



TWO FREQUENTLY ASKED QUESTIONS IN THE FINANCIAL AREA

1. I am thinking about applying for not-for-profit status for my club. What are the pros and cons?

Not-for-profit status is granted by the IRS and refers to the federal taxability of an organization. The Internal Revenue Code sections dealing with exemption from federal income tax are 501(c)(3). A 501(c)(3) is the most desirable type of exemption because not only are any “profits” of the club related to its tax exempt purpose not taxed as federal income, but for the most part donors are eligible to deduct any donations to a 501(c)(3) on their personal tax returns. In many states, a 501(c)(3) organization is also exempt from certain property taxes, sales taxes, and state income taxes. This exemption from state taxes differs from state to state and is governed by state law. The purpose or mission of your organization determines which code section, if any, your organization might qualify under. A club must complete form 1023 to apply for 501 (c) (3) status. This form may be obtained from the IRS by calling 1-800-TAX-FORM. A club considering applying for tax-exempt status can obtain a publication from the IRS titled “[Tax Exempt Status for Your Organization](#)”. The IRS web site is www.irs.ustreas.gov.

Tax-exempt status is not for every club. Many clubs are coach-owned and run by the coach as a private business enterprise. A not-for-profit organization requires an elected Board of Directors with no conflict of interests to run the swim club. In addition, any assets owned by a 501(c)(3) must be distributed to another 501(c) (3) if the organization is dissolved.

Each club must apply for not-for-profit status independently. USA Swimming does have a group exemption that extends to the LSC level, but does not include any member clubs.

After the IRS has examined the application to determine exempt status, it issues a determination letter if the determination is favorable.

2. My club wants to treat the coaches as independent contractors. Is this advisable?

In the vast majority of situations, the coaches are employees of the club and are **not** independent contractors. The fact that a coach has another job or works part time for the club has no bearing on whether he or she is considered an employee of the club. The IRS has a 20 point check list to help determine whether a person is an employee.

Factors to be considered include:

- How important the coach’s services are to the success of the club
- The control the club has over the services the coach provides
- Whether the relationship between the club and the coach is ongoing or provided on a one time basis
- Where the service is provided
- Whether or not the coach is in a position to realize a financial gain or loss
- Whether or not the coach provides similar services to others as an independent contractor.

The IRS looks carefully at the subcontractor issue and the penalties are stiff if the IRS decides that a coach is really an employee. Every club should seek professional, competent advice on this issue and follow that advice.