

Nonprofit Incorporation: Do You Need It?

By Carol Topp, CPA

Does your nonprofit organization need to incorporate? Most groups seek nonprofit incorporation for financial reasons and for the limited liability protection it offers. Here's a short quiz to see if incorporating in your state as a nonprofit organization would be beneficial.

Do you consistently make a **financial surplus** (i.e. a profit)?

Incorporate as a nonprofit so the government does not try to tax your profit. Some states only require you to register as a charity with them and incorporation is not needed. You can continue to exist as an unincorporated organization. Visit <http://www.hurwitassociates.com/> for helpful information on your state's nonprofit laws. Then file for tax exemption with the IRS to be free from federal tax as well.

Do you wish to legally and financially **protect your leadership**?

Incorporate as a nonprofit to protect your leaders with limited liability. As a separate legal entity, the organization would be liable for debts and court judgements against it. Creditors and courts are generally limited to the assets of the corporation and the leaders are not personally liable for the corporation's debts.

Do you wish the organization to **last beyond the current leadership**?

Incorporate so your organization has a legal identity of its own and continuous existence. It will exist even after current leadership leaves. This gives a sense of permanence and stability to donors and creditors.

Do you wish to **hire employees** or **purchase property** or equipment?

Incorporate so that the organization pays employees or owns property, not individual leaders. The corporation, as a legal entity, will agree to leases and employment contracts.

Do you want to **avoid paying sales or property tax**?

Many states allow nonprofit organizations to avoid paying sales tax on their supplies. You will need to register with your state as a nonprofit organization and receive a sales tax-exempt certification. Your members can then take a copy of the certificate to vendors (like craft stores, bookstores, etc) and avoid paying sales tax. Also, nonprofits are sometimes exempt from paying property taxes on real estate and other property they own. Contact your county assessor's office for more information on this property tax exemption. Qualifications vary by county and state.

Do you have **donors who want a tax deduction** for their contributions?

Incorporate with your state as a nonprofit and then pursue 501(c)(3) charitable status with the IRS (called "tax exempt status" by the IRS). It is easier to get tax-exempt status as a corporation than as an unincorporated association.

Do you expect to **receive private or public grant money**?

Your group is unlikely to qualify for many public or private grants without 501(c)(3) status. Forming as a nonprofit corporation is an initial step toward 501(c)(3) tax exempt status with the IRS.

Do you do a lot of **bulk mailing**?

Nonprofits can receive a mailing permit that gives them a special reduced nonprofit rate for mailings. This is helpful for organizations that will do a lot of mailings.

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