



Tax and Filing Considerations for Small New Jersey Nonprofits

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Many nonprofit charities have gross receipts (such as income from donations and membership dues) that do not exceed \$5,000 annually.¹ What forms must these small (and even larger) nonprofits file under federal and state statutes in order to be considered tax-exempt? What reporting obligations do they have? What other tax issues should they consider? Read on to learn!

1. If an organization annually raises no more than \$5,000 in donations and other sources of income (“gross receipts”), can it automatically be tax-exempt under the Internal Revenue Code?

Yes. As long as the organization meets all the requirements of Section 501(c)(3) of the Internal Revenue Code, it is considered a tax-exempt organization. It can accept tax-exempt contributions, and donors to the organization can claim deductions for their donations on their own income tax returns based on the organization’s word.

Some organizations of this size opt to file for official tax-exempt status by submitting [Form 1023](#), or [Form 1023-EZ](#) (if the organization expects annual gross receipts to be less than \$50,000), to the IRS and receiving an IRS Tax-Exempt Determination Letter. Doing so allows the organization to provide potential contributors with written assurance that the organization is tax-exempt. But contributors may still claim deductions for donations to these organizations without proof of IRS approval. See the [Form 990 Instructions](#).

If a charity ends the year with gross receipts greater than \$5,000, it must file Form 1023 or Form 1023-EZ for §501(c)(3) status within 90 days of the end of its tax year. “Gross receipts” are the total amount the nonprofit received from all sources during its annual accounting period, without subtracting any costs or expenses. For a more detailed discussion of how this works, see [IRS Publication 557, Tax-Exempt Status for Your Organization](#).

¹ This article addresses issues related solely to public charities established under Section 501(c)(3) of the Internal Revenue Code. Special rules relating to (1) public charities covered by a group exemption and (2) religious organizations are not discussed in this article.

2. Must a nonprofit that earns no more than \$5,000 in gross receipts file annual informational returns with the IRS?

Yes. Nonprofits that normally have annual gross receipts of \$50,000 or less, and elect not to file [Form 990](#) or [Form 990-EZ](#), are required to file an annual electronic notice (e-Postcard), known as [Form 990-N](#). There is no charge for filing Form 990-N and the IRS estimates that it takes an average of ten minutes or less to file. Form 990-N must be filed electronically. The form requires basic information, such as the organization's name and address. The organization must also have an EIN (employer identification number). If the organization does not have an EIN, it can apply for one on the [IRS website](#).

If a nonprofit has annual gross receipts in excess of \$50,000, it must file either [Form 990-EZ](#) or [Form 990](#). See the IRS's [Which Forms Do Exempt Organizations File?](#) Regardless of which form is used, it must be filed by no later than the fifteenth day of the fifth month after the close of the nonprofit's tax year.

If a nonprofit fails to file a Form 990, Form 990-EZ, or Form 990-N for **three consecutive years**, its federal tax-exempt status will be **automatically revoked** effective as of the due date of the third required annual filing. From the date of revocation, the nonprofit would be obligated to pay income taxes on its revenues and its donors will lose their charitable contribution deduction on Form 1040, which might result in the nonprofit losing donors. See the IRS's [Revoked? Reinstated? Learn More](#). And the nonprofit might also lose its sales tax exemption. See the New Jersey Division of Taxation's [Exempt Organization Certificate Form ST-5](#).

3. Are there other taxes that small nonprofits should be aware of?

Yes. The tax-exempt designation from the IRS provides exemption only from federal income tax. A tax-exempt nonprofit that has employees will be liable for paying and withholding federal and state payroll taxes. See the IRS's [Employment Taxes for Exempt Organizations](#).

In addition, if an organization is engaged in an unrelated trade or business, such as selling items that are not linked to the nonprofit's mission, it may be required to pay unrelated business income tax ("UBIT"), make quarterly estimated tax payments, and file [Form 990-T](#). See [IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations](#).

Moreover, a nonprofit may also have to pay state income tax and sales tax. For more information, see Pro Bono Partnership's article, [Nonprofits and Sales Tax: A Guide to Exemptions in Connecticut, New Jersey and New York](#).

4. What are the state fundraising registration requirements for small tax-exempt nonprofits?

Charities that do not receive gross contributions of more than \$10,000 during their fiscal years are exempt from having to register with the [Charities Registration Section of the New Jersey Division of Consumer Affairs](#) if all functions and fund raising activities are done by the nonprofit's volunteers, members, officers, or persons who are not compensated for soliciting contributions. The Charities Registration Section has informally stated that the exemption from registration also applies when the fundraising is done by bona fide salaried officers and employees of the nonprofit and no more than \$10,000 is raised annually.

Even if a nonprofit qualifies for the exemption from the registration requirement, we recommend that the nonprofit register in order to avoid failing to register at a later date when it crosses the \$10,000 threshold. Note that the \$10,000 threshold includes contributions received *nationwide* by the nonprofit.

Thereafter, a registered nonprofit must file an annual report with the Charities Registration Section. If a nonprofit isn't sure whether it is registered with the Section, it can do a search at <https://njconsumeraffairs.state.nj.us/public-charity-search-results>.²

To learn more about charities registration in New Jersey and in other states, see the following two publications on the Partnership's website:

- [Charitable Registration in New Jersey](#), which also includes a discussion of the registration requirements when a nonprofit conducts games of chance, such as raffles and bingo.
- [Summary Survey of State Charity Registration Requirements](#), which overviews the registration requirements in Puerto Rico and the 43 states that require registration by organizations that engage in charitable solicitations in those jurisdictions.

5. Is a small nonprofit organization required to file corporation business tax returns with the state's revenue or taxation authority?

No. The website of the New Jersey Department of the Treasury's Division of Taxation states: "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. Unless the corporation's

² For an illustration of what information can be found by doing a search, see [The Pro Bono Partnership Pundit: Sorting Through the Dreaded 501\(c\)\(3\) Reporting Obligations](#).

operations or activities make the taxpayer a profit-making corporation, no further corporation business tax returns or Federal returns are required to be filed with the Division of Taxation.” For more information, see the [Division of Taxation's website](#).

6. If a small nonprofit organization wants to be exempt from paying sales tax on goods it purchases, what does it need to do?

In order to be exempt from paying sales tax, a nonprofit must obtain a Form ST-5. This requires submitting a completed [REG-1E Application for ST-5 Exempt Organization Certificate](#), along with copies of the organization’s IRS Tax-Exempt Determination Letter, certificate of incorporation, and bylaws. The [New Jersey Division of Taxation’s website](#) includes detailed guidance, including an explanation regarding what sales activities of a nonprofit do not require the collection of sales tax.

7. Are there any filing requirements in order for a nonprofit’s real estate to be exempt from municipal property tax?

Yes. In order for real estate owned *and* actually used by a nonprofit for its charitable mission to be exempt from property tax, the nonprofit must file with the municipality:

- An [Initial Statement of Organization Claiming Property Tax Exemption](#). The Initial Statement must be filed by no later than November 1 of the year prior to the year in which the property tax exemption would become effective. The nonprofit must have owned the property by no later than October 1 of the pre-tax year.
- A [Further Statement of Organization Claiming Property Tax Exemption](#) every three years after the year in which the initial application for exemption was approved, by no later than November 1. The Further Statement reaffirms that the exemption granted for past years should remain in effect. Municipal tax assessors normally mail a blank Further Statement to nonprofits in advance of the filing deadline. An assessor’s failure to do so doesn’t excuse a nonprofit from filing the Further Statement on time.

8. Are there any other annual filing requirements with the State in order to keep a charity’s nonprofit status active?

In order to retain its corporate (and nonprofit status) with New Jersey, a charity must electronically file an annual report with the New Jersey Division of Revenue (within the New Jersey Department of Treasury). The annual report must be filed by the last day of the anniversary month of the nonprofit’s incorporation in New

Jersey. If a nonprofit doesn't know in what month it was incorporated, it can find that information by going to www.njportal.com/DOR/businessrecords; selecting "Business Entity Documents" and then "Business Name;" entering the first one or two words of the nonprofit's name; and clicking "Continue."³ For more information, see the [Division of Revenue's Annual Report web page](#).

Pursuant to a provision of the New Jersey Nonprofit Corporation Act (see N.J.S.A. 15A:4-5(c)), failure to file an annual report for two consecutive years could result in the revocation of the charity's corporate (and nonprofit status); the loss of its entitlement to any property tax exemption it might have obtained (see Section 412.18 of the New Jersey Division of Taxation's [Handbook for New Jersey Assessors](#)); and possibly the loss of charitable immunity for the nonprofit and its volunteers (including trustees).

9. Are there any other filing obligations?

Possibly. Depending on the nature of a nonprofit's activities, other periodic reports might be required. For example, these might include:

- If a nonprofit engages in lobbying, reporting might be required under federal law (see the [Lobbying Disclosure Act Guidance](#)) and/or state law (see the New Jersey Election Law Enforcement Commission's [Lobbying Overview & Training](#)).
- If a nonprofit operates in a highly-regulated field, such as healthcare, governing regulations might require periodic reporting for certain events, such as is the case under the [New Jersey Health Care Professional Responsibility and Reporting Enhancement Act](#) (a/k/a the Cullen Act).
- If a nonprofit has entered into government contracts, periodic reporting is often a condition of such contracts.

10. Wow, that's a lot of filing and reporting obligations. Any suggestions on making sure we don't miss filing deadlines?

To help avoid missing filing deadlines, a nonprofit's executive director should appoint a senior manager to be primarily responsible for ensuring that all required registrations and reports are filed on a timely basis. A second senior manager should be selected as a backup. The executive director and these two managers should enter on their calendars the filing due dates and advance

³ For an illustration of what information can be found by following these steps, see [The Pro Bono Partnership Pundit: Sorting Through the Dreaded 501\(c\)\(3\) Reporting Obligations](#).

reminders of forthcoming deadlines. If one of these three people leaves the nonprofit, a replacement should be designated.

Pro Bono Partnership is happy to advise your small nonprofit on these or other business legal matters. Please [contact us](#). Special thanks to volunteer Kathy Hecht, Esq. for preparing the original version of this article.

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