

501(c)(3) Status - Are You Sure?

Organizations described in 501(c)(3) enjoy many benefits, but not all non-profit organizations can qualify under (c)(3). Look over the following detailed description of the 501(c)(3) requirements. If your group seems to fit in, you have cleared the first hurdle.

Purposes

501(c)(3) status is limited to groups formed exclusively for one or more of the following purposes:

- charitable
- educational
- religious
- scientific
- literary
- fostering national or international amateur sports competition
- preventing cruelty to children or animals
- testing for public safety

The IRS term for those who deserve our charity is "charitable class." IRS rulings have held that persons who are aged, ill, handicapped, unemployed, or otherwise distressed, are members of a charitable class. The term also includes children and, of course, the poor, indigent, and underprivileged. You cannot set up a charity to benefit a specific person, even if that person is in need. To have a true charitable class, the specific individuals who will benefit cannot be selected ahead of time.

The term charitable has a meaning beyond just helping the poor. It includes many activities that serve the common good, such as establishing or maintaining public buildings, monuments or works, relieving the burdens of government, reducing neighborhood tensions, eliminating prejudice and discrimination, defending human and civil rights, battling community deterioration, combating juvenile delinquency, promoting the arts, and preserving and protecting the natural environment for the benefit of the public. Historically, "charitable" is an evolving concept that can change with society's needs.

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Limitations

A 501(c)(3) must serve public purposes, rather than private purposes.

A (c)(3) must not pay dividends or distribute earnings in any other way to private shareholders or individuals. While a (c)(3) can pay reasonable amounts for goods and services, payments to insiders that are unreasonably high can result in fines imposed on both the insiders and the board members who approved the payments. In extreme cases, the organization can lose its tax exempt status.

Although (c)(3) organizations are generally exempt from federal income tax, they do have to pay tax on net income from regular trade or business activities that are unrelated to their exempt purposes.

Legislative activity (lobbying) must be limited. Ordinarily, the limit is less than 5%, measured in a variety of ways. Most organizations, however, can elect higher limits with increased annual reporting requirements. Political activity (support of, or opposition to, candidates for public office) is absolutely prohibited, and will lead to revocation of exempt status as well as penalty taxes.

No 501(c)(3) can exist for a purpose that is illegal or contrary to well-defined Federal public policy.

Here are some examples of organizations that can qualify under 501(c)(3):

Churches, synagogues, mosques, temples, interchurch organizations, integrated auxiliaries of churches, non-profit hospitals and their auxiliaries, non-profit clinics and medical research facilities, colleges, universities, private schools, non-profit day care centers and preschools, adult education and community schools, legal aid organizations, historical societies, environmental organizations, museums, zoos, symphonies, orchestras and bands, opera groups, non-profit theater, dance and other performance groups, arts organizations, non-profit marriage, personal and vocational counseling, non-profit drug/alcohol abuse prevention/treatment/rehabilitation, youth organizations, humane societies, scholarship funds, aid to the homeless, aid to the handicapped, aid to the elderly, combating prejudice and discrimination, civil rights organizations, evangelist and missionary groups, public television and radio.

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Here is the actual wording of section 501(c)(3) of the Internal Revenue Code:

(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.

If 501(c)(3) does not seem like a good fit for your organization, there are many other kinds of 501(c) tax exempt status to consider. The most common are listed in the Table that appears on the next page. Section V of this book, the Tax Exempt Status Handbook, starting on page **Error! Bookmark not defined.**, lists a few less common kinds of 501(c) tax exempt status as well.