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Thoughts on Requesting Federal Tax Exemption as a 501(c)(3) or 501(c)(5) Non-Profit Organization

Organizations that are chartered as non-profit entities within a state must seek and be subsequently approved for federal tax exemption. That is, a state-chartered, non-profit business does not automatically have federal tax-exempt status. Non-profit organizations that desire federal tax-exempt status must officially request such status through what is known as section 501 of the IRS code.

Section 501(c)(3) is the part of the IRS code that sets forth the requirements and procedures for tax-exempt status for “charitable organizations.” Organizations that receive tax-exempt status under this section are often referred to as 501(c)(3) non-profits. It seems that the 501(c)(3) exemption is only for those groups that are organized and operated “exclusively” for at least one of the “allowed purposes” described in the section. The allowed purposes include charitable, religious, educational, scientific, literary, amateur sports competition and the prevention of cruelty to children or animals. For the most part, a 501(c)(3) organization is a charitable organization, where “charitable” is defined as addressing the mission of relief to the poor, the distressed or underprivileged.

In addition to the tax-exempt provisions for charitable organizations that are allowed under section 501(c)(3), section 501(c)(5) provides the requirements and procedures for tax-exemption status specifically for Labor, Agricultural and Horticultural Organizations. The 501(c)(5) is for agricultural organizations *that encourage the development of better agricultural products through a system of awards, using income from entry fees, gate receipts and donations to meet the necessary expenses of upkeep and operation.* The requirements for 501(c)(5) agricultural organizations go on to describe that the primary activities of the organization must seek to better the conditions of those engaged in agriculture or horticulture, develop more efficiency in agriculture or improve the products.

It seems that one of the biggest differences in the 501(c)(3) and 501(c)(5) is that public contributions to a 501(c)(3) are deductible as charitable donations on the donor’s federal income tax return while contributions to a 501(c)(5) are not tax deductible by the donor. One other difference is that organizations seeking exempt status under 501(c)(3) must complete and submit IRS Form 1023 while organizations seeking exempt status under 501(c)(5) must complete and submit IRS Form 1024.

The IRS states that exempt status will NOT be granted to any organization that is organized or operated for the benefit of members or shareholders. The articles of organization for the organization requesting the 501(c)(5) exemption must be included when the Form 1024 is sent to the IRS. These articles, along with the Form 1024 must prove that the requesting organization exists for the purposes allowed by 501(c)(5) exempt organizations. The IRS specifically spells out that the group's "bylaws" alone will not suffice as the articles of organization. The "conformed articles of incorporation" must specifically limit the group's purpose to those described for 501(c)(5) exempt organizations.

When requesting tax-exempt status, the submission of the appropriate federal forms and associated supplemental information and documents often culminates in the assembly of scores, sometimes hundreds, of pages of paper. This process is often done under the leadership or consultation of an attorney. In addition, a user fee (normally in the amount of \$500) must accompany the organization's request for exemption.

Additional Resources:

- **IRS Publication 557, "Tax-Exempt Status for Your Organization"**
<<http://www.irs.gov/pub/irs-pdf/p557.pdf>>
- **IRS Package 1024, "Application for Recognition of Exemption Under 501(a)"**
<<http://www.irs.gov/pub/irs-pdf/k1024.pdf>>
- **IRS Form 1023, "Application for Recognition of Exemption Under Section 501(c)(3)"**
<<http://www.irs.gov/pub/irs-pdf/k1023.pdf>>

