

## Starting a 501(c)(4) Organization

When you are committed to a cause, a nonprofit organization may be the right vehicle for promoting it. One of the first decisions you should make is which type of nonprofit organization will best help you meet your goals.

### Why Start a 501(c)(4)?

A 501(c)(3) is a tax-exempt organization devoted to charitable activities. A 501(c)(4) is also a tax-exempt organization, but with the purpose to promote “the common good and general welfare of the community.” One of the key differences between a 501(c)(3) and a 501(c)(4) organization is that 501(c)(4)s can engage in an unlimited amount of lobbying.

If your goal is to influence public policy, a 501(c)(4) can be an appealing choice. In addition to **unlimited** lobbying, a 501(c)(4) is permitted to engage in a **limited** amount of political activity (so long as it is not the primary purpose of the organization). It is important to remember that, if you choose to organize as a 501(c)(4), donors to your organization will not be able to claim a tax deduction.

In some cases, you may be able to carry out your goals by creating one type of organization, and in other cases, you may decide to create affiliated 501(c)(3) and a 501(c)(4) organizations<sup>1</sup>.

If you decide that the best fit is to create a 501(c)(4) social welfare organization, this step-by-step guide will take some of the mystery out of the process and show you just how simple it can be to get started.

### STEP 1: Create Your Organization

Federal tax law requires a 501(c)(4) organization to be created as a corporation, a trust, or an unincorporated association.

To create your organization you should look to state law to determine what is required. It is state law that dictates what needs to be included in the organizing documents and bylaws. We have prepared

The Sierra Club, Human Rights Campaign, Planned Parenthood Action Fund, and the National Rifle Association are all 501(c)(4) organizations.

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<sup>1</sup> For more information on affiliated organizations, please see the Alliance for Justice publication, *The Connection: Strategies for Creating and Operating 501(c)(3), 501(c)(4)s and Political Organizations*.

sample [Articles of Incorporation](#) and organizational [bylaws](#) to help you get started<sup>2</sup>. It is important that you make sure that, before filing any paperwork with the IRS, your organizing documents comply with the state law in which you are incorporating. State nonprofit incorporation forms and information can be found on the [IRS website](#).

An exact copy of the organizing documents, **determined by which type of organization you choose to create**, will be required as part of the application for exemption sent to the IRS.

## STEP 2: Obtain an Employer Identification Number (EIN)

Even if it will not have any employees, every organization is required to obtain an employer identification number (EIN). This number will be required for opening your bank account and, most importantly, the organization will need it for all future filings with the IRS, including the application for exemption. To obtain an EIN the organization must either submit [Form SS-4](#) (“Application for Employer Identification Number”) or complete the [online questionnaire](#) that will automatically generate your EIN.

NOTE: One of the great things about a 501(c)(4) organization is that, once created, you can begin operating as a tax-exempt organization right away. You do not have to wait for official recognition of your exempt status from the IRS before you can get to work. You must complete **Step 3** (Application for Exemption) within 27 months of formation in order to ensure a letter of exemption that dates back to the formation of the organization. Applications for exemption that are filed later than 27 months from formation will generally receive a letter dating back to the postmark date of the application. The IRS will no longer be issuing retroactive recognition of exemption for organizations that have not filed within the 27 month window.

## STEP 3: Prepare and File Application for Exemption

While a 501(c)(4) organization is *not required* to file an application for recognition of exemption, it is recommended because it provides public recognition of tax-exempt status, nonprofit mailing privileges, exemption from certain state taxes, and it avoids confusion with the IRS when filing mandatory annual reports (see Step 4). To receive a letter of recognition from the IRS, a 501(c)(4) organization must file a [Form 1024](#) (“Application for Recognition of Exemption Under Section 501(a)”) within 27 months of formation to receive a letter recognizing exempt status dating back to the formation of the organization. This can only be done *after* obtaining the organization’s EIN number. The organization must also submit a [Form 8718](#) (“User Fee for Exempt Organization Determination Letter Request”) along with the appropriate fee.

To ensure that the IRS can process your application as quickly as possible, answer the questions on Form 1024 completely and provide all the required attachments. The checklist provided on Page 6 of the [instructions to Form 1024](#) is a great resource to consult to make sure nothing has been missed.

A few things to note:

1. The form must be signed by an officer, a trustee who is authorized to sign, or another person authorized by a power of attorney.

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<sup>2</sup> Remember to schedule an organizational board meeting to elect officers and adopt the bylaws.

2. The form must be completed in English and an English translation must be provided for any operating or organizational documents that are in any other language.
3. All attachments to the form should include the organization's name, address, and employer identification number (EIN) and must reference the part and line item numbers to which the attachment relates.
4. If the organization's application is approved, the application and supporting documents will be made publicly available. (Exceptions are made for any information relating to trade secrets, patents, style of work, or apparatus that, if released, would adversely affect the organization, or any information that would adversely affect the national defense.)

For additional help, the IRS has prepared [a slide presentation](#) to walk you through the application process. We have prepared a [sample Form 1024](#) along with attachments [A](#) and [B](#) to help you get started.

#### STEP 4: Filing Your 990

All tax-exempt organizations are *required* to submit an annual information report by filing [Form 990](#), [990-EZ](#) or [990-N](#). Even a 501(c)(4) organization that did not apply for exemption by filing a Form 1024 must submit annual information reports. When preparing your 990, you will need to provide financial and program-related information about your organization. If the organization has engaged in lobbying and or political activity you will also need to file [Schedule C](#) of the 990.

**NOTE:** Failure to file Form 990 for three consecutive years will result in automatic revocation of tax-exempt status.

Your annual gross receipts determine which 990 your organization should file:

- **Form 990-N.** If an organization normally has gross receipts of \$50,000 or less, it can choose to file Form 990-N, Electronic Notice (e-Postcard).
- **Form 990-EZ.** If an organization has gross receipts less than \$200,000 and total assets at the end of the tax year less than \$500,000, it can choose to file Form 990-EZ. See instructions [here](#).
- **Form 990.** If an organization has gross receipts of \$200,000 or more, or total assets of \$500,000 or more it *must* file the Form 990. See instructions [here](#).

An organization that is eligible to file using the shorter Form 990-N or 990-EZ may choose to file the full Form 990. If so, the organization is required to complete the entire form, not just the information required in one of the shorter versions.

You may want to hire an accountant or attorney to assist you with recordkeeping and filing your 990. Free assistance in completing your Form 990 is also available from the IRS. The toll-free number is staffed with people to help Monday – Friday: 1-877-829-5500.

#### How Long Does the Process Take?

While the IRS does not adhere to a guaranteed timeline for processing an organization's Form 1024, the agency provides general guidelines and assistance in tracking the status of an application. The IRS has

prepared this [chart](#) outlining what happens to the application once it has been received. Typically, an organization will receive either a determination letter or request for additional information from the IRS within 90 days of submission.

**REMEMBER:** You do not have to wait for your determination letter – official recognition of your status – from the IRS before you can get to work.

If your application is incomplete or requires further development, it will be assigned to an agent. You can check the [IRS website](#) for information on which applications are being processed. To learn common reasons for delay in receiving a determination letter, consult the IRS's [Top Ten Reasons for Delay](#).

If an organization's application is not granted, the organization will be informed of its right to appeal upon denial.

### **What's Next?**

Creating your 501(c)(4) organization is an accomplishment, but now the real work begins. You will also want to research state laws regarding corporate and tax compliance and file any required applications for tax-exempt status under state law.

For additional information regarding the rules and regulations of operating a 501(c)(4), please visit the IRS's [Life Cycle of a Social Welfare Organization](#). For practical guidance on operating a 501(c)(4), check out our other materials at [AFJActionCampaign.org](#).