

Starting a

*Nonprofit
Organization*

in New Jersey

Questions and Answers

**New Jersey Division of Taxation
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Starting a Nonprofit Organization in New Jersey

Questions and Answers

GETTING ORGANIZED

1. **Q. If my group wants to form a nonprofit organization in New Jersey, what should we do?**

- A. ***Step 1 – Plan***

Do research and planning on: whether your organization should be incorporated; what to state in the certificate of incorporation or other organizing documents; and whether you want the certificate of incorporation or other organizing documents to meet the requirements for obtaining a particular Federal exemption status, such as Section 501(c)(3) status. For information on Federal exemption, obtain Publication 557 from the Internal Revenue Service (see resource list on page 11).

- Step 2 – Draft Organizing Documents***

Your organization's certificate of incorporation or other organizing documents will include a statement of the organization's purposes and certain nonprofit provisions. The resources available to help you draft a certificate of incorporation or other organizing documents include library materials, private attorneys, and organizations that assist other organizations, such as the Center for Nonprofit Corporations in North Brunswick, New Jersey. For information on drafting a certificate of incorporation, see *Incorporation* on page 3.

- Step 3 – Apply for Federal Employer Identification Number***

The Internal Revenue Service advises all organizations to obtain a Federal Employer Identification Number (FEIN), including organizations that do not have employees. If the organization has employees or applies for an IRS determination letter of exemption, the IRS will require the organization to have an FEIN. If the organization opens a bank account in the organization's name, the bank will require the organization to have an FEIN. To request an FEIN, file Federal Form SS-4, or contact the IRS by phone (see resource list on page 11). You may also be able to obtain Form SS-4 from certain libraries and post offices.

Step 4 – Apply for Federal Exempt Status, if Required or Desired

Consult IRS Publication 557, IRS representatives, or private professional advisors to determine whether your organization is required to or should obtain an exemption determination from the Internal Revenue Service. For further information, see *Federal Tax-Exempt Status* on page 5 or call the IRS at 1-877-829-5500.

Step 5 – Comply With Charities Registration Requirements

Many organizations, including all 501(c)(3) organizations (except certain religious or educational institutions), are required to register with the New Jersey Charities Registration Section. For more detailed information concerning whether your organization is required to register and how to register, contact the Charities Registration Section at 973-504-6215 (see resource list on page 11 for complete name, address, and Web site).

Step 6 – Consider Applying for Sales and Use Tax Exemption

If your organization is an IRC Section 501(c)(3) organization (or a parent-teacher, fire co., emergency, or veterans' organization), the organization may apply for exemption from New Jersey sales and use tax. Your organization will not be exempt from paying or collecting sales tax until the organization applies to the Division of Taxation by completing Form REG-1E. For details, see *NJ Sales and Use Tax Exemption* on page 7.

2. Q. How does my organization obtain an exemption or registration number?

- A. Bank Accounts** – Banks need your organization's Federal Employer Identification Number, which is obtained by submitting Federal Form SS-4 to the IRS. A bank might also request documentation of non-profit status.

Exemption From New Jersey Sales Tax – Vendors need a copy of the Form ST-5 Exempt Organization Certificate issued to your organization. The ST-5 certificate also qualifies your organization for exemption from collecting sales tax on qualifying thrift store or occasional fundraising sales. For details, see *NJ Sales and Use Tax Exemption* on page 7.

NOTE: Federal and New Jersey government agencies are not issued an ST-5 certificate.

Federal Exemption Number – If an office requests your organization’s Federal exemption number, the office probably wants the Federal Employer Identification Number and, possibly, an IRS determination letter of exemption. You may need to ask for clarification concerning what is being requested.

Fundraising or Charities Registration – Your organization obtains this number from the New Jersey Charities Registration Section (see resource list on page 11).

Incorporation – If your organization is incorporated in New Jersey (or if it is incorporated elsewhere and made a public records filing in New Jersey), the organization will receive a ten-digit identification number.

NOTE: There is no single, all-purpose number.

INCORPORATION

3. Q. Is my nonprofit organization required to be incorporated?

A. No. While there are advantages to being incorporated, there also may be certain disadvantages, such as filing fees and annual filing requirements. Your organization needs to do research or talk to professional advisors concerning whether incorporation is advisable for your particular organization.

4. Q. How does my nonprofit organization become incorporated?

A. To become incorporated in New Jersey, your organization needs to file a certificate of incorporation (and pay the fee) with the New Jersey Division of Revenue, Corporate Filing Unit (see resource list on page 11). Religious organizations may want to contact the Corporate Filing Unit for information on Title 16 incorporation (certificate filed with the county and then with the State), which involves only a \$5 State filing fee and no annual filing requirements.

One method for incorporating in New Jersey is to file (with the \$75 fee) the Public Records Filing for New Business Entity form, which is in the New Jersey Complete Business Registration Package available from the Division of Revenue (see resource list on page 11). If you use the form and plan on applying for IRC Section 501(c)(3) status with the IRS,

the following guidelines should help you satisfy IRS requirements:

1. In the item labeled “Type of Business Entity” insert “NP”;
2. In the item labeled “Business Purpose” include the 501(c)(3) purpose wording required by the IRS (see Chapter 3 of IRS Publication 557);
3. In the item labeled “Stock” make no entry;
4. In the item labeled “Management” list at least three trustees;
5. Directly below the item labeled “Additional Entity-Specific Information” insert “see attached 501(c)(3) requirements.” On the attachment include the IRS-required restrictions such as those found in the Fifth Article of Draft A of the Sample Articles of Organization in IRS Publication 557 (see also detailed information in Chapter 3 of IRS Publication 557);
6. Below the item labeled “Domestic Non-Profit Corporations (Title 15A)” under “The method of distribution...” check the box for “As set forth herein:” and include the 501(c)(3) dissolution wording required by the IRS (see Chapter 3 of IRS Publication 557, particularly the Sample Articles of Organization, Draft A, Sixth Article).

NOTE: For information on Section 501(c)(3), (c)(4), etc. requirements, contact the Internal Revenue Service.

If your organization wants to incorporate in New Jersey by using the Sample Articles of Incorporation in IRS Publication 557, you must satisfy New Jersey requirements by adding certain provisions from the New Jersey Public Records Filing for New Business Entity Form. More specifically, include the registered agent, three trustees, incorporators, membership and other information, and signatures required by all the items from “Contact Information” through “Additional...Information” on the Public Records Filing for New Business Entity Form.

5. Q. Is there a fee for becoming incorporated?

- A.** Yes. The New Jersey fee for filing to become incorporated as a nonprofit corporation is \$75 (or \$5 for religious organizations following Title 16 procedures).

6. **Q. If my nonprofit organization becomes incorporated, will it then need to obtain a New Jersey determination of exemption from New Jersey corporate income taxes?**
- A. If your organization is properly incorporated as and operated as a nonprofit corporation, your organization is exempt from the New Jersey corporation business tax without any exemption letter. (See *Federal Tax-Exempt Status* below for a discussion of exemption from Federal income tax.) However, the corporation may voluntarily obtain a letter of exemption. For details, contact the Regulatory Services Branch of the Division of Taxation (see resource list on page 11).
7. **Q. If my organization incorporates, is there an annual renewal requirement?**
- A. Yes, except for religious organizations that follow special Title 16 incorporation procedures. The New Jersey Division of Revenue, Corporate Filing Unit will automatically send the annual filing form to the organization's registered agent. The annual filing form must be completed and returned with the annual filing fee. If your organization does not receive the annual filing form, it must obtain the proper form from the Corporate Filing Unit (see resource list on page 11). Failure to file the annual forms and pay the annual fee for two consecutive years generally results in revocation of the corporate charter.

FEDERAL TAX-EXEMPT STATUS

8. **Q. Is my organization required to obtain a Federal (IRS) determination of tax-exempt status?**
- A. To find out whether your organization is required to obtain Federal (IRS) tax-exempt status, study IRS Publication 557 or talk with an IRS representative (see resource list on page 11).

A qualifying organization may find it wants the IRS determination letter of Section 501(c)(3) status, even when it is not required by the IRS. The IRS instructions for applying for Section 501(c)(3) status state:

"Section 501(c)(3) status provides certain incidental benefits such as:

- Public recognition of tax-exempt status.
- Advance assurance to donors of deductibility of contributions.

- Exemption from certain state taxes.
- Exemption from certain Federal excise taxes.
- Nonprofit mailing privileges, etc.”

Also, your organization may want the IRS Section 501(c)(3) exemption letter to use to apply for exemption from State sales and use tax. (See *NJ Sales and Use Tax Exemption* on page 7.)

9. Q. How does an organization obtain an IRS determination letter of exemption?

- A.** You must obtain the proper application and related forms from the IRS (see resource list on page 11). To apply for Section 501(c)(3) exempt status, you need to properly complete and file Federal Form 1023. To apply for exempt status under other sections of the Internal Revenue Code, you generally need to properly complete and file Federal Form 1024. For general information on Federal tax exemption, obtain IRS Publication 557. To help ensure that your organization timely receives the desired determination, you may want to complete the application under the guidance of a professional advisor.

10. Q. Does the IRS charge a fee for applying for an IRS determination letter?

- A.** Yes. The IRS user fee Form 8718 and the appropriate fee must be included with your organization’s Form 1023 or Form 1024 application. The fee ranges between \$150 and \$500. (Consult the IRS for details on the current fee schedule.)

STATE TAX-EXEMPT STATUS

11. Q. Is my organization legally required to obtain a State of New Jersey determination of tax-exempt status?

- A.** Generally, no, except if your organization wants exemption from the New Jersey sales and use tax or petroleum products gross receipts tax. Also, your organization may be required to register with the New Jersey Charities Registration Section and, for raffles, 50/50s, etc., with the New Jersey Legalized Games of Chance Control Commission (see resource list on page 11). Furthermore, if your organization needs a letter of exemption from the New Jersey corporation business tax, such as for a real property transaction, contact the Regulatory Services Branch (see resource list on page 11).

NJ SALES AND USE TAX EXEMPTION

12. Q. How does my organization obtain exemption from New Jersey sales and use tax?

- A.** To obtain exemption from New Jersey sales and use tax, an organization must complete Form REG-1E, Application for Exempt Organization Certificate, and attach a copy of the certificate of incorporation or other organizing documents, any by-laws, and an IRS 501(c)(3) determination letter. (See Question 17 on page 8 for a list of organizations that do not need a 501(c)(3) letter.) Form REG-1E is obtained from and submitted to the Regulatory Services Branch of the Division of Taxation and is also available on the Division's Web site (see resource list on page 11).

NOTE: New Jersey and Federal government agencies should not complete Form REG-1E. They are not issued an ST-5 certificate.

13. Q. Is there a fee to apply for exemption from New Jersey sales and use tax?

- A.** No.

14. Q. If my organization files Form REG-1E to apply for sales tax exemption, does the organization also need to file the NJ-REG Business Registration form?

- A.** No. Form REG-1E also serves as a tax registration form. If, however, your organization has a business operation, you should review the "Taxes" section of the NJ REG package to be apprised of the possible tax liabilities. Also, if your organization is starting to pay salaries, attach a prominent note to your application which will allow us to promptly notify the Client Registration Bureau.

15. Q. Can my organization apply for sales and use tax exemption while we are waiting to apply for or receive the IRS Section 501(c)(3) determination letter?

- A.** Yes. The Division of Taxation will keep your Form REG-1E on file for up to two years and then process it once you send the IRS Section 501(c)(3) determination letter. If the REG-1E application is approved, the sales tax exemption will be effective as of the date that the Division of Taxation received the application.

- 16. Q. If my organization's REG-1E application for exemption is approved, how long does it take to receive the exemption certificate?**
- A.** If the Division of Taxation has received Form REG-1E and all the required documentation, and if the Division approves the application, the State will mail the ST-5 exemption certificate in approximately 3 to 4 weeks.
- 17. Q. Are there types of organizations besides 501(c)(3) organizations that qualify for exemption from sales and use tax?**
- A.** The following types of organizations are specifically listed as exempt under the New Jersey sales and use tax law: volunteer fire companies, rescue, ambulance, first aid, or emergency companies or squads; veterans' organizations and their auxiliaries; and associations of parents and teachers of an elementary or secondary public or private school. These kinds of organizations may apply and be approved for sales and use tax exemption without an IRS Section 501(c)(3) determination letter. (Religious organizations not applying for an IRS determination letter may contact the Regulatory Services Branch for additional information.)
- 18. Q. Do fraternal organizations, senior citizens' clubs, or other social clubs qualify for exemption from sales and use tax?**
- A.** No. To qualify for exemption from sales and use tax, an organization must be organized and operated *exclusively* for religious, charitable, scientific, literary, educational, or prevention of cruelty purposes, or for one of the specific purposes listed in the answer above.
- 19. Q. Can my organization's sales and use tax exemption be retroactive?**
- A.** Only if the organization files Form REG-1E with the Division of Taxation within six months of the formation of the organization, in which case the exemption is effective as of the date of formation. Otherwise, the effective date for an organization's ST-5 is the date that the Division of Taxation receives the organization's REG-1E application for exemption. An exempt organization may request a refund of New Jersey sales tax paid on purchases delivered between the date of application and the date of receiving the ST-5 certificate.

- 20. Q. Can my organization use an ST-4 Exempt Use Certificate or Certificate of Authority form for exemption from sales tax as a nonprofit organization?**
- A.** No. For exemption from New Jersey sales and use tax as a qualifying nonprofit organization, the proper proof of exemption is the ST-5 Exempt Organization Certificate.
- 21. Q. Can my organization use a nonprofit sales tax exemption certificate from another state for exemption in New Jersey?**
- A.** No.
- 22. Q. What are the sales and use tax exemptions provided by a valid ST-5 certificate?**
- A.** The organization is exempt on purchases of goods, equipment, and services used for the organization's exempt purposes. Also, the organization is not required to collect sales tax on occasional fundraising sales or qualifying thrift store sales. For more information on Exempt Organization Certificates, request or download the Division of Taxation's brochure M-5014, *Exempt Organization Certificate*, or Technical Bulletin TB-46, *Exemptions for Organizations Having ST-5 Exempt Organization Certificate* (see resource list on page 11).

OTHER QUESTIONS

- 23. Q. Are there annual filings or renewals that my organization needs to remember?**
- B.** Your organization has annual filing requirements with the State of New Jersey if: (1) your organization is incorporated or (2) your organization is required to register with the New Jersey Charities Registration Section. Also, your organization may need to file a Federal Form 990 or other forms with the IRS. For forms or detailed information on those filing requirements, contact the appropriate office (see resource list on page 11).

NOTE: This is not a complete list of all annual filing requirements, which may include annual filings for employee withholdings, etc.

The ST-5 Exempt Organization Certificate does not need to be renewed. If, however, your organization

has a name or address change or a merger, call or write the New Jersey Division of Taxation or Division of Revenue to update your records and obtain a new ST-5 certificate.

24. Q. My organization annually files a Federal Form 990 return with the IRS. Do we need to send a copy to the New Jersey Division of Taxation?

A. No. However, you may need to file a copy with the New Jersey Charities Registration Section. For further information, contact the Charities Registration Section (see resource list on page 11).

25. Q. How does my organization obtain exemption from the New Jersey petroleum products gross receipts tax?

A. If your organization has the ST-5 Exempt Organization Certificate, a written purchase contract extending one (1) year or longer, and sales invoices meeting certain standards, your organization can use a Form PPT-5 for proof of exemption from the petroleum products gross receipts tax. To obtain information and Form PPT-5 (which does *not* apply to the New Jersey excise tax on motor fuels) contact: State of New Jersey, Division of Taxation, Audit Services Branch, PO Box 189, Trenton, NJ 08695; or call 609-984-7171. Form PPT-5 is also available on the Division's Web site (www.state.nj.us/treasury/taxation/), or by calling 1-800-323-4400.

26. Q. If my organization wants to have a raffle, 50/50, or other game of chance fundraiser, do we need to obtain a special registration number?

A. To obtain information on the requirements for having game of chance fundraisers, contact the Legalized Games of Chance Control Commission (see resource list on page 11).

OFFICES TO CONTACT FOR ASSISTANCE

FEDERAL EMPLOYER IDENTIFICATION NUMBER AND FEDERAL EXEMPTION

Internal Revenue Service

Phone: 1-800-829-3676 to request forms and
publications
1-866-816-2065 to apply for a Federal
Employer Identification Number
1-877-829-5500 (IRS Exempt Organization
Unit) to talk to an IRS Representative

Web site: www.irs.gov

FUNDRAISING/CHARITIES REGISTRATION INFORMATION

Charities Registration Section
New Jersey Division of Consumer Affairs

Address: 124 Halsey St.
PO Box 45021
Newark, NJ 07101

Phone: 973-504-6215

Web site: www.njconsumeraffairs.gov/charhlp.htm

E-mail: AskConsumerAffairs@lps.state.nj.us

INCORPORATION INFORMATION

Corporate Filings Unit
New Jersey Division of Revenue

Mailing Address: PO Box 308
Trenton, NJ 08646-0308

Physical Address: 225 West State St., 3rd Floor
Trenton, NJ 08608-1001

Phone: 609-292-9292

Fax: 609-984-6849

Web site: www.state.nj.us/njbgs/

**NEW JERSEY SALES TAX (OR CORPORATE TAX)
EXEMPTION INFORMATION**

Regulatory Services Branch
New Jersey Division of Taxation

Address: PO Box 269
Trenton, NJ 08695-0269

Phone: 609-292-5994

Web site: www.state.nj.us/treasury/taxation/

RAFFLES, 50/50s, ETC. INFORMATION

Legalized Games of Chance Control Commission
Division of Consumer Affairs

Address: 124 Halsey Street
PO Box 46000
Newark, NJ 07101-8002

Phone: 973-273-8000

Web site: www.njconsumeraffairs.gov/lgccc.htm

**REGISTRATION FOR EMPLOYEE TAX WITHHOLDING (NEW
JERSEY) OR OTHER STATE TAX PAYMENTS**

Client Registration Bureau
New Jersey Division of Revenue

Mailing Address: PO Box 252
Trenton, NJ 08646-0252

Physical Address: 847 Roebling Ave.
Trenton, NJ 08611

Phone: 1-800-323-4400 or 609-826-4400 for forms
609-292-1730 to talk to a representative

Fax: 609-292-4291

Web site: www.state.nj.us/treasury/revenue/



**State of New Jersey
Department of the Treasury
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