Obtaining Tax Exempt Status for Your Organization

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Overview

• Non-Profit vs. Tax-Exempt
• Types of Tax-Exempt Organizations
• Form 1023, 1023-EZ, & 1024
• Keeping Your Exempt Status
• Forms 990
• State Reporting Requirements
Nonprofit vs. Tax-Exempt

- Nonprofit = state law concept
- Tax-exempt = federal tax concept
  - Must apply for tax-exempt status with IRS
  - Form 1023: application for exemption under section 501(c)3
  - Form 1024: application for exemption under 501(a)
Types of Tax-Exempt Organizations

• 501(c)(3): Public charity
• Must be 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, or for the prevention of cruelty to children or animals.”
Types of Tax-Exempt Organizations

- **501(c)(4):** Civic leagues, social welfare organizations, local associations of employees
- **501(c)(5):** Labor, agricultural, horticultural
- **501(c)(6):** Business leagues, trade associations, chambers of commerce
- **501(c)(7):** Social or recreational clubs; supported by membership fees/dues
- **501(c)(8) or (10):** Fraternal beneficiary societies/associations
- **501(c)(9) or (17):** Employee benefit association or VEBA
- **501(c)(19):** Veterans organizations
Benefits of Tax Exemption

- Exempt from federal income tax
- Exempt from certain other taxes
- Reduced postal rates
- Tax-deductible contributions (for 501(c)(3))
501(c)(3) Status

- Organization should be a nonprofit corporation, trust, or unincorporated association
- Organizing document must contain two clauses:
  - Purpose clause: establishes charitable purpose (Charitable, educational, religious, scientific, etc.)
  - Dissolution clause: assets will be used for charitable purposes upon dissolution of the organization
501(c)(3) Status

- **Private foundation**
  - 501(c)(3)s are automatically a PF unless public support test is met
  - Privately funded, usually from a single source

- **Public charity**
  - Publicly funded, from multiple sources or activities
  - Also includes churches, schools, hospitals
  - Must meet public support test (33%)
    - 509(a)(1) and 509(a)(2)
501(c)(3) Status

- Must apply to IRS for exemption except:
  - Churches
  - Organizations with gross receipts of $5,000 or less
- Use IRS Form 1023 or 1023-EZ
Form 1023-EZ

- New form – released June 2014
- Must complete worksheet to determine eligibility to use EZ form (see instructions)
  - Gross receipts expected to be <$50,000 for 3 years
  - Gross receipts have not been >$50,000 in any of the past 3 years
  - Assets <$250,000
Form 1023-EZ

- The following types of organizations are NOT eligible to file EZ form:
  - Churches, schools, hospitals
  - Successors to for-profit entity
  - LLCs
  - Foreign organizations
  - Support organizations
  - Organizations that have had exempt status revoked
Form 1023-EZ

- Must file electronically
- Information needed to complete 1023-EZ
  - Employer identification number (EIN)
  - Organizational structure: corporation, trust, association
  - Date of incorporation
  - Name, address, and title of 5 officers, directors, or trustees
  - Organizing document with purpose and dissolution clauses (bylaws, articles of incorporation)
  - Must attest that you have not and will not conduct prohibited activities
Form 1023-EZ

- User fee of $400 due upon submission
  - Must register on pay.gov for online payment
- EZ Form has quicker turnaround from IRS
- 3% rate of IRS audit
  - Be prepared!
Form 1023

- Narrative description of past, present, and planned activities
- Complete list of officers and compensation; answers to questions about compensation
- Financial data: revenue, expenses, balance sheet
  - 3-5 years of revenue/expenses required depending on age of organization
  - New organizations: each year of existence, plus projections for total of 3 years of data if you have not completed 1 tax year; otherwise 4 years
Form 1023

- Must attach bylaws and articles of incorporation with proof of purpose clause and dissolution clause
- Questions regarding financial arrangements with officers/directors
- Must disclose family or business relationships among officers/directors
- Questions related to goods, services, and funds provided to individuals or organizations
- Types of activities: political, legislation, gaming
Form 1023

- Description of fundraising programs
- Relationships with foreign organizations
- Description of any grant or loan programs
- User fee:
  - $400 if average gross receipts of <$10,000 expected
  - Otherwise $850
Form 1023 - Additional Schedules

- Schedule A: Churches
- Schedule B: Schools, colleges, universities
- Schedule C: Hospitals and medical research
- Schedule D: Supporting organizations (509(a)(3))
- Schedule E: Organizations not filing within 27 months of formation
- Schedule F: Homes for elderly or handicapped and low-income housing
- Schedule G: Successors to other organizations
- Schedule H: Scholarships, fellowships, loans, grants
Form 1024

- Used to obtain exemption under sections other than 501(c)(3)
- Most eligible to file are not *required* to file
  - Still have to meet annual filing requirements (990)
- May want to file in order to receive determination letter from IRS for public recognition of exempt status
- Will appear on IRS EO Select Check
Form 1024

- Less detailed than Form 1023
- Still must provide narrative description of past, present, and planned activities
- 3-4 years of financial data required, and current year balance sheet
- General questions about activities and operations
- Specific questions for certain types ((c)(5), (6), (7), etc.)
Keeping Your Exempt Status

- Must file Form 990 annually
  - Exempt status will be revoked after 3 years of not filing
- Still must file if waiting on determination letter after submitting 1023 or 1024
- Types of 990:
  - 990-N
  - 990-EZ
  - 990
  - 990-PF (private foundations)
  - 990-T (unrelated business income)
Form 990-N

- Electronic postcard filing through IRS website
- No financial data required
- Eligible organizations:
  - Annual gross receipts normally $50,000 or less
- Ineligible organizations:
  - Private foundations
  - Support orgs
Form 990-EZ

- Gross receipts <$200,000 AND total assets <$500,000
- 4 page form
- Much easier to complete than full 990
Form 990

- Gross receipts >$200,000 OR total assets >$500,000
- 12 page form
- Part III: Statement of program service accomplishments
  - Provide description of 3 largest program service accomplishments
  - Revenue, expenses, and grants allocable to each
Form 990 - Supplemental Schedules

- Part IV: Checklist of required schedules
  - Trigger questions for the 16 possible schedules
- A – Public Charity Status and Public Support
- B – Schedule of Contributors
- C – Political Campaign and Lobbying Activities
- D – Supplemental Financial Statements
- E – Schools
- F – Activities Outside the U.S.
- G – Fundraising or Gaming Activities
- H - Hospitals
Form 990 - Supplemental Schedules

- I – Grants to Organizations/Individuals in U.S.
- J – Compensation Information
- K – Tax-Exempt Bonds
- L – Transactions with Interested Persons
- M – Non-Cash Contributions
- N – Liquidation, Termination, Dissolution, or Significant Disposition of Assets
- O – Supplemental Information
- R – Related Organizations and Unrelated Partnerships
Form 990 - Key Parts

- Part VII: Compensation of officers, directors, trustees, key employees, highest compensated employees, and independent contractors
  - All officers/directors must disclose compensation from the organization or related organizations regardless of amount
  - Top management and financial officials are considered officers
  - Those receiving >$150,000 total compensation are detailed on Schedule J
Form 990 - Key Parts

- **Part VIII: Statement of Revenue**
  - Contributions reported separate from program service revenue
  - Unrelated business income of $1,000 or more – must file 990-T

- **Part IX: Statement of Functional Expenses**
  - Must allocate expenses into 3 categories: program service, management & general, fundraising
Form 990 - General Information

- Must be made available for public inspection by the organization for 3 years
  - Exception: Schedule B (donor information)
- Forms 990 are sent to GuideStar from the IRS and are available for public viewing
- Due date: 5 months after tax year end
  - May 15 for calendar year end
  - First extension for 3 months (August 15)
  - Second extension for 3 months (November 15)
Arkansas Reporting Requirements

- Secretary of State – nonprofit corporation annual report
  - Due August 1
  - Officers and contact information only
- Attorney General – if registered with AG, must submit annual filing
  - Register with AG if soliciting contributions >$25,000 annually
  - Copy of Form 990
  - Annual Financial Reporting Form (CR-03) – must be notarized
  - If audited, must also include audit report
  - Email all documents by due date of 990
Useful Links