

Starting a Nonprofit: A Simple Guide

Starting a nonprofit can be deeply rewarding, offering an opportunity to support your community and create meaningful change. But, much like starting any business, it requires careful planning and attention to legal and organizational requirements.

Step 1: Make a Plan and Do Your Research

Before you start, ask yourself some important questions:

- What is my goal?
- Who do I want to help?
- Do similar nonprofit services already exist? If so, what will make my organization unique or stand out from others?
- Do I have the time, funding, and support to do this?
- How long will it take?

Start by writing down your idea, mission, and vision. Then create a detailed organizational plan. This is important because parts of your plan will be used when applying for tax-exempt status (Form 1023) and raising funds.

Your organizational plan should include:

- Start-up costs
- Demographic age group and area
- Ongoing operating costs
- Examples of start-up costs:
- Partnerships with other nonprofit organizations or community organizations
- State filing fees
- Legal and accounting help

Step 2: Set Up Your Nonprofit and Its Leadership

You'll need to complete certain paperwork to formally establish your nonprofit, secure liability protection, and move forward with applying for 501(c)(3) tax-exempt status. Here's a checklist to help guide you:

- Choose a Name
Pick a name that's meaningful and unique. Make sure it's available by checking with your state's Secretary of State or nonprofit search websites.

- **Create a Board of Directors**
Your board is a group of people who help guide and support your nonprofit. They are legally responsible for helping you meet your goals. Rules for boards vary by state, so check local laws. In New York, you need a minimum of 3 board members.
- **Write Bylaws**
Bylaws are the rules for how your nonprofit will run. Work with your board to write them. We recommend that you work with an attorney to review and draft bylaws. You will most likely need this when filing your paperwork.
- **Decide on a Legal Structure**
We recommend consulting with an attorney to determine the best structure for your organization. Please note that in New York, there is only one corporate form for not-for-profit entities. However, depending on your goals, you may not need to incorporate at all. An attorney can help you assess whether forming a not-for-profit corporation is appropriate or whether operating as an unincorporated association may be sufficient.
- **If you choose to incorporate as a not-for-profit corporation**
File your certificate of incorporation with the New York Department of State. The fee is currently \$75. We recommend consulting with an attorney to complete this process.

The certificate of incorporation typically includes:

- a) The purpose of your organization.
- b) Names of your first board of directors.
- c) Name and address of a registered agent, if any.
- d) A statement about whether your group will have members

Once formed, you may obtain an Employer Identification Number (EIN), which functions like a social security number for your nonprofit. After completing the incorporation process with the state, you may proceed with seeking tax exemption with the federal government.

Step 3: Apply for Tax-Exempt Status (501(c)(3)) We recommend consulting with an attorney to assist you with this process.

What does it mean to be exempt from federal income tax?

A 501(c)(3) tax-exempt status is given by the IRS to organizations that are charitable, religious, educational, scientific, literary, or otherwise serve the public good. Being a 501(c)(3) means that the organization:

- Doesn't pay federal income taxes on money it earns.

- Can accept tax-deductible donations from individuals and businesses (the individuals and businesses can deduct their contributions when filing taxes).
- It is restricted in terms of political involvement (cannot spend most of its time supporting or opposing political candidates or lobbying).

To receive federal tax-exempt status, you'll need to file IRS Form 1023-EZ (for organizations with less than 50K in gross revenue) or 1023 (for organizations with over 50K in gross revenue), depending on the projected revenue for your organization. Here's what you'll need:

- A copy of your state-approved certificate of incorporation.
- A copy of your bylaws (only if submitting the Form 1023)
- Financial statements for the past three years (if available and only for Form 1023)
- Budget for the next two years (Can be a projected budget, and only for Form 1023)
- A summary of your activities and how they help the public
- Names and addresses and titles of your directors and officers
- Your fiscal year (annual accounting period, and only for Form 1023)
- A statement about whether you're a public charity or private foundation
- Your EIN
- A filing fee of \$275 or \$600, depending on which application you file, which is determined by the size of your budget.

Step 4: Register for Fundraising. We recommend consulting with an attorney to assist you with this process.

Many states require nonprofits to register before soliciting contributions. Check the rules of the states where you plan to fundraise. In New York, most charitable organizations, unless specifically exempt, are required to register with the Attorney General's Charities Bureau. Organizations that solicit charitable contributions from the public, foundations, other organizations, or government agencies within New York State must register under Article 7-A of the Executive Law. Organizations that hold assets for charitable purposes must register under the Estates, Powers and Trusts Law (EPTL). If an organization engages in both, it must comply with both laws but may file a single registration (Form CHAR410). Organizations intending to solicit contributions must register before beginning solicitation. For those holding charitable assets, registration is required within six months of acquiring the property.

To register with the Charities Bureau, by submitting form CHAR410 you'll need:

- Completed CHAR410 form
- A copy of your State-approved Certificate of Incorporation
- A copy of your IRS Determination Letter
- A copy of your bylaws
- A copy of your conflict-of-interest policy (optional – but recommended)

Step 5: State and Local Tax Exemption. We recommend consulting with an attorney to assist you with this process.

a. **The NYC General Corporation Tax Exemption (GCT)** is a tax break for certain businesses in New York City.

- **Who qualifies?** Certain nonprofit organizations such as 501(c)(3) charities, educational institutions, and other tax-exempt entities may qualify for an exemption from the NYC General Corporation Tax (GCT), provided they are organized and operated exclusively for charitable, religious, educational, or similar purposes.
- **What does it do?** qualifying organizations are exempt from paying the GCT, which is normally imposed on corporations doing business, employing capital, owning or leasing property, or maintaining an office in New York City.
- **Why?** It helps groups that are doing good work for the community, by reducing their tax burden, allowing more resources to be directed toward their charitable or educational missions.

b. **The NYS Corporation Tax Exemption (Form CT-247)**

- **Who qualifies?** certain nonprofit organizations such as charities, educational institutions, and religious organizations that are recognized as tax-exempt under Internal Revenue Code §501(c)(3) and meet New York State's criteria may qualify.
- **What does it do?** It exempts eligible organizations from paying New York State **franchise taxes** on income from activities related to their tax-exempt purposes.
- **How to get it?** The organization must file Form CT-247 (Application for Exemption from Corporation Franchise Taxes) with the New York State Department of Taxation and Finance.

c. **The NYS Sales Tax Exemption (ST-119)** is a tax break for certain organizations in New York State.

- **Who qualifies?** Certain nonprofit organizations such as 501(c)(3) charities, educational institutions, and religious organizations that are organized and operated exclusively for exempt purposes and have received IRS tax-exempt status may apply for exemption from New York State sales tax.
- **What does it do?** it allows eligible organizations to make tax-exempt purchases of goods and services used for their tax-exempt purposes, meaning they don't pay sales tax on qualified purchases.

- **How to get it?** the organization must submit Form ST-119.2 (Application for an Exempt Organization Certificate) to the NYS Department of Taxation and Finance. If approved, they receive Form ST-119, the Exempt Organization Certificate, which they must present to vendors to claim the exemption.
- d. **The New York Real Property Tax Exemption** allows certain nonprofit organizations, such as charitable, educational, religious, and hospital institutions to be exempt from paying property taxes on real estate they own and use exclusively for exempt purposes. To apply, organizations must file Form RP-420-a (for general nonprofit use) or Form RP-420-b (for religious use) with the local assessor's office, typically by March 1 of the year in which the exemption is sought.

Essentially, the tax exemptions stated above allow nonprofits to save money for their mission-driven work, helping them stretch their budgets further.

*If you need legal assistance with any of the above matters, contact the **Community Development Project (CDP) at the Legal Aid Society**. We're here to help individuals or organizations with information, advice, or representation on essential transactional legal services. Reach out to **CDP** by phone at **(212) 298-3340** or email us at communitydevproject@legal-aid.org, or scan the **QR code**. Our staff will review your situation and, if needed, arrange an appointment.*

