

SHOULD YOU INCORPORATE YOUR MINISTRY?

- **Tax-exempt Organizations and 501(c)(3) Organizations**
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Tax-exempt Organizations and 501(c)(3) Organizations

Difference Between Nonprofit & Tax-Exempt: Nonprofit status refers to state-law corporate status, while tax-exempt status refers to state and federal tax exemption under tax regulations.

A **tax-exempt organization** is a trust, unincorporated association, or nonprofit corporation described in the Internal Revenue Code as exempt from Federal income tax. A 501(c)(3) is a type of exempt organization. It must be organized and operated for one or more exempt purposes described in Code section 501(c)(3): (1) Charitable, (2) Educational, (3) Religious, (4) Scientific, (5) Literary, (6) Testing for public safety, (7) Fostering national or international amateur sports competition, and/or (8) Preventing cruelty to children or animals.

Risks to tax-exempt status: (1) Private benefit/inurement, (2) Lobbying, (3) Political activity, and (4) Excessive unrelated business income

Distinction between political activity and advocacy: Advocacy communicates about issues while political activity engages in trying to change laws around that issue.

Advantages to Forming a 501(c)(3) Corporation

Formal structure: A nonprofit organization exists as a legal entity in its own right and separate from its founder(s).

Limited liability: Under the law, creditors and courts are limited to the assets of the nonprofit organization. In general, the founders, directors, members, and employees are not personally liable for the nonprofit's debts or negligence by its workers.

Perpetual existence: A nonprofit corporation survives the life of its founders.

Legitimacy and credibility: Being recognized by the IRS as a 501(c)(3) will make your organization more official and credible in the eyes of the public and other entities.

Tax exemption/deduction: Organizations that qualify as public charities are eligible for federal exemption from payment of corporate income tax. In many states, a 501(c)(3) organization is exempt from sales taxes and property taxes.

Deductibility of donations: Your individual and corporate donors will be able to deduct their donations from their personal and corporate taxes.

Eligibility for public and private grants: Most foundations and government agencies limit their grants to 501(c)(3) public charities.

Discounts on publicity: Many media outlets often give free or discounted rates for public service announcements and press releases from nonprofit organizations.

Disadvantages to Forming a 501(c)(3) Corporation

Costs: Creating a nonprofit organization takes time, effort, and money. This involves drafting articles of incorporation and bylaws, state filing, etc.

Record keeping: As an exempt corporation, a nonprofit must keep detailed records and submit annual filings to the state and IRS by stated deadlines to keep its active and exempt status.

Regular board meetings: Frequency determined by state law, meetings are documented by meeting minutes which must be kept as permanent records.

Shared control: Although the people who create nonprofits like to shape and control their creations, personal control is limited. A nonprofit organization is subject to laws and regulations, including its own articles of incorporation and bylaws.

Scrutiny by the public: A nonprofit is dedicated to the public interest, therefore its finances are open to public inspection, including its annual tax returns being posted for public view on the IRS website.

Dissolution: When the organization shuts down its assets must be given to another nonprofit.

Factors to Consider Whether to Incorporate Your Ministry

1. Does your ministry have, or do you want it to have, its own identity separate from your church or congregation?
2. Do you want your members to have an ownership interest in the ministry?
3. Do you want your ministry to live on beyond your time of service to the congregation?
4. Do you want or need to shield your assets or your members and managers from liability?
5. Are you looking to attract outside partners?
6. Are you looking to attract outside donors?
7. Do you want to apply for grants from public or private foundations?
8. Do you have the expertise/resources within your ministry to take care of the record keeping and annual filing requirements?