

May 12, 2025

## **How Will a NY Nonprofit Organization Be Affected if its 501(c)(3) Status Is Revoked?**

Nonprofit organizations are anticipating that the federal government will start scrutinizing tax-exempt status more closely. There have also been reports that the government may look for ways to revoke 501(c)(3) status of some organizations engaged in activities that are disfavored by the current administration.<sup>1</sup> While we do not know whether or how this will happen, we are providing this legal alert to explain some of the consequences for an organization that has had its 501(c)(3) status revoked.

### **1. What is 501(c)(3) status?**

“501(c)(3) status” describes a type of federal tax exemption. The name comes from section 501(c)(3) of the Internal Revenue Code, which is the statute that governs federal taxes. In order to obtain 501(c)(3) status, most organizations have to file an application with the Internal Revenue Service (“IRS”), although there are exceptions for certain types of religious organizations. Organizations with 501(c)(3) status are divided into two categories: public charities and private foundations. Public charities are usually supported by members of the public or by the government. Private foundations are usually supported by one or a few individuals.

### **2. What are the benefits of being a 501(c)(3) public charity?**

A 501(c)(3) public charity does not pay federal corporate income tax on mission-related revenue. Some donors may be able to deduct contributions to the organization from their federal, state, and local income or corporate taxes. It is also easier for private foundations to make grants to public charities than to organizations that don’t have that status.

### **3. What steps can a nonprofit take if the federal government proposes to revoke its 501(c)(3) status?**

Usually, when the IRS wants to revoke an organization’s 501(c)(3) status it starts by conducting an audit or investigation. Tax-exempt status will remain in place during the audit or investigation. If the IRS issues a notice of proposed revocation, the organization will have 30 days to file an administrative appeal with the IRS.<sup>2</sup> Tax-exempt status will remain in place during the administrative appeals process. If the IRS administrative appeals process upholds the revocation, the organization has several options for appealing that revocation in a federal court. Depending on which option the organization uses, it may be able to retain some benefits of 501(c)(3) status throughout the court proceeding.<sup>3</sup>

---

<sup>1</sup> See, e.g., National Council of Nonprofits, Trump Administration Challenging Tax-Exempt Status, in Nonprofit Champion (May 5, 2025), <https://www.councilofnonprofits.org/nonprofit-champion-may-5-2025>.

<sup>2</sup> See IRS Pub. 892, <https://www.irs.gov/pub/irs-pdf/p892.pdf>.

<sup>3</sup> For instance, if the organization seeks a declaratory judgment in the federal Court of Claims, Tax Court or U.S. District Court for the District of Columbia, unless and until that court determines that the organization is not

Another way that 501(c)(3) status can be revoked is through the automatic revocation process. An organization required to file an annual report with the IRS (such as Form 990, 990-EZ or 990-N) will lose its tax-exempt status if it fails to file that report for three years in a row. The organization can then apply for reinstatement, which in some instances may be retroactive to the date of revocation.

#### **4. Does an organization simply disappear after its 501(c)(3) status is revoked?**

No. Many 501(c)(3) organizations are formed as nonprofit corporations. The incorporation is usually accomplished by filing a Certificate of Incorporation with the state government (although a few are formed by an act of Congress). If the corporation is formed in New York, the Certificate of Incorporation is filed with the New York Department of State (NY DOS). If the IRS revokes the organization's federal 501(c)(3) status, the corporation still exists. In order to dissolve the corporation, a Certificate of Dissolution would have to be filed with NY DOS. If the corporation is a NY charitable nonprofit corporation, the Certificate of Dissolution cannot be filed until either the Charities Bureau or a NY state court has consented to the dissolution.

#### **5. What are the tax consequences for a NY nonprofit if its 501(c)(3) status is revoked?**

A nonprofit that loses its 501(c)(3) federal tax-exempt status must start paying federal income taxes. It may also need to start paying federal unemployment tax (known as "FUTA").

Depending on where the organization is located, it may have to start paying some state and local taxes as well. Here are some considerations for organizations located in New York:

- New York State Corporation Franchise Tax: NYS Department of Taxation and Finance regulations provide that "[i]f a corporation organized other than for profit is denied exemption from taxation under the Internal Revenue Code, such corporation will be presumed subject to [the corporation franchise] tax."<sup>4</sup> However, an organization that has lost its 501(c)(3) status can overcome this presumption by providing evidence that it still meets the criteria for exemption because it meets the definition of "corporations organized other than for profit which do not have stock or shares or certificates for stock or for shares and which are operated on a nonprofit basis no part of the net earnings of which inures to the benefit of any officer, director, or member, including Not-for-Profit Corporations and Religious Corporations."<sup>5</sup>
- New York City Corporation Tax: While New York City has its own Corporation Tax, the exemption for nonprofit organizations closely follows the language of the NYS Corporation Franchise Tax discussed above. There is a similar presumption of ineligibility for an organization that has lost its 501(c)(3) status, and a similar ability to overcome that presumption by presenting evidence that the organization is "organized and operated for nonprofit purposes and not engaged in

---

entitled to 501(c)(3) public charity status, charitable donations of less than \$1,000 from individuals or married couples will remain tax deductible, and private foundations can continue treating the organization as a 501(c)(3) public charity. IRC 7428(c); Rev. Proc. 2018-32;

<sup>4</sup> 20 NYCRR 1-2.11(b)(6) (formerly 20 NYCRR 1-3.4(b)(6)).

<sup>5</sup> 20 NYCRR 1-2.11(b)(6). Compare NYS Department of Taxation and Finance, Advisory Op. Pet. No. C100317A at \*2 (providing that an organization that had never applied for 501(c)(3) status was eligible for exemption from the NYS Corporation Franchise Tax because it had rebutted the presumption against eligibility).

substantial commercial activities, which are not authorized to issue stock or shares or certificates for stock or shares, and no part of the net earnings of which inures to the benefit of any officer, director, or member.”<sup>6</sup>

- **New York State Sales Tax:** Most organizations with 501(c)(3) status qualify for exemption from the New York State Sales Tax.<sup>7</sup> It is not necessary for an organization to have 501(c)(3) status in order to qualify for the exemption. However, an organization that does not have 501(c)(3) status must present additional information to the NYS Department of Taxation and Finance (“NYS Tax Department”) in order to demonstrate that it qualifies for the sales tax exemption.<sup>8</sup> Moreover, because the criteria for the sales tax exemption and 501(c)(3) tax exempt status are similar, there is a risk that the NYS Tax Department will view revocation of 501(c)(3) status as evidence that an organization no longer qualifies for the state sales tax exemption.
- **New York Real Property Tax Exemption:** Some organizations with 501(c)(3) status are able to obtain exemption from the New York Real Property Tax (NYRPT) for certain properties that they own and use for charitable purposes. This exemption must be renewed annually. It is available to qualifying organizations whether or not they have 501(c)(3) status, but an organization that has had its 501(c)(3) status revoked may need to provide additional information about its organizational purposes and activities in order to obtain an initial NYRPT exemption or renew an existing exemption.<sup>9</sup>

*Note that if the basis for revocation of 501(c)(3) status is based on an IRS finding under Internal Revenue Code 501(p) that the organization supports or engages in terrorist activity or supports terrorism, the organization will no longer be eligible for exemption from the NYS Corporation Franchise Tax, NYS Sales Tax, or any other tax or benefit administered by the NYS Tax Department.*<sup>10</sup>

## **6. Can an organization receive grants from private foundations after losing 501(c)(3) status?**

The Internal Revenue Code allows private foundations to provide grants directly to organizations without 501(c)(3) status if the foundation exercises a higher level of scrutiny called “expenditure responsibility.” Essentially, the foundation must conduct an extra level of investigation before making the grant, use a grant agreement containing certain requirements (including the requirement that the grant must be used for 501(c)(3)-permissible purposes), and obtain a report from the grantee at the end of the grant period. You can read about the specific requirements of expenditure responsibility here:

<https://www.irs.gov/charities-non-profits/private-foundations/grants-by-private-foundations-expenditure-responsibility>.

---

<sup>6</sup> Rules of the City of NY sec. 11-04(a)(8).

<sup>7</sup> The criteria for exemption are set out in NY SFL 1116(a)(4) and 20 NYCRR 529.7.

<sup>8</sup> See NYS Department of Taxation & Finance, Pub. 843, available at <https://www.tax.ny.gov/pdf/publications/sales/pub843.pdf>

<sup>9</sup> See NY Department of Taxation & Finance, Instructions to Assessors: Application for Real Property Tax Exemption for Non-Profit Organizations, available at [https://www.tax.ny.gov/research/property/assess/manuals/vol4/pt2/sec4\\_05/rptaxex.htm](https://www.tax.ny.gov/research/property/assess/manuals/vol4/pt2/sec4_05/rptaxex.htm)

<sup>10</sup> See NY Tax Law sec. 27; NYS Department of Taxation & Finance, Pub. 845, available at <https://www.tax.ny.gov/pdf/publications/multi/pub845.pdf>

If the IRS has revoked an organization's tax-exempt status based on a finding that the organization was engaged in activities inconsistent with 501(c)(3) status, a private foundation will likely have to exercise an even higher level of scrutiny than usual before making an expenditure responsibility grant to that organization. The foundation will have to require the recipient not to use the grant for the activities to which the IRS objected. Before making the grant, the foundation will have to assure itself that the recipient has a governance structure and compliance systems that are adequate to ensure that the grantee will comply with the grant agreement.

## **7. Can an organization receive government grants after losing 501(c)(3) status?**

An organization whose 501(c)(3) status is revoked may be eligible for some government grants and ineligible for others. This will depend on the statutes or budget bills governing that particular grant program, administrative agency regulations, and policies or guidelines of the government agency administering the grant program. Even when 501(c)(3) status is required for a grant, a government funder often has the ability to remove that requirement by amending its own regulations or guidelines. To mention just a few examples relevant to New York nonprofits:

- The current New York City Council guidelines for discretionary funding require an organization to have 501(c)(3) status to be eligible, although the City Council has the authority to lift that restriction.<sup>11</sup>
- New York City Department of Cultural Affairs regulations require organizations applying for grants from the Cultural Development Fund to have 501(c)(3) status or an approved 501(c)(3) fiscal sponsor,<sup>12</sup> and
- The NY Interest on Lawyer Account ("IOLA") Fund (which funds civil legal services and the administration of justice) has regulations requiring its funding to go to 501(c)(3) organizations, although IOLA's authorizing legislation only requires that recipients have some form of tax exemption.<sup>13</sup>

## **8. Can an organization whose 501(c)(3) status is revoked get a fiscal sponsor?**

An organization may be able to retain some benefits of its former 501(c)(3) status by working with a fiscal sponsor that has 501(c)(3) status. The fiscal sponsor could accept tax deductible contributions, as well as grants from private foundations, government, and other sources, and use those contributions to carry out the mission and activities of the organization that has lost its tax-exempt status. There are

---

<sup>11</sup> The 501(c)(3) status requirement is found in the NYC Council, FY 2026 Discretionary Funding Guidelines, <https://council.nyc.gov/budget/download-the-fy2026-discretionary-funding-policies-and-procedures/>. This restriction appears to be imposed solely by the City Council. The regulations of the NYC Procurement Policy Board allow discretionary funds to be "to community-based not-for-profit organizations or other public service organizations identified by elected City officials other than the Mayor and the Comptroller." NYC PPB Rules section 1-02(e).

<sup>12</sup> 58 Rules of the City of NY sec. 2-02(a)(6).

<sup>13</sup> The 501(c)(3) status requirement is found in IOLA regulations at 21 NYCRR 7000.12(a). This is more restrictive than IOLA's authorizing legislation, which only requires tax exempt status but does not specify whether that status must be from the federal government or from the state. NY State Finance Law sec. 97-v.

many different ways this could be arranged, because there are many different models of fiscal sponsorship.<sup>14</sup>

However, some fiscal sponsors may worry that they would put their own 501(c)(3) status at risk if they sponsor organizations that have had their 501(c)(3) status revoked. The fiscal sponsor will have to require the revoked organization not to use the grant for the activities to which the IRS objected. Before making the grant, the fiscal sponsor should assure itself that the revoked organization has a governance structure and compliance systems that are adequate to ensure compliance with the grant agreement.

### **Additional Resources**

**This alert is meant to provide general information only, not legal advice. For legal assistance for your nonprofit organization,** please contact NYLPI via a [Confidential Intake Form](#) or the Lawyers Alliance Resource Call Hotline at [ResourceCall@lawyersalliance.org](mailto:ResourceCall@lawyersalliance.org). For information about our organizations, visit [www.nylpi.org](http://www.nylpi.org) and [www.lawyersalliance.org](http://www.lawyersalliance.org).

#### **ABOUT THE NONPROFIT RESILIENCY NETWORK**

The [Nonprofit Resiliency Network](#) strengthens and protects the nonprofit sector by providing informational resources, relationship-building, practical training, and legal advice and representation to nonprofits and CBOs dealing with the changing landscape at a time when nonprofits are needed more than ever. It will foster collaboration, build capacity, and distribute essential resources and legal advice to build resilient nonprofits.

#### **ABOUT LAWYERS ALLIANCE FOR NEW YORK**

[Lawyers Alliance for New York](#) is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.

#### **ABOUT NEW YORK LAWYERS FOR THE PUBLIC INTEREST**

Founded nearly 50 years ago by leaders of the bar, [New York Lawyers for the Public Interest](#) (NYLPI) pursues equality and justice for all New Yorkers. NYLPI works toward a New York where all people can safely thrive in their communities, with quality healthcare and housing, good schools, and environmentally sound neighborhoods. NYLPI's community-driven approach powers its commitments to civil rights and to disability, health, immigrant, and environmental justice. NYLPI seeks lasting change through litigation, community organizing, policy advocacy, pro bono service, and education. NYLPI's Pro Bono Clearinghouse connects innovative and impactful nonprofit organizations with free legal services by drawing on volunteer lawyers from New York's most prestigious law firms and corporate law departments. Legal projects placed through the Clearinghouse provide high-quality

---

<sup>14</sup> For information about how fiscal sponsorships work, see Lawyers Alliance, Fiscal Sponsorship as an Option in Challenging Times (2024), [https://lawyersalliance.org/userFiles/uploads/legal\\_alerts/Fiscal\\_Sponsorship\\_as\\_an\\_Option\\_in\\_Challenging\\_Times\\_PPEFC\\_Legal\\_Alert.pdf](https://lawyersalliance.org/userFiles/uploads/legal_alerts/Fiscal_Sponsorship_as_an_Option_in_Challenging_Times_PPEFC_Legal_Alert.pdf) and NYLPI, Fiscal Sponsorship Guide (2020), <https://www.nylpi.org/resource/fiscal-sponsorship-guide/>

legal solutions to organizations that strengthen communities, serve underrepresented New Yorkers, and combat systemic inequalities. It helps nonprofits and community groups thrive by providing resources that help organizations overcome legal obstacles, build capacity, and develop stronger and more effective programs. Through educational workshops, trainings for nonprofit leaders, individual counseling and a series of publications, the Clearinghouse is at the forefront of helping nonprofits maximize their performance and their impact on our community.

© 2025. Lawyers Alliance for New York and New York Lawyers for the Public Interest encourage you to share this work, which is covered by the Creative Commons “Attributions-NonCommercial-NoDerivs” license (see [creativecommons.org](https://creativecommons.org/licenses/by-nc-nd/4.0/)). It may be reproduced in its entirety as long as Lawyers Alliance for New York and New York Lawyers for the Public Interest are credited, links to their web pages are provided, and no charge is imposed. The work may not be reproduced in part or in altered form, and no fee may be charged, without the permission of both organizations.