

TAX EXEMPT STATUS AND ARTICLES OF INCORPORATION

by Michael Brakel



This column highlights financial issues of concern to nursing students. If you have suggestions for the column or would like to contact the author, e-mail mbrakel@campus.hpu.edu

A successful organization not only has a vision for its members, but also for its fiscal future. This column addresses common questions and concerns frequently raised by nursing students about securing your organization's fiscal future. This first column covers tax exempt status and articles of incorporation for both state and school organizations.

The Internal Revenue Service (IRS) Code has tax-exempt designations based on an organization's purpose and membership. IRS Publication 557, *Tax-Exempt Status for Your Organization*, provides 63 pages of detailed information to help you classify your organization. Most of your chapters have either a 501(c) (6) or 501 (c) (3) status.

A status of 501 (c) (3) denotes a charitable organization, such as those that advance education by providing scholarships, for example. The IRS requires form 1023 to be filled out for this status. If the organization's form and request are accepted by the IRS, the organization can claim benefits of tax exemption under 501(c) (3). Donors to your organization can obtain a tax credit based on the IRS designation of 501 (c) (3) status. The IRS states in Publication 557, "even though an organization is recognized as tax exempt, it still may be liable for tax on its unrelated business income."¹ An example is an organization that has a 501 (c) (3) status which charges for advertisement

space in its official newsletter. In such cases, Form 990 T must be filed.

Most nursing organizations have 501 (c) (6) status. This status is for "Business Leagues," and is defined by IRS Publication 557 as, "primarily supported by membership dues and other income from activities substantially related to its exempt purpose." A business league in general is an association of persons having some common business interest, the purpose of which is to "promote that common interest and not to engage in a regular business of a kind ordinarily carried on for profit."² This designation does not allow donors to take a tax credit for contributions to the organization, but does, however, shelter the organization from federal income tax unless it has unrelated business income. More importantly, it allows the organization to work for enactment of laws that advance the interest of the general membership. There are specific conditions which must be met in order to maintain this status.

There is a \$180 one-time processing fee to establish both the 501 (c) (3) and 501 (c) (6) status, and the paperwork can be daunting, so it's a good idea to get assistance from a legal or financial expert. Such an expert can also advise you as to whether you should be a 501 (c) (3) or (c) (6).

There is always the issue of liability in running any organization. This is where articles of incorporation can provide a shift in legal

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liability from individual organization officers to the organization itself. Incorporating the organization transfers the purpose of the organization into a public document and provides a written action plan for the finances of the organization in the case of dissolution. The articles of incorporation further maintain that no officer or director shall set a personal claim to the organization's funds.

The most important step in the incorporation process is to file the articles of incorporation with the appropriate state agency. Before filing, check if your organization has already been incorporated. With the turnover in volunteers, paperwork can easily get lost. Depending on the state of filing, charges can range anywhere between \$100-\$310. Bylaws, meeting minutes, tax status, and financial records must be kept in an organized and timely fashion, so the increase in paperwork is substantial. You can find all the forms you need online. It is up to your organization to decide if the additional costs and time are worth the extra protection incorporation provides. If you decide to incorporate, it is a good idea to retain legal counsel, or at the very least research on the internet for companies that provide incorporation services.

I invite your financial questions and comments. Please e-mail me at mbrakel@campus.hpu.edu or contact Dev Persaud, NSNA controller, nsna@nsna.org. ■

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References

1. www.irs.gov/pub/irs.pdf/p557.pdf
2. *op. cit.*, p. 48

FOR INFORMATION ABOUT
ARTICLES OF INCORPORATION,
CHECK WITH YOUR STATE AGENCY.