

Nonprofit Basics – FAQs (Frequently Asked Questions)

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1. **Can a Nonprofit make a profit?**
 - a. YES. What you do with your “profit” determines your “nonprofit-ness” If you use leftover funds to further your exempt purpose, you are still a nonprofit. You can LOSE nonprofit status if your profits go to individuals, members, or for personal gain.
2. **We’re not incorporated, yet - can we accept donations?**
 - a. YES, but those donations are not tax-deductible to the donor. If you need to accept donations before you are incorporated, ask another §501(c)(3) organization to accept the donations on your behalf as a fiscal sponsor.
3. **We’re incorporated, but we don’t have §501(c)(3) status - can we accept donations?**
 - a. YES. If your annual income is <\$5000 per year or you are a church, you can accept donations and inform your donors that the donation is tax-deductible.
 - b. YES. If your annual income is >\$5000 per year, you should seek §501(c)(3) status. While the paperwork is pending you can “act like” a §501(c)(3) organization; however, you may not be eligible for grants.
4. **After we get our §501(c)(3) status, what do we have to tell the IRS?**
 - a. File annual 990 return (990N for < \$25,000, 990EZ or 990 for > \$25,000 gross income)
 - b. File any substantial changes in bylaws (change in mission, change in service area, change in funding)
 - c. If you have employees, keep up with employment taxes!
5. **What do we have to tell the State of Indiana?**
 - a. File Annually –
 - i. Business Entity Report with IN Secretary of State
 - ii. NP20A with Indiana Department of Revenue
 - iii. If you have employees, keep up with employment taxes!
6. **What do we have to tell the public, if asked?**
 - a. Application for Tax Exempt Status
 - b. Bylaws
 - c. 990 tax return
 - d. Public grant applications, if the grant funding is from a government agency, or if the private granting organization requires it
7. **Do we have to allow the public to attend board meetings?**
 - a. NO. You don’t even have to let your members attend board meetings, unless your bylaws or board policy requires it. However, it’s a good idea to be as “open” as possible to avoid appearance of unfair or illegal dealing - especially when government money is involved.
8. **Can a Nonprofit charge for services?**
 - a. YES. many nonprofits count on fees from services they offer to clients for part of their annual incomes. Be aware of Unrelated Business Income consequences:
 - i. Unrelated Business Income (UBIT) - are the services related to the mission

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of the organization? If not, you may be charged with Unrelated Business Income Tax (example: Child Advocacy Nonprofit owns and leases an apartment building - rental income is not related to its purpose, so may be taxed on that income)

9. **Can a Nonprofit sell adspace on its newsletter or website?**
 - a. Mostly, YES. A nonprofit does not jeopardize nonprofit status by putting advertisements on its newsletter or other mailings. There are two considerations:
 - i. Unrelated business income – If the advertisements are unrelated to the mission of the nonprofit organization, or if the unrelated advertisements exceed a certain threshold of the organization's total income, the organization may have to pay "Unrelated Business Income Tax."
 - ii. US Postal Service Regulations for Nonprofit Mailing – Nonprofit mail stamps cannot be used for certain types of advertising, including, advertisements that promote credit, debit, or charge cards, offers of travel or insurance policies (unless promoted only to members), and mailing that are more than 75% advertising.

10. **There is pending legislation that will affect my nonprofit - can we talk to our legislators about it?**
 - a. IT DEPENDS. §501(c)(3) are prohibited from engaging in political activity. This means that a significant part of your operating budget cannot be used to effect legislation or political change. However, you can provide information about pending legislation, and give information as to how the legislation will affect you. Your members can be personally active in promoting (or opposing) particular legislation, as long as they are acting as individuals, and not as your representatives.

11. **Can we reimburse expenses to our Directors?**
 - a. YES (mostly). The Board can approve policy which permits reimbursement of reasonable expenses incurred by Directors, including mileage for attending events as a Board representative, reimbursement of registration or admission fees to workshops, events, etc., and overnight accommodations. Care must be taken to be sure that the Director is not receiving undue benefit from the reimbursement (for example, can reimburse dinner, but not a night of bar-hopping at an event)

12. **Can the Directors be personally liable for liability of the Nonprofit?**
 - a. IT DEPENDS. Indiana Nonprofit Law protects Directors from most actions done in the course of their service as nonprofit directors. However, a Director can become liable for the Nonprofit's actions under certain circumstances:
 - i. If the Director personally and directly injures someone
 - ii. If the Director personally guarantees a bank loan or a business debt on which the corporation defaults
 - iii. If the Director fails to deposit taxes or file any necessary tax returns (or knows that the returns are not being filed, and does nothing about it)
 - iv. If the Director does something intentionally fraudulent, illegal, or clearly wrong-headed that causes harm, or
 - v. If the Director co-mingles nonprofit and personal funds.