

# Section 501(c)(3) Organizations

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## Introduction

An organization may qualify for exemption from federal income tax if it is organized and operated exclusively for one or more of the following purposes.

Religious.

Charitable.

Scientific.

Testing for public safety.

Literary.

Educational.

Fostering national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment; however, see *Amateur Athletic Organizations*, later in this chapter).

The prevention of cruelty to children or animals.

To qualify, the organization must be a corporation, community chest, fund, or foundation. A trust is a fund or foundation and will qualify. However, an individual or a partnership will not qualify.

**Examples.** Qualifying organizations include:

Nonprofit old-age homes,

Parent-teacher associations,

Charitable hospitals or other charitable organizations,

Alumni associations,

Schools,

Chapters of the Red Cross or Salvation Army,

Boys' or Girls' Clubs, and

Churches.

## Articles of Organization

Your organization must include a conformed copy of its articles of organization with the application for recognition of exemption. This may be its trust instrument, **corporate charter**, articles of association, or any other written instrument by which it is created.

### **Organizational Test** The articles of organization *must limit the organization's purposes to one or more of those described at the beginning of this chapter* and must not expressly empower it to engage, other than as an insubstantial part of its activities, in activities that do not further one or more of those purposes. These conditions for exemption are referred to as the organizational test. Section 501(c)(3) is the provision of law that grants exemption to the organizations described in this chapter. Therefore, the organizational test may be met if the purposes stated in the articles of organization are limited in some way by reference to section 501(c)(3). **The requirement that your organization's purposes and powers must be limited by the articles of organization is not satisfied if the limit is contained only in the bylaws or other rules or regulations.** Moreover, the organizational test is not satisfied by statements of your organization's officers that you intend to operate only for exempt purposes. Also, the **test is not satisfied by the fact that your actual operations are for exempt purposes.** In interpreting an organization's articles, the law of the state where the organization was created is controlling. If an organization contends that the terms of its articles have a different meaning under state law than their generally accepted meaning, such meaning must be established by a

clear and convincing reference to relevant court decisions, opinions of the state attorney general, or other appropriate state authorities. The following are examples **illustrating the organizational test.**

Example 1. Articles of organization state that an organization is formed exclusively for literary and scientific purposes within the meaning of section 501(c)(3). These articles appropriately limit the organization's purposes. The organization meets the organizational test.

Example 2. An organization, by the terms of its articles, is formed to engage in research without any further description or limitation. The organization will not be properly limited as to its purposes since all research is not scientific. The organization does not meet the organizational test.

Example 3. An organization's articles state that its purpose is to receive contributions and pay them over to organizations that are described in section 501(c)(3) and exempt from taxation under section 501(a). The organization meets the organizational test.

Example 4. If a stated purpose in the articles is the conduct of a school of adult education and its manner of operation is described in detail, such a purpose will be satisfactorily limited.

Example 5. If the articles state the organization is formed for charitable purposes, without any further description, such language ordinarily will be sufficient since the term charitable has a generally accepted legal meaning. On the other hand, if the purposes are stated to be charitable, philanthropic, and benevolent, the organizational requirement will not be met since the

Example 6. If the articles state an organization is formed to promote American ideals, or to foster the best interests of the people, or to further the common welfare and well-being of the community, without any limitation or provision restricting such purposes to accomplishment only in a charitable manner, the purposes will not be sufficiently limited. Such purposes are vague and may be accomplished other than in an exempt manner.

Example 7. A stated purpose to operate a hospital does not meet the organizational test since it is not necessarily charitable. A hospital may or may not be exempt depending on the manner in which it is operated.

Example 8. An organization that is expressly empowered by its articles to carry on social activities will not be sufficiently limited as to its power, even if its articles state that it is organized and will be operated exclusively for charitable purposes.

Dedication and Distribution of Assets Assets of an organization must be permanently dedicated to an exempt purpose. This means that should an organization dissolve, its assets must be distributed for an exempt purpose described in this chapter, or to the federal government or to a state or local government for a public purpose. If the assets could be distributed to members or private individuals or for any other purpose, the organizational test is not met.

Dedication. To establish that your organization's assets will be permanently dedicated to an exempt purpose, the articles of organization should contain a provision insuring their distribution for an exempt purpose in the event of dissolution. Although reliance may be placed

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terms philanthropic and benevolent have no generally accepted legal meaning and, therefore, the stated purposes may, under the laws of the state, permit activities that are broader than those intended by the exemption law.

upon state law to establish permanent dedication of assets for exempt purposes, your organization's application probably can be processed much more rapidly if its articles of organization include a provision insuring permanent dedication of assets for exempt purposes.

