

FIRST[®] Fundraising Toolkit

Section 6

501(c)(3) Pros, Cons & Best Practices

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Fundraising Toolkit Introduction

- Grant from the Argosy Foundation
- Focus:
 - Provide teams with materials to fundraise
 - Help teams develop local relationships
 - Highlight successful fundraising methods
 - Increase sustainability of teams

Fundraising Toolkit – Section 6

- **Goal:**
 - 501(c)(3) Pros, Cons, & Alternatives
 - Review tips and best practices for teams

- **Overview:**
 - Common questions
 - Resources for teams to reference

(Note: This webinar is for informational purposes only and should not be construed as legal or tax advice.)

Introductions

- Meredith Novak
 - FIRST volunteer since 2001
 - FRC Hall of Fame Team 16 Mentor
 - Regional Director of Arkansas
 - Background in non-profit and tax accounting

501(c)(3) Pros, Cons & Best Practices

- Understanding the 501(c)(3) nonprofit corporation
 - For-profit corporations can usually be formed for “any lawful purpose” under state statutes.
 - Nonprofit corporations, on the other hand, generally must be established to accomplish one or more specific purposes that benefit either the public at large, a segment of the community, or a particular membership.

501(c)(3) Pros, Cons & Best Practices

- Understanding the 501(c)(3) nonprofit corporation
 - While it may be easy for your group to incorporate as a nonprofit in your state, this is only the first hurdle.
 - The next important step is to obtain tax-exempt status under state and federal tax statutes.
 - To do this, your group must meet specific-purpose requirements contained in state and federal tax statutes.

501(c)(3) Pros, Cons & Best Practices

- Understanding the 501(c)(3) nonprofit corporation
 - This presentation is specifically for nonprofits that want to qualify for federal income tax exemption under Section 501(c)(3) of the Internal Revenue Code.
 - This means that your nonprofit corporation must be formed for religious, charitable, scientific, literary, and /or educational purposes.

501(c)(3) Pros, Cons & Best Practices

- How do you incorporate?
 - Forming your corporation is the first step in obtaining nonprofit status.
 - You will need to view nonprofit incorporation information and forms provided by your secretary of state's office. To find your state's corporate filing office website: www.statelocalgov.net

501(c)(3) Pros, Cons & Best Practices

- How do you incorporate?
 - Choose a name that you like, that is available and meets the requirements of state law.
 - If you intend to use “*FIRST*” in your name, you must have the permission of headquarters. Unless you are an employee of “*FIRST*” and forming a region or district, this is not likely.

501(c)(3) Pros, Cons & Best Practices

- How do you incorporate?
 - Prepare your articles of incorporation. This is your primary incorporation document; your corporation comes into existence on the date you file your articles with your secretary of state. You must complete this before you send in your federal tax exemption application. Most secretaries of state provide sample or ready-to-use forms for articles of incorporation.
 - File your articles of incorporation with your secretary of state following the instructions on their website.

501(c)(3) Pros, Cons & Best Practices

- How do you incorporate?
 - Prepare your bylaws. This document is your corporation's internal affairs manual. It sets for the rules and procedures for holding meetings, electing directors and officers and taking care of other essential corporate formalities.

501(c)(3) Pros, Cons & Best Practices

- How do you obtain tax-exempt status?
 - Now that you have filed your articles and prepared your bylaws, it's time to prepare your federal exemption application IRS Form 1023. www.irs.gov Find the instructions for Form 1023 and read them carefully.
 - Most groups complete and submit their federal tax exemption application before obtaining their state tax exemption because state exemptions often are contingent on a nonprofit obtaining its federal tax exemption first.

501(c)(3) Pros, Cons & Best Practices

- How do you obtain tax-exempt status?
 - To make your tax exemption retroactive to the date of your incorporation, your 1023 application must be postmarked within 27 months from the end of the month in which you filed your articles of incorporation.
 - There is a filing fee called the “user fee” of \$400 or \$850 depending on the applying organization's average annual gross receipts (\$10,000 over or under).

501(c)(3) Pros, Cons & Best Practices

- How do you obtain tax-exempt status?
 - Groups with annual gross receipts of less than \$5,000 are not required to file Form 1023 to be considered tax exempt. But the only way to assure donors that you are a bona fide 501(c)(3) group is to apply for an exemption.
 - If the IRS agrees and grants your tax exemption, then you can legally receive tax-deductible contributions and grants.

501(c)(3) Pros, Cons & Best Practices

- Advantages of becoming a 501(c)(3):
 - Nonprofit corporations are eligible for state and federal exemptions from payment of corporate income taxes.
 - You can attract and receive public and private grant funds and donations. Tax-exempt government foundations and private foundations and charities are usually required to donate their funds only to 501(c)(3) tax-exempt organizations.
 - Protection from personal liability.

501(c)(3) Pros, Cons & Best Practices

- Advantages of becoming a 501(c)(3):
 - Separate and perpetual legal existence. A corporation is a legal entity that is separate from the people who work for it.
 - Employee benefits. Your principals can be employees and eligible for fringe benefits not generally available to the workers in unincorporated organizations.

501(c)(3) Pros, Cons & Best Practices

- Advantages of becoming a 501(c)(3):
 - The formal corporate documents (articles, bylaws, minutes of meetings, tax returns) will outline the group's purposes, embody its operating rules and provide structure and procedures for decision making and dispute resolution.

501(c)(3) Pros, Cons & Best Practices

- Difficulties associated with becoming a 501(c)(3):
 - Red tape and paperwork. After you've set up your corporation and obtained federal and state tax-exempt status, you will need to file annual tax and reporting returns with the state and Internal Revenue Service. See Form 990 at www.irs.gov
 - This is an accountable organization and requires setting up and balancing books and bank accounts.
 - Appointing a board and holding regular meetings.

501(c)(3) Pros, Cons & Best Practices

- Difficulties associated with becoming a 501(c)(3):
 - Restrictions on paying directors and officers
 - Restrictions upon dissolution
 - Restrictions on your political activities
 - Oversight by the Attorney General
 - Take care how your board of directors is determined.
 - Serious consideration of who will control the organization needs to be taken and incorporated into the bylaws.

501(c)(3) Pros, Cons & Best Practices

- Do you have any common resources you would suggest teams review?
 - <http://www.nolo.com/> - For books and software.
 - (Much of the material in this presentation came from *How to Form a Nonprofit Corporation*. The current (11th) edition is available.)
 - <http://www.legalzoom.com/> - For legal filings
 - <http://www.irs.gov/> - For all forms and instructions
 - www.statelocalgov.net - For each state's instructions
 - www.techsoup.org - For discounted software and hardware

Works Cited: Mancuso, Anthony. *How to form a nonprofit corporation*. Berkeley, Calif: Nolo, 2013. Print.

Thank you

- Questions?
 - Renee Becker – rbecker@usfirst.org
- Special Thanks:
 - Meredith Novak – *FIRST* Regional Director, Arkansas