



NONPROFIT ADVISOR

For DAV Departments and Chapters

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UNTANGLING THE 501(c) MYSTERY

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Few issues cause as much confusion as the status of DAV under the Internal Revenue Code. In this and the next issue of the newsletter, we will present the issues, and the answers, in an accessible question and answer format in the hope of clarifying this important issue.

What is 501(c) anyway?

“501(c)” is a shorthand way of referring to Title 26, Section 501, subsection (c) of the Internal Revenue Code. That is the subsection that defines two dozen types of organizations that are potentially eligible for tax exemption. Those organizations range from the government of the United States to local governments to charities to trade associations to social welfare organizations to . . . you guessed it, veterans organizations. Veterans organizations are typically exempt from taxation under Section 501(c)(4) or Section 501(c)(19) of the Internal Revenue Code. Less frequently, a veterans organization may be exempt under Section 501(c)(3).

What 501(c) category is DAV?

The DAV national organization is tax-exempt under Section 501(c)(4) of the Internal Revenue Code. Section 501(c)(4) pertains to “social welfare organizations.” DAV departments and chapters that are covered by DAV’s group exemption (and nearly all of them are) are also tax-exempt under Section 501(c)(4).

Why can’t DAV National – or my department/ chapter – be a 501(c)(3) organization? Some donors, especially corporations, will only give contributions to a 501(c)(3) organization because of the tax deduction.

This is a complicated question, so we will try to break the answer down into logical bites:

1. Although most organizations that can receive deductible contributions are exempt under Section 501(c)(3), like the March of Dimes or Feed the Children, the law provides the deductibility privilege to other organizations as well. As a matter of fact, Section 501(c)(3) does not even mention deductibility! Contributions to DAV, its departments and chapters are deductible for federal income and estate tax purposes, just like contributions to 501(c)(3) organizations. DAV has documentation of this from the IRS and provides it to departments or chapters on request.
2. The DAV national organization could possibly qualify for tax exemption under section 501(c)(3) because of the tremendous resources that it devotes to purely charitable activities, such as providing claims representation to all disabled veterans, regardless of their membership in DAV. However, there is no incentive for the national organization to convert to (c)(3) status. Such a conversion would be time-consuming, expensive and result in no tangible benefit to the organization. In addition, conversion to (c)(3)



status could have an adverse effect on our legislative program, which has enjoyed remarkable success in securing passage of laws that will better the lives of disabled veterans for decades to come.

3. Even though the DAV national organization may well qualify under Section 501(c)(3), most departments and chapters could not receive that designation. This is because departments and chapters usually devote a large percentage of time and services to fraternal activities in addition, of course, to service work. Both fraternal activities and service work are permissible activities under Section 501(c)(4), but only service work would qualify under Section 501(c)(3). Inasmuch as the percentage of time and money that departments and chapters devote to purely fraternal activities is often significant, it is unlikely that these units could receive, or maintain, Section 501(c)(3) status.

But why doesn't DAV National seek a (c)(3) designation so that the members of the group can all become (c)(3) organizations?

There are two reasons why this would not be a good move. First, as mentioned above, the DAV national organization has nothing to gain and (possibly) something to lose by becoming a (c)(3). Second, and more important, even if DAV National acquired (c)(3)

status, that would not convert the members of the group to (c)(3) organizations unless those organizations actually met the requirements for (c)(3) designation. For the reasons stated above, it is doubtful that all, or even many, departments or chapters could meet those requirements. This is not a negative. By facilitating fraternal activities, departments and chapters carry out an essential part of the core mission of DAV, the promotion of comradeship among all disabled veterans. There is no sense in which being a (c)(3) is "better" than being a (c)(4).

We have been advised that our department/chapter could achieve (c)(3) status and we have sound reasons for seeking that designation. Can we do it?

If a department or chapter wishes to pursue that course, it will no longer (as a matter of law) be covered by DAV's group exemption. It will be solely responsible for the expensive and time-consuming filings that must be made to obtain, and maintain, an independent exemption. In addition, it is important to remember that maintaining an exemption as a (c)(3) could conceivably require a DAV department or chapter to scale back fraternal activities to an unacceptable level, thereby further complicating the already difficult task of member recruitment and retention.

To be continued...

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