

Obtaining and Retaining Your Chapter's Corporate and Tax Status

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Chapter Status

- Tax Exempt versus Nonprofit
- Incorporating
 - Initial requirements
 - Annual requirements
- Obtaining Tax Exempt Status
 - Initial requirements
 - Annual requirements
- Lapsed Status

The Basics

Tax Exempt versus Nonprofit

- Nonprofit
 - Corporate form based on state law
 - Not a tax issue -- merely a corporate status
- Tax Exempt
 - IRS determination that you do not have to pay taxes
 - Various types depending on type of organization



Incorporating

Benefits of Incorporation

- Limits liability of individuals involved
 - Protects individuals involved from being sued individually
- Independence
 - Perpetual existence
 - Actions are those of the corporation not those of individuals
- Formal structure
 - Greater ability to conduct activities

Creating the Corporation

- Articles of Incorporation
 - Filed with the state
 - Must include the “charitable” purpose of the organization
 - Must include limits on the activities
 - Must include dissolution clauses
- Bylaws
 - Should be consistent with articles of inc.
 - Describe the operation of the organization
- Employer Identification Number

Maintaining the Corporation

- Annual membership meetings
- Annual report with state
- Maintain registered agent

Obtaining Tax Exempt Status

Information About 501(c)(3)s

Limits on 501(c)(3) Activities

- **Dissolution**
 - Assets may only be transferred to conduct other charitable activities
 - ✓ another 501(c)(3), federal, state, or local government
- **Lobbying**
 - A “substantial” amount of activities cannot be lobbying
- **Political Activity**
 - None

Benefits of 501(c)(3) Status

- All contributions to the organization are tax-deductible for the donor
 - ✓ Money
 - ✓ Goods
 - ✓ Services
- Cannot receive a quid-pro-quo
- Organization is exempt from taxation

Obtaining 501(c)(3) Status

Form 1023

- Who needs to file?
 - Those with more than \$5,000 in annual receipts
 - File within 90 days of receiving \$5,000 annually
- When am I exempt?
 - Once the IRS grants exemption, from the date the application was filed
 - If filed within 15 months of incorporation, once the IRS grants the exemption, from the date of incorporation

Public versus Private

- By default private foundation subject to limits and certain taxes
- Public foundations generally must obtain more than 1/3 of support from general public or government
- May obtain advance ruling

Ongoing Requirements

Annual Informational Return

- Generally must file Form 990
 - Not needed if less than \$25,000 in annual gross receipts
 - In certain cases can use Form 990EZ
 - ✓ Annual gross receipts of less than \$100,000
 - ✓ Total assets of less than \$250,000
- When to file
 - 15th day of 5th month after close of tax year

Other Requirements

- Must pay employment taxes
- Must make 1023 and 990s available for public inspection and copying
- Must provide substantiation
 - Any donation over \$250 must provide written substantiation
 - If quit-pro-quo must indicate amount that is deductible

Reviving the Chapter

Corporate Status

- Check with secretary of state's office
 - Is corporation lapsed -- can it be revived?
 - Is it terminated?
 - Is it possible to complete paperwork to revive?
 - Are there fees due?
- May be easier to start over
 - Fresh slate
 - May not have old books/records to build upon

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