

An individual wishes to make a donation to our town library, but is asking us for a copy of the town's 501(c)(3) IRS determination letter. We do not have one. Are municipalities, by law, non-profit 501 (c)(3) corporations?

No. Municipalities *are not* automatically 501(c)(3) non-profit corporations; they must apply to be registered just as any other corporation would. However, the town, or in this case the town library, is not required to obtain this status in order for an individual to make a tax deductible charitable contribution to it, as long as the gift or contribution is made for exclusively public purposes.

Generally, donations by individuals to governmental agencies do not have limitations as to size and the donor may take a deduction equal to 100% of the gift value. In order to qualify, the tax deduction must be made in the same tax year as the donation payment. USCS Sec. 170(b)(v), (c)(1). There are similar rules for donations by corporations to municipalities, subject to special limitations and requirements.

Some large donors do, however, require that the receiver of the donation be a registered 501(c)(3) non-profit corporation. If that is the case, and the town wishes to apply, you should request a 'Package 1023' from the Internal Revenue Service by calling their toll free number at 800/829-3676. Be aware that it does take some time for these applications to be processed, and check with your donor to see if they are willing to proceed pending application approval.

****CLARIFICATION**

Some confusion may have been created by this Ask the League column of the *VLCT News*. The question addressed charitable donations to municipalities and suggested that municipalities may sometimes wish to apply for 501(c)(3) status under the Internal Revenue Code.

In fact, there is no need for a *municipality itself* to apply for this, because it is already tax exempt under Section 115(1) of the Internal Revenue Code. Further, Section 170 of the Code allows a charitable deduction to be taken by any person who makes a contribution or gift for exclusively public purposes to *any state political subdivision*.

However, there are some "public" entities that do need to apply for 501(c)(3) status in order to prove, either to funding organizations or to private citizen donors, that they are tax exempt. Examples include public libraries with private boards of directors, hospitals, independent schools, and volunteer fire departments that are not departments of the town. Although these organizations do provide benefits and service to the public, they are not municipal corporations.

The rule of thumb should be; first, figure out exactly what the corporate structure of your organization is (you may need to refer to your Articles of Organization or bylaws to find out). Then determine whether you need to apply for 501(c)(3) status. Again, if you are a branch or department of a municipality, no application is necessary because

you are already exempt. Sorry if we caused any confusion; please call the VLCT Municipal Law Center with any questions.

VLCT News, October 1999