



Creating a 501(c)(3) Nonprofit in North Carolina

Initial Planning

- *Is your nonprofit needed?* Carefully assess the need for your proposed nonprofit organization. Before you decide to create a new, separate nonprofit, talk with existing nonprofits that have goals similar to yours. Consider creating a project or program within another organization rather than spending your time and energy establishing a new organization.
- *Establish a Board of Directors.* If you are sure a new organization is really needed, the next step is to establish a Board of Directors. North Carolina law requires only one board member, but best practices recommend that you have at least five; a minimum of seven is preferable.
 - As you recruit board members, make sure they are aware of their roles and responsibilities. These include but are not limited to: selecting and reviewing the performance of the chief executive; recruiting new board members; ensuring effective organizational planning; evaluating organizational performance; providing financial oversight; and ensuring legal and ethical integrity.
 - A first priority for the board of directors is to clarify the organization's mission and purpose. The board must realistically determine both its short- and long-term goals by identifying who the organization will serve, clarifying what values will drive the organization, and planning for how the organization's mission may evolve over time.

Steps to Establish Your Nonprofit

- Before applying for tax-exempt status, you need to create organizational bylaws. It's helpful to review those of existing nonprofits and to have a lawyer review them before they're finalized.
- Incorporate as a nonprofit corporation by registering with the N.C. Department of the Secretary of State. For forms and free information, including guidelines for incorporating, call 888/246-7636 or 919/807-2225, or visit www.secretary.state.nc.us/corporations.
- Apply for a Federal Employer Identification Number (FEIN). File Form SS-4 (available at www.irs.gov/pub/irs-pdf/ffss4.pdf) with the IRS -- even if your nonprofit doesn't have any employees. The IRS uses this number to track reports and your tax-exempt application.
- The next step is to apply to the IRS for tax-exempt status as a 501(c)(3) nonprofit by filing Form 1023. The form and instructions are available at www.irs.gov/charities/index.html or by calling 800/829-3676. We strongly recommend you have an attorney or CPA familiar with nonprofit tax law review your application before final submission. You will hear from the IRS in 3-24 months after submitting Form 1023.
- Ordinarily, there is no need for a new nonprofit to apply for an exemption from the state income and corporate franchise taxes. Rather, the N.C. Secretary of State will notify the N.C. Department of Revenue after an organization registers as a nonprofit. The Department of Revenue will then contact the nonprofit to obtain additional information and begin the process. While nonprofits must pay sales and use taxes at the point of purchase, most can obtain a semi-annual refund by filing a Form E-585 with the Department of Revenue. For more information or to obtain Form E-585, visit www.dornrc.com or call 877/252-3052.
- You are required to carry workers' compensation insurance once you have three full- or part-time employees and/or corporate officers. Contact the N.C. Industrial Commission (919/807-2500, (www.comp.state.nc.us)) for information on how to obtain coverage.

- File with the N.C. Employment Security Commission (919/733-7156, www.ncesc.com) for unemployment taxes when you have at least four full- or part-time employees working a total of 20 weeks in one calendar year. Apply for an Unemployment Tax Number and then file the Employer's Quarterly Tax and Wage Report.
- Apply for local property tax exemption by contacting your local County Tax Office. Even if property tax exemption is granted, it is still necessary to file a complete property listing by January 31.
- Finally, make sure you apply for a Charitable Solicitation License through the Solicitation Licensing Branch of the N.C. Department of the Secretary of State (888/830-4989 or 919/807-2214, www.secretary.state.nc.us/csl) if you will be raising \$25,000 or more in one calendar year.

Ongoing Legal Requirements

- *File Form 8734.* The initial letter you receive detailing your 501(c)(3) status is an "advanced ruling" only. To maintain this status, your organization must submit Form 8734 to the IRS within 90 days of the end of your advanced ruling period (this date will be listed on your IRS determination letter).
- *File IRS Form 990.* Any nonprofit with annual gross receipts of \$25,000 or more must file a Form 990. You must refile Form 990 annually within 4.5 months after your fiscal year ends. Beginning in 2008, nonprofits with receipts under \$25,000 are required to electronically file form 990-N. The forms are available on the IRS website, www.irs.gov/charities/index.html. Call 877/829-5500 or your CPA for details.
- *Renew your organization's Charitable Solicitation License.* The license must be renewed annually, within 4.5 months after the end of your fiscal year.
- *Collect sales tax on items sold.* If your nonprofit sells retail items, register with the N.C. Department of Revenue for a Certificate of Registration, file the returns, and pay the tax due on a quarterly or monthly basis, depending on your volume of sales. Contact the Taxpayer Assistance Division, 877/252-3052 or www.dornc.com.
- *When needed, update your principal office address and registered agent with the N.C. Secretary of State.* For a Change of Registered Office/Agent form, call the N.C. Department of the Secretary of State (919/807-2225).
- *Follow all state and federal laws related to employment,* including I-9, W-2, and W-4 forms; withholding taxes; and posting all compliance posters. For free compliance posters, call 800/625-2267 (N.C. Department of Labor), 866/487-2365 (U.S. Department of Labor), and 800/688-8349 (N.C. Industrial Commission).

Resources

- *How to Form A Nonprofit Corporation*, Anthony Mancuso (Nolo Press, 800/728-3555, www.nolo.com).
- *The Nonprofit Handbook*, Gary Grobman (White Hat Communications, 717/238-3787, www.whitehatcommunications.com).
- Chapter 55A North Carolina Corporation Act: www.ncga.state.nc.us/enactedlegislation/statutes/html/bychapter/chapter_55a.html.
- Board and Staff Helpline, a confidential service for organizations that are Members of the N.C. Center for Nonprofits. Members can also access hundreds of Frequently Asked Questions on the website. Visit www.ncnonprofits.org/infocenter.asp or www.ncnonprofits.org/askthecenter.asp.
- N.C. Center for Nonprofits, www.ncnonprofits.org. To join, visit www.ncnonprofits.org, or call 919/790-1555, ext. 100.

NonProfit Connections and the N.C. Center for Nonprofits have created a close partnership to provide a seamless continuum of support services to Winston-Salem/Forsyth County nonprofits. These partners work closely together to ensure that services to local nonprofits tap all existing statewide and local resources and avoid duplication and the waste of resources. Visit NonProfit Connections at www.nonprofit-connections.org (or call 336/703-3029) and the N.C. Center for Nonprofits at www.ncnonprofits.org (or call 919/790-1555, ext. 100) to learn more.