

## BECOMING A TAX-EXEMPT NON-PROFIT

When you receive 501(c)3 tax-exempt status from the Internal Revenue Service, your group does not have to pay federal taxes. You can also get exemption from state taxes, meaning you won't have to pay sales tax. **Perhaps the most important aspect of tax-exemption is that donations to your group are tax deductible.** Many foundations will only give grants to 501(c)3 tax-exempt organizations.

Although having a fiscal sponsor gets around this problem, tax-exemption removes the hassle of dealing with sponsors, many of whom take a percentage of any donation as a fee for services.

On the other hand, obtaining tax-exempt status is a relatively arduous process. Unless your group is attempting serious fundraising, you may not need to be a registered non-profit. For smaller groups with limited agendas, a fiscal sponsor and/or bank account may be enough.

### INCORPORATION—THE FIRST STEP

In order to incorporate, your organization must first have a certain formality: a board of directors, officers, and by-laws. (For more information about creating this structure, see the tip sheet on Structuring Your Organization.)

#### To incorporate:

- ✓ Your organization must have a unique name. In order to check that the name that you have chosen is available, send a letter to the New York Department of State, Division of Corporations, 41 State St., Albany, NY 12231. Include a check for \$5 payable to the New York Department of State for **each** name inquiry. This step is not required, but is recommended if you think you are choosing a name that is not unique.
- ✓ Once you have chosen a name, you must reserve it. Fill out an Application for Reservation of Name (Form DOS-635), which you can find at office supply stores, or online at [www.state.ny.us](http://www.state.ny.us). Send the form, along with a check for \$10 payable to the New York Department of State, to the above address.
- ✓ Now you are ready to fill out the incorporation form, DOS-1511, also available at office supply stores and online at [www.state.ny.us](http://www.state.ny.us). The processing fee is \$75; expediting the process takes \$25 more. (Expediting means that it should take 3-4 days instead of 2-3 weeks.) The form is quite detailed, and will be sent back if the information is not exactly correct (if, for example, you sometimes call yourself "The Friends of St. James Park" and sometimes "Friends of St. James Park").
- ✓ Send the completed form, and fee, to the New York Department of State at the above address. If you have any questions, call the Department of State, Division of Corporations at 518-474-4750.

### TAX EXEMPTION—THE SECOND STEP

- ✓ Becoming tax-exempt requires filling out a lot of complicated forms. At this point, you will most likely need the help of a lawyer.
- ✓ If your group does not have a member or friend who is able to provide these services *pro bono* (for free), you can contact The Lawyer's Alliance of New York at (212) 219-1800 or New York Lawyers for the Public Interest at (212) 244-4664 for assistance.

*Adapted from "Tools & Tactics for Building Neighborhood Organizations," Citizens for NYC, [www.citizensnyc.org](http://www.citizensnyc.org).*

- ✓ Keep in mind that public interest law firms often have a backlog of cases and it can be much faster to network and find a local lawyer who is willing to help you out.

#### **To become tax-exempt:**

- ✓ Your group must become incorporated.
- ✓ File Form 8718, which determines whether your organization qualifies for exemption. The processing fee is \$150 if your budget is under \$10,000; \$500 if over.
- ✓ All tax forms can be obtained from the IRS by calling 1-800-829-3676; additional (recorded) information can be obtained by calling 1-800-829-1040. Tax forms can also be downloaded directly from the IRS Web site at [www.irs.gov](http://www.irs.gov).
- ✓ File Form 1023. This is a huge booklet, but you don't have to file the whole thing. The booklet is divided into categories, dependent on the kind of organization you are. Publication 557 will give you further information on what category you fall in.
- ✓ File Form 2848, which assigns power of attorney to an individual who will act as your group's representative. It's best if this person is someone with relevant expertise, like a lawyer or an accountant.
- ✓ File Form 872, to expedite the process. At best, the whole process will take three months, though it can take up to a year.
- ✓ Be sure you follow through: you are not tax-exempt upon filing—you must receive your determination letter from the IRS. However you may apply for grants and receive tax-exempt funds while you are waiting for this letter if you have filed within the last 12 months.

### **OBLIGATIONS OF A 501(c)3 NON-PROFIT ORGANIZATION**

#### **Federal Obligations:**

- ✓ Groups with an annual operating budget of \$25,000 or higher are required to file **Form 990**, which is basically like a 1040 for a nonprofit organization, and is available online at [www.irs.gov](http://www.irs.gov).
- ✓ Note that the annual operating budget is calculated on a five-year average, so that if you receive one large grant you may not have to file Form 990 if your budget in subsequent and previous years is substantially lower.

#### **State Obligations:**

- ✓ Nonprofit organizations raising funds from individuals are required to register with the State Attorney General of New York.
- ✓ Organizations raising less than \$25,000 per year are exempt from this requirement.
- ✓ For more information, visit [www.oag.state.ny.us](http://www.oag.state.ny.us) or call (212) 416-8400.

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