

## MEMO REGARDING 501(c)(3) TAX-EXEMPT ORGANIZATIONS

Internal Revenue Code (IRC) Section 501(c) deals with organizations exempt from taxation. There are twenty-eight subsections under IRC 501(c), the most common of which are:

- Charitable Organizations – 501(c)(3)
- Civic or Social Welfare Groups – 501(c)(4)
- Business Leagues – 501(c)(6)
- Social and Recreational Clubs – 501(c)(7)

The requirements for obtaining tax-exempt recognition under different sections varies. Below are general procedures necessary to secure a tax-exempt determination letter from the Internal Revenue Service (IRS) for Section 501(c)(3) organizations that want to incorporate in the Commonwealth of Pennsylvania. If you desire to incorporate outside the state Pennsylvania, please contact us. You should consult your tax advisor for entity specific advice before proceeding.

1. Apply for an employer identification number. This can be done online at: <https://irs-ss4-form.com/>
2. File your Articles of Incorporation as a domestic nonprofit corporation with the Corporation Bureau in Harrisburg. You will also have to include certain specific language in the articles if applying for charitable 501(c)(3) status.
3. You also need to file a Docketing Statement with the Corporation Bureau.
4. You are required to advertise your Articles of Incorporation.
5. You will need to draft by-laws. It may be necessary for you to make some changes to comply with the requirements of a 501(c)(3) organization.
6. A Board of Directors must be appointed and officers elected.
7. You will then complete an Application for Recognition of Exemption under Section 501(c) of the Internal Revenue Code. This is accomplished on either IRS Form 1023 or 1023-EZ. Normally, this Form needs to be filed within twenty-seven months of the entity's organization date to be retroactive.
8. You will need to compile past financial information or a budget for previous and future years, as part of the 1023/1023-EZ application.
9. In order to determine which application you must complete, generally, if you project that the organization's annual gross receipts will exceed \$50,000 in any of the first 3 years or the organization's fair market value of total assets are in excess of \$250,000, the organization will need to use the IRS Form 1023 application. If the organization is below both of these thresholds, then we can assist you with determining whether the organization meets the additional criteria necessary to qualify for the IRS Form 1023-EZ application.

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10. A user fee to the IRS, ranging from \$400 to \$850 must be paid with the IRS Form 1023 application. The amount of the fee depends on the expected level of the organization's annual gross receipts. If you expect a four-year average of the organization's gross receipts to be \$10,000 or less, the fee is \$400. If you expect the four-year average to be greater than \$10,000, the fee is \$850. A user fee to the IRS of \$275 must be paid with the IRS Form 1023-EZ application.
11. Once the application is filed, it will normally take several months for the IRS to issue the tax-exempt determination letter. During this process, it is not unusual for the IRS to request additional clarifications regarding information contained in the original Form 1023/1023-EZ filing.
12. If you have employees and are located in Pennsylvania, a PA100 Form is required, which gives the state detailed information for tax purposes.

Once exempt, the IRS requires an annual information filing on Form 990/990-EZ, when the organization's **average three-year's gross receipts exceed \$50,000**. This filing is due the 15<sup>th</sup> day of the 5<sup>th</sup> month following the organization's year-end. Beginning with years ended December 31, 2010, tax exempt organizations with gross receipts less than \$50,000 are required to electronically file Form 990-N annually.

Pennsylvania, under the Solicitation of Funds Act, requires organizations to register when their gross solicitations (contributions, non-government grants and gross fundraising proceeds) are equal to or greater than \$25,000. When registration is required, a fee and some level of financial statements (audit, review, compilation, or internal prepared) must also be submitted. The minimum financial statement requirements are as follows (all based on gross annual solicitations):

- \$25,001 - \$99,999 – Internally Prepared
- \$100,000 - \$249,999 – Compiled (CPA Prepared)
- \$250,000 - \$749,999 – Reviewed (CPA Prepared)
- \$750,000 and Greater – Audited (CPA Prepared)

This filing is due 135 days following the organization's year-end. There are special requirements for initial registrants exceeding the \$25,000 threshold for the first time during any fiscal year.

We trust this information will be valuable as you proceed with the organization's application for exemption and subsequent annual filings.