

Closing or Transferring a Nonprofit Business

It is not possible to sell a nonprofit business. By its nature, a nonprofit business is a charitable endeavor, managed by a board of supposedly disinterested citizens for the betterment of the community. A nonprofit business is not owned by any one individual or group of individuals. The IRS prohibits any board member or employee from receiving "profits" from a nonprofit organization. There are stiff penalties for doing so. That said, you can close down your nonprofit organization or consider transferring it to another Nonprofit.

Valuable time, energy and funds were expended to start the Nonprofit. Before closing it, consider the alternatives. Seek legal advice for closure or transfer.

Step 1

Hold a board meeting for the purpose of officially closing down the organization. A legal resolution must be passed by the board of directors closing the charity before you can legally begin taking the steps to cease operations. Arrange to pay all final bills, debts or fees and for closing bank accounts, stopping insurance contracts and legal agreements. Continue your directors' and officers' insurance, however, for at least 90 days after closing is complete.

Step 2

Designate another nonprofit organization to receive the proceeds of any sale of materials, assets or facilities after debts and staff wages are paid. Neither the board, nor the staff or any other person may receive the "profits" derived from the sale of the organization's assets. You cannot "sell" a nonprofit organization as you would a business. You can only give assets to another nonprofit organization---not to staff or volunteers or board members.

Step 3

Inform the IRS and the state entity that licenses your facility (if any) that you will be surrendering your license and inform the secretary of state or comptroller that you will be closing the nonprofit corporation. They will provide you with instructions for the paperwork to file with their respective organizations.

Step 4

Close all programs or transfer the responsibility for them (and any program-specific funding, assets or equipment) to another nonprofit organization able to continue the work of the program.

Step 5

Lay off all nonessential staff except those conducting the shutdown. The board may pay the balances due to any contract employees and provide reasonable severance pay as previously agreed in employee contracts. Consult your agency's nonprofit attorney before making any cash disbursements to employees not covered in contract agreements to avoid violating IRS rules against staff receiving "profits" from the closure of the organization.

(continued)

Step 6

Sell equipment, property and assets or transfer ownership to the designated nonprofit organization. If the nonprofit owns a for-profit subsidiary, the nonprofit must sell the for-profit, then use the money to settle final debts or give it to the nonprofit organization(s) designated by the board of directors to receive the proceeds of sale and closure of the organization.

Step 7

Return any unspent grant funds or donations that have been designated for a specific purpose to the original donor or funding agency. Include any final reports that agency may require. If transferring a program and funding to another agency to continue, the donor must be informed and permission obtained for the transfer of responsibility to the new charity.

Step 8

Provide for any mandatory record storage for the period of time required by your licensing agency, the IRS or your contracted partners. Designate a contact person to be responsible for producing such records if required by the agency during that time period. Arrange for the destruction of sensitive materials covered by confidentiality regulations at the time of closure or after the required time period for retaining records.

References

<http://www.irs.gov/publications/p557/index.html>

<http://www.councilofnonprofits.org/telling-our-story/myths-about-nonprofits>

<http://org.enom.com/non-profit/>

Tips & Warnings

- Engage the board members in the shut-down process.
- Don't let the board shift all of the responsibility onto the director and then disappear.
- Do your own press releases to local media about why you are closing. This will help control public perception of your organization and its directors.
- Go over the shut-down plan with any lawyers on your board or with the company's attorney .
- Make sure you cover every base.

Article Written By Tom King - <http://org.enom.com/non-profit/>