

HOW TO START A NONPROFIT IN SD



2020



SO YOU WANT TO START A NONPROFIT?

BAUW

Starting a nonprofit is serious work, and it can make a serious impact. We are so glad you want to start and create some really good work for your community. Nonprofits can build cross-sector connections, solve social issues, and build up the quality of life. Brookings is definitely a philanthropic hotspot, in fact, in our County alone, there are over 400 registered 501(c)(3)'s. With so many existing nonprofits, it's important to ask yourself if starting a new organization is the right next step.

THINK. CREATE. ELEVATE.

Still ready to make an impact? Take a look at the questions to the right and see how your nonprofit could make a difference in Brookings County.



Make sure you're set up for success and ask yourself these 10 questions:

1. Why are you doing this?
2. What is your mission?
3. What is your elevator speech?
4. What are you going to do?
5. Is it practical?
6. Is it viable?
7. Who is going to lead the nonprofit?
8. Who is going to manage the nonprofit?
9. How much is this going to cost? And how can you pay for it?
10. Is this need already being fulfilled another way or is this a **new** gap?

HOW TO START A NONPROFIT

NONPROFIT FORMATION

Formation Meeting

- The initial board of directors is installed and officer titles determined. There should be an unanimous agreement by the initial board to establish the organization and pursue incorporation and federal tax exemption.

Federal Employer Identification Number (FEIN)

- This is a number identification for businesses. It is assigned by the IRS and is a 9 digit number that will be forever associated with your organization. This step is important and should be one of the first things completed.
1. Form: SS-4: Application for Employer Identification
 2. Filing Fee: None

Incorporation in South Dakota

- This includes filing a formation document —usually called the Articles of Incorporation. In South Dakota, this is filed with the South Dakota Secretary of State's office. South Dakota Articles of Incorporation must contain a required purpose clause and a dissolution of assets provision.
 - Form: Articles of Incorporation – Domestic Nonprofit Corporation
 - Filing Fee: \$30.00
- South Dakota provides a template for incorporation and the template does meet the IRS requirements for obtaining 501(c)(3) status.

Articles of Incorporation can be found on sdsos.gov

Bylaws

- These are rules and regulations to be used by the organization to provide guidance and to govern the organization. South Dakota does not require a copy of these bylaws to be filed with the state, but are still required by law. When drafting the bylaws, it is important that they be drafted by or with someone who understand both state and federal law governing tax exempt organizations.
 - A copy of bylaws is required by the IRS when seeking tax-exemption. Not required if using Form 1023-EZ.

Federal Tax Exemption: 501(c)(3) Status

- Once the nonprofit organization has been formed, now it is time to file for tax exemption (501(c)(3) Status) from the IRS. Form 1023 must be filed and it looks at the organizations structure and program in a comprehensive way. Form 1023 filings range between 50 - 100 pages. In 2014, they introduced the Form 1023-EZ, which is a form available for online filing —this is a form only available to qualified, small nonprofits. To be tax-exempt under section 501(c)(3), none of its earnings may benefit a private shareholder or individual. Under 501(c)(3) are often referred to as charitable organizations.

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NONPROFIT FORMATION CONT.

1. Form: 1023 (or 1023-EZ): Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code
 2. Filing Fee: \$600.00 (\$275.00 for Form 1023-EZ)
 3. Form 1023: <https://www.irs.gov/pub/irs-pdf/f1023.pdf>
 4. What to know when applying for 501(c)(3) tax exempt status:
<https://www.irs.gov/pub/irs-pdf/p4220.pdf>
- If the IRS grants tax-exempt status, the applicant will be issued a Letter of Determination.

State Income-Tax Exemption (Corporate Income Tax)

- South Dakota does not have state corporate income tax, and therefore requires no filing. However, most states recognize the federal letter of determination and do not require any additional state filings in order to be income tax exempt or tax purposes. However, some states have their own recognition requirements.

Charitable Solicitations (Fundraising)

Registration

- South Dakota does not have a charitable solicitation registration requirement—however, most states require a nonprofit organization to register with its Department of Charitable Solicitations, which is typically given by the Attorney General's office—many states require charities to renew on an annual basis. Failure to do so could lead to punitive fines and loss of ability to operate in that state. If a nonprofit solicits donations from another state however, they may have a registration requirement beyond their state of incorporation.

Sales Tax Exemption

South Dakota allows but it is limited.

1. Form: RV-093: Sales Tax Exempt Status Application
2. Sales Tax Exemption Form:
<https://www.state.sd.us/eforms/secure/eforms/E1932V10-StreamlinedCertificateofExemption.pdf>

County of Other Local Registrations

- Many do not require business licenses, but it is recommended that organization's check with their County Clerk's office to figure out any necessary filings. It is important to check with your local agencies to make sure all the requirements have been met.

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ONGOING NONPROFIT COMPLIANCE CONT.

Corporate Annual Report

- To remain in good standing with the state, a corporate report must be filed. The report keeps the state updated with information like the current officers, directors, and relevant information.
1. Form: Annual Report Domestic Nonprofit
 2. Filing Fee: \$10.00
 3. Late/Delinquent Filing Fee: an additional \$50.00
 4. Due Date: Annually, before the last day of the month following the month of incorporation
 5. To file by paper, additional \$15.00 paper processing fee:
<https://sdsos.gov/docs/business/nonprofitstatementofchangeentity20161122.pdf>
 6. To file online:
<https://sosenterprise.sd.gov/BusinessServices/Business/AnnualReportInstr.aspx>



Federal IRS Form 990

- This form is an annual information return that must be filed by all 501(c)(3) organizations. This form shows annual income and expense activity—this form also includes information specific to nonprofits. This information can include the prior year's activities and accomplishments, details about structure and operations and information about large donors.
 - Five different versions of the Form 990: Form 990, Form 990EZ, Form 990-N, Form 990PF, and form 990-T. Some form of the 990 is required for all 501(c)(3), but which form depends on several factors, mainly the amount of annual, gross revenue.
1. Form: 990, 990EZ, 990-N, 990PF, 990-T: Return of Organization Exempt from Income Tax Form 990:
<https://www.irs.gov/pub/irs-pdf/f990.pdf>
 2. Filing Fee: None
 3. Due Date: 15th day of the 5th month following the end of the fiscal year—extendable for 6 additional months
 4. Late Filing Fee: \$20.00 per day, up to the lesser of \$10,000, or 5% of the organization's gross revenue. If gross revenue exceeds \$1,046,500, the penalty increases to \$100.00 per day, up to \$52,000.

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ONGOING NONPROFIT COMPLIANCE CONT.

State Exempt Organization Information Reporting

- South Dakota does not require this type of reporting and accepts the IRS Form 990 for state tax exemption reporting.

Charitable Solicitations Renewal South

- Dakota does not have a charitable solicitation registration requirement.

Other Reporting Requirements

- It is important to stay aware and informed. Know what your state requires, as well as federal regulations. As an organization, stay current—it is easiest to do it right the first time.



All information retrieved from: <https://www.501c3.org/state-nonprofit-guide/how-to-start-a-nonprofit-in-south-dakota/>

BROOKINGS AREA UNITED WAY

Brookings Area United Way is a 501(c)(3) fighting for the better health, education, and financial stability of every individual in Brookings County. United Way leverages community donations to help stabilize and promote critical programs and initiate crucial conversations about Brookings County's most pressing social issues. By uniting people, sharing resources, inspiring hope and enriching lives for a stronger Brookings County a community where all children and families live in a safe and nurturing environment with the same opportunities for success.

For more information, please visit brookingsunitedway.org.

Disclaimer: This information is valid as of August 2020. These guides are recommendations and by no means should be used as an all-inclusive list of running a nonprofit. Please do adequate research and check all sources with official decisions of a 501(c).