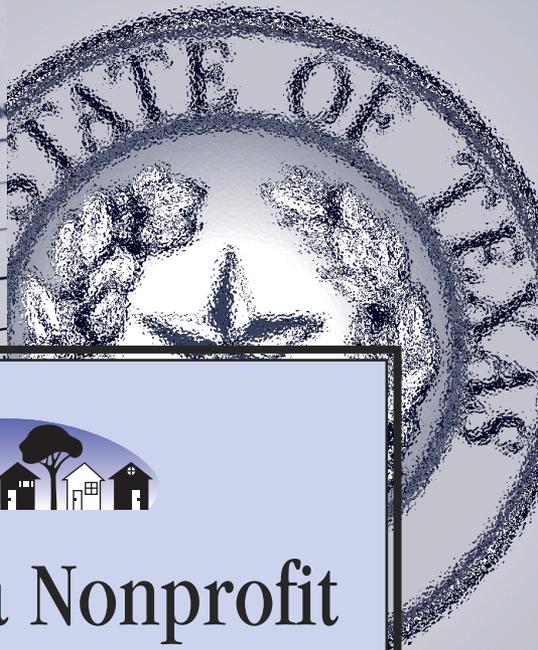


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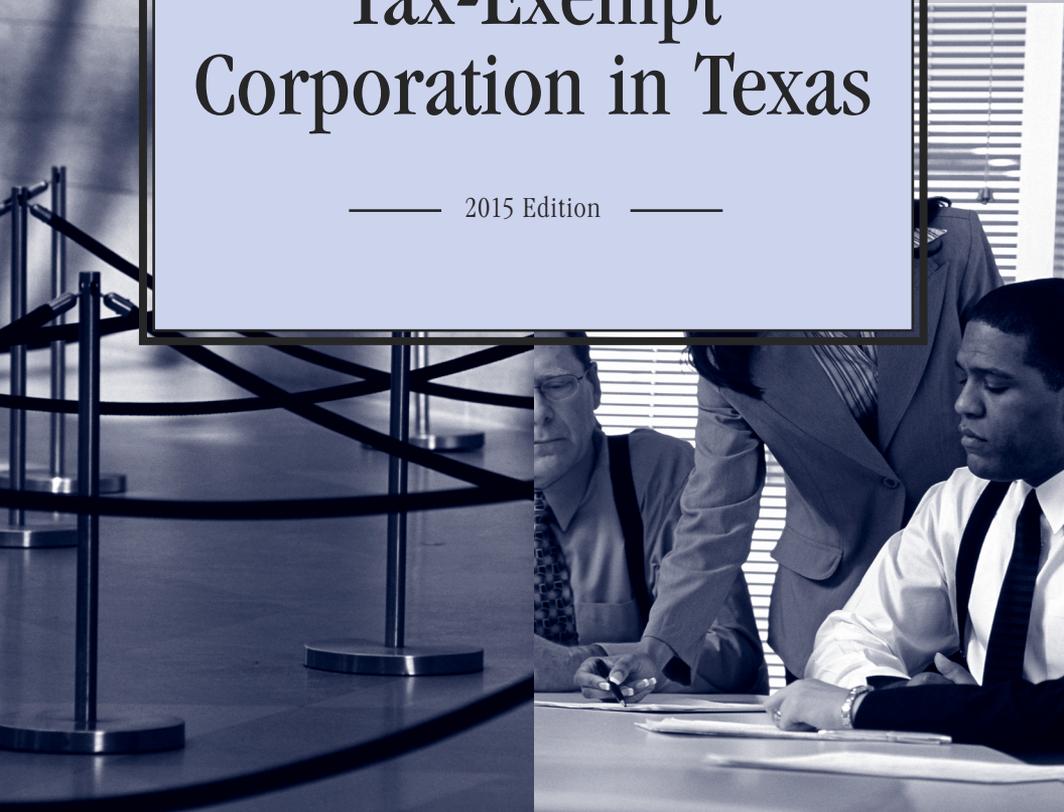
# TEXAS SALES AND USE TAX EXEMPTION CERTIFICATE

Name of purchaser, firm or agency  
Address (Street & number, P.O. Box or Route number)  
City, State, ZIP code



# Forming a Nonprofit Tax-Exempt Corporation in Texas

2015 Edition



## **Funded in Part By:**

- State Bar of Texas Corporate Counsel Section
- State Bar of Texas Tax Section

*Portions of this information are derived from materials provided by the Public Counsel Law Center. [www.publiccounsel.org](http://www.publiccounsel.org).*

## **About Texas C-BAR**

Texas Community Building with Attorney Resources (Texas C-BAR) is a statewide business pro bono project that provides nonprofits with the legal tools they need to succeed. Texas C-BAR currently partners with law firms and corporations to help nonprofits better the lives of thousands of low-income families and communities throughout the state. For more information about Texas C-BAR or to apply for our services, please visit our website: [www.texasbar.org](http://www.texasbar.org).

# Forming a Tax-Exempt, Nonprofit Corporation in Texas

The purpose of this guide is to help you decide whether to form a tax-exempt, nonprofit corporation. It will also explain the basic steps required to form a Texas nonprofit corporation and to secure tax-exempt status for the nonprofit corporation from the state of Texas and the federal government.

This guide provides general guidance on the subject matter described above and not is intended to be specific legal advice.

## Will the organization serve an unmet need?

The threshold question in forming a tax-exempt, nonprofit corporation is whether the corporation will serve an unmet need in the community. It will be important to answer this question in the affirmative before embarking on the formation and tax-exemption process because donors and foundations that give grants for nonprofit programs are unlikely to provide funding to a “new” organization unless they see a need for the organization’s programs. Some factors to consider when answering this question are the following:

- What is the primary purpose to be served by the new nonprofit?
- What is the intended community or group to be served by the nonprofit?
- Does this community or group have a need?
- What are the competing organizations that are already providing the same or similar services to this community or group?
- Is there a strong commitment from the organizers and participants of the organization to build the nonprofit?
- Is there an adequate source of funds to support the nonprofit?

## What is a nonprofit corporation?

Under Texas law, a nonprofit corporation is simply a corporation in which no part of its income is distributable to a member, director or officer of the corporation. A nonprofit corporation may be organized in Texas for any lawful purpose unless the

purpose is expressly prohibited by the Texas Business Organizations Code (the “TBOC”). A nonprofit corporation may also apply for state and federal tax-exemption.

An important distinction between nonprofit and for-profit corporations is a for-profit corporation has shareholders who own the corporation. No person, on the other hand, owns the nonprofit corporation or has an interest in its property. A nonprofit corporation may have members (which should not to be confused with “members” as the term is used to refer to the owners of a limited liability company). Management of the nonprofit corporation may be vested in its members or in a Board of Directors.

## **What are the benefits and limitations of a tax-exempt, nonprofit corporation?**

One of the primary benefits of forming a nonprofit corporation is that the corporation’s members and directors are generally shielded from personal liability (unless the member or director acts in bad faith, without utilizing ordinary care, and in a manner the member or director cannot reasonably believe to be in the best interest of the corporation). See TBOC §22.221. It may also be advantageous for an organization to incorporate as a nonprofit so that it can be eligible to receive government or community development loans and grants, which are often reserved for nonprofit organizations.

To qualify for federal tax-exemption under Section 501(c)(3) of the Internal Revenue Code, a nonprofit must be organized and operated exclusively for one or more of the following purposes: religious, charitable, scientific, testing for public safety, literary, educational, or the prevention of cruelty to children or animals. The nonprofit cannot be organized for the purpose of financial profit for its members or directors, although they can be paid a reasonable compensation for their work. Section 501(c)(3) nonprofit organizations are absolutely precluded from engaging in partisan political campaign activities and their lobbying activities are heavily regulated. Other types of organizations that receive federal tax-exemption, such as Section 501(c)(4) organizations (i.e., civic leagues), are beyond of the scope of this publication.

## What constitutes charitable, educational, or literary purposes?

**Charitable Purposes** — Charitable purposes under the Internal Revenue Code are broadly defined as services that are beneficial to the public interest and may encompass some of the other specifically enumerated 501(c)(3) purposes (such as religious or educational). The organization must serve an open class of people and not limit its activities to specific individuals. For example, a charitable organization established to provide food to the homeless in the community would be a charitable organization, but an organization established to provide food to a designated set of low-income families would not be. The beneficiary class needs to be open and unspecified, but does not have to be large. An organization established to feed the hungry in a certain two-block area would qualify as a charitable organization. Examples of charitable purposes include: relief of the poor, distressed, or underprivileged; advancement of education or science; erection or maintenance of public buildings or monuments; lessening the burdens of government; elimination of prejudice and discrimination; promotion and development of the arts; and defense of human and civil rights secured by law.

**Educational Purposes** — Educational purposes under the Internal Revenue Code include instruction of the public on subjects useful to individuals for the benefit of the community and for self-development. The Internal Revenue Service (“IRS”) will generally find that a curriculum is educational if, when presenting particular viewpoints, the curriculum provides a sufficiently full and fair exposition of pertinent facts to permit an individual or the public to form an independent opinion or conclusion. However, mere presentation of unsupported opinion is not considered educational. Some examples of educational purposes include: publishing public interest educational materials that do not conflict with the requirements above; conducting public discussion groups, forums, panels, lectures, or workshops; offering a correspondence course or one that uses other media such as television or radio; operating a museum, zoo, planetarium, symphony orchestra, or other performance groups; serving an educational institution, such as a college bookstore, alumni association, or athletic organization; and publishing educational newsletters, pamphlets, books, or other material.

**Literary Purposes** — Usually nonprofit organizations fall under educational purposes when they involve publishing written materials. However, some organizations may want to publish materials that are geared to the benefit of the public interest. As long as the organization does not target its activities to commercial markets and sells the publications at a modest price, public interest publishing groups can obtain tax-exempt status. Some examples include publishing material on environmental preservation, highway safety, or drug and alcohol abuse information.

## **What is a community development organization?**

An important category of charitable purposes is community development, such as job training, small business assistance, or affordable housing development. Although there is no established legal definition for a “community development organization”, it is characterized by its community-based leadership and its work primarily in the development of housing and job creation. There are essentially four independent bases for federal tax-exemption for a nonprofit community development organization: (i) relieving the poor and distressed, (ii) combating community deterioration, (iii) eliminating discrimination, and (iv) lessening the burdens of government.

**Relieving the Poor and Distressed** — The difficulty with this basis for exemption is determining whether an individual or family is “poor and distressed.” The IRS defines “poor and distressed” as the inability to afford the “necessities of life” without undue hardship. When the IRS grants federal tax-exempt status to a community development organization for its work to relieve the poor and distressed, it looks at the organization’s anticipated impact on families’ lack of adequate housing, chronic unemployment or underemployment, and whether the work will be performed in a geographic area identified as economically disadvantaged by a government agency.

**Combating Community Deterioration and Eliminating Discrimination** — Under this basis for exemption, a community development organization can seek federal tax-exemption on the basis of its social welfare activities, and thereby avoid a showing that the resident population that it serves falls within the undefined IRS standard of low income or “poor and distressed.” Examples include organizations which erect or rebuild housing in a deteriorated area, sponsor efforts to promote racial integration, stabilize the neighborhood, and provide social services to area residents.

**Lessening the Burdens of Government** — To qualify under this basis for exemption, an organization must meet a two-part test: (1) the government must consider the activities the organization will perform to be the government’s responsibility, and (2) the activities must actually “lessen” the burden of the government. The best way to establish an activity as a government burden or duty is to find a law or a government rule or policy that applies to the particular activity (such as a local housing or economic development plan or policy). Other relevant factors to establish a government’s burden include a governmental unit’s prior involvement in an activity on a regular basis for a significant length of time; the funding of an organization’s activities by the government; or an activity which is one that could be performed directly by a governmental unit. The second part of the two-part test is whether the organization’s activities will actually “lessen” the government’s burden when considering all of the circumstances as a whole. Basically, the organization’s activities must fairly directly address the burden. It will also be helpful if the organization has a favorable relationship with government or enables the government to improve its functions without additional expenditures of government funds. The provision of affordable housing for low-income families has historically been considered a governmental function. (For example, look at the federal agencies dealing with housing, such as HUD, the Farmers’ Home Administration, etc.). Since encouraging job creation and growth of small business is also a goal of government, economic development corporations also should have a strong claim that they lessen the government’s burden.

## **What are some alternatives to incorporation?**

**Unincorporated Association** – An unincorporated association lacks the strict organizational, reporting, and registration requirements imposed on nonprofit corporations. There are no formal requirements to form the association. This structure is best suited for a small organization that does not intend to receive outside funds.

**Fiscal Sponsorship** – A fiscal sponsorship occurs when a group partners with an existing organization to conduct a certain activity or program. The activity or program is carried out under the control and tax-exempt status of the existing organization (the “fiscal sponsor”). This allows grants and contributions to be raised through the fiscal sponsor, which already has fiscal, accounting, personnel, and management systems in place. There are no incorporation costs, and the sponsor

assumes the risk of liability. The downsides of forming a fiscal sponsorship include the fact that the fiscal sponsor has ultimate authority over all decisions. It may be difficult to disengage from the sponsor and the IRS considers the activity or program to be that of the fiscal sponsor (in other words, the activity or program is not considered a separate organization or entity).

## **What are the steps needed to form a nonprofit corporation in Texas?**

### **Step 1: Check Availability of Name (Optional: Reserve Name with Secretary of State)**

The Secretary of State will not allow an entity seeking incorporation to use a name that is the same or deceptively similar to a name already in use by another corporation, limited liability company, limited partnership, or other entity in the State. An organization should first check the availability and legality of the proposed name by calling or emailing the office of the Texas Secretary of State in Austin: (512) 463-5555; [corpinfo@sos.state.tx.us](mailto:corpinfo@sos.state.tx.us). If an organization, prior to the filing of the organization's certificate of formation, wants to make sure that the name it has chosen is not subsequently "taken" by another entity before the certificate of formation is filed, the organization needs to reserve the name with the Secretary of State. You can reserve a name with the Secretary of State's Office for a period of 120 days by filing Form 501 (Name Reservation), available at [http://www.sos.state.tx.us/corp/forms\\_boc.shtml](http://www.sos.state.tx.us/corp/forms_boc.shtml). Instructions for filing the Name Reservation are included on the first page of the Form 501.

A Texas nonprofit corporation does not need to add an organizational designation, such as "Inc.," "Ltd.," "Incorporated," or "Company" to its name, as is required of a for-profit corporation. The nonprofit corporation must meet special requirements if it wants to use any variation(s) of "veteran," "legion," "foreign," "Spanish," "disabled," "war," and/or "world war" in its name.

## Step 2: Prepare Certificate of Formation

The certificate of formation, as the name implies, is the document filed with the Secretary of State to form the nonprofit corporation. The certificate, which becomes a public document, defines what the corporation will do and who will be initially responsible for the management of the corporation. The Secretary of State provides a Form 202 which is drafted to meet the minimum statutory filing requirements for a certificate of formation, but should not be used for a tax-exempt organization without specific language. The following provisions need to be included in a certificate. If a certificate of formation does not include the necessary language, it will need to be amended and restated.

**Purposes Clause:** The purposes clause should define the charitable purpose of the corporation. The nonprofit needs to make sure the purposes clause is not so narrow that it unduly limits the nonprofit's activities, and not so broad that it prevents the nonprofit from obtaining 501(c)(3) exemption from the IRS. All that is required is: "The Corporation is a nonprofit corporation organized for exclusively charitable, scientific, religious, and educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended."

**IRS Language:** To obtain tax-exempt status from the IRS under Section 501(c)(3) of the Internal Revenue Code, the certificate of formation also needs to include special clauses that relate to (i) the dissolution of the nonprofit, (ii) "inurement," and (iii) a general statement that the corporation may not take action that would be inconsistent with the requirements for tax-exemption under Section 501(c)(3). It must be stated that, upon dissolution, any remaining assets will be distributed to other organizations exempt under Section 501(c)(3).

**Initial Directors:** The certificate must name the directors constituting the initial board. The initial board of directors will serve in this capacity until they are replaced as outlined in the bylaws and the certificate of formation. A Texas corporation must have a minimum of three directors. TBOC §22.204. The directors need not be residents of Texas.

**Incorporator:** The incorporator is the person who signs the certificate of formation and must be 18 years of age or older. The incorporator does not need to be one of the initial directors. The incorporator does not need to acknowledge the certificate before a notary. Once the Secretary of State approves the certificate of formation, the incorporator's work is completed.

**Registered Agent and Address:** The certificate of formation must provide the name and address of the corporation's registered agent and office. The agent is often the incorporator or another officer or director of the corporation. The registered office generally cannot be a post office box. It is not necessary that the business address of the corporation be the registered office of the corporation; although, this is frequently the case. A corporation should attempt to appoint as a registered agent a person who will remain affiliated with the corporation for a year or more. The registered agent must consent to serve as the registered agent and complete Form 401-A. The signed consent does not need to be filed, but should be sent to and retained by the organization.

**Members:** In forming a nonprofit corporation, you need to decide who will govern the corporation: voting members, the board of directors, or a combination of the two. If the corporation is not going to have members, the certificate needs to state so; otherwise, it is assumed that the nonprofit has members. Many nonprofit corporations choose the membership form when they seek increased formal accountability to a particular community or when there is another strong reason for having members, such as increased ability to attract funds from sources that require or encourage membership, or the need to demonstrate a base of support within a community or group of people. The increased administrative burdens of running a membership corporation, however, have led many corporations not to have members. If you are creating a nonprofit corporation with members, be sure to review the various statutory requirements relating to membership corporations, including provisions relating to voting rights and notices of meetings.

### **Step 3: File the Certificate with Secretary of State**

Generally, the incorporator will need to submit the completed Certificate of Formation in duplicate together with the appropriate filing fee. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697, faxed to (512) 463-5709, or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. If the certificate is transmitted by fax, credit card information must accompany the transmission on a Form 807 (as described in the Form 202 instructions). For an additional expedited filing fee, an organization can get approval within approximately 72 hours. Even without the expedited fee, it generally takes no longer than a couple of weeks to receive a returned file stamped copy of the certificate. The incorporator will need to order a “certified copy” of the certificate of formation to submit with the federal tax-exemption paperwork. The certified copy may be ordered simultaneously with the filing of the certificate of formation for approximately \$1 per page.

The nonprofit corporation legally exists on the date stamped on the certificate of formation (or another future effective date, if one was specified on the certificate of formation).

### **Step 4: Prepare Bylaws**

The initial board of directors should prepare and adopt bylaws for the corporation simultaneously with the preparation of the certificate of formation or soon thereafter. A copy of the bylaws, signed by a corporate officer, must be submitted if using IRS Form 1023 when applying for the federal tax-exemption.

The bylaws contain the rules governing the internal structure and internal management of the corporation. State law requires certain provisions, but most provisions are optional. The law often provides that “unless the certificate or bylaws state otherwise, then...” What that means is that, when the certificate and bylaws are silent in such circumstances, the state law governs by default. However, when the bylaws are not silent, the bylaw provisions apply, provided they do not conflict with the certificate or state law.

Some of the most important issues in drafting the bylaws include:

**Meetings:** the frequency and place of meetings, the type of notice required, and whether directors may vote by written proxy.

**Leadership:** the titles and specific responsibilities of the officers, qualifications for directors, the number of directors, the length of terms for the directors and officers, and the method for electing and removing directors and officers. The corporation must have a president and a secretary.

**Provisions for Membership (if the corporation has members):** qualifications for membership, method of selection, dues and fees, voting rights, and the frequency and place of membership meetings.

**Quorum:** the number of members or directors required for a quorum to conduct business, and the proportion of votes required to take action on a matter (pursuant to Texas law, an act of the board is an act of the majority of the directors present unless a greater number is required by the certificate or bylaws).

**Controls:** the signatures required for execution of legal documents, signatures required for checks, and other controls over financial transactions and transfers of corporate assets.

**Committees:** the types of committees, responsibilities of committees, and qualifications for serving on a committee.

**Fiscal Year:** the accounting period of the corporations; (which need not be the calendar year).

**Bylaw Amendments:** the procedures for amending the bylaws.

## Step 5: Meeting of Initial Directors to Adopt Bylaws and Transact Business

After the organization obtains its certificate of formation, it must hold an organizational meeting, called by the incorporator or a majority of the directors (or each of the actions that would have otherwise occurred at the organizational meeting may be agreed to by a unanimous written consent of the initial directors in lieu of a meeting). If a physical meeting will be held, the directors named in the certificate of formation must receive at least three days' notice of the meeting, stating the time and place of the meeting. At the initial meeting, the following actions should be taken:

- **Adopt bylaws.**
- **Elect officers.** The corporation must elect a president and secretary. Any two offices may be held by the same person, except for the president and secretary. An officer may serve unlimited terms, unless the certificate or bylaws include term limits. The corporation can elect other officers' positions as well, in accordance with the certificate or bylaws.
- **501(c)(3) application.** If the nonprofit corporation will seek federal tax-exemption, the directors should vote to authorize the preparation and filing of the appropriate tax-exemption application.

At the initial meeting or subsequent board meetings, the following actions should also be taken:

- Appoint members of committees.
- Authorize purchase of corporate record books.
- Fix the location of the principal office.
- Select a bank or banks and authorize the opening of an account.
- Authorize check signers.
- Authorize payment or reimbursement of incorporation and filing expenses.
- Authorize the filing of state tax-exemption applications.
- Appoint a registered agent for service of process (if the agent named in the certificate of formation will not continue to serve in this capacity).

- Select an insurance broker and authorize the purchase of general liability and property insurance, bonding, director's and officer's liability insurance, and employee fringe benefits such as medical insurance and retirement plans.
- Select an accountant or auditor.
- Authorize obtaining a nonprofit mailing permit to use special bulk nonprofit rates.

### **Step 6: Apply for a Federal Employer Identification Number**

In order to be tax-exempt, an organization must obtain a Federal Employer Identification Number (EIN). An EIN is needed whether or not the organization has employees. This number is used on all federal tax returns and receipts. The EIN (together with the file stamped copy or certified copy of the certificate of formation) is also essential when opening a bank account for the corporation.

The organization should complete an IRS Form SS-4, available on the IRS website at <http://www.irs.gov> and place the original completed form in the organization's minute book. Then, using the information from the completed IRS Form SS-4, the organization may obtain its EIN instantly online at <https://sa2.www4.irs.gov/modiein/individual/index.jsp>. The legal structure is the last selection.

### **Step 7: Prepare Federal Tax-Exemption Application**

To obtain federal tax-exempt status as a Section 501(c)(3) charitable organization, a corporation generally needs to file one of two forms, depending on whether the organization meets a certain asset and gross receipt threshold. Organizations with assets of \$250,000 or less and annual gross receipts of \$50,000 or less may qualify for the IRS Form 1023-EZ application—a new, shorter form for small charities. Eligibility is determined by completing the Form 1023-EZ Eligibility Worksheet found in the Instructions for Form 1023-EZ. Unlike the regular Form 1023, the Form 1023-EZ requires the organization to choose a National Taxonomy of Exempt Entities (NTEE) Code, a three character series of letters and numbers that best describes the organization and its purpose. The three-page form must be completed online at [pay.gov](http://pay.gov), include the organization's EIN, and be submitted with a \$400 application fee.

Organizations with more than \$50,000 in gross receipts need to file IRS Form 1023. The IRS Form 1023 may be obtained from the IRS website (<http://www.irs.gov>) together with the detailed instructions to the IRS Form 1023. The instructions describe, step-by-step, how to properly complete the IRS Form 1023, and describe, among other things, the following: the form should be filed within 27 months from the date the certificate of formation is filed with the Secretary of State, the form must be signed by a principal officer, by an authorized employee, or by an attorney for the corporation and the form should be sent certified mail, return receipt requested to: Internal Revenue Service, P.O. Box 12192, Covington, KY, 41012-0192.

As described in the instructions to the IRS Form 1023, the following must be included as part of the application:

- Certified copy of the certificate of formation;
- Copy of bylaws;
- Detailed pro forma financial statements, including revenue and expense statement for current and three preceding fiscal years; for new organizations, proposed budgets for the next two fiscal years including a list of anticipated financial support;
- Narrative description of past, present, and future planned activities with an emphasis on broad public benefit of the organization's activities;
- Names and addresses of directors and officers and their annual compensation;
- Annual accounting period (fiscal year);
- Statement as to whether the organization is claiming status as a private foundation or public charity; and
- EIN.

The IRS has 270 days to rule on the application. Usually within 2-3 months, the IRS requests additional information or approves the organization's tax-exempt status by issuing a "determination letter" to the corporation formally approving the exemption. The letter, application, and correspondence to and from the IRS relating to the application must be kept in a safe place and available for public inspection.

The IRS will presume that a corporation qualifying for a tax-exemption is a private foundation unless the corporation proves that it falls under the definition of a public charity. Generally, a nonprofit corporation will want to qualify as a public charity and not a private foundation. Operational, distribution, and reporting requirements for private foundations differ from those of public charities and are more restrictive and burdensome. To qualify as a public charity, a nonprofit corporation must generally receive funding from a broad base of private supporters. The IRS has very specific tests to determine public charity status. The instructions to the IRS Form 1023 discuss this in more detail.

The instructions to the Form 1023 also point to the additional IRS Forms that must be filed annually by the tax-exempt, nonprofit corporation and with respect to any income the nonprofit generates that is unrelated to its exempt purposes (described as “unrelated business taxable income”).

### **Step 8: Apply for Sales, Franchise and Hotel Tax-Exemption from Texas Comptroller**

Nonprofit corporations are subject to all state taxes that for-profit corporations are subject to, including sales/use, franchise and hotel occupancy tax, unless the nonprofit corporation obtains an exemption from the Texas Comptroller of Public Accounts. The easiest method for obtaining state tax-exemption is by first obtaining federal tax-exemption. To apply for state exemption based on the federal exempt status, complete Form AP-204 located at <http://www.window.state.tx.us/taxinfo/exempt/index.html>. Include a copy of the exemption determination letter issued by the IRS, including any addenda. The organization name on the IRS letter must match the organization’s legal name as listed in the certificate of formation.

### **Step 9: Apply for Property Tax-Exemptions from the Local Tax Appraisal District**

Organizations engaged primarily in charitable activities may be eligible for a local option property tax-exemption. The availability of the exemption is at the option of local taxing authorities. Before an organization can apply for the exemption, the Texas Comptroller’s office must verify that the nonprofit organization is a statewide

charitable organization engaged primarily in charitable activities. To receive the exemption, an organization should submit Form 50-299 (available at <http://www.window.state.tx.us/taxinfo/taxforms/02-form06.html>) along with a copy of the Comptroller determination to their local appraisal district.

## **What are the legal obligations of a tax-exempt nonprofit?**

There are strict statutory obligations that nonprofits must follow under Texas law:

- Except as provided to the contrary in the bylaws, the corporation must hold an annual meeting the members. TBOC §22.153. Notice of the meetings must be delivered between 10 and 60 days before the meeting, in person, by fax or email, or by mail. TBOC §22.156. The bylaws may provide that no notice is required (in which case, the bylaws should describe the time and place of the annual meeting). TBOC §22.157(a). If the corporation has more than 1,000 members, and if the bylaws so provide, the corporation may give notice by publication in a newspaper in the community. TBOC §22.157(b).
- The corporation must prepare an alphabetical list of the names of all of its voting members. TBOC §22.158. Unless otherwise provided for in the certificate of formation or the bylaws, members holding 1/10<sup>th</sup> of the vote constitute a quorum and a majority of the quorum is an act of the members. TBOC §22.159.
- The corporation may not make a loan to a director and any director who votes for the loan (and any officer who participates in making the loan) is jointly and severally liable to the corporation for the amount of the loan until it is repaid. TBOC §22.225.
- The corporation must maintain current and accurate financial records with complete entries of each financial transaction of the corporation. TBOC §22.352(a).
- The corporation must prepare the following annual reports in accordance with the accounting standards of the American Institute of Certified Public Accountants: a statement of support, revenue and expenses, a statement of changes in fund balances, a statement of functional expenses and a balance sheet for each fund. TBOC §22.352(b).

- The corporation must keep its records, books and annual reports at its registered or principal office for three years and make the records available to the public for inspection and copying. TBOC §22.353.
- The corporation must keep a current registered agent and their consent to serve on record.
- The corporation must submit IRS Form 990 every tax year.
- The corporation must submit Secretary of State Form 802–General Information (Periodic Report--Nonprofit Corporation) once every four years.

## **How is a nonprofit organization monitored?**

The Board of Directors is legally responsible for the activities of the organization, including guarding it against fraud and corruption. Private watchdog groups, such as the National Charities Information Bureau and the American Institute of Philanthropy, monitor the behavior of nonprofits in order to ensure that money is being spent appropriately and effectively. The state, through the Attorney General's office, is responsible for investigating fraud and abuse claims. The IRS monitors nonprofits by requiring annual reporting on IRS Form 990 as a condition of being tax-exempt and through its audit process. The IRS can also individually sanction officials who receive excess benefits or otherwise violate the federal tax laws applicable to nonprofit organizations. Individual donors and members can regulate the organization by withholding financial support as well. Increased media coverage has also held nonprofits accountable to their true purposes.

## **Should an organization use a lawyer to help gain tax-exempt status?**

In almost every case, the answer is yes. A lawyer can help you by avoiding unnecessary mistakes which might jeopardize your ability to incorporate or gain tax-exempt status. A lawyer will also advise you on certain corporate responsibilities, such as withholding and paying Social Security tax as well as any other wage withholding taxes for employees. Such taxes generally apply regardless of your tax-exempt status. A lawyer may also be able to recommend an accountant to assist the nonprofit corporation to comply with its ongoing federal and state tax bookkeeping and reporting obligations.

If you do not have a lawyer and cannot afford to pay one, you may be able to obtain free legal assistance through Texas C-BAR or a similar organization in your area.

**The following resources  
provide management support services to nonprofit organizations.  
— January 2015 —**

**AMARILLO, TX**

Amarillo Area Foundation Nonprofit Services Center  
801 South Fillmore, Suite 700  
Amarillo, TX 79101  
(806) 376-4521 FAX: (806) 373-3656  
Website: [www.amarilloareafoundation.org](http://www.amarilloareafoundation.org)  
Hours: 8:30 a.m. – 5:00 p.m., M-F

**AUSTIN, TX**

Center for Community-Based & Nonprofit  
Organizations  
Austin Community College  
5930 Middle Fiskville Rd.,  
Austin, TX 78752  
(512) 223-7076 FAX: (512) 223-7210  
Website: <http://www.nonprofitaustin.org>  
Hours: 9:00 a.m. – 5:00 p.m., M-F

**AUSTIN, TX**

RGK Center for Philanthropy & Community Service  
University of Texas at Austin  
P.O. Box Y  
Austin, TX 78713  
(512) 2327062 FAX: (512) 232-7063  
Website: <https://www.rgkcenter.org>  
Hours: 8:00 a.m. – 5:00 p.m., M-F

**AUSTIN, TX**

Texas C-BAR  
4920 N. IH-35  
Austin, TX 78751  
(512) 374-2712 FAX (512) 447-3940  
Email: [texasbar@trla.org](mailto:texasbar@trla.org)  
Website: [www.texasbar.org](http://www.texasbar.org)  
Hours: 8:00 a.m. – 5:00 p.m., M-F

**AUSTIN, TX**

GREENLIGHTS for Nonprofit Success  
8303 N. Mopac Expwy, Suite A201  
Austin, TX 78759  
(512) 477-5955 FAX: (512) 477-5911  
Website: [www.greenlights.org](http://www.greenlights.org)  
Hours: 9:00 a.m. – 5:00 p.m., M-F

**AUSTIN, TX**

Texas Association of Nonprofit Organizations  
9011 Mountain Ridge Dr.  
Austin, TX 78759  
(512) 287-2043  
Website: [www.tano.org](http://www.tano.org)

**BEAUMONT, TX**

Southeast Texas Nonprofit Development Center  
700 North Street, Suite D  
Beaumont, TX 77701  
(409) 832-6565 FAX: (409) 832-7532  
Website: [www.setxnonprofit.org](http://www.setxnonprofit.org)  
Hours: 9:00 a.m. - 4:00 p.m. M-F

**DALLAS, TX**

The Center for Nonprofit Management  
2902 Floyd Street  
Dallas, TX 75204  
(214) 826-3470 FAX: (214) 821-3845  
Website: [www.cnmconnect.org](http://www.cnmconnect.org)  
Hours: 8:00 a.m. – 5:00 p.m., M-F

**EDINBURG, TX**

Southwest Border Nonprofit Resource Center  
 University of Texas Pan American  
 1201 West University Drive, ITT 1.404H  
 Edinburg, TX 78541  
 (956) 665-7566 FAX: (956) 292-7569  
 Email: [sbnrc@utpa.edu](mailto:sbnrc@utpa.edu)  
 Website: <http://community.utpa.edu/sbnrc>  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**EL PASO, TX**

Center for Civic Engagement  
 Nonprofit Enterprise Center  
 UTEP Center for Civic Engagement  
 500 W. University Benedict Hall Rm 101  
 El Paso, Tx. 79968-0626  
 Phone: (915) 747-7969  
 Email: [cce@utep.edu](mailto:cce@utep.edu)  
 Website: <http://academics.utep.edu/>  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**FORT WORTH, TX**

Cornerstone Assistance Network  
 3500 Noble Avenue  
 Fort Worth, TX 76111  
 (817) 632-6000  
 Website: [www.canetwork.org](http://www.canetwork.org)  
 Hours: 8:30 a.m. – 4:00 p.m. M-F

**HOUSTON, TX**

Executive Service Corps of Houston  
 7575 San Felipe Street, Suite 235  
 Houston, TX 77063  
 (713) 780-2208 FAX (713) 780-7764  
 Email: [esch@eschouston.org](mailto:esch@eschouston.org)  
 Website: [www.eschouston.org](http://www.eschouston.org)  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**HOUSTON, TX**

Nonprofit Connection  
 United Way of Greater Houston  
 50 Waugh Drive  
 Houston, Texas 77007  
 (713) 685-2300  
 Email: [nonprofitconnection@unitedwayhouston.org](mailto:nonprofitconnection@unitedwayhouston.org)  
 Website: <https://www.unitedwayhouston.org/>  
 9 a.m. – 5:00 p.m. M-F

**JACKSONVILLE, TX**

A Circle of Ten, Inc.  
 205 E. Commerce, #205  
 Jacksonville, TX 75766  
 (903) 541-0013 FAX: (903) 541-0014  
 Email: [circleof10@circleof10.org](mailto:circleof10@circleof10.org)  
 Website: [www.virtual-village.org](http://www.virtual-village.org)  
 Hours: 8:00 a.m. – 6:00 p.m., M-F

**LUBBOCK, TX**

Volunteer Center of Lubbock  
 1706 23rd Street, #101  
 Lubbock, TX 79411-1213  
 (806) 747-0551 FAX: (806) 747-8640  
 Website: [www.volunteerlubbock.org](http://www.volunteerlubbock.org)  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**LUBBOCK, TX**

Center for Public Service  
 Texas Tech University  
 Lubbock Texas 79409  
 (809) 834-3729  
 Email: [Era.ibarra@ttu.edu](mailto:Era.ibarra@ttu.edu)

**MIDLAND, TX**

Nonprofit Management Center of the Permian Basin  
 3500 North A Street, Suite 2300,  
 Midland, TX 79701  
 (432) 570-7971  
 Email: [info@nmc-pb.org](mailto:info@nmc-pb.org)  
 Website: <http://nmc-pb.org/>  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**SAN ANTONIO, TX**

TEXASNONPROFITS (TXNP)  
 P.O. Box 90509  
 San Antonio, TX 78209-9086  
 (210) 710-2465  
 Email: [txnp@txnp.org](mailto:txnp@txnp.org)  
 Website: <http://www.texasnonprofits.org/>

**SAN ANTONIO, TX**

San Antonio Area Foundation Center  
 for Nonprofit Support  
 303 Pearl Parkway, Suite 114  
 San Antonio, Texas 78215  
 (210) 225-2243 FAX: (210) 225-1980  
 Email: [info@saafdn.org](mailto:info@saafdn.org)  
 Website: <http://www.saafdn.org/>  
 Hours: 8:00 a.m. – 5:00 p.m., M-F

**TYLER, TX**

United Way of Tyler/Smith County  
 East Texas Center for Nonprofits  
 4000 Southpark Drive  
 Tyler, TX 75703  
 (903) 581-6376, ext. 220  
 Website: [www.uwtyler.org](http://www.uwtyler.org)  
 Hours: 8:30 a.m. – 5:00 p.m., M-F

**VICTORIA, TX**

University of Houston at Victoria  
 Center for Nonprofit Leadership, #UC101  
 3007 N. Ben Wilson  
 Victoria, TX 77901  
 (361) 570-4296  
 Website: [www.uhv.edu](http://www.uhv.edu)

**WICHITA FALLS, TX**

Nonprofit Management Center of Wichita Falls  
 2301 Kell Blvd., Suite 218  
 Wichita Falls, TX 76308  
 (940) 322-4961 FAX: (940) 322-4962  
 Email: [Kalee@nonprofitcenterwf.org](mailto:Kalee@nonprofitcenterwf.org)  
 Website: <http://nonprofitcenterwf.org/>  
 Hours: 8:30 a.m. – 5:00 p.m., M-F







# Forming a Nonprofit Tax-Exempt Corporation in Texas

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