



Newsletter

OCTOBER 2003

Professional Legal Assistors

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Our office will be closed for the following holidays:

October 13 - Columbus Day

November 11 – Veterans Day

November 27 & 28 – Thanksgiving

December 25 – Christmas

January 1 – New Years Day

Our next newsletter will be mailed out the beginning of January 2004. Remember if you have an article that you would like to contribute to our newsletter just fax it to us for our review. We must receive the article no later than December 15th for our January newsletter. ♦



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NON-PROFIT CORPORATIONS

A nonprofit corporation is one recognized by the Internal Revenue Service as tax exempt under section 501 of the Internal Revenue Code. A corporation organized for a public or charitable purpose is tax exempt under 501(c)(3). Upon dissolution a non-profit must either distribute its assets to the state or federal government, or another entity recognized as exempt under Section 501(c)(3).

Most corporations that are formed “for profit” are allowed to engage in “any lawful business activity.” Nonprofit corporations are required to state a specific purpose that benefits either the public at large, a segment of the community, or a particular membership-based group.

It is possible to use a nonprofit corporation for charitable purposes and realize favorable tax treatment and benefits. Where the situation is right, particularly with a private foundation (a different type of 501(c)(3) organization) an individual could form a nonprofit corporation for some specific or general charitable activity and hire the grown children to administer to company affairs. There is nothing wrong with a nonprofit corporation paying a salary to

its employees so long as it is a Private foundation. Public charities may run into some problems paying salaries.

Contributions to 501(c)(3) corporations help to reduce federal estate taxation. Many wealthy individuals make substantial contributions through their estate plans to qualified non-profit corporations. These estate plan contributions are actively pursued by many non-profits as part of their campaign for public support.

For tax purposes, the non-profit corporation must be formed for religious, charitable, scientific, educational or literary purposes in order to claim 501(c)(3) tax-exempt status. Only with that status is a corporation eligible to receive tax deductible contributions from donors.

Unrelated Income: While the primary purpose of a non-profit corporation is limited to specific activities, the non-profit is allowed to make money in ways unrelated to their non-profit purposes. This unrelated income is often subject to taxation as unrelated business income under state and federal corporate tax laws.

Advantages of Non-Profit Status: Aside from the obvious tax advantages, 501(c)(3) corporations enjoy many advantages over regular corporations. These advantages are helpful, if not necessary, to the success of the nonprofit organization. They include:

- * Lower postal rates on third class bulk mailings.
- * Less expensive advertising rates.
- * Eligibility for many state and/or federal grants.
- * Non-profits are exclusive beneficiaries of free radio and television Public Service Announcements (PSA's) provided by media outlets.
- * Employees may be eligible to participate in a variety of job-training, students internships, work-study, and other federal, state and local employment incentive programs where salaries are substantially paid out of government funds.

A Non-profit corporation does not issue shares, and does not have ownership.

501(c)(3) Eligibility Rules: The Internal Revenue Code places a number of restrictions and limitations

that apply to non-profit corporations. It is essential that a non-profit corporation meet these Rules to maintain their exempt status. To be eligible for non-profit tax exemption, the corporation must:

- be organized and operated for charitable, educational, religious, literary or scientific purposes;
- not distribute gains to directors, officers or members;
- distribute any assets remaining upon dissolution to another qualified tax-exempt entity or group;
- not participate in political campaigns for or against candidates for public office; and
- not substantially engage in grass-roots legislative or political activities except as permitted under federal tax rules.

Application for Federal Tax Exemption

The forms and procedures for applying for 501(c)(3) tax exemption are not simple. You will need to obtain the following federal tax forms and publications:

Form 8718: User Fee for Exempt Organization Determination Letter Request. This form is used to compute and pay the fees that are due for applying for tax exemption and should be included in the 1023 application that is submitted to the IRS. The fee ranges from \$150 to \$500.

Package 1023: Application for Recognition of Exemption with instructions. This one is the monster. The 1023 package includes two copies of the form. One should be used as a draft until the application is ready. The second copy is for the final publication.

Publication 557: Tax-Exempt Status for your Organization.

Publication 558: Tax Information for Private Foundations and Foundation Managers.

The IRS estimates that it takes the average person 4 hours and 41 minutes to learn about the application form. Then it takes another 9 hours and 22 minutes to prepare the form.

The forms and publications can be found at www.irs.gov

BAD NEWS: While you can set up a non-profit corporation through your states Corporation Division. You will not have exempt status until the appropriate papers are filed with the Internal Revenue Service.

GOOD NEWS: If you have looked at the documents the Internal Revenue Service requires and have felt overwhelmed, there is another alternative. Professional Legal Assistors works with Debra Reno of Miller and Co, LLP in assisting our client's through the exemption process. Debra is highly qualified in this area. The cost is approximately \$2,000, plus the User Fee for Exempt Organization Determination Letter Request, for Debra's assistance. I do agree that this cost is high, however, just look at the documents that have to be navigated through and submitted properly to the Internal Revenue Service. Once you look at the documents you will realize that \$2,000 is a very reasonable price for such a difficult process. I would like to point out that paying the \$2,000 does not guarantee that your non-profit corporation will be granted tax exempt status by the Internal Revenue Service. Exempt status is granted by the Internal Revenue Service and this determination is granted based upon the information that is provided on the forms. This information is provided by you, the person organizing the non-profit corporation. A common reason that exemption status is not granted is because individuals are unclear about how they will raise the money (i.e. public or government funding). You must have a clear outline of how your non-profit corporation will work. Everyone seems to be clear on what they will do with the money (i.e. feed the children). But few are clear on what steps they will take to raise the money. This information is extremely important when applying for exemption status.

The paperwork and time required for the application process may be daunting, but obtaining the desired tax-exempt status to pursue a worthy cause is very gratifying and serves the public good.

For more information contact Debra Reno with Miller Co, LLP at 310-576-6880.



Professional Legal Assistors is proud to announce that we now have a bookstore. Every book listed has been read, approved and endorsed by Professional Legal Assistors. Check out our bookstore at <http://www.biz-usa.com/html/bookstore.html>

Nevada - New Fees and Filing Requirements

IMMEDIATELY - All returned checks will be assessed a \$25 returned check fee. Additionally, in the case of multiple entities on a single returned check, you may be assessed the actual costs incurred to reverse the affected filings. In the case of a returned check, customers are responsible for the fees associated with services such as certificates, copies and expedited service.

OCTOBER 1, 2003 – Publicly-traded corporations must indicate on their list of officers that they are publicly-traded and must include their Central Key Index number. This applies to all corporations that are required to register with the Securities and Exchange Commission. A check box and Central Index Key number field have been added to the corporation Annual List of Officers form sent out by the Secretary of State and due after October 1, 2003. If you have an older version of the form that does not include these fields and the corporation is publicly traded. Annual Lists received with the box checked and no Central Index Key Number listed will be returned unfilled for correction. Corrected forms received after the due date, require payment of associated fees and penalties.

NOVEMBER 1, 2003 – All filings submitted to the Secretary of State must be on or accompanied by a form as prescribed by the Secretary of State. Any filing submitted without the prescribed form will be returned unfilled to the customer. All forms will be available on

The Nevada Secretary of State website by September 30, 2003.

All annual and initial lists received on or after November 1, 2003 must acknowledge that pursuant to NRS 239.330, it is a category C felony to knowingly offer any false or forged instrument for filing with the Office of the Secretary of State. This statement has been added to all annual lists sent to customers. Any list received after November 1, 2003 not containing this acknowledgement will be returned unfilled to the customer.

As of November 1, 2003, the Secretary of State will no longer accept the postmark date as the date of submission of filing. All Initial and Annual Lists must be in the care custody and control of the Secretary of State by the close of business on the due date. Lists received after the due date will be returned unfilled, and will require any associated fees and penalties as a result of being late.

MOST NOTABLY – Effective November 1, 2003, fees for all filing will change. The minimum fee for filing new Articles will be \$75 with a maximum of \$35,000. Each Amendment increasing the capitalization of corporation will require the fees associated with the increase in capital to a maximum of \$35,000. Corporation Annual List fees will be calculated based on capitalization on a graduated scale with a minimum annual fee of \$125; maximum \$11,100. The Initial List fee for all for-profit entities and the Annual List fee for all other for-profit entities will be \$125.

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ADDRESS CORRECTION REQUESTED

