

Forming a Nonprofit Corporation

Forming a nonprofit corporation capable of receiving tax-deductible charitable donations is a two-step process.

1. Forming a corporation under the Nonprofit Corporation law of Pennsylvania.
2. Being qualified as a tax-exempt charitable organization under the Internal Revenue Code.

The Pennsylvania Nonprofit Corporation Law of 1988 is found at Title 15, Chapter 53, Sections 5301 and following, of the Pennsylvania Consolidated Statutes. This statute spells out the procedures to follow to form a nonprofit corporation in Pennsylvania. Certain considerations, such as whether or not the nonprofit corporation should have the power to issue stock, normally require the advice of a lawyer. The forms used for Articles of Incorporation in Pennsylvania may be obtained from Westmoreland SCORE Chapter 555

After the nonprofit corporation is formed, having it qualified to receive charitable tax-deductible donations is controlled by Section 501 (c)(3) of the Internal Revenue Code. IRS Publication 557, *Tax-Exempt Status for your Organization*, explains what must be done. Also, see IRS Pub. 4220. Both are available online at www.irs.gov. One problem is that IRS Publication 557 contains several pages dealing with “Magic” language that *must* be contained in the Articles of Incorporation. Pennsylvania has adopted simplified forms for Articles of Incorporation, which are not sufficient for IRS purposes. An addendum must be added to the standard Pennsylvania form, containing the specific language required by the IRS. Thus, if Step 1 is not done with an eye on the requirements for Step 2, tax-exempt status will not be granted by the IRS, and Step 2 will be rejected. There are many other restrictions imposed by the IRS, which must be met in order to become qualified as a 501(c)(3) tax-exempt charitable organization, all of which may be found in IRS Pub. 557.

IRS Form 1023, the application to the IRS for a determination letter granting 501 (c)(3) status must be accompanied by Form 8718, and a check for the User Fee in the amount of either \$150 or \$500, depending on the organization’s gross receipts. It must also be accompanied with a conformed copy of the organization’s Articles of Incorporation, containing the prescribed magic language, financial statements showing receipts and expenditures, and a full description of the purposes and activities of the organization.