



Obtaining Tax-Exempt Status for Your Non-Profit in New Jersey

2002

DID YOU EVER WANT TO KNOW:

- Which tax – exempt status do I want?
- What are my group's options?
- What are the benefits and disadvantages of these options?
- Checklist on how to file as a 501(c)(3)
- Where can I find more information?

FIND YOUR ANSWERS IN THIS FACT SHEET



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Environmental non-profits perform a wide range of valuable services to the community. They can promote the protection of local waterways and forests, restore polluted or eroded sites and habitats, combat suburban sprawl, offer environmental education programs, or even develop ecotourism in their areas.

Despite this inspiring potential, most non-profits have extremely small budgets. As a result, many organizations have asked Stony Brook Millstone Watershed Association how they can solicit donations so they can participate in watershed management activities, address environmental concerns, and engage in education initiatives. One of the best ways for an environmental group to attract donations and accomplish these goals is to file for tax-exempt status with the Internal Revenue Service (IRS).



How do I decide which tax-exempt status to choose?

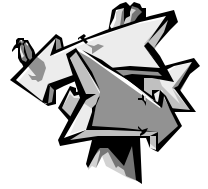
The first step is to determine which tax-exempt status is right for your non-profit. In order to do this, you need to:

1. Agree on your group's mission. While different members of your group may have similar values, it is important to define your organization's goals for clarity in outlining your group's vision.
2. Decide what kinds of activities in which your group will participate. Be aware that not all activities are appropriate for tax-exempt organizations. Consult an attorney or the IRS (www.irs.gov) and the NJ Division of Taxation (www.state.nj.us/treasury/taxation) to determine the appropriate course of action.
3. Determine if the above activities will be limited by the tax-exempt status you want to choose. Refer to the "Commonly Asked Questions" section for more information.
4. Establish a proposed allocation for your group's expenditures to be spent on the different activities in which your group will be involved
5. Make a list of the sources from which your group can raise money.

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What Are My Options?

There are many different ways you can file for tax-exempt status. This fact sheet, however, focuses on filing as a 501(c)(3). This option will allow environmental groups to receive charitable donations required to pursue their objectives. Please visit the IRS web site to view the entire list of tax-exempt organizations.



In order to file as 501(c)(3), your group must pursue one of the purposes outlined by the IRS. For a list of these purposes, go to www.irs.gov.

One Possible Option: File as a 501(c)(3)

A 501(c)(3) is a non-profit charitable organization, community chest, fund, or foundation that is not required to pay federal income taxes. When an individual gives money to a 501(c)(3), the donations are tax deductible for the person contributing the funds. Organizations with incomes less than \$5,000 per year are automatically considered tax-exempt by the federal government and do not need to file as a 501(c)(3).

MAIN ADVANTAGE: Contributions to a 501(c)(3) are tax deductible for the person donating the funds.

MAIN DISADVANTAGE: The IRS limits a 501(c)(3)'s lobbying abilities and other political activities.

Other Options

There are a variety of other options for non-profit groups to receive tax-exempt status. Three of the most common alternatives are briefly outlined below. For more information on these options, contact your attorney or consult the resources listed on the back page.

File as a 501(c)(4):

A 501(c)(4) is another kind of non-profit association or corporation that is also not required to pay federal income taxes. Donations to this kind of group are not tax-deductible. A 501(c)(4) organization can engage in a wider range of activities than a 501(c)(3).

For more information on 501(c)(4)'s political activities, see the "Commonly Asked Questions" section.

Form a Sister Organization:

If your group is already recognized by the IRS as a 501(c)(3), you can form a sister group that is a 501(c)(4) organization.

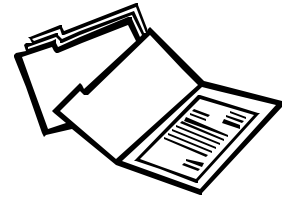
Work Under an Umbrella Organization:

You can also choose not to file with the IRS and instead work under a local umbrella organization that has already filed as tax-exempt. Your non-profit will then not have to file separately with the IRS.

Checklist: What Your Organization Needs Before Filing

Filing with the IRS does not need to be an overwhelming task. In order to make the process as easy as possible, make sure you have all of the materials listed below before filing. Please use this checklist to direct your organization through the process. This guide, however, is simplified. At each step in the filing process, there are nuances and individual choices that must be made depending on your group's needs. Consult an attorney to determine the best course of action for your organization.

Before Your Organization Files



- ☐ 1. **Find an Attorney.** Contact a lawyer who can help your non-profit. Finding one who works pro bono will reduce costs.
- ☐ 2. **Develop a Mission Statement.** The organizers should work with proposed board members and volunteers to create a mission statement.
- ☐ 3. **Incorporate.** In order to file as a 501(c)(3), your group must incorporate. File a Certificate of Incorporation with the NJ Division of Revenue (www.state.nj.us/treasury/revenue) stating your group's purpose is consistent with becoming a 501(c)(3). For a complete list of purposes, go to www.irs.gov. A \$75 fee is required. A non-profit will need to make numerous individual decisions during the process and should consult an attorney for specific information.
- ☐ 4. **Write the Organization's Bylaws.** Bylaws will detail how the non-profit's meetings will be structured. For sample bylaws, see The Watershed Institute's web site at www.thewatershedinstitute.org.
- ☐ 5. **Develop a Budget Plan.** Contact a certified public accountant to create a budget and an accounting system. In order to file as a 501(c)(3), the organization will need to provide financial statements for the current year as well as the proposed budget for the next two years.
- ☐ 6. **Obtain an Employee Identification Number (EIN).** Even if your group does not have any employees, it will still need to file Form SS-4 to get an EIN. Use the EIN to apply for a bank account for your group.



All IRS forms may be found at www.irs.gov/forms_pubs/forms.html.

For more information on filing, call the NJ Department of Treasury's Commercial Recording and Business Services Line at (609) 292-9292 or The IRS's Live Assistance Line toll-free at (800) 839-1040.

Checklist: Filing for Tax-Exemption

Once the organization gathers all of the preliminary materials, your group is ready to begin filing for recognition as a tax-exempt organization.



Filing With the IRS

- ☐ A. **Obtain Official Applications.** 501 (c)(3)s should obtain Package 1023 and 501(c)(4)s should obtain Package 1024. For directions on how to apply, obtain IRS Publication 557. You will also need to file Form 872-C. Form 872-C, for organizations requesting an advance ruling, is currently found within Package 1023 on the IRS website.
- ☐ B. **Include User Fee.** Your group must obtain and sign Form 8718, the User Fee for Exempt Organization Determination Letter Request. The user fee is normally \$500.
- ☐ C. **Include a Conformed Copy of Bylaws.** A conformed copy is a copy of the original document and all amendments that is signed by the organization's main officer. Your group must also include a conformed copy of the original Certificate of Incorporation. See the other side of this checklist for more information.
- ☐ D. **Register Your Legal Representation.** In order to be represented by an attorney, complete Form 2848, the Power of Attorney and Declaration of Representative.
- ☐ E. **Send it in.** After all forms have been completed, sign Package 1023 for 501(c)(3)s or 1024 for 501(c)(4)s and send all materials to the IRS. The organization will receive a letter of determination from the IRS if the group is approved.
- ☐ F. **File For Tax-Exempt Status With the State.** After receipt of the federal tax-exempt status from the IRS, you should file with New Jersey and request exemption from paying sales tax in NJ. File REG 1-E with the NJ Department of Treasury and attach copy of the federal determination letter from the IRS. You can find REG 1-E at www.state.nj.us/treasury/revenue/revprnt.htm.
- ☐ G. **Register as a Charitable Organization.** In order to be permitted to solicit much-needed donations, the non-profit must file with the Division of Consumer Affairs. To register, file Charitable Registration and Investigation Form 1501 (CRI-1501) with the NJ Division of Consumer Affairs. Include a copy of your group's by-laws, articles of incorporation, IRS determination letter, and IRS Form 990.
You can find the forms at www.state.nj.us/lps/ca/charity/charfrm.htm.

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Commonly Asked Questions

Even after your organization files for tax-exempt status, your group must be careful not to take part in any activity that threatens its tax-exempt status. Below are the answers to some important frequently asked questions that will help your organization retain its non-profit status.

If my group receives tax-exempt status
do we still need to file a tax return?



In general, each year the group must file Form 990 (Return of Organization Exempt From Income Tax) or Form 990-EZ (if the group's gross income was less than \$100,000 that year and their total assets at the end of the year were less than \$250,000). Every non-profit that pays employees must withhold, deposit, pay and report federal income tax, social security taxes (FICA), and federal unemployment tax (FUTA) for its wage payments. Even though an organization is recognized as tax exempt, it may still be liable for tax on its unrelated business income. An exempt organization that has \$1,000 or more gross income from an unrelated business must file Form 990-T, Exempt Organization Business Income Tax Return.

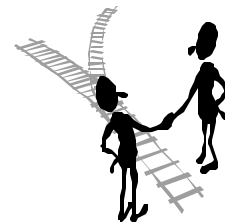
The IRS is currently (2002) developing an e-based system for filing as a 501(c)(3) and for filing tax returns. Go to www.irs.gov for more information and updates.

Can a non-profit participate in political campaigns?

A 501(c)(3) may not support or oppose a political candidate. A 501(c)(3) organization cannot contribute money to a candidate's campaign or political party, endorse a candidate for public office, or publish or distribute statements for or against a candidate. Different rules apply to different tax-exempt organizations.

How can a non-profit be involved in the political process?

501(c)(3) groups can participate in voter education and registration as long as they are not biased against or in favor of a particular candidate. But there are significant limitations on the political activities of a tax-exempt group. For more information on the specific political restrictions placed on 501(c)(3) organizations, see IRS's [Election Year Issues](#) at www.irs.gov/pub/irs-utl/topici02.pdf or consult your attorney.



What Kind of Activities Can a 501(c)(3) Engage in ?

How much can a 501(c)(3) group lobby?

Lobbying means communicating in order to influence a specific piece of legislation. But if your group files as a 501(c)(3), the amount of lobbying the group can engage in is limited. There are two standards used by the IRS to determine how much a 501(c)(3) can attempt to influence legislation. If a 501(c)(3) fails to comply with these limits, the group can lose its tax exempt status and be subject to taxation and additional penalties. Below are summaries of the standards. It is highly recommended that organizations confer with a lawyer regarding this subject.

The “No Substantial Part” Test: “No Substantial Part” of a (c)(3) group’s activities may be devoted to lobbying. Unfortunately, the IRS has not defined the “insubstantial” amount. Courts generally rule that 5% percent or less of a group’s expenditures is an acceptable amount. Yet activities that do not involve expenditures may be considered lobbying under the law. For instance, even if a majority of a non-profit’s lobbying is performed by unpaid volunteers, that group’s tax-exempt status under the “no substantial part” standard may still be threatened. The IRS also compares the number of hours spent lobbying with the amount of time spent on other activities.

The “Lobbying Expenditures” Test — 501(h): If you file as a 501(c)(3), your group can elect to follow a different standard called the 501(h) standard, also known as the lobbying expenditures test. The test allows a group to spend a certain amount of its budget on lobbying. If an organization has a budget of \$500,000 or less, it may be allowed to spend 20% of its budget on lobbying activities. You can only choose the 501 (h) option if you file as 501(c)(3). 501(h) is not a separate tax-exempt status.

If you choose the lobbying expenditures test,
there are three kinds of lobbying you may engage in:

Direct Lobbying — trying to affect legislation by communicating directly with officials and employees who are involved in enacting the legislation. This kind of lobbying must refer to a specific piece of legislation and reflect an opinion on the legislation.

Grassroots Lobbying (up to 25% of the total lobbying budget) — trying to influence legislation by communicating with any person in the general population. This kind of lobbying must refer to a specific piece of legislation, reflect an opinion on the legislation, and encourage someone to take action on the legislation.

Activities not officially considered lobbying under the 501(h) standard—these include nonpartisan research, testifying at a legislative hearing, general examination of the issues, and self defense (when the legislation may threaten a 501(c)(3)’s existence, powers, or tax exempt status).

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FOR MORE INFORMATION ON:

STARTING WATERSHED ASSOCIATIONS

Center for Watershed Management
www.cwp.org

The National Watershed Network
www.ctic.purdue.edu/KYW/

River Network
www.rivernetwork.org

The Watershed Management Council
www.watershed.org

The Watershed Institute
www.thewatershedinstitute.org

MANAGING A NON-PROFIT

The Alliance Resource Center
www.allianceonline.org/arc.html

Environmental Support Center
www.envsc.org

Management Assistance Program for Nonprofits
www.mapnp.org/library

The Management Center
(415) 362-9735
www.tmccenter.org/library/links

FEDERAL TAX INFO

Internal Revenue Service
www.irs.gov

STATE TAX INFO

NJ Division of Taxation
www.state.nj.us/treasury/taxation

NJ Division of Revenue
www.state.nj.us/treasury/revenue

NJ Division of Consumer Affairs
www.state.nj.us/lps/ca/home.htm

Contact your county tax board
www.state.nj.us/treasury/taxation/index.html