**CONVERSACIÓN CON EXPERTO USA**

**(En normal mis preguntas, en cursiva y recuadro sus respuestas)**

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Good morning,

We are an NGO based in Spain that wishes to raise funds in the USA and that our donors obtain the tax benefits determined by law. Do we have to be domiciled in the USA or have a delegation in the USA? I understand that we must obtain 501(c)(3) status? Can you explain to me the possible procedures.

Thank you.

*Hello and thank you for contacting JustAnswer. I'm AnanK - an external third-party expert on this site.*

*To address your inquiry about obtaining 501(c)(3) status as a Spanish NGO for fundraising in the USA, it's essential to understand the legal requirements imposed by the IRS (Internal Revenue Service).*

*To qualify for 501(c)(3) status, your* ***NGO does not necessarily need to be domiciled in the USA. However, you will need to establish a US-based entity or register as a foreign entity operating in the United States. This is because the IRS requires a US address for correspondence and legal matters, and generally, it is more straightforward to achieve tax-exempt status if you have a physical presence in the US****.*

***In practice, many foreign NGOs either establish a subsidiary in the US or partner with an existing US-based 501(c)(3) organization that acts as a fiscal sponsor. This fiscal sponsor can receive tax-deductible donations on behalf of your NGO and then transfer the funds to your organization in Spain.***

*If your NGO decides to set up a US-based entity, it must apply for an Employer Identification Number (EIN) from the IRS and submit Form 1023, the Application for Recognition of Exemption. The process also requires meeting specific governance standards, such as having a board of directors in the US, adhering to US regulations on nonprofit operations, and ensuring that funds raised are used in accordance with the charitable purposes recognized under US law.*

***If you prefer not to establish a separate entity****,* ***working with a fiscal sponsor could be a viable alternative.*** *The sponsor would manage the legal and financial aspects, allowing your NGO to focus on its mission while benefiting from the sponsor's tax-exempt status.*

*It is recommended to thoroughly review the requirements or consult with an accountant or tax attorney familiar with US nonprofit law to ensure compliance and choose the best path forward for your organization.*

*If you have more questions or need further assistance, feel free to ask!*

*My goal is to provide you with excellent service. So, at any point if you want to go through this further, I am happy to continue to assist you.*

*Thank you again.*

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Hello,

Yes, I have another question:

When you say working with a ‘fiscal sponsor’, what do you mean, is it about partnering with another organisation (NGO, Foundation)?

Because here

<https://www-irs-gov.translate.goog/charities-non-profits/grants-to-foreign-organizations-by-private-foundations?_x_tr_sl=en&_x_tr_tl=es&_x_tr_hl=es&_x_tr_pto=rq#:~:text=Private%20foundations%20can%20distribute%20funds,Section%204942%20and%20Section%204945> it says

‘**Foreign organisations may apply to the IRS and receive a determination letter as a recognised exempt organisation. If the IRS determines that the foreign organisation is a Section 501(c)(3) public charity,** then any grant from the private foundation to the foreign organisation for charitable purposes will generally be a qualified distribution. The private foundation would simply have to substantiate the foreign organisation's exempt status (copy of determination letter or listing in EO Select Check) and document proof of payment.’

And **it seems that a foreign organisation can apply for the determination letter without the need for a fiscal sponsor.**

Can you clarify this for me?

Thank you very much.

*Hello, and thank you for reaching out again.*

***You are correct that the IRS allows foreign organizations to apply for a determination letter as a recognized exempt organization under Section 501(c)(3) without the need for a fiscal sponsor. This means that your NGO could directly apply to the IRS for this status, and if granted, it would allow your organization to receive tax-deductible contributions from U.S. donors.***

*The mention of a fiscal sponsor in the previous explanation was meant to provide an alternative option for organizations that may not want to or be able to establish a separate U.S.-based entity or go through the formal 501(c)(3) application process. A fiscal sponsor is typically a U.S.-based nonprofit that already has 501(c)(3) status and agrees to receive donations on behalf of a foreign organization. The sponsor then disburses the funds to the foreign NGO while ensuring compliance with U.S. regulations.*

*However,* ***if your NGO is prepared to apply directly for 501(c)(3) status, you do not necessarily need to partner with a fiscal sponsor. The key steps would involve ensuring that your NGO's purposes align with the IRS's definition of charitable activities, submitting the necessary documentation, and possibly establishing a U.S. bank account and correspondence address for operational purposes.***

***If your application is successful and the IRS issues a determination letter, your NGO will be recognized as a tax-exempt public charity under U.S. law, allowing U.S. donors to receive tax deductions for their contributions, and enabling your organization to apply for grants from U.S. private foundations****.*

*If you have further questions or need more assistance with the process, feel free to ask.*

Hello again,

OK**, I understand then, that we can apply directly for 501(c)3 status without the need to be established in the USA, nor to have a delegation in the USA, nor to have a fiscal sponsor.**

The next questions are unavoidable: Can you tell me where these procedures are done? Do we need the help of a lawyer or something like that? If so, can you or your organisation help us? In your experience, what are the chances of success?

Thank you again.

***To clarify, while your NGO can apply directly for 501(c)(3) status without being established in the USA, it is generally recommended to have some form of U.S. presence, such as a correspondence address, to facilitate communication with the IRS. However, you do not need a U.S.-based delegation or a fiscal sponsor if you are applying directly.***

*The application process is done through the IRS, and you will need to complete and submit* ***Form 1023, "Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code."*** *This form requires detailed information about your NGO, including its purpose, activities, finances, and governance.* ***You will also need to apply for an Employer Identification Number (EIN) if you haven't done so already, as this is required to submit Form 1023.***

*Regarding legal assistance,* ***while it is possible to complete the process without a lawyer, many organizations choose to work with one due to the complexity of the application and the need to meet specific IRS requirements****.* ***A lawyer or an accountant with experience in U.S. nonprofit law*** *can help ensure that your application is complete and compliant, which can significantly improve your chances of success.*

***As for your chances of success, it largely depends on how well your application demonstrates that your NGO’s activities align with the charitable purposes defined under U.S. law.*** *If your NGO’s mission is clearly charitable and you provide all required documentation, your chances are generally good.*

*As an external third-party expert, I can guide you through the process and answer questions, but I do not provide direct legal services. If you decide to proceed without a lawyer, I can help you understand the requirements and how to complete the necessary forms.*

*If you have any more questions or need further assistance, I'm here to help.*

Hello,

I think it's all clear now. I have to share this information with the board and make a decision. I think we will choose to apply directly, because we have a friend living in California who can act as a domicile for communications.

We will need a tax advisor or lawyer who is an expert on this issue. First of all, we will look for one in Spain, but if we don't find one, we will have to look for one in the USA. Can you recommend one?

Thank you and best regards.

*Hello, and I'm glad to hear that things are becoming clearer for you.*

*Given that you might look for a tax advisor or lawyer either in Spain or the USA,* ***I recommend starting your search in Spain with professionals who have experience in international nonprofit law, particularly those who are familiar with the process of obtaining 501(c)(3) status in the U.S****. If you find that this expertise is not available in Spain, then searching in the USA would indeed be a prudent next step.*

*One approach in the U.S. would be to look for law firms or individual attorneys who specialize in nonprofit law, particularly those who have experience with foreign organizations seeking 501(c)(3) status. Organizations such as the American Bar Association (americanbar.org) or the National Council of Nonprofits (councilofnonprofits.org) can be good starting points to find recommended attorneys. Additionally, you might consider reaching out to firms that have a strong presence in California, where your friend is located, as they may have familiarity with both federal and state requirements.*

*If you need further assistance or guidance in your search, feel free to ask. I wish you the best of luck with your NGO’s initiative, and I’m here if you need any more help. Best regards.*

*Expert*

*Since you might need a tax advisor or lawyer with expertise in nonprofit law, I've found a few firms that could be of help:*

*1.* ***\*\*Hurwit & Associates\*\**** *- They specialize in nonprofit law and have experience working with foreign NGOs seeking 501(c)(3) status in the U.S. They could be a good option if you're looking for a firm with a broad understanding of international philanthropy and U.S. fundraising laws*

*2.* ***\*\*Chisholm Law Firm\*\* -*** *Based in the U.S., this firm offers comprehensive services for forming 501(c)(3) organizations, including handling the IRS application and ensuring compliance with federal and state regulations. They provide a step-by-step approach to the entire process, which could be very beneficial if you're looking for detailed guidance.*

*3.* ***\*\*Claudia Pollak Law\*\**** *- Another U.S.-based option, Claudia Pollak's firm offers a flat-fee package for 501(c)(3) formation, which includes all the necessary legal services from incorporation to IRS tax-exemption filing. This could be a cost-effective solution if you're looking for an all-inclusive service*

*4****. \*\*Hoffman Law\*\**** *- Specializing in nonprofit law, this Ohio-based firm has extensive experience in setting up nonprofits and securing 501(c)(3) status. They could assist with both the legal formation and the ongoing compliance needs of your NGO*

*If you decide to pursue help from a lawyer in Spain and find it challenging to locate one with this specific expertise, these U.S.-based firms might be able to provide the support you need remotely.*

*Best of luck with your NGO’s mission, and feel free to reach out if you need further assistance!*