

JUSTIA

Non-Profit Organizations

While many businesses are formed with the intent of bringing profits to owners and shareholders, this is not the only model of business formation. For individuals interested in starting companies that provide goods or services to others or act to advocate on behalf of societal causes and needs, there is a special business status available, known as the nonprofit organization, or, according to the Internal Revenue Service, the 501(c)(3).

Nonprofit organizations are a special status of corporation dedicated to entities with a charitable, educational, religious, literary, or scientific purpose. The primary advantage of nonprofit corporation status is that it exempts the corporation from certain federal, state, and local tax requirements, and thus the entity does not pay taxes on money it raises to support its objectives. Additionally, individuals who donate money to a nonprofit corporation that has 501(c)(3) status can receive an individual deduction for their contributions to the nonprofit.

Forming a Nonprofit Corporation

Nonprofit formation is similar to normal corporate formation in many respects, but with the additional requirement of qualifying for tax exempt status. The nonprofit must choose a name and an indicator, such as “incorporated,” that indicates corporate status. The entity must then file articles of incorporation with the applicable state office and provide any additional information required under state law, such as an address or names of officers. Next, the entity must apply for 501(c)(3) status by completing a 501(c)(3) application with the IRS. Filing for this status can be complicated and may require the assistance of a corporate attorney. It is also important to determine whether the nonprofit is required to file a separate application for state nonprofit status. In some states, 501(c)(3) status is sufficient, while others require a separate detailed process for state recognition.

Tax Exemption

Once a nonprofit corporation obtains tax-exempt status, it must take certain steps and refrain from certain activities in order to retain that status. Nonprofit corporations must make sure to keep excellent financial records that carefully document how funds are

obtained and used, so that they can provide explanation for the profits of the nonprofit corporation and file comprehensive corporate tax returns. Additionally, nonprofits must refrain from certain activities in order to keep their status. Nonprofit corporations cannot:

- Contribute financial resources to, or participate in, political campaigns;
- Engage in substantial lobbying efforts;
- Distribute profits to members, officers, or directors; or
- Make substantial profits off activities unrelated to their primary purpose.

Violation of any of these requirements can result in revocation of tax-exempt status.

Raising Funds as a Nonprofit

Fundraising is a central goal of many nonprofits, since it is often one of the only ways that they obtain money to support the causes and missions that are at the heart of the organization. In many states, before a nonprofit corporation can begin to solicit funds from individuals, it must first register as a nonprofit organization that will be soliciting contributions. This is not a difficult process and primarily requires the nonprofit corporation to file an application with the relevant state agency. Once the nonprofit is registered, it is free to solicit funds through a wide range of means, including events, telephone calls, and appeals via mail. However, if donations are not in the form of cash, but goods or property, nonprofits should be careful to abide by the IRS requirements for reporting these types of donations, including accurate appraisal of the items.

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