

**This document contains information related to establishing your club status with the IRS. It is meant to be used as a layman's guide and shall not be taken as legal advice.**

Question:

Why might a masters club want/need to establish themselves as a not-for-profit organization?

Answer:

There are a variety of possible reasons that your club would want to organize as a "not for profit" corporation. Being incorporated as an NFP or a regular corporation provides some liability insulation for members and officers...not a bad idea for clubs. Sometimes, pool owners/operators require that you have a legal status...corporation, LLC, etc., before they will allow you to rent their facilities. Some banks will require that you have a federal ID number if you want to operate a bank account in the name of the club. Most USMS clubs are unincorporated associations of individuals. In other words, they don't have ANY status other than being recognized by USMS as a "club." Those that do organize usually incorporate as "Not for Profit" corporations under state law which is usually NOT an expensive or time consuming exercise. Most states have a web site and permit you to download forms that can be filled out and sent in. Once organized there are reporting requirements that can be a bit expensive...filing state and federal tax returns even if they are information only, can take a bit of time and may cause the club to incur an expense. (Try to identify a club member who is a CPA or accountant that can do this for you. It's really not too complicated but will need to be done.) What IS expensive is trying to get a 501 recognition from the IRS as a qualified "charity." If you fundraise for a qualified purpose, you need to be recognized as a 501 tax exempt organization in order for donor's to deduct their gift. Most clubs are not "charities" so this is not material. Those that DO fundraise (for example, to build a facility that will be available to the public, or, to operate a charitable learn to swim program) will need to try to qualify under IRS regs and that is a much more difficult and expensive pursuit. Hope this helps!!

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1/18/2011

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## **Taxes, Shmaxes, I just want to swim!**

by Cheryl Wagner

You formed a club, recruited members, and found a place to swim. Now the last thing you want to do is worry about taxes! But it's important and not as hard to do, as you think. Here are some basics to setting up your club as a non-profit organization, gaining tax-exempt status, and staying out of trouble.

Nonprofits were authorized by Congress which determined that certain types of organizations should be free from the burden of taxation. To qualify for nonprofit status, an organization must apply for recognition from the IRS. The organization is then monitored and must report annually if its gross annual receipts exceed \$25,000.

There are various subsections of the Internal Revenue Code under which an organization can apply for tax-exempt status. The most common is 501(c)3 although many organizations qualify under 501(c)(4) – Organizations which promote

community welfare, and 501(c)(7) – Social and Recreation Clubs. There are pros and cons to each classification although 501(c)3 is the only one which grants tax-deductible status to donor contributions.

Certain types of organizations are automatically considered tax exempt under section 501(c)(3) without filing Form 1023, including: churches, temples, and mosques; and any organization that has yearly gross receipts under \$5,000 and an organizing document that states its charitable purpose. However, these organizations cannot grant tax-deductible status to donor contributions unless they apply to the IRS and receive an official determination letter recognizing their 501(c)(3) status. If the organization's gross annual receipts exceed \$5,000 it must apply for tax-exempt status (within 90 days) in order to avoid paying taxes. Also note, that registering your club with USMS does not grant tax-exempt status to the club. USMS only extends tax-exempt status to its Local Masters Swim Committees, and not individual clubs under those LMSCs.

In order to qualify under Section 501(c)(3), an organization must be organized and operated exclusively for exempt purposes. The organizing document must permanently dedicate its assets to that end.

Certain activities are prohibited or restricted for 501(c)(3) organizations including participating in certain political campaigns, using funds to enrich its board members or key employees, conducting a trade or business that is unrelated, participating in illegal activities, and influencing legislation.

Every organization that qualifies as a 501(c)(3) organization, is further classified as either a public charity or a private foundation. A foundation receives its support from a small number of donors, while a charity has a broader base of support. Different tax rules apply to each, for example deductibility of contributions to a foundation is more limited than contributions to a public charity.

Tax exemption under section 501(c)(3) is a federal matter. You may also have to register with your state in order to solicit contributions and be exempt from state taxes. The National Association of State Charity Officials maintains a website with links to the states for more information: <http://www.nasconet.org>

To apply for tax-exempt status, submit a Form 1023 to the IRS along with the appropriate user fee. The form requests financial data, a copy of the organizing document, the names of board members and the purpose of the organization, among other things.

In order to have the necessary structure to file for tax-exempt status, it is important for the organization to:

- Obtain an EIN (Employer Identification Number)
- Elect officers and/or form a board
- Write bylaws

An officer, director, trustee or other official who is authorized to sign for the organization must sign Form 1023 at the end of Part XI. The IRS will acknowledge receiving the application in writing, within 21 days. Generally it takes several months to receive the approved section 501(c)(3) letter. If the IRS determines that additional information is needed, a specialist will be assigned to the case, who will call or write. Once the organization has been approved, the Form 1023 and supporting documents will be open for public inspection. If you need assistance there is a toll-free Exempt Organization Customer Account number where you may call with questions (1-877-829-5500).

501(c)(3) organizations must file annually with the IRS if annual gross receipts exceed \$25,000, generally using a Form 990 and possibly some schedules. For information on filing requirements, see IRS Publications 557 and 598, and the Form 990 instructions at <http://www.irs.gov>.

There are a number of websites which have advice for nonprofits and some will even file for you, for a fee. These include <http://www.nonprofithub.com> , <http://www.not-for-profit.org> and <http://legalzoom.com> . You may wish to also consult a CPA, accountant or lawyer who is familiar with the nonprofit application process. Good luck to you and have fun with your new club.

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Some Masters clubs are organized under 501(c)7 as social clubs instead of educational organizations. Both are non-profit. Here is a link with more information on Social Club status:

<http://www.irs.gov/charities/nonprofits/article/0,,id=96189,00.html>