

# OPERATED EXCLUSIVELY FOR CHARITABLE PURPOSES: COMPLIANCE AND OPERATIONAL CONSIDERATIONS

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## Introduction

- What comes to mind when you think about charitable organizations?
  - What purposes can they support? What activities can they conduct?
  - Where should they get their revenue/funding/support?
  - Should they aim to be (or avoid being) profitable?

## Introduction (cont'd)

- Increasingly, there is a wide range of approaches and structures available for achieving charitable goals and impacts
  - It is not just charities that care about achieving impact or solving intractable social problems
  - Entrepreneurs (and investors) are looking at mission as an important and necessary component of their business activities
  - Charities and other nonprofit organizations are also recognizing the value and utility of innovative structures and approaches to achieving mission
- What restrictions does tax-exempt status impose on a charitable organization's ability to structure its operations and activities?

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## Tax Exemption Generally

- Section 501(a) of the Internal Revenue Code of 1986, as amended (the "Code") provides the statutory authority for, among other things, tax exemption for organizations described in Section 501(c) of the Code
- Section 501(c) lists 29 different types of organizations that are eligible for tax exemption
- Note the distinction between tax exemption and the ability to receive tax-deductible contributions
- **OUR FOCUS:**
  - Section 501(c)(3) organizations ("charitable organizations")

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## Section 501(c)(3) Organizations: Overview

- **Organizational form:** As a threshold matter, to qualify for exemption under Section 501(c)(3), an organization must be a corporation, community chest, fund or foundation (including a trust)
  - An individual or a partnership is ineligible to qualify; however, under certain circumstances an LLC may be considered an appropriate organizational form
  - Most practitioners utilize a nonprofit corporation
- **Favorable tax treatment and other incentives:** Apart from favorable tax treatment under federal law, Section 501(c)(3) organizations are typically exempt from state and local taxes, may be eligible for reduced postal rates, are eligible and/or receive special preferences for certain types of government contracts and programs, and may take advantage of tax-exempt bond financing

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## Section 501(c)(3) Organizations: Overview (cont'd)

- **Deductibility of contributions:** Section 501(c)(3) organizations typically qualify for a charitable contribution deduction
- The non-distribution constraint
  - Charities don't have shareholders
  - But they can make money (more to come on this)
- Public charities v. private foundations

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