

## What Are Foundations?

***A foundation can be set up by any individual or organization – including a family, a corporation, a group of friends, a celebrity or professional athlete.***

There are only two basic types of foundations, with many sub-types, depending on your individual focus.

### **The two general types: Public and Non-statutory.**

A foundation is an organization that supports charitable activities for the common good. Foundations work to help other organizations, institutions, or individuals for scientific, educational, cultural, religious, or other charitable purposes.

Many philanthropic and charitable organizations are considered to be “foundations.” The name foundation itself can represent several types of organizations.

The IRS distinguishes between two entities:

- Public charities, which may be nonprofit groups or community foundations that raise money from the general public, and,
- Non-statutory foundations, which are usually funded by an individual, family, or corporation.

Professional athletes set up both types of foundations. We help all candidates for foundations to determine in the best “Sub-S” or “C” corporation, limited liability company, professional corporation and tax structure, to protect their assets, maximize revenue, and for their foundation to find long-term success in meeting their charitable objectives.

### **Non-statutory Foundations**

Some people prefer to organize “non-statutory foundations” that they endow and fund themselves. These entities may offer donors more control over their charitable giving. We work with people to make sure that this structure offers a good tax advantage in comparison to other entities.

Non-statutory foundations often invest their principal funding, then distribute the income from those investments for charitable purposes. Foundations often make financial grants to others. However, some non-statutory foundations also may operate programs. We help the people and their advisors to set the foundation’s strategic plans.

Here, we discuss athletes, because as public figures they are good examples to what, and what not to do.

With the added attention some athletes face from fans and the media, it is important to structure and manage the professional athlete’s foundation appropriately.

We provide peace of mind that your foundation is in good standing and fully compliant with the law.

### **Charitable Foundations (Public Charity Status)**

Some people prefer to set up “charitable foundations” that have a public charity status because this entity may allow other individuals, corporations, and foundations to contribute to their foundation. These people may like to host special fundraising events (sports tournaments, galas, special events) to raise contributions for a cause that the athlete has pre-selected.

We work with the people to determine if this structure may offer tax deductibility options.

### **Problems with Public foundations**

Public Foundations must follow a complex set of guidelines for charitable organizations. While most people have strong plans when starting a new foundation, others may not use the necessary due diligence in the formation, management, and oversight of new foundations.

Public foundations are highly scrutinized. In addition to state and federal agencies to which the foundation must report certain financial and operational data, fans and the media closely monitor the foundation’s activities.

Because of the various regulations, and because of the extra layer of scrutiny, professional athletes may find their foundations in trouble. These problems can come from improper initial set-up, mismanagement, or lack of oversight.

An ESPN “Outside the Lines” investigation of 115 charities founded by high-profile, top-earning professional athletes revealed that the investigated professional athlete’s foundations don’t measure up to what charity experts would say is an efficient, effective use of money.

In that investigation, reporters found that problems with misuse of funds, including how much money a foundation actually spent on charitable work as opposed to administrative expenses. The report also found problems with management, including whether there are enough board members overseeing the organization.

These are major issues for the people who set up public foundations. Our clients don't find these problems with their foundations. We help set up appropriate structures and manage the foundations long term, for ongoing success in operations.

**Public Foundations** are subject to all the scrutiny of the IRS and State revenue organizations:

- Reservation of your nonprofit name
- Drafting and filing the Articles of Incorporation
- Obtaining a Tax Identification Number (EIN) from the IRS
- Writing a statement of purpose, mission statement, and description of your program activities, as required by the IRS

We welcome your inquiries.

John Gorla  
[jgorla@gmail.com](mailto:jgorla@gmail.com)

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- Advising founders on board of director selection and determine structural board issues
- Working with your staff on the preparation of a three-year budget, as required by the IRS
- Drafting bylaws
- Drafting IRS Exemption Application (501(c) category – Form 1023, 1024 or other)
- Filing Form 2848 with the IRS
- Filing state tax-exemption application and/or registration
- Drafting the organizational meeting agenda for the first meeting of the board of directors
- Preparing governing documents, including Document Retention Policy, Conflict of Interest Policy, Whistleblower Policy
- Appearing before the IRS concerning any inquiries related to your application.

**Non-statutory Foundations** usually require NONE of the above mentioned problems. We are here to support you in the operation of your foundation properly and to meet your initial and ongoing objectives.