

愛知工業大学研究報告  
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アメリカにおける非課税法人としての学校と税法

工藤市兵衛

**Tax and financial planning for schools as  
tax-exemjt organizations in the U.S.A.**

Ichibei kudo

We will examine tax and financial planning for private foundations (schools) problems.

## アメリカにおける非課税法人としての学校

工藤 市兵衛

### 一。アメリカ民間公益法人活動の歴史

#### (一)。民間公益活動の普遍性

アメリカにおける慈善寄付額は一九八四年、年間七四二億円ドルにも達し、又非営利団体の国民総生産に占める割合はアメリカのGNPの15%になっている。この様に実に様々な人々が様々な形で民間公益活動に資金を投入している。

アメリカでの民間公益活動は決して少数の人の手による慈善活動だけでなく、はるかに広く大きいと云われている<sup>①</sup>。アメリカではこのように民間公益活動が発達した大きな要因は、その歴史的特殊法ならびに宗教を中心とした社会的背景、さらにそれを発展させようとする制度上の強い意見に求められる。

民間公益活動の流れは大きく二つに分類されると云える。

第一の流れは、人類愛からなる無私又は排私的活動を指し、第二の流れはチャリティーと呼ばれるもので慈悲的な贈与を意味するところになったとされる<sup>②</sup>。非営利セクターに属する団体は、その種類も多様であり一般には宗教、教育、科学や芸術などの団体がよく知られている。

現代では両者は一般的には区別されることなく使用されることが多い。

国家ないし権力の存在以前の社会では、個々人の利益と社会全般の利益とは未分化の状態にあったと云われる。

この人類愛と慈悲の心が結び付いて民間公益活動が発達したことは、人間の本性であり、否定できない事実であろう<sup>③</sup>。

#### (二)。アメリカの特殊事情

様々な国で様々な宗教とともに存在していた民間公益活動は、国家の成立とその成長によって綿々と続けられた。

そして産業革命と共に巨大な富が成立すると共に、民間公益活動は新たな局面を迎えた。

イギリスではすでに一六〇一年に「公益ユース条例」(Statute charitable Uses)が制定され、一七世紀には民間公益活動に対する理解も広く浸透していた。そしてイギリスからアメリカへ渡った建国の始祖たちは、相互の同胞愛を基調とする民間公益活動の精神は不可決であった。

例えばウインスロップは移民に先立ち船上で「キリスト教的慈善モデル」と題する説教を行い、人類愛を強調した。この精神は「タウン」と呼ばれる自然組織の中で開花したばかりでなく、驚くべきことに最初の移植後、六年足らずの一六三六年には、大学設立という形で実を結んだ。そして財産として所有していた本を、設立間もない大学へ寄贈した。そしてその翌年大学は、この薄幸な青年ジョンハーバードの名前をとって、ハーバード大学と名付けられたと云われている<sup>④</sup>。

又建国の始祖たちの子孫と新たな移住民達はフロンティアを求めて西部へと移動を開始した。それは大いなる期待と少なからぬ困難が待ち受けていた。頼るべき政府の声も届かない未知の地であった。

自分で家を建てれば遊人を無料で泊めるのは当然だったし、病人ができれば皆で協力して薬草から薬をつくらねばならなかった。又頻発する犯罪に対しては自警団を組織した。仲間同志が資金を出し合ったり、役務を提供しながら少しでも住みやすい土地に移っていったのである⑤。

この様な考え方は非文明時代の戦前の日本農家にもあったことは論者トクヴィルがアメリカにおける民主主義をかき表した一八三五年はアメリカンドリームをそのまま体現したアンドリュー・カーネギーが生まれた年でもあり、カーネギーは鉄鋼王として巨万の富みを築いた大富豪であるが、同時に民間公益活動に巨額の資金を投じた偉大な経営者であり、彼の言行とその実践は他の富豪にも極めて強い影響を与えた。

スコットランド生まれの彼は一三才でアメリカに移り、成功に成功を重ねた。彼は富者は他者の一時的に「管理」しているにすぎず、富者が余剰の富を持ち続けることは「重荷」であり、まして富を持ち続けたまま死ぬことは「恥辱」であるとした言葉は忘れることはできない⑥。

彼が生涯にわたって寄付した総額は詳らかではないが、その額は莫大なものであり、カーネギーの出資は更に民間公益活動の規模が空前のものであったと云うばかりでなく、民間公益活動の方法を近代化したと云う意味でも特筆すべきものである。つまりカーネギーの出現によってアメリカの近代フィランソロピーが確立したと云っても過言ではない⑦。

これまで見てきたようにアメリカの建国時の経緯、宗教的伝統、フロンティアの存在、更に資本主義が生み出した。莫大な富等、急激な近代国家の成立、宗教的チャリティー精神等により、アメリカにおける公益法人が成立して来たとみることができ。

日本の特殊法人に相当するアメリカの財団は内国歳入法典、五〇一条(C)(二)で規定されている。

これは米法五〇一条、(C)(三)により宗教慈善団体等が非課税法人となるための要件ではなく、従って慈善寄付金の受領組織よりも非課税

法人の方が多いのである。

次のI、R、SのPublication五五七は非課税法人とそれに対する慈善寄付金に該当するか否かを示している⑧。

白 信弘 著 アメリカ法人税法詳解(第三版) 中央経済社 二九頁。

関連条文	非課税組織	慈善寄付金に該当するか?
501条(c)(1)	法令により設立される法人	YES, 公益のためにだけ使われる場合
	(2)資産の所有権のみ有する法人	NO
	(3)慈善団体, 宗教法人等	YES, 原則として
	(4)市民の団体, 組織	NO, 原則として
	(5)労働団体等	NO
	(6)商工会議所等	NO
	(7)社交・娯楽クラブ	NO
	(8)友愛組合	YES, 上の(3)の目的に使われる場合
	(9)任意の従業員の補助団体	NO
	(10)支部組織による友愛組合	YES, 上の(3)の目的に使われる場合
	(11)教師の退職金積立のための団体	NO
	(12)博愛的な生命保険団体	NO
	(13)墓地(を運営する)法人	YES, 原則として
	(14)株式資本のない信用組合	NO
	(15)(小規模)保険会社	NO
	(19)退役軍人の組織	YES
501条(d)	宗教または使徒の団体	NO
501条(e)	協同の病院の補助組織	YES
501条(f)	教育機関への補助組織	YES

又アメリカにおける連邦税法及びその解釈・運用に必要な規則等は、次の通りである⑨。

(1) 内国歳入法 (Internal Revenue Code)  
 一九九〇年予算調整一括法等に改訂を加えられたものが現行法である。

(2) 基本通達 (Regulations)

財務省 (Department of Treasury) が発行する上記Codeに対する解釈等を示したものである。

(3) 個別通達 (Revenue Rulings)

財務省の一局である内国歳入局 (Internal Revenue Service: Irs) が発行し、上記基本通達の具体的処理方法、疑義のある私法上の取扱い等に関する税務当局の見解を示したものである。

(4) 判例 (Court Decisions)

(5) 税務条約 (Tax Treaty)

国際間の二重課税、脱税行為の回避等のための条約であり、日米租税条約は一九七一年三月締結され現在に至っている。

二。アメリカの公益法人活動の概要

戦後五〇年「荒廃」の中から立ち上がった日本は、欧米追いつき追い越せとやってきたが、今やGNPにおいて世界第二位になり、外貨保有高が世界一となり、特にアメリカより外貨減らし、経済開放が求められているに拘らず、今やUS\$一〇〇円の時代となり、又50年間続いた自由民主党政府が社会党を主とする七党連合政府に明け渡すこととなり、本日(平成五年八月二三日)、細川首相が施政演説を行った。その中で細川首相は、政治改革、経済開放、行政改革を声高らかに唱え、社会も大きく変わろうとしている。論者はこの時に当たり、アメリカと日本

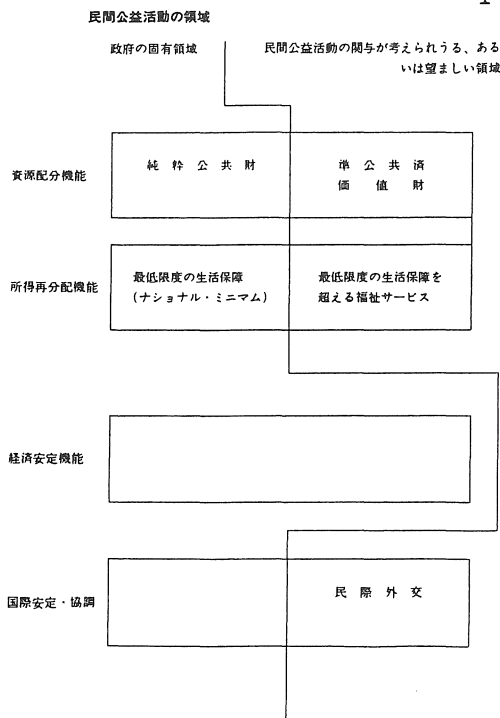
の非課税法人(私立学校)の相違点と問題点について記述してみたいと思う。

明治以来設立された宗教学校、医療、社会福祉などを含めた公益法人は現在約二四万法人にもなる⑩。我が国では公益法人については民法34条の「公益法人設立」に「条記、宗教、慈善、学術、技芸、その他公益に関する社団又は財団ニシテ営利を目的トセザルモノハ主務官庁の許可ヲ得テシテ之ヲ法人ト為スコレヲ得」と規定されている。ただし許可については主務官庁の才量に委ねられていると云える。

いま私たちは、生産活動を行う手段としての代表的なものとして「株式会社」「政府」を挙げることができるが、現実の世界では、この他家計に、サービスを供給している「非営利団体」を無視できない。

アメリカでは公益部門にも民間部門にも属さないという意味で、第三セクターという言い方がよく使われる⑪。しかし我が国でもまた最近次第に注目されているが少し意義が異なる。図一は民間公益活動の組織をとりまとめたものである。

図一 1



アメリカでは、第三セクターとして次のものが挙げられている④。

- 一。 保険相互組合
- 二。 財蓄貸付組合
- 三。 学界団体
- 四。 商工会議所
- 五。 専門職能団体（協会、学会）
- 六。 農業法人
- 七。 消費組合
- 八。 労働組合
- 九。 私立専門学校、私立大学
- 一〇。 財団
- 一一。 篤志病院
- 一二。 調査機関
- 一三。 教会
- 一四。 社交クラブ
- 一五。 民間健康保険及び高額外科手術保険
- 一六。 美術館、博物館、図書館等

アメリカでは公益法人が非課税法人として認められるためには内国歳入庁 (International Revenue Service: IRS) の承認を必要とする。日本では非課税法人として国レベルで公益法人を規律している（例えば私立学校法第三〇条）。

アメリカでは、公益法人は国レベルで規律する法律は存在せず州レベル、即ち各州法で規律している。法人として認めるのは税務当局であり両者は異なる手続きである⑤。この点、日本と異なる大きな相違点である。

アメリカの公益活動や団体の数字は次の表の通りである⑥。

アメリカの公益活動の規模（宗教を除く）

区 分	団 体 数	収 入	従 業 員 数
病 院	3,356(2.7%)	703億ドル(53.7%) 14兆600億円	
大 学	1,755(1.4%)	210億ドル(16.0%) 4兆2,000億円	
そ の 他	119,635(95.9%)	397億ドル(30.0%) 7兆9,400億円	
合 計	124,718(100.0%)	1,310億ドル(100.0%) 26兆2,000億円	650万人

資料：The Urban Institute, "The Results are Coming",  
The Foundation News, July / August 1984.

(1ドル=200円換算)

表2

私法上の取扱いの違いから財団の助成型財団、事業型財団、コミュニティ財団に分類した場合、その夫々の概要は表二の様になっている⑦。

アメリカの財団の概要

(単位:100万ドル, 1ドル=200円換算)

	数	資産総額	寄付受入総額	助成総額
ノン・オペレイティング財団	22,728	52,182 (10兆4,364億円)	2,408 (4,816億円)	4,183 (8,366億円)
オペレイティング財団	817	3,820 (7,640億円)	1,382 (2,764億円)	74 (148億円)
コミュニティ財団	225	2,668 (5,336億円)	214 (428億円)	223 (466億円)
合計	23,770	58,670 (11兆7,340億円)	4,004 (8,008億円)	4,490 (8,980億円)

注:オペレイティング財団のうち助成活動を行わなかった1,309の財団は除かれている。  
資料: The Foundation Center, *National Data Book* 9th ed., 1985.

三。アメリカの連邦法人所得税の概要

アメリカにおける納税義務者は、日本の様に個人に対する所得税、法人に対する法人税法と分けられているわけではない。個人法人及びその他の団体が納税義務者であり、一般に法人所得税と呼ばれている。

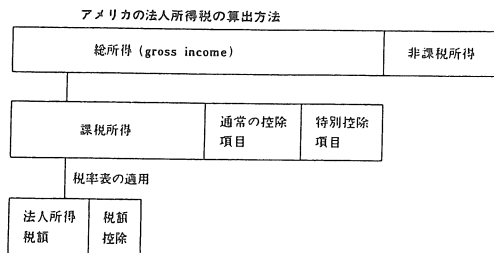
アメリカの法人課税は個人所得税制定前の一九〇九年に導入された①。当時所得税は憲法違反であったため、法人に対する課税は法人として事業活動を行う権利に対する免許権(Excise Tax)の形をとっていた。

一九一三年のアメリカ合衆国憲法修正第一六条によって所得税が合憲となるや、法人課税は事業活動の反映としての利潤に対する法人所得税(Corporation Income Tax)として徴収されることになった②。

(1) 総所得

法人所得税の基本構造は図に示す通りであり、課税所得を決定する準備として最初に総所得(Gross Income)を計算する必要がある。

図2



内国歳入法典六一条(a)によると、「発生する源泉を問わず、すべて所得」を総所得として定義している。

内国歳入法典六一条は所得に含まれる特定の項目として以下のものを列挙している③。

- (1) 役務提供の対価料金、(手数料およびその他の類似項目を含む)
- (2) 事業遂行による総益金
- (3) 資産売買による利益
- (4) 利息
- (5) 賃借料
- (6) 使用料
- (7) 配当金
- (8) 債務免除益等

(2) 非課税所得

次に法律によって総所得から除外することを許されている非課税所得は以下のものである。

- (1) 一定の政府証券の利子(内国歳入法典一〇三条)
- (2) 賃借人の改良(同一〇九条)
- (3) 貸倒金、租税等の回収(同一一一一条)
- (4) 州政府、地方政府の所得(同一一五条)
- (5) 法人の資本への抛出(同一一八条)
- (6) 債務免除益(同一〇八条)

(3) 通常の控除項目

又通常の控除項目としては以下のものがある。

- (1) 通常かつ必要な事業遂行上の経費(内国歳入法典一六二条(a))
- (2) サービスに対する支払い報酬(同一六二条(a))(1)

- (3) 旅費(同一六二条(a))(2)
- (4) 賃借料(同一六二条(a))(3)
- (5) 寄付金(同一七〇条(c))
- (6) 法律制定に影響を与える経費(同一六二条(e))(1)
- (7) 支払利子(同一六三条(a))
- (8) 租税(同一六四条(a))
- (9) 有価証券の評価損(同一六五条(g))(1)
- (10) 貸倒損失(同一六六条(a))
- (11) 減価償却費(同一六七条(a))
- (12) 欠損金(同一七二条(c))
- (13) 試験研究費(同一七四条(b))
- (14) 商標権等(同一七七条(a))
- (15) 修繕費(同一二三条)
- (16) 発行差金・社債のプレミアム付き発行
- (17) 交際費
- (18) 広告宣伝費(同一七六条)
- (19) 退職計画抛出金(同一〇四條(a))
- (4) 税別控除項目
  - ① 受取配当控除(内国歳入法典二四三条)
  - ② 創業費(同一四八条(b))

表4

課税所得	1981年以前	1982年度	1983年度以降
25,000ドル以下	17 %	16 %	15 %
25,000ドル超 50,000ドル以下	20	19	18
50,000ドル超 75,000ドル以下	30	30	30
75,000ドル超 100,000ドル以下	40	40	40
100,000ドル超	46	46	46

## (6) 税額控除の適用

法人の所得税は右のようにして累進税率表を適用して求められた金額から、税額控除の可能な金額を差し引くことにより確定する④。

## 四。アメリカ公益法人税制の現状

## (一)。アメリカ免税団体

アメリカの公益法人税制の特徴は、我が国の民法三四条のように公益法人そのものを規定した法律によらず、税法上の規定によって免税資格が付与されることにある。その免税資格の承認は一括して内国歳入庁 (Internal Revenue Service IRS) の手に委ねられているために、免税権の付与が各主務官庁に委ねられている日本と違って統一的な視点で免税資格が与えられている。

アメリカにおける免税団体は内国歳入法典五〇一条(a)(e)(f)によって定義されている。

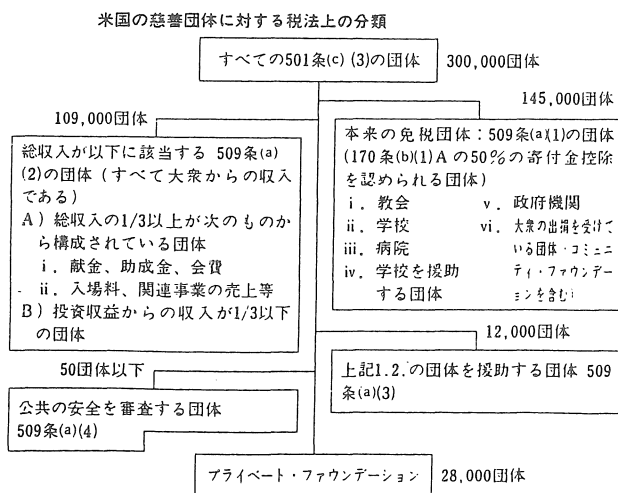
五〇一条(e)は協同的なホスピタル、サービス団体に、五〇一条(f)は教育団体への共同的なサービス団体に免税資格を与えている。内国歳入法典五〇一条(a)によると五〇一条(c)(d)(宗教又は使徒の団体)ないし四〇一条(a)の団体(適格年金等)は五〇二条ないし五〇三条の下で否認されない限り免税とされている。さらに内国歳入法典五〇一条(c)は五〇一条(a)に該当する団体として慈善、相互利益を目的として組織されている非営利団体を免税団体 (Exempt Organization) として列挙している。

ただし非課税団体であっても、本来の目的と関連のない事業所得についての課税は免れない。

五〇一条(c)(3)の団体は「もっぱら宗教、慈善、科学、公共の安全のための審査、文学ないし教育を目的とする。



図3



内国歳入法典五〇一条(c)(3)の団体に免税資格が付与される主な理由は、その団体が「慈善」を目的としているところにある。慈善という言葉はきわめて曖昧な概念であるが、ある団体が直接的には宗教、教育、科学等の目的にかなう活動をしないう場合であっても、その主要な活動目的が宗教、教育、科学等の分野で間接的にその進歩に寄与するものであれば、その団体は慈善的な性格を持つものとされる。

例えば教育の分野に関しては、あらゆる学校、専門学校、高等学校等の活動が、公共の利益に資する場合にその団体が非営利団体の場合に、免税資格が付与される。

図3は五〇一条(c)(3)の団体を視覚的に示したものである。

## (二) 非関連事業に対する課税

内国歳入法典五一一条によれば内国歳入法典四〇一条(a)と内国歳入法典五〇一条(c)の非課税団体であっても本来の公益活動とは非関連の事業所得については課税されることになる。

免税団体の収益活動が非関連事業として課税の対象となるのは、その所得が本来の公益活動と関連のない取引あるいは事業から発生する場合である。内国歳入法典五一三条(a)によれば、非関連事業とは、①その活動が取引ないし事業であり、②その取引ないし事業が定期的に行われており、③その取引ないし事業がその団体の公益的と実質的に関連がないものとされる「実質的に非関連」であると云う課税要件については財務省規則(Regulations)が定められている。

ところでアメリカの公益法人税制は、我が国のように具体的にどのような事業活動が非関連事業とされるかについて列挙しておらず、個々の事業活動が非関連事業か否かを明確に規定していない。具体的にどのような事業非関連事業となるかについては、個々の判例(Court Decisions)を待つしかないと思われる①。

例えば収益活動であっても非課税となる関連事業には、病院直営の売店、医師用の食堂、喫茶室、音楽学校が行う上演で、生徒が参加する場合など関連事業とされ、これらに対しては、課税されることはない。これに反し、我が国では実に細かく規定されている。

即ち、学校法人はその設置する私立学校の教育に支障のない限り、収益を目的とする事業は行うことができる(私学法二六①)。又収益事業の種類については(文部省告示)昭和二五年十一月八日第六八号がある他、各都道府県告示がある。

以上の他に、法人税法では「販売業、製造業、その他政令で定める事業で継続して事業場を設けて営まれるもの」(法人税法二二三)であると規定されている。なお政令で定める事業とは、法人施行令第5条に列挙さ

れ、三三業種があり、課税対象とされている。

#### 五. アメリカにおける非営利団体の設立手続きの概要

##### (一). 非営利団体としての学校の概要

アメリカにおける非営利団体には、慈善団体、事業者団体、政党、学校、カントリークラブ、募金運動団体の他、公益活動を行う団体がある。

これらに共通する概念は、一個人や企業利益よりもより多くの人々の利益、すなわち公益のために組織されていると云うことである。

これらの団体は、自らのために利益を上げることが目的としない前提で、税制上や法律上の優遇を受けるのである。この点は日本でも同主旨である。

連邦税法第五〇一条によると非課税の対象となる非営利団体は二八種類ある①。

非課税を認可するのは内国歳入庁であるが内国歳入庁はそれを取扱うこともできる。②。

私立学校は同第五〇一条(c)(3)に記載されているのでそれを参考にしながら研究を進める事としたい。

##### 同第五〇一条(c)(3)に含まれているものは次のものである。

「法人およびあらゆる共同募金、基金、財団などで宗教、慈善、科学、公安のための実験、文学又は教育、全米または国際、アマチュアスポーツ競技会の促進、児童又は動物虐待防止などに目的を限定して組織し運営しているもので、

- ・その純益を私的株主又は個人の利益とすることが一切なく
- ・その活動は実質的に宣伝広告又は憲法への影響を目的としないこととし

・公職候補者のために選挙運動への参加、介入をしないもの

となつている。日本の資格要件より、より具体的規定となつてゐることは注目されなければならない④

##### (二). 第五〇一条(c)(3)の目的と認可手続

第五〇一条(c)(3)による非課税団体は次の目的の何れか一つを専門にして運営を進めなければならないとされている。

- (1) 宗教
- (2) 慈善
- (3) 科学
- (4) 安全性向上のための実験
- (5) 文学
- (6) 教育
- (7) 全米又は国際アマチュアスポーツ競技会の促進
- (8) 児童又は動物虐待防止

以上のうち教育目的について評述すれば次の通りである③。

教育目的には「個人の能力を発達進歩させるための指導や訓練、あるいは個人の役に立ち、地域に有益な事柄の公的な指導」などがある。学校は、その財源にかかわらず公共性が認められており、常任教職員、正式な教育課程など、教育活動の現場にそろつていなければならないときとされている。

次に非課税の認可を得るには書式一〇二四号の提出が必要である④。一度内国歳入庁や州政府などの担当者から非課税の資格の認定を受けると、次の作業はその資格を維持することである。

非課税資格を維持する対策や資格の継続を確実にするため、チェックリストが用意されている⑤。

最後に日本との相違点については先に述べた所であるが、重複をかえりみず述べるならば、次の様に云うことが出来る。

(1) アメリカにおいては日本と違い税についてはすべて、税法によっていることであり、日本の様に主務官庁による認可の方法をとっていないこと。  
 (2) 非課税の法入については国に代わって国の代理業務を行っているとの考えにより、業種も多く、範囲も広い。  
 (3) 付帯業務についても広く非課税が認められ、寄付し易いシステムとなっていると云うことができる。

註

- ① 石井耕治 著 日米の公益法人課税法の構造 成文堂 二頁。
  - ② 橋本徹 著 公益法人の活動と税制 清文社 三頁。
  - ③ Edward Grubb "Philanthropy" in Encyclopedia of Religion and Ethics, 1917 p.837.
  - ④ 橋本徹 他著 公益法人の活動と税制 清文社 二一四頁。
  - ⑤ 猿谷要 著 「西部開拓史」 岩波書房 昭和五七年 一一五、一四〇頁。
  - ⑥ ウィリアム・ステッド 著 坂本国三郎 訳 「カーネギー評伝」 内外出版協会 大正二年 二八頁。
  - ⑦ 橋本徹著 前掲書 二一八頁。
  - ⑧ 白須信弘 著 アメリカ法人税詳解(第三版) 中央経済社 二二九頁。
- 非課税法人はアメリカではExempt Organizationとしている。
- ⑨ 須田徹 著 アメリカの税法 中央経済社 六頁。
  - ⑩ 石井耕治 著 日本の公益法人課税の構造 感文堂 二頁。
  - ⑪ 橋本徹 著 公益法人活動と税制 法文社 三頁。
  - ⑫ 橋本徹 著 前掲書 一二頁。
  - ⑬ E. Ginberg, D.U.Hiestaud, and B.G.Reubens, The Pluralistic Economy, Me Graus Hill Book Compy, New York, 1965 p.22.

- ⑭ アメリカの非営利法人の沿革を含め Fishman "The Development of Nonprofel Corporation Law and An Agenda for Reform" 34 Emory L.J. 617 at 629 (1985).
- ⑮ The Urban Institute "The Results are Coming" The Houndaton News, July August 1934.
- ⑯ The Houndaton Centers, National Data Book, 9th cd 1985.
- ⑰ アメリカの非営利法人の沿革を含む Fishman, The Development of Nonprofit Corporation Law and Agenda for Reform" 34 Emory L.J. 617 at 629 (1985).
- ⑱ Mc Carthy, Crumbley A Davis (1982) p.1 ~ 3.
- ⑲ 白須信弘 著 アメリカ法人税詳解 中央経済社 一七頁。
- ⑳ 三四三頁。
- ㉑ アメリカにおける税務上の処理判断基準については成文法以外に、判例が重要な手懸かりとなる。しかしながらIRSは最高裁 (Suprew Court) の判例でない限り通達 (Regulations) を改定する必要がない(須田徹 著 アメリカの税法 中央経済社 六頁)。
- ㉒ 連邦税法第五〇一条には数多くの種類があげられており、内国歳入庁は「非課税団体の手引き」(Exempt Organization Handbook) に掲載している。次にこれを示す。

**Exhibit 1-2**  
**COMPARISON OF REQUIREMENTS AND TAX ATTRIBUTES**  
**FOR SECTIONS 501(c)(2), (3), (4), (5), (6), and (7)**

	(c)(2)	(c)(3)	(c)(4)	(c)(5)	(c)(6)	(c)(7)
Exemption application required.	Y	Y	N	N	N	N
Time limit for filing IRS application for exemption (15 months).	N	Y	N	N	N	N
Form 1023 filed.	N	Y	N	N	N	N
Form 1024 filed.	Y	N	Y	Y	Y	Y
<b>REGARDING CHARTER/INSTRUMENT:</b>						
Purpose clause limiting.	Y	Y	N	N	N	N
Dissolution clause required.	N	Y	N	N	N	N
Activity limitations required.	Y	Y	N	N	N	N
<b>REGARDING PAYMENTS TO EO:</b>						
Receive tax-deductible contributions.	N	Y	N	N	N	N
Receive tax-deductible business dues.	N	N	Y/N	Y/N	Y/N	Y/N
<b>REGARDING REVENUES:</b>						
Annual support test for private foundation class.	N	Y	N	N	N	N
Membership primary income source.	N	N/Y	Y/N	Y	Y	Y
Amount of nonmember income limited.	N	N	N	N	N	Y
<b>REGARDING UBIT:*</b>						
Investment income exempt from UBIT unless investment indebted.	Y	Y	Y	Y	Y	N
Volunteer and donated property exceptions available for UBIT.	Y	Y	Y	Y	Y	Y
Convenience exception.	N	Y	N	N	N	N
Amount of UBI must be limited.	N	Y	Y	N	N	Y
<b>REGARDING ACTIVITIES:</b>						
Can engage in political campaigns.	N	N	N/Y	Y	Y	Y
Can engage in lobbying.	N	Y/N	Y	Y	Y	Y
Lobbying activity limited.	Y	Y	N	N	N	N
Broad purposes can be pursued.	N	Y	Y	N	N	N
Private inurement/benefit prohibited.	Y	Y	Y	Y	Y	Y
Operations must primarily be nonprofit.	Y	Y	Y	Y	Y	Y
Can carry out active projects.	N	Y	Y	Y	Y	Y

\*Unrelated business income tax.

Exhibit 1-1  
ORGANIZATION REFERENCE CHART

Section of 1984 code	Section of 1939 code	Description of organization	General nature of activities	Form No. for application for receipt of exemption from income tax	Annual return required to be filed	Contributions allowable	Subject to FICA and FUTA rights.
501(c)(1)	101(15)	Corporations Organized Under Act of Congress (including Federal Credit Unions)	Instrumentalities of the United States	No Form	None	Yes, if made for exclusively public purposes	Yes <sup>1</sup>
501(c)(2)	101(14)	Title Holding Corporation for Exempt Organization	Holding title to property of an exempt organization	1024	990 <sup>2</sup>	No	Yes
501(c)(3)	101(6)	Religious, Educational, Charitable, Scientific, Literary, Testing for Public Safety, or Prevention of Cruelty to Children or Animals Organizations or to Foster National or International Amateur Sports Competition	Activities of nature implied by description of class of organization	1023	990 <sup>2</sup> or 990-PF <sup>3</sup>	Generally, Yes	Yes <sup>4</sup>
501(c)(4)	101(6)	Civil Liberties, Social Welfare Organizations, and Local Associations of Employees	Promotion of community welfare: charitable, educational or recreational	1024	990 <sup>2</sup>	Generally, No. <sup>5</sup>	Yes
501(c)(5)	101(1)	Labor, Agricultural, and Horticultural Organizations	Educational or instructive, the purpose being to improve conditions of work, and to improve products and efficiency	1024	990 <sup>2</sup>	No	Yes
501(c)(6)	101(7)	Business League, Chambers of Commerce, Real Estate Boards, Etc.	Improvement of business conditions of one or more lines of business	1024	990 <sup>2</sup>	No	Yes
501(c)(7)	101(9)	Social and Recreation Clubs	Pleasure, recreation, social activities	1024	990 <sup>2</sup>	No	Yes
501(c)(8)	101(3)	Fraternal Beneficiary Societies and Associations	Lodge providing for payment of life, sickness, accident or other benefits to members	1024	990 <sup>2</sup>	Yes, if used for Sec. 501(c)(3) purposes	Yes

1 Generally if wholly or partially-owned by the Federal Government they are not subject to FUTA but are subject to FICA. See Chapter (47)00 for details.  
 2 For exemptions see instructions Form 990 and chapter (48)00. One exemption is for organizations with gross receipts of not more than \$25,000.  
 3 Public Charities must file Form 990 and Schedule A of Form 990 while Private Foundations must file Form 990-PF.  
 4 As of January 1, 1984, FICA coverage is mandatory. Prior to January 1, 1984, FICA coverage is optional. Not subject to FUTA.  
 5 Contributions to volunteer fire companies and similar organizations are deductible, but only if made for exclusively public purposes. See Rev. Rul. 74-361, 1974-2 C.B. 159.  
 6 Application is by letter to the key District Director. A copy of the organizing document should be attached and the letter should be signed by an officer of the organization.  
 7 Contributions to posts or organizations of past or present members of the Armed Forces are deductible only if 90% of the organization's members are war veterans.

## Exhibit 1-1 (continued)

Section of 1954 code	Section of 1939 code	Description of organization	General nature of activities	Form No. for application for recog. of exemption from income tax	Annual return required to be filed	Contributions allowable	Subject to FICA and FUTA regts.
501(c)(9)	101(16) and (18)	Voluntary Employees' Beneficiary Associations (including Federal Employees' Voluntary Beneficiary Associations formerly covered by section 501(c)(10))	Providing for payment of life, sickness, accident or other benefits to members	1024	990 <sup>2</sup>	No	Yes
501(c)(10)	N.A.	Domestic Fraternal Societies and Associations	Lodge devoting its net earnings to charitable, fraternal, and other specified purposes. No life, sickness or accident benefits to members	1024	990 <sup>2</sup>	Yes, if used for Sec. 501(c)(3) purposes	Yes
501(c)(11)	101(17)	Teachers' Retirement Fund Associations	Teachers' association for payment of retirement benefits	No Form <sup>6</sup>	990 <sup>2</sup>	No	Yes
501(c)(12)	101(100)	Benevolent Life Insurance Associations, Mutual Ditch or Irrigation Companies, Mutual or Cooperative Telephone Companies, Etc.	Activities of a mutually beneficial nature similar to those implied by the description of class of organization	1024	990 <sup>2</sup>	No	Yes
501(c)(13)	101(5)	Cemetary Companies	Burials and incidental activities	1024	990 <sup>2</sup>	Generally, Yes	Yes
501(c)(14)	101(4)	State chartered Credit Unions, Mutual Reserve Funds	Loans to members. Exemptions as to building and loan associations and cooperative banks repealed by Revenue Act of 1951, affecting all years after 1951.	No Form <sup>6</sup>	990 <sup>2</sup>	No	Yes
501(c)(15)	101(11)	Mutual Insurance Companies or Associations	Providing insurance to members substantially at cost	1024	990 <sup>2</sup>	No	Yes
501(c)(16)	101(13)	Cooperative Organizations to Finance Crop Operations	Financing crop operations in conjunction with activities of marketing or purchasing association	No Form <sup>6</sup>	990 <sup>2</sup>	No	Yes
501(c)(17)	N.A.	Supplemental Unemployment Benefit Trusts	Provides for payment of supplemental unemployment compensation benefits	1024	990 <sup>2</sup>	No	Yes

501(c) (18)	N.A.	Employee Funded Pension Trust (created before June 25, 1959)	Payment of benefits under a pension plan funded by employees	No Form <sup>6</sup>	9902	No	Yes
501(c) (19)	N.A.	Post or Organization of past or present members of the Armed Forces	Activities implied by nature of organization	1024	9902	Generally, No <sup>7</sup>	Yes
501(c) (20)	N.A.	Pre-paid Legal Service Funds	Legal Services Provided Exclusively to Employees	1024	9902	No	Yes
501(c) (21)	N.A.	Black Lung Benefit Trusts	Funded by Coal Mine Operators to satisfy their Liability for Disability for Death Due to Black Lung Disease	No Form <sup>6</sup>	990BL	No	Yes
501(c) (22)	N.A.	Withdrawal Liability Payment Fund	To provide funds to meet the liability of employers withdrawing from a multi-employer pension fund	No Form <sup>6</sup>	9902	No	Yes
501(c) (23)	N.A.	Association of past or present members of the Armed Forces founded before 1990	To provide insurance and other benefits to veterans or their dependents	No Form <sup>6</sup>	9902	Generally, No <sup>7</sup>	Yes
501(d)	101(18)	Religious and Apostolic Associations	Regular business activities, Communal religious community	No Form	1085	No	Yes
501(e)	N.A.	Cooperative Hospital Service Organizations	Performs cooperative services for hospitals	1023	9902	Yes	Yes <sup>4</sup>
501(f)	N.A.	Cooperative Service Organizations of Operating Educational Organizations	Performs collective investment services for educational organizations	1023	9902	Yes	Yes <sup>4</sup>
521(a)	101(12)	Farmers' Cooperatives Associations	Cooperative marketing and purchasing for agricultural producers	1026	990-C	No	Yes

<sup>1</sup> Generally if wholly or partially-owned by the Federal Government they are not subject to FUTA but are subject to FICA. See Chapter (47)00 for details.

<sup>2</sup> For exemptions see instructions Form 990 and Chapter (48)00. One exemption is for organizations with gross receipts of not more than \$25,000.

<sup>3</sup> Public Charities must file Form 990 and Schedule A of Form 990 while Private Foundations must file Form 990-PF.

<sup>4</sup> As of January 1, 1994, FICA coverage is mandatory. Prior to January 1, 1994, FICA coverage is optional. Not subject to FUTA.

<sup>5</sup> Contributions to volunteer fire companies and similar organizations are deductible, but only if made for exclusively public purposes. See Rev. Rul 74-361, 1974-2 C.B. 159.

<sup>6</sup> Application is by letter to the key District Director. A copy of the organizing document should be attached and the letter should be signed by an officer of the organization.

<sup>7</sup> Contributions to posts or organizations of past or present members of the Armed Forces are deductible only if 50% of the organization's members are war veterans.

②③ (財) 朝倉育英会 編  
アメリカにおける非課税法人の設立手続と税務  
ダイヤモンド社 七  
②④ 前掲書 三六頁  
②⑤ 前掲書 七九、一〇三頁

Exhibit 2-10

Form **1024**  
(Rev. March 1985)  
Department of the Treasury  
Internal Revenue Service

Application for Recognition of Exemption  
Under Section 501(a)  
or for Determination Under Section 120

OMB No. 1545-0067  
Expires: 3-31-89

Every organization must furnish the information specified. If any organization does not submit the information and financial data required, this application will not be considered on its merits, the organization will be notified accordingly, and the application may be returned. If you need more space for any item, you may attach additional statements. Show your name and employer identification number on all attachments.

Except as shown below, applicants must complete Parts I through IV. In addition, an organization must complete the schedule indicated below that relates to the code section under which it is applying. If a part or a line item does not apply, enter "N/A."

Central organizations applying for a group exemption letter—See Rev. Proc. 80-27, 1980-1 C.B. 677, or later revisions; or get Publication 557, Tax-Exempt Status for Your Organization, available free at most Internal Revenue Service offices.

This application, if approved, will be open to public inspection. (See General Instructions.)

You must have an organizing instrument. If you do not have an organizing instrument, do not file this application.

Check the appropriate box below to indicate the section under which you are applying.

- Section 501(c)(2)—Title holding corporations (Schedule A, page 6)
- Section 501(c)(4)—Civic leagues, social welfare organizations (including certain war veterans' organizations), or local associations of employees (Schedule B, pages 6 and 7)
- Section 501(c)(5)—Labor, agricultural, or horticultural organizations (Schedule C, page 7)
- Section 501(c)(6)—Business leagues, chambers of commerce, etc. (Schedule C, page 7)
- Section 501(c)(7)—Social clubs (Schedule D, pages 7 and 8)
- Section 501(c)(8)—Fraternal beneficiary societies, etc., providing life, sick, accident or other benefits to members (Schedule E, page 8)
- Section 501(c)(9)—Voluntary employees' beneficiary associations (Schedule F, page 9)
- Section 501(c)(10)—Domestic fraternal societies, orders, etc. not providing life, sick, accident or other benefits (Schedule E, page 8)
- Section 501(c)(12)—Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations (Schedule G, pages 9 and 10)
- Section 501(c)(13)—Cemeteries, crematoria, and like corporations (Schedule H, page 10)
- Section 501(c)(15)—Mutual insurance companies or associations, other than life or marine (No Schedule required)
- Section 501(c)(17)—Trusts providing for the payment of supplemental unemployment compensation benefits (Schedule I, page 11)
- Section 501(c)(19)—A post, organization, auxiliary unit, etc. of past or present members of the Armed Forces of the United States (Schedule J, page 12)
- Section 501(c)(20)—Trust/organization for pre-paid group legal services (Parts I, II, and Schedule M, page 13)
- Section 120—Qualified group legal services plans (Parts I, II, and Schedule L, page 13)

Part I.—Identification (See Instructions)

1a Full name of organization <b>DISPOSABLE BOTTLE ACTION COMMITTEE</b>		1b Employer identification number (if none, see Specific Instructions) <b>42-222222</b>	
2a Address (number and street) <b>1111 ANY STREET</b>			
2b City or town, county, state, and ZIP code <b>HOMETOWN,</b>		3 Name and telephone number (including area code) of person to be contacted during business hours if more information is needed <b>Jody Blazek, CPA (707) 444-4444</b>	
4 Month the annual accounting period ends <b>August 31</b>	5 Date incorporated or formed <b>1-1-xx</b>	6 Activity codes (see back cover) <b>480 350 189</b>	

7 Has the organization filed Federal income tax returns or exempt organization information returns? . . . . .  Yes  No  
If "Yes," state the form number(s), years filed, and Internal Revenue office where filed

Part II.—Type of Entity and Organizational Documents (See Instructions)

Check the applicable entity box and attach a conformed copy of the organization's organizing document and bylaws.

- Corporation—Articles of incorporation and bylaws.  Trust—Trust indenture.  Other—Constitution or articles of association and bylaws.

Under the penalties of perjury, I declare that I am authorized to sign this application on behalf of the above organization and I have examined this application, including the accompanying statements, and to the best of my knowledge and belief it is true, correct and complete. (See General Instructions.)

..... (Signature) ..... (Title or authority of signer) ..... (Date) .....

For Paperwork Reduction Act Notice, see page 1 of the instructions.



**Exhibit 2-10 (continued)**

Form 1024 (Rev. 3-86)

DISPOSABLE BOTTLE ACTION COMMITTEE

42-2222222

Page 2

**Part III—Activities and Operational Information**

1. If you are the outgrowth or continuation of any form of predecessor(s), state the name of each predecessor, the period during which it was in existence, and the reasons for its termination. Submit copies of all papers by which any transfer of assets was effected.

not applicable

2. If you are now, or plan to be connected in any way with any other organization, describe the organization and explain the relationship.

Disposable Bottle Action Committee (DBAC) is being formed by individuals who also serve as directors of a private foundation, Environmentalist Fund, and a publicly supported EO, Campaign to Clean up America. There will be no financial relationship between the organizations and the individuals will not control DBAC.

3. Give a detailed narrative description of the organization's past, present, and proposed future activities, and the purposes for which it was formed. The narrative should identify the specific benefits, services, or products the organization has provided or will provide. If the organization is not fully operational, explain what stage of development its activities have reached, what further steps remain for it to become fully operational, and when such further steps will take place. (Do not state the purposes and activities of the organization in general terms or repeat the language of the organizational documents.) If you are engaged in any business or fund raising activity, describe in detail the nature and the scope of the activity. Attach copies of any agreements with other parties related to conducting the business or fund raising activity. State how each business activity engaged in contributed importantly to your exempt purposes.

Attachment 2

4. List the organization's present and future sources of financial support, beginning with your largest source first.

Membership dues	75%
Exempt function sales	25

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-85) DISPOSABLE BOTTLE ACTION COMMITTEE

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Page 3

Part III.—Activities and Operational Information (Continued)

5 List the names, titles and addresses of the officers, directors and trustees of your organization for the current year.

Gary G. Generous President
222 Fifth St., Hometown, TX 77777

Samantha Zealot Vice President
404 University Dr., Austin, TX 78777

Linda Lockard Sec/Treasurer
982 Pine Valley, Dallas, TX 75555

Jane D. Environmentalist Director
333 First Street, Hometown, TX 77777

6 If you have capital stock issued and outstanding, state (1) class or classes of the stock, (2) number and par value of the shares, (3) consideration for which they were issued, and (4) whether any dividends have been paid or whether your creating instrument authorizes dividend payments on any class of capital stock.

not applicable

7 State the qualifications necessary for membership in the organization, the classes of membership (with the number of members in each class) and the voting rights and privileges received. If any group or class of persons is required to join, describe the requirement and explain the relationship between those members and members who join voluntarily. Submit copies of any membership solicitation material. Posts or organizations applying under section 501(c)(19) and completing Schedule J, item 1d, enter "N/A" here. Attach sample copies of all types of membership certificates issued.

Membership is open to all persons who can pay the basic dues of \$10.

8 Explain how your assets will be distributed on dissolution. (If State statutes, court decisions, organizing instruments, etc., determine the manner of distribution, state this and identify the statute, court decision, etc.) Posts or organizations applying under section 501(c)(19) and completing Schedule J, item 3b, enter "N/A" here.

Assets would be distributed to either the Campaign to Clean up America, a publicly supported 501(c)(3) organization, or the Environmentalist Fund, a private foundation, at the discretion of the board of directors.

9 Have you made or do you plan to make any distribution of your property or surplus funds to shareholders or members? [ ] Yes [X] No

If "Yes," state the full details, including (1) amounts or value, (2) source of funds or property distributed or to be distributed, and (3) basis of and authority for distribution or planned distribution.

**Exhibit 2-10 (continued)**

Form 1024 (Rev. 3-85) **DISPOSABLE BOTTLE ACTION COMMITTEE** 42-222222 Page 4

**Part III.—Activities and Operational Information (Continued)**

**10** Does, or will, any part of your receipts represent payments for services performed or to be performed? . . . .  Yes  No  
If "Yes," state in detail the amount received and the character of the services performed or to be performed.

**11** Have you made, or do you plan to make, any payments to members or shareholders for services performed or to be performed? . . . .  Yes  No  
If "Yes," state in detail the amount paid, the character of the services, and to whom the payments have been, or will be made.

**12** State the purpose(s), other than payment for services performed or supplies furnished, for which your funds are, or will be spent.  
See attached projection of revenues and expenditures.

**13** Does, or will, any part of your net income inure to the benefit of any private shareholder or individual? . . . .  Yes  No  
If "Yes," explain in detail.

**14** Do you have any arrangement to provide insurance for members, their dependents, or others (including provisions for the payment of sick or death benefits, pensions or annuities)? . . . .  Yes  No  
If "Yes," describe and explain the arrangement's eligibility rules and attach a sample copy of each plan document and each type of policy issued.

**15** Are you under the supervisory jurisdiction of any public regulatory body, such as a social welfare agency, etc.? . .  Yes  No  
If "Yes," submit copies of all administrative opinions or court decisions regarding this supervision as well as copies of applications or requests for the opinions or decisions.

**16** Are you now or do you plan to be the lessee of any property, or the lessor of property in which you own an interest?  Yes  No  
If "Yes," explain in detail. Include the amount of rent, a description of the property, and any relationship between your organization and the other party. Also, attach a copy of any rental or lease agreement.  
DBAC will lease one room on a month to month basis at actual cost from a director. The sublease is unwritten and the building is owned by an unrelated party.

**17** Have you spent or do you plan to spend any money attempting to influence the selection, nomination, election or appointment of any person to any Federal, State, or local public office or to an office in a political organization? . .  Yes  No  
If "Yes," explain in detail and list the amounts spent or to be spent in each case.

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-85) DISPOSABLE BOTTLE ACTION COMMITTEE

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Part IV.—Financial Data (See instructions)

Note: Complete separate financial statements for the current year and for each of the three immediately preceding years. If the organization has been in existence for less than four years, complete the statements only for those years in existence. If the organization has been in existence for less than one year, also provide proposed budgets for the two years following the current year.

Statement of Support, Revenue, and Expenses for the period beginning ..... 19 ..... and ending ..... 19 ..... (If you prepare a statement of support, revenue, and expenses which is more descriptive and detailed than the statement below, you may submit that statement in place of this one.)

Table with columns for line numbers and descriptions. Section: Support and Revenue. Lines 1-8. Section: Expenses. Lines 9-18. Includes sub-sections like 'Newly formed organization' and 'budget attached'.

Balance Sheet (at the end of the period shown above)

Table with columns for line numbers and descriptions. Section: Assets. Lines 19-29. Section: Liabilities. Lines 30-34. Section: Fund Balances or Net Worth. Lines 35-36.

If there has been any substantial change in any aspect of your financial activities since the period shown above ended, check the box and attach a detailed explanation.

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-86) DISPOSABLE BOTTLE ACTION COMMITTEE 42-222222 Page 6
Schedule A Organizations described in section 501(c)(2) (Title holding corporations) not applicable

1 State below the complete name, address and employer identification number of each organization for which title to property is held and the number and class(es) of shares of your stock held by each organization.

2 If within the past five years shares of stock in your organization have been held by persons other than organizations listed in 1 above, list below the names and addresses of these persons. Also, show the number and class(es) of shares of capital stock held by each person, the years held, the dividends payable in each year and the dates paid.

3 State whether the net annual income is or will be turned over to the organization for which title to property is held and, if not, the purpose for which the income is or will be held.

4 State the purpose(s) of each organization for which title to property is held as shown in its governing instrument and the Code section(s) under which each is classified as exempt from Federal income tax.

Schedule B Organizations described in section 501(c)(4) (Civic leagues, social welfare organizations (including posts, councils, etc. of veterans' organizations not qualifying or applying for exemption under section 501(c)(19)) or local associations of employees.)

1 Have you engaged in or do you plan to engage in any activities on behalf of, or in opposition to, any candidate for public office? [ ] Yes [x] No
If "Yes," describe in detail the nature and extent of the activities.

2 Has the Service previously issued a ruling or determination letter recognizing you (or any predecessor organization listed in item 1 of Part III) to be exempt under section 501(c)(3) and later revoked that recognition of exemption on the basis that you (or your predecessor) were carrying on propaganda or otherwise attempting to influence legislation? [ ] Yes [x] No
If "Yes," indicate the earliest tax year for which recognition of exemption under Section 501(c)(3) was revoked and the IRS district office that issued the revocation.

3 Do you perform or do you plan to perform (for members, shareholders, or others) particular services, such as maintaining the common areas of a condominium, buying food or other items on a cooperative basis, providing recreational facilities or transportation services, job placement, or other similar undertakings? [ ] Yes [x] No
If "Yes," explain the activities in detail, including income realized and expenses incurred. Also, explain in detail the nature of the benefits to the general public from these activities. (If the answer to this question is explained in Part III (pages 2, 3, and 4), enter the page and item number here.)

(Continued on next page)

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-86) DISPOSABLE BOTTLE ACTION COMMITTEE 42-222222 Page 7

4 If you are claiming exemption as a local association of employees, state the name and address of each employer whose employees are eligible for membership in the association. If employees of more than one plant or office of the same employer are eligible for membership, give the address of each plant or office.
not applicable

Schedule C Organizations described in section 501(c)(5) (Labor, agricultural, including fishermen's organizations, or horticultural organizations) or section 501(c)(6) (Business leagues, chambers of commerce, etc.) not applicable

- 1 Describe any services you perform or plan to perform for members or others. These services may include furnishing credit reports, collecting accounts, inspecting products, conducting advertising, buying or selling merchandise or other similar undertakings. (If the description of the services is contained in Part III (pages 2, 3 and 4), enter the page and item number here.)
2 Submit representative copies of any publications (newsletters, trade journals, yearbooks, membership directories, etc.) distributed to members or other interested parties.
3 Fishermen's organizations only.—What kinds of aquatic resources (not including mineral) are cultivated or harvested by those eligible for membership in your organization?

4 Labor organizations only.—If you are organized under the terms of a collective bargaining agreement, attach a copy of the latest agreement.

Schedule D Organizations described in section 501(c)(7) (Social clubs) not applicable

1 Have you entered or do you plan to enter into any contract or agreement for the management or operation of your property and/or activities, such as restaurants, pro shops, lodges, etc.? . . . . .  Yes  No
If "Yes," attach a copy of the contract or agreement. If one has not yet been drawn up, please explain your plans below.

2 Do you seek or plan to seek public patronage of your facilities by advertisement or otherwise? . . . . .  Yes  No
If "Yes," attach sample copies of the advertisements or other requests. If you have none as yet, please explain your plans below.

(Continued on next page)

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-85) DISPOSABLE BOTTLE ACTION COMMITTEE 42-222222 Page 8  
Schedule D (Continued)

3a Are nonmembers other than guests of members permitted or will they be permitted to use the club facilities or participate in or attend any functions or activities conducted by the organization? . . . . .  Yes  No  
If "Yes," describe the functions or activities in which there has been or will be nonmember participation or admittance. (Submit a copy of your house rules, if any.)

b State the amount of nonmember income included in Part IV, lines 3 and 4. . . . .  
c Enter the percent of gross receipts from nonmembers for the use of club facilities° . . . . . %  
d Enter the percent of gross receipts received from investment income and nonmember use of the club's facilities° . . . . . %

\*Gross receipts, for the purposes of this part of question 3, includes all income other than initiation fees, contributions to capital, and amounts received from unusual transactions, such as from the sale of club owned real estate.

4a Does your charter, bylaws, other governing instrument, or any written policy statement of your organization contain any provision which provides for discrimination against any person on the basis of race, color, or religion? . . . . .  Yes  No  
b If "Yes," state whether or not its provision will be kept.

c If you have such a provision which will be repealed, deleted, or otherwise stricken from your requirements, state when this will be done. . . . .  
d If you formerly had such a requirement and it no longer applies, give the date it ceased to apply. . . . .  
e If the organization restricts its membership to members of a particular religion, check here and attach the explanation specified in the instructions. . . . .

Schedule E Organizations described in section 501(c)(8) or 501(c)(10) (Fraternal societies, orders, or associations) not appl.

- 1 Are you a college fraternity or sorority or chapter of a college fraternity or sorority? . . . . .  Yes  No  
If "Yes," read the instructions for Schedule E before completing this schedule.
- 2 Does or will your organization operate under the lodge system? . . . . .  Yes  No  
If "No," does or will it operate for the exclusive benefit of the members of an organization operating under the lodge system? . . . . .  Yes  No
- 3 In the case of a subordinate or local lodge, etc., attach a certificate signed by the secretary of the parent organization, under the seal of the organization, certifying that the subordinate lodge is a duly constituted body operating under the jurisdiction of the parent body.
- 4 In the case of a parent or grand lodge, attach a schedule for each subordinate lodge in active operation showing: (a) its name and address. (b) the number of members in it, and (c) how often it holds periodic meetings.

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-85) DISPOSABLE BOTTLE ACTION COMMITTEE 42-222222 Page 9
Schedule H Organizations described in section 501(c)(9) (Voluntary employees' beneficiary associations) not applicable

1 Describe below the benefits available to members.

2 Are any employees or classes of employees entitled to benefits to which other employees or classes of employees are not entitled? [ ] Yes [ ] No
If "Yes," explain.

3 State the total number of persons entitled to receive benefits (do not include dependents of employees).
4 State the number of persons, if any, other than employees and their dependents (for example, the proprietor of a business whose employees are members of the association) who are entitled to receive benefits.

Schedule G Organizations described in section 501(c)(12) (Benevolent life insurance associations, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations) not applicable

1 Attach a schedule in columnar form for each tax year for which you are claiming exempt status. On each schedule:
a Show the total gross income received from members or shareholders.
b List, by source, the total amounts of gross income received from other sources.
(Mutual or cooperative electric or telephone companies should show income received from qualified pole rentals separately. Mutual or cooperative telephone companies should also show separately the gross amount of income received from nonmember telephone companies for performing services that involve their members, and the gross amount of income received from the sale of display advertising in a directory furnished to their members.)
Do not net amounts due, or paid to, other sources against amounts due, or received from, them.

2 If you are claiming exemption as a local benevolent insurance association, state:
a The counties from which members are accepted or will be accepted.
b Whether stipulated premiums are or will be charged in advance or whether losses are or will be paid solely through assessments.

3 If you are claiming exemption as a "like organization," explain how you are similar to a mutual ditch or irrigation company or a mutual or cooperative telephone company.



**Exhibit 2-10 (continued)**

Form 1024 (Rev. 3-86) **DISPOSABLE BOTTLE ACTION COMMITTEE** 42-222222 Page 10

**Schedule G (Continued)**

4 Are the rights and interests of members in your annual savings determined in proportion to their business with you?  Yes  No  
 If "Yes," do you keep the records necessary to determine at any time each member's rights and interests in such savings, including assets acquired with the savings?  Yes  No

5 If you are a mutual or cooperative telephone company and have contracts with other systems for long-distance telephone services, attach copies of the contracts.

**Schedule H Organizations described in section 501(c)(13) (Cemeteries, crematoria, and like corporations)** not applicable

1 Attach the following documents:  
 a Complete copy of sales contracts or other documents, including any "debt" certificates, involved in acquiring cemetery or crematorium property.  
 b Complete copy of any contract you have that designates an agent to sell your cemetery lots.  
 c A copy of the appraisal (obtained from a disinterested and qualified party) of the cemetery property as of the date acquired.

2 Do you have or do you plan to have a perpetual care fund?  Yes  No  
 If "Yes," attach a copy of the fund agreement and explain the nature of the fund (cash, securities, unsold land, etc.)

3 If you are claiming exemption as a perpetual care fund for an organization described in section 501(c)(13), has the cemetery organization for which funds are held established exemption under that section?  Yes  No  
 If "No," explain.

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-86) DISPOSABLE BOTTLE ACTION COMMITTEE 42-2222222 Page 11

Schedule I Organizations described in section 501(c)(17) (Trusts providing for the payment of supplemental unemployment compensation benefits) not applicable

1 If benefits are provided for individual proprietors, partners, or self-employed persons under the plan, explain in detail below.

2 If the plan provides other benefits in addition to the supplemental unemployment compensation benefits, explain in detail below, and state whether the other benefits are subordinate to the unemployment benefits.

3 At any time after December 31, 1959, did the trust engage in any of the transactions listed below with any of the following: the creator of the trust or a contributor to the trust; a brother or sister (whole or half blood), a spouse, an ancestor, or a lineal descendant of such a creator or contributor; or a corporation controlled directly or indirectly by such a creator or contributor?

Note: If you know that you will be, or are considering being, a party to any of the transactions (or activities) listed below, check the "Planned" box. Give a detailed explanation of any "Yes" or "Planned" answer in the space below.

- a Borrow any part of your income or corpus?
b Receive any compensation for personal services?
c Obtain any part of your services?
d Purchase any securities or other properties from you?
e Sell any securities or other property to you?
f Receive any of your income or corpus in any other transaction?

4 Attach a copy of the Supplemental Unemployment Benefit Plan and related agreements.

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-86) DISPOSABLE BOTTLE ACTION COMMITTEE

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Page 12

Schedule J Organizations described in section 501(c)(19) - a post or organization of past or present members of the Armed Forces of the United States, auxiliary units or societies for such a post or organization, and trusts or foundations formed for the benefit of such posts or organizations. not applicable

To be completed by a post or organization of past or present members of the Armed Forces of the United States.

- 1a Enter the total membership of your post or organization
1b Enter the number of your members who are present or former members of the U.S. Armed Forces
1c Enter the number of members who are cadets (include students in college or university ROTC programs or at armed services academies only), or spouses, widows, or widowers, of cadets or past or present members of the U.S. Armed Forces.

1d Do you have a membership category other than the ones set out above? Yes No

If "Yes," please explain in full. Enter number of members in this category

1e If you wish to apply for a determination that contributions to you are deductible by donors, enter the number of your members from line 1b who are war veterans, as defined below
A war veteran is a person who served in the Armed Forces of the United States during the following periods of war: April 21, 1898, through July 4, 1902; April 6, 1917, through November 11, 1918; December 7, 1941, through December 31, 1946; June 27, 1950, through January 31, 1955; and August 5, 1964, through May 7, 1975.

To be completed by an auxiliary unit or society of a post or organization of past or present members of the Armed Forces of the United States.

2a Are you affiliated with and organized according to the bylaws and regulations formulated by such an exempt post or organization? Yes No

If "Yes," submit a copy of such bylaws or regulations.

- 2b How many members do you have?
2c How many are past or present members of the Armed Forces of the United States themselves, their spouses, or persons related to them within two degrees of blood relationship? (Grandparents, brothers, sisters, and grandchildren are the most distant relationships allowable.)

2d Are all of the members themselves members of a post or organization, past or present members of the Armed Forces of the United States, or spouses of members of such a post or organization, or are related to members of such a post or organization within two degrees of blood relationship? Yes No

To be completed by a trust or foundation organized for the benefit of an exempt post or organization of past or present members of the Armed Forces of the United States.

3a Will the corpus or income be used solely for the funding of such an exempt organization (including necessary related expenses)? Yes No

If "No," please explain.

3b If the trust or foundation is formed for charitable purposes, does the organization document contain a dissolution provision as described in section 1.501(c)(3)-1(b)(4) of the Income Tax Regulations? Yes No

**Exhibit 2-10 (continued)****Attachment 1  
Letter of Conformance**

**DISPOSABLE BOTTLE ACTION COMMITTEE**                      **EIN #42-2222222**  
**Attachment to Form 1024**

**I swear that the attached copies of the charter and bylaws of the  
Disposable Bottle Action Committee are true and correct copies of the  
originals.**

\_\_\_\_\_  
**date**

\_\_\_\_\_  
**authorized official**

Exhibit 2-10 (continued)

Form 1024 (Rev. 3-85) DISPOSABLE BOTTLE ACTION COMMITTEE 42-222222 Page 13

Schedule L Qualified Group Legal Services Plans (Section 120) not applicable

- 1 a Name of plan
b Plan number (see instructions)
c Date the plan year ends

- 2 A qualification determination or ruling is requested for:
a Initial qualification—date the plan was adopted
b Amendment—date adopted

If you check a, submit a copy of the documents establishing the plan, including a copy of the plan and any related trust instrument. If the plan was subject to collective bargaining, include a copy of the collective bargaining agreement pertaining to it. If you check b, submit a copy of the amendment.

Note: Once a plan has qualified you need not file a new Form 1024 with each amendment. However, you must notify the Service of any subsequent amendments.

- 3 Describe the legal services covered by the plan, if they are not described in the plan or collective bargaining agreement.

- 4 Give the following information as of the first day of the first plan year for which you are filing this application and enter that date here
a Total number of employees covered by the plan who are shareholders, officers, self-employed persons, or highly compensated
b Number of other employees covered by the plan
c Number of employees not covered by the plan
d Total number employed\*

\*Should equal the total of a, b, and c—if not, explain any difference. Describe the eligibility requirements that prevent those employees not covered by the plan from participating.

- 5 If all eligible employees are NOT entitled to the same benefits, explain the differences.

- 6 Manner of funding the plan (Check the appropriate box(es))
a Payments to insurance companies
b Payments to organizations described in section 501(c)(20)
c Payments to organizations described in section 501(c), which are to pay or credit your payments to other organizations described in section 501(c)(20)
d Prepayments to providers of legal services

Schedule M Trust or organization set up under section 501(c)(20) not applicable

- 1 a Was this trust or organization created or organized in the United States?
b If "Yes," was it created or organized to form part of a group legal services plan or plans qualified under section 120?
c Has the plan (or plans) qualified under section 120?
If "Yes," enter name of plan
If "Yes," submit a copy of the ruling or determination letter(s). If "No," attach an explanation.

- 2 If the trust or organization provides legal services or indemnification against the cost of legal services unassociated with a qualified group legal services plan, describe the nature and extent of these services.

**Exhibit 2-10 (continued)**

EIN # 42-2222222

**ARTICLES OF INCORPORATION  
OF  
DISPOSABLE BOTTLE ACTION COMMITTEE**

We, the undersigned natural persons of the age of eighteen (18) years or more, acting as incorporators of a corporation under the Texas Non-Profit Corporation Act, do hereby adopt the following Articles of Incorporation for such corporation.

**ARTICLE ONE****Name**

The name of the Corporation is DISPOSABLE BOTTLE ACTION COMMITTEE.

**ARTICLE TWO****Nonprofit Corporation**

The corporation is a nonprofit corporation.

**ARTICLE THREE****Duration**

The period of the Corporation's duration is perpetual.

**ARTICLE FOUR****Purposes**

Section 4.01. The Corporation is organized exclusively for promotion of civic welfare purposes as defined in Section 501(c)(4) of the Internal Revenue Code of 1986.

Section 4.02. Notwithstanding any other provisions of these Articles of Incorporation:

a. No part of the net earnings of the Corporation shall inure to the benefit of any director or officer of the Corporation or any private individual (except that reasonable compensation may be paid for services rendered to or for the Corporation affecting one or more of its purposes); and no director, officer, or any private individual shall be entitled to share in the distribution of any of the corporate assets on dissolution of the Corporation.

b. The Corporation shall not conduct or carry on any activities not permitted to be conducted or carried on by an organization exempt from taxation under Section 501(c)(4) of the Internal Revenue Code of 1986 and its Regulation as they now exist or as they may hereafter be amended.

**Exhibit 2-10 (continued)**

DISPOSABLE BOTTLE ACTION COMMITTEE

EIN # 42-2222222

c. Upon dissolution of the Corporation or the winding up of its affairs, the assets of the Corporation shall be distributed to the CAMPAIGN TO CLEAN UP AMERICA, or if it is not in existence, to another nonprofit organization operating to advance civic welfare.

d. The corporation is organized pursuant to the Texas Non-Profit Corporation Act and does not contemplate gain or profit and is organized for non-profit purposes.

**ARTICLE FIVE**  
**Membership**

The Corporation shall have no voting members.

**ARTICLE SIX**  
**Initial Registered Office and Agent**

The street address of the initial registered office of the Corporation is 1111 Any Street, Hometown, TX 77777, and the name of its initial registered agent is Jane D. Environmentalist.

**ARTICLE SEVEN**

The number of Directors constituting the initial Board of Directors of the Corporation is three (3), and the names and addresses of those people to serve as the initial Directors are:

<i>Name</i>	<i>Address</i>
Gary G. Generous	222 Fifth Street Hometown, TX 77777
Samantha Zealot	404 University Dr. Austin, TX 78777
Jane D. Environmentalist	333 First Street Hometown, TX 77777

**ARTICLE EIGHT**  
**Incorporators**

The names and street addresses of the incorporator is:

<i>Name</i>	<i>Address</i>
Jane D. Environmentalist	333 First Street Hometown, TX 77777

**ARTICLE NINE**  
**Indemnification**

The Corporation shall indemnify every director or officer or former director or officer of the Corporation against all judgments, penalties

**Exhibit 2-10 (continued)**

DISPOSABLE BOTTLE ACTION COMMITTEE

EIN # 42-2222222

(including excise and similar taxes), fines, amounts paid in settlement with the view of avoiding the expense of litigation and reasonable expenses actually incurred in connection with any proceeding in which he or she was, is, or is threatened to be named defendant or respondent, or in which he or she was or is a witness without being named a defendant or respondent, by reason, in whole or in part, or his or her serving or having served in the capacity of a director or officer, or having been nominated or designated to serve if it is determined that he or she has conducted himself or herself in good faith, reasonably believed that his or her conduct was in the Corporation's best interest and in the case of a criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful, provided, however, no director or officer shall be indemnified (a) with respect to matters as to which he or she shall be adjudged in such action, suit, or proceeding or be liable to the corporation, (b) with respect to matters as to which he or she shall be adjudged in such action, suit or proceeding to be liable for negligence or intentional misconduct in performance of duty, (c) with respect to any matters which shall be settled by the payment of sums which independent counsel selected by the directors shall not deem reasonable payment, made primarily with a view to avoiding expense of litigation, (d) with respect to any matters in which he or she is found liable on the basis that personal benefit was improperly received by him or her, or (e) with respect to matters for which such indemnifications would be against public policy. A determination of indemnification shall be made by either a majority vote of a quorum consisting of directors who at the time of the vote are not named defendants or respondents in the proceeding or by an independent legal counsel selected by the board of directors. Such rights of directors or officers may be entitled under any bylaw, agreement, corporate resolution, vote of directors or otherwise. The Corporation shall have the power to purchase or maintain at its cost and expense insurance on behalf of such persons to the fullest extent permitted by this Article and applicable state law.

**ARTICLE TEN  
Limitation of Liability**

No director shall be liable to the Corporation for monetary damages for an act or omission in the director's capacity as a director of the corporation, except and only for the following:

- (a) A breach of the director's duty or loyalty to the Corporation;



**Exhibit 2-10 (continued)**

**DISPOSABLE BOTTLE ACTION COMMITTEE**

**EIN # 42-2222222**

(b) An act or omission not in good faith by the director or an act or omission that involves intentional misconduct or knowing violation of the law by the director;

(c) A transaction from which the director gained any improper benefit whether or not such benefit resulted from an action taken within the scope of the director's office; or

(d) An act or omission by the director for which liability is expressly provided for by statute.

IN WITNESS WHEREOF, the undersigned incorporators do hereby affix their signatures.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Exhibit 2-10 (continued)****BYLAWS  
OF  
DISPOSABLE ACTION BOTTLE COMMITTEE****ARTICLE I  
Name of Corporation**

A Texas non-profit corporation named "DISPOSABLE ACTION BOTTLE COMMITTEE" has been established and its principal office is in HOMETOWN, TEXAS.

**ARTICLE II  
Purposes**

The Corporation is organized exclusively for the promotion of social welfare as defined in Internal Revenue Code Section 501(c)(4).

**ARTICLE III  
Members**

The committee shall have no members.

**ARTICLE IV  
Board of Directors**

Committee affairs shall be managed by its Board of Directors.

There shall be no less than three (3) nor more than nine (9) directors who will serve one year terms. Directors shall be appointed by the member(s). Any Director may resign by giving written notice to the member(s). The resignation shall be effective at the next regular meeting of the Board of Directors. A Director may be removed with or without cause by the member(s). Replacement directors will be named by the member(s).

Directors shall not receive compensation for their services as Directors but can receive reimbursement for expenses and can be engaged to perform other services for the Committee as long as the compensation is not excessive as that term is used in Section 4941(d)(2)(E) of the Internal Revenue Code.

**ARTICLE V  
Meetings of the Board**

The Board of Directors shall have one annual meeting. Special meetings, as needed, may be called by the president. Meeting notice should be given five days in advance either in writing or by telephone. Attendance at the meeting shall constitute waiver of notice except where a Director attends the meeting with the express purpose of

**Exhibit 2-10 (continued)****DISPOSABLE ACTION BOTTLE COMMITTEE BYLAWS, page 2****Article V, continued**

objecting to the transaction of any business because the meeting is not lawfully called or convened.

A majority of the Directors present at any meeting shall constitute the quorum for purposes of transacting any business of the Committee.

A director may vote in person or by proxy executed in writing. A proxy shall be valid for three months from date of execution and is irrevocable.

**ARTICLE VI****Officers**

The officers of the Committee shall consist of a President, a Vice President/Treasurer, and a Secretary.

The officers of the Committee shall be elected by the Board of Directors at the annual meeting. Any officer of the Corporation may be removed by a vote of the majority of the Board of Directors then in office.

*President.* The President shall supervise and conduct Committee activities and operations. He or she shall preside at all meetings and shall keep the Board informed concerning the activities of the Committee. He or she may sign, in the name of the Committee, all contracts and documents authorized by the Board. He or she shall have the authority to establish committees and to appoint members to serve on such committees.

*Vice President.* The Vice President shall have such powers and duties delegated to him or her by the President. He will serve as president during the absence of the President.

*Secretary.* The Secretary shall act as Secretary of all meetings of the Board of Directors, and shall keep the minutes of all such meetings. He or she shall attend to the giving and serving of all notices of the Committee. He or she shall perform all duties customarily incident to the office of Secretary.

*Treasurer.* The Treasurer shall have custody of all funds and securities of the Committee. He or she shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Committee and shall deposit all monies and other valuable effects of the Committee in such banks or depositories as the Board of Directors may designate.

**Exhibit 2-10 (continued)****DISPOSABLE ACTION BOTTLE COMMITTEE BYLAWS, page 3****ARTICLE VII  
General Provisions**

*Contracts.* The Board of Directors may authorize any officer or officers to enter into any contract on behalf of the Committee; such authority must be in writing.

*Checks, Drafts, etc.* All checks, drafts and other orders for payment of money shall be signed by Board designated officers.

*Gifts.* The Board of Directors may accept on behalf of the Committee any contribution, gift, bequest or devise for general purposes or for any special purpose of the Committee.

*Books.* There shall be kept at the office of the Committee correct books of account of the activities and transactions of the Committee, including a minute book which shall contain a copy of the Articles of Incorporation, these bylaws and all minutes of the meetings of the Board of Directors.

*Indemnification.* The Directors shall be indemnified by the Committee against liabilities imposed upon them and expenses reasonably incurred by them in connection with any claim against them, or any action, suit or proceeding to which they may be a party by reason of their being a director. No director is indemnified (a) with respect to matters for which they shall be adjudged in such action, suit or proceeding to be liable for negligence or misconduct in performance of duty, (b) with respect to any matters which shall be settled by the payment of sums which independent counsel selected by the member(s) shall not deem reasonable payment made primarily with a view to avoiding expense of litigation, or (c) with respect to matters for which such indemnification would be against public policy.

*Fiscal Year.* The year shall be from July 1 to June 30.

*Amendments.* The member(s) may amend the bylaws at any regular or special meeting prior to which proper notice was given.

**CERTIFICATE**

I HEREBY CERTIFY that the foregoing is a true, complete and correct copy of the Bylaws of DISPOSABLE BOTTLE ACTION COMMITTEE, a Texas nonprofit corporation, in effect on the date hereof.

IN WITNESS WHEREOF, I hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

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 Secretary

**Exhibit 2-10 (continued)****Attachment 2****EIN #42-2222222****Detailed Description of  
Disposable Bottle Action Committee**

DBAC was formed to initiate a nationwide campaign to propose and pass legislation to eliminate disposable containers and reward recycling efforts. By reducing trash, encouraging the conservation of resources, and curtailing pollutants to our land, water, and air, DBAC's goal is to advance the community welfare.

**LEGISLATION**—DBAC plans to be an action organization, whose purposes are accomplished through passage of legislation. Model legislation will be drafted (based upon the California and Washington state models) for passage of a comprehensive waste management law based upon eventual elimination of disposable containers and other toxic wastes. Committees will be formed in as many states as possible to conduct petition campaigns to lobby congress people to support the legislation.

**RESEARCH**—The Ecology Department of Michigan State University and Northwestern University were contacted and have agreed to cosponsor a year long research project to evaluate the economic and ecological consequences of disposable containers. While DBAC will not contribute financially to the efforts, the results of the studies will be available for use in the legislative efforts. It is hoped that the University of California at Berkley or a similar West Coast institution will be convinced to study the consequences of their existing beverage container laws.

**FUND RAISING and PUBLIC EDUCATION**—Committees will be formed in key states to raise funds to finance the campaign and raise the consciousness about the issue of wastes and the need for reducing garbage through recycling and elimination of disposable containers. Funds will be raised through outright gifts, dinners, and sale of bumper stickers, buttons, and other campaign materials.

## Exhibit 2-10 (continued)

Attachment 3  
Proposed Budgets

EIN #42-2222222

DISPOSABLE BOTTLE ACTION COMMITTEE  
REVENUES AND EXPENSES

	19X0	19X1
Membership dues	\$25,000	\$50,000
Exempt function sales:		
Bumper stickers	5,000	10,000
Posters	2,000	5,000
Buttons	2,000	5,000
Model legislation	2,000	5,000
TOTAL REVENUES	<u>36,000</u>	<u>75,000</u>
Campaign coordinator*	10,000	30,000
Telephone	5,000	12,000
Mailing	5,000	12,000
Printing	5,000	12,000
Cost of stickers, posters, buttons	2,000	6,000
Occupancy**	2,000	3,000
TOTAL EXPENDITURES	<u>29,000</u>	<u>75,000</u>
Working capital reserve	<u>7,000</u>	<u>0</u>
	<u>\$36,000</u>	<u>\$75,000</u>

\*The Campaign coordinator is an independent contractor who serves as consultant to nonprofit organizations conducting lobbying campaigns. Compensation is based upon actual time expended at the rate of \$15 per hour plus reimbursement of direct out-of-pocket expenses.

\*\*DBAC will sublease one room in an office building owned by an unrelated party from a director, Jane D. Environmentalist. The lease will be at cost on a month-to-month basis.

**Exhibit 3-1  
EMPLOYEE VERSUS INDEPENDENT CONTRACTOR STATUS**

The primary characteristics distinguishing an employee and an independent contractor are listed here. There is no specific mathematical test, although more than one-half on either side is a strong indication. The facts and circumstances of the payee/payor relationship are analyzed. As a rule, classifying a worker as an employee is seldom challenged; it is justifying for treating one as independent that is troublesome. The most common reason for the distinction is to identify those persons—the employees—who are subject to federal income tax withholding and unemployment taxes. Obtain IRS Form SS-8 for instructions and a checklist.

Contractor	Employee
Paid by the job/furnishes time records to EO.	Paid by the month, week, or day.
Pays own expenses, licensing fees, or training.	Pays no expenses.
Per-job arrangement or particular assignment basis of engagement.	Continuing relationship over an indefinite time period.
No supervision.	Supervised or works under guidelines of organization.
Can delegate to own employees/pays own employees.	—
Control over workplace/has own shop or office.	Works on premises.
Sets hours of work.	Hours are established by the EO.
Financial investment in education and professional business.	—
Provides own tools, equipment, supplies.	—
Works under own company name.	—
Stands risk of loss.	—
May be discharged or terminated without liability.	—
—	Worker prohibited from competing.
—	Eligible for employee benefits
—	EO bonds employees and carries workers' compensation insurance.

**Exhibit 3-2  
INDEPENDENT CONTRACTOR AGREEMENT**

In consideration of payment by \_\_\_\_\_.

Fixed fee ..... \$\_\_\_\_,\_\_\_\_.\_\_\_\_

Hourly rate \$\_\_\_\_.\_\_\_\_ per-hour times \_\_\_\_ hours = \_\_,\_\_\_\_.\_\_\_\_

Reimbursible expenses:

\_\_\_\_\_.\_\_\_\_.  
\_\_\_\_\_.\_\_\_\_.  
\_\_\_\_\_.\_\_\_\_.

for consideration, you agree to perform the following work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Payments will be made monthly, based upon invoices submitted by you. Receipts or other documentation must be attached for any reimbursible expenses.

In consideration of payment by \_\_\_\_\_, you agree that you are an independent contractor, not an employee, agent, or representative of the company. You are responsible for all federal and state payroll taxes and insurance. You—on behalf of yourself, your assigns, and estate—waive and release any and all claims or rights whatsoever you may have against us. This agreement may be terminated by either party at any time, except that you will be paid for any unpaid services properly chargeable to us prior to termination. In acknowledgment of our understandings, we have both signed below.

\_\_\_\_\_  
By: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Date: \_\_\_\_\_



**Exhibit 3-6  
SECTION 509(a)(1) TEST FOR PUBLIC SUPPORT  
UNDER SECTION 170(b)(1)(A)(vi)**

	Preceding Years				Total
	1st	2nd	3rd	4th	
<i>Support</i>					
Gross Revenues less:					
exempt function revenue					
capital gains or losses					
unusual grants					
tax on UBI					
expenses of UBI acquired before 6/30/75					
in-kind services or facilities not furnished by governmental unit					
<b>Total Support</b>					
<i>Public Support</i>					
Grants from governmental units					
Grants from other 170(b)(1)(A)(vi) organizations					
All other contributions, excluding the amount by which any donor's (and related persons') total gifts for the four years exceed 2% of total support					
<b>Total Public Support</b>					
<b>One-Third Support Test</b>	$\frac{\text{Total Public Support}}{\text{Total Support}} = \text{_____ \%}^*$				

\*Percentage must be at least 33 1/3 to qualify automatically as "public" under Section 170(b)(1)(A)(vi). If it is between 10 and 33 1/3 percent, the organization may qualify as "public" if facts and circumstances tests in Regulation Section 1.170A-9(e)(3) are met.

**Exhibit 3-7**  
**SECTION 509(a)(2) TEST FOR PUBLIC SUPPORT**

	Preceding Years				Total
	1st	2nd	3rd	4th	
<i>Support</i>					
Gross Revenues less:					
capital gains or losses					
unusual grants					
tax on UBI					
expenses of UBI acquired before 6/30/75					
in-kind services or facilities not furnished by governmental unit					
<b>Total Support</b>					
<i>Public Support</i>					
All contributions except amounts from disqualified persons					
Membership dues (under greater of \$5,000 or 1% of support each)					
Exempt function revenue, except amounts in excess of \$5,000 (or 1% of total support if greater) from any one person or grantor					
<b>Total Public Support</b>					
<i>One-Third Support Test</i>					
	$\frac{\text{Total Public Support}}{\text{Total Support}} = \text{_____} \%^*$				
<i>Investment Income Test</i>					
	$\frac{\text{Gross Dividends, Interest, Rent, and Royalties}}{\text{Total Support}} = \text{_____} \%^*$				

\*The percentage for support should be 33 1/3 or more and the percentage for investment income should be 33 1/3 or less for the organization to qualify automatically as "public" under Section 509(a)(2).

Exhibit 3-10

Form 4720
Department of the Treasury
Internal Revenue Service

Return of Certain Excise Taxes on Charities
and Other Persons Under Chapters 41
and 42 of the Internal Revenue Code
(Sections 4911, 4912, 4941, 4942, 4943, 4944, 4945, and 4955)

OMB No. 1545-0052

1988

For the calendar year 1988 or other tax year beginning . 1988, and ending . 19

Name of foundation or public charity
Employer identification number
Number and street
City or town, state, and ZIP code
Check box for type of annual return
Form 990
Form 990-PF
Form 5227

A Is the organization a foreign private foundation within the meaning of section 4948(b)?
B Has corrective action been taken with respect to any transaction that resulted in Chapter 42 taxes being reported on this form?
If "Yes," attach a detailed documentation and description of the corrective action taken and, if applicable, enter the fair market value of any property recovered as a result of the correction > \$ For any uncorrected acts, attach explanation (see instructions).

Part I Taxes on Private Foundation or Public Charity (Sections 4911(a), 4912(a), 4942(a), 4943(a), 4944(a)(1), 4945(a)(1), and 4955(a)(1))
Table with 8 rows: 1 Tax on undistributed income, 2 Tax on excess business holdings, 3 Tax on investments that jeopardize charitable purpose, 4 Tax on taxable expenditures, 5 Tax on political expenditures, 6 Tax on excess lobbying expenditures, 7 Tax on disqualifying lobbying expenditures, 8 Total (add lines 1-7).

Part II-A Taxes on Self-dealers, Foundation Managers, and Organization Managers (Sections 4912(b), 4941(a), 4944(a)(2), 4945(a)(2), and 4955(a)(2))

Table with columns: (a) Name and address of person subject to tax, (b) Taxpayer identifying number, (c) Tax on self-dealing, (d) Tax on investments that jeopardize charitable purpose, (e) Tax on taxable expenditures, (f) Tax on political expenditures, (g) Tax on disqualifying lobbying expenditures, (h) Total—Add cols. (c), (d), (e), (f), and (g).

Part II-B Summary of Taxes (See General Instructions on Tax Payments)

Table with 2 rows: 1 Enter the total taxes listed in Part II-A, column (h), that apply to foundation managers, self-dealers and organization managers who sign this form. If all sign, enter the total amount from Part II-A, column (h). 2 Total Tax—add Part I, line 8, and Part II-B, line 1. (Make check or money order payable to Internal Revenue Service.)

For Paperwork Reduction Act Notice, see page 1 of the instructions.

Exhibit 3-10 (continued)

Form 4720 (1988)

Page 2

**SCHEDULE A.—Initial Taxes on Self-dealing (Section 4941)**

<b>Part I Acts of Self-dealing and Tax Computation</b>			
(a) Act no.	(b) Date of act	(c) Description of act	
1			
2			
3			
4			
5			
(d) Question no. from Form 990-PF, Part VII, or Form 5227, Part VI, applicable to the act	(e) Amount involved in act	(f) Initial tax on self-dealing (5% of col. (e))	(g) Tax on foundation managers (if applicable) (lesser of \$10,000 or 2 1/2% of col. (e))

<b>Part II Summary of Tax Liability of Self-dealers and Proration of Payments</b>			
(a) Names of self-dealers liable for tax	(b) Act no. from Part I, col. (a)	(c) Tax from Part I, col. (f), or prorated amount	(d) Self-dealer's total tax liability (add amounts in col. (c)) (see instructions)

<b>Part III Summary of Tax Liability of Foundation Managers and Proration of Payments</b>			
(a) Names of foundation managers liable for tax	(b) Act no. from Part I, col. (a)	(c) Tax from Part I, col. (g), or prorated amount	(d) Manager's total tax liability (add amounts in col. (c)) (see instructions)

**SCHEDULE B.—Initial Tax on Undistributed Income (Section 4942)**

1	Undistributed income for years before 1987, from Part XIV, line 6d, Form 990-PF for 1988.	
a	Enter year .....	1a
b	Enter year .....	1b
c	Enter year .....	1c
2	Undistributed income for 1987, from Part XIV, line 6e, Form 990-PF for 1988	2
3	Total undistributed income at end of current tax year beginning in 1988 and subject to tax under section 4942 (add lines 1a, b, c, and 2)	3
4	Tax under section 4942—Enter 15% of line 3 here and in Part I, line 1, page 1	4

**Exhibit 3-10 (continued)**

Form 4720 (1988)

Page 3

**SCHEDULE C.—Initial Tax on Excess Business Holdings (Section 4943)**

**Business Holdings and Computation of Tax**

If you have taxable excess holdings in more than one business enterprise, attach a separate schedule for each enterprise. Refer to the instructions for each line item before making any entries.

Name and address of business enterprise

Employer identification number . . . . . ▶

Form of enterprise (corporation, partnership, trust, joint venture, sole proprietorship, etc.) ▶

	Voting stock (profits interest, or beneficial interest)	Value	Nonvoting stock (capital interest)
	(a)	(b)	(c)
1 Foundation holdings in business enterprise . . . . .	1 %	%	
2 Permitted holdings in business enterprise . . . . .	2 %	%	
3 Value of excess holdings in business enterprise . . . . .	3		
4 Value of excess holdings disposed of within 90 days; or, other value of excess holdings not subject to section 4943 tax (attach explanation) . . . . .	4		
5 Taxable excess holdings in business enterprise—line 3 minus line 4 . . . . .	5		
6 Tax—5% of line 5 . . . . .	6		
7 Total tax—Add amounts on line 6, columns (a), (b), and (c); enter total here and in Part I, line 2, page 1 . . . . .	7		

**SCHEDULE D.—Initial Taxes on Investments That Jeopardize Charitable Purpose (Section 4944)**

**Part I Investments and Tax Computation**

(a) Investment number	(b) Date of investment	(c) Description of investment	(d) Amount of investment	(e) Initial tax on foundation (5% of col. (d))	(f) Initial tax on foundation managers (if applicable)—(lesser of \$5,000 or 5% of col. (d))
1					
2					
3					
4					
5					
<b>Total—column (e). Carry this amount to page 1, Part I, line 3</b>					
<b>Total—column (f). Carry this amount or prorated amount to Part II, column (c), below</b>					

**Part II Summary of Tax Liability of Foundation Managers and Proration of Payments**

(a) Names of foundation managers liable for tax	(b) Investment no. from Part I, col. (a)	(c) Tax from Part I, col. (f), or prorated amount	(d) Manager's total tax liability (add amounts in col. (c)) (see instructions)

Exhibit 3-10 (continued)

Form 4720 (1988)

Page 4

SCHEDULE E.—Initial Taxes on Taxable Expenditures (Section 4945)

Part I Expenditures and Computation of Tax				
(a) Item number	(b) Amount	(c) Date paid or incurred	(d) Name and address of recipient	(e) Description of expenditure and purposes for which made
1				
2				
3				
4				
5				
(f) Question number from Form 990-PF, Part VII, or Form 5227, Part VI, applicable to the expenditure			(g) Initial tax imposed on foundation (10% of col. (b))	(h) Initial tax imposed on foundation managers (if applicable)—(lesser of \$5,000 or 2½% of col. (b))
Total—column (g). Carry this amount to page 1, Part I, line 4. . . . .				

Total—column (h). Carry this amount or prorated amount to Part II, column (c), below. . . . .

Part II Summary of Tax Liability of Foundation Managers and Proration of Payments			
(a) Names of foundation managers liable for tax	(b) Item no. from Part I, col. (a)	(c) Tax from Part I, col. (h), or prorated amount	(d) Manager's total tax liability (add amounts in col. (c)) (see instructions)

SCHEDULE F.—Initial Taxes on Political Expenditures (Section 4955)

Part I Expenditures and Computation of Tax					
(a) Item number	(b) Amount	(c) Date paid or incurred	(d) Description of political expenditure	(e) Initial tax imposed on organization or foundation (10% of col. (b))	(f) Initial tax imposed on managers (if applicable) (lesser of \$5,000 or 2½% of col. (b))
1					
2					
3					
4					
5					
Total—column (e). Carry this amount to page 1, Part I, line 5. . . . .					

Total—column (f). Carry this amount or prorated amount to Part II, column (c), below. . . . .

Part II Summary of Tax Liability of Organization or Foundation Managers and Proration of Payments			
(a) Names of organization or foundation managers liable for tax	(b) Item no. from Part I, col. (a)	(c) Tax from Part I, col. (f), or prorated amount	(d) Manager's total tax liability (add amounts in col. (c)) (see instructions)

Exhibit 3-10 (continued)

Form 4720 (1988)

Page 5

**SCHEDULE G.—Tax on Excess Lobbying Expenditures (Section 4911)**

1	Excess of grass roots expenditures over grass roots nontaxable amount, from Schedule A (Form 990), Part VI, column (b), line 43 (see instructions before making entry)	1	
2	Excess of lobbying expenditures over lobbying nontaxable amount, from Schedule A (Form 990), Part VI, column (b), line 44 (see instructions before making entry)	2	
3	Taxable lobbying expenditures—enter the larger of line 1 or line 2	3	
4	Lobbying expenditures tax—enter 25% of line 3. (Carry this amount to page 1, Part I, line 6.)	4	

**SCHEDULE H.—Taxes on Disqualifying Lobbying Expenditures (Section 4912)**

Part I Expenditures and Computation of Tax					
(a) Item number	(b) Amount	(c) Date paid or incurred	(d) Description of lobbying expenditures	(e) Tax imposed on organization (5% of col. (b))	(f) Tax imposed on organization managers (if applicable)—(5% of col. (b))
1					
2					
3					
4					
5					
Total—column (e). Carry this amount to page 1, Part I, line 7.					

Total—column (f). Carry this amount or prorated amount to Part II, column (c), below

Part II Summary of Tax Liability of Organization Managers and Proration of Payments			
(a) Names of organization managers liable for tax	(b) Item no. from Part I, col. (a)	(c) Tax from Part I, col. (f), or prorated amount	(d) Manager's total tax liability (add amounts in col. (c)) (see instructions)

Under penalties of perjury I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Signature of officer or trustee	Title	Date
Signature (and organization name if applicable) of self-dealer, foundation manager, or organization manager		Date
Signature (and organization name if applicable) of self-dealer, foundation manager, or organization manager		Date
Signature (and organization name if applicable) of self-dealer, foundation manager, or organization manager		Date
Signature of individual or firm preparing the return	Address of preparer	Date

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