

501(c)(3) Explained

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What is it & Why do I want it?

What it is:

501(c)(3) status = federal tax exempt status

Why your library wants it:

- 501(c)(3) status allows **donors** to write off donations to your organization.
- Many **grant makers** will only give to organizations with 501(c)(3) status.



Does my library have it?
Can my library get it?

Maybe!



IRS & Public Libraries in NY

- For years they said “Sure” to all libraries
- Then, depending on the agent you spoke with you could get it.
- Now, they are more consistent in understanding the four types of p.l.s in NY and less likely to give it to municipal, school district and special district public libraries.



Breakdown by Library Type

- There are **four types of libraries** in NYS. Association, Municipal Public Libraries, School District Public Libraries & Special District Public Libraries [<http://www.nysl.nysed.gov/libdev/libs/pltypes.htm>]
- Association libraries typically granted 501(c)(3) status.
- The other three types of libraries: Municipal Public Libraries, School District Public Libraries & Special District Public Libraries are considered "government entities" by the IRS **and by IRS definition are already tax exempt.**



But wait! I'm a library!

Here's why I think they are "cracking down":

1. They don't want to give you duplicate tax exempt status and
2. They want to be clear that you are a sanctioned function/arm of government (read: tax supported)



So what's a library to do?

To ease donor and grantmaker understanding of the “government entity” standing it is recommended (by MHLS) that these three types of libraries rely on a **separately incorporated Friends Group** as the fundraising entity for the library.



Fundraising Best Practice

Funneling fundraising activities through the Friends allows your board to focus on

- Sustainable operating funds (read: district vote or 414 vote)
- Governance & Policy Making



501(c)(3) for Friends

“Ad-hoc” vs. Separately Incorporated

“Ad-hoc”

- Usually in place for association libraries.
- Also recommended (by me) for a newly formed group for any type of library until they get a solid core group and regular activities going.
- Can “use” the library’s 501(c)(3)

Separately Incorporated

- Must be incorporated by the NYS OAG before applying for 501(c)(3) status. (See next slide)
- Annual filing requirements at both the state and federal level.



Life Cycle of an Exempt Org.

<http://www.irs.gov/charities/article/0,,id=169727,00.html>

1. **Starting Out:** Creating an organization under state law, acquiring an employer identification number, and identifying the appropriate federal tax classification.
2. **Applying for Exemption:** Acquiring, completing, and submitting application forms and getting help from the IRS during the application process.
3. **Required Filings**
4. **Ongoing Compliance**
5. **Significant Events:** Audits, private letter rulings, and termination procedures.



Filings: 501(c)(3)

2007 Tax Year (Filed in 2008 or 2009)	Form to File
Gross receipts normally \leq \$25,000	990-N
Gross receipts $>$ \$25,000 and $<$ \$100,000, and Total assets $<$ \$250,000	990-EZ or 990
Gross receipts \geq \$100,000, or Total assets \geq \$250,000	990

2008 Tax Year (Filed in 2009 or 2010)	Form to File
Gross receipts normally \leq \$25,000	990-N
Gross receipts $>$ \$25,000 and $<$ \$1 million, and Total assets $<$ \$2.5 million	990-EZ or 990
Gross receipts \geq \$1 million, or Total assets \geq \$2.5 million	990

2009 Tax Year (Filed in 2010 or 2011)	Form to File
Gross receipts normally \leq \$25,000	990-N
Gross receipts $>$ \$25,000 and $<$ \$500,000, and Total assets $<$ \$1.25 million	990-EZ or 990
Gross receipts \geq \$500,000, or Total assets \geq \$1.25 million	990

2010 Tax Year and later (Filed in 2011 and later)	Form to File
Gross receipts normally \leq \$50,000	990-N
Gross receipts $>$ \$50,000 and $<$ \$200,000, and Total assets $<$ \$500,000	990-EZ or 990
Gross receipts \geq \$200,000, or Total assets \geq \$500,000	990

<http://www.irs.gov/charities/>



Unrelated Business Income Tax

Unrelated Business Income (UBI) is revenue earned for purposes other than the library's primary purpose and may be taxable.

"**Three-part test**" determines when UBI is taxable:

1. Is the revenue generating activity directly related to the organization's purpose?
 2. Is the activity done on a regular basis?
 3. Is the revenue generated from the activity substantial?
- Determined on a case-by-case basis; several exceptions such as activities conducted by volunteers and the sale of donated merchandise.
 - An example of UBI is rent received from a debt-financed building.
 - Form 990-T, *Exempt Organizations Business Income Tax Return*, must be filed if gross income of \$1,000 or greater comes from UBI.

"Keeping the Library Tax-Exempt," by Brenda Adams, RCLS Fiscal Officer



Jeopardizing Your Tax-Exempt Status

- Lobbying: you may not “intervene in political campaigns or conduct substantial lobbying activities.”
- Substantially changing the purpose or activities of your organization.



“Good Standing”

1. GuideStar.org
2. IRS Charitable Organizations Hotline:
1-877-829-5500

[also use this number to get another copy of your determination letter if you've misplaced it]

