

# Not-For-Profit Organizations Tax Considerations

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**Sandra Reid, CPA, PLLC**

# Biography

**Sandra Reid has over 20 years of accounting experience in both public accounting and in industry companies:**

- CPA licensed in Texas and New Jersey
- Worked 11 years in public accounting - PricewaterhouseCoopers LLP
- Worked 13 years in industry with Duke Energy, General Electric and LyondellBasell Industries
- Worked in various states across the US
- Worked in Africa, Latin America and Europe
- Own my own CPA practice offering a variety of accounting and tax services
- Member of TX Society of CPAs, AICPA and NABA

# My Firm Information

**Sandra Reid, CPA PLLC offers the following services:**

- Tax preparation for businesses and individuals
- Tax dispute settlement with IRS and state governments
- Financial Statement Audits, Reviews and Compilation
- Bookkeeping services
- Business incorporation (formation of LLCs, S-Corps, C-Corps, Partnerships, etc)
- Other Accounting Services (e.g. consulting on transactions)
- Other Financing Services (e.g. cash flow analysis, budget preparation)
- Interim CFO or Controller assignments

# What are Not-for-Profit Organizations/Entities

## Not-for-Profit Organizations

- Are dedicated to furthering a particular [social cause](#) or advocating for a shared point of view
- They use the surplus earned to further its cause to achieve its ultimate objective
- They do not distribute income to shareholders, leaders or members
- They can operate in religious, scientific research or educational settings
- They are [tax exempt](#), meaning they do not pay income tax on the money that they receive for the organization

# Statistics

1. # of registered nonprofit organizations - > 1.5 million in the United States
  - Including public charities
  - Private foundations
  - Other nonprofit organizations
2. Contributions to various charities reached - \$358.38 billion in 2014:
  - Increase of 7.1% from 2013 estimates with funds donated as follows:
    - Religious organizations received 32%
    - Educational institutions received 15%
    - Human service organizations received 12%
3. # of volunteers:
  - Between September 2013 and 2014, ~25.3% of Americans over age of 16
  - That's ~62.8 million individuals

*Source: National Center for Charitable Statistics (NCCS)*

# Key aspects of Not-for-Profits organizations

Key aspects are:

1. Accountability
2. Trustworthiness
3. Honesty
4. Openness to every person who invested time, money & faith in it

<b>Accountability</b>	<b>to the donors, funders, volunteers, program recipients, and the public community</b>
Trustworthiness	Public confidence is a factor in the amount of money that a nonprofit organization is able to raise
Honesty	Vital that personnel adhere to the by-laws, maintain and exhibit high integrity
Openness	Transparency is critical

# Types of Not-for-Profit Organizations

## Major Types of NFPs/NPOs:

1. Charitable, Religious and Educational Organizations - (501(c)(3))
2. Social Welfare Organizations – (501(c)(4))
3. Other NonProfit or Tax Exempt Organizations - (501(a))
4. Social clubs – (501(c)(7))
5. Veterans Organizations – (501(c)(19)) and (501(c)(23))

# What is a Not-for-Profit 501(c)(3) Organization

Not-for-Profit **means** the entity, usually a corporation, is organized for a nonprofit purpose. Not-for-Profits are generally referred to as **NFPs** or **NPOs**

**501(c)(3) means** a nonprofit organization that has been recognized by the IRS as being tax-exempt by virtue of its charitable programs.

Section **501(c)(3)** - Portion of the US Internal Revenue Code that allows for federal tax exemption of nonprofit organizations, specifically those that are considered public charities, private foundations or private operating foundations.



# Meeting Section 501(c)(3) Requirements

For the Internal Revenue Service to recognize an organization's exemption, the organization must be organized as a [trust](#), a [corporation](#), or an [association](#).

To be tax-exempt under section 501(c)(3) of the Tax Code, an organization must:

1. Be [organized](#) and [operated](#) exclusively for [exempt purposes](#) set forth in section 501(c)(3)
2. None of its earnings may [inure](#) to any private shareholder or individual
3. It may not be an [action organization](#), *i.e.*, it may not attempt to influence legislation as a substantial part of its activities and it may not participate in any campaign activity for or against political candidates.

# Sections of Form 1023 on Requirements

Excerpt from the form:

Form 1023 (Rev. 12-2017)

Name: \_\_\_\_\_

EIN: \_\_\_\_\_

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## **Part II** Organizational Structure

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt.

See instructions. **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- |           |   |                                     |                                    |
|-----------|---|-------------------------------------|------------------------------------|
| <b>1</b>  | Are you a <b>corporation</b> ? If "Yes," attach a copy of your articles of incorporation showing <b>certification of filing</b> with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>2</b>  | Are you a <b>limited liability company (LLC)</b> ? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application. | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>3</b>  | Are you an <b>unincorporated association</b> ? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>4a</b> | Are you a <b>trust</b> ? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>b</b>  | Have you been funded? If "No," explain how you are formed without anything of value placed in trust.  | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>5</b>  | Have you adopted <b>bylaws</b> ? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |

# Sections of Form 1023 on Requirements

Excerpt from the form:

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**Part III Required Provisions in Your Organizing Document**

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The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1** Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language.

Location of Purpose Clause (Page, Article, and Paragraph): \_\_\_\_\_

- 2a** Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- b** If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. \_\_\_\_\_
- c** See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state: \_\_\_\_\_

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**Part IV Narrative Description of Your Activities**

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Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

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# Exemption Requirements for Social Clubs

- To be exempt, a social club must meet the following requirements—
- The club must be organized for exempt purposes.
- Substantially all of its activities must further exempt purposes
  - If the club exceeds safe harbor guidelines for nonmember and investment income, the facts and circumstances must show that it is organized substantially for exempt purposes.
  - The club has *de minimis* income from nontraditional sources (*i.e.*, from investments or from activities that, if conducted with members, would further the club's tax-exempt purposes).
  - For a discussion of the effect of nonmember and "nontraditional" income on the tax-exempt status of social clubs under section 501(c)(7).
- The club must provide an opportunity for personal contact among members, and membership must be limited.
- The club must be supported by membership fees, dues, and assessments.
- The organization's net earnings may not inure to the benefit of any person having a personal and private interest in its activities.
- The club's governing instrument may not contain a provision that provides for discrimination against any person on the basis of race, color, or religion.
- The club may not hold itself out as providing goods and services to the general public.

# Accounting and Tax Compliance Responsibilities

At a minimum the following are minimal responsibilities:

1. Maintain accounting records for your NFPs
2. Ensure proper segregation of duties amongst members in key roles
3. Maintain checks and balances to mitigate fraud
4. Ensure your NFPs still has its tax-exempt status
5. File Annual Tax information return
6. Maintain meeting minutes
7. Ensure your procedures are addressing certain risk factors such as cybersecurity if necessary

# Tax Filing Requirements

Generally most NFPs are required to file an annual information tax return.

## **DUE DATES – April 15th:**

1. Form 990-N: NFPs with gross receipts of \$50,000 or less. This is an annual electronic notice only
2. Form 990-EZ: Organizations with less than \$200,000 in gross receipts and less than \$500,000 in total assets may choose to file the EZ
3. Form 990: for all NFPs with activity over the above thresholds. However, must e-filed if the organization has 250 or more filings with the Federal government (e.g. W2, 1099, 941, 990)
4. Form 990-T: Exempt Organizations Business Income Tax Return – used to report income received from sources **unrelated** to the organization's exempt purpose

Can also apply for 6 month extension

# Other Potential Tax Requirements

- Payroll reporting for employees, if any
- W-2 and W-3 annually
- Form 1096 & 1099s annually
- W-2G – for raffle winnings over the threshold.
- 941 – quarterly reporting of payroll withholding for income tax, FICA and Medicare.
- Texas Workforce Commission – quarterly filing is required. NFPs with fewer than 4 employees may elect to be a “reimbursing employer”.
- Franchise tax Texas – all public charities, and some other orgs exempt under other 501c categories, may apply for exemption from Texas franchise tax.
- Sales Tax – public charities are exempt from Texas sales tax. They are subject to the State’s liquor tax and vehicle tax.
- Other states – organization’s conducting programs and actively fundraising in other states may have required filings.

Closing Thought

**When in Doubt??  
ASK**



# Contact Information



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