

Checklist for Starting a Nonprofit Organization in Maryland

(Adapted from information provided by Maryland Association of Nonprofit Organizations, Inc.)

Phase 1: Research and Organize

Establish a Purpose

The purpose of the organization needs to be aligned with the IRS 501(c)(3) statute.

<https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501-c-3-organizations>

Research Similar Organizations

Identify other organizations that have similar purposes to your intended organization. Such organizations are resources to help you determine the degree of need in the community, the viability of your idea, the types of programs that already exist, and the potential level of support, both financial and otherwise, that exists. If you are at all unsure about what it takes to run a successful nonprofit, these agencies will be rich resources from which to learn – they are most likely to know “what it really takes” to make it work.

Recruit a Board of Directors

This group of individuals will be legally responsible as fiduciaries for the organization’s governance, finances, and legal compliance. The IRS will be looking to see that the majority of the Board members are unrelated by family or business relationships.

Create a Mission Statement

The Mission Statement is a summary of the goals and values of the organization.

Develop Program Plans and a Budget

You will need to describe in detail exactly what the organization plans to do programmatically, including who it will serve and by what means. Then you will need to create a budget forecast for how you will pay the costs of running the organization. This includes all expected forms of income (grants, donations, fee for service, etc.) and necessary expenses to operate the organization and deliver the programs described.

Develop a Fundraising Plan

Identify the likely sources of income upon which you can rely to support your cause. If you are planning to raise money through grants, do research as to what foundations are likely to fund your specific cause. Keep in mind that grants alone are rarely enough to support organizations over the long term, and can be difficult to get.

Draft Bylaws

Bylaws are the organization’s governing document. The bylaws dictate the specifics of how the Board of Directors functions and how important decisions are made and carried out. The state does not require a copy of an organization’s bylaws, but they may need to be attached to the federal 501(c)(3) tax exemption application for the IRS.

Develop a Conflict of Interest Policy

This policy will allow conflicts of interest to be avoided and mitigated when decisions are made regarding the use of organizational resources and/or assets, and ensure that Board members are aware of their duty to act in the best interest of the organization.

Phase 2: Incorporate

Check Availability of Organization's Name

Make sure that the name you would like to use for your organization is available by searching:
<https://egov.maryland.gov/BusinessExpress/EntitySearch>.

File Articles of Incorporation (Corporate Charter) with the State Department of Assessments & Taxation (SDAT)

Be sure to file Tax-Exempt Non-Stock Articles of Incorporation. In order to have Articles that will qualify your organization for federal 501(c)(3) tax-exempt status, you must have a dissolution clause that meets the requirements of the IRS indicating that if your organization is dissolved, "assets will be distributed for an exempt purpose described in section 501(c)(3), or to the federal government, or to a state or local government for a public purpose."

File with Maryland State Department of Assessments and Taxation

- Online: <https://egov.maryland.gov/businessesexpress>
- By mail or in person:
State Department of Assessments and Taxation
Corporate Charter Division, Room 801
301 W. Preston Street
Baltimore, MD 21201-2395
410-767-1330

Fee: \$240 (\$170 filing fee + \$50 additional expediting fee if filing online or in person + \$20 additional fee to receive certified copy)

Register a Trade Name with SDAT

This step is only necessary if the organization uses a name other than the one stated in the Articles of Incorporation. The organization may also wish to register its name if it will not file the Articles of Incorporation immediately and would like to reserve the name to ensure that no other entity takes the name prior to your filing. The fee is \$25.

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- By mail or in person:
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Hold Organizational Meeting

Board members identified in the Articles of Incorporation hold elections to officially elect the Board. This can be the same group listed in the Articles, or it can include different or additional Board members. Bylaws are ratified, Articles of Incorporation are accepted, and other actions taken prior to incorporation are approved. Meeting minutes are taken to create a record of the meeting. **This meeting is required by law to form the corporation.**

Phase 3: Obtain Federal Tax-Exemption Determination (if seeking 501(c)(3) status)

Obtain Federal Employer Identification Number (EIN) from the IRS

The organization will need this number to open a bank account in its name and to file for 501(c)(3) tax exempt status. You can file the form online or by mail, phone, or fax.

EIN Operations

Holtsville, NY 11742

Phone: (800) 829-4933

Fax: (631) 447-8960

<https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

File Form 1023 or Form 1023-EZ if seeking 501(c)(3) tax exempt status

Charitable organizations file one of these two forms to apply for recognition of exemption from federal income tax under section 501(c)(3).

Form 1023: www.irs.gov/pub/irs-pdf/f1023.pdf

Instructions: <https://www.irs.gov/pub/irs-pdf/i1023.pdf>

Frequently asked questions: https://www.irs.gov/charities-non-profits/frequently-asked-questions-about-form-1023#A_36

Filing this form will require the organization's purpose, program descriptions, budget, and bylaws. You will also need a copy of your Articles of Incorporation and should include a copy of the minutes from your Organizational Meeting.

Fee: \$275 if your projected budget is less than \$10,000, \$850 if your projected budget is greater than \$10,000.

Form 1023-EZ is a shorter version, but only eligible organizations may use it (see

<https://www.irs.gov/pub/irs-pdf/i1023ez.pdf> for eligibility requirements):

<https://www.irs.gov/uac/about-form-1023ez>

Fee: \$275

Read IRS Compliance Guide for 501(c)3 Public Charities

<http://www.irs.gov/pub/irs-pdf/p4221pc.pdf>

Phase 4: Charitable Solicitation Registration (Maryland and Other States)

Register to ask for charitable donations – Charitable Solicitation Registration

If the organization will be soliciting contributions in Maryland, it must comply with the requirements of the Maryland Solicitations Act, administered by the Charitable Organization Division of the Maryland Secretary of State. The organization must register before soliciting charitable contributions in Maryland, and update its information annually. The organization must also comply with charitable registration requirements in other states.

To register in Maryland: <http://www.sos.state.md.us/Charity/RegisterCharity.html>

Requirements for other states: http://multistatefiling.org/n_appendix.htm

Phase 5: Apply for Exemption from State Taxes (After Getting 501(c)(3) Status)

File Combined Registration Application to obtain state sales tax exemption

Register with the Comptroller and obtain sales tax exemption by completing the Combined Registration Application.

Forms:

<https://interactive.marylandtaxes.com/webapps/comptrollercra/entrance.asp>

http://forms.marylandtaxes.com/current_forms/cra.pdf (paper version)

Apply for Real Property Tax Exemption

501(c)(3) tax exempt status only exempts the organization from paying federal income taxes. If the organization owns real estate, it must still pay real property taxes unless it obtains a real property tax exemption. To apply for this exemption:

<http://www.dat.maryland.gov/SDAT%20Forms/chrtble.pdf>

Phase 6: Maintain Status

File Maryland Form 1 Personal Property Return (due annually on April 15th)

<http://dat.maryland.gov/businesses/Pages/Business-Personal-Property.aspx>

http://dat.maryland.gov/SDAT%20Forms/pp1_2016.pdf

File Form 990-N, Form 990-EZ, or Form 990 with IRS based on annual gross receipts (due annually on the 15th day of the 5th month of the organization's fiscal year – May 15th if calendar year)

<https://www.irs.gov/uac/current-form-990-series-forms-and-instructions>

File Annual Update of Charitable Solicitation Registration with the Secretary of State if fundraising in Maryland

<http://www.sos.state.md.us/Charity/RegisterCharity.html>

File MD Form COF-85 if not filing IRS Form 990 or 990-EZ

Charitable Organizations Division, Office of the Secretary of State

State House, Annapolis, Maryland 21401

410-974-5534 or 1-888874-0013 (within Maryland)

<http://sos.maryland.gov/SoS%20Forms/COF-85.pdf>

Keep Resident Agent information up to date with the state

It is very important to keep this information up to date, because the person listed at this address will receive official mail for the organization. You can check on the current Resident Agent information by searching for the organization at <http://sdat.dat.maryland.gov/ucc-charter/Pages/CharterSearch/default.aspx>.

To change the Resident Agent or address:

<http://www.dat.maryland.gov/SDAT%20Forms/icertify.pdf>

Fee: \$25

Maintain accurate and complete corporate and financial records

Adopt policies to ensure proper oversight and control on financial matters and document retention.

Substantiation and disclosure requirements

Organizations must give written acknowledgement of charitable contributions, make certain documents available publicly, and give receipts for contributions over \$250 for the donor to claim a tax deduction. For more information, see:

IRS Publication 1771, available at <http://www.irs.gov/pub/irs-pdf/p1771.pdf>

<http://www.irs.gov/charities/charitable/article/0,,id=123211,00.html>

<http://www.irs.gov/charities/article/0,,id=96430,00.html>

<http://www.sos.state.md.us/charity/DisclosureRequirements.aspx>

Obtain State or Local Licenses/Permits

<http://www.dllr.state.md.us/> or <http://commerce.maryland.gov/start/the-process/statewide-licenses>

File a Sales and Use Tax Report for any items sold

Even if the organization is a 501(c)(3), it is still required to collect sales tax on items it sells (unless the purchaser is exempt from paying sales tax), and remit it to the state Comptroller.

File state and federal income tax for any unrelated business income

If the organization has any income from the operation of a business that is unrelated to the organization's charitable, tax-exempt purpose, it must pay taxes on that income using IRS Form 990-T and Maryland Tax Form 500. Consult a tax advisor for more information. See also:

<https://www.peoples-law.org/unrelated-business-income-tax>

http://forms.marylandtaxes.com/16_forms/Corporate_Booklet.pdf

Phase 7: If the Organization has Employees or Independent Contractors

Register employees with Comptroller of Maryland

Pay state employment and unemployment taxes

Pay federal employment taxes

Pay workers' compensation insurance

Display required posters

Phase 8: Obtain Proper Insurance for Organization, Board Members, and Officers

Assess property and liability insurance needs for the organization

IMPORTANT WEBSITES

Form or Information Needed	Search Tool or Entity	Website
Name search	Maryland Department of Assessment and Taxation (SDAT)	https://egov.maryland.gov/BusinessExpress/EntitySearch
Articles of Incorporation (forms and fees)	Maryland Department of Assessment and Taxation (SDAT)	http://dat.maryland.gov/Pages/sdatforms.aspx
Overview about becoming a nonprofit	IRS	https://www.irs.gov/charities-non-profits/applying-for-tax-exempt-status
Application for EIN (SS4)	IRS	https://www.irs.gov/uac/form-ss-4-application-for-employer-identification-number-ein
Application for tax exemption (1023 or 1023-EZ)	IRS	https://www.irs.gov/uac/about-form-1023
Sales tax exemption	Maryland Comptroller	http://forms.marylandtaxes.com/current_forms/cra.pdf
Charitable registration	Maryland Secretary of State	http://www.sos.state.md.us/Charity/RegisterCharity.html
Info about other nonprofits	GuideStar	http://www.guidestar.org/Home.aspx
Info about Maryland nonprofits	Community Law Center Maryland Nonprofits	http://communitylaw.org/ http://www.marylandnonprofits.org/