.0 Invitations	9
8.0 Board Meetings	5	53.0 Liability	10
9.0 Board Minutes	5	54.0 Library	10
10.0 Business	5	55.0 Lock Boxes	10
11.0 Business Office	5	56.0 Locker Rooms	10
12.0 Cards/Games	5	57.0 Mailing Addresses	10
13.0 Cash Transactions	5	58.0 Mailing List	10
14.0 Cellular Phones	5	59.0 Minimum Charges	10
15.0 Charges	5	60.0 Mixed Grill	10
16.0 Checks	6	61.0 Newspapers, Magazines	10
17.0 Children	6	62.0 Notices	10
18.0 Club Name	6	63.0 Parking	11
19.0 Colors and Emblem	6	64.0 Parties	11
20.0 Communication With Members	6	65.0 PCS Devices	11
21.0 Complaints	6	66.0 Petitions	11
22.0 Computers	7	67.0 Photographs	11
23.0 Conflict of Interest	7	68.0 Policies	11
24.0 Controlled Substances	7	69.0 Press	11
25.0 Credit Cards	7	70.0 Property	11
26.0 Damage	7	71.0 Publicity	11
27.0 Deaths	7	72.0 Reciprocal Clubs	11
28.0 Decorations	7	73.0 Religious Services	12
29.0 Directory	7	74.0 Reservations	12
30.0 Discipline	7	75.0 Rooms	12
31.0 Employees	7	76.0 Safe Deposit Boxes	12
32.0 Enforcement	8	77.0 Service Charge	12
33.0 Entertainment	8	78.0 Significant Others	12
34.0 Family Privilege Cards	8	79.0 Smoking	12
35.0 Fees	8	80.0 Solicitations	12
36.0 Firearms/Fireworks	8	81.0 Sporting Facilities	12
37.0 Fitness Center	8	82.0 Stationery	12
38.0 Food and Beverages	8	83.0 Strangers	12
39.0 Fund Raising	8	84.0 Subscriptions	12
40.0 Gambling	8	85.0 Suggestions	12
41.0 General Public	8	86.0 Telephone	13
42.0 Gratuities	8	87.0 Tipping	13
43.0 Group Functions	8	88.0 Transfer of Membership	13
44.0 Guests	8	89.0 Wellness Center	13
45.0 Guest Cards	9		

Club Director Reference Series



Model Committee Guidelines

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. Introduction	4
Purposes, Structures and Roles	4
Getting Started	4
Meetings and Records	5
II. Model Committee Profiles	6
Athletic Committee	6
Audit Committee	6
Awards Committee	7
Communications Committee	7
Employee Benefits Committee	7
Employee Relations Committee	8
Executive Committee	8
Finance Committee	9
Golf Committee	9
Green Committee	10
House Committee	11
Insurance Committee	12
Legal/Government Affairs Committee	12
Membership Committee	13
Nominating Committee	14
Planning Committee	14
Race Committee	15
Special Events Committee	15
Swimming and Diving Committee	16
Tennis Committee	16
Tournament Committee	17

Club Director Reference Series



Model Golf Rules

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Contents

Animals	4
Associations	4
Bag Storage	4
Bicycles	4
Caddies	4
Cellular Phones	5
Double Greens	5
Dress Code	5
Etiquette	6
Fishing	6
Golf Cars	6
Golf Committee	7
Golf Outings	8
Green Committee	8
Green Fees	8
Guests	8
Handicaps	9
Hours of Operation	9
Infractions	9
Jogging	9
Junior Golf	9
Lessons	10
Lightning	10
Local Rules	11
Measurements	11
Member Play Privileges	11
New Member Orientation	12
Nongolfing Activities	12
Obstructions	12
Physically Handicapped	12
Play Days	12
Playing Groups	12
Practice Areas	13
Practice Range	13
Professional	13
Pull Carts	14
Rain-Check Policy	14
Registration	14
Rules of Play	14
Service Fees	14
Speed of Play	14
Starting Play	15
Starting Times	15
Tee Markers	15
Tournaments	16
Walking	16

Club Director Reference Series



Model Membership Admission Process

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. Creating a Plan of Exclusiveness	4
II. Model Admission Process	5
Soliciting New Members	5
Sponsoring New Members	5
Role of the Membership Committee	6
Confidentiality	7
Evaluation Factors	8
Extending the Invitation	9
Waiting Lists	9
Full and Provisional Acceptance	10
Protecting Volunteers From Claims When an Invitation Is Not Extended	11
Providing for Dispute Resolution	12
Letters of Acknowledgment	12
Records	13
III. Model Forms	14
Nominee Profile	14
Sponsor Proposal of Nominee for Membership	17
Confidentiality Bylaw	19
Sample Letters of Introduction	19
Sample Acknowledgment	22
Resolution Recognizing Members' Volunteer Service	24

Club Director Reference Series

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Model Private Club Bylaws

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

ARTICLE I – Name and Purpose		
Name and Purpose	5	
ARTICLE II – Property		
Facilities	5	
Responsibility for Non-Club Property	5	
Removal of Club Property	5	
Damage	5	
Property Rights	5	
ARTICLE III – Membership		
Definitions	5	
Members	5	
Equity Members	5	
Non-Equity Members	5	
Immediate Family	6	
Significant Others	6	
Classifications	6	
Full-Privilege Member	6	
Social Member	6	
Full-Privilege or Social Intermediate Member	6	
Surviving Spouse: Widow Member	6	
Former Spouse	7	
Non-Resident Member	8	
Inactive Member	8	
House Member	9	
Senior Member	9	
Other Memberships	9	
Policies	9	
Legacies	9	
Change of Membership Classification	9	
Admission Procedures	9	
Membership Notification	9	
Waiting Pool	9	
Upgrades	10	
Voting Rights	10	
ARTICLE IV – Resignation, Suspension and Expulsion		
Resignation of Membership	11	
Suspension or Expulsion	11	
“Cause” Defined	11	
Hearing Required	11	
Appeals		11
Suspension		11
ARTICLE V – Fees, Dues, Certificates, Assessments and Late Fees		
Fees and Dues		12
Capital Assessments		12
Operating Assessments		12
Payment Terms		12
Late Fee Charges		12
Returned-Check Fee		12
Certificates		13
Facilities Unavailable		13
Capital Expenditure Limitation		13
Other Charges		13
Account Charges		13
ARTICLE VI – Complaint and Grievance Procedure		
Only Written Complaints Acceptable		13
Bylaws and Rules Infractions		13
Procedure Regarding Employees		13
ARTICLE VII – Guests		
Guests.		13
ARTICLE VIII – Government and General Management		
Board of Governors		14
Powers		14
Meetings		14
No Remuneration		14
Conflict of Interest		14
Removal of Officers and Board Members		14
Rules and Quorum		14
President.		14
Vice President		15
Secretary		15
Treasurer		15
Past President		15
Vacancies		15
General Manager		15
Bond		15

ARTICLE IX – Committees
 Nominating Committee 15
 Long-Range Planning Committee 16
 Other Committees 16
 Committee Members 17

ARTICLE X – Membership Meetings
 Annual Member Meeting 17
 Special Member Meetings 17
 Election of Board Members 17
 Absentee Ballots 17
 Proxies 18
 Organization of New Board 18
 Conduct of Meetings 18

ARTICLE XI – Notices and Consents
 Notices 18
 Consent in Lieu of Meeting 18

ARTICLE XII – Indemnification
 Indemnification 18

ARTICLE XIII – Fiscal Year
 Fiscal Year 19

ARTICLE XIV – Stock
 Stock 19

ARTICLE XV – Amendments
 Amendments 19

ARTICLE XVI – Miscellaneous
 Seal 19
 Gender and Number 19
 Captions 19

ARTICLE XVII – Interpretation
 Interpretation 19

ARTICLE XVIII – Liquidation
 Dissolution 19

Procedure and Rights 19
 Rights 20

End Notes 21

Commentary 26

Club Director Reference Series

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Private Club Membership Guidelines

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. Membership Categories	4
Creating Membership Classes	4
Regular/Full Members	4
Social Members/Dining Members	4
Legacy/Junior/Intermediate Members	4
Widowed or Surviving Spouse	5
Senior Members	5
Honorary/Life	5
Nonresident Member	6
Out-of-State Member	6
Inactive	6
Other Categories	6
II. Special Categories	7
Divorced Members	7
Spousal Equivalents/Significant Others	7
Joint Memberships	8
Corporate and Corporate-Sponsored Memberships	8
Spousal Members	9
III. Membership Problems.	10
The Expulsion Process	10
Posting of Delinquent Member Accounts	10
Responding to Requests for Privileged Information.	10
Subpoenas	11
IV. Summary	12

Club Director Reference Series



Understanding the Federal Wage and Hour Laws

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. Introduction	4	Hours of Work	19
Background	4	Permissible Types of Work	19
Effect of State or Local Laws	4	State Requirements	20
II. Classification of Employees	5	IX. Equal Pay for Equal Work	21
Exempt vs. Nonexempt Employees	5	Salary Differences	21
Exemption Test	5	Evaluating Pay Systems	21
Classifying Club Employees	6	Testing Equality of Jobs	21
III. Independent Contractors	8	Jobs Requiring Equal Effort	21
Golf and Tennis Pros	8	Jobs Requiring Equal Responsibility	22
Caddies	8	Jobs Performed Under Similar Working Conditions	22
IV. Minimum Wage	10	X. Record-Keeping and Posting Requirements	23
Exceptions to the Minimum Wage	10	Records Retention Schedule	23
Payroll Deductions	10	Posting Requirements	23
V. Tips and Service Charges	11	XI. DOL Investigations	24
Tip Characteristics	11	Investigation Procedures	24
Tip Pooling	11	Handling an Investigation	24
Tip Credit	11	XII. Enforcement	26
Tip Reporting and Allocation	12	Appendix A—Calculating the Rate of Pay	27
Service Charges	12	Hourly Rate of Pay	27
Changing Service Charges Into Tips	13	Noncash Compensation	27
Using Both Service Charges and Tips	13	Overtime Rates of Pay	28
VI. Compensation Issues Related to FLSA	14	Guaranteed Salary With a Guaranteed Salary With a Fixed Workweek	28
Lodging	14	Computing Overtime for Different Hourly Rates	29
Meals	14	Overtime With Different Hourly Rates for Different Work Periods	29
Training Programs and Meetings	14	Overtime for Employees With Service Charges Credited to Wages	30
Travel	14	Tipped Employees	30
Uniforms	15	Employees With Other Income	31
VII. Overtime Pay	16	Appendix B—FLSA Checklist	33
Defining the Workweek	16	General Requirements	33
Determining Hours Worked	16	Exempt and Nonexempt Employees	33
Employer-Provided Leave	17	Overtime Compensation	33
Determining the Pay Rate	17	Equal Pay Act	33
Effect of Tips on Rate-of-Pay Calculations	18	Child Labor	33
Bonuses	18	Record-Keeping Requirements	33
Incentive Fees	18		
Effect of Union Contracts	18		
VIII. Child Labor	19		
Age Restrictions and Certificates of Age	19		

Club Director Reference Series

ADVOCATE FOR CLUBS



ANSWERS FOR CLUB LEADERS

Workers Compensation Issues

National Club Association
1201 15th Street NW, Suite 450
Washington, DC 20005

Table of Contents

I. What is Workers Compensation?	4	VIII. Ergonomic and Environmental Illnesses . 21	
II. Coverage	5	Repetitive Stress Injuries	21
III. Liability and Employer Responsibilities	6	OSHA's Role in Ergonomics	22
IV. Financial Considerations.	7	Environmental Illnesses	22
Coverage Options.	7	IX. Work-Related Mental Stress	24
Loss Trends	7	X. Workplace Violence	25
Ratings and Premiums	8	XI. Claims Fraud	26
Open Rating.	8		
Minimum Rate.	8		
Experience Rating	8		
Retrospective Rating	8		
Prospective Rating	9		
Job Classes	9		
Experience Modification Factor	10		
V. Loss Prevention	11		
Management Philosophy	11		
Hiring Practices	12		
Training for Safety	12		
Performance Evaluations	13		
Safety Inspections	13		
Safety Committees	14		
Outside Experts	14		
VI. Benefit Control and Medical Management . 16			
Accident Investigations	16		
Independent Medical Exams	16		
Referrals to Specialists	17		
Chronic Pain Cases	17		
Vocational Rehabilitation	18		
VII. Return-to-Work Strategies	19		
Light Duty	19		
Vocational Rehab	20		
Work Hardening	20		