

What is a Nonprofit Corporation?

State laws distinguish between General, For-Profit (stock) corporations and nonprofit (nonstock) corporations. In a For-Profit corporation, shareholders are authorized to receive stock in exchange for capital investments in the corporation. This capital investment often takes the form of money, equipment, or some other property. Shareholders in a For-Profit corporation only receive a return on their investment when dividends are declared and paid.

A Nonprofit corporation, however, can not issue shares and cannot pay dividends. In addition, under the Federal Tax code Section 501(c)(3), a tax-exempt corporation cannot pay dividends AND, upon dissolution, must distribute its remaining assets to another nonprofit group.

Not-For-Profit: Pros and Cons

Tax Exemptions

Under internal revenue Code Section 501 (c) (3) a non-profit corporation is eligible for certain federal and State tax exemptions. with income tax rates as high as 34% on income over \$75,000, tax exemption status can be invaluable.

Receiving Public Funds

Many organizations are required by law to donate a certain percentage of their funds to non-profit organizations or possible endanger their own tax-exempt status. In addition, many exemptions exist for property transferred at death to a non-profit organization

Limited Liability for Members and Directors

As with a General, for-profit corporation, directors, trustees, and officers of non-profit corporations are usually afforded the same limited liability status. Thus, creditors of the nonprofit corporation can only reach as far as the

corporation's assets to satisfy corporate debts and not the personal assets of the people involved in the nonprofit corporation.

Exceptions to the Limited Liability Rule

Personal Guarantees

Where a corporation has not yet established a credit rating, banks and other creditors will often require a personal guarantee from corporate directors before extending credit. Thus, the individuals will be liable for the debt if the corporation defaults on its obligation.

Tax Obligations

State and federal governments have the power to hold corporate officers and directors personally liable for reporting and payment of taxes. Although, with proper planning and filing, your nonprofit corporation should be tax exempt for certain taxes, your corporation may still be required to file informational returns and annual reports to the state and federal governments...and don't forget about employee withholding taxes.

Membership Dues

Members of a nonprofit corporation are personally liable for any membership dues they owe the corporation

Violation of Statutory Duties

Corporate officers and directors have a statutory duty to act responsibly when engaging in corporate activities. Thus, if an individual acts irresponsibly, he or she may be held personally liable for his or her actions

Separate and Perpetual Existence

A nonprofit corporation, like a for-profit corporation, is an entity with a perpetual existence that may outlive all of its founders. In addition, the corporation can act like an individual in that it can enter contracts, incur debt, and own property

Employee Benefits

the principle of a nonprofit corporation can be employed by the corporation. As such, these employees can be eligible for fringe benefits not available to self-employed people. Examples of these benefits include, sick pay, group life insurance, accident and health insurance, and corporate pension plans.

Other Advantages

- nonprofit corporations under 501 (c) (3) receive lower postal rates on bulk mail
- many organizations offer discounted advertising rates to nonprofit entities
- many internet service providers offer discounted rates to nonprofit corporations
- many national chains (Costco, for example) offer lower membership rates
- nonprofit corporate employees may qualify for job-training and other work-study programs subsidized by the federal government

Disadvantages of a Nonprofit Corporation

Paperwork

Articles of Incorporation, Bylaws, and Minutes

Articles of Incorporation must be prepared and filed with the appropriate state entity. In addition, Bylaws must be prepared, minutes must be maintained, and certain federal and state tax exemption filings must be timely filed to attain a tax-exempt status.

We'll make it easy. MyCorporation.com will prepare and file your Articles of incorporation with your desired state of incorporation. In addition, MyCorporation.com will provide you with a customized corporate kit with sample bylaws and minutes. Federal and State Tax Exemption filings, however, will be your responsibility.

Federal & State Tax Filings

What forms must be completed for tax exemption? On the Federal level, IRS form 1023 must be completed to qualify for 503 (c) (3) Federal tax Exempt status. Although certain groups are NOT required to file Form 1023, it is recommended that these exempt organizations nonetheless submit the filing to ensure that the IRS view the organization as a tax exempt entity.

For example, if your corporation's tax exempt status is for some reason challenged by the IRS, you could be liable for back taxes and sever penalties for the period your company operated as a corporation

Only after a corporation is approved by the IRS as a Tax Exempt Organization can it rest assured that it is in fact a tax-exempt company.

Nonprofit Corporation FAQ's

When must form 1023 be filed?

IRS form 1023 must be filed within 15 months of the date your articles of incorporation were filed. If your filing is timely, the tax-exemption will be retroactive and will apply to the date your articles of incorporation were filed.

For What Purposes May a Nonprofit Corporation be Formed?

Under IRS Code 501 (c)(3) a nonprofit corporation may be formed to operate for some religious, charitable, educational, literary, or scientific purpose. These five purposes are usually included as purposes accepted by the individual states as a valid nonprofit corporate purpose.

What are some of the limitations imposed upon Nonprofit

Corporations?

Nonprofit corporations must observe the following limitations:

- Pursuit of the following corporate purposes only: Charitable, educational, religious, literary, or scientific purposes.
- No distribution of financial gains to directors, officers or members.
- Corporate assets may only be distributed to another tax exempt organization upon dissolution of the nonprofit corporation.
- Participation in political campaigns for or against persons running for public office is prohibited.
- Substantial engagement in legislative political activities is forbidden.