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## **Should Our Group Seek 501(c)(3) Tax Exempt Status? Issues and Answers For Neighborhood, Homeowner And Condominium Associations**

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Association activists may wonder whether their group should become what is commonly called “a 501(c)(3) organization.” These *Issues and Answers* are designed to help you make that decision, and to identify alternatives when 501(c)(3) status may not be possible or appropriate. They are divided into six Parts, as follows:

- Part I provides a general introduction to 501(c)(3), 501(c)(4) and the issue of tax exempt status.
- Part II discusses the relationship between incorporation and tax exempt status.
- Part III looks at 501(c)(3) status in further detail, including eligibility, implications (including the limitations this status may place on your association’s activities) and the application process.
- Part IV looks at 501(c)(4) status in further detail, again including eligibility, implications and the application process.
- Part V discusses tax exemption under section 528 of the Internal Revenue Code for homeowners and condominium associations.
- Part VI gives an overview of federal, state and local income tax filing requirements for all three types of associations.

As you can see, these *Issues and Answers* deal only with exemption from *income* taxes. Nonprofit organizations may also be able to obtain exemptions from property tax and sales tax under other provisions of law.

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## **Part I – Introduction To 501(c)(3) And Other Tax Exempt Statuses for Neighborhood, Homeowners and Condominium Associations**

### **1. Are nonprofit organizations exempt from paying income tax?**

Nonprofit organizations are not automatically exempt from paying income tax. A nonprofit must meet specific criteria in order to be exempt and, in the case of most kinds of federal tax exempt status, must apply to the Internal Revenue Service for the particular status desired.

### **2. What is “501(c)(3)” status?**

“501(c)(3)” refers to a section of the U.S. Internal Revenue Code. Section 501(c)(3) provides that an organization may qualify for exemption from federal income tax if it is organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, or to do testing for public safety, foster amateur sports competition or prevent cruelty to children or animals.

To obtain 501(c)(3) status, an organization must file a lengthy application, pay a fee and receive approval from the IRS. For more information about 501(c)(3) status, including application procedures, see Part III, below.

### **3. What are the main benefits of 501(c)(3) status?**

A 501(c)(3) organization is exempt from paying Federal income tax. Further, foundations or other donors may want the funds they donate to go strictly to your good works, and not to tax payments.

In addition, donations made to a 501(c)(3) organization are tax deductible. This means that individuals or businesses that donate money or goods can take a deduction when they file their income tax return. This can be an extra incentive for donors. In addition, government entities and foundations often require the organizations they fund to have 501(c)(3) status.

Another benefit of 501(c)(3) status is that in Kentucky, an organization that has been granted 501(c)(3) status by the Internal Revenue Service is also exempt from state income tax and Louisville Metro occupational license taxes.

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#### **4. What are the main drawbacks of 501(c)(3) status?**

Because of the tax advantages they enjoy, 501(c)(3) organizations are highly regulated. Members of the board of directors must learn about the many legal requirements that apply to 501(c)(3) organizations. The IRS requires 501(c)(3) organizations to keep detailed records showing proper expenditures and operations (and legal compliance with IRS rules). There are also strict prohibitions on individual directors or members profiting from their relationship with the organization, and severe financial penalties for the organization and the individual when these rules are violated.

In addition, the Internal Revenue Code prohibits 501(c)(3) organizations from taking part in campaigns for political office, either in favor of or in opposition to a candidate. It also restricts the extent to which an organization can try to influence federal, state or local legislation, including the extent to which it can lobby Metro Council on legislative matters. For further details, see Part III.

#### **5. Are neighborhood associations eligible for 501(c)(3) status?**

Yes. A neighborhood association may be successful in applying for 501(c)(3) status if its purposes are charitable and/or educational and its activities serve the public interest. For more details, see Part III, below.

#### **6. Someone has suggested that our neighborhood association apply for 501(c)(4) status instead of 501(c)(3). What is the difference?**

501(c)(4) status is available to what the Internal Revenue Code calls “social welfare” organizations or “civic leagues.” Like 501(c)(3) organizations, 501(c)(4)s are tax exempt. However, donations made to 501(c)(4) organizations are *not* tax deductible. In addition, unlike 501(c)(3)s, 501(c)(4) organizations can do as much lobbying as they wish. They can also engage in political campaign activities to a limited extent (as detailed in Part IV below), which 501(c)(3) organizations cannot do.

As is the case for 501(c)(3)s, there are strict prohibitions on individual directors or members profiting from their relationship with a 501(c)(4) organization, and severe financial penalties for the organization and the individual when these rules are violated. For further details about 501(c)(4) status and application procedures, see Part IV, below.

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In some cases it may be easier for a neighborhood association to qualify for 501(c)(4) status. The application is shorter and requires less information than the 501(c)(3) application. The IRS has ruled in the past under certain facts that some neighborhood associations qualify for 501(c)(4) but not 501(c)(3) status.

### **7. Our neighborhood association never incorporated; can we apply for 501(c)(3) or (c)(4) status?**

The IRS allows unincorporated associations to apply for both 501(c)(3) and 501(c)(4) status. However, while it is possible to obtain these tax exempt statuses without incorporating, it is usually not advisable. Once an association's activities are such that having 501(c)(3) or (c)(4) status is desirable, the protections against individual liability and other advantages that come with corporate status are likely to be quite important.

The connection between incorporation and applications for 501(c)(3) and 501(c)(4) status as well as the advantages of incorporation are discussed in Part II, below.

### **8. Are homeowners associations eligible for 501(c)(3) status?**

No. Homeowners associations are made up of lot owners in a particular subdivision, and are ordinarily required to be formed by the subdivision's "Deed of Restrictions." The purpose of the homeowners association ordinarily is to maintain common areas and roadways, and to enforce the covenants in the Deed of Restrictions. The IRS considers these activities to be primarily for the private benefit of the residents, rather than charitable or educational activities serving the public interest. Therefore, homeowners associations are not eligible for 501(c)(3) status.

### **9. Are homeowners associations eligible for 501(c)(4) status?**

Until 1974, the Internal Revenue Service commonly treated homeowners associations as "social welfare organizations," and allowed them 501(c)(4) status upon a proper application. The IRS then revised its interpretation of the law in a way that makes it very difficult -- although not impossible -- for homeowners associations to qualify. As an alternative, a substantial part of a homeowners association's income may be tax exempt under section 528 of the Internal Revenue Code. A homeowners association does not have to apply for this exemption; rather, it simply elects to claim it when filing its annual tax return.

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For further details regarding the limited circumstances under which homeowners associations may qualify for 501(c)(4) status, see Part IV, below. For information about exempt income under section 528, see Part V.

**10. Are condominium associations eligible for either 501(c)(3) or 501(c)(4) status?**

Condominium associations – meaning organizations formed by unit owners of a condominium housing project to provide for the management, maintenance, and care of the common areas of the project – are not eligible for 501(c)(3) status for reasons similar to those regarding homeowners associations. Further, the IRS has ruled that condominium associations are not eligible for 501(c)(4) status. However, a substantial portion of a condominium association’s income may be tax exempt under section 528 of the Internal Revenue Code. A condominium association does not have to apply for this exemption; rather, it simply elects to claim it on its annual tax return. For further details, see Part V, below.

**11. Are there other kinds of federal tax exempt status for which a neighborhood association, homeowners association or condominium association might be eligible?**

Section 501(c) of the Internal Revenue Code provides for several kinds of tax exempt organizations other than 501(c)(3)s and (c)(4)s, including social and recreational clubs (section 501(c)(7)). For more information, see *IRS Publication 557, Tax Exempt Status For Your Organization*. This and most other IRS publications are available on-line at [www.irs.gov](http://www.irs.gov).

**12. Is all of our income exempt from tax if we have 501(c)(3) or (c)(4) status?**

Most neighborhood associations have income from such sources as membership dues, donations and grants and these types of income are generally exempt from tax for 501(c)(3) or (c)(4) organizations. Even with 501(c)(3) or (c)(4) status, however, an organization may be subject to tax on its unrelated business income, if any. Unrelated business income is income from a regularly carried on trade or business that is unrelated to the association’s charitable or educational purposes. Some types of fundraising activities if carried on regularly can generate unrelated business income.

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## **Part II – Incorporation and Its Relation to 501(c)(3) or 501(c)(4) Status**

### **1. What is “incorporation”?**

Incorporation is a process by which an organization becomes the kind of legal entity known as a “corporation.” Most neighborhood, homeowner and condominium associations incorporate as nonprofit corporations and are subject to state law, specifically the Kentucky Nonprofit Corporation Act.

### **2. What is the difference between a nonprofit and for-profit corporation?**

A nonprofit corporation is one in which none of the income or profit is distributed to its members, officers or directors. Instead, the income and profits go back into the corporation to further its nonprofit purposes. A for-profit corporation exists to make money for its owners and shareholders. Nonprofit and for-profit corporations are governed by different laws in Kentucky. Only nonprofit corporations can qualify for 501(c)(3) or 501(c)(4) status.

### **3. How are corporations created?**

Kentucky organizations incorporate by filing “Articles of Incorporation” with the Kentucky Secretary of State. Kentucky law requires certain information to be included in the Articles of Incorporation such as: the corporation’s name and purposes; the names and addresses of its first board of directors; the name and address of a registered agent; and principal office address.

### **4. What are the main consequences of becoming a corporation?**

Becoming a corporation allows your association to be treated as an entity in and of itself, rather than simply as a collection of individuals. A corporation can own property and enter into contracts in its own name. The corporate form also provides some protection to individual members and directors from liability for the organization’s debts and conduct. On the other hand, incorporation decreases the flexibility a group has in running its affairs; once incorporated, it must follow Kentucky law regarding nonprofit corporate governance and decision-making. It will also have to comply with state reporting requirements, and may incur some financial costs – in addition to time and paperwork – to maintain the group’s corporate status.

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## **5. What are some of the major requirements for Kentucky nonprofit corporations?**

Some of the major requirements are that the corporation:

- must maintain a board of directors of at least three persons;
- must have a registered agent to receive service of process on behalf of the corporation;
- must file an annual report;
- must have and follow bylaws containing the corporation's operating rules;
- and must keep books and records of account, minutes of its board and membership meetings and make its records available to its members.

## **6. How does incorporation relate to our application for 501(c)(3) status?**

For organizations which plan to obtain 501(c)(3) status from the IRS, certain provisions must be included in the Articles of Incorporation in addition to the Kentucky requirements described above. As part of its application for 501(c)(3) status, the organization must submit its Articles of Incorporation to the IRS. The IRS examines the Articles of Incorporation to determine whether the group is organized exclusively for 501(c)(3) exempt purposes, and barred from engaging in activities prohibited to 501(c)(3) organizations by law. If the Articles of Incorporation are not up to standards, the IRS will reject the application.

## **7. What is the connection between incorporation and 501(c)(4) status?**

In order to obtain 501(c)(4) status, an association must be organized exclusively "for the promotion of social welfare," and be barred from doing things that the Internal Revenue Code prohibits 501(c)(4) organizations from doing. The IRS will examine your association's Articles of Incorporation to determine whether such is the case.

## **8. Our association is already incorporated. Do we need to revise our Articles of Incorporation before we apply for 501(c)(3) or 501(c)(4) status?**

Possibly. When reviewing your application, the IRS will scrutinize your Articles of Incorporation to determine whether they limit your group to the exempt purposes described in the application. Particularly when the Articles were not drafted with a 501(c) application in mind, it may be necessary to revise them to include language establishing that your group is organized and operated exclusively for 501(c)(3) or, as the case may be, 501(c)(4), purposes,

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does not (and will not) engage in prohibited activities, and otherwise meets IRS requirements. For further details about exempt purposes and prohibited activities, see Part III (regarding 501(c)(3) organizations), and Part IV (regarding 501(c)(4)s), below.

## **Part III – 501(c)(3) Status In Detail**

### **1. What are the major requirements in order to qualify for 501(c)(3) status?**

To qualify for 501(c)(3) status, an organization must meet the following requirements:

- It must be organized and operated exclusively for exempt purposes set forth in section 501(c)(3).
- It must not be organized or operated for the benefit of private interests and none of its earnings may inure to any private shareholder or individual.
- It may not attempt to influence legislation as a substantial part of its activities.
- It may not participate in any campaign activity for or against political candidates.

### **2. How can we tell if our neighborhood association's purposes qualify us for 501(c)(3) status?**

In order to qualify, an association must be “organized and operated” “exclusively” for one or more of the eight exempt purposes set out in section 501(c)(3) of the Internal Revenue Code. The two purposes with the most potential for neighborhood associations are “charitable” and “educational.”

### **3. What are “charitable” purposes that might qualify a neighborhood association for 501(c)(3) status?**

The term “charitable” as used in section 501(c)(3) can encompass many things. Some relevant examples include the following:

- *Relief of poverty*, which may include economic development in depressed areas.
- *Community beautification and maintenance*, such as preserving, beautifying and maintaining a public park.
- *Lessening the burdens of government*, such as by supplying a community with facilities ordinarily provided at public expense.

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- *Promotion of social welfare*, which can include, for example, lessening of neighborhood tensions, addressing prejudice and discrimination, combating community deterioration (for example, preserving the historic or architectural character of a community) or combating juvenile delinquency (for example, providing activities for children).
- *Promotion of the arts*.

#### **4. What are “educational” purposes that might qualify a neighborhood association for 501(c)(3) status?**

“Educational” purposes include instruction of the public on subjects useful to the individual and beneficial to the community. This can be accomplished through forums, publications, workshops, public discussions, panels, lectures, radio, television and other means. “Educational” can also mean the instruction or training of the individual for the purpose of improving or developing his or her capabilities.

#### **5. What does the requirement that our association be “organized” “exclusively” for a qualifying purpose actually mean?**

The IRS will examine your Articles of Incorporation to see if your association is “organized exclusively” for a proper exempt purpose or purposes by looking for the following.

- The Articles must limit your association’s purposes to one or more of the exempt purposes listed in section 501(c)(3).
- The Articles must not give your association power to engage in any activities that do not further an exempt purpose (other than as an insubstantial part of your activities)
- The Articles must provide that if it ever dissolves, the association’s assets will be distributed for an exempt or public purpose, and not to its members or any private individual.

#### **6. What does the requirement that our association be “operated” “exclusively for a qualifying purpose actually mean?**

Here the IRS looks at what you actually do (or plan to do). An organization is required to engage “primarily” in activities that accomplish the exempt purpose(s) (with no more than an insubstantial part of your activities being otherwise).

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## **7. What do the requirements regarding private benefit and private inurement mean?**

501(c)(3) organizations may not be organized or operated to benefit private interests, such as the personal interests of the founder or other specific persons. Additionally the prohibition on private inurement means that an organization may not use its income or assets to give an excessive benefit to persons who have a close relationship to the organization, such as board members. For example, an organization may not pay excessive compensation to any director or officer for work done for the organization.

## **8. What does the requirement that our organization not attempt to influence legislation as a substantial part of our activities mean?**

This requirement limits the amount of lobbying a 501(c)(3) is allowed to do. The term “legislation” includes acts, bills, laws or similar items of a legislative body such as Congress, the General Assembly, or Metro Council, as well as referendums, ballot initiatives or constitutional amendments to be voted upon by the public.

The limits on lobbying apply to both “direct” lobbying, meaning communication with a legislator that expresses a view about specific legislation, and “grassroots” lobbying, which means expressing a view about specific legislation to the general public with a call to action.

## **9. Will our neighborhood association be able to lobby Metro Council if we become a 501(c)(3) organization?**

As a 501(c)(3), you will be able to work to influence legislation – whether local, state or federal –as long as these efforts are only an “insubstantial” part of your association’s activities. You will need to take extreme care in complying with this requirement, as exceeding the limits can result in the IRS imposing an excise tax on the association and/or revoking its tax-exempt status.

The easiest and safest way to do this is to file Form 5768 with the IRS. You can then use a formula in the law to calculate how much you can spend on lobbying and remain “insubstantial,” based upon your association’s total budget. You will also need to report your lobbying expenditures to the IRS every year. The association’s Form 5768 will remain in effect until you revoke it; there is no annual filing requirement. This one-page form with instructions is available on-line at [www.irs.gov](http://www.irs.gov).

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**10. Is there a simpler alternative to following these rules on lobbying limits and expenditures?**

If your organization wants federal tax exempt status but does not care about being able to receive tax *deductible* contributions, you might consider applying for 501(c)(4) status instead. Section 501(c)(4) organizations can engage in unlimited lobbying. For more information about 501(c)(4)s, see Part I, above, and Part IV, below.

**11. What does the requirement on political campaign activity mean?**

501(c)(3) organizations are absolutely prohibited from participating or intervening in any political campaign on behalf of or in opposition to any candidate for public office. 501(c)(3) organizations may not contribute to political campaigns or make verbal or written public statements in support of or in opposition to any candidate for public office. Violation of this prohibition can result in severe consequences for the organization, including denial or revocation of tax-exempt status and imposition of certain taxes.

**12. How does a neighborhood association apply for 501(c)(3) status?**

If your organization normally has annual gross receipts of \$5,000.00 or less and meets the 501(c)(3) requirements, it is automatically exempt and need not file an application. However, without an approved application, the IRS will not issue written recognition of 501(c)(3) status – something potential donors and funders may want to see.

If your organization must, or chooses to, file an application, it must complete Form 1023, “Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.” The form and instructions are available on-line, at [www.irs.gov](http://www.irs.gov). IRS Publication 557, *Tax-Exempt Status For Your Organization*, also available on-line, explains how to determine whether your organization meets the “gross receipts” test for 501(c)(3) status without filing an application. It is a good resource to review before applying in any event.

**13. What kind of information does the 501(c)(3) application ask for?**

The application asks questions about your organization’s structure and history, activities, and finances. You will also need to provide a detailed narrative description of your

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past, present and planned activities, along with your Articles of Incorporation, bylaws and conflict of interest policy, all of which must meet IRS requirements.

**14. How much does it cost to apply for 501(c)(3) status?**

The IRS charges a user fee. For organizations with annual gross receipts averaging \$10,000.00 or less over a four-year period, the current fee is \$400.00. Otherwise, it is \$850.00.

**15. What can our organization expect after we submit our application, and how long will it take to get a decision?**

The IRS may ask you for additional information if necessary to resolve your application. It is difficult to predict how long it will take to get a decision, other than to say that it is commonly a matter of months rather than weeks. The IRS currently has a backlog of applications, and periodically posts updates on its website about processing times and delays.

**Part IV – 501(c)(4) Status In Detail**

**1. How can we tell if our neighborhood association is eligible for 501(c)(4) status?**

A neighborhood association may be exempt under section 501(c)(4) if (1) it is not organized or operated for profit, and (2) it is operated exclusively for the promotion of social welfare. The IRS considers an organization to be “operated exclusively for the promotion social welfare” if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community.

**2. What are examples of neighborhood association purposes and activities that would qualify for us for 501(c)(4) status?**

The concept of social welfare under section 501(c)(4) is broad, and can embrace many kinds of activities aimed at bringing about civic betterment and social improvement. All of the purposes and activities discussed in Part III, Question 2 in connection with 501(c)(3) status also qualify for 501(c)(4) status.

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### **3. How can a homeowners association qualify for 501(c)(4) status?**

IRS rules make it difficult for homeowners associations to qualify for 501(c)(4) status. Because homeowners associations are commonly formed by a subdivision developer to own and maintain common areas and enforce covenants in the Deed of Restrictions, the IRS presumes that they are primarily organized and operated for the personal and financial benefit of the homeowners – and so not for the promotion of the common good and general welfare of the people of the community (as required for 501(c)(4) status).

A homeowners association whose purposes and activities primarily benefit the general welfare of a broader community may be able to overcome this presumption, depending upon the particular facts. There are no “bright line” rules, though, and the IRS makes these decisions on a case-by-case basis. However, even if the association benefits a larger community, the IRS will *deny* 501(c)(4) status nonetheless if (1) the association conducts activities directed to the exterior maintenance of private homes, or (2) the association denies public access to the common areas or facilities it owns and maintains. The IRS has further stated that, in order to qualify for 501(c)(4) status, a homeowners association may only own and maintain common areas or facilities such as roadways, parklands, sidewalks and streetlights, all of which must be open to the general public.

### **4. Will our association be able to lobby Metro Council if we become a 501(c)(4) organization?**

Yes. Section 501(c)(4) organizations may engage in direct and grassroots lobbying without limitation, as long as these activities fall within the organization’s exempt purposes.

### **5. Will our association be able to participate in political campaigns if we become a 501(c)(4) organization?**

Unlike 501(c)(3) organizations, 501(c)(4) groups do not lose their status if they become involved in campaigns for public office, as long as this is not the organization’s primary activity. However, they must file a special tax return if they do so, and pay a tax based upon the amount spent on campaign activities.

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## **6. How does an association apply for 501(c)(4) status?**

It must complete Form 1024, "Application for Recognition of Exemption Under Section 501(a). " The form and instructions are available on-line, at [www.irs.gov](http://www.irs.gov). Before applying, it is also a good idea to review IRS Publication 557, *Tax-Exempt Status for Your Organization*, likewise available on-line.

## **7. What kind of information does the 501(c)(4) application ask for?**

The application asks questions about your organization's structure and history, activities, and finances. You will also need to provide a detailed narrative description of your past, present and planned activities, along with your Articles of Incorporation and bylaws, both of which must meet IRS requirements.

## **8. How much does it cost to apply for 501(c)(4) status?**

The IRS charges a user fee. For organizations with annual gross receipts averaging \$10,000.00 or less over a four-year period, the current fee is \$400.00. Otherwise, it is \$850.00.

## **9. What can our organization expect after we submit our application, and how long will it take to get a decision?**

The IRS may ask you for additional information if necessary to resolve your application. It is difficult to predict how long it will take to get a decision, other than to say that it is commonly a matter of months rather than weeks. The IRS currently has a backlog of applications, and periodically posts updates on its website about processing times and delays.

## **Part V – Tax Exempt Status Under Section 528 for Homeowners and Condominium Associations**

### **1. If our homeowners association does not qualify for or does not wish to pursue 501(c)(4) status, is there any federal tax exempt status available to us?**

Yes. A homeowners association that is organized and operated for the acquisition, construction, management, maintenance and care of association property may be exempt under section 528 of the Internal Revenue Code.

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**2. Is there a tax exempt status for condominium associations?**

Yes. A condominium association that is organized and operated for the acquisition, construction, management, maintenance and care of association property may also be exempt under section 528 of the Internal Revenue Code.

**3. Will all of our association's income be exempt from federal income taxation under section 528?**

Not necessarily. Income from dues, fees and assessments that are collected from members is exempt if it amounts to at least 60% of the association's gross income for the tax year. Interest earned on amounts set aside in sinking funds or savings accounts, investment income, payments by nonmembers for special use of facilities belonging to the association, and amounts received from work done on private property are *not* exempt.

**4. Are there other criteria for tax exemption under section 528?**

As noted above, income from dues, fees and assessments that are collected from members is exempt if it amounts to at least 60% of the association's gross income for the tax year. The following criteria must also be met in order for this income to be exempt from taxation:

- At least 90% of this income must be spent on management, care, acquisition, construction or maintenance of association property.
- This property must be available for the common benefit of all members.
- Substantially all of the lots/homes/units must be used by individuals as residences.
- No part of the association's net earnings may inure to the benefit of any private shareholder or individual.

**5. How does an association apply for exempt status under section 528?**

No application is required. Instead, the association elects to be treated under section 528 by choosing to file Form 1120-H, rather than Form 1120 (ordinarily required for corporate returns), when it files its annual tax return. An association should always consult a professional

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tax accountant to determine whether filing under section 528 will result in the most favorable tax treatment, as tax rates may vary depending upon an association's particular circumstances.

## **Part VI – Income Tax Filing Requirements for Neighborhood, Homeowners and Condominium Associations**

### **1. What kind of federal income tax returns must a 501(c)(3) or 501(c)(4) organization file?**

Both 501(c)(3) and 501(c)(4) organizations must file an annual information return with the IRS. Which form to file will depend largely upon your association's annual gross receipts and total assets.

Organizations are required to file one of three possible forms: (1) an "e-postcard," also called Form 990-N (which may only be filed electronically), or (2) Form 990 or (3) Form 990-EZ. The e-postcard – by far the simplest – may be filed for organizations whose gross annual receipts are normally \$50,000.00 or less. Organizations with gross receipts over these limits will have to file either Form 990-EZ or Form 990, depending on their particular circumstances. *In addition*, any 501(c)(3) or (c)(4) organization that has \$1,000.00 or more in gross income from an unrelated business must file a Form 990-T. As noted above in Part I, income from unrelated business is subject to taxation.

Please note that filing requirements are different for any 501(c)(3) organization that the IRS has labeled a "private foundation" (rather than a "public charity").

### **2. When must a 501(c)(3) or 501(c)(4) organization file its federal form 990, 990-EZ or 990-N?**

The appropriate form must be filed by the 15<sup>th</sup> day of the fifth month after the end of the organization's fiscal year, as must the Form 990-T, if required.

### **3. Are there penalties for a 501(c)(3) or (c)(4) organization that fails to file a required return, or files late?**

There are stiff financial penalties for failing to file or filing late. In addition if an organization fails to file for three years in a row its tax exempt status is automatically revoked.

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#### **4. Must 501(c)(3) or (c)(4) organizations file state or local income tax returns?**

The Kentucky Revised Statutes exempt 501(c)(3) and (c)(4) organizations from both paying income taxes and filing returns. Metro Louisville exempts from paying and filing entities that are organized and operated for the exclusive and sole purpose of religious, charitable, scientific, literary, educational, civic or fraternal purposes (but only on the condition that no private individual benefits financially). Organizations with unrelated business income, however, should consult a tax accountant to determine their state and local tax and filing obligations.

#### **5. Must homeowners or condominium associations that are exempt under section 528 file state or local income tax returns?**

As discussed above in Part V, homeowners and condominium associations must file federal returns with the IRS, electing between Form 1120 and 1120-H. Kentucky uses the provisions of section 528 to determine the taxable income of section 528 associations for state income tax purposes. These associations must use Form 720 to file an annual return with the Kentucky Department of Revenue.

Louisville Metro similarly bases occupational license tax liability and filing requirements upon an association's status and income under section 528. Detailed information is available from the Louisville Metro Revenue Commission.