

For Profit vs. Nonprofit: What's the Best Fit for Your Organization?

by Robyn Guilliams, partner, Goldstein & Guilliams PLC



So you and some friends have formed a chamber ensemble, or perhaps a small choir, and you're beginning to have some success performing around town. Congratulations! You're thinking that you'd like to obtain tax exempt status for

your group, to avoid paying taxes on your group's income. Nonprofit status is often thought of as the

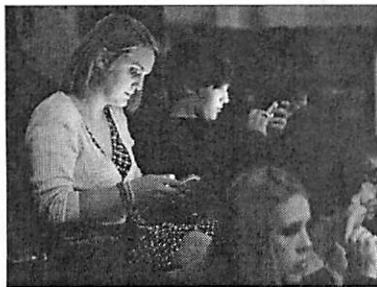
"default" type of business organization for arts groups. However, while there are benefits to nonprofits and tax exempt organizations, there are down sides, as well.

First, let's clarify the difference between the terms "nonprofit" and "tax exempt." All tax-exempt organizations are nonprofits; however, not all nonprofits are tax exempt. When an organization wishes to be classified as "nonprofit," it must register with a state – usually the state in which it operates. Every state has different classifications for nonprofit organizations. For instance, California has a type

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Are Tweet Seats for You?

by Debra Sherrer, marketing manager, Carnegie Mellon University School of Music



To tweet seat or not to tweet seat; that's the question on everyone's mind. After a rather engaging conversation at the Theatre

Communications Group Annual conference in Dallas, I went home thinking about the pros and cons of new technology and how it can be used to engage today's audience. If our audiences are evolving, why are we still connecting with them in the same manner as the previous generation of administrators? After the success of email, Facebook, and blogs, it only makes sense to give the Twitterverse a try, right? But what I realized in Dallas was that the question, "Why?" can be applied to anything; and should actually be

applied to everything. Your success with Twitter, just like your success with any initiative, will have a direct correlation to a clearly defined "Why?" It's easy to think that you should jump on the tweet seat bandwagon because supposedly everyone is doing it, but that is simply not the case. If your "Why?" is something like "I want tweet seats because XYZ Theatre has tweet seats," then you will have a hard time finding success. Every organization is unique and you should do what is in its best interest.

As far as theatres go, I'm not seeing much of an impact when it comes to audience engagement through tweet seats. Following an organization on Twitter takes one click; and that does not mean all of your followers are active and engaged audience members. Without a buy in, like purchasing a ticket, how do you know if this engagement initiative is working? The Providence Performing Arts Center in RI got a lot of press for its addition of tweet seats;

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of business classified as a "Nonprofit Public Benefit Corporation." Once an organization formally registers as a nonprofit company with the state, the organization can request federal tax-exempt status (also known as 501(c) status) with the Internal Revenue Service. Important note for organizations requesting tax exempt status: States often have additional requirements for organizations to qualify for tax-exempt status. Some states will grant tax-exempt status automatically to organizations that have been granted federal tax-exempt status, while others require the organization to complete a separate request.

Now that the distinction between "nonprofit" and "tax exempt" is clear, what exactly is the difference between a nonprofit organization and a for-profit business? The most important distinction between a for-profit and a nonprofit is that a for-profit company has owners, and a nonprofit is not owned by anyone. Although a nonprofit is controlled by a board of directors, neither the board nor any one director "owns" the nonprofit. This means that a for-profit company is controlled exclusively and completely by its owners. The nonprofit is controlled by a board of directors, which generally must consist of a majority of "disinterested" individuals. This doesn't mean they don't care about the organization! The term "disinterested" in this context means that the board member receives no benefit from the organization, such as a salary or other compensation.

One might ask why anyone would give up control of their organization to a disinterested board of directors. The biggest benefit available to certain nonprofit companies is tax exempt status from the Internal Revenue Service. Tax exempt status has two enormous advantages. The first is that contributions to

the organization are tax deductible (up to a limit) for the contributor. Obviously this provides an enormous incentive for both corporations and individuals to donate money to tax exempt organizations. The second advantage is that these organizations literally are exempt from paying federal tax to a great extent. All income earned or received by an organization that is related to its tax exempt mission is tax free!

As an example, let's say your chamber ensemble registers as a nonprofit in your state, and obtains 501(c) (3) status from the IRS. This is great! You can now accept charitable, tax-deductible contributions from donors, and your organizations donations and income from performances is exempt from federal tax. The down side is that a board of directors controls your organization's future, including whether or not YOU remain as part of the ensemble. (I'm sure everyone recalls hearing at least one story of a performing arts organization that was founded by a conductor, choreographer, or other artistic type, only to have the board of directors fire that individual some years later!)

On the other hand, let's say your ensemble decides to incorporate as a for-profit company (or remain an informal partnership without incorporating). The good news is that you and your fellow musicians may determine your fate on your own, without outside interference.

Obviously, there are additional nuanced distinctions between these two types of businesses, and other benefits and drawbacks. To be sure you choose the right business entity for your organization, I strongly recommend that you consult with an attorney who has significant experience with nonprofit issues! ■

Finale



DIANE DISNEY MILLER
1933-2013

Diane Disney Miller, daughter of Walt Disney and prominent arts philanthropist, passed away November 19 at her home in Napa. Among many other important projects, Miller served on the board of the San Francisco Symphony and was influential in the planning of Walt Disney Concert Hall in Los Angeles. "I wanted something that would bear my father's name, that would come from his wealth but not be commercial," she said. "That would be just a wonderful thing for the city, for the spirit, for the soul. I think we achieved that." She was 79.