



Filings and Forms for a Nonprofit Organization

Not having any tax liability is one of the many benefits of being a tax-exempt organization. Unfortunately, a tax exemption does not mean you are exempt from filing forms and other paperwork on an annual basis, and to a sometimes dizzying array of agencies and offices.

Your organization needs to have in place procedures to ensure proper compliance with the deadlines for all of these forms, as failure to do so may result in penalties and, depending on the nature of the filing, may jeopardize your organization's tax exempt status. The information contained in this guide provides a handy reminder of what needs to be filed for your organization, both as you are just starting up and on an annual basis once you are up and running. However, you should always check to make sure you are using the most up to date forms and know the current filing requirements, as regulations can change.

Types of Organizations

Your organization is most likely organized on one of the following models. Use the appropriate type to determine your required filings from the charts that follow.

Nonstock corporation: A “nonstock” corporation is one organized under Ch. 181 of the Wisconsin statutes, and is the most common form for a nonprofit organization that incorporates.

Tax exempt organization: An organization must be recognized as tax exempt by the IRS through a formal application process, unless it has gross annual receipts of less than \$5,000. The exemption is usually granted by the IRS under either section 501(c)(3) or 501(c)(4) of the IRS code, and thus tax exempt organizations are typically referred to as “501(c)(3)” or “501(c)(4)” organizations. The vast majority of tax exempt organizations are incorporated, though unincorporated associations can apply for an exemption.

Unincorporated association: An unincorporated association is essentially any group of more than two people organized for a nonprofit purpose and is governed by Chapter 184 of the Wisconsin statutes. Most unincorporated associations do not have a federal tax exemption.

Note: Your organization may need to create other documents for internal purposes (e.g. bylaws). This guide covers only documents that need to be filed with federal and state agencies. Please reference some of the other tools in this series for help with sample bylaws and other documents related to Board governance.

GETTING STARTED . . . THE INITIAL FORMS

Incorporating with the State of Wisconsin is the first step for most groups and is necessary if your group plans on obtaining federal nonprofit status.

Form	Name	Required if . . .	Exempt If . . .	Fee
<i>State</i> Form 102, Chapter 181	Articles of Incorporation	You are a nonstock corporation	Unincorporated association, see Chapter 184.	\$35
<i>Federal</i> IRS Form SS-4	Federal Employer ID Number (FEIN)	File for tax exemption, employ individuals or owe taxes	- Less than \$5000 annual gross receipts - Not filing for tax exemption	\$0

Articles of Incorporation: Must be filed to with the Department of Financial Organizations for the organization to become a corporation. This is a one time filing (though the Articles can be amended at any time), and carries a fee of \$35. The Department's form (DFI/Corp Form 102) is not mandatory, but the filing must contain the information requested on the form if it is not used. Articles of Incorporation are mandatory if the organization is filing for tax exempt status. For more information refer to www.wdfi.org.

FEIN: The Federal Employer (or Tax) Identification Number is required for all organizations that file for tax exemption, employ individuals, or owe taxes. A nonstock corporation with more than \$5,000 in gross annual receipts that is not pursuing a tax exemption is required to file annual income tax returns, and needs a FEIN to do so. The FEIN can be applied for online at www.irs.gov or by filing form SS-4.

SOLICITING DONATIONS IN WISCONSIN

To solicit donations from individuals, businesses or foundations in Wisconsin you need to register so donors can confirm you are a legitimate nonstock corporation.

Form	Name	Required if . . .	Exempt If . . .	Fee
<i>State</i> DRL 296	Charitable Organization Registration Form	Annual gross receipts >\$5,000	Annual gross receipts <\$5,000	\$15

DRL Form 296: This is the Charitable Organization Registration Form. This form is required for organizations with over \$5000 annual gross receipts that plan on soliciting donations. Organizations with less than \$5,000 in annual gross receipts, who have no employees and whose revenue and assets do not benefit members or directors are exempt from the registration requirement. The fee is \$0, and the form can be found at <http://drl.wi.gov>.

Required documents while registering

- FEIN
- If incorporated, Articles of Incorporation or Bylaws
- If federally tax exempt (not required) 501(c)3 documentation
- If filed, financial report from previous year (form 2620)

FILING FOR TAX EXEMPTION

Having tax exempt status is a major draw for large donors and is a good idea to pursue if expanding your organization. You will need to have your state nonstock status before submitting form 1023.

Form	Benefit	Exempt if . . .	Fee
<i>Federal</i> IRS Form 1023	501(c)3 Status: donor contributions are tax deductible	Less than \$5000 annual gross receipts	Annual gross receipts < \$10,000/yr = \$300 Annual gross receipts > \$10,000/yr = \$750
<i>State</i> Wis DOR Form S-103	Exempt from paying sales and use taxes for purchases	Not seeking exemption from sales and use taxes	\$15

IRS Form 1023: Form 1023 is the official request for tax exemption from the IRS. This is a complicated form, and the organization will want to educate itself or consult an attorney or nonprofit professional prior to completing this form. An organization with gross receipts of less than \$5,000 in a year may consider itself tax exempt, but is not required to file this form. www.irs.gov.

Wis DOR Form S-103: Form S-103 is the application to exempt the organization from paying sales and use taxes for *purchases* of items or taxable services. Please note that this exemption is only for *purchases* and does not exempt the organization from any obligation to collect sales tax. Generally organizations that qualify for exemption from Federal income tax under Section 501(c)3 of the internal revenue code will qualify for exemption from WI sales and use tax. More information is available at www.revenue.wi.gov.

Note: The following documentation is required when filing form S-103: Articles of Incorporation or Bylaws, Statements from last accounting period, and Federal IRS determination letter (must be federally tax exempt).

Organizations Selling Merchandise

A nonprofit organization is required to pay sales tax on sales of tangible personal property and taxable services, unless the sales qualify under an “occasional sale exemption.”

The Occasional Sales Exemption - Sales by a nonprofit organization qualify as “occasional sales” and are exempt from sales tax if all of the following are met:

- The organization does not hold or is otherwise not required to hold a Wisconsin Seller’s Permit, except if held for Bingo Purposes
- The organizations normally taxable sales occur 20 days or less during the year, OR their normally taxable sales do not exceed \$25,000 in a full year
- The organization does not conduct an admission event at which entertainers are paid or reimbursed in excess of \$500.00

Obtaining a seller’s permit - If the organization has sales that are not exempt occasional sales, it is required to obtain a Seller’s Permit and pay sales tax on those sales. Seller’s permits may be obtained by completing Dept of Revenue Form BTR-101 or by filing online through the Dept. of Revenue website www.revenue.wi.gov. Income earned from non-mission based sales such as advertising is considered unrelated business income. This income is subject to income tax at corporate rates and must be reported annually on IRS Form 990-T.

ANNUAL FILINGS AND FEES REQUIRED FOR EXISTING ORGANIZATIONS

As a nonstock corporation or nonprofit organization you will have annual reports to file. To keep your nonstock or nonprofit status, you must complete and submit these forms accurately and on time.

Form	Exemption/Details	Due Date	Fee
<i>Federal</i> IRS Forms 990-N 990-EZ 990 990-T	Annual financial report required if annual gross receipts are >\$5,000. Above \$5,000 the version of the form varies. >\$5,000 >\$25,000 >\$200,000 >\$1,000 in unrelated business income	15 th day of the 5 th month following the end of orgs fiscal year	\$0
<i>State</i> DFI Form 17	Corporate Annual Report	Depends on filing quarter– will be mailed to org.	\$10
<i>State</i> Form 296	Annual renewal	July 31 st – notices will be mailed out	\$15
<i>State</i> Form 308, 1943, and 1952 Note: If you have a 990, then Form #1952 can be used in place of Form #308	Charitable Organization Annual Report Contributions <\$5000 or contributions <\$50,000 and only solicit in one county, submit Form #1943 in place of 308 Contributions >\$200,000, a review by an independent certified public accountant is required in addition to Form 308 Contributions >\$400,000, submit audited financial statement and the opinion of an independent certified public	6 month after end of fiscal year	\$15

IRS Form 990– www.irs.gov This is an informational return required of all tax exempt organizations with annual receipts in excess of \$5,000. The version of the form required (N, EZ, or 990) varies based on the amount of annual gross receipts and total assets.

Corporate Annual Report – www.wdfl.org This report is mailed annually to the corporation’s registered agent and is filed with the Department of Financial Institutions on DFI Form 17.

Charitable Organization Registration Renewal– www.drl.state.wi.us This is an annual update to the form initially filed by the organization.

Charitable Organization Annual Report – www.drl.state.wi.us This state form is filed by organizations registered as charitable organizations with the Department of Regulation and Licensing. It is a detailed information return similar to the IRS 990-EZ. If an organization has gross receipts less than \$5000, it need simply file an affidavit with the DRL attesting to that fact.

ADDITIONAL FORMS

Raffles

Charitable organizations may obtain a license to hold raffles from the Division of Gaming of the Wisconsin Department of Administration. Licenses are applied for annually and require an annual report. The filing fee is \$25.

A license entitles the org to hold up to 200 raffles in a year, and one “calendar” raffle (multiple drawing are held on different dates). Licenses are issued as either:

- Class A: Tickets cannot cost more than \$100, may be sold on days other than the day of drawing, and winners need not be present to win.
- Class B: Tickets cannot cost more than \$10, can only be sold on the day of drawing, and the winner must be present

Applications for new licenses, license renewal forms and annual report forms may all be found at the division’s website at www.doa.state.wi.us/gaming.

**Note: May have 200 Class A and 200 Class B raffles in a year, so theoretically 400 raffles total. Must apply separately for each application

RESOURCES

A Guide for Wisconsin Nonprofit Organizations, published by the State Bar of Wisconsin contains information on nonprofit management. Order at www.wisbar.org or call 608/257-3838 or 1-800-728-7788.

Visit the *Internal Revenue Service* at www.irs.gov for information on federal income tax exemptions.

Visit the *Wisconsin Department of Financial Institutions* on the web at www.wdfi.org for filing Chapter 181 or an annual report. Or contact by phone at 608-261-7577.

Visit the *Wisconsin Department of Regulation and Licensing* on the web at <http://drl.wi.gov/prof/char/def.htm> for information on registering as a charitable organization and for instructions to download form. Or contact by phone at 608/266-2112.

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