

NON-PROFITS, TAX EXEMPT STATUS, AND YOU!

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Karen Niemla is a reference librarian with law library experience. She is not a lawyer and cannot offer legal counsel. This poster presentation is for informational purposes and does not constitute legal advice. When dealing with actual tax law and documentation, consult a tax professional. If you cannot afford a tax professional, that's too bad; so you'll be on your own anyway, just like with your personal taxes.



HEY, WAIT... I THOUGHT "NON-PROFIT AND "TAX EXEMPT" WERE THE SAME THING.. THEY'RE NOT?



OUR TAX PROBLEM:

WE ARE INCORPORATED SEPARATELY FROM ACRL NATIONAL, WHICH GRANTS US SOME AUTONOMY. HOWEVER, THIS ALSO MEANS THAT WE'RE NOT INCLUDED WITHIN ACRL NATIONAL'S ID WE NEED OUR OWN EIN (EMPLOYER IDENTIFICATION NUMBER).

WHEN TRYING TO SWITCH OUR BANK TO IBERIA BANK A FEW YEARS AGO TO MAKE IT EASIER FOR FUTURE CHAPTER OFFICERS TO REACH A BANK LOCATION, THE BANK SAID OUR TAX ID WAS NO LONGER VALID. AFTER INVESTIGATING THIS WITH THE IRS WE FOUND THAT IT HAD EXPIRED—EVEN THOUGH OUR INCORPORATION STATUS WAS STILL CURRENT WITH THE LA SECRETARY OF STATE OFFICE.

APPARENTLY, THE EIN EXPIRED BECAUSE WE HADN'T FILED WITHIN A COUPLE YEARS. NO ONE OUR GROUP KNEW ANYTHING ABOUT THIS PROCESS OR HAVING BEEN ASKED TO DO IT BEFORE. THUS WE DECIDED TO SET IT RIGHT. **BUT HOW DO YOU FILE FOR TAXES?** WE TRIED TO FILL OUT A FORM 990-N TO FILE, BUT COULD NOT; THE IRS TOLD US OVER THE PHONE THAT WE NEEDED TO APPLY FOR TAX-EXEMPT STATUS. SO, WE DECIDED TO CHOOSE A 501(C) EXEMPT STATUS. **BUT WHICH ONE?**

WE ULTIMATELY CHOSE 501(C)6, NOT 501(C)3. 501(C)6 INCLUDES BUSINESS LEAGUES, WHICH FITS WITH OUR MISSION TO LIBRARIANS. HELPFULLY, THE IRS' DOCUMENTATION ACTUALLY SAYS "TRADE ASSOCIATIONS AND PROFESSIONAL ASSOCIATIONS ARE CONSIDERED BUSINESS LEAGUES" THE SECTION'S RESTRICTIONS ON POLITICAL INVOLVEMENT ARE ALSO LIGHTER THAN FOR 501(C)3, WHICH PROHIBITS IT COMPLETELY. ALTHOUGH, THERE STILL ARE LIMITATIONS AND ANY SPENDING OF THAT NATURE MUST BE PROPERLY REPORTED WE HAVE NOT HAD ANY ACTIVITIES LIKE THAT, BUT CONSIDERING THE ISSUES AND PROBLEMS OF HIGHER EDUCATION IN LA, JUST HAVING THE **OPTION** FOR POLITICAL INVOLVEMENT IS IDEAL.

TO KEEP OUR EXEMPT STATUS AND EIN, WE FILE IRS FORM 990-N (E-POSTCARD). IF AN ENTITY FAILS TO FILE FOR THREE YEARS, ITS EIN AND EXEMPT STATUS ARE **LOST**. BUT IF YOU DON'T FORGET, YOU DON'T PAY THE APPLICATION FEES AGAIN.

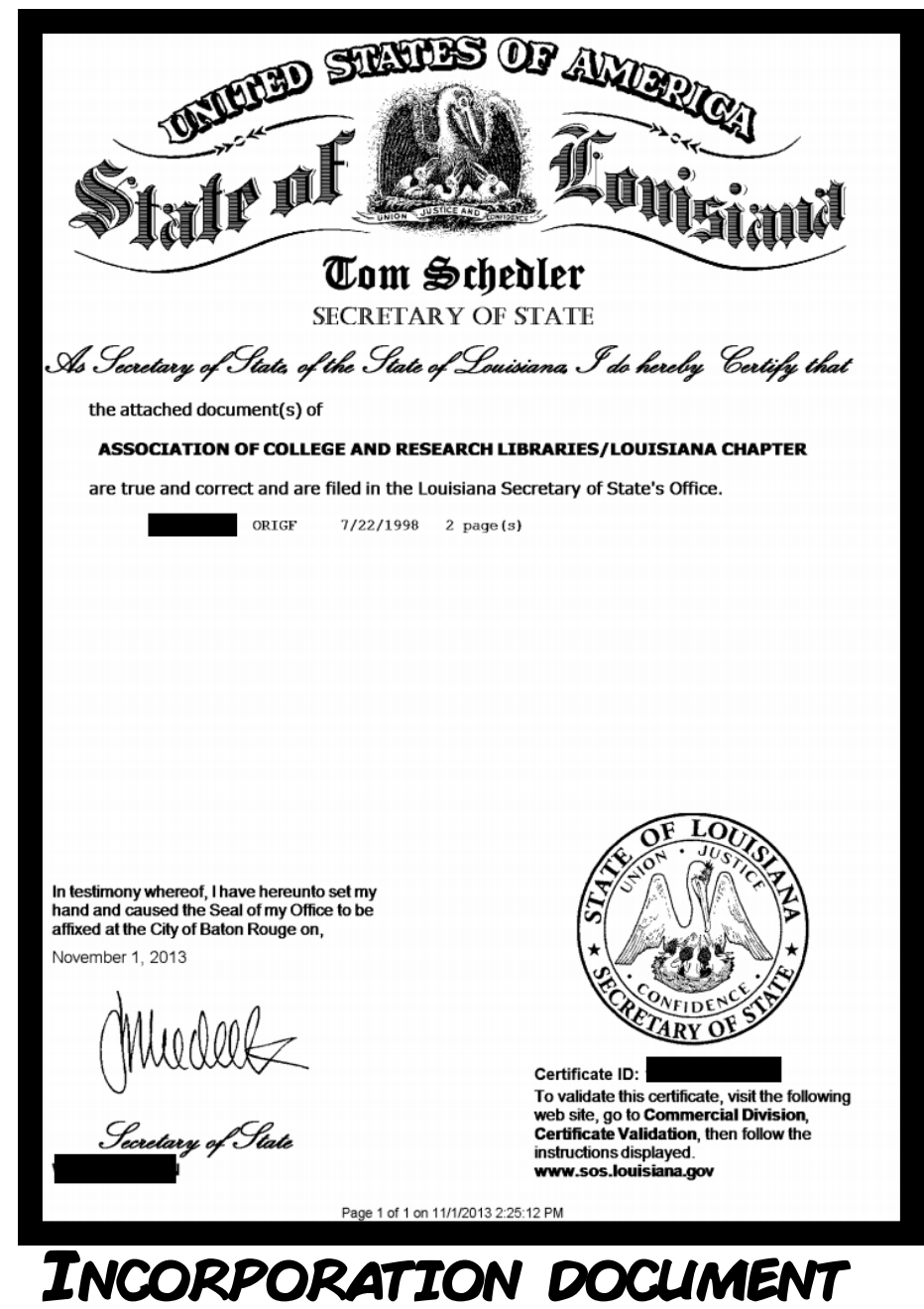
SORRY, NO. THE IDEA OF BEING A "NONPROFIT" ORGANIZATION IS REFERS TO STATE LAW MATTERS. THE INTERNAL REVENUE SERVICES NEITHER KNOWS NOR CARES ABOUT THAT STATUS. EVEN IF YOUR ORGANIZATION IS REGISTERED AS A "NONPROFIT" BY YOUR STATE AND DO NON-PROFIT WORK, **YOU CANNOT ASSUME** THAT YOU ALSO HAVE TAX-EXEMPT STATUS IN THE EYES OF THE IRS.



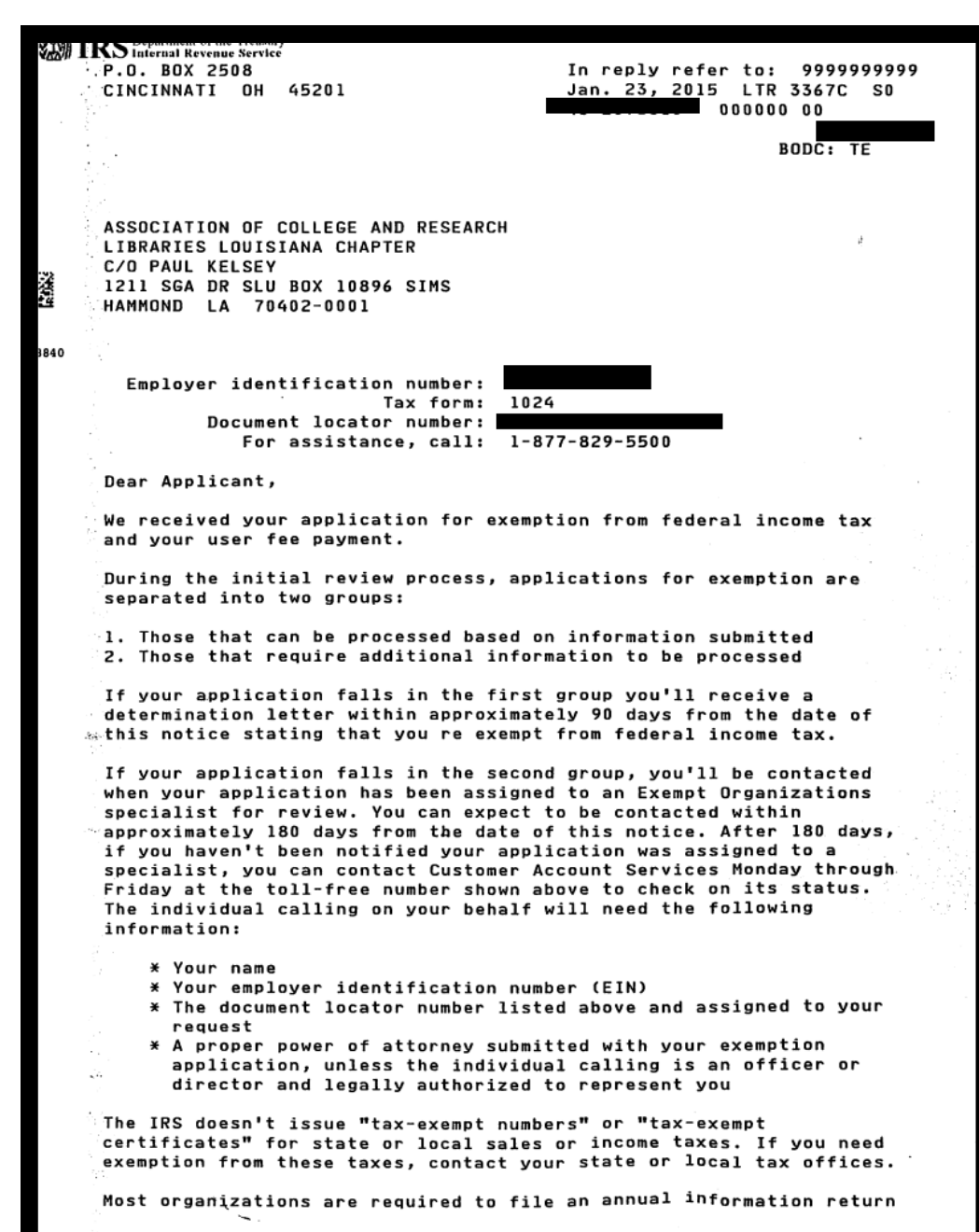
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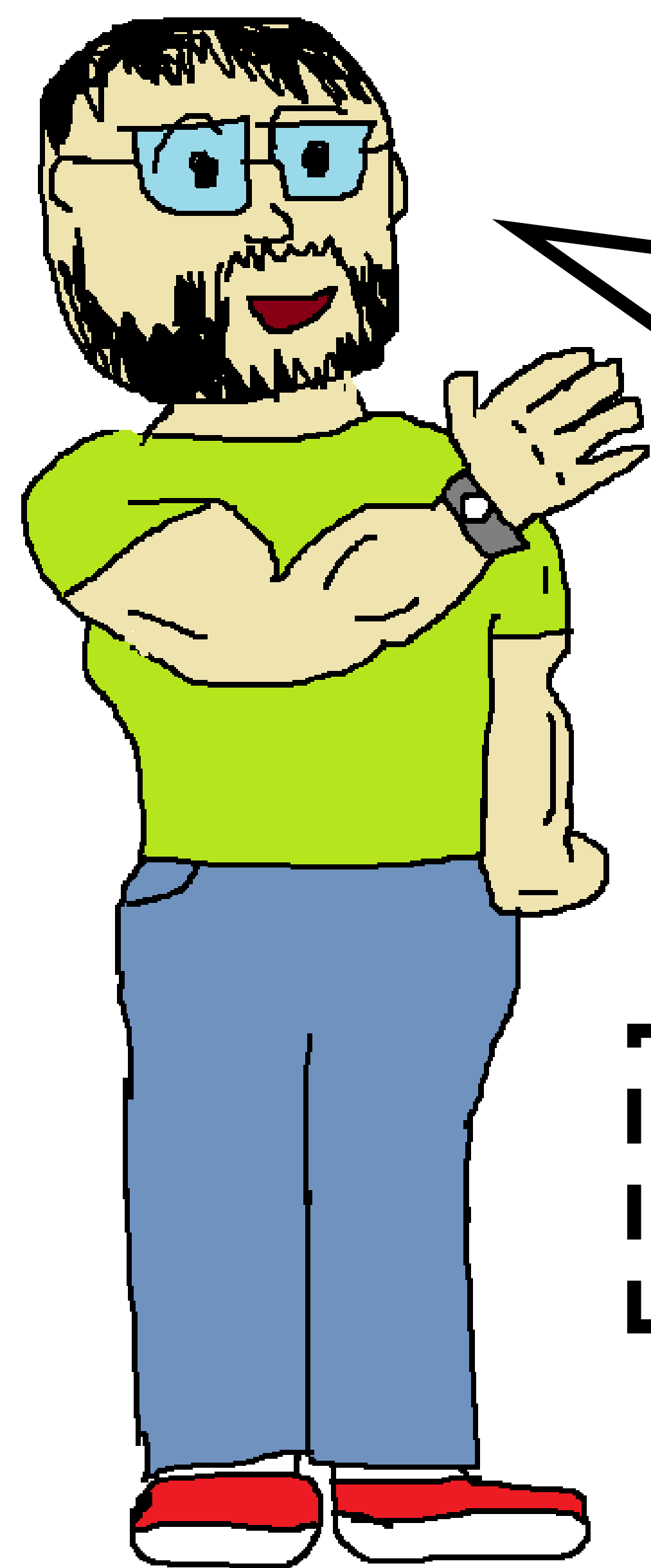
DO YOU LOVE TO FILL OUT LONG, COMPLICATED IRS FORMS? I DO! (SAID NO ONE EVER) BUT I DO THINK YOU CAN POSSIBLY DO IT WITHOUT HIRING A PROFESSIONAL IF YOU'RE PREPARED TO DO THE WORK THAT GOES INTO IT.



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IRS LETTER



I'M GOING TO START A REGISTERED STUDENT ORGANIZATION FOR KARATE AT ULM! ACCORDING TO THE WEBSITE ALL THE GROUP NEEDS IS A TAX ID SO WE CAN GET A BANK ACCOUNT. HOW HARD COULD IT BE?



(KAREN)

TYPES OF ORGANIZATIONS IN SECTION 501(C)

WHEN PEOPLE THINK OF TAX-EXEMPT ORGANIZATIONS, THEY THINK OF CHARITIES AND CHURCHES. THOSE ARE GROUPS LIKE THOSE IN SECTION 501(C)3. BUT THERE ARE OTHER SECTIONS AND TYPE OF ORGANIZATIONS UNDER SECTION 501(C). EVEN THOUGH 501(C)3 IS EXTREMELY POPULAR, THAT DOESN'T MEANT THAT IT'S WHAT YOUR GROUP NEEDS. THE ASSUMPTION SEEMS TO BE THAT IF AN ORGANIZATION THINKS IT IS "GOOD" (IN THE MORAL SENSE) THEN IT MUST BE 501(C)3. BUT THERE'S MORE TO IT THAN THAT, SINCE THERE'S MANY WAYS TO BE "GOOD"

THE IRS' LIST OF Tax-exempt organizations other than 501(C)3:

- 501(c)(4) - Civic Leagues and Social Welfare Organizations
- 501(c)(5) - Labor, Agricultural and Horticultural Organizations
- 501(c)(6) - Business Leagues, etc.
- 501(c)(7) - Social and Recreation Clubs
- 501(c)(8) and 501(c)(10) - Fraternal Beneficiary Societies and Domestic Fraternal Societies
- 501(c)(4), 501(c)(9), and 501(c)(17) - Employees' Associations
- 501(c)(12) - Local Benevolent Life Insurance Associations, Mutual Irrigation and Telephone Companies, and Like Organizations
- 501(c)(13) - Cemetery Companies
- 501(c)(14) - Credit Unions and Other Mutual Financial Organizations
- 501(c)(19) - Veterans' Organizations
- 501(c)(20) - Group Legal Services Plan Organizations
- 501(c)(21) - Black Lung Benefit Trusts
- 501(c)(2) - Title-Holding Corporations for Single Parent Corporations
- 501(c)(25) - Title-Holding Corporations or Trusts for Multiple Parent Corporations
- 501(c)(26) - State-Sponsored High-Risk Health Coverage Organizations
- 501(c)(27) - Qualified State-Sponsored Workers' Compensation Organizations
- 501(c)(29) - CO-OP Health Insurance Issuers

Checking Accounts
Student organizations in need of a checking account must first apply for a tax identification number through the Internal Revenue Service (IRS Form SS-4). Organizations apply online at <http://www.irs.gov>. Once the tax identification number has been assigned, groups must fill out the appropriate forms with a local bank to receive the checking account.

GETTING STARTED

SUPPOSE YOU'RE OPENING A NEW GROUP IN YOUR COMMUNITY, OR THAT YOU'RE ADVISING A NEW RSO. IF YOU NEED A BANK ACCOUNT, YOU'RE PROBABLY GOING TO NEED AN EIN. IT'S POTENTIALLY UNSAFE TO HAVE EVERYTHING UNDER A INDIVIDUAL PERSON'S NAME OR OWNERSHIP BUT IN ORDER TO HAVE AN EIN AND KEEP IT, YOU'LL NEED TO FILE WITH THE IRS EACH YEAR, WHETHER YOU OWE MONEY OR NOT. YOU NEED TO DECIDE WHAT YOUR ORGANIZATION'S IDENTITY AND MISSION ARE, THEN FIND A 501(C) SECTION.

\$400?! BUT WE DON'T HAVE THAT!

FORMS TO FILE

THE 501(C)3 TYPE ORGANIZATION IS SO POPULAR THAT IT GETS ITS OWN FORM: 1023 AND 1023-EZ. FORM 1024 IS FOR ALL THE 501(C) SECTIONS OTHER THAN 3. THEY ARE LONG AND COMPLEX, REQUIRING FINANCIAL INFO AND NARRATIVE STATEMENTS. TO TURN IN THE FORMS, YOU MUST ALSO ENCLOSE A "USER FEE" FOR PROCESSING. CURRENTLY, IT'S AT LEAST \$400.

CAN YOU AVOID APPLYING FOR TAX EXEMPTION AND ITS FEES?

PERHAPS. THE IRS' INSTRUCTIONS FOR FORM 1023 SAY THAT "ANY ORGANIZATION THAT HAS GROSS RECEIPTS IN EACH TAXABLE YEAR OF NORMALLY NOT MORE THAN \$5,000" BUT THIS IS ONLY FOR 501(C)3 AND IT DOESN'T GIVE YOU A FORMAL IRS DETERMINATION LETTER. YOU ALSO SADLY WOULDN'T WANT DONATIONS OVER \$5,000.

AS FOR OTHER 501(C) ORGANIZATIONS WHICH ARE NOT (3), SOME CHOOSE TO SELF-DECLARE TAX-EXEMPT STATUS, MEANING THAT THEY DID NOT APPLY FOR A FORMAL IRS DETERMINATION LETTER BUT SOMEHOW FILE WITH THAT STATUS ANYWAY. IT IS NOT ILLEGAL TO DO THIS, BUT YOU WON'T FIND MUCH INFORMATION ABOUT HOW TO DO THIS ON THE IRS WEBSITE. THE IRS IS AWARE THAT ORGANIZATIONS DO THIS, BUT THEY DO NOT PREFER IT.

WITHOUT AN IRS DETERMINATION LETTER YOUR ORGANIZATION CAN BE AUDITED AND ASKED TO PROVE THAT IT'S TAX-EXEMPT. YOUR ORGANIZATION WILL ALSO LACK THE DOCUMENTATION WHICH IS REQUIRED BY SOME ESTABLISHMENTS AS PROOF OF YOUR TAX-EXEMPT STATUS, SUCH AS BANKS OR BUSINESSES OFFERING DISCOUNTS OR SERVICES TAX-EXEMPT NON-PROFIT ORGANIZATIONS.

ALSO, TO PREVENT YOUR EIN FROM EXPIRING (THE PROBLEM THAT GOT ACRL-LA STARTED ON ALL THIS), YOU'LL NEED TO FILE FOR TAXES ANNUALLY ANYWAY, PROBABLY USING IRS FORM 990, "RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX" IT'S TWELVE PAGES LONG AND INVOLVES REPORTING AND CALCULATING ASSETS AND ETC. THE 990-N (E-POSTCARD) IS MUCH EASIER TO DO, BUT YOU MIGHT NOT BE ABLE TO FILL IT OUT INSTEAD IF YOU'RE NOT OFFICIALLY TAX-EXEMPT.

INTERNAL REVENUE CODE SECTION 501(C)

THE NATIONAL FOOTBALL LEAGUE HAS BEEN CLASSIFIED WITHIN 501(C)6, FOR THINGS LIKE BUSINESS LEAGUES. HOWEVER, THE NFL RECENTLY ANNOUNCED THAT THEY WOULD CEASE ITS USE OF THE STATUS, SAYING THAT IT CONFUSES PEOPLE.

WHY WOULD AN ORGANIZATION AVOID TAX EXEMPTION?

EVEN IF AN ENTITY QUALIFIES FOR TAX EXEMPT STATUS, IT IS NOT REQUIRED. IT MAY FILE LIKE A REGULAR BUSINESS. THIS MEANS THAT THE GROUP DOESN'T HAVE TO COMPLY WITH THE RULES FOR TAX EXEMPTION. THAT'S PROBABLY WHY THE NFL GAVE IT UP! IF YOU DON'T WANT TO BOTHER WITH APPLYING FOR OR EVEN CLAIMING TO HAVE EXEMPTION AND THE FEES, YOU CAN JUST FILE WITHOUT IT LIKE A BUSINESS AND HOPE YOUR GROUP IS POOR ENOUGH TO NOT OWE ANYTHING.



HOW CAN THE NFL BE TAX-EXEMPT? I DON'T FEED HOMELESS KITTIES OR STUFF LIKE THAT.



This "self-declaration" isn't for everyone and is risky. No organization (budding or old) should try it without talking to a tax lawyer with exempt organization experience.
— Robert W. Wood, tax lawyer, Forbes contributor