

Non-profit Organizations

Steps for establishing and for
meeting Federal filing requirements

US Income Taxes: A Brief Primer

- **Definition of 'Federal Income Tax'**
- A tax levied by the United States Internal Revenue Service (IRS) on the annual [earnings](#) of individuals, corporations, trusts and other legal entities. Federal income taxes are applied to all forms of earnings that make up a taxpayer's taxable income, such as employment earnings or capital gains.

Read more:

http://www.investopedia.com/terms/f/federal_income_tax.asp#ixzz1jSnXlejJ

US Income Taxes: A Brief Primer

- Individuals and businesses (generally) are allowed a tax deduction for contributions to qualified (IRC 501(c)(3)) non-profit organizations
- Qualified non-profit organizations are themselves not subject to income taxes (IRC 501(a)) and are also known as a “tax-exempt organization”
- Warning: Tax-exempt organizations that have “unrelated business income” can be subject to the income tax if they are carrying on a trade or business on a regular basis (selling items or services or advertising)

Federal and Louisiana Filing Requirements

- With limited exceptions, your organization will have to apply for its own Taxpayer Identification Number (“TIN”) (a/k/a Employer Identification Number or “EIN”). The responsible party applying will have to list personal information (name, social security number) (Form SS-4 or online)
- Organizations with annual gross receipts of \$50,000 or less are required to file the e-Postcard Form 990-N information return
- If annual gross receipts are in excess of \$50,000, a more complex filing is required: either Form 990-EZ or Form 990 information return
- Form 990-T is the Exempt Organization Business Income Tax Return
- Louisiana requires a filing only if the organization has a requirement to file the Form 990-T

e-Postcard(Form 990-N):Annual Electronic Filing Requirement for Small Exempt Organizations

- If a small organization (annual receipts <\$50,000), call IRS Tax-Exempt Hotline at 1-877-829-5500 to get the IRS to set up their system so that Form 990-N can be filed online (note: IRS setup required only if organization is not already on record as an exempt organization)
- Info needed:
 - Organization name
 - Address
 - TIN
 - Principal officer

Additional Federal filings

- To become a qualified 501(c)(3) organization, Form 1023, Application for Recognition of Exemption Under 501(c)(3)
- Form 1024 is filed for other organizations that desire to be recognized by the IRS as a tax-exempt organization
- NOTE: Either Form 1023 or Form 1024 must be filed for an official IRS determination that you are exempt
- Form 1023 and Form 1024 are one-time filings and have a \$850 filing fee (\$400 if gross receipts expected to be under \$10,000/year)
- If you anticipate filing Form 1023 or 1024, the form of the entity and language included in the organizing documents is important. **This should be considered before organizing.**

Sales tax

- Sales taxes are under the jurisdiction of the State and localities (in Lafayette Parish, the Lafayette Parish School Board oversees sales tax for the municipalities, the School Board and the Parish)
- Non-profits are generally not exempt from sales tax on purchases
- Non-profits are generally not exempt from collecting tax on sales
- Non-profits are generally excluded from collecting sales tax on dues and memberships

Gross receipts

Many of the tests for nonprofits and the filings required are based on gross receipts. *Gross receipts* are the total amounts the organization receives from all sources during its annual accounting period, without subtracting any costs or expenses.

IRC Section 501(c)(3)

- Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

IRC Section 501(c)(3) (continued)

- An organization (other than a private foundation) normally having gross receipts of less than \$5,000 and that otherwise meets all of the requirements to be classified as a 501(c)(3) organization, is automatically exempt and does not need to file Form 1023. However, contributions to the organization would not be eligible for a tax deduction. Further, if receipts exceed \$5,000, it is important that the Form 1023 be filed as soon as possible.
- **IRS recognition as a 501(c)(3) organization is usually required to apply for any grants (from government or other non-profits)**

Organizations other than 501(c)(3)

- Section 501(c)(2)—Title holding corporations
- **Section 501(c)(4)—Civic leagues, social welfare organizations (including certain war veterans' organizations), or local associations of employees**
- Section 501(c)(5)—Labor, agricultural, or horticultural organizations
- Section 501(c)(6)—Business leagues, chambers of commerce, etc.
- **Section 501(c)(7)—Social clubs**
- Section 501(c)(8)—Fraternal beneficiary societies, etc., providing life, sick, accident, or other benefits to members
- Section 501(c)(9)—Voluntary employees' beneficiary associations

Other than 501(c)(3) (continued)

- Section 501(c)(10)—Domestic fraternal societies, orders, etc., not providing life, sick, accident, or other benefits
- Section 501(c)(12)—Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations
- Section 501(c)(13)—Cemeteries, crematoria, and like corporations
- Section 501(c)(15)—Mutual insurance companies or associations, other than life or marine
- Section 501(c)(17)—Trusts providing for the payment of supplemental unemployment compensation benefits
- Section 501(c)(19)—A post, organization, auxiliary unit, etc., of past or present members of the Armed Forces of the United States
- Section 501(c)(25)—Title holding corporations or trusts

501(c)(3) vs. 501(c)(4)

- The purposes of a Section 501(c)(3) organization are included within the permissible purposes of a Section 501(c)(4) organization. Thus, a Section 501(c)(3) organization will almost always qualify as a Section 501(c)(4) organization. A 501(c)(4) organization is not prohibited from having extensive lobbying activities or participating in political campaigns (although participation in political campaigns cannot be its primary purpose).

Who are you?

- Is your organization an affiliate of a regional, state or national organization?
- If unaffiliated, do you need (because you will be applying for a grant or soliciting tax-deductible contributions from the general public) or want to be an IRS recognized non-profit organization? Are you looking to qualify under 501(c)(3), 501(c)(4) or under another section?

Affiliates of a regional, state or national organizations

- Contact the organization to see if you can be a member of their group exemption
- Some organizations include their affiliates in a “group” tax return
- Others require affiliates to file their own tax returns
- If you are not considered as a part of their group exemption, find out what their requirements are for you to establish and maintain an affiliation and follow the steps for unaffiliated organizations to be explained below

Unaffiliated Organizations: Under \$5,000 annual receipts and 501(c)(3)

- Consider incorporating (liability protection); prepare organizing documents (UL Student organization documents/Constitution), including vision and mission statements
- Apply for TIN
- Open bank account
- Solicit contributions from public
- Do not need to file Form 1023, but do need to file Form 990-N annually under 501(c)(3)

Unaffiliated Organizations: Over \$5,000 annual receipts and 501(c)(3)

- Consider incorporating (liability protection) and preparing articles of organization and bylaws with required elements per instructions to Form 1023
- Develop mission/purpose and vision statements
- Apply for TIN
- Open bank account
- File Form 1023 for exemption, including all required schedules, attachments , and user fee (see checklist at last two pages of Form 1023 available online)
- Obtain determination letter from IRS as a 501(c)(3) approved tax-exempt entity
- Commence fund raising from general public; apply for grants
- Comply with required annual filings (Form 990-N, 990-EZ or 990)

Unaffiliated Organizations: Other than 501(c)(3)

- Follow steps at previous slide, substituting Form 1024 for Form 1023
- Note: the IRS says filing Form 1024 is recommended, but not required
- Without IRS recognition, run the risk that your organization will be subject to income tax

Credits and Resources

- Form 1023 and instructions (IRS.gov)
- Form 1024 and instructions (IRS.gov)
- IRS Publication 557, Tax-Exempt Status for Your Organization
- PPC 990 Deskbook; Thompson Reuters/PPC