



The AMERICAN SCIENTIFIC GLASSBLOWERS SOCIETY

P.O. Box 778 • Madison, NC 27025 • (336) 427-2406 • Fax (336) 427-2496

May 19, 2009

RE: 501(c)(3) status

Dear President Korfhage:

At the November BOD meeting a proposal was made to consider changing the tax status of the ASGS from a 501(c)(6) to a 501(c)(3). I believe there are two main questions to be answered. (1) Can we be reclassified as a 501(c)(3)? and (2) Should we be reclassified as a 501(c)(3)?

From my research I believe the answer to (1) is “possibly”, and the answer to (2) should be “probably not”.

There are many considerations, including; possible cost savings to be gained, increased record keeping requirements, offsetting costs of maintaining 501(c)(3) status, costs to change status, chances of receiving grants, etc.

In an effort to keep a complex and lengthy subject as brief as possible, I will respond to the points raised in the original proposal. My responses will be in italics. Material taken essentially verbatim from the references listed at the end will be in quotes.

November 25, 2008

PROPOSAL TO CHANGE THE ASGS FROM 501C6 TO 501C3 CLASSIFICATION.

The ASGS was and is classified as a 501C6 organization. This is an Internal Revenue Service classification for tax purposes for non profit organizations. This rating is used for fraternal organizations and service clubs.

“IRC 501(c)(6) provides for exemption of business leagues, chambers of commerce, real estate boards, boards of trade, and professional football leagues (whether or not administering a pension fund for football players), which are not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.”

“Trade associations and professional associations are business leagues.”

“A section 501(c)(6) organization is a membership organization characteristically supported by dues.”

“The mission of a (c)(6) essentially benefits the special interests of their membership, rather than the broader interests of the public at large.”

The above support our continued classification as a 501(c)(6).

This rating fit the ASGS in the early years. We have grown and progressed from some glassblowers having a beer together, to a society that has introduced the seminar program, junior and regular member seminars, mentor program, publications containing how to and scientific information, symposiums containing demonstrations and posters, educational section meetings and collaboration with Salem Community College.

Yes, this classification did fit in the early years and it still does today. We still exist for the benefit of our members and not the general public.

The classification 501C3 is for organizations that are among other things, scientific and educational.

“The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term charitable is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; ...”

“Educational Organizations – the term educational relates to:

- 1. The instruction or training of individuals for the purpose of improving or developing their capabilities, or*
- 2. The instruction of the public on subjects useful to individuals and beneficial to the community.”*

“Scientific Organizations – You must show that your organization’s research will be carried on in the public interest. Scientific research will be considered to be in the public interest if the results of the research (including any patents, copyrights, processes, or formulas) are made available to the public on a nondiscriminatory basis; if the research is performed for the United States or a state, county, or municipal government; or if the research is carried on for one of the following purposes.

- 1. Aiding in the scientific education of college or university purposes.*
- 2. Obtaining scientific information that is published in a treatise, thesis, trade publication, or in any other form that is available to the interested public.”*

In a conversation with an IRS agent, we definitely meet that criteria.

Although on the surface we may meet the criteria, we do not meet an important ideal. That is, charitable organizations generally operate their educational or scientific purposes for the benefit and instruction of the public. We operate for the benefit of our membership, scientific glassblowers.

This classification is under the general heading of charities. We do not have to be a charity to meet the requirements.

To apply for this classification, the ASGS needs to amend its charter and fill out an IRS Form 1023 and send in an application fee of \$750.00

The charter of the ASGS is simple and specific. Under Article III

“Section 1. The gathering and dissemination of knowledge concerning scientific glassblowing, apparatus, equipment and materials by:

- (a) Holding regular meetings for members.*
- (b) Discussing problems and methods of construction.*
- (c) Gathering and dispersing information concerning apparatus, equipment and materials.*
- (d) Testing in a cooperative manner new apparatus, equipment and materials.*

Section 2. To engender a feeling of unity and fellowship among all persons interested in the scientific glassware field.”

Conversation with our Delaware Agent, CSC, provided the following information.

- 1. We would have to restate the corporate charter. The restated charter would have to include specific language concerning our original name and the original date (3/17/54) of our charter. CSC is quite familiar with the specific language and procedure.*
- 2. We would have to file a restated certificate of incorporation with the necessary 501(c)(3) language included.*
- 3. The cost to restate the corporate charter is around \$135 plus an \$18 charge for the first page and \$9 charge for each additional page. CSC would charge \$159 to file this for us. The total cost for refiling the charter would be around \$325.
(I spoke with Brian at CSC. 1-800-927-9801 ext 3437)*

The application fee is \$750.00 and is non-refundable, regardless of outcome.

Form 1023 is 12 page form, an additional 14 pages of schedules, a 1 page checklist and a 38 page instruction book. Although Form 1023 could be filled out by the ASGS, the complexity and the amount of online resources indicate that professional help would be preferable. One cut-rate firm charges \$499 for filing. I believe that the attorney Frank Meints consulted charges \$190/hour for his services.

I am not sure what the procedure is to amend our charter or the cost at this writing.

Our present charter is lacking two items that are now required for all 501 charters.

A full copy of the requirements will be distributed at the BOD. You may also log on to irs.gov/charities

1. In short, we need to state that earning will not be distributed to members except for reasonable compensation for services rendered and that we will not engage in political activities.
2. Upon dissolution of the corporation, assets will be distributed to one or more exempt purposes -- another non profit or to the government.

This is correct but there may be additional language required.

Benefits of 501C3

We can be exempt from state sales tax. State tax on one issue of FUSION is over \$600.00, A state will issue a tax exempt I. D. upon getting a federal determination letter.

Due to changes in publishing and the way distribution is handled, the sales tax on a single issue of Fusion is now around \$265 or a potential savings of \$1060 per year.

Charitable donations by individuals can be tax deductible.

The amount paid for glass items at the annual charity auction would not be a charitable donation.

We can also save 33 to 50 percent on mailing costs.

After speaking with Accurate Mailing it appears we could only save around \$.10 per copy on Fusion mailing. At 600 copies this is only \$60 per issue for a total savings of \$240 per year. The annual budget for postage is \$1500. If we received the possible savings of 40% on this total amount we would save \$600 per year.

Page 2 501C3

We will be eligible to receive grants. Grants can be for programs, equipment and operations.

Yes, we would be eligible to receive grants. However I believe there are sufficient drawbacks that this shouldn't factor in to the decision.

1. *Most granting agencies require audited books. That is, an audit by a CPA. In my local area the arts center pays over \$3000 a year to have their books audited.*

5-1c

2. *Grant writing takes time. To use an old phrase, “..but who is to bell the cat” I am skeptical that in our volunteer society where many members are already overcommitted that there will be someone who has the necessary time and endurance.*
3. *Changing the charter changes the purpose of our society. If it doesn't, then why would anyone donate for things we should pay for ourselves?*

(Mike Souza is going to take a class in grant writing. There may be others out there already experienced.

Grant reporting takes time and usually administrative costs are included in the grant.

This is an outline for discussion. Jack has suggested that we form a committee to look at all the details and procedures.

I think this is worth the effort to not only save money on taxes but to have another avenue to enhance our educational programs.

Frank Meints
Treasurer ASGS

All my research indicates to me that our current classification of 501(c)(6) is the correct classification.

Although we appear to qualify for a 501(c)(3) under the educational or scientific category, I am continually reminded that the word “public” plays a large part. Reference 4 gives some examples of groups that do, or do not, qualify for the 501(c)(3) classification. One of the examples given as a group that does qualify is as follows,

“...an engineering society formed to engage in scientific research in the areas of heating, ventilating, and air conditioning for the benefit of the general public qualifies for exemption under IRC 501(c)(3).”

The ASGS exists for the benefit and education of its members, not for the benefit of the general public.

We already enjoy one of the benefits of a 501(c)(3) with our current classification of 501(c)(6), that is, we are exempt from federal income tax.

Our current tax preparer (and also our National Office provider) has indicated that they would be reluctant to prepare our tax returns as a 501(c)(3) without additional guidance. The increased record keeping and accountability should not be considered as part of our current contract with the National Office.

Although some costs of a 501(c)(3) classification change are known, the actual costs of record keeping, tax preparation and maintaining 501(c)(3) status are not known at this time and our actual financial benefits are questionable.

In my opinion it would be necessary for our sections to be included in a group exemption as subordinate organizations. This would require increased record keeping, reporting and accountability on the section level, especially for the section treasurer.

While the idea of grant money is alluring, in order to be eligible for the grants I believe we would have to change our charter and the basic purpose of our society.

The board of directors will have to decide if pursuing 501(c)(3) status is in the best interests of the ASGS.

Respectfully submitted,

James R. Hodgson

References:

1. <http://www.irs.gov/pub/irs-pdf/p557.pdf>

Publication from the IRS on the qualifications and application procedures for 501(c) tax exempt status for organizations.

2. <http://www.irs.gov/pub/irs-pdf/p4573.pdf>

Group exemptions for subordinate groups within a central organization.

3. http://law.richmond.edu/nonprofit/HowToFormANonprofit_1st_ed-Chapter3.pdf

Starting A Nonprofit: What You Need To Know, 1st Ed. – Chapter 3 ©2006 Ann Hodges et al. This guide is intended to assist small, start-up organizations in the formation and maintenance of a nonprofit entity. While accurate, information in this document is not intended to be comprehensive, so it is important to consult with a legal or tax professional if questions arise. (See [disclaimer](#)). This work is licensed under the Creative Commons Attribution-NonCommercial-NoDerivs 2.5 License. To view a copy of this license, visit <http://creativecommons.org/licenses/by-nc-nd/2.5/> or send a letter to Creative Commons, 543 Howard Street, 5th Floor, San Francisco, California, 94105, USA.

4. <http://www.irs.gov/pub/irs-tege/eotopick03.pdf>

IRS publication: Exempt Organizations Continuing Professional Education Technical Instruction Program for FY 2003

A discussion of issues relating to the tax-exempt status under IRC 501(c)(6) of business leagues, chambers of commerce, boards of trade, and similar organizations.

5. <http://www.pgdc.com/pgdc/news-story/2003/10/31/irs-issues-eo-cpe-text-fiscal-2004-organizational-test-irc-501-c-3>

The IRS has issued its Exempt Organizations Continuing Professional Education text for 2004: Organizational Test for IRC 501(c)(3) Organizations. The organizational test requires the articles of organization of exempt organizations to contain explicit statements and dissolution provisions. Further, private foundations must satisfy additional tests. This article addresses specific issues that have arisen in determining whether the organizational test is satisfied. Full Text: By Elizabeth Ardoin

This article contains the following topics: Overview, Exempt Purposes and Dedication of Assets, Exempt Purposes: Q & A's and Examples, Dissolution Provision: Q & A's, Private Foundations, Conclusion

6. <http://www.stayexempt.org/>

Online Educational Resources for Tax Exempt Organizations from the Exempt Organizations Office of the Internal Revenue Service. EO web based mini-courses.

7. http://www.aorn.org/docs_assets/55B250E0-9779-5C0D-1DDC8177C9B4C8EB/4E2E2021-1871-EBA3-88FFC31A6E7975E0/Difference%20between%20501c3%20and%20501c6.pdf

Chart comparing 501(c)(3) to 501(c)(6)

8. <http://www.form1023help.com/>

This website, posted as a public service by Sandy Deja, author of "[Prepare Your Own 501\(c\)\(3\) Application](#)", is designed to help new non-profit organizations complete the Application for Exempt Status Under Section 501(c)(3) of the Internal Revenue Code.

9. <http://members4.boardhost.com/PNDtalk/msg/archive/38759.html>

Re: 501(c) 3 VS 501(C)6 Posted by [Linda Procopio](#) on 3/18/2005, 5:01 pm, in reply to "[501\(c\) 3 VS 501\(C\)6](#)"

The mission of a (c)(6) essentially benefits the special interests of their membership, rather than the broader interests of the public at large. Because the primary mission of a Chamber of Commerce (or similar association) is to improve the business environment and therefore increase profitability of their member's businesses, they usually do not qualify as a (c)(3). It's not having a MEMBERSHIP that makes you a (c)(6). Many (c)(3)s also have Members. I've known many business groups that qualified as (c)(3)s because their mission included the removal of blight, and they had educational components in their mission that qualified as charitable in nature. A (c)(3) designation allows you to apply for grants and give charitable deductions to contributors. If you have a charitable mission and do not plan to work to influence legislation or benefit your members directly, that's the designation you probably want to strive for.

10. <http://www.irs.gov/pub/irs-pdf/f1023.pdf>

Application for Recognition of Exemption. This is the application form with schedules and instructions.

11. <http://www.irs.gov/pub/irs-pdf/p4220.pdf>

Pamphlet on applying for 501(c)(3) status. 15 pages