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SECTION 501(C)(3) IS JUST THE BEGINNING- OTHER COMMON TYPES OF TAX
EXEMPT ENTITIES EXPLAINED

Although section 501(c)(3) organizations are the best known non-profits, there are numerous other sections of the Internal Revenue Code that give tax exempt status to a wide array of other organizations.

So which types of organizations commonly fit into the exempt categories created by IRC 501(c)(4)-(27)? Among the most common are:

Civic Leagues, Social Welfare Nonprofit Organizations and Local Associations of Employees

Section 501(c)(3) permits an exemption for a civic league or nonprofit organization operated exclusively for the promotion of social welfare. It must engage primarily in activities to promote the common good and general welfare of people in the community, and not primarily provide benefits to its members. Political activity that is not the primary activity of the organization and not directed at particular candidates is permissible, as is lobbying if related to the organization's exempt purpose. No part of the net earnings may inure to the benefit of any private shareholder or individual.

Trade and Professional Associations

Section 501(c)(6) provides an exemption to business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues that are not organized for profit, and in which no part of the net earnings inure to the benefit of any private shareholder or individual. The organization must promote a common business interest of its members, who provide it with a meaningful level of support. Its activities should be directed to the improvement of business conditions of one or more lines of business, as distinguished from the performance of particular services for individual persons.

Social Clubs

Section 501(c)(7) permits an exemption for clubs organized for pleasure, recreation, and other non-profitable purposes, if substantially all the activities are for such purposes, and no part of the net earnings inures to the benefit of any private shareholder. Membership must be limited, and use of club facilities by nonmembers must be restricted or the exemption may be lost. Additionally, the exemption will be lost if the organizations charter, bylaws, or other governing instrument or any of its written policy statements contain a provision that provides for discrimination against any person on the basis of race, color, or religion.

Labor, Agricultural and Horticultural Organizations

Section 501(c)(5) provides an exemption for labor, agricultural, and horticultural organizations. Such organizations need to have as their objectives the betterment of the conditions of persons engaged in the pursuits of labor, agriculture, or horticulture, the improvement of the grade of their products, and the development of a higher degree of efficiency in their respective occupations. The IRS has drawn narrow distinctions between furthering the interests of the organization's members, which would support the exemption, and providing services to the members, which would not support the exemption.

Title-Holding Companies

Section 501(c)(2) provides an exemption to corporations that are organized for the exclusive purpose of holding title to property, collecting income from it, and turning over the entire amount of income, less expenses, to another tax exempt organization. Section 501(c)(25) exempts corporations and trusts organized for the exclusive purpose of acquiring and holding title to real property, collecting income from it, and turning over the entire amount of income, less expenses, to one or more other tax-exempt organizations. The organizations receiving the distributions must have certain ownership or control over the title-holding corporation. The exemption for such title-holding corporations is dependent upon the continuation of the exemptions of the organizations receiving the distributions.

Fraternal Organizations

Section 501(c)(8) allows an exemption for fraternal beneficiary societies that operate under the lodge system or for the exclusive benefit of the members of a fraternity that operates under the lodge system, and that provide for the payment of life, sick, accident, or other benefits to the members of such society, order, association or to their dependents. Section 501(c)(10) provides an exemption to domestic fraternal societies operating under the lodge system that do not provide for the payment of life, sick, accident, or other benefits, if the fraternal organization's net earnings are exclusively devoted to religious, charitable, scientific, literary, educational, and fraternal purposes.

Similar to a 501(c)(3), an application for exempt status is made by filing the substantive IRC Form 1024 (501(c)(3) filers use Form 1023). It should be noted, though, that a 1024 filing is not a requirement to claim exempt status under section 501. Organizations which meet the requirements for exemption in sections 501(c)(4)-(27) may simply file an annual Form 990 tax return indicating the section under which it is claiming exemption. Of course, organizations which choose to file a Form 990 return without preemptively filing a Form 1024 for IRS determination of exempt status are inviting almost sure IRS scrutiny of the organization and its filings. By initiating the process with the filing of Form 1024, an organization may preemptively satisfy questions or concerns of the IRS, and provide necessary documentation of compliance.

If you're interested in learning more about a specific type of organization and the potential to claim tax exempt status, speak to your attorney or accountant, or feel free to contact The Virtual Attorney for more information.



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