

Your club as a nonprofit



At Joe Nall this year, I had the opportunity to talk with a number of members from across the country. One conversation over lunch with a group from

West Virginia has led to this month's article.

As many may know, Pat Hartness moved Triple Tree Aerodrome out from under his personal name and into a 501(c)3. The intent is to further aviation education, and have the facility continue long after Pat is gone. It is truly a wonderful and generous gift for all of us.

The group at lunch inquired how a club could go about doing the same thing with its property.

This column should be used as a starting point. Advice from an attorney and/or tax professional is required before moving forward. I will take this example and walk through a few things to consider in making this transition.

When a club moves property out of the hands of individuals and into the club's ownership, it is done so that the field will live on past the lifetime of the members. An attorney can help with creating the document to govern the land, how it will be used, and what to do if the group ultimately disbands. It is important to make sure that what is written is truly the intent.

With my day job, I sometimes see cases in which a trust does not provide the way a grantor intends. In some cases, it provides exactly as it intends

but the heirs do not like it. I often hear, "If Mom and Dad understood me, they would not have put this in trust." I think to myself, "No, Mom and Dad *did* understand you. That is *why* they put it in trust."

A common clause I have seen is what is sometimes referred to as a "no last man standing" clause. The intent is that if the club shrinks to the point that the members disband, the remaining members do not gain financially from the sale of the land. The clause states that the land cannot be sold and is to be donated as a park or green space. This is great in the event that a club disbands, but what happens if urban sprawl takes over what was once farmland and a club needs to move? Make sure the governing document covers the ability for a club to sell the land in order to purchase a new location.

Most clubs are set up as nonprofit organizations. When moving land from individuals to a club, or even if people are putting money into a club for the purchase of land, the tax category becomes very important. Section 501(c) of the IRS code deals with tax-exempt nonprofit organizations. There are 29 types. We will only deal with two: 501(c)3 and 501(c)7.

A 501(c)3 is a nonprofit organization that focuses on religious, educational, charitable, scientific, literary, and testing for public safety. Its purpose is to foster national or international amateur sports competition, or the prevention of cruelty to children or animals organizations. The AMA, the AMA

Foundation, and the Triple Tree Aerodrome have all been registered as 501(c)3 organizations.

The process to become a 501(c)3 is lengthy. The AMA Foundation and Triple Tree both took approximately two years from concept to approval. I will not go into detail about the process, but I suggest that you consult www.irs.gov and a tax professional.

A 501(c)7 is defined as a social or recreational club. The process to become a 501(c)7 is easier. Although it is possible for a 501(c)7 organization to have a "self proclaim" tax-exempt status, it is recommended to fill out IRS Form 1024. It is easy to complete and ensures that the club is covered.

There are several minute differences between the two. As for our example, in simple terms, the advantage of a 501(c)3 over a 501(c)7 is that donations to a 501(c)3 from individuals are eligible for tax deductions. This is important when previously held shares are being donated to a club instead of being purchased with club funds.

Tax exempt does not mean that an organization is not subject to tax or tax filings. It only means that certain types of income are tax exempt. A 501(c)3 has a broader range of exempt income sources when compared with a 501(c)7. This becomes important if the club hosts fundraisers to purchase land.

It is impossible to thoroughly discuss anything having to do with the law or taxes within the realm of a magazine article. If your club wishes to pursue owning its own field within the entity of the club, I suggest reaching out to legal and tax professionals in your area. 🚀