

***Starting a Nonprofit:
Including Information about
Boards of Directors,
Questions and Answers and
Links to Internet Resources***

South Carolina Association of Nonprofit Organizations
Starting A Nonprofit – Updated August 2007
www.scanpo.org

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Want to start a nonprofit?

This document contains point-specific information, and we strongly suggest that you read this in its entirety. Enclosed is information on becoming a [501\(c\)\(3\) organization](#), required [forms and documents](#), contacts for [nonprofit lawyers and accountants](#), helpful [publications](#), and a list of helpful [resources](#). Provided below is a step-by-step guide to starting your nonprofit, we recommend that these steps be done in order.

1. Clarify your mission, goals and exactly whom you would like to serve.
2. Talk with as many people as you can to find out what other groups are already doing in related areas. Work with them if you possibly can rather than creating a new organization. In the current financial climate, you will find it difficult to garner support or raise funds if you duplicate or significantly overlap the goals or services of existing organizations.
3. If you are sure a new organization is really needed, the next step is to establish a board of directors of at least five to seven people. Be sure each understands the legal and financial responsibilities of a nonprofit board member.
4. Review *Getting Nonprofits 101: A Guide for Staff and Board Members of New and Smaller Charitable 501(c)(3) Nonprofits*. This user-friendly guide will walk you through the process of starting a new nonprofit. It is available in hard-copy, CD-ROM or electronic format. CD-ROM and electronic formats have active, updated hyperlinks, so they're much more user-friendly and up-to-date than the booklet. You will find a checklist of things you need to do to get started, including:
 - Incorporation in South Carolina
 - Solicitation of Charitable Funds Registration
 - Application for Recognition of Exemption Under Section 501(c)(3)
 - Nonprofit Lobbying Rules
 - CD with downloadable forms

This publication is available for review in the SCANPO office or you may purchase a copy for \$75(SCANPO member price) or \$90 (Non-member price) plus tax and shipping.

Also review *SC Nonprofit Corporate Practice Manual*. This is a practical and authoritative resource, the only one of its kind in South Carolina. It contains 24 chapters covering virtually every aspect of nonprofit corporate practice in South Carolina. This amazing resource will serve you not only as a reliable research guide, but it will also provide you with valuable sample forms on CD. The forms on CD contain many features, including document browsing; document preview; the ability to edit the forms; spell check; export to MS Word, WordPerfect, Adobe PDF; and a tutorial slide to help the user get started. If you serve on the board of a nonprofit, or advise or represent nonprofits, this book is one you cannot afford to miss! This publication is available for review in the SCANPO office or you may purchase a copy for \$80, plus tax and shipping.

You may also want to read *How to Form a Nonprofit Corporation* by Anthony Mancuso, which is available at various booksellers.

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5. Define your organization's purpose and create your **bylaws**. Reviewing bylaws of several existing organizations may be helpful, but remember organization's structures and purposes vary. What may be appropriate for one organization might not be for yours.
6. Incorporate in South Carolina by filing *Articles of Incorporation* with the Secretary of State. Call for forms and fee information or go to their website at www.scsos.com.
7. Get a Federal Employer Tax Identification Number even if you do not have employees. The number is used by the IRS to track reports and your form 1023 tax exempt application. You can get it on the Internet at <http://www.irs.ustreas.gov>, or call: 800/829-5500 to request the form by mail or go to your local IRS office.
8. Apply for tax exemption as a 501(c)(3) nonprofit. This is needed before you can receive grants or tax-deductible contributions. Call the IRS at 800/829-5500 or 800/829-4933 for Form 1023 and the packet that goes with it. You can also get the forms on the IRS's website at <http://www.irs.ustreas.gov>. The process takes three to 24 months. Click [here](#) for more detailed information on filing for 501(c)(3) status.

It is recommended that a lawyer and/or CPA who are knowledgeable about nonprofit tax law review your bylaws and application for tax-exemption before final submission. You might ask established nonprofits in your area for their recommendations or visit SCANPO's website for referrals at http://www.scanpo.org/resources_business.asp.

9. Certain retail sales by nonprofits are exempt from sales tax. Some (but very few) items purchased by nonprofits are also exempt such as food for feeding the homeless. Once you receive your tax exempt status from the IRS, apply to the SC Department of Revenue for exemption from state sales tax on items you are going to sell. Call the S.C. Department of Revenue at 803/898-5788 to request application #ST387 and to get more information. You can also get the forms on the Internet at www.sctax.org.
10. Apply for local property tax exemption on real property or vehicles by contacting the S.C. Department of Revenue at 803/898-5788. Should your nonprofit qualify for an exemption from property tax your local county office will be notified but you should be prepared to present documentation proving your exemption.
11. As you proceed, be sure to check with an attorney or CPA who is knowledgeable about nonprofit accounting and other needed financial documents and filings.
12. If you plan to solicit contributions you must file a "registration statement for charitable organizations" each year with the Secretary of State. It costs \$50 annually to register. If you raise more than \$20,000 or receive contributions from 10 or more people you must register. You also have to file a financial report with the Secretary of State within four and on-half months after the close of your fiscal year.

Other resources for nonprofits:

The South Carolina State Library maintains an extensive collection of publications designed to help nonprofit organizations locate grant funding from corporate foundations and government entities. The Grants Research Collection may be accessed at the Anderson and Charleston County Libraries and the State Library in Columbia. The reference librarian in charge of this collection may be reached at 803/734-8655.

BECOMING A 501(c)(3) ORGANIZATION

Organizations given tax exempt status under 501(c)(3) of the federal tax code must meet several requirements before they are qualified. These requirements include:

- The organization must be **charitable, religious, educational, scientific, literary, one that tests for public safety, one that fosters amateur sports competition, or one that works to prevent cruelty to children or animals.** The IRS states that examples of qualifying organizations include: nonprofit old age homes, parent teach organizations, charitable hospitals, alumni associations, schools, Red Cross and Salvation Army chapters, Boys' clubs, and churches.
- An organization cannot qualify if a substantial part of its activities include attempts to influence legislation or participates for or against a candidate for public office.
- Organizations must include a copy of its articles of organization with its request.
- The assets of an organization must be permanently dedicated to an exempt purpose (see above).
- In order to gain exemption an organization must file a nine page form (form 1023) with the IRS. Once received, the IRS conducts an extensive review before deciding whether to grant tax exempt status. Tax exempt status can be revoked if an organization fails to continue to comply with the Code's requirements.
- A user fee payment must be included with your application. If your average annual gross receipts *have exceeded or will exceed* \$10,000 annually over a 4-year period, your fee will be \$750. If your gross receipts *have not exceeded or will not exceed* \$10,000 annually over a 4-year period, the required fee will be \$300. *User fees are subject to change. Check the IRS website at www.irs.gov and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

Please note that there are many other types of tax-exempt organizations that are not 501(c)(3) organizations. Examples of other 501(c) organizations include:

1. 501 (c)(4) Nonprofit operations, social welfare, political activity, social activity, homeowner organizations, festivals;
2. 501 (c)(6) Labor, agricultural and horticultural;
3. 501(c)(6) Business leagues, chambers of commerce, legislative, grassroots lobbying, etc.;
4. 501(c)(7) Social and recreation clubs;
5. 501(c)(8) or 501(c)(10) fraternal beneficiary societies and domestic fraternal societies.

Additional information is required for charitable organizations. All applying organizations must provide schedules of income and expenses to the IRS.

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Nonprofit Start-up Q&A

What are Articles of Incorporation?

- Articles of Incorporation usually detail the purpose of the organization, its name, and place of business, key officers and various limitations of operations.
- A nonprofit can get a blank form “Nonprofit Corporation Articles of Incorporation” from the South Carolina Secretary of State’s Office or at their website, which is: www.scsos.com.
- When the form has been submitted to the SC Secretary of State’s Office, incorporation is established after the completed forms have been certified by the Secretary of State.
- The nonprofit will receive a certified copy of the Articles of Incorporation and a “Certificate of Incorporation” from the SC Secretary of State’s Office, to verify that the nonprofit is incorporated in the State of South Carolina as a nonprofit corporation.

What are Bylaws?

- Bylaws are the board’s specification of the overall structure and operations of the organization.
- Creating the bylaws for the nonprofit is an important step in setting up a nonprofit. Bylaws are required for submission with Form 1023 to the IRS when the nonprofit applies for tax-exemption. (See below)

Should a nonprofit obtain a federal Employer Identification Number (EIN)?

- A nonprofit will need an EIN even if it does not have employees
- A nonprofit submits Federal Form SS-4 to the IRS in order to obtain EIN #. This EIN # is usually necessary before a bank account is set up, before the nonprofit can apply for tax-exemption, and before the nonprofit can deposit payroll taxes to the IRS or the South Carolina Department of Revenue. You can now apply online.
- To find out all you need to know about EIN numbers, visit: <http://www.irs.gov/businesses/small/article/0,,id=98350,00.html>

What form is needed for Recognition of Exemption under Section 501(c)(3)?

- A nonprofit must complete IRS Form 1023 and a few other forms in order to apply to the IRS for recognition of exemption under Section 501(c)(3). A packet with instructions is available from the IRS.
- A user fee is required to apply for exemption. Other forms that may be required with this filing include: Forms 8718, 5768, 872-C, and 2848.
- All forms are available at the IRS website: www.irs.gov. Publication 557 (Tax-Exempt Status for your Organization) is also helpful when preparing Form 1023.
- The nonprofit should consider the assistance and guidance from an attorney and CPA when putting the Form 1023 together.
- When the IRS is satisfied with the Form 1023 submission and all questions have been addressed, a process which may take up to six to seven months, the IRS will issue a “tax-exempt” letter, which grants tax-exemption for a preliminary (usually five-year) period to the nonprofit organization.
- Note that this application for tax-exemption (Form 1023) must be filed within **15 months** of your organization date. However, a 12-month extension is available.

What does a nonprofit have to do to get set up to handle payroll for its employees?

- Obtain a Federal Employer Identification Number from the IRS.
- The IRS will then send the nonprofit a booklet of federal tax deposit coupons (Form 8109), which the nonprofit will use to deposit its payroll taxes. Deposit frequency is based on your quarterly gross wages.
- Obtain and read IRS Publication 15: Circular E, Employer's Tax Guide, which includes the current year's wage withholding tables. This publication is available at the IRS's website: www.irs.gov.
- Contact the South Carolina Department of Revenue (SCDOR) in order to obtain a South Carolina withholding number. www.sctax.org. To view a slide presentation on South Carolina Employer Withholding Tax: The Basics of Filing and Paying go here: <http://tinyurl.com/2tvubv>
- Contact the South Carolina Employment Security Commission to get set up to pay state unemployment taxes. Complete Form UCE-151 (available at their website: www.sces.org) to submit to the SC Employment Security Commission, so that they can determine the nonprofit's liability for state unemployment taxes and the applicable tax rate.

What are some of the returns that a nonprofit is required to file quarterly or annually?

- Payroll tax and other payroll-related returns
 1. Federal: Form 941, filed quarterly (1/31, 4/30, 7/31 and 10/31)
 2. South Carolina: Form WH-1605, quarterly, and WH-1606 at year-end.
 3. Federal: Form W-2 and W-3, annual (1/31)
 4. Federal: Form 940, if subject to federal unemployment tax, annual (1/31)
 5. South Carolina: SC Form UCE 120, quarterly return for payment of state unemployment taxes. (same deadlines as Form 941)
- Other returns
 1. Federal: Form 990, Return of Organization Exempt from Income Tax, filed annually, due by the 15th day of the 5th month after the nonprofit's fiscal year-end.
 2. Federal: Form 990-T, if the nonprofit must pay tax on unrelated business income.
 3. South Carolina: "Annual Financial Report for Charitable Organizations", by the 15th day of the 5th month after the nonprofit's fiscal year-end, or alternatively, a nonprofit may submit a copy of the completed Form 990.
 4. South Carolina: "Registration Statement for a Nonprofit Corporation", due at the same time as "Annual Financial Report for Charitable Organizations" above.
 5. Federal: Form 1099s, Information Returns, annual (1/31). Information returns (particularly Form 1099-MISC) must be filed by a nonprofit organization that pays rent payments, legal fees and non-employee compensation over certain \$ thresholds established by the IRS. Form 1099-MISC must be mailed to recipients by 1/31. Form 1096 is sent to the IRS with copies of the Form 1099-MISC forms by 2/28. ***

*****The forms listed above do not represent a complete listing of forms that a nonprofit must file with tax or regulatory authorities. It is just an overview for your general information.**

What forms & documents do you have to file?

Pick up incorporation materials from the Secretary of State's Office, Edgar Brown Building, 1205 Pendleton Street, Suite 525, Columbia, SC 29201 or call 803-734-1790 or download them from <http://www.scsos.com/forms.htm#Charities>. This office has a wealth of sample documents that allow you to secure a registered agent, perform a name search and reserve your corporate name. Now SC Business offers a service called One Stop, in which organizations can file and pay for certain SC registrations including licenses, permits, business taxes registration, etc. Visit www.scbos.com/ for more information.

1. Contact the Secretary of State's Office to prepare and file your **Articles of Incorporations**. Be sure to ask for any other materials that explain the rules, etc. governing charitable solicitations, hiring employees, employer payroll and unemployment taxes, registering for taxes and for sales and/or income taxes under state and local law (if any), and matters of interest for setting up and managing a nonprofit in your state. These may come from several different offices at both the state and local levels.
2. Prepare and file your organization's **bylaws** (There are many, many good books in libraries and bookstores to help you). In general, the IRS looks at the bylaws to determine whether a group is what it claims to be. This is a critical document, and if at all possible, should be reviewed by an attorney.
3. Order, prepare and file your Federal tax exemption application. This includes Form 8718 (User fee for Exempt Organization Determination Letter request), Package 1023 (Application for Recognition of Exemption with instructions), Form SS-4 (Application for Employer Identification Number), Publication 557 (Tax-Exempt Status for Your Organization), and if you are filing as a foundation order Publication 578 (Tax Information for Private Foundations and Foundation Manager). It is assumed you will be applying for 501(c)(3) tax exempt status, and therefore you must file Form 1023, if not, you need to file Form 1024. If your organization is a church, or church-affiliated auxiliary or an association of churches, you are not required to file Form 1023. **You must file your Form 1023 within 15 months after the end of the month in which you filed your Articles of Incorporation to ensure that your organization is tax exempt from inception.** If not, your tax exemption does not become effective until the postmark date.
4. Apply for a Federal Nonprofit Mailing Permit to qualify for lower rates on bulk mailing. Visit a main post office, or call the nearest Postal Service administrative office, and request the information packets for nonprofit mailers. The postal service will require a copy of each of the items mentioned above, plus copies of your literature, newsletters or promotional materials before approving your request.
5. If you are purchasing or owning the property on which your organization is located, you should apply for Property Tax Exemptions. This is done through SC Department of Revenue. Their website is www.sctax.org.
6. Set up a corporate checking account with your local bank. They will require a copy of your organization's Employer Identification Number, Articles of Incorporation, etc.

Do I need a lawyer to form a nonprofit?

How much should it cost?

Summary: Some people can form a nonprofit on their own. Others find a lawyer very useful. There are legal referral services which sometimes help locate low-cost or even free assistance.

Generally, anyone who can write clearly and follow directions can, with input from volunteer leadership, draft all the documents necessary. Then, you need a lawyer to review the documents twice: before you send the packet to the state and again (with the additional documents required) before you send it to the federal government. Many people feel a need for legal review of the documents at these times.

Best deal: Ask a lawyer friendly to your cause to do it pro bono (free). This assumes you have tightly drawn documents to give him/her so that few changes are expected.

Next best: Call your local Bar Association Pro Bono Program or similar committee, SCANPO, Community Foundation or friends at other established nonprofit for names of civic or philanthropy-minded lawyer who might do it for free. The number for the S.C. Bar Pro Bono Program is 803/799-4015.

Otherwise: Negotiate a reasonable fee – say \$500 or less.

How else can we find a lawyer or accountant who's not part of our organization to do some work for free?

Depends on the work and the community. For lawyers, call your local Bar Association for referrals. Some of them have lawyers who donate a limited amount of time to certain local nonprofits, depending on the activities of the nonprofit. SCANPO may also be able to refer you.

Accountants: Try the local CPA society. For example, SC Association of CPA's may have a list of accountants who specialize in nonprofit accounting. Also check the SCANPO website for our listing of accountants.

The Bar Association and the CPA Association have committees that focus on the nonprofit side of the professions' work. Another avenue to identify potential sources of local assistance – paid or pro bono – would be to contact the chairperson or one of the members of such a committee.

Publications Available Through SCANPO

South Carolina Nonprofit Sector Compensation and Benefits Report

Could your organization benefit from the most up-to-date compensation information available for South Carolina's nonprofit sector? Does your organization ever question how your benefits package relates to other nonprofits? Does your Board of Directors seek assistance when determining the most reasonable salary for your Executive Director? The 2004 South Carolina Nonprofit Sector Compensation and Benefits Report will help your organization stay informed about current compensation trends, develop realistic budget expectations for employee benefits and perquisites and evaluate where your organization differs from its peers.

2006 Nonprofit Media Resource Guide (2nd Edition)

Published by SCANPO and newly updated, this guide gives key information you need to get media coverage of nonprofit issues, projects and other activities. The user-friendly and informative guide includes tips and examples on writing an effective press release, media advisory, op-ed, letter to the editor and more! The guide covers everything from how to respond to questions from the media to everything you need to know to plan a successful press conference! Additionally, the guide provides detailed descriptions and contact information for daily and weekly newspapers around the state, including business journals. The simple steps in this guide provide the basics for effective work with the media.

Nonprofit Sector Report

An update to the 2002 "More Than Charity" report, the 2004 report is an expanded version that examines the South Carolina nonprofit sector in comparison with other Southeastern states and the rest of the United States. Rather than simple tables and bar charts combined with text that summarizes the charts, the expanded report contains pie charts, line graphs, bar charts and tables with expanded commentary on trends over time as well as comparisons between states. Finally, a new addition is an inclusion of profiles for the sub-sectors of the nonprofit community.

Nonprofits 101: A Guide for Staff and Board Members of New and Smaller Charitable [501(c)(3)] Nonprofits

This user-friendly guide will walk you through the process of starting a new nonprofit. You will find a checklist of things you need to do to get started, including:

- Incorporation in South Carolina,
- Solicitation of Charitable Funds Registration
- Application for Recognition of Exemption Under Section 501(c)(3)
- Nonprofit Lobbying Rules

This guide is available in hard copy, CD-ROM and electronic formats.

The Lobbying and Advocacy Handbook for Nonprofits

This unique guide will reinvigorate experienced organizations and lobbyists with new ways to approach lobbying. Resources, worksheets, and samples guide you each step of the way. With this handbook, you will:

- Understand your nonprofit's role in shaping state and local public policy
- Discover how lobbying can help fulfill your organization's mission, service, and program goals
- Set up systems in your organization to support lobbying
- Learn how to initiate, support, or defeat bills

Strengthening Nonprofit Performance: A Funder's Guide to Capacity Building

Funders who want to maximize their grantmaking are turning to capacity building – funding core activities that help their grantee's organizations function well. In this book you'll find:

- Compelling reasons for investing in capacity building
- The basic types of capacity building activities
- What other foundations are doing
- Seven widely-used capacity building strategies

SC Nonprofit Corporate Practice Manual

This is a practical and authoritative resource, the only one of its kind in South Carolina. It contains 24 chapters covering virtually every aspect of nonprofit corporate practice in South Carolina. This amazing resource will serve you not only as a reliable research guide, but it will also provide you with valuable sample forms on CD. The forms on CD contain many features, including document browsing; document preview; the ability to edit the forms; spell check; export to MS Word, WordPerfect, Adobe PDF; and a tutorial slide to help the user get started. If you serve on the board of a nonprofit, or advise or represent nonprofits, this book is one you cannot afford to miss!

Please go to www.scanpo.org/resources_publications.asp for more information and prices.

Helpful Resources

Guiding Principles & Best Practices

In 2007 SCANPO published the *Guiding Principles & Best Practices* for South Carolina Nonprofits, consisting of 7 guiding principles and 67 best practices. SCANPO believes in encouraging accountability among nonprofits and grantmakers that is guided by values of openness, inclusiveness, accessibility, ethical conduct, and sensitivity to the diverse communities that we all serve.

The practices are organized around these 7 core principles:

- Mission & Planning
- Governance
- Human Resources
- Financial Management & Stewardship
- Accountability, Transparency & Legal Compliance
- Fundraising
- Information Management

Adherence to these principles and practices is not mandatory. However, SCANPO believes that all wee-run organizations should adopt them.

You may download this publication at www.scanpo.org or [Click here](#) . If you'd like to order hard copies for a nominal fee, [click here](#) for an order form.

Helpful Websites for Starting a Nonprofit

Free Download: *Guidelines for South Carolina Nonprofits:* www.scsos.com/charities.htm

Internal Revenue Service: www.irs.gov

BoardSource: www.boardsource.org

SCANPO: www.scanpo.org

Help Line at the IRS for Nonprofit Organizations

In keeping with its goal of becoming more customer friendly, the IRS has established a toll-free help line for non-profit organizations. If you have a question you can call: (877) 829-5500.

For a list of other telephone assistance numbers, please visit this link of the IRS website: <http://www.irs.gov/help/article/0,,id=96730,00.html>

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The South Carolina Association of Nonprofit Organizations serves as a statewide advocate, training center and network for the state's nonprofit sector. Members receive legislative updates and calls to action for federal and state bills, trainings and technical assistance and up-to-the minute communications to help you effectively accomplish your mission.

SCANPO's nonprofit members come from all regions of South Carolina and have a wide array of missions. Although each member is unique, our common goal is to improve the quality of life for the citizens in our state. SCANPO exists to support all nonprofits in making a greater impact.

Is your organization one of the more than 800 nonprofits taking advantage of all that SCANPO has to offer? If not, join us today!