Starting a Nonprofit Organization

Church or Nonprofit Organization?

Some rescue missions have been chartered as churches, which allow them to avoid filing the application for exemption (Form 1023) and an annual report (Form 990) with the Internal Revenue Service. To qualify as a religious organization, the entity must engage in "worship", which, according to IRS regulations, is defined as:

What constitutes conduct of religious worship or the ministration of sacerdotal functions depends on the interests and practices of a particular religious body constituting a church.

The IRS uses these fourteen tests to determine if a religious organization qualifies as a "church":

- Distinct legal existence
- Recognized creed and form of worship
- Definite and distinct ecclesiastical government
- Formal code of doctrine and discipline
- Distinct religious history
- Membership not associated with any other church or denomination
- Organization of ordained ministers
- Ordained ministers selected after completing prescribed courses of studies
- Literature of its own
- Established places of worship
- Regular congregations
- Regular religious services
- Sunday schools for religious instruction of the young
- Schools for preparation of its ministers

However, the majority of rescue missions have found that forming as a nonprofit charitable organization is preferred for the following reasons:

- Donors and volunteers are more likely to support an interdenominational organization, rather than a church that may appear to be in competition to their own
- The added accountability and limited legal liability that are part of being a nonprofit organization make it easier to recruit quality board members
- Most foundation and corporate giving programs, as well as government granting agencies, only work with 501(c)(3) tax exempt organizations
- Additionally, working toward incorporation causes an organization to be more specific and definite about its objectives and planned activities
Steps to Becoming a Non-Profit Organization

Most rescue missions are formed as corporations, which limits the legal liability of its founders and leaders. Adopting the corporate form means that articles of incorporation and bylaws are required.

The Internal Revenue Service provides these materials that are helpful and necessary for starting a nonprofit organization:

- Package 1023 - Application for Recognition of Exemption with Instructions
- Publication 557 - Tax-Exempt Status for Your Organization

1. Form the First Board of Directors

Absolutely the most important consideration when forming a board of directors is having a unified vision. I thank God that our board -- made up of fifteen members (six of whom are pastors of varied backgrounds) -- never made a decision that was not unanimous. The only credit I can assign to this is that these are a group of Elders called by God for a special type of mission: that of our ministry. If this is the case, then any steps toward getting a board established should be coupled with much prayer in seeking God's direction.

As with good public relations, communication is of utmost importance. As we look at details concerning incorporation and the organizing documents, you will see that definite goals and procedures have to be spelled out. "What are we to accomplish?" "How are we to accomplish it?" and so forth. Being clear on points such as these is essential in sharing with potential board members. It comes into even greater importance if pastors are involved.

Some things to watch for:

- Doctrinal/theological problems -- probably most common. Do they have problems working with persons of different spiritual background?
- Will they have enough time to serve on your board?
- Do they live lives that exemplify godly leadership qualities?
- Do they have a positive standing in the community?
- Are they willing and able to invest in the ministry financially?
- Are they willing to encourage their friends to give to the ministry, as well?

As you undertake this, make an appointment with each potential board member, discussing this in detail. Really share from the heart and listen to the good ideas and advice they are bound to have. Once there are seven people (at least) who can commit themselves to your ministry, set a meeting time.

2. Hold the First Board Meeting
This is more important than you may think right now. At the first meeting an initial election of officers takes place: President, Vice President, Secretary and Treasurer. The adoption of by-laws follows, as outlined in this manner:

- Statement of Faith (optional, but spiritually important)
- Officers -- their duties, length of term, mode of election, procedure for filling vacant offices, removal procedures
- Committees -- establishment
- Board -- number of members, length of service, frequency of meetings, establishment of quorum, removal provisions (in case of irresponsibility or non-participation)
- Amendments -- mode of adoption for by-laws, procedure for future amendments
- Dissolution Clause -- important for tax exempt procedure. To meet IRS requirements, this exact wording must appear: "In the event of dissolutionment, all assets, real and personal, shall be distributed to such organizations as are qualified as tax exempt under Section 501(c)(3) of the Internal Revenue Code or corresponding provisions of a future United States Revenue Law."

Some other considerations:

- Definite goals -- set down in a single sentence form for the organizing instrument
- Organization of suggested committees:
  - Budget & Fundraising
  - Building -- to find one, or to work on your present one
  - Deciding on a public relations program -- how to notify churches, advertising, etc.

3. The Organizing Documents - Filing for Incorporation

A. Chartering with the State

Before any organization can become tax exempt with the IRS, it must first be chartered in its home state as a nonprofit corporation. Therefore, the first organizing document is the form to that is filed with the state’s Department of Commerce, Secretary of State, or whichever government body handles such matters. This form can usually be obtained from an attorney or Certified Public Accountant, or by contacting the agency in your state that deals with non-profit corporations. In most states, non-profit incorporation does not automatically lead to exemption from state sales and use taxes. You will probably need to file proof of your non-profit status with the appropriate state agency to gain this exemption.

B. Employer Identification Number (EIN)

Some states issue "tax-exempt numbers" for nonprofit organizations. However, the IRS does not. Instead, it uses the organization’s Employer Identification Number (EIN),
which is issued by the Social Security Administration, as the unique number by which it identifies exempt organizations. An EIN is obtained by filing *Form SS-4*.

C. **Applying to the IRS for Tax-exempt Status**

Incorporation must be granted by state where the organization will operate before applying to the IRS. Organizations that plan to apply for tax exemption must do so within 15 months from the end of the month in which it was organized. This is done by submitting *Form 1023* to the Internal Revenue Service. It is most often advisable to have this form, along with the forms filed with the state, reviewed by a CPA or attorney before it is filed.

Upon approval of the application for exemption, the IRS will provide a determination letter. This letter may be an advance determination or a definitive (or final) determination. The exempt status is usually effective as of the date of formation of the organization, if filing deadlines are met. A definitive (or final) determination letter represents a determination by the IRS position that the organizational and operational plans of the nonprofit entitle it to be classified as exempt.

D. **Obtaining a Third Class Non-profit Bulk Rate Mailing Permit**

The mailing list is one of the rescue ministry's most valuable assets, both for appealing for financial support and for educating donors and potential donors through a monthly or bimonthly newsletter. It is important to keep the people supporting your ministry informed of your activities and needs. You must have a minimum of 200 addresses in order to qualify for the bulk rate permit through the Post Office.

If filed properly, the information should return from the State and IRS anywhere from six to eight weeks. Once it returns, photocopy your organizing documents with your by-laws, and bring them to the Post Office in the same town in which you're registered. Tell them you are a non-profit, church-related organization desiring a bulk rate mailing permit. If you are recognized by the State, and have your letter of tax exemption from the IRS, the Post Office will grant it to you within a few days. Since part of the reason for the cheaper rates is the fact that you do the sorting and mailing preparation yourself, ask them to explain the p