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An Independent Nonprofit Aerospace Organization

Michael M. Dunn
President/CEO

29 March 2010

MEMORANDUM FOR STATE AND CHAPTER PRESIDENTS

Cc: Region Presidents

FROM: President/CEO

SUBJECT: Transition to IRS 501(c)(3) Status

1. A process that began in February 2005 is nearing completion. When AFA made the decision to restructure itself into an IRS 501(c)(3) organization, our principal motivation was to broaden our membership eligibility to all members of the Air Force family (military and civilian, serving and supporting) and take advantage of a tax classification that more accurately described our mission to EDUCATE, ADVOCATE, and SUPPORT. We consciously chose to separate the Headquarters transition from that of the Field, and while IRS approval of extension of 501 (c)(3) status to the Field took much longer than planned, we know we were following the correct path.
3. On 24 September 2009, the IRS approved our Group Exemption Request to transfer our Field organizations from 501(c)(19) to IRS 501(c)(3), with an effective date of 8 February 2007. We now need your help and service to both take advantage of our new status and fully comply with the laws and regulations that now apply to you.
4. You (or more likely your predecessors) have already begun the process. Back in 2006, in anticipation of expeditious IRS approval, we asked all States and Chapters to adopt a new 501(c)(3)-compliant Constitution (if we do not have your unit's submission on file, we will contact you separately). At that time, we also distributed a "Frequently Asked Questions (FAQ)" document to begin familiarization with the 501 (c)(3) requirements. We have posted an updated version of that FAQ document on our website along with links to all of the IRS forms, publications, and additional guidance under <http://www.afa.org/members/field.asp> .
5. Additionally, there is a brief talking paper attached to this letter that highlights some requirements of your new tax status to which you must pay particular attention.
6. Finally, all AFA field leaders should read in their entirety two IRS publications:
 - a. IRS Pub 4221-PC, *Compliance Guide for 501(c)(3) Public Charities* is downloadable directly from the web at: <<http://www.irs.gov/pub/irs-pdf/p4221pc.pdf>>. This pamphlet covers all the basic requirements for 501(c)(3) compliance in a clearly written style – it takes approximately 20-30 minutes to read carefully; and

b IRS Pub 1771, *Charitable Contribution Substantiation and Disclosure Requirements* is also downloadable from the web at: <<http://www.irs.gov/pub/irs-pdf/p1771.pdf>>. This document is important to you for two reasons: it lists the requirements for your State/Chapter and also your personal requirements for claiming charitable deductions.

It is important that you read and understand these documents and incorporate them into your training and mentoring of your State/Chapter leaders and successors. A more detailed source of information for all nonprofit organizations is IRS Pub 557, *Tax-Exempt Status for Your Organization* available at: <<http://www.irs.gov/pub/irs-pdf/p557.pdf>>, and Field leaders should review this publication, especially Chapters 1-3.

7. All of your preparation for the conversion to 501 (c)(3) may have a personal benefit to you that does not violate the spirit or letter of any IRS regulation! Your reasonable, and documented expenses in the service of AFA's mission at the Chapter/State level are potentially deductible on your own Form 1040, Schedule A, and the IRS Pub 1771, *Charitable Contribution Substantiation and Disclosure Requirements* describes some of the record keeping required to make this possible. IRS Pub 526 *Charitable Contributions* at: <<http://www.irs.gov/pub/irs-pdf/p526.pdf>> also has more details. For instance, unreimbursed out-of-pocket automobile expenses directly relating to your AFA Chapter/State service can be deducted as actual expense (if you maintain adequate records) or at the charitable standard mileage rate of 14 cents/mile.

8. We understand this has been a long and sometimes frustrating process, and that you serve voluntarily in your leadership position. We honor and appreciate your service to our Association, our Air Force, and our Nation. Thank you for your daily efforts to make AFA better and more effective.

Sincerely,



MICHAEL M. DUNN
President and CEO

Attachment: 501(c)(3) Special Attention Areas

TALKING PAPER
ON
501(c)(3) SPECIAL ATTENTION AREAS

Purpose: This paper outlines five areas that require special attention for our field units operating in IRS 501(c)(3) status. Field leaders must be especially aware of the following:

1. **“Political” Activity.** There can be **NO** suggestion that AFA, as a tax-exempt organization, endorses **ANY** political candidate for **ANY** elective office (and this prohibition is exactly the same whether the organization is a (c)(3) or (c)(19), and whether the elective office is federal, state or local). AFA publishes guidance on this area periodically; see the September 2008 *Newsline* article at: <http://www.afa.org/members/nwslne/sept08/election.asp> for example.
2. **“Lobbying” Activity.** For at least the past 30 years, AFA has been guided by the philosophy: “The most sophisticated private business interests, and public interest groups, understand that the greatest credibility with the Congress is earned by presentation of honest and full facts.” There is no 501(c)(3) [or other tax code provision] preventing organizations or individual AFA members from communicating with policymakers to provide balanced, non-partisan education on defense or other matters.

However, specific “attempts to influence legislation” are limited to an “insubstantial part” of a 501(c)(3) organization’s activities. AFA Headquarters has filed an IRS 501(h) election to apply objective expenditure limits to any lobbying activity it may conduct; AFA has never approached these limits in our normal course of business and with the inclusion of its field entities must not do so either. Our Field units must help us comply with this regulation by including in their quarterly reports a completed form (that AFA Headquarters will send them) reflecting any **expense** they incurred by virtue of their activity with elected officials or the public that could be construed as an attempt to influence legislation. Volunteer time is not the measure here, only expenses, such as paid employee time, transport or entertainment expenses. This could include a mailing to chapter members asking them to contact their Congressman to support or oppose a position involving legislation. Field leaders are requested to err on the conservative side in reporting legislative activities, and Headquarters will contact you if additional information is needed or any change in your activities are required.

3. **Accepting Tax Deductible Contributions.** Not every contribution received by a 501(c)(3) organization is fully tax deductible to the donor, and receiving organizations have specific responsibilities to inform donors or potential donors and provide appropriate receipts for contributions. IRS Pub 1771 referenced in this mailing, *Charitable Contribution Substantiation and Disclosure Requirements* (<<http://www.irs.gov/pub/irs-pdf/p1771.pdf>>) provides clear guidance for most cases. In the rare event a Field organization is offered a single donation of \$10,000 or more, a vehicle, or intellectual property, the unit must contact Headquarters for specific instructions.

Similarly, not every activity where people pay you for a function or donate is charitable fundraising unless you are soliciting the money as a charitable contribution. Most states and some localities also regulate fundraising by 501(c)(3) organizations, and subordinate units are

responsible for their own registration and reporting at the local, state and national level if they intend to conduct charitable fundraising.

4. Expenditure of Funds. States and chapters may only expend funds on a purpose related to our tax exempt mission, and this includes funds necessary to conduct the normal business of the organization. It is important to note: “No part of the net earnings of a section 501(c)(3) organization may inure to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization.” (see: <http://www.irs.gov/charities/charitable/article/0,,id=123297,00.html>.) Certainly AFA would view any personal use of AFA funds (excluding reimbursement of necessary, documented expenses) not only a violation of the law, but also of our core value of “Integrity First.” There is an area of normal AFA business, however, where field units must be able to demonstrate that no inurement for personal benefit has occurred.

In conducting scholarship and grant programs, special care is warranted to ensure that grants and scholarships are:

- Awarded in a non-discriminatory fashion in terms of racial preference;
- Based on need and/or merit; and
- Available to an open-ended group, rather than to preselected individuals.

For those programs simply “administered” or “presented” by field units (such as AFA scholarships or Pitsenbarger Awards) there is no risk because Headquarters maintains appropriate documentation and follows an appropriate process to avoid conflict of interest. In cases where field units are more involved in creating the program or selecting individual recipients, they must maintain adequate records and “case histories” (e.g., name/address of recipient, amount of award, purpose of the award, manner recipient selected, any application and any evaluation report, and any relationship between the recipient and any organization members or significant donors). Of particular concern is an award to any “family member” of a “disqualified person” (Field elected officer or voting board member). Field units would be wise to avoid such awards (NOTE: the IRS definition of family member is broad: spouse, ancestors, brothers and sisters (whole or half blood), children (natural or adopted), grandchildren, great-grandchildren, and spouses of brothers, sisters, children, grandchildren, and great-grandchildren). Further guidance is under development and will be posted on the “Tax Guidance” page and included in the OPM, but if you have any questions on this point, please contact Headquarters for guidance.

As in the significant fundraising case, subordinate units are responsible for their own documentation and reporting at the local, state and national level if they intend to conduct significant scholarship or grant programs. Those entities can establish their 501(c)(3) status by sending information about their programs to AFA Headquarters and being included in the list we submit to the IRS.

5. Conflicts of Interest and Excess Benefit Transactions. Closely related to the previous item, the Internal Revenue Code prohibits directors, officers and key staff of AFA or any of its State or Chapter affiliates from entering into transactions (that is contracts, written or oral, for goods, services or credit) with any AFA affiliate which confer more benefit on the individuals or a business in which they have an interest than on AFA. The presumption is that any transaction confers an excess benefit unless stringent procedures are followed. For detailed information on this subject, see IRS Pub 557, *Tax-Exempt Status for Your Organization* available at: <http://www.irs.gov/pub/irs-pdf/p557.pdf>, pages 58-61. Before entering into any contract with a key State or Chapter employee or supplier having any relationship to Headquarters, State or Chapter leaders (including businesses in which they are more than 35% owners), contact Headquarters for guidance.

AFA HQ appreciates that some of the information above may not be clear and during our transition, units are encouraged to ask headquarters for advice. Additionally, many States and Chapters have resources within their own membership that can provide legal or accounting advice, and the web contains virtually all the information any unit need to comply with regulations while supporting the mission of AFA to EDUCATE, ADVOCATE, and SUPPORT.