



DENVER GAELS

Overview of Non-Profits, 501(c)(3)

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1996

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INTRO

- This presentation was created based on my experience filing a re-application for a 501(c)(3) exemption from federal corporate tax.
- Consult with an attorney and accountant who is licensed in your state.
- Feel free to email with questions
- Non-profit law is not a main focus of my practice, but I took a lot of time to learn about it.

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Non-Profits

- Non-Profit Corporations
 - Entities created under state law
 - Non-profits can make a profit.
 - Restrictions on disbursement of funds, source of funds
 - Forming a non-profit does NOT give tax exemption at local, state or federal level

Non-Profit, Tax-Exempt, 501(c)(3)

- Three layers of government
 - Federal level: IRS
 - 26 IRC § 501(c)(3)
 - Exemption from federal income tax
 - Donations receive 50% tax deduction
 - State level
 - Secretary of State
 - Organize as non-profit corporation by filing articles of incorporation

Non-Profit, Tax-Exempt, 501(c)(3)

– State law (cont'd)

- Attorney General

- In Colorado, all charitable organizations that solicit funds must register with Office of Attorney General

- Department of Revenue

- obtain exemption from state income and sales tax

– City/County/Local

- obtain exemption from sales tax

Getting Started on the 501(c)3 process

- Form an entity, likely a non-profit corporation, by filing articles of organization with your state Secretary of State
 - Pay the filing fee
- Draft bylaws that include:
 - Language that sets forth that the non-profit was organized for an exempt purpose

Organized for An Exempt Purpose

- Organization must be organized and operated *exclusively* for an exempt purpose
 - exempt purposes are charitable, religious, **educational**, scientific, literary, testing for public safety, **fostering national or international amateur sports competition**, and preventing cruelty to children or animals
 - It's not an either/or. You can include educational and international amateur sports in your purpose

Conflict of interest policy

- Addresses transactions that could directly or indirectly financially benefit a board member
- Earnings of the organization shall not be distributed to any of its members, trustees, officers or other persons except to pay reasonable compensation or to make payments and distributions in furtherance of the goals of the organization

Other Requirements

- LIMIT political activity
 - Stay away from political commentary on club social media and meetings
- Upon termination of organization, distribute assets to other 501(c)(3) organizations (with similar purpose, if they exist).
 - Again, the funds of the non-profit cannot be paid out to the members as a dividend.

The 501(c)(3) Application

- Obtain Employer Identification Number (EIN) from IRS
- Print and review IRS Form 1023
 - <http://www.irs.gov/pub/irs-pdf/f1023.pdf>
- Include a check with correct application fee
 - \$400 for organizations whose gross receipts do not exceed \$10,000 or less annually over a 4-year period.
 - \$850 for organizations whose gross receipts exceed \$10,000 annually over a 4-year period.

Form 1023 (cont'd)

- Part IX, page 9 on Form 1023
- Likely will take the most time of any part of the application
 - Income statement of organization, Accounting & financial statements

Unrelated Business Income

- IRS looks not only at how much money your organization makes, but the source as well.
- Sources of income from non-profits
 - Donations
 - Grants
 - Program-related income
 - Unrelated income
 - Does the international amateur athletics organization earn 90% of its income from a pub that it owns and operates?

Form 1023 (cont'd)

- If filing more than 27 months after organization founded, complete Schedule E
- Page 27: Checklist
 - Very important
 - Provides a list of all documents, and the order in which your submission must be organized
 - Write the organization's name and EIN on the top of each page of each document you submit

Post-Approval Practices

- Hire an accountant to file org's IRS and state returns
- Use accounting software like Quickbooks online
 - Have accountant set up the initial accounts
- Take payments via credit card or Paypal
 - Use Square or similar low cost payment processor
- Create form letters to serve as a receipt for donors

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IRS Form 990

- Form 990-N (“Postcard return”) for organizations with less than \$50,000 in revenue
- For organizations with larger revenue, much more detail is required.

State Compliance

- File annual report with the Secretary of State
- Verify if Secretary of State (or other agency) has any annual reporting requirements

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Why Do It?

- Attractive to donors, increased fundraising
- Donations are deductible, **except:**
 - A donor cannot deduct his/her time (value of uncompensated services)
 - i.e. lawyers, accountants, web designer
 - Donations made to benefit a specific individual
 - E.g. a donor wishes to help player X with her travel expenses to NACB Playoffs

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Why not do it?

- If you are a new organization, with a lot of uncertainty over membership, revenues, or if you have poor financial and accounting records, you may want to consider whether the financial and time burdens are a good use of your club's limited funds and time.

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Other Resources

- You can search to determine whether an organization has obtained some level of tax exemption on the IRS.gov website.
 - This online database was formerly called Publication 78 and you can still find the Charity-search feature by searching for Publication 78.
- Many organizations that had 501(c)(3) status lost their exemption about 3 years ago, so do check.

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Links

- From IRS: Lifecycle of a Public Charity
 - <http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Life-Cycle-of-a-Public-Charity>
- Form 1023:
 - <http://www.irs.gov/pub/irs-pdf/f1023.pdf>

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QUESTIONS?

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