

**STARTING A  
NONPROFIT ARTS  
ORGANIZATION:  
*INCORPORATION &  
THE TAX EXEMPT  
APPLICATION PROCESS***



**ARTS & BUSINESS COUNCIL *of* GREATER NASHVILLE**

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Arts & Business Council of Greater Nashville (ABC) is a nonprofit organization that serves the creative community and helps companies and individuals leverage the arts for innovative and creative success. The Volunteer Lawyers & Professionals for the Arts (VLPA) program of ABC provides free legal services to low-income artists of all disciplines, as well as legal and business assistance to emerging nonprofit arts organizations. Please contact us for more information about VLPA and other ABC programs.

Special thanks to Sarah Easley, a VLPA intern from Vanderbilt University Law School, for drafting this document.

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## Introduction

Starting an arts organization can be a long and challenging process, yet an ultimately rewarding one. Formation, fundraising, and government compliance are just a few of the steps involved. Most arts organizations seek to establish themselves as 501(c)(3) tax exempt, nonprofit corporations (for reasons discussed below). In order to do this, an organization must complete filings with and comply with the requirements of both the state of Tennessee and the federal government Internal Revenue Service (IRS).

There are two major steps in this process:

1. **Incorporating in Tennessee**, which establishes the corporate entity and recognizes the organization as a nonprofit corporation that conducts charitable, educational, or cultural activities.
2. **Applying for Recognition of Tax Exempt Status from the IRS**, which conveys 501(c)(3) status upon the nonprofit organization, exempting it from federal corporate income tax and making contributions tax deductible.

This workbook was created to guide you through the process of setting up your nonprofit arts organization in Tennessee. It has five parts, with each section divided into multiple steps.

### MONEY MATTERS: HOW MUCH WILL IT COST?

Most arts organizations will be required to pay the following fees during the incorporation and tax exemption process:\*

	Annual budget \$30,000+/year	Annual budget <\$10,000/year
Filing Articles of Incorporation with Secretary of State	\$100	\$100
Filing Articles of Incorporation with Register of Deeds	\$7	\$7
Filing 1023 with IRS	\$850	\$400
Application for Charitable Solicitation Permit (or exemption)	\$50	\$0
<b>TOTAL:</b>	<b>\$1,007</b>	<b>\$507</b>
(Optional) Bulk Mailing Fee for special postage rates	\$175	\$175

#### Annual Fees

Annual Report to Secretary of State	\$20
Renewal of Charitable Solicitation Permit	\$100-300 (sliding scale)
Quarterly Employment Tax Returns	varies

\* If using VLPA's service, there will be an additional administrative fee of \$150 (this includes the organization's \$50 membership).

Please note that the information set forth in this workbook is not a substitute for qualified legal advice. VLPA will work with you to start the incorporation process and, if you decide to apply for tax exempt

status, can refer you to a volunteer attorney. To be referred to a lawyer for help with your IRS application, you will need to pay a \$150 administrative fee. This workbook is to be used as an accompaniment to assist you while you work with your volunteer attorney.

**PART ONE: SET UP YOUR ARTS ORGANIZATION**

**STEP ONE: DETERMINE YOUR BUSINESS STRUCTURE**

Like art, an organization may take on many forms. How you choose to structure your organization may be crucial to its success. Creating a nonprofit requires a dedication of time, money, and effort that should not be underestimated. Before you begin the lengthy and expensive process of creating your nonprofit, you should consider whether forming a new organization is your best option.

There are a couple of alternatives to creating a new nonprofit that may better meet your goals. One alternative is partnering with an existing nonprofit. With roughly 1.8 million nonprofits in the United States, chances are high that an organization with a mission and goals substantially similar to your proposed idea might already exist in your area. There could also be existing nonprofits that might not be fulfilling your vision precisely, but would be excited to implement and operate a new program such as yours. With a little creativity, these types of partnerships can often be designed to meet the needs of both you and the existing organization.

Another alternative to forming a new organization is to create a relationship with an existing 501(c)(3) organization called “fiscal sponsorship.” In this relationship, the existing organization agrees to serve as a “sponsor” for a charitable project, allowing the new project to take advantage of the benefits of its tax-exempt status. While fiscal sponsorship relationships vary, the typical model is for sponsors to receive grants and tax-exempt donations on behalf of the project, as well as provide some support services, such as bookkeeping, payroll or insurance.

Creating a relationship with an existing organization, whether through a partnership or a fiscal sponsorship, can help jumpstart your idea, save you a lot of time and money, and provide you with existing resources and experience. Think about the vision and goals for your proposed organization as you examine the following business structures. Consider some of these options:

<b>Type of Entity</b>	<b>Benefits</b>	<b>Drawbacks</b>
<b><i>Unincorporated Association</i></b>	<ul style="list-style-type: none"> <li>• No filings of any sort required</li> <li>• No corporate taxes</li> <li>• No limitations on activities</li> <li>• Suitable for short-term ventures or informal groups</li> </ul>	<ul style="list-style-type: none"> <li>• No protection from liability</li> <li>• No financial separation from members</li> <li>• Generally, not eligible to receive grants</li> <li>• Contributions are not tax deductible</li> </ul>
<b><i>For-Profit Corporation</i></b>	<ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> <li>• No limitations on activities</li> <li>• <u>Members can share profits/assets</u></li> </ul>	<ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Not eligible to receive grants</li> <li>• Must pay corporate income tax</li> <li>• Contributions are not tax deductible</li> </ul>

<b>Type of Entity</b>	<b>Benefits</b>	<b>Drawbacks</b>
<b>Nonprofit Corporation</b>	<ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> <li>• Few limitations on activities</li> </ul>	<ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Not eligible to receive grants</li> <li>• Must pay corporate income tax</li> <li>• Contributions are not tax deductible</li> <li>• Must have a board (min. 3 people)</li> <li>• <u>Members cannot share profits/assets</u></li> </ul>
<b>Partnering with an Existing 501(c)(3) Organization</b>	<ul style="list-style-type: none"> <li>• Can begin operations quickly as a branch or program of established agency</li> <li>• Can enjoy the tax exemption and tax-deductibility of donations of the existing organization</li> <li>• Utilize infrastructure and resources of existing organization</li> <li>• No state filings required</li> <li>• Collaboration can provide credibility and growth</li> </ul>	<ul style="list-style-type: none"> <li>• Varying levels of autonomy</li> <li>• Typically cannot keep assets separate</li> <li>• Must find a good fit in a partner organization</li> </ul>
<b>Nonprofit Corporation with Fiscal Sponsorship</b>	<p><u>Benefits of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> </ul> <p><u>Plus benefits of fiscal sponsorship:</u></p> <ul style="list-style-type: none"> <li>• Can begin operations quickly</li> <li>• Can accept tax-deductible donations and apply for grants under fiscal sponsor</li> <li>• Can utilize existing infrastructure and resources of fiscal sponsor</li> <li>• Operate as individual entity</li> <li>• Can reduce administrative costs</li> </ul>	<p><u>Drawbacks of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Must have a board (min. 3 people)</li> <li>• Members cannot share profits/assets</li> </ul> <p><u>Plus drawbacks of fiscal sponsorship:</u></p> <ul style="list-style-type: none"> <li>• Must find a 501(c)(3) organization willing to act as fiscal sponsor</li> <li>• Mission and activities of both entities should be consistent</li> <li>• Must observe limitations on activities applicable to 501(c)(3) organizations</li> <li>• Fiscal sponsor may charge fee</li> <li>• Varying levels of autonomy</li> <li>• Need to work out terms of fiscal sponsorship agreement</li> </ul>
<b>Nonprofit Corporation with 501(c)(3) Tax Exempt Status</b>	<p><u>Benefits of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> </ul> <p><u>Plus benefits of 501(c)(3) status:</u></p> <ul style="list-style-type: none"> <li>• Exempt from corporate income tax</li> <li>• Exempt from federal unemployment tax</li> <li>• Eligible to receive grants</li> <li>• Eligible for sales tax exemption</li> </ul>	<p><u>Drawbacks of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Must have a board (min. 3 people)</li> <li>• Members cannot share profits/assets</li> </ul> <p><u>Plus drawbacks of 501(c)(3) status:</u></p> <ul style="list-style-type: none"> <li>• Annual IRS filing required (no fee)</li> <li>• Must file IRS application (\$850 application fee, 12-18 mos. process)</li> <li>• State charitable solicitations permit required (\$100) plus annual reports</li> </ul>

	<ul style="list-style-type: none"> <li>• Eligible for nonprofit mailing permit</li> <li>• Contributions are tax deductible</li> </ul>	<ul style="list-style-type: none"> <li>• Stricter limitations on activities</li> <li>• Increased record keeping duties (substantiation of donations, public disclosure requirements)</li> <li>• Must meet public support test</li> </ul>
<i>Nonprofit Corporation with 501(c)(4)-(27) Tax Exempt Status</i>	<p><u>Benefits of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> </ul> <p><u>Plus benefits of other 501(c) status:</u></p> <ul style="list-style-type: none"> <li>• Exempt from corporate income tax</li> <li>• Less limitations on activities than a 501(c)(3) organization</li> </ul>	<p><u>Drawbacks of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Must have a board (min. 3 people)</li> <li>• Members cannot share profits/assets</li> </ul> <p><u>Plus drawbacks of other 501(c) status:</u></p> <ul style="list-style-type: none"> <li>• Annual IRS filing required (no fee)</li> <li>• Must file IRS application (\$850 application fee, 4-6 mos. process)</li> <li>• Not eligible to receive grants</li> <li>• Contributions are not tax deductible</li> </ul>

Before investing the time and money to incorporate and file for tax exempt status, take the time to consider the role you want your arts organization to have in the community and the unique contribution your group will make. Research community needs and document the need for the service you plan to provide. Examine the feasibility of your venture. An innovative idea that addresses a specific need is more likely to get the funding and support it needs to be successful.

**Here are some helpful websites:**

Center for Nonprofit Management  
Giving Matters  
Idealist

[www.cnm.org](http://www.cnm.org)  
[www.givingmatters.com](http://www.givingmatters.com)  
[www.idealists.org](http://www.idealists.org)

**Ask yourself the following questions:**

- ❖ What is your core mission and reason for existence?
- ❖ Is there an audience for the programming you will offer?
- ❖ Is there another organization in the community that serves the same audience or has a greater capacity to deliver these services?
- ❖ Have you explored the option of offering your program under the umbrella of an existing organization?
- ❖ Is there adequate funding available for your venture? What assets and liabilities do you currently have?
- ❖ Are you prepared to take on the administrative responsibility involved in maintaining a business?
- ❖ Will you be able to accept the authority of your organization’s Board of Directors?
- ❖ What are your significant liabilities?
- ❖ What challenges might keep your organization from succeeding?

If you are confident that your arts organization has the funding, audience, and administration to make a vital, lasting impact in the community, you should continue this workbook and learn more about the incorporation and tax exemption process.

## ***STEP TWO: NAME YOUR ORGANIZATION***

The name of your organization is your signpost in the community. It should be descriptive, unambiguous and appealing. The state of Tennessee requires that each business name be unique, so before you start operations you should be certain you will be able to Charter your organization under the name you have selected.

- Check the Business Name Availability database at <http://www.tennesseeanytime.org/sosname/>
- Your name must be distinguishable from any existing names in the database
- OPTIONAL: Since it may take weeks or even months before you can officially file to incorporate, you may choose to reserve a business name with the State. You can ensure the availability of a business name by filing Form SS-4428 with the Division of Business Services and paying a \$20 filing fee. The form can be found here: <http://www.tn.gov/sos/forms/ss-4428.pdf>

## ***STEP THREE: CREATE A MISSION STATEMENT AND STRATEGIC PLAN***

To better serve the organization and be successful in fundraising, you should develop a mission statement and a solid strategic plan. The strategic plan is basically your business plan. It should convey the mission, vision, and goals of the organization, including a description of the programs and activities.

### *Mission Statement*

Your mission statement is extremely important to your arts organization. It will be the basis for your corporate Charter and a key PR and fundraising tool. Your mission statement should be a clear and concise sentence of the organization's purpose including the name of the agency, what it does, for whom, and where.

Be careful not to make your mission statement too narrow. It should be broad enough to allow for growth and changes in programming. The mission statement should state the overarching goal of your organization without defining how you will accomplish these goals.

Your mission statement should be:

- ❖ An expression of your organization's purpose
- ❖ A description of the population it will reach
- ❖ An articulate statement of your goals, yet broad enough so that it may evolve
- ❖ A motivational tool
- ❖ Short enough so that it can be readily repeated

Here are some examples of effective mission statements:

- The Broadway Dance Troupe of Tennessee is a nonprofit organization that conducts classes, workshops, and public performances throughout the state to foster understanding and support for the art of dance.
- The Nashville Visual Arts Center promotes public appreciation of the visual arts through educational programs and exhibitions. It also supports artists by providing advanced training and employment opportunities within the Nashville arts community.

- Music City Moms is a nonprofit agency that seeks to improve children’s lives by providing access to daycare, social services and recreational activities for low-income children and families at risk in the greater-Nashville area.

### *Vision Statement & Goals*

While crafting your organization’s mission statement, you should take the time to consider your future vision. While your mission is something to be accomplished, your vision is something to be pursued. It may be helpful to also craft a vision statement that expresses the organization’s big dream. Evaluate the values and goals of the organization. Put them in writing. These will be extremely helpful in shaping your programs, government compliance, and fundraising.

Here are some examples of goal statements:

- ❖ To stimulate community interest and appreciation of musical theatre
- ❖ To educate future generations about the effects of global warming, increase recycling efforts, and decrease energy consumption
- ❖ To inspire the people of Tennessee to make a difference in the lives of their neighbors through financial generosity and volunteer commitment

### **TIP: STRATEGIC PLANNING**

The creation of your mission, vision, and goals is a great exercise for the Board of Directors to do together. It gets everyone’s ideas involved and helps promote a cohesive group with a common aim.

### *Activities Statement*

If you plan to file for 501(c)(3) tax exempt status, you should also craft an activities statement that is typically about one page. In this narrative, explain what you do and why. It should describe your past, present, and planned activities. Please consult Worksheet A for space to work on your activities statement, as well as an example.

You should break up your statement to highlight the primary and secondary activities. Be sure to show how these activities and programs will accomplish the mission of the organization. Estimate what percentage of the organization’s time is spent on each activity.

Your narrative should answer the following questions:

- What is the brief history of the organization? (when formed, how it has grown, etc.)
- What are the programs?
  - How often does programming occur?
  - Who participates?
  - When? Where?
- How is the organization serving the public and/or community?
- How is the exempt purpose of the organization met by the programming? (this is key!)
- What percentage of time is spent on each activity?

ORGANIZATION:

DATE:

## **Worksheet A: The Organization & Its Activities**

### *Name of corporation*

Be sure to check the Business Name Availability database (see *Part One, Step Two*).

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### *Street address of registered office and name of the registered agent*

This must be a street address (not a P.O. Box). It is where your annual report will be sent and should be an address that you do not expect will change frequently. The registered agent should be a person who can be relied upon to forward official mail to the corporation.

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### *Street address of principal office*

This must be a street address (not a P.O. Box). It is where the bulk of your corporate activities will occur.

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### *Name and address of incorporator(s)*

This can be one or more persons. The incorporators will hold the organizational meeting and appoint the first Board of Directors. Beyond that, they have little formal authority although they can become members of the Board or officers of the corporation. An incorporator can be the same person as the registered agent.

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### *Whether the corporation will have members*

Many nonprofits require “membership” or a similar structure for collecting dues/donations. This is different from the term “members” in the statutory sense. When chartering a corporation, deciding to have members means there will be a group of people with the authority to elect the Board of Directors and have review of major corporate decisions such as amending the charter or bylaws, dissolution, and more. Most new organizations choose not to have statutory members. If you are unsure about what is best for your organization, ask VLPA for help.

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## **Worksheet A, cont.**

### *Statement of Purpose*

A statement of purpose is not required to gain incorporation from the state of Tennessee, but including it is recommended. Grantors and prospective participants often like to see it in the charter. It is a sentence or two that explains the intent of your organization. Essentially, your statement of purpose is your mission statement, which you have probably already crafted!

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### *Fundraising Activities*

As a nonprofit, fundraising will be one of your key activities. It's important to consider your types of funding sources now and the methods you plan to use. Use this area to brainstorm your expected fundraising plan. Some examples are corporate donations, board member contributions, government grants, and membership dues.

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## **SAMPLE NARRATIVE**

# **Broadway Dance Troupe of Tennessee**

**Excellence in Dance, Education, and Performance**

### ***MISSION STATEMENT***

The Broadway Dance Troupe of Tennessee is a nonprofit organization that conducts classes, workshops, and public performances throughout the state to foster understanding and support for the art of dance.

It is the goal of the Broadway Dance Troupe of Tennessee to teach the community how to achieve high artistic goals by stressing excellence in both education and performance. The organization encourages self-confidence, self-discipline, responsibility and unity among diversity. By stressing attention to detail, repetition of skill and technique, and exploring a wide variety of dance genres, the students learn regiment, time management, discipline, and experience a level of performance excellence.

The Broadway Dance Troupe of Tennessee started in January of 2007 with informal dance performances and classes in Nashville. Since then, it has enjoyed many successes at the local level and plans to expand statewide in 2008 by including branches in Knoxville and Memphis. The Broadway Dance Troupe has three divisions: elementary, teen, and adult. It offers low-cost classes for a variety of dance genres for each division and at the culmination of the class session, each division holds a free recital in the community.

### ***PRIMARY ACTIVITY***

Dance classes are held throughout the week for a variety of genres and age groups. These classes are offered at a reduced rate for participants that meet an income requirement. Classes in jazz, tap, modern, ballroom, ballet and interpretive dance are designed to teach attention to detail through repetition of skill and technique. Each class also incorporates discussion of a history of dance, sometimes including a viewing of videos of famous performances. Classes are taught by dance professionals who volunteer their time, and are held either in our dance studio or at a local community college gymnasium.

Each class rehearses approximately 2 to 4 hours per week depending on the age division. This activity makes up approximately seventy percent (70%) of the organization's operations. It supports Broadway Dance Troupe's purpose by fostering an educational setting with a low teacher-to-student ratio. The set-up encourages achievement of not only high artistic standards, but also the development of self control, responsibility, and the ability to work with others.

### ***SECONDARY ACTIVITY***

Broadway Dance Troupe performances encompass an additional thirty percent (30%) of the organization's activities. The intent of these performances is to create venues for students to fine tune their dancing skills and technique, and to develop further appreciation for the art of dance. The Broadway Dance Troupe also uses these event performances to reach out to the community and foster an interest and understanding of the benefits of dance. In addition to the class recitals that are free of charge, Broadway Dance Troupe also offers professional performances to the public for free or low cost of admissions.

## ***STEP FOUR: ESTABLISH A BOARD OF DIRECTORS***

The Board of Directors is the governing body of your organization. Every corporation must have a Board of Directors, which is ideally composed of community leaders with a passion for your cause. The size of the Board may vary greatly from one organization to the next, but Tennessee requires corporations to have at least 3 Board members. There is no maximum limit, but a Board that is too large can encounter logistical problems. You should consider the needs of your organization and construct a Board that is balanced and will work well as a team.

### *What is the role of the Board of Directors?*

- Ultimate governing body of the organization
  - Overall responsibility for the conduct of the organization
  - Determine the organization's mission and goals
  - Select, support, and evaluate the executive director
  - Create and implement an organizational plan
  - Raise funds from the community and manage resources
  - Ensure legal and ethical integrity and adhere to public policy
- Liaison between the organization and community
- Understand and endorse your agency's artistic mission
- Responsibility for long term vision and planning
- Whatever else your organization requires

### *What makes a good Board Member?*

The composition of the Board of Directors cannot be pre-determined. It depends on the needs of your individual organization and will likely change over time. Some characteristics to look for are:

- Passion for the mission and values of your organization
- Time and willingness to attend all meetings and functions
- Power and willingness to fundraise and be an ambassador to the community
- Ability to listen, analyze, think creatively, and work well in a group
- Ability to make decisions while considering short term needs and long term goals
- Adherence to standards of conduct
- Representatives from various constituents in the community

It is important for the Board of Directors to be balanced in order to make efficient, knowledgeable decisions. When choosing who will serve on the Board, recruit people with varying backgrounds and areas of expertise. Many nonprofits find it helpful to have Board members with experience in the following fields:

- |              |               |
|--------------|---------------|
| ❖ Accounting | ❖ Fundraising |
| ❖ Law        | ❖ Technology  |
| ❖ Nonprofit  | ❖ Marketing   |

In addition to professional expertise, some (if not all) members of the Board should be knowledgeable in the areas of the arts your organization seeks to help. Make sure you recruit representatives from the artistic community to serve on your Board of Directors.

### **TIP: COMPOSING A GREAT BOARD**

From accountants to fundraisers, artists to CEOs, your Board should be diverse and representative of the goals of your organization.

Make a list of the niches you seek to fill on the Board *before you recruit*. Then, go out and seek community leaders whose skills fit your needs.

You are seeking to fill the Board with people who will work hard to champion your cause. When discussing your arts organization with a potential Board member, treat it like a job interview. Make sure this individual will serve your agency and fill its needs. Put together a short “job description” to give them. This makes your expectations clear before they make the commitment. Once you have met with them, take time to think it over. Only agree to energetic and intelligent Board Members who are willing to make the personal commitment to improve the future of your arts organization.

#### *How often should the Board of Directors meet?*

It depends. This is one of the questions you should answer quickly, but some factors to consider are the size of the board, the needs of the organization, and logistical & practical reasoning. Many Boards choose to meet quarterly, or sometimes monthly. Be sure to choose a schedule that will meet often enough so that you will be able to satisfy the group’s goals, but not too often to afford high attendance for the Board members.

### **STEP FIVE: DETERMINE OFFICERS OF THE CORPORATION**

Officers are responsible for the day-to-day operation of a corporation and must report to the Board of Directors. You should appoint at least a President, Treasurer, and Secretary, but know that the state of Tennessee requires that the President and Secretary be different people. The same person may serve as either President/Treasurer or Secretary/Treasurer. Other positions could include Vice Presidents of particular committees.

- *President* – Supervises and controls all corporation business and affairs. Usually signs legal documents. Frequently also serves as the Chairman of the Board.
- *Vice President* – Works under the President, and would assume the president’s duties and powers in the president’s absence. There may be multiple vice presidents, each assigned to a specific area of responsibility, such as fundraising or marketing.
- *Secretary* – Keeps minutes of Board meetings, sees that meetings are run according to the bylaws, and distributes minutes to Board members. Usually signs legal documents and should be the custodian of all official documents and papers.
- *Treasurer* – Responsible for the funds of the corporation, including making payments. Depending on the size of the organization, the treasurer may delegate most of his day-to-day matters to employees of the corporation.

The officers may be independent from the Board of Directors, but it is typical for the officers for newly formed corporations to be both an officer and a Board member.

ORGANIZATION:

DATE:

## **Worksheet B: Board Members & Other Key People**

We need the information below for all board members, officers, employees and/or independent contractors. When noting officers, remember that, at a minimum, the corporation must have a president and a secretary, which cannot be the same person. You can designate other positions as well, e.g. treasurer, vice president. Keep in mind that the qualifications do not need to be an educational degree or work experience. They can be as simple as “has a passion for the organization’s mission.”

Name:

<b>Title</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>Email</b>
<b>Compensation</b>	<b>Qualifications</b>	<b>Avg. Hours Worked</b>	<b>Duties</b>

Name:

<b>Title</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>Email</b>
<b>Compensation</b>	<b>Qualifications</b>	<b>Avg. Hours Worked</b>	<b>Duties</b>

Name:

<b>Title</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>Email</b>
<b>Compensation</b>	<b>Qualifications</b>	<b>Avg. Hours Worked</b>	<b>Duties</b>

Name:

<b>Title</b>	<b>Mailing Address</b>	<b>Phone</b>	<b>Email</b>
<b>Compensation</b>	<b>Qualifications</b>	<b>Avg. Hours Worked</b>	<b>Duties</b>

## Worksheet B, cont.

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

**Worksheet B, cont.**

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

Name:

Title	Mailing Address	Phone	Email
Compensation	Qualifications	Avg. Hours Worked	Duties

*Please identify any familial or business relationships between any of the board members listed above.*

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## ***PART TWO: FILE FOR INCORPORATION IN TENNESSEE***

Now that you have decided to incorporate, you will need to file with the Secretary of State so that Tennessee will recognize your agency as a corporation.

VLPA will help prepare your incorporation documents so they meet state and federal requirements. The process can be expedited if you bring all of the required information to your meeting at VLPA.

### ***STEP ONE: DRAFT CHARTER (ARTICLES OF INCORPORATION)***

Your charter states the basic information about the organization being incorporated. The Secretary of State provides a nonprofit charter form on its website which may be used to incorporate in Tennessee, but you should not use it if you plan to apply for 501(c)(3) tax exempt status from the IRS. The state form does not comply with IRS requirements. Your charter should be drafted to fulfill both state and IRS provisions so you don't have to amend it later.

Be sure to complete Worksheet A before meeting with an attorney. It will make the drafting process much easier!

#### **TIP: CHOOSING A REGISTERED OFFICE/AGENT**

Often, the registered office and principal office will be the same street address. It is important that the registered office be a stable address since all official mail, including your annual report form from the state, will be sent there. The registered agent and the incorporator can be the same. Again, this is fine as long as the registered agent will be responsible for collecting official mail. Choose a registered agent and address that are unlikely to change. Missing mail from the Secretary of State can result in your corporation being deemed inactive. Plus, amending your charter takes time and will cost you more in filing fees!

Your charter must be filed with the Secretary of State first and then with the Register of Deeds in the county where your organization has its principal office. The Register of Deeds requires that you file the original charter that was stamped at the Department of State, along with the cover page the Department of State will provide when you file with them. If you mail your submission to the Register of Deeds, be sure to include a self-addressed, stamped envelope so they can return your originals to you.

## **FILING THE CORPORATE CHARTER**

**Form:** none, but charter must meet state requirements

**Filing Fees:** \$100 for Secretary of State

\$7 for Register of Deeds (+\$.50 per page for each over 5 pages)

**Attachments:** for Register of Deeds office:

- must be the charter you originally filed with the Department of State (including stamp)
- cover page from the Department of State
- if mailing, must include a self-addressed, stamped envelope

**Deliver To:**

TN Department of State  
Division of Business Services  
312 Eighth Avenue North  
6th Floor, William R. Snodgrass Tower  
Nashville, TN 37243

Davidson County Register of Deeds  
Gaylord Entertainment Center  
501 Broadway  
Nashville, TN 37203

## ***STEP TWO: DRAFT BYLAWS AND CONFLICT OF INTEREST POLICY***

The bylaws are a document of rules that govern the internal management and operations of the corporation. All bylaws must be consistent with state law and with the Articles of Incorporation. They should be drafted by an attorney, so please contact VLPA for help before adopting bylaws. The Board of Directors must vote to adopt the bylaws before they can be put into effect.

VLPA uses sample bylaws with default positions as a starting point. To help us customize these for your organization, please complete the questions on Worksheet C. You should discuss these items with your Board to ensure that your bylaws are useable and comprehensive.

### *Conflict of Interest Policy*

The IRS strongly recommends that the Board of Directors adopt a Conflict of Interest Policy. It ensures accountability for both the staff and the Board of Directors and provides a roadmap for approving transactions that may arise.

The IRS provides a sample Conflict of Interest Policy that we suggest you use. VLPA will provide you with this policy during the incorporation process. If your organization has special needs and would like to make changes before adopting the policy, please consult VLPA or your volunteer attorney for advice.

## Worksheet C: Governance & Bylaws

When drafting your bylaws it is important to include provisions that are broad enough to adapt to changing circumstances, yet clear enough to allow your organization to handle any given event. The following questions are items to consider and include in the drafting process.

### BOARD OF DIRECTORS:

*How large will the Board be?*

There must be at least three (3) Directors at all times. Bylaws often assign a range, for example three to thirty directors.

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*How long would you like Board members to serve on the board?*

A standard term length is two years, but an organization may choose a different length of time depending on the nature of the organization. It is important to make a term long enough to achieve stability, but short enough to maintain flexibility.

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*Would you like to limit the number of consecutive terms for which a Board member can serve?*

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*How often will the Board meet?*

We advise requiring only one annual meeting in the bylaws (which is the minimum required by law) but allowing for the Board to hold additional meetings as it deems necessary. This gives the organization maximum flexibility and prevents the need for amending the bylaws each time the meeting frequency changes.

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*What is the vote required for conducting official business?*

Examples are a simple majority or a two-thirds majority. A two-thirds majority is typically the highest voting requirement for conducting official business.

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*Do you have any special procedures for electing Board members?*

For example, is there a nomination process?

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## Worksheet C, cont.

*What is the procedure for removing Board members?*

VLPA advises a general removal procedure for all Board members. A general removal procedure allows for the removal of any Board member with or without cause by the vote of a majority of the board members. You can also limit the procedure, such as to provide for removal only for "cause" or to require approval by a two-thirds majority of the board.

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*Are there any special qualifications for eligibility to serve on the Board?*

A couple of examples of eligibility requirements: 1) artists must make up at least 25% of the board; or 2) board members must be residents of the city where the organization is based. Depending on the nature of the organization, you may not have any requirements.

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*How would you like to stagger the terms of the initial Board?*

VLPA advises staggering the terms of the initial Board to allow for more fluidity and better transition between boards (similar to senate seats and representative seats being elected in different years). List the initial Board members and how you would like their terms staggered. For example, let us know who should have the longest initial term and who should have the shortest initial term.

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### **COMMITTEES:**

*Will there be an executive committee?*

Executive committees, made up of Board members, allow nonprofit corporations to take actions between meetings of the entire Board meetings. The executive committee is authorized to make decisions on behalf of the Board. They are often advisable when the organization has a large board that might otherwise operate inefficiently.

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*Will there be any other standing committees of the Board? If so, please list them.*

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**Worksheet C, cont.**

**FISCAL MATTERS:**

*What is the fiscal year for the corporation?*

Some organizations operate on a calendar year, while others may prefer to designate a different fiscal year due to their operations, such as July 1-June 30.

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**OTHER:**

*Are there any other special matters you would like to address in the bylaws for your organizations?*

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**STEP THREE: CONDUCT ORGANIZATIONAL MEETING**

The organizational meeting is important for establishing your policies. If you only need to meet with the Board to adopt the bylaws and Charter, voting can be done by written consent rather than a physical meeting. You should consider meeting in person with the Board, though, in order to develop other policies and the mission of the organization.

At the organizational meeting, you should consider doing the following:

- ❖ Adopting the bylaws and Charter
- ❖ Authorizing business procedures, such as applying for tax exempt status
- ❖ Setting dates & times for subsequent meetings
- ❖ Discussing the mission, vision, goals, and activities
- ❖ Discussing fundraising ideas

**PART THREE: FILE FOR TAX EXEMPT STATUS WITH IRS**

Once you have incorporated your arts organization, you may choose to apply for 501(c)(3) status with the IRS. This process can be long and complex, often taking 12-18 months to complete. While you do not need an attorney to complete your IRS application, we strongly recommend that you have legal representation. Having a lawyer help with your application will reduce the likelihood of rejection and will expedite the process. Contact VLPA to match you with a volunteer attorney. Though you will likely have a lawyer guiding you through this process, the information in this workbook should be used as a resource to make applying for tax exempt status easier. It will help you understand your organization’s development and the responsibilities that come with it. If you follow the instructions and prepare the information requested before meeting with your attorney, the process will be simpler and speedier.

Before spending time and money on applying for 501(c)(3) status, you should make sure it is the right step for your organization to take. While nonprofit organizations enjoy many benefits once they have acquired 501(c)(3) status, the process can be cumbersome and costly, and there are annual reporting and public disclosure requirements. Below is a reminder of the pros and cons of tax exempt status. If you have questions about how these relate to your arts organization, VLPA can help.

	<b>Benefits</b>	<b>Drawbacks</b>
<i>Nonprofit Corporation with 501(c)(3) Tax Exempt Status</i>	<p><u>Benefits of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Protection from liability</li> <li>• Financial separation from members</li> <li>• Clear guidelines regarding organization</li> </ul> <p><u>Plus benefits of 501(c)(3) status:</u></p> <ul style="list-style-type: none"> <li>• Exempt from corporate income tax</li> <li>• Exempt from federal unemployment tax</li> <li>• Eligible to receive grants</li> </ul>	<p><u>Drawbacks of nonprofit corporations:</u></p> <ul style="list-style-type: none"> <li>• Annual state filing required (\$20)</li> <li>• Must observe corporate formalities</li> <li>• Must have a board (min. 3 people)</li> <li>• Members cannot share profits/assets</li> </ul> <p><u>Plus drawbacks of 501(c)(3) status:</u></p> <ul style="list-style-type: none"> <li>• Must file IRS application (\$850 application fee, 12-18 mos. process)</li> <li>• Annual IRS filing required (no fee)</li> <li>• State charitable solicitations permit required (\$100) plus annual reports</li> <li>• Stricter limitations on activities</li> </ul>

	<ul style="list-style-type: none"> <li>• Eligible for sales tax exemption</li> <li>• Eligible for nonprofit mailing permit</li> <li>• Contributions are tax deductible</li> </ul>	<ul style="list-style-type: none"> <li>• Increased record keeping duties (substantiation of donations, public disclosure requirements)</li> <li>• Must meet public support test</li> </ul>
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**TIP: RESOURCES ON THE IRS WEBSITE**

Now is a good time for you to peruse the IRS website. It offers a myriad of resources that you may find useful. Some links to help with your government compliance:

- <http://www.irs.gov/charities/index.html> (homepage for nonprofits on IRS website)
- <http://www.irs.gov/charities/charitable/article/0,,id=136459,00.html> (life cycle of a charity)
- <http://www.irs.gov/charities/content/0,,id=96986,00.html> (FAQ for exempt organizations)

*Power of Attorney*

Your volunteer attorney may request that you sign Form 2848 (Power of Attorney). By doing so, you are giving the IRS permission to contact your attorney instead of you with all questions regarding your application for tax exempt status. It can be helpful, but is not necessary, for you to file the Power of Attorney form. Your volunteer attorney will decide what is best based on your situation and their preferences.

**STEP ONE: APPLY FOR FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN)**

A Federal Employer Identification Number (EIN) acts like a Social Security Number for your organization. You must have a FEIN in order to apply for 501(c)(3) tax exempt status, even if you do not have employees. In addition to tax documents, an EIN is useful for official forms such as opening bank accounts. There is no fee to apply for an EIN. You should obtain an EIN when advised by your volunteer attorney.

**APPLYING FOR A FEDERAL EMPLOYER IDENTIFICATION NUMBER (EIN)**

*By Phone:*

- EIN assigned immediately over the phone
- Business & Specialty Tax Line: (800)-829-4933 (open 7am-10pm)
- Once the necessary information is provided, a clerk will assign the FEIN
- Be sure to have all information that you need to complete the Form SS-4 available

*By Web:*

- Preliminary validation available immediately
- <https://sa1.www4.irs.gov/modiein/individual/index.jsp>
- Complete the online Form SS-4

*By Mail:*

- Processing for mail applications can take over 4 weeks. This method is not recommended.
- Complete Form SS-4 and mail it to the IRS

**TIP: COMPLETING FORM SS-4**

1. The first question asks what type of legal structure is applying for an EIN. Choose the last option "View Additional Types, Including Tax-Exempt and Governmental Organizations." This will take you to a list of other organization types. Select "Other Non-Profit/Tax-Exempt Organizations."
2. The fourth section asks for the "Nonprofit/Tax-Exempt Organization Start Date." This is the date your Charter is effective with the Secretary of State.

**STEP TWO: APPLY FOR TAX EXEMPT STATUS USING FORM 1023**

As noted earlier, Form 1023 can be complicated and should be completed by your volunteer attorney. Providing your attorney with complete and accurate information in advance will expedite the process and reduce the likelihood that the IRS will need to ask follow-up questions. Most new arts organizations have a legitimate case for tax exemption and will be granted such if questions are answered fully and truthfully.

**TIP: ADDRESS LISTED ON FORM 1023**

**Address:** Be sure to list a current address where you will receive mail daily. If the IRS has questions about your application, it may send a letter to your listed address and request an answer within as few as 10 days. We recommend listing a PO Box only if you check it daily, and listing a home address only if you are sure you will not be moving. Listing a Board Member with a permanent address is also an option.

**Information & Documents to Provide to your Volunteer Attorney**

- ❖ Articles of Incorporation, and amendments (if any)
- ❖ Bylaws, and amendments (if any, or information from Worksheet C)
- ❖ Conflict of Interest Policy
- ❖ Compensation Information (drafted on Worksheet B)
- ❖ Activities Statement (drafted on Worksheet A)
- ❖ 3-year Projected Budget (drafted on Worksheet D)
- ❖ Supporting Documents

*Bylaws and Conflict of Interest Policy*

By now, your Board has probably already adopted a set of bylaws and a conflict of interest policy prepared for you by VLPA. You will need to submit these to the IRS for review. If the Board has not yet finalized the bylaws, you should ask your volunteer attorney for guidance in completing them.

*Activities Statement*

You already crafted an activities statement on Worksheet A, when you discussed your mission, vision, and goals with the Board of Directors. Revisit your narrative to ensure its accuracy and that it describes the past, present, and future of the organization.

### *Projected Budget*

You will need to complete a 3-year budget. It should include projected income and expenses for the organization's next three fiscal years, and should show some of the major activities your organization will undertake. Creating the budget gives you a good opportunity to consider where your sources of income will be (membership dues, corporate contributions, government grants, etc.) and where you foresee your major expenses will be. Be sure that the budget reflects the activities proposed in your activities statement. Don't worry, the IRS won't hold you to the exact figures in the budget, but you should be realistic and truthful when you crunch the numbers.

Worksheet D provides a sample budget and workspace for filling in your own. The categories listed are meant as a guide. You may need to add or remove some to tailor the budget to your organization.

### **Some Budgeting Tips:**

- ❖ A budget should be a realistic plan of action
- ❖ To be effective, it should be consulted often and compared to actual financial statements
  - Take action when the comparison shows a potential problem
- ❖ This 5-step plan should be followed in preparing a budget:
  - (1) Prepare a list of objectives for the organization for the year, ranked in priority order
  - (2) Estimate realistic costs for each objective
  - (3) Estimate the organization's expected income (be sure not to be overly optimistic)
  - (4) Compare the total expected income to expenses for each objective, and cut costs where possible
  - (5) Discuss budget with Board of Directors, and compare to actual financial statements on a regular basis

**SAMPLE BUDGET**

**BROADWAY DANCE TROUPE OF TENNESSEE**

**Fiscal Year: July 1 – June 30**

<b>SOURCES OF SUPPORT</b>	<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010</b>
American Ballet Academy Start-Up Grant	\$10,000	\$10,000	\$10,000
Government-Sponsored Arts Grant	\$0	\$4,000	\$4,000
Holiday Performance – Nutcracker Stipend	\$10,000	\$10,000	\$10,000
Individual Donations	\$200	\$2,000	\$4,000
Board Member Contributions	\$3,000	\$4,000	\$4,000
Corporate Donations	\$1,500	\$2,000	\$4,000
Performance Revenues	\$5,550	\$8,000	\$9,600
Membership Dues	\$500	\$1,500	\$2,200
Class Registration Fees	\$2,500	\$4,000	\$5,700
<b>TOTAL:</b>	<b>\$33,550</b>	<b>\$43,500</b>	<b>\$53,500</b>

<b>PROJECTED EXPENSES</b>	<b>2007-2008</b>	<b>2008-2009</b>	<b>2009-2010</b>
Staff Salary	\$20,000	\$22,000	\$24,000
Payroll taxes	\$2,000	\$2,200	\$2,400
Insurance	\$500	\$500	\$500
Dance Studio Space (rent + utilities)	\$6,000	\$6,600	\$7,200
Fundraising	\$500	\$1,000	\$1,500
Administrative (including filing fees)	\$1,000	\$500	\$500
Marketing	\$1,000	\$3,000	\$5,000
Equipment Rental, Supplies & Repairs	\$1,000	\$2,000	\$3,000
Performance Space Rental	\$1,000	\$5,300	\$9,000
Consultant Fees (CPA)	\$0*	\$0*	\$0*
Computers & Technology	\$250	\$400	\$400
<b>TOTAL:</b>	<b>\$33,550</b>	<b>\$43,500</b>	<b>\$53,500</b>

\*Reflects in-kind donations

## Balance Sheet

Your balance sheet is essentially an inventory of your organization's total assets and liabilities. Completing your balance sheet gives you a snapshot of where your organization stands financially. You have to know where you are before you can know how to get where you are going! If your organization has already completed a full year, use the information from the end of that tax year on your balance sheet. If your organization does not yet have a year under its belt, use the most current information possible. Your sheet may have a zero balance if your organization is just getting off the ground. Just fill in the appropriate blanks with \$0 if that is the case. Be sure to include *all* of your assets and liabilities, no matter how small they may seem. The little things can really add up in the end. Below is more information on what to include and a sample balance sheet. On Worksheet D, you will find workspace to fill in your organization's information.

### ❖ What Goes Where:

#### ○ Assets

- Cash – Includes all cash on hand or deposited in the organization's bank account(s).
- Accounts Receivable – Includes any outstanding invoices your organization has sent to clients for goods or services rendered. If your group performed at an event and you sent the organizers an invoice and have yet to receive actual payment, this is where that dollar amount would go. If you've already been paid, then that amount should be factored into the cash section. Simply put, if your organization is owed money, this is where it goes.
- Inventory – Includes any goods that you have available for sale, or supplies being held for future use.
- Stocks – Includes any stock owned by the organization.
- Loans Receivable – Includes any loan provided by the organization to others. Just like accounts receivable, this should only include outstanding loans, not those that have been fully paid back.
- Equipment – Includes vehicles, machinery, and other forms of equipment purchased for the organization
- Land – Includes any land that the organization owns.
- Other – If the organization has an asset that wasn't included above, such as intellectual property, this is the place to list it.

#### ○ Liabilities

- Accounts Payable – Includes all payments owed to vendors, suppliers, or overhead. Basically, this is the flipside of accounts payable. If you have received any bills addressed to the organization that have not yet been paid, include those amounts here.
- Mortgages and notes payable – If you have taken out a mortgage in the organization's name, enter that mortgage here.
- Other – If the organization owes money or services and that amount has not been accounted for above, list that amount here.

**SAMPLE BALANCE SHEET**

**BROADWAY DANCE TROUPE OF TENNESSEE**

<b>ASSETS</b>	<b>VALUE (In Whole Dollars)</b>
Cash	\$14,000
Accounts Receivable	\$389
Inventory	\$1,000
Stocks	\$0
Loans Receivable	\$500
Equipment	\$6,782
Land	\$0
Other	\$1,500
<b>TOTAL:</b>	<b>\$24,171</b>
<b>LIABILITIES</b>	<b>VALUE (In Whole Dollars)</b>
Accounts Payable	\$921
Mortgages and notes payable	\$0
Other	\$850
<b>TOTAL:</b>	<b>\$1,771</b>



## Worksheet D, cont.

### Balance Sheet

While your budget reflects the organization's plan for this and current years, the Balance Sheet is a snapshot of your organization's actual asset and liabilities as of the date you complete these worksheets. If you have not yet begun operations, your balance sheet may have a zero balance.

<b>ASSETS</b>	<b>VALUE (In Whole Dollars)</b>
Cash	
Accounts Receivable	
Inventory	
Stocks	
Loans Receivable	
Equipment	
Land	
Other	
<b>TOTAL:</b>	
<b>LIABILITIES</b>	<b>VALUE (In Whole Dollars)</b>
Accounts Payable	
Mortgages and notes payable	
Other	
<b>TOTAL:</b>	

### *Supporting Documents*

Please provide your volunteer attorney with copies of brochures, letters of support, or newspaper articles about your organization, if you have any, so that she may include them with your application. This will help the IRS understand your organization.

### *Compensation Information*

To identify possible abuses, the IRS asks for detailed information about compensation and other financial arrangements the organization may have entered into. You will also need to report this information on Form 990 (see PART FIVE: ANNUAL MAINTENANCE). The chart on Worksheet B had space for this information. Be sure to give your volunteer attorney the completed chart.

### *Fundraising Programs*

The IRS requests information about your organization's fundraising programs, both actual and planned. Common methods are submission of proposals to government funding agencies, foundations and corporations; direct solicitations by phone, mail and e-mail; board donations; direct donations to the website; and fundraising events. Basically, the IRS just wants you to list out the ways you plan to fundraise, without too much detail.

Go back to Worksheet A and see what fundraising programs you listed. Update the list to reflect any changes, and you're all set!

## **APPLICATION FOR TAX EXEMPT STATUS**

**Form:** Form 1023

**Available at:** <http://www.irs.gov/formspubs/lists/0,,id=97817,00.html>

### **Attachments:**

- 3-year projected budget
- Articles of Organization
- Bylaws
- Board of Directors Conflict of Interest Policy
- Activity Statement
- Brochures, letters of support, newspaper articles about the organization (if any)

**Due:** Ideally, within 27 months of the date when the Articles of Incorporation were filed (must file Schedule E with application if later than 27 months)

**Filing Fee:** \$400 or \$850 by check or money order\*

\$400 if budget for 3 years remains less than \$10,000/year

\$850 if budget for 3 years exceeds \$10,000/year

\*Note: At some point in 2010, the IRS will be releasing "Cyber Assistant", a web-based program to assist in preparing the application. When this is available, the user fees will change to:

\$200 for organizations using Cyber Assistant (regardless of budget size)

\$850 for organizations not using Cyber Assistant (regardless of budget size)

**Mail To:**

Internal Revenue Service  
P.O. Box 12192  
Covington, KY 41012-0192

**STEP THREE: RETAIN INFORMATION FOR PUBLIC INSPECTION**

Form 1023 and supporting documents must be available for public inspection at any time. These items should be kept indefinitely.

**PART FOUR: APPLY FOR ADDITIONAL NONPROFIT BENEFITS****STEP ONE: FILE FOR CHARITABLE SOLICITATION PERMIT IN TENNESSEE**

The state of Tennessee requires that organizations receiving monies from the public receive a Charitable Solicitation Permit before requesting donations. After you file for the Permit, you will receive an identification number. Members of public may ask for your identification number upon solicitation and may look up information about your charitable organization. All information you provide in your registration forms will become part of the public record.

You may apply to show you are exempt from registration requirements if your organization will make less than \$30,000 in annual contributions from the general public. Although you do not need a permit, you must file the Charitable Organization Exemption Request Form with the Secretary of State. You may apply for your Charitable Solicitation Permit while your IRS 501(c)(3) application is pending.

Both the application to register as a charitable organization and exemption request can be filed online at <http://sgssos.tn.gov/Login.aspx>. You can also complete the forms and mail as described in the chart below. If you have any questions about filing, VLPA is happy to assist you.

<b>APPLICATION FOR CHARITABLE SOLICITATION PERMIT (or EXEMPTION)</b>		
	<b>PERMIT</b>	<b>EXEMPTION</b>
	<b>\$30,000+ in Annual Contributions</b>	<b>Less than \$30,000 in Annual Contributions</b>
<b>Form</b>	SS-6001  <a href="http://state.tn.us/sos/forms/ss-6001.pdf">http://state.tn.us/sos/forms/ss-6001.pdf</a>	SS-6042  <a href="http://state.tn.us/sos/forms/ss-6042.pdf">http://state.tn.us/sos/forms/ss-6042.pdf</a>
<b>Filing Fee</b>	\$50 (initial filing fee)  Annual filing fee for renewal based on sliding scale	None
<b>Attachments</b>	<ul style="list-style-type: none"> <li>Documents authorizing solicitation of contributions under corporation name</li> </ul>	<ul style="list-style-type: none"> <li>IRS Form 990, or Summary of Financial Activities (SS-6002), or proposed budget</li> </ul>

	<ul style="list-style-type: none"> <li>• Ten year employment history of the person(s) in control of day-to-day operations</li> <li>• Charter, bylaws, or other governing document</li> <li>• IRS Letter of Determination of 501(c)(3) status (or application if pending)</li> <li>• Contract with professional solicitor, vendor, or fundraiser (if applicable)</li> </ul>	<ul style="list-style-type: none"> <li>• IRS Letter of Determination of 501(c)(3) status (or application if pending)</li> </ul>
<b>Additional Requirements</b>	Must renew registration annually and Must file Quarterly Financial Reports (SS-6039)	Once contributions exceed \$30,000 in one fiscal year, you have 30 days to register with Secretary of State (SS-6001)
<b>Instructions</b>	<b>For a New Charitable Organization :</b> <a href="http://sgssos.tn.gov/NewRegInstructions.pdf">http://sgssos.tn.gov/NewRegInstructions.pdf</a>	<b>For the Exemption Request :</b> <a href="http://sgssos.tn.gov/ExemptInstructions.pdf">http://sgssos.tn.gov/ExemptInstructions.pdf</a>
<b>Mail To</b>	TN Department of State Division of Charitable Solicitations and Gaming 312 Eighth Ave North 8th Floor, William R. Snodgrass Tower Nashville, TN 3724	

**STEP TWO: APPLY FOR SALES TAX EXEMPTION IN TENNESSEE**

Since obtaining tax exempt status from the IRS only applies to federal, not state taxes, 501(c)(3) status does not relieve your organization of the obligation to pay sales tax. In order to obtain exemption, you need to apply to the Tennessee Department of Revenue. Within a week, you should receive a certification of exemption to show retailers when shopping for business-related items. Retailers will subject all purchases to sales tax without this certificate.

<p><b><u>APPLICATION FOR SALES TAX EXEMPTION</u></b></p> <p><b>Form:</b> RV-F1306901 Available at: <a href="http://state.tn.us/revenue/forms/general/f1306901.pdf">http://state.tn.us/revenue/forms/general/f1306901.pdf</a></p> <p><b>Attachment:</b> IRS Letter authorizing 501(c)(3) status</p> <p><b>Filing Fee:</b> none</p> <p><b>Mail To:</b> TN Department of Revenue Taxpayer Services Division Andrew Jackson Office Building 500 Deaderick Street Nashville, TN 37242</p>
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### ***STEP THREE: APPLY FOR NONPROFIT BULK MAILING PERMIT (OPTIONAL)***

Once you receive 501(c)(3) status the US Postal Service offers a special rate for bulk mailings (200+ pieces). You must apply at the one Post Office where you intend to do your mailings and will only receive the special rate there. In order to remain eligible for the special rate, you must make at least one mailing of 200+ pieces every 2 years.

You will need to fill out Form PS-3624, attach additional required documents, and deliver it to Post Office personnel. Once you have filed the application, it takes about two weeks to gain approval. If you need to make a bulk mailing while your application is pending, you will need to pay the standard price then request a refund.

#### **APPLICATION TO MAIL AT NONPROFIT BULK RATE**

**Form:** PS-3624

Available at: <http://about.usps.com/forms/ps3624.pdf> or any Post Office

**Filing Fee:** \$175 Bulk Mailing Fee (pay at Post Office)

**Attachments:**

- Articles of Incorporation or Charter
- Letter of exemption from IRS giving 501(c)(3) status
- As many of the following as possible to provide:
  - List of activities the organization engaged in during past 12 months
  - Operational materials such as meeting minutes, annual reports, membership applications
  - Financial statements of operational activities and budget

**Deliver To:**

The Post Office where you intend to do your bulk mailing  
Must be stamped by Postal personnel

#### ***Bulk Mailing Permit***

In order to send bulk mailing, you must obtain a permit by paying a \$175 bulk mailing fee. The permit is valid at one Post Office for one year, so you must pay it at each Post Office where you intend to send bulk mailing.

#### ***Applying for Eligibility at Multiple Post Offices***

Since the nonprofit bulk mailing rate and permit are only valid at one Post Office, you will need to complete Form PS-3623 and obtain another bulk mailing permit in order to be eligible for special rates at other locations. Submit Form PS-3623, a letter requesting authorization to mail at additional Post Offices, and your \$175 bulk mailing permit fee at each Post Office where you wish to gain approval. Form PS-3623 is available at: <http://about.usps.com/forms/ps3623.pdf>

### ***STEP FOUR: APPLY FOR PROPERTY TAX EXEMPTION IN TENNESSEE (OPTIONAL)***

You can apply for property tax exemption if you own the property where your organization operates. Check out <http://www.comptroller1.state.tn.us/sboe/sbexempt.asp> for more information about

exemption eligibility. If you think you should apply, ask VLPA for help in putting together your application materials.

## ***PART FIVE: ANNUAL MAINTENANCE***

### ***STEP ONE: FILE CHARITABLE ORGANIZATION QUARTERLY FINANCIAL REPORT IN TENNESSEE***

New charitable organizations must file quarterly financial reports to the state during their first fiscal year of operation, unless you have filed for an exemption (less than \$30,000/year). If your organization began its first fiscal year before registering with the State for its Charitable Solicitation Permit, you must have all quarterly reports for the first year completed and turn them in with your registration application.

#### **QUARTERLY FINANCIAL REPORT**

**Form:** SS-6039

Available at: <http://www.tn.gov/sos/forms/ss-6039.pdf>

**Attachment:**

Schedule of quarterly expenses

**Due:** Within 30 days of the end of each fiscal quarter, for the first fiscal year of operation

**Filing Fee:** none

**Deliver To:**

TN Department of State  
Division of Charitable Solicitations and Gaming  
312 Eighth Ave North  
8th Floor, William R. Snodgrass Tower  
Nashville, TN 37243

### ***STEP TWO: FILE THE ANNUAL REPORT IN TENNESSEE***

The state of Tennessee requires that each corporation file an annual report with the Division of Business Services. The Division generates an annual report form specific to each corporation and will mail it to the address on file. Your organization must fill out the annual report form and file it with the Division, along with a \$20 filing fee.

#### **ANNUAL REPORT**

**Form:** Will be mailed to registered address during last month of fiscal year OR you can file online at <http://tnbear.tn.gov/Ecommerce/AnnualReport.aspx>.

**Due:** On or before the 1<sup>st</sup> day of the 4<sup>th</sup> month after the close of the corporation's fiscal year

**Filing Fee:** \$20 (Fee will be \$40 if you need to change the registered agent or address)

**Deliver To:**

TN Secretary of State  
Division of Business Services  
Attn: Annual Report

312 Eighth Ave North  
6th Floor, William R. Snodgrass Tower  
Nashville, TN 37243

### **TIP: FILING YOUR ANNUAL REPORT ONLINE**

To file online, you will need your organization's Secretary of State Control Number. This is a number assigned to every entity formed or qualified to business in Tennessee. You can locate your organization's Secretary of State Control Number by using the Business Information Search on the Secretary of State website at: <http://tnbear.tn.gov/ECommerce/FilingSearch.aspx>.

### **TIP: KEEP YOUR MAILING ADDRESS CURRENT**

Corporations often fail to receive their Annual Report form from DBS because their mailing address is obsolete. If the street address you listed on your Charter is likely to change, you should consider getting a P.O. Box address to receive official organization mail. If you do establish a P.O. Box or your change your mailing address, don't forget to notify DBS! If you do not file your Annual Report either by returning the form or online, the State will deem your corporation inactive.

#### *Changing the Mailing Address*

It is imperative that the Secretary of State have an active mailing address on file for your organization. To change your mailing address, simply fill out a form at [http://state.tn.us/sos/bus\\_svc/chgadd.html](http://state.tn.us/sos/bus_svc/chgadd.html). There is no fee to change the mailing address. If, however, you need to change the principal business street address or the agent's address, you will need to fill out a form to amend the corporate Charter, which requires a \$20 filing fee.

#### *Requesting a Replacement Annual Report Form*

Annual Report forms are not available as blanks so if you do not receive one, you must make a request to receive a replacement form. Requests may be made to the Division of Business services in writing, via email, by telephone, or by filling out a request at [http://www.state.tn.us/sos/bus\\_svc/report\\_request.htm](http://www.state.tn.us/sos/bus_svc/report_request.htm).

### **STEP THREE: FILE RENEWAL REGISTRATION FORM FOR CHARITABLE SOLICITATION PERMIT**

You must renew your Charitable Solicitation Permit each year within six months of the close of your fiscal year. Your registration will expire on the last day of that 6<sup>th</sup> month. The Secretary of State will send you the forms you must file during the 5<sup>th</sup> month after the close your fiscal year. The forms can also be found on the Department's website. If you have chosen to curtail your solicitation activities, you must notify the Secretary of State in writing.

### **RENEWAL OF CHARITABLE SOLICITATION PERMIT**

**Form:** SS-6007

Available at: <http://state.tn.us/sos/forms/ss-6007.pdf>

**Attachments:**

- Summary of Financial Activities (SS-6002, <http://state.tn.us/sos/forms/ss-6002.pdf>)
- IRS Form 990 and any additional documents sent to IRS
- Amendments made to corporate Charter or bylaws (if any)
- Independently audited financial statement (if corporation has over \$500,000 per fiscal year in gross revenues)

**Due:** Within 6 months of the close of fiscal year

**Filing Fee:** From \$100-\$300, based on income from previous fiscal year

**Deliver To:**

TN Department of State  
Division of Charitable Solicitations and Gaming  
312 Eighth Ave North  
8th Floor, William R. Snodgrass Tower  
Nashville, TN 37243

***STEP FOUR: FILE FORM 990***

Form 990 is a nonprofit organization's annual tax return to the IRS. It is also an accountability tool because it becomes public record, and a nonprofit is required to provide its Form 990 to anyone who asks for it, including staff members, clients, donors, and the press.

It is essential that the information provided in your Form 990 be accurate. There are many rules and exceptions to the Form 990 process that can make it confusing, particularly since the recent overhaul of the form by the IRS. Although you do not need an accountant to file your Form 990, having one can be very helpful. Although VLPA does not refer clients to accountants to complete their 990 on a pro bono basis, we can provide you with a volunteer to answer general questions as you prepare your 990.

All nonprofit organizations must complete a version of the Form 990, but there are a few variations. The particular 990 form an organization must file depends on its gross receipts and total assets. Over the next three years the IRS will phase in a new Form 990 series, thus the income and asset requirements will vary for the 2008-2010 tax years. The requirements used for the 2010 tax year (filed in 2011 and later) will become the standard requirements after that year.

	<b>990-N</b>	<b>990-EZ or 990</b>	<b>990</b>
<b>2007 Tax Year</b> <i>(filed in 2008 and 2009)</i>	Gross Receipts: less than \$25,000	Gross Receipts: between \$25,000 - \$100,000, <b>AND</b> Total Assets: less than \$250,000	Gross Receipts: greater than \$100,000, <b>OR</b> Total Assets: greater than \$250,000
<b>2008 Tax Year</b> <i>(filed in 2009 and 2010)</i>	Gross Receipts: less than \$25,000	Gross Receipts: between \$25,000 - \$1 million <b>AND</b> Total Assets: less than \$2.5 million	Gross Receipts: greater than \$1 million, <b>OR</b> Total Assets: greater than \$2.5 million
<b>2009 Tax Year</b> <i>(filed in 2010 and 2011)</i>	Gross Receipts: less than \$25,000	Gross Receipts: between \$25,000 - \$500,000, <b>AND</b> Total Assets: less than \$1.25 million	Gross Receipts: greater than \$500,000, <b>OR</b> Total Assets: greater than \$1.25 million
<b>2010 Tax Year</b> <i>(filed in 2011 and later)</i>	Gross Receipts: less than \$50,000	Gross Receipts: between \$50,000 - \$200,000, <b>AND</b> Total Assets: less than \$500,000	Gross Receipts: greater than \$200,000, <b>OR</b> Total Assets: greater than \$500,000

All Form 990s (990, 990-N, 990-EZ) are due 4½ months after the close of the fiscal year (May 15<sup>th</sup> if December 31<sup>st</sup> is close of fiscal year).

Form 990 tells the IRS and the public at large important things about a nonprofit including: its financial condition, the sources and uses of the money raised, compensation of key staff, contractors, and board members, its governance policies, and how much the organization spends on non-program activities (administration and fundraising). The IRS website ([www.irs.gov](http://www.irs.gov)) provides many helpful Q&As about Form 990.

### **IRS FORM 990**

**Form:** Form 990 or Form 990-EZ

Available at: <http://www.irs.gov/pub/irs-pdf/f990.pdf>  
<http://www.irs.gov/pub/irs-pdf/f990ez.pdf>

**Instructions:**

Form 990 and Form 990-EZ: <http://www.irs.gov/pub/irs-pdf/i990-ez.pdf>

Schedule A: <http://www.irs.gov/pub/irs-pdf/i990sa.pdf>

**Attachments:**

- Schedule A (if needed)
- Schedule B (if needed)

**Due:** within 4½ months after close of fiscal year

**Filing Fee:** none

**Mail To:**

Internal Revenue Service Center  
Ogden, UT 84201-0027

**Or E-File at:** <http://www.irs.gov/efile/article/0,,id=108211,00.html>

*Form 990-N*

The 990-N is another recent development. Prior to the 2007 tax season (Spring 2008), tax exempt organizations with fewer than \$25,000 in gross receipts were exempt from filing Form 990. The IRS is using this new format to keep more accurate records for the thousands of these smaller nonprofit organizations operating the US. The 990-N places a new responsibility on small nonprofits because failure to submit your 990-N could result in the revocation of your 501(c)(3) status.

If your organization does not file its 990-N (or other 990 form) for three consecutive years, it will lose its tax exempt status. However, Form 990-N is quick and easy to file, so there should be no reason for this to happen. The IRS sends reminders out by mail, so make sure you keep your address up to date.

Form 990-N can only be filed electronically through the IRS' website, at <http://www.irs.gov/charities/article/0,,id=169250,00.html>. No special software will be required; you can file at any computer with internet access.

**TIP: FORM 990-N E-POSTCARD**

For organizations with gross receipts under \$25,000: **DO NOT FORGET** to file your e-postcard with the IRS within 4 ½ months of the close of your fiscal year. If your organization fails to file its 990-N for 3 consecutive years, the IRS will revoke its tax exempt status. VLPA will be hosting workshops to go over 990-N filing requirements, and we are happy to answer your specific questions at any time.

The 990-N e-postcard is short and simple. Here is what you must provide:

- Organization's name
- Any other names your organization uses
- Organization's mailing address
- Organization's website address (if applicable)
- Organization's Employer Identification Number (EIN)

- Name and address of a principal officer of your organization
- Organization’s annual tax period
- A statement that your organization’s annual gross receipts are still normally \$25,000 or less
- If applicable, indicate if your organization is going out of business

**STEP FIVE: QUARTERLY EMPLOYMENT WITHHOLDING REPORTS**

Even if you are tax exempt, if you have employees, you will be responsible for federal, state, and local employment taxes. You will need to withhold certain taxes from the employees’ pay checks, including:

- Federal income tax withholding (FITW)
- Social Security and Medicare taxes (FICA)

To determine what amount to withhold from each paycheck, you will need each employee to complete Form W-4. It can be found at <http://www.irs.gov/pub/irs-pdf/fw4.pdf?portlet=3>. Then, follow the methods described in IRS Publication 15, *The Employer’s Tax Guide*, found at <http://www.irs.gov/pub/irs-pdf/p15.pdf>

You must withhold and deposit the employee’s part of the taxes and pay a matching amount. Then each quarter, you must complete Form 941, *The Employer’s Quarterly Federal Tax Return*. Form 941 must be filed with the IRS each quarter, along with payment for both the employer and employee portions of the income taxes.

There are several methods for depositing income taxes:

- **Mail check with Form 941-V:** only to be used if your quarterly payment is less than \$2,500
- **Mail check to authorized depository for Federal taxes**
- **Electronic Federal Tax Deposit System (EFTPS):** [www.eftps.gov](http://www.eftps.gov)

Payroll accounting and employment taxes may sound like daunting tasks, but there are options to make it easier. Try accounting software with a payroll service that will calculate the payroll for you. Be sure to pay your employment taxes, otherwise interest and penalties can pile up quickly! Check out the Resources page for help.

<b><u>QUARTERLY TAX RETURN</u></b>		
<b>Form:</b> Form 941		
Available at: <a href="http://www.irs.gov/pub/irs-pdf/f941.pdf">http://www.irs.gov/pub/irs-pdf/f941.pdf</a>		
<b>Instructions:</b> <a href="http://www.irs.gov/pub/irs-pdf/i941.pdf">http://www.irs.gov/pub/irs-pdf/i941.pdf</a>		
<b>Due:</b>	<b><u>Quarter Ends:</u></b>	<b><u>Form 941 &amp; Payment Due:</u></b>
	March 31	April 30
	June 30	July 31
	September 30	October 31
	December 31	January 31
<b>Filing Fee:</b> none, but you must remit quarterly employment taxes to IRS		

**Mail To:**

**Without Payment:** Internal Revenue Service Center  
Ogden, UT 84201-0027

\*don't forget that if you are not sending payment by check, you must remit payment through EFTPS or deliver it to an authorized depository

**With Payment:** Internal Revenue Service  
P.O. Box 105083  
Atlanta, GA 30348-5083

**Or E-File at:** <http://www.irs.gov/efile/article/0,,id=98368,00.html>

**SIX: RECORD KEEPING AND EVALUATION**

You should maintain books and records, including copies of everything you have filed with the state or the IRS. A good record keeping system enables you to monitor the success of programs, examine the financial health of the organization, and prepare financial statements and returns in a timely manner. The IRS may ask to examine the records that support an organization's annual Form 990 and quarterly tax returns. You should have a complete set of records available in case of an audit. Certain items must be kept longer than others, but the minimum amount of time you keep a document should be three years.

If you have questions about developing and maintaining a record keeping system that will work for your organization, you may consult IRS Publication 4221, or contact VLPA for help.

Some documents you must maintain:

- Financial statements (revenue and expense statements, balance sheets)
- Detailed records identifying the sources of receipts and contributions
- Annual Form 990 series returns and quarterly tax returns
- State incorporation documents
- Application and letter of determination of 501(c)(3) status (including supporting documents)

Document	Minimum Retention Time
Articles of Incorporation	Permanently
Bylaws	Permanently
Application for 501(c)(3) status	Permanently
Letter of determination of 501(c)(3) status	Permanently
Form 990 series returns	Permanently
Annual Reports	Permanently
Employment Tax Records	4 years
Supporting documents for Form 990 series returns (financial statements and contribution records)	4 years
*note that donors, insurance companies, creditors, or state agencies may require you to maintain	

records for more than 4 years. It's better to be safe than sorry so if you are unsure, keep it!

Each year your organization should evaluate its progress to ensure it is meeting its goals. Some things you should examine are:

- Efficiency of staff and officers
- Compare actual financial statements to budgets
- Board member status
- Success of programs plus plans for future programs
- Overall business model

### ***Conclusion***

Congratulations, you made it through the incorporation and tax exemption process! (or at least through this workbook). For those of you reading through this for the first time, you are now ready to embark on the process of ensuring further development of your organization. If you have any questions, please contact VLPA. We can provide resources to help you throughout your progression, including information for maintaining and growing your tax exempt organization.

## CHECKLIST FOR FORMING YOUR NONPROFIT ORGANIZATION

- DETERMINE YOUR BUSINESS STRUCTURE AND RESEARCH COMMUNITY NEEDS
- CHOOSE A NAME FOR YOUR ORGANIZATION
  - FORM SS-4428 (OPTIONAL)
- CREATE A MISSION STATEMENT AND DO STRATEGIC PLANNING
- ESTABLISH A BOARD OF DIRECTORS
- DETERMINE OFFICERS OF THE CORPORATION
- DRAFT CHARTER
- FILE ARTICLES OF INCORPORATION WITH STATE OF TENNESSEE
- DRAFT BYLAWS AND CONFLICT OF INTEREST POLICY
- CONDUCT ORGANIZATIONAL MEETING
- APPLY FOR EMPLOYER IDENTIFICATION NUMBER (EIN)
  - FORM SS-4
- APPLY FOR FEDERAL TAX EXEMPTION
  - FORM 1023
- FILE FOR CHARITABLE SOLICITATION PERMIT (OR EXEMPTION) IN TENNESSEE
  - FORM SS-6001 OR FORM SS-6042
- APPLY FOR SALES TAX EXEMPTION IN TENNESSEE
  - RV-F1306901
- APPLY FOR NONPROFIT BULK MAILING PERMIT THROUGH USPS
  - PS FORM 3624 AND BULK MAILING PERMIT
- ANNUAL MAINTENANCE OF NONPROFIT CORPORATION
  - FILE QUARTERLY FINANCIAL REPORTS TO STATE FOR FIRST FISCAL YEAR
    - FORM SS-6039
  - FILE RENEWAL REGISTRATION FORM FOR CHARITABLE SOLICITATION PERMIT TO STATE
    - FORM SS-6007 AND FORM SS-6022
  - FILE ANNUAL REPORT WITH STATE OF TENNESSEE
  - FILE FORM 990 WITH IRS
  - PAY QUARTERLY EMPLOYMENT TAXES (FOR ORGS WITH EMPLOYEES)
  - EVALUATE PROGRAMS, STAFF, BOARD OF DIRECTORS, AND OVERALL BUSINESS MODEL

## **INTERNET RESOURCES**

<a href="http://www.abcnashville.org">www.abcnashville.org</a>	Electronic version of this manual, plus other resources
<a href="http://www.boardsource.org">www.boardsource.org</a>	Free e-book “Starting a Nonprofit Organization” and other materials on nonprofit governance
<a href="http://www.boarddevelopment.org">www.boarddevelopment.org</a>	Board governance resources
<a href="http://www.toolkit.com">www.toolkit.com</a>	General advice for small business owners
<a href="http://www.cnm.org">www.cnm.org</a>	Center for Nonprofit Management
<a href="http://www.nonprofits.org">www.nonprofits.org</a>	Internet Nonprofit Center
<a href="http://www.compasspoint.org/askgenie">www.compasspoint.org/askgenie</a>	Nonprofit Genie – Answers to FAQ
<a href="http://www.idealists.org/tools/tools.html">www.idealists.org/tools/tools.html</a>	Tools for Nonprofit Organizations
<a href="http://www.irs.gov/charities">www.irs.gov/charities</a>	IRS Charities and Nonprofits Division (forms and filing guides)
<a href="http://www.state.tn.us/sos">www.state.tn.us/sos</a>	Tennessee Secretary of State website (forms and filing guides)
<a href="http://www.usps.com">www.usps.com</a>	Nonprofit bulk mailing information
<a href="http://www.fdncenter.org">www.fdncenter.org</a>	Foundation Center (website for National Grant Resources)
<a href="http://www.cfmt.org">www.cfmt.org</a>	Community Foundation of Middle Tennessee (website with local Grant information)
<a href="http://www.techsoup.org">www.techsoup.org</a>	Low-cost software for nonprofits
<a href="http://www.form1023help.com">www.form1023help.com</a>	Overview for filling out your 1023
<a href="http://www.npccny.org/Form_990/990.htm">www.npccny.org/Form_990/990.htm</a>	Information about Form 990