



## HOW TO SET UP A NON-PROFIT WITH 501(C)(3) STATUS

Setting up a new nonprofit organization with tax-exempt status can be an overwhelming process - with state formation filings, state tax applications, IRS filings, and more.

- Lengthy paperwork. The applications take a lot of time to complete - the IRS estimates that it takes a novice 105 hours to complete their Form 1023 application alone. The state filings are additional work.
- Government review time. If any mistakes are made in the initial applications, some organizations have found delays of 15 - 20 months in getting their final approval. It is essential to get the applications done the right way, the first time, so that donors can start making tax-deductible donations to your project.

Askin & Hooker, LLC helps new nonprofits get started quickly and easily. We handle all of the steps so our clients obtain 501(c)(3) status in record time.

Each organization is unique in its formation applications. The steps here are for average sized public charities (foundations, small booster clubs, churches, associations may have different steps).

---

## WHAT IS A NONPROFIT?

The word “nonprofit” generally is used to describe organizations that work to serve a public purpose, rather than to provide financial benefit to any particular individual, corporation, or entity. <https://www.nj.gov/treasury/taxation/nonprofits.shtml>

**Mission driven** - created to serve and fulfill an unmet community need.

No one owns a nonprofit. Managed by a governing board of directors.

Can earn a revenue in excess of operating budget (revenue surplus, not “profit”). If the nonprofit earns a surplus, those funds are directed back into the organization

**Names** – There are many terms used to describe nonprofits, including, but not limited to: Non-profit, charity, not for profit, NGO, voluntary organization, independent sector, third sector, social sector.



Some people may mistakenly call a nonprofit organization a “501(c)” or “tax-exempt group.” “Nonprofits” and “Tax-Exempt Groups” are different concepts. And many charitable organizations are organized and operated as both nonprofit corporations and tax-exempt entities.

- **Nonprofit** status refers to incorporation status under state law.
- **Tax-exempt** status refers to IRS federal income tax exemption.

---

## HOW TO START A NONPROFIT

Here are steps to help you get started setting up a nonprofit that has tax-exempt status.

### 1. MAKE A PLAN

#### RESEARCH

- As you begin, make sure that a new non-profit organization in your area that serves your cause is viable. Research if an organization already exists in your area that serves your cause.

#### GATHER A TEAM

#### DEVELOP STRATEGIC OPERATIONAL & FUNDRAISING PLANS

- Why will the organization exist?
- How is the charity going to meet an unmet community need?
- How will this nonprofit address this need differently from other nonprofits in the same field?
- What will be the nonprofit's core activities?
- What is the nonprofits mission?
- How will we fund this program?

### 2. SELECT A NAME

Pick a name that describes your organization’s mission that the public is likely to remember, and one that isn’t being used by another business or group as a trademark or domain name.

The legal name of your nonprofit corporation may not conflict with any other registered name. Check availability of your desired name by conducting a name search with your secretary of state.



### **3. RECRUIT A BOARD OR DIRECTORS**

No one owns a nonprofit. Rather, nonprofits are usually managed by a board of directors. This governing board is legally accountable for its actions. They are accountable to the public, to your supporters, and to your beneficiaries to oversee the accomplishment of the organization's purposes. In New Jersey, your nonprofit corporation must have three or more directors.

### **4. SELECT A LEGAL STRUCTURE**

The most common legal structure for a nonprofit is a nonprofit corporation. Less common options include a B-Corporation, nonprofit LLC, L3C, unincorporated nonprofit association, and a trust. Since it is most common, for this article, we assume that you are creating a nonprofit corporation.

### **5. PREPARE AND FILE A NONPROFIT CERTIFICATE OF INCORPORATION WITH THE STATE**

A nonprofit corporation is created by filing a Certificate of Incorporation with the Secretary of State of New Jersey in accordance with the state's business code.

This certificate includes key information:

- Purpose of organization
- Name of initial directors
- Name of incorporator
- Name and address of registered agent. This individual or company receives notice of lawsuit and other legal service for the corporation
- <https://www.njportal.com/DOR/BusinessRegistration>

### **6. DRAFT BYLAWS**

Bylaws are your organization's operating manual. They set out the rules that govern the internal management of an organization. The initial board of directors should prepare and adopt bylaws for the corporation simultaneously with the preparation of the Certificate of Incorporation or soon thereafter. You are not required to file bylaws with the Secretary of State, but you must keep a copy at the nonprofit corporation's principal place of business. A copy of the bylaws, signed by a corporate officer, must be submitted when applying for the federal tax-exemption.



## **7. HOLD AN ORGANIZATIONAL MEETING OF DIRECTORS**

At this meeting, the nonprofit should approve the bylaws, elect additional directors, appoint officers, and approve initial resolutions such as opening a company bank account. Keep minutes of this meeting.

## **8. APPLY FOR A FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN)**

Your nonprofit must obtain an EIN regardless of whether it will hire employees. This number will be used on all federal tax returns and receipts. The EIN is also needed to open a bank account. The organization should complete IRS Form SS-4, available on the IRS website, to request an Employer Identification Number (“EIN”) from the IRS. <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

## **9. PREPARE THE 1023 FEDERAL TAX-EXEMPTION APPLICATION [TO GET 501(C)(3) STATUS]**

To become a public charity that is tax-exempt [often called a 501(c)(3) charitable organization], a nonprofit must file IRS Form 1023 with the IRS. This is most difficult and costly step of setting up a nonprofit. The IRS will return a Determination letter which officially recognizes your exemption. <https://www.irs.gov/forms-pubs/about-form-1023>

As described in the instructions to the IRS Form 1023, the following must be included as part of the application: (Fee: \$400 if organization expects to have no more than \$10,000 in revenue for the first four years, otherwise \$850)

- Certified copy of the Certificate of Incorporation
- Copy of bylaws
- Detailed proforma financial statements, including revenue and expense statement for current and three preceding fiscal years
- For new organizations, proposed budgets for the next two fiscal years including a list of anticipated financial support
- Narrative description of past, present, and future planned activities with emphasis on broad public benefit of the organization's activities
- Names and addresses of directors and officers
- Annual accounting period (fiscal year)
- Statement as to whether the organization is claiming status as a private foundation



ASKIN & HOOKER, LLC.  
ATTORNEYS AT LAW

- or public charity
- Employer Identification Number (EIN)

## **10. APPLY FOR STATE EXEMPTIONS & OTHER PERMITS**

The New Jersey State Treasury oversees collection of state and local taxes, fees, and assessments. State laws allow 501(c)(3) exempt and various other types of organizations to be exempt from paying (or collecting) sales tax, hotel occupancy tax and franchise tax. In order to obtain status as an Exempt Organization, your nonprofit must complete and file an Application for ST-5 Exempt Organization Certificate with the New Jersey Division of Taxation. [https://www.state.nj.us/treasury/taxation/pdf/other\\_forms/sales/reg1e.pdf](https://www.state.nj.us/treasury/taxation/pdf/other_forms/sales/reg1e.pdf)

## **11. REGISTER YOUR CHARITY WITH THE OFFICE OF THE ATTORNEY GENERAL DIVISION OF CONSUMER AFFAIRS**

See the website below and create an account. Use the portal to manage your charities. If someone wants to check that you are a verified/registered charity in the State of New Jersey this is where they go. Additionally, this is where you would go to file a complaint if someone was inappropriately using a charity.

<https://www.njconsumeraffairs.gov/charities/Pages/charities-registration-forms.aspx>