

THE BASIC STEPS TO BECOMING AN IRS (501(c)3) NONPROFIT ORGANIZATION IN FLORIDA

WHAT IS A 501(C)3? –

Section 501(c)(3) is part of the US Internal Revenue Code that allows your nonprofit to be exempt from federal income tax and be considered a charitable organization—that is an organization established for specific purposes. There are many kinds of nonprofits, but *charitable and educational* are the categories that fit garden clubs. Your organization will be given a Tax or Employment Identification Number (EIN) which is how you track your organization's financial activity. The EIN allows you to open a business bank account and register for the ability to collect donations through *Charitable Solicitation* (more on that under Step 2). Pretty much every major transaction your nonprofit engages in will require an EIN.

Charitable organizations may apply for government grants and solicit donations, and donors may deduct that donation from their taxes, with some exceptions. Nonprofit organizations may apply for grants as well.

Restrictions to being a 501(c)3:

- The activities must be limited to the purposes set out (charitable, educational, etc.).
- The organization may not advocate for a politician or political agenda. However, you may advocate for your organization, but not any political positions.

NOTE: This is a good time to clarify that **nonprofit is a tax status, it's not a financial plan**. Yes, you want to earn a profit for reserves or club activities, but profits remain with the organization and are not distributed as dividends to anyone.

THE NECESSARY STEPS TO BECOME A 501(C)3 NONPROFIT

THERE ARE TWO STEPS; BOTH ARE ONLINE:

(1) file for a tax exemption with the feds (IRS) (no cost); and (2) register your new organization with the state of Florida. That will include your articles of confederation, bylaws, and then the solicitation for your tax certificate to be used during eligible purchases. Step two is an online process that walks you through everything and requires a payment at the end (~\$70 one-time payment). This step will also require an annual compliance process, which is payable online (~\$30 year).

STEP ONE –

File for an IRS 501(c)(3) tax-exemption number (also known as an EIN or TIN). You will receive a Letter of Designation (NOT AN EMAIL) with your new tax ID number. It will be required when you request your tax-free certification from the state (step two). You must file a Form 990 or a postcard with the IRS annually, even though you are not paying taxes.

APPLY ONLINE

<https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

STEP TWO –

You are registering your new organization as a new corporation in the state of Florida Division of Corporations (known as www.Sunbiz.org). The online process will create your Articles of Confederation. This enables you to solicit charitable donations. Make sure your officers and treasurer understand the requirement for annual compliance.

- **What Are Articles of Confederation?** This document becomes your legal and legitimate documentation as a nonprofit organization in the state of Florida. You will declare your organization's name, location, purpose, board structure, and more. Your articles of incorporation and/or your bylaws are going to have to include a statement of your exempt purpose(s), (such as charitable, religious, educational, and/or scientific purposes), a dissolution clause, a conflict-of-interest clause, and be prepared to answer questions about your organization. **What Are Bylaws?** They are your organization's operating manual. They guide the nonprofit board's actions and decisions. Bylaws contain the rules and procedures for things like holding meetings, electing directors, appointing officers, and taking care of other formalities. They are helpful in preventing or resolving conflicts and disagreements. The power to adopt, amend or repeal bylaws is vested in the Board of Directors.

APPLY ONLINE

<https://dos.myflorida.com/sunbiz/start-business/efile/fl-nonprofit-corporation>

- **Charitable Solicitations Registration. Your nonprofit designation letter comes from the IRS, but the state oversees your tax-free certification.** The Florida Solicitation of Contributions Act requires anyone who solicits donations in Florida to register with the Florida Department of Agriculture and Consumer Services (FDACS) and renew annually. It is an online application with a fee. Once you have received your tax certificate, you must do two things: (1) keep the original document saved to your computer to use to purchase eligible items; and (2) conspicuously display the following statement on every solicitation, confirmation, receipt, or reminder of a contribution: "A COPY OF THE OFFICIAL REGISTRATION AND FINANCIAL INFORMATION MAY BE OBTAINED FROM THE DIVISION OF CONSUMER SERVICES BY CALLING TOLL-FREE WITHIN THE STATE. REGISTRATION DOES NOT IMPLY ENDORSEMENT, APPROVAL, OR RECOMMENDATION BY THE STATE."

APPLY ONLINE INFORMATION PAGE

YOU ARE NOW FULLY AND LEGALLY REGISTERED AS A NONPROFIT WITH THE USA AND THE STATE OF FLORIDA

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ADDITIONAL USEFUL KNOWLEDGE:

GENERAL ACCEPTED ACCOUNTING PROCEDURES. The most important financial document you have to present your budget is a Profit & Loss Statement. You can select whether to use cash-based or accrual accounting process. Cash-based reflects real money in and real money out in real time. It is how you can accurately show your financial position to your members. Accrual accounting will include money owed, but not yet in the bank.

A P&L statement does not balance—it’s more like your personal bank register. A balance statement will show assets and liabilities which is only useful to organizations with assets—such as your own building, reserve investment accounts, or other assets. An annual budget is voted on annually. Be sure to hold reserves to cover special projects for one additional year. It is critical all board members understand how to read a budget. It is a responsibility they assume as board members.

SPONSORSHIP DONATIONS. If you offer sponsorship worth, say \$5,000, you should include the language “please consult your tax advisor” because the full amount is not deductible – if they are receiving tangible benefit perks. The value of that perk must be deducted from their contribution – and that is the real value of their deduction.

RAFFLES FOR FUNDRAISING. As a general matter, raffles, lotteries, and other drawings by chance are considered a form of gambling and prohibited by law in Florida. However, an exception to this rule applies to certain nonprofits that have obtained federal 501(c)(3) status from the Internal Revenue Service. Refer to it a drawing in your paperwork and avoid using the word raffle. The ticket must indicate the suggested donation and how the raised funds will be used. The money can only be used for that purpose. It is okay to say funds raised will go to support our special and community projects. Read the state law.

CHECKLIST FOR 501(c)(3)

Table with 4 columns: #, Steps for Incorporating, Online App, Notes. It lists 6 steps for incorporating a nonprofit organization, including defining org name, applying for EIN, filing articles of incorporation, and registering for charitable solicitation.