Welcome to the Foundation Center’s Webinar

Can My Business Be a Nonprofit?

We will begin shortly.

The Foundation Center

Our Mission:
To strengthen the social sector by advancing knowledge about philanthropy in the U.S. and around the world.
**GrantSpace**

GrantSpace offers information and resources for nonprofits worldwide in need of know-how for securing funding and operating effective organizations.

**Social Enterprise**

**Today’s speaker**

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Can My Business Be a Nonprofit?

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Terminology

“Nonprofit”
• State corporate law
• No owners/no distribution to owners

“Tax-Exempt”
• Federal & state tax law
• Exempt from corporate income tax on certain income
Starting a Venture

Initial Considerations

- Do you have a viable idea?
  - Duplication vs. differentiation
  - Funding sources
  - Sustainability

- Do you have the capacity?
  - Money
  - Staff/Management
Next Considerations: Nonprofit vs. For-Profit

- **Mission: Exclusively charitable purpose?**
  - Yes – FP or NP/501(c)(3)
  - No – FP
- **Activities: Primarily related?**
  - Yes – FP or NP/501(c)(3)
  - No – FP

Next Considerations: Nonprofits

- **No Private Benefit**
  - Must serve public, rather than private, interest
- **No Private Inurement**
  - No earnings may inure to the benefit of any individual
  - Penalty = loss of exempt status
Next Considerations: Nonprofits

- **Related business?**
  - **Yes** – Is it a prudent investment or thoughtful and defensible risk-taking?
  - **No** – Is it a prudent investment?
    - **Substantial?**
      - **Yes** – Subsidiary
      - **No** – Internal or Subsidiary

Internal Program vs. Subsidiary

- Different organizational purpose
- Risk management
- Geographic considerations
- Employee considerations
- Protection of Parent’s tax-exemption
- Access to equity capital
- Operational flexibility
Alternatives to Forming a Nonprofit

- Work with an existing nonprofit
- A donor-advised fund
- Giving circles
- Fiscal sponsorship

Choice of Taxable Entity
Corporate and Hybrid Forms

- Business Corporation
- Limited Liability Company
- For-Profit Hybrids
  - L3C
  - Benefit corporation
  - Flexible purpose corporation
  - Social purpose corporation
  - Certified B corporation

Ex. Business Donating Profits to Charity

I want to start a business selling widgets and donate 50-100% of the profits to charity. Can I form it as a nonprofit?
  - Mission
  - Primary Activities

What if, for every widget sold, I donate one to a developing country?
Ex. Business Providing Services to Disadvantaged Group

I have a business that sells XYZ services and I want to spend half of my time providing XYZ services to a disadvantaged class of individuals. Can I form a nonprofit?

- Are activities charitable?
- How are activities carried out?
- Private benefit concerns

Ex. Business Employing Disadvantaged Group

I want to start a business that employs veterans or members of another disadvantaged group. Can I start a nonprofit?

- Mission
- Primary activities
Ex. Fiscal Sponsorship of Activity With Commercial Potential

I’m making a film, art, educational software, invention, etc. and want it to serve the public, but it also has some commercial potential. Can I qualify for fiscal sponsorship?

• Many factors to consider & will depend on each individual project
• Model C Fiscal Sponsorship

Concluding Notes

• Form follows function
  – Make decision with due care
• Hybrids: pioneer/goodwill vs. untested form
  – Make decision in the organization’s best interests
  – Local tax benefits
  – Local contracting benefits
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Lean for Social Good 101
Thursday, March 6, 2014
2-3pm ET | FREE
With Leah Neaderthal,
Co-Founder of Lean Impact

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