

BEST PRACTICES

Best Practices #043, Nonprofit Incorporation Heading: Chapter Structure



The “Simplistics” of Applying for Tax Exempt Status with the IRS for Your Chapter

Although your organization may fit the description of a tax-exempt entity it is not officially one until it has applied for and been granted tax-exempt status with the Internal Revenue Service in accordance with the provisions of Internal Revenue Code section 501(c)(3). The section reads as follows:

“Corporations, and any community chest, fund or foundation, organized and operated *exclusively* for religious, charitable, scientific, testing for public safety, literary, or *educational purposes*, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty of children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.”

Read this provision carefully. There are several numbered paragraphs in IRC Section 501(c) all of which grant tax-exempt status but the above section is the one you want to qualify under because donations to 501(c)(3) organizations are tax deductible. For example, Section 501(c)(7) reads:

“Clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder.”

Section 501(c)(7) may, on the face of it , describe your club, but donations to 501(c)(7) organizations are not tax deductible. The key work you want to emphasize in 501(c)(3) is education. You would want to qualify under that section in hopes to receive donations.

The application process is not simple. It requires the submission of IRS Form 1023, Application for Recognition of Exemption, which is quite lengthy. The basic Form is 12 pages long and requires detailed financial information and copies of the organization’s charter, by-laws, and other documents, which are enumerated in the instructions for Form 1023, and much other information. The instructions are extensive, 38 pages in all. There is also an Internal Revenue Service Publication 557, which is helpful. The application will not be accepted unless a “user fee” accompanies it. If your annual gross receipts are, or expected to be not more than \$10,000, the fee, currently, is \$300. If more than \$10,000, the

fee is \$750. The instructions should be read very thoroughly. There is a Form 1023 Checklist along with the instructions and Form 1023 which should be carefully completed and submitted along with the Form 1023.

The forms and instructions can be downloaded from the IRS website www.irs.gov/formspubs/index.html or you can call the IRS and ask for them.

If your organization has annual gross receipts of less than \$5,000 it can qualify under IRC Section 501(c)(3) without filing Form 1023, but you can't really be sure unless you go through the application process.

IMPORTANT!

Most states also have registration requirements for tax-exempt organizations and may require some paperwork. You must already be registered with your state as a non-profit organization and have submitted Articles of Incorporation and by-laws, etc. before submitting an application to the IRS. Your phone book may give you a number to call or there may be a state website.

The Internal Revenue Service is currently taking a harder look at tax-exempt organizations because of faulty compliance in the past. You should take the application process very seriously and Promptly. *You would be well advised to enlist the help of a competent and experienced accountant or attorney to get you through it.*

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