PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

TABLE OF CONTENTS

INTRODUCTION

In partnership with McDermott, and in response to requests from US nonprofit organizations navigating a shifting legal and regulatory landscape, PILnet is pleased to present a resource for US nonprofits considering a strategic pivot to a multi-entity organizational structure as a way to increase their agility and resilience during times of uncertainty and change. The resource provides a high-level overview of the risks and benefits of opening entities such as 501(c)(4)s, state PACs, federal PACs, for-profit entities and more, taking into consideration tax implications, funding opportunities, advocacy, reporting, and activity restrictions.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(3) GENERAL CHARITABLE ORGANIZATIONS

PRO

- Tax-Deductible Donations: Contributions are deductible for donors, which can boost fundraising.
- Broad Public Support: Often easier to attract grants and public donations.
- Sales and Property Tax Exemptions: May qualify for state-level exemptions.
- Prestige and Trust: Recognized as charitable, which can enhance credibility.

CON

- Strict Limitations on Political Activity: Cannot participate in political campaigns and must limit lobbying.
- Operational Restrictions: Must operate exclusively for exempt purposes.
- IRS Compliance Burden: Must file Form 990 annually and adhere to strict governance rules.

COMMENTARY

- Purpose: Organized for religious, charitable, educational, scientific, literary, or similar purposes.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

LLC SUBSIDIARY

PRO

- No corporate level taxation or separate tax return.
- Charitable activities in the LLC are treated as the parent's activities.
- Offer a flexible structure that combines the liability protection of a corporation with the pass-through tax benefits of a partnership, all while imposing fewer internal compliance burdens than a typical corporation.
- Less encumbered by statutorily imposed formalities, offering simpler management and ownership structures compared to corporations.

CON

- Flow-through taxation means that if the LLC generates income from activities unrelated to the nonprofit's mission, the income is passed through directly to the nonprofit, which must then pay tax.
- State laws governing LLCs are designed for for-profit businesses and lack the specific protections and provisions found in state nonprofit corporation statutes.

COMMENTARY

- Use cases are not immediately apparent as compared to a corporate subsidiary. LLCs are sometimes used by exempt orgs to hold assets used in exempt operations, such as real estate/IP.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

LOW-PROFIT LLC (L3C)

PRO

- Merges the profit-making aspect of a traditional LLC with the mission-driven focus of a nonprofit organization. Designed to attract "Program Related Investments" (PRIs) from private foundations, which can invest in for-profit entities for charitable purposes.
- It opens up new capital sources by making it easier for private foundations to invest in for-profit social enterprises through PRIs.
- Like a traditional LLC, it protects owners from personal responsibility for the business's debts and liabilities.

CON

- The L3C is only recognized in a limited number of states, which restricts its national applicability.
- While designed to facilitate PRI investments, the IRS has not always explicitly sanctioned the structure, leading to potential tax uncertainties for foundations.
- The structure can be complex, especially when trying to ensure the L3C's operations align with PRI requirements.

COMMENTARY

- L3Cs are useful for attracting impact investors by being marketed as a hybrid vehicle with a social purpose and for-profit flexibility.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

C CORPORATION SUBSIDIARY

PRO

- A subsidiary acts as a legal shield, protecting the parent nonprofit's assets from potential debt, lawsuits, or other financial risks associated with the subsidiary's operations.
- A 501(c)(3) is taxed on income from activities not substantially related to its charitable mission. A separate for-profit subsidiary can handle these activities, paying its own taxes without jeopardizing the nonprofit's tax-exempt status.
- A for-profit subsidiary can raise capital by selling equity to outside investors, a capability often inaccessible to a nonprofit.
- A for-profit subsidiary can offer equity or profit-sharing opportunities to employees that are not possible within the nonprofit's structure.
- It clearly separates business operations from the nonprofit's core charitable activities, allowing for distinct management, branding, and public perception

.

- A subsidiary can be used to spin off a business or asset that the nonprofit wishes to sell in the future.

CON

- The creation of a separate subsidiary introduces a new layer of management and a chain of command, which can lead to bureaucracy and slow down decision-making.
- Legal and accounting fees for setup, as well as ongoing costs for running and maintaining a separate entity.
- The corporate subsidiary is taxed on all income at a 21% federal rate (plus state). Losses of the subsidiary cannot offset any income of its owner(s).
- Royalties, rents, or interest paid by a controlled C-sub to the charity can become taxable to the charity to the extent they reduce the subsidiary's taxable income.
- The subsidiary must remain independent to some degree, making it challenging to maintain full control or integrate operations as closely as one might prefer.

COMMENTARY

- A corporate subsidiary can be a useful vehicle for sheltering income that is unrelated to the nonprofit's charitable purpose, ring-fencing liability risk, protecting the nonprofit's assets, and bringing in third party investors.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

PUBLIC BENEFIT CORPORATIONS OR BENEFIT CORPORATIONS

PRO

- For-profit corporation that is required to perform a public benefit goal, while also generating profits

CON

- Must pay taxes
- Donations are not tax-deductible
- Can be formed in most (but not all) states

COMMENTARY

527 POLITICAL ACTION COMMITTEE (PAC)

PRO

- Ability to use funds to influence elections. Unlike the restrictions on a 501(c)(3)'s lobbying, the 527 can use unlimited funds to influence specific issues and policies. 501(c)(3)s by contrast can lobby regarding specific ballot measures, but may not intervene in campaigns.
- No upper limit on contributions and no restrictions regarding who may contribute.
- No spending limits.
- Contributions are tax deductible.
- Expenditures are tax favored.
- Investment income is tax favored.

CON

- 501(c)(3)s may not contribute to or establish 527s. Doing so risks revocation of 501(c)(3) status and excise taxes.
- Must register with the IRS, publicly disclose donors and file periodic reports of contributions and expenditures.
- May not expressly advocate for specific candidates or coordinate with any candidate's campaign. Instead focus on issue advocacy and voter mobilization.

COMMENTARY

- A 501(c)(3) cannot create or control a 527 PAC, and doing so would jeopardize its tax-exempt status.
- If a 501(c)(3) wants greater flexibility to influence elections, it can establish a 501(c)(4) social welfare entity. The (c)(4) may then sponsor a separate 527 PAC.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(H) ELECTION
(NOT AN ENTITY TYPE)

PRO

- This election allows eligible 501(c)(3) nonprofits (excluding churches and private foundations) to use the “expenditure test” to measure their lobbying activities instead of the subjective substantial activity test. Very generally, the expenditure test caps lobbying at $1m per year.
- The objective expenditure test provides more clarity than the subjective "substantial activity test," reducing the risk of losing tax-exempt status for excessive lobbying.
- Nonprofits have defined limits for their lobbying expenditures, allowing for more strategic and confident advocacy.
- Nonprofits can engage in more lobbying, especially if lobbying is done using volunteer labor or cost-effective methods, as the election is based on financial spending, not the extent of the activity.

CON

- The main cons of a 501(h) election include stricter record-keeping requirements for lobbying, penalties for exceeding expenditure limits (including a 25% excise tax on excess spending), potential loss of tax-exempt status for continuous overspending, and a cap on grassroots lobbying to 25% of the total allowable lobbying amount.
- Additionally, this election isn't beneficial for very large organizations whose lobbying costs exceed the caps or for organizations that cannot file, such as churches and private foundations.
- If you exceed the lobbying expenditure limits, you must pay a 25% excise tax on the excess amount spent.
- Exceeding the lobbying limits for four consecutive years can result in the loss of your 501(c)(3) tax-exempt status, making your income subject to tax.

COMMENTARY

- A 501(h) election is a valuable tool for public charities because it replaces the vague and subjective "insubstantial part" test with clear, specific spending limits on lobbying. This reduces uncertainty and provides a more generous allowance for lobbying activities for most nonprofits.

ADDITIONAL STRUCTURES FOR CONSIDERATION

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(1) CORPORATIONS ORGANIZED UNDER ACT OF CONGRESS

PRO

- Greater Flexibility in Political Activity: Can engage in lobbying and political activities (though not as a primary activity)
- Focused Mission for Members: Tailored to support member interests like collective bargaining or industry advancement.
- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose.
- [IRS Compliance: Only moderately burdensome compared to 501(c)(3)]

CON

- Donations Not Tax-Deductible: Contributions are not deductible as charitable donations.
- Limited Public Appeal: May not attract broad public support or grants
- Narrow Scope: Must serve a specific group (e.g., laborers or farmers), limiting general outreach.

COMMENTARY

- These differ from other 501(c) entities (like charities, social welfare groups, business leagues, etc.) because they're created directly by federal law, not by private incorporation.
- Examples:
  - Federal Credit Unions (organized under the Federal Credit Union Act of 1934).
  - Tennessee Valley Authority (TVA) — energy, flood control, and development in the Tennessee Valley.
  - Federal Deposit Insurance Corporation (FDIC) — bank deposit insurance and supervision.
  - Federal Home Loan Banks — created under the Federal Home Loan Bank Act of 1932 to support mortgage lending.
  - Federal Financing Bank — a government corporation under the Department of the Treasury, created in 1973 to centralize federal borrowing

501(C)(2) TITLE HOLDING CORPORATIONS FOR EXEMPT ORGANIZATION

PRO

- Good for liability ring-fencing for property.
- Clean accounting.
- Potential state/local property tax or regulatory reasons.

CON

- It is not an entity with operations. Limited to holding legal title to property, collecting income from that property, and turning the amount over to one or more exempt organizations.
- Donations are not tax deductible.
- A single member LLC accomplishes the same thing with less administrative hassle.

COMMENTARY

- Not an option for any current 501(c)(3)s since none are passive holding companies.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(4) CIVIC LEAGUES AND SOCIAL WELFARE ORGANIZATIONS AND LOCAL ASSOCIATIONS OF EMPLOYEES

PRO

- Greater Flexibility in Political Activity: Can engage in lobbying and certain political activities, as long as they are not the organization's primary activity.
- Broader Mission Scope: Can operate for social welfare purposes, making it suitable for advocacy-based groups and civic leagues.
- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt function.
- Membership-Based: Can serve a targeted constituency without needing to meet the broad public support tests applicable to 501(c)(3)s.
- IRS Compliance: Generally less burdensome than 501(c)(3) requirements, with fewer limitations on speech and advocacy.

CON

- Donations Not Tax-Deductible: Contributions to 501(c)(4)s are not deductible as charitable contributions on federal tax returns.
- Less Grant Eligibility: Foundations and grantmakers may be less willing to fund 501(c)(4)s due to the lack of deductibility.
- Scrutiny on Political Activity: Subject to increased IRS attention and regulatory oversight when involved in political campaigns or issue advocacy.
- Public Perception: May be perceived as more politically driven, which could limit broad-based support.

COMMENTARY

- Best suited for organizations engaged in civic improvement or social welfare advocacy where tax-deductible donations are not critical. Often used for politically active nonprofits, trade associations, and advocacy coalitions.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(5) LABOR, AGRICULTURAL AND HORTICULTURAL ORGANIZATIONS

PRO

- Greater Flexibility in Political Activity: Can engage in lobbying and political activities (though not as a primary activity)
- Focused Mission for Members: Tailored to support member interests like collective bargaining or industry advancement.
- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose.
- [IRS Compliance: Only moderately burdensome compared to 501(c)(3)]

CON

- Donations Not Tax-Deductible: Contributions are not deductible as charitable donations.
- Limited Public Appeal: May not attract broad public support or grants
- Narrow Scope: Must serve a specific group (e.g., laborers or farmers), limiting general outreach.

COMMENTARY

- Purpose: Promote the interests of workers or those in agriculture/horticulture. Works to protect workers' rights, improve wages, and influence labor policy. Represents groups like family farmers and ranchers. Advocates for fair agricultural policies, rural economic development, and sustainability.
- Examples:
  - American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)
  - United Farm Workers of America (UFW)
  - National Farmers Union (NFU)

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(6) BUSINESS LEAGUES, ETC.

PRO

- Greater Flexibility in Political Activity: Can engage in lobbying and political activities (though not as a primary purpose).
- Business/Industry Focused Mission: Tailored to promote common interests in business, trade or professional standards.
- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose.

CON

- Limited Purpose: Activities must be directed to the improvement of business interests/conditions and not to performing services or engaging in business ordinarily carried on for profit.
- Donations Not Tax-Deductible as Charitable Contributions: Donations are not tax deductible as charitable contributions, although they may be considered as trade or business expenses.
- No deductions for political or legislative activities: Taxpayers may not deduct the part of dues or other payments that are used for political or legislative activities, such as for influencing political campaigns or the public on legislative matters.

COMMENTARY

- 501(c)(6) entities are tax-exempt and are business leagues, an association of persons with a common business interest but no purpose of engaging in business for profit.

501(C)(7) SOCIAL AND RECREATION CLUBS

PRO

- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose (membership dues, initiation fees, event revenue)
- Focused on Social and Recreational Purposes: Good for groups primarily organized for pleasure, recreation and social activities (i.e., hobby groups, sports/recreation clubs, dining clubs and country clubs, fraternities/sororities)
- Ability to Own Property and Facilities: Ability to own or lease clubhouses, recreational facilities or land for members' use
- Limited IRS Scrutiny: Do not have to meet public support tests or strict charitable purpose requirements (unlike 501(c)(3))
- Member-Based Structure: Revenue is primarily from members' dues and fees allowing members to enjoy exclusive benefits not open to the public

CON

- Donations Not Tax-Deductible for Donor: Contributions are not deductible as charitable donations (unlike 501(c)(3)).
- Limited Membership and Strict Membership Policies: Must have limited membership, submit evidence of the limitations on admission consistent with character of club and maintain a meaningful "club-like" environment
- Narrow Purpose: Must be organized and operated exclusively for pleasure, recreation or similar purposes
- IRS Limits to Non-Member Income: At least 65% of revenue/total gross receipts must come from members (dues, fees, assessments)
- No Private Inurement: Profits cannot benefit individual members beyond the normal scope of club benefits
- Taxation on Non-Member Income: Any unrelated business income or excess income from nonmembers is subject to tax (i.e., rental income, public event income, advertising revenue, etc.)

COMMENTARY

501(C)(8) FRATERNAL BENEFICIARY SOCIETIES

PRO

- May participate in political activities. This includes the ability to participate in electioneering as long as it is not the organization's primary purpose.
- Exempt from federal income taxes, except for any funds used on political activities
- Donations by an individual to a domestic fraternal beneficiary society are tax deductible as charitable contributions only if used exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals.
- May benefit the public, but they must financially support their members through insurance or other services.
- Can stop providing benefits to members but still remain tax-exempt by reclassifying as a 501(c)(10) organization.
- Many of these societies were founded by immigrants or other underserved groups, and they have since become important contributors to their communities.

CON

- Political activity and "union-like" activities related to members' working conditions are not considered fraternal activities and cannot form the basis of the organization.
- Engaging in social activities together is not significant enough to create a fraternal bond. There needs to be a more significant tie in, such as a common profession or dedication to and support of a common cause.
- These organizations may not be exempt from state or local income taxes
- Donations for purposes other than charitable purposes are not tax-deductible.
- The benefits paid must be limited to the organization's members and their dependents.

COMMENTARY

- There are three requirements in order to be considered a Fraternal Benefits Society:
  - It must have a fraternal purpose;
  - It must operate under the lodge system, or be a separately organized insurance branch of a fraternal society that, while not itself operating under the lodge system, provides benefits exclusively to members of a lodge system; and
  - It must provide for the payment of life, sick, accident, or other benefits.
- Well-known examples of 501(c)(8) Fraternal Benefits Societies include the Elks Lodge and the Knights of Columbus.
- The organization needs to have both fraternal and provision of benefits purposes. The fraternal purposes don't need to predominate over the prevision of benefits, as long as both exist. However, if the fraternal features of the organization are so insubstantial as to make it indistinguishable from an ordinary insurance company, it does not qualify for tax exempt status under 501(c)(8).

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(9) VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS

PRO

- Tax-Exempt Status: Exempt from federal income tax as long as no part of the net earnings inures to the benefit of any individual or shareholder
- Employee Benefit-Focused Mission: Designed to fund benefits for employees and their dependents or designated beneficiaries
- Broad Eligibility: Can be formed by any group of employees sharing an employment-related common bond
- Flexibility in Funding: May be funded by employees and/or employers

CON

- Donations Not Necessarily Tax-Deductible for Donor: Contributions are not deductible as charitable donations (unlike 501(c)(3)), though employer contributions may be deductible under other sections of the Code (e.g., section 162)
- Narrow Purpose: Must be organized to pay benefits – such as life, sick, accident and other benefits to members and their dependents or designated beneficiaries
- Taxability of Benefits: Certain benefits provided may be taxable to the employee

COMMENTARY

501(C)(10) DOMESTIC FRATERNAL SOCIETIES

PRO

- Flexibility to serve members' interests rather than a broad public interest.
- More flexibility for political activity.
- Some flexibility for deductible contributions if earmarked exclusively for charitable purposes.
- Operating lounges, bars, social events all permitted.

CON

- Donations generally not deductible.
- Requires narrow fraternal order purpose and lodge system (parent + chartered locals).

COMMENTARY

- The non-deductibility of donations except for specific earmarks is a dealbreaker. In practice, lodges generally create a separate 501(c)(3) for deductible gifts.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(11) TEACHERS' RETIREMENT FUND ASSOCIATIONS

PRO

- Tax-Exempt Status: Exempt from federal income tax on earnings used for retirement benefits
- Retirement-Focused Mission: Designed to manage pension/retirement funds for teachers
- Ability to Accumulate Funds: Able to pool contributions and investments without being taxed, which helps grow retirement resources over time
- Limited IRS Oversight: As long as the entity stays focused on retirement fund purposes, once approved it generally faces less scrutiny than organizations with broader or more commercial operations
- State/Local Support: Funds are closely tied to state/local governments or teacher unions, which can provide structural support, governance and member participation

CON

- Donations Not Tax-Deductible for Donor: Contributions are not deductible as charitable donations (unlike 501(c)(3))
- Limited Membership: Restricted to teachers (and sometimes school employees) within a defined system
- Very Narrow Purpose: Must be organized exclusively to pay retirement benefits for teachers
- Regulatory Compliance: Fund must comply not only with IRS rules but also state/local pension fund regulations, which can be complex
- No General Public Engagement: Does not qualify as a “charitable” entity so fund is not able to broaden its mission to raise tax-deductible donations or fund unrelated educational/social projects making fundraising limited

COMMENTARY

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(12) BENEVOLENT LIFE INSURANCE ASSOCIATIONS, MUTUAL DITCH OR IRRIGATION COMPANIES, MUTUAL OR COOPERATIVE TELEPHONE COMPANIES, OR LIKE ORGANIZATIONS (IF 85 PERCENT OR MORE OF THE ORGANIZATION'S INCOME CONSISTS OF AMOUNTS COLLECTED FROM MEMBERS FOR THE SOLE PURPOSE OF MEETING LOSSES AND EXPENSES)

PRO

- Member-Focused Operations: Structured to benefit members directly through mutual service arrangements.
- Tax-Exempt Income: Income from members (at least 85%) used to meet operating expenses is tax-exempt.
- Supports Community-Based Services: Commonly used for utilities in rural areas (e.g., telephone, irrigation, and ditch companies).
- Cooperative Model: Encourages community ownership and democratic governance structures.

CON

- 85% Member Income Rule: Must receive at least 85% of income from members to maintain exempt status — strict compliance required.
- Narrow Eligibility: Only applies to certain mutual/cooperative service providers (e.g., utilities, insurance).
- Operational Limits: Not designed for general charitable or commercial activity; focus must remain on member benefit.
- Less Flexibility: Harder to scale beyond local/regional member base without risking exempt status.

COMMENTARY

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

STATE CHARTERED 501(C)(14)CREDIT UNIONS, MUTUAL RESERVE FUNDS

PRO

- Regulatory Clarity: Detailed and clear regulatory criteria, such as requiring credit unions not to have capital stock and to be organized and to operate for the mutual benefit of its members and without profit.

- Clear Operational Structure: Structured to have a cooperative, member-focused model with a defined member base.

- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose.

CON

- Donations Not Tax-Deductible: Contributions are not deductible as charitable donations.

- Limited Purpose: Must operate without profit and for the mutual benefit of its members.

- Application and Filing Obligations:
  - Organizations are distinguished between state-charted credit unions and other mutual financial organizations. The latter requires detailed information, including organizational documents, facts relating to operations and information relating to the use of its reserve funds.

COMMENTARY

- As distinguished from federal credit unions exempt under section 501(c)(1), entities exempt under section 501(c)(14) include state-chartered credit unions and other financial organizations.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(15) MUTUAL INSURANCE COMPANIES OR ASSOCIATIONS

PRO

- Tax-Exempt Status: Exempt from federal income tax

CON

- Donations Not Tax-Deductible for Donor: Contributions are not deductible as charitable donations (unlike 501(c)(3))
- Narrow Eligibility Requirements: To qualify as a small insurance company or association under section 501(c)(15), a company must offer insurance other than life insurance; gross receipts for the year cannot exceed $600,000, and more than 50% of gross receipts must consist of premiums. The numerical thresholds mean that entities my fluctuate in and out of exempt status depending on the year.

COMMENTARY

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(16) COOPERATIVE ORGANIZATIONS TO FINANCE CROP OPERATIONS

PRO

- May own capital stock, if the dividend is rate of the stock is fixed at the legal rate of interest or 8%, whichever is greater, and if all the stock is owned by producers who market their products or purchase their supplies or equipment through the association.

- May market products or purchase supplies for non-members as long as the value of products marketed or the cost of the supplies purchased for non-members does not exceed that for members.

- May accumulate and maintain a reserve required by state law or a reasonable reserve for any necessary purpose. An example would be a reasonable reserve for erecting buildings required in the business operation.

- May establish a charitable fund, donations to which are tax deductible so long as the fund itself meets the requirements of 501(c)(3).

CON

- Contributions to the organization are not tax deductible.

- May only be founded by a farmers cooperative registered under Section 521 or its members.

- Must act in cooperation with that farmers cooperative.

- Its operations are limited to funding agricultural operations and marketing

COMMENTARY

- These organizations are created by a group of farmers who work together to pool resources for agricultural resources.

- These entities must be established by a farmers' cooperative registered under IRS Section 521 or its members. The 501(c)(16) organization must work in partnership with the founding cooperative to fund agricultural operations. Examples of these operations include the purchase of farm equipment, crop cultivation, livestock, shipping, and marketing.

- Apply for recognition using Form 1120-C or Form1024

- Annual return required using Form 990 or Form 990-EZ

- While contributions to the organization are not tax deductible, the organization may establish a charitable fund, contributions to which are deductible. Such a fund must itself meet the requirements of 501(c)(3).

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(17) SUPPLEMENTAL UNEMPLOYMENT BENEFIT TRUSTS

PRO

CON

- Donations to this type of organization isn't deductible as charitable contributions on the donor's federal income tax return
- Orgs must show that must show that the supplemental unemployment compensation benefits will be benefits paid to an employee because of the employee's involuntary separation from employment (whether or not the separation is temporary) resulting directly from a reduction-in-force, discontinuance of a plant or operation, or other similar conditions
- It must be impossible under the plan (at any time before the satisfaction of all liabilities with respect to employees under the plan) to use or to divert any of the corpus or income of the trust to any purpose other than the payment of supplemental unemployment compensation benefits (or sickness or accident benefits

COMMENTARY

- Focus is too narrow for orgs looking for a 501(c)(3) pivot point.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(19) VETERANS' ORGANIZATIONS

PRO

- Tax Exempt: Exempt from federal income tax under Section 501(a) of the IRS Code.
- Donations are tax deductible for donors.
- Lobbying & Some Political Activity Permitted but limited to as part of their mission serving veterans.
- Unique Insurance Set-Aside: organizations can set aside funds to provide members insurance and the amounts are treated favorably if structured properly (are not Unrelated Business Income Tax (“UBIT” -federal tax that applies t income earned by tax-exempt organizations from activities not substantially related to their mission)
- Member-Focused Social/Recreational Activities: generally treated as a tax exempt purpose for organizations meeting the veterans requirements
- Broader Mission Flexibility (patriotic, educational, welfare programs) tailored to the needs of veterans.

CON

- Membership Composition Tests are Very Strict: Mandatory at least 75% of members must be past or present members of the Armed Forces, and substantially all other members must be cadets or spouses, widows, or widowers of veterans.
- Political Spend Triggers Tax/Filings: Tax or political expenditures or maintain a separate fund and extra disclosure requirements.
- UBIT Exposure on non-member or non-purpose income (e.g., public bar / restaurant, rentals, some gaming).
- Tax Compliance Burden: Significant recordkeeping to prove membership tests. Failure to file annual 990 forms for 3 years results in auto revocation, which is a relatively harsh penalty.
- Private Inurement Risk: Private inurement occurs when a nonprofit’s income or assets benefit an individual with significant influence over the organization—such as a director, officer, or major donor—rather than serving the public interest. Violations risk loss of tax exemption and there are compliance oversight costs.

COMMENTARY

- Purpose: Serve veterans and their families. Members be made up mostly of past or present U.S. Armed Forces members. Organizations provide advocacy, community programs, and direct support to veterans and their families.
- To qualify the organization must operate exclusively for one or more of the following:
  - Promoting the social welfare of veterans
  - Supporting charitable, educational, or patriotic causes
  - Providing insurance or benefits to members
- Examples:
  - American Legion- Chartered by Congress in 1919, provides advocacy, community programs, and direct support to veterans and their families.
  - Veterans of Foreign Wars of the United States (VFW)- Federally chartered (i.e.,officially created or recognized by the U.S. federal government, typically by act of Congress) in 1936.
  - Membership limited to veterans who served overseas in conflict zones

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(21) BLACK LUNG BENEFIT TRUSTS

PRO

- Tax-Exempt Status: Exempt from federal income tax on contributions and investment income used to pay black lung benefits
- Narrow and Clear Mission: Designed specifically to cover medical costs and benefits for miners with black lung disease
- Contribution Deductions for Companies: Coal mine operators required by law to fund these trusts can deduct contributions are business expenses
- Worker Protection and Stability: Ensures coal miners receive benefits even if the company faces financial struggles
- IRS and DOL Stability: Recognized in federal law making the structure well-established with predictable regulatory expectations

CON

- Very Narrow Purpose: Can only be used for black lung benefit payments, medical care, and related administrative expenses
- Strict Funding and Use Rules: Funds must come primarily from coal mine operators
- Heavy Regulatory Oversight: Closely monitored by both the IRS and the Department of Labor
- Not Public-Facing: Not a charitable organization in the public sense
- Donations Not Tax-Deductible for Donor: Contributions from individuals are not deductible as charitable donations (unlike 501(c)(3))
- Industry-Specific: Only relevant for coal mining companies and their employees

COMMENTARY

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(C)(22) WITHDRAWAL LIABILITY PAYMENT FUNDS

PRO

- Purpose-Built for ERISA Obligations: Allows employers to manage and fund multiemployer pension plan withdrawal liabilities in a tax-advantaged structure.
- Tax-Exempt on Qualifying Use: Income used to meet statutory withdrawal liabilities is exempt from federal income tax.
- IRS-Recognized Compliance Vehicle: Offers formal mechanism to meet federal pension obligations without triggering adverse tax consequences.

CON

- Extremely Narrow Use: Only applicable to withdrawal liability payments under ERISA; not useful outside this specific context.
- Complex Setup and Administration: Subject to strict IRS rules regarding formation, contributions, and disbursement.
- Low Visibility and Flexibility: Not widely recognized or used; very limited applicability even within the retirement plan space.

COMMENTARY

- Highly specialized vehicle used almost exclusively by employers with exposure to multiemployer pension plans. Best leveraged in consultation with ERISA counsel due to technical requirements and limited operational scope.

501(C)(25) TITLE HOLDING CORPORATIONS OR TRUSTS WITH MULTIPLE PARENTS

PRO

- Tax-Exempt Status: Exempt from federal income tax on earnings
- Facilitates ownership by multiple shareholders: May be owned by up to 35 shareholders (or, if a trust, may have up to 35 beneficiaries
- Flexible exit options for shareholders: Shareholders can sell interests or have their interests redeemed

CON

- Donations Not Tax-Deductible for Donor: Contributions are not deductible as charitable donations (unlike 501(c)(3)).
- Shareholder Restrictions: shareholders must be a qualified pension, profit sharing or stock bonus plan, a government plan, the U.S. or any political subdivision, or a section 501(c)(3) organization
- Very Narrow Purpose: Must be organized exclusively to acquire real property, hold title and collect income from that property
- Strict Annual Distribution Requirements: All income must be distributed to shareholders on an annual basis
- No Unrelated Business Activities: Cannot engage in unrelated business activities, except that it can rent personal property (as long as rents do not exceed 15% of gross income) and earn income incidentally derived from holding real property (as long as such income does not exceed 10% of gross income)

COMMENTARY

501(C)(26) STATE-SPONSORED HIGH-RISK HEALTH COVERAGE ORGANIZATIONS

PRO

- Tax-Exempt Status: Exempt from federal income tax on income related to their exempt purpose.
- Focused Mission: Created to assist high-risk individuals who otherwise cannot obtain medical coverage for a pre-existing medical condition or can but only at prohibitively higher rates.

CON

- Donations Not Tax-Deductible: Contributions are not deductible as charitable donations.
- Limited Participation: The state establishing the organization determines membership in the organization.

COMMENTARY

- To be exempt from federal income tax under section 501(c)(26), an organization must be established by a state to provide coverage for medical care to high-risk individuals, either by issuing insurance or through a health maintenance organization

501(C)(27) STATE-SPONSORED WORKER'S COMPENSATION REINSURANCE ORGANIZATIONS

PRO

- 501(c)(27)s do not have the restriction that 501(c)(3)s that they are tax exempt only if their activities do not consist of providing commercial insurance.

CON

- Two categories – 501(c)(27)(A) and (B). (A) has more flexibility, but has a pre-requisite that the org had to be established by a state before June 1, 1996, exclusively to reimburse its members for losses under workers' compensation acts.

COMMENTARY

- Limited scope – very narrowly focused on the heavily regulated Workman's Comp space, and the ability to receive and distribute charitable monies is tied to this specific type of insurance.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(D) RELIGIOUS AND APOSTOLIC ASSOCIATIONS

PRO

- Greater Flexibility in Political Activity: Can engage in lobbying and political activities
- No Restrictions on Commercial Enterprises: Unlike 501(c)(3), there can be substantial for-profit business operations, and activities can be outside of the approved exempt purpose.
- ·Single, Pass-Through Taxation: Communal organization does not pay federal income tax, rather income is passed through and taxed directly to its members, similar to a partnership. Unlike a partnership, such organizations may qualify for state or local tax exemptions.
- No Restrictions on Funds: Revenue can be spent however individual members decide (rather than solely for exempt purposes, as with 501(c)(3)), including for political purposes
- [IRS Compliance: Only moderately burdensome compared to 501(c)(3)]

CON

- Donations Not Tax-Deductible: Outside contributions are not deductible for donors.
- Limited Public Appeal: May not attract broad public support or grants.
- Narrow Scope: Must be a religious organization in which members live communally, operate a community business and pool all income into a common fund that is allocated equally to members.
- All Income is Taxed: Members pay personal income tax on organizational earnings.

COMMENTARY

- Only applies to religious organizations where members live communally, operate a community business and pool all income into a common fund that is allocated equally to members.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(E) COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS

PRO

- If qualifying under Section 501(e), enhanced treatment as an exempt organization under Section 501(c)(3), exempt from tax under Section 501(a), and treated as a public charity under Section 509(a)(1) and 170(b)(1)(A)(iii).

CON

- May only perform a restricted set of enumerated services on a centralized basis, and meet certain other requirements. Such services are: Data processing, purchasing (including the purchasing and dispensing of drugs to patron hospitals), warehousing, billing and collection, food, clinical (including radiology), industrial engineering (including the installation, maintenance, and repair of biomedical and similar equipment), laboratory, printing, communication, record center, and personnel.

- If the entity provides services not listed in such enumerated list, even in addition to such enumerated list, will constitute failure to qualify for tax exempt status.

- Narrow scope of eligibility, any hospital service organization that fails to satisfy the requirements for exemption under Section 501(e) automatically fails to satisfy Section 501(c)(3) requirements.

COMMENTARY

- Only applies to “cooperative hospital service organizations” that are organized solely to perform specialized services on a cooperative and centralized basis for exempt hospitals under Section 501(c)(3).

501(F) COOPERATIVE SERVICE ORGANIZATIONS OF OPERATING EDUCATIONAL ORGANIZATIONS

PRO

- Tax Advantaged: Income on pooled investments is exempt from federal income taxat the entity level.
- [IRS Compliance: Only moderately burdensome compared to 501(c)(3)]

CON

- No Public Fundraising: All money must come from qualified educational institutions as members.
- Narrow Scope: Only applies to pooling and investing of funds contributed by qualified educational organizations.
- No retained earnings: All net income must be distributed back to member educational institutions.
- No political activity: Funds may only be invested in stocks and securities

COMMENTARY

- Only applies to qualified educational organizations that pool and invest funds together.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

501(K) CHILD CARE ORGANIZATIONS

PRO

- Clear Mission: When applying as a 501(k), the mission of the organization is clear and limited, which can be helpful for IRS filings.
- Tax Deductible: Same tax deductible status as a 501(c)(3) organization.
- Tax Exempt: Same tax exempt status as a 501(c)(3) organization.

CON

- Limited Purpose: Limited to organizations that provide substantial child care which enables parents to work and are available to the general public.
- Less Recognition: While 501(k)s have the same tax deductible status as a 501(c)(3) organization, they are less commonly used and therefore may be less recognized by donors.
- Tax Filings: Same filings as a 501(c)(3) organization.

COMMENTARY

- 501(k) Child Care Organizations are limited to entities that provide substantial child care which enables parents to work and are available to the general public.

PILnet

MULTI-ENTITY ORGANIZATIONS

BEYOND THE 501(C)(3)

521(A) FARMERS' COOPERATIVE ASSOCIATIONS

PRO

- Returns the sales proceeds to members or other producers, less necessary marketing expenses, or furnishes supplies and equipment to members at actual cost, plus necessary expenses
- The organization does not lose its tax exemption by issuing capital stock, provided the dividend rater is fixed not to exceed the legal rate of interest in the state of incorporation or 8%, whichever is greater and if substantially all such stock is owned by producers who market their products or purchase their supplies and equipment through the association.
- Tax exemption is not denied because it accumulates and maintains a reserve required by state law or is a reasonable reserve for any necessary purpose
- May net its earnings for purposes of determining any amount available for distribution to patrons.
- Can affiliate with a 501(c)(16) tax-exempt corporation.

CON

- Limited scope of availability. It is only available to farmers', fruit growers', or like associations organized and operated on a cooperative basis.
- The cooperative must operate for the purpose of marketing the products of members or other producers or for the purpose of purchasing supplies and equipment for the use of members or other persons.
- Not fully tax exempt, but they receive significant tax deductions that are not available to other types of corporations

COMMENTARY

- Section 521 organizations are agriculture-related cooperative organizations.They are available to farmers, fruit growers, or other similar organizations that operate on a cooperative basis. These organizations are required to have one of two purposes – 1) marketing the products of members or other producers, or 2) purchasing equipment or supplies for members or other producers.
- To establish its status, the farmers' cooperative must file Form 1028