

# Legal & Taxation Structures for Homestead Associations and Related Implications

By Brian I. Ezuka, Esq.

Or...

“Things to Know About Homestead Associations  
and How I Can Associate.”



## The typical homeowners association...

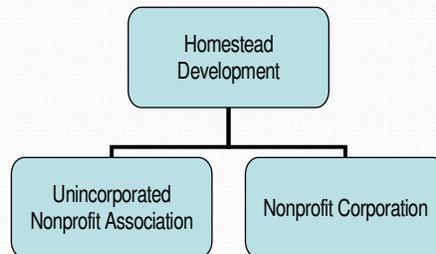
- Is composed of landowners in a housing development.
- Is commonly formed as part of the development or subsequently by the homeowners themselves.
- The members of the association typically consist of the homeowners, and annual dues paid by the members support the association.
- The association enables the members to act together in managing, maintaining and improving common areas in the development.
- The association provides members with opportunities for education, information exchange, social well-being, skill building and positive community development, among other benefits.

- 
- While your homestead organization may share many similar activities of the traditional homeowners association, it is unique . . .

- 
- A Hawaiian homestead organization is guided by an overriding purpose to advance the positive development of native Hawaiians.

- 
- To further your homestead organization's purposes, you may take different structural forms, each of which are different with advantages and disadvantages.

## Homestead Options



## Some factors to consider:

- Formalities to establish the organization (or “how difficult is it to form?”).
- Necessity of governing documents (or “what, if any, documents must I have to govern operations and what goes in them?”)
- Administrative requirements (or “how burdensome will it be to operate under state law?”).
- Local annual reporting requirements (or “what local annual reporting requirements will I have?”).
- Legal liabilities of the parties involved (or “how protected am I?”).



And...

- What is my objective (or “can I achieve my objective without incorporating or formally associating?”)



## The Unincorporated Nonprofit Association

Q: What is this? “An unincorporated organization . . . consisting of two or more members joined by mutual consent for a common, nonprofit purpose.”

Q: How difficult is it to form? Not difficult. No formal document is required to be filed with the DCCA (Department of Commerce and Consumer Affairs).

Q: What, if any, documents must I have to govern operations and what goes in them? None.

- The ease of formation and lack of formality are reflected in the lack of guiding provisions in the law. But nonprofit associations commonly establish guiding procedures through “articles of association” or “constitution” or other.
- The law provides for the application of principles of law and equity. And so common law and notions of fairness, justness and right dealing will apply to situations not addressed by the law, such as the rights and responsibilities of the managing members of the association.

## Continued...

Q: How burdensome will it be to operate under state law? Hawaii's Uniform Unincorporated Nonprofit Association Act is limited in terms of administrative requirements.

Q: What local annual reporting requirements will I have? No state annual report is required to be filed with the DCCA.

Q: How protected am I? Somewhat.

## The Nonprofit Corporation

Q: What is this?

- Nonprofit corporations do not have shareholders or owners and also do not pay out dividends.
- Not typically the form of organization used to pursue private, profit-seeking endeavors.
- Typically formed by persons that desire a management and operational structure, protection from personal liability, and tax-exempt status with the IRS.



## Continued...

Q: How difficult is it to form? Fairly complex endeavor that requires strict compliance with the law. Articles of incorporation must be properly prepared and submitted to the DCCA. Bylaws must be prepared and adopted.

- Cautionary note: Do not rely on forms or documents prepared for other organizations because they may not comply with Hawaii law and your particular operations, or provide for the protections and other benefits that you may be entitled to under the law.



## Continued...

Q: What, if any, documents must I have to govern operations and what goes in them? You are required to have articles of incorporation, bylaws and certain federally required policies. All documents must comply with applicable Hawaii state and federal laws.

## Continued...

Q: How burdensome will it be to operate under state law?

- In Hawaii, nonprofit corporations are governed by the Hawaii Nonprofit Corporations Act, Hawaii Revised Statutes Chapter 414D.
- The current nonprofit law replaced the previous law in July 2002 and made significant changes to Hawaii's nonprofit law. The law added favorable rules governing the operation of a nonprofit corporation.
- The current law is comprehensive with detailed operational provisions and standards.

## Continued...

Q: What local annual reporting requirements will I have? Annual reports are required to be submitted to the DCCA.

Q: How protected am I? Very.

## To compare . . .

- The nonprofit corporation is the more prevalent form of organization because it offers the advantages of greater certainty in operation, guidance and protection from liability.
- In regard to forms of tax-exempt organizations: Generally, the Internal Revenue Code does not prescribe that an entity be an unincorporated association or nonprofit corporation to qualify for tax exemption. But for the above reasons, the corporate form is generally used today.

## Remember:

- The decision to establish a formal organization is a decision that will require commitment to the community and your objectives, and responsibility to the law.
- Your decision must be an informed decision. The workshops will give you only a part of the information you will need. You must apply your personal objectives and community needs to arrive at your decision.

## Questions?

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# Incorporation and Exemption Guidelines

By Brian I. Ezuka, Esq.

## Incorporation and Exemption

- Step 1: Organization of corporation
- Step 2: Obtaining tax exemption
- Step 3: Some recommendations

## Step 1: Organization of corporation -- actions

- Ask: Is the public charity form of organization appropriate?
- For example: the IRS recognizes the following charitable organizations, among others:
  - Relief of the poor/distressed.
  - Promotion of health.
  - Lessening burdens of government.
  - Advancement of education.
  - Instruction of the individual/public.
  - Promotion of social welfare.
  - Promotion of the arts/culture/preservation.
  - Promotion of sports/amateur sports organizations.
  - Religious organizations.

## Step 1: Organization of corporation -- actions continued:

- You must have governing documents that comply with Hawaii's nonprofit law and that qualify for tax exemption.
- Action: Draft articles of incorporation and bylaws.

## Step 1: Organization of corporation -- actions continued:

The articles of incorporation:

What is it? Organizing document that brings the entity into existence and is filed with the DCCA.

## Articles of Incorporation continued:

What must be included?

Hawaii's Nonprofit Corporations Act requires that the articles of incorporation include:

- The organization's corporate name;
  - The mailing address of the organization's principal office, the street address of its registered office, and the name of its registered agent at the registered office;
  - The names and addresses of the incorporators;
  - A statement indicating whether or not the organization is a membership organization; and
  - Provisions regarding the distribution of assets on dissolution.
- Additionally, certain provisions of the Act, which may benefit the organization and provide added liability protection for directors and officers must be included in the articles to be effective.

## Articles of incorporation continued:

For a corporation that intends to obtain tax-exempt status under Internal Revenue Code Section 501(c)(3), the articles must also include:

- A statement of exempt purposes;
- A dissolution clause that provides for distribution of assets in an exempt manner; and
- A prohibition against private benefit.
- The articles (or bylaws) should also prohibit the corporation from attempting to influence legislation as a substantial part of its activities and participating in campaign activity for or against political candidates.

## Step 1: Organization of corporation -- actions continued:

The bylaws:

What is it? The bylaws are the rules adopted by the board of directors to regulate and manage the affairs of the corporation.

What must be included: Hawaii's nonprofit law does not have any specific requirements for the bylaws, except to say, "the bylaws may contain any provision for regulating and managing the affairs of the corporation that is not inconsistent with law or the articles of incorporation."

## The bylaws continued:

Consider including:

- Membership admission and termination procedures, how to provide proper notice of member meetings, record dates for members entitled to vote and notice, and responsibilities of the corporation to the members;
- Duties of the board; number and qualifications of directors; procedures for election, removal and resignation of directors and filling vacancies; term of office; calling and notice of meetings of the board; formation of committees; standards of conduct; and what directors may rely upon in making decisions;
- Required officers and their duties and authority, electing and removing officers, standards of conduct for officers, and what officers may rely upon in making decisions;
- Records and reports to keep at a minimum and inspection rights;
- How the bylaws and articles can be amended.

## Step 1: Organization of corporation -- actions continued:

- Action: Obtain a state general excise tax number. (Use State Form BB-1 and submit to State Department of Taxation.)
- Action : Obtain a federal identification number. (Fill out Federal Form SS-4 and apply on-line or call IRS)

## Step 1: Organization of corporation -- actions continued:

Draft federally required policies that address the following:

- Staff complaints and reporting suspected financial impropriety/misuse of charity resources.
- Standards for document integrity, retention, and destruction.

## Step 2: Obtaining tax exemption -- actions

Prepare and submit to the IRS:

- Federal application for exemption (Form 1023) with supporting documents (e.g., governing documents).
- Conflict of interest policy (Form 1023 has sample form).
- Power of attorney, if necessary (Form 2848).
- User fee.

Prepare and submit to the State Department of Taxation:

- State application for exemption (Form G-6S) with attached federal application and supporting documents.
- Power of attorney, if necessary (Form 2848).

## Additional Step 3: Recommendation

- Complete corporate records folder.
- Develop financial management system.

## Additional Step 3 continued:

- Consider: Regular board and officer orientation and governance training.

## Additional Step 3 continued:

- Consider: Whether you must register with the state department of the attorney general before conducting any solicitation for money or thing of value.

## Questions?

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## Planning Early for Success - The Application Process

Once an organization has been created under state law and begins to operate, it may want to be recognized as exempt under section 501(c)(3) of the Internal Revenue Code. In addition to exemption from federal income taxation, organizations recognized as exempt under section 501(c)(3) may enjoy collateral benefits under the Internal Revenue Code, as well as under state or local income, property, sales, use or other tax provisions. The State of Hawaii provides for exemption from general excise tax (Forms G-6 or G-6S). Additionally, the counties have provisions from exemption from real property taxes, upon approval.

To apply for exemption, an organization should obtain and complete the required forms (exemption application and application for employer identification number) and submit them, along with the required user fee. If an organization will be represented by an attorney or other representative, it must also submit a power of attorney.

Public disclosure requirements apply to exemption applications that the IRS approves. In addition, cases in which the IRS has issued a letter denying or revoking an organization's exempt status are subject to public disclosure under Internal Revenue Code section 6110.

## Public Charity - Exemption Application

To be exempt under section 501(c)(3), an organization must file an application for recognition of exemption with the IRS. The law provides limited exceptions to the filing requirement.

The form required to apply for exemption under section 501(c)(3) is Form 1023. Form 1023 has instructions and checklists to help you provide the information required to process your application. You should also obtain Notice 1382, which supplements the Form 1023 package. The IRS will not process an incomplete application.

Generally, an organization required to apply for recognition of exemption must file a properly completed and executed Form 1023 with the Service within 27 months from the end of the month in which it was organized for its exemption to be effective from its date of formation. This deadline can be extended if the organization meets certain requirements.

### Exceptions to Application Requirement

The following organizations are excepted from the exemption application requirement:

- Churches, their integrated auxiliaries, and conventions or associations of churches; and
- An organization that is not a private foundation and the gross receipts of which in each taxable year are normally not more than \$5,000.

## Employer Identification Number

Every organization must have an employer identification number, even if it will not have employees. The employer identification number is a unique number that identifies the organization to the Internal

Revenue Service.

To apply for an employer identification number, you should obtain [Form SS-4](#) and its [Instructions](#). You may also apply for an employer identification number [on-line](#), by telephone, or by fax. Make sure that you select *church or church-controlled organization* or *other nonprofit organization* as the **type of entity**..

Please note that the employer identification number is not your *tax-exempt number*.

## **EO Exemption Application User Fees to Increase in 2010**

User fees will increase for all applications for exemption (Forms 1023, 1024, and 1028) postmarked after January 3, 2010:

- \$400 for organizations whose gross receipts are \$10,000 or less annually over a 4-year period
- \$850 for organizations whose gross receipts exceed \$10,000 annually over a 4-year period
- \$3,000 for group exemption letters.

A complete schedule of all user fees will be published in the annual procedure released in January 2010.

*Cyber Assistant*, a Web-based software program designed to help 501(c)(3) applicants prepare a complete and accurate Form 1023 application, will become available during 2010. Once the IRS announces the availability of *Cyber Assistant*, the user fees will change again:

- \$200 for organizations using *Cyber Assistant* (regardless of size) to prepare their Form 1023
- \$850 for all other organizations not using *Cyber Assistant* (regardless of size) to prepare their Form 1023.

IRS will announce when *Cyber Assistant* is available and the effective date of the user fee change. Subscribe to the *EO Update* to automatically receive an alert that *Cyber Assistant* is available.

## **Public Disclosure of Exempt Organizations Filings**

Exempt organizations must allow for public inspection and copying of their exemption applications, determination letters, and annual returns. The IRS also makes these documents available for public inspection and copying.

## **Exemption from Hawaii General Excise Tax**

The State of Hawaii provides for exemption from general excise tax for most sources of income except those from activities designed for the production of income (e.g. fundraising income). Form G-6 or Form G-6S should be submitted to the Hawaii Department of Taxation within three months of formation for exemption to be granted retroactively.

## **Hawaii Charitable Registration**

The State of Hawaii requires charities that solicit contributions to register with the Attorney General

unless exempted from this requirement. See attached FAQ from the Attorney General's Office.



Department of the Treasury  
**Internal Revenue Service**

## Notice 1382

(Rev. September 2009)

### Changes for Form 1023:

- Mailing address
  - Parts IX, X and XI
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### Changes for Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code

#### Change of Mailing Address

The mailing address shown on Form 1023 Checklist, page 28, the first address under the last checkbox; and in the Instructions for Form 1023, page 4 under *Where to File*, has been changed to:

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

#### Changes for Parts IX and X

Changes to Parts IX and X are necessary to comply with new regulations that eliminated the advance ruling process. Until Form 1023 is revised to reflect this change, please follow the directions on this notice when completing Part IX and Part X of Form 1023. For more information about the elimination of the advance ruling process, visit us at [www.irs.gov](http://www.irs.gov) and click on *Charities & Non-Profits*.

#### Part IX. Financial Data

The instructions at the top of Part IX on page 9 of Form 1023 are now as follows. For purposes of this schedule, years in existence refer to completed tax years.

1. If in existence less than 5 years, complete the statement for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of:
  - a. Three years of financial information if you have not completed one tax year, or
  - b. Four years of financial information if you have completed one tax year.
2. If in existence 5 or more years, complete the schedule for the most recent 5 tax years. You will need to provide a separate statement that includes information about the most recent 5 tax years because the data table in Part IX, has not been updated to provide for a 5th year.

#### Part X. Public Charity Status

**Do not complete** line 6a on page 11 of Form 1023, and **do not sign** the form under the heading "Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code."

**Only complete** line 6b and line 7 on page 11 of Form 1023, if in existence 5 or more tax years.

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## **Part XI. Increase in User Fees.**

User fee increases are effective for all applications postmarked after January 3, 2010.

1. \$400 for organizations whose gross receipts do not exceed \$10,000 or less annually over a 4-year period.
2. \$850 for organizations whose gross receipts exceed \$10,000 annually over a 4-year period.

See [www.irs.gov](http://www.irs.gov) web page link on Form 1023, page 12, Part XI, User Fee Information, for the current user fees.

Cyber Assistant, a web-based software program designed to help organizations prepare a complete and accurate Form 1023 application, will become available during 2010. Once the IRS announces the availability of Cyber Assistant, the user fees will change again.

1. \$200 for organizations using Cyber Assistant (regardless of size) to prepare their Form 1023, or
2. \$850 for all other organizations not using Cyber Assistant (regardless of size) to prepare their Form 1023.

IRS will announce when Cyber Assistant is available and the effective date of the user fee change. Sign up for the *Exempt Organization (EO) Update*, EO's subscription newsletter, at [www.irs.gov/charities](http://www.irs.gov/charities), to automatically receive an alert that Cyber Assistant is available.

**Application for Recognition of Exemption  
 Under Section 501(c)(3) of the Internal Revenue Code**

Use the instructions to complete this application and for a definition of all **bold** items. For additional help, call IRS Exempt Organizations Customer Account Services toll-free at 1-877-829-5500. Visit our website at **www.irs.gov** for forms and publications. If the required information and documents are not submitted with payment of the appropriate user fee, the application may be returned to you.

Attach additional sheets to this application if you need more space to answer fully. Put your name and EIN on each sheet and identify each answer by Part and line number. Complete Parts I - XI of Form 1023 and submit only those Schedules (A through H) that apply to you.

**Part I Identification of Applicant**

<b>1</b> Full name of organization (exactly as it appears in your <b>organizing document</b> )		<b>2</b> c/o Name (if applicable)	
<b>3</b> <b>Mailing address</b> (Number and street) (see instructions)	Room/Suite	<b>4</b> Employer Identification Number (EIN)	
City or town, state or country, and ZIP + 4		<b>5</b> Month the annual accounting period ends (01 - 12)	
<b>6</b> Primary contact (officer, director, trustee, or <b>authorized representative</b> )		<b>b</b> Phone:	
<b>a</b> Name:		<b>c</b> Fax: (optional)	
<b>7</b> Are you represented by an authorized representative, such as an attorney or accountant? If "Yes," provide the authorized representative's name, and the name and address of the authorized representative's firm. Include a completed Form 2848, <i>Power of Attorney and Declaration of Representative</i> , with your application if you would like us to communicate with your representative.		<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>8</b> Was a person who is not one of your officers, directors, trustees, employees, or an authorized representative listed in line 7, paid, or promised payment, to help plan, manage, or advise you about the structure or activities of your organization, or about your financial or tax matters? If "Yes," provide the person's name, the name and address of the person's firm, the amounts paid or promised to be paid, and describe that person's role.		<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>9a</b> Organization's website:			
<b>b</b> Organization's email: (optional)			
<b>10</b> Certain organizations are not required to file an information return (Form 990 or Form 990-EZ). If you are granted tax-exemption, are you claiming to be excused from filing Form 990 or Form 990-EZ? If "Yes," explain. See the instructions for a description of organizations not required to file Form 990 or Form 990-EZ.		<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
<b>11</b> Date incorporated if a corporation, or formed, if other than a corporation. (MM/DD/YYYY)    /    /			
<b>12</b> Were you formed under the laws of a <b>foreign country</b> ?		<input type="checkbox"/> <b>Yes</b> <input type="checkbox"/> <b>No</b>	
If "Yes," state the country.			

**Part II Organizational Structure**

You must be a corporation (including a limited liability company), an unincorporated association, or a trust to be tax exempt. (See instructions.) **DO NOT file this form unless you can check "Yes" on lines 1, 2, 3, or 4.**

- 1 Are you a **corporation**? If "Yes," attach a copy of your articles of incorporation showing **certification of filing** with the appropriate state agency. Include copies of any amendments to your articles and be sure they also show state filing certification.  **Yes**  **No**
- 2 Are you a **limited liability company (LLC)**? If "Yes," attach a copy of your articles of organization showing certification of filing with the appropriate state agency. Also, if you adopted an operating agreement, attach a copy. Include copies of any amendments to your articles and be sure they show state filing certification. Refer to the instructions for circumstances when an LLC should not file its own exemption application.  **Yes**  **No**
- 3 Are you an **unincorporated association**? If "Yes," attach a copy of your articles of association, constitution, or other similar organizing document that is dated and includes at least two signatures. Include signed and dated copies of any amendments.  **Yes**  **No**
- 4a Are you a **trust**? If "Yes," attach a signed and dated copy of your trust agreement. Include signed and dated copies of any amendments.  **Yes**  **No**
- b Have you been funded? If "No," explain how you are formed without anything of value placed in trust.  **Yes**  **No**
- 5 Have you adopted **bylaws**? If "Yes," attach a current copy showing date of adoption. If "No," explain how your officers, directors, or trustees are selected.  **Yes**  **No**

**Part III Required Provisions in Your Organizing Document**

The following questions are designed to ensure that when you file this application, your organizing document contains the required provisions to meet the organizational test under section 501(c)(3). Unless you can check the boxes in both lines 1 and 2, your organizing document does not meet the organizational test. **DO NOT file this application until you have amended your organizing document.** Submit your original and amended organizing documents (showing state filing certification if you are a corporation or an LLC) with your application.

- 1 Section 501(c)(3) requires that your organizing document state your exempt purpose(s), such as charitable, religious, educational, and/or scientific purposes. Check the box to confirm that your organizing document meets this requirement. Describe specifically where your organizing document meets this requirement, such as a reference to a particular article or section in your organizing document. Refer to the instructions for exempt purpose language. Location of Purpose Clause (Page, Article, and Paragraph): \_\_\_\_\_
- 2a Section 501(c)(3) requires that upon dissolution of your organization, your remaining assets must be used exclusively for exempt purposes, such as charitable, religious, educational, and/or scientific purposes. Check the box on line 2a to confirm that your organizing document meets this requirement by express provision for the distribution of assets upon dissolution. If you rely on state law for your dissolution provision, do not check the box on line 2a and go to line 2c.
- 2b If you checked the box on line 2a, specify the location of your dissolution clause (Page, Article, and Paragraph). Do not complete line 2c if you checked box 2a. \_\_\_\_\_
- 2c See the instructions for information about the operation of state law in your particular state. Check this box if you rely on operation of state law for your dissolution provision and indicate the state: \_\_\_\_\_

**Part IV Narrative Description of Your Activities**

Using an attachment, describe your *past*, *present*, and *planned* activities in a narrative. If you believe that you have already provided some of this information in response to other parts of this application, you may summarize that information here and refer to the specific parts of the application for supporting details. You may also attach representative copies of newsletters, brochures, or similar documents for supporting details to this narrative. Remember that if this application is approved, it will be open for public inspection. Therefore, your narrative description of activities should be thorough and accurate. Refer to the instructions for information that must be included in your description.

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors**

- 1a List the names, titles, and mailing addresses of all of your officers, directors, and trustees. For each person listed, state their total annual **compensation**, or proposed compensation, for all services to the organization, whether as an officer, employee, or other position. Use actual figures, if available. Enter "none" if no compensation is or will be paid. If additional space is needed, attach a separate sheet. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

**b** List the names, titles, and mailing addresses of each of your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation. Do not include officers, directors, or trustees listed in line 1a.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

**c** List the names, names of businesses, and mailing addresses of your five highest compensated **independent contractors** that receive or will receive compensation of more than \$50,000 per year. Use the actual figure, if available. Refer to the instructions for information on what to include as compensation.

Name	Title	Mailing address	Compensation amount (annual actual or estimated)

The following "Yes" or "No" questions relate to *past, present, or planned* relationships, transactions, or agreements with your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, and 1c.

**2a** Are any of your officers, directors, or trustees **related** to each other through **family or business relationships**? If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**

**b** Do you have a business relationship with any of your officers, directors, or trustees other than through their position as an officer, director, or trustee? If "Yes," identify the individuals and describe the business relationship with each of your officers, directors, or trustees.  **Yes**  **No**

**c** Are any of your officers, directors, or trustees related to your highest compensated employees or highest compensated independent contractors listed on lines 1b or 1c through family or business relationships? If "Yes," identify the individuals and explain the relationship.  **Yes**  **No**

**3a** For each of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c, attach a list showing their name, qualifications, average hours worked, and duties.

**b** Do any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, or 1c receive compensation from any other organizations, whether tax exempt or taxable, that are related to you through **common control**? If "Yes," identify the individuals, explain the relationship between you and the other organization, and describe the compensation arrangement.  **Yes**  **No**

**4** In establishing the compensation for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed on lines 1a, 1b, and 1c, the following practices are recommended, although they are not required to obtain exemption. Answer "Yes" to all the practices you use.

**a** Do you or will the individuals that approve compensation arrangements follow a conflict of interest policy?  **Yes**  **No**

**b** Do you or will you approve compensation arrangements in advance of paying compensation?  **Yes**  **No**

**c** Do you or will you document in writing the date and terms of approved compensation arrangements?  **Yes**  **No**

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- d** Do you or will you record in writing the decision made by each individual who decided or voted on compensation arrangements?  Yes  No
- e** Do you or will you approve compensation arrangements based on information about compensation paid by **similarly situated** taxable or tax-exempt organizations for similar services, current compensation surveys compiled by independent firms, or actual written offers from similarly situated organizations? Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- f** Do you or will you record in writing both the information on which you relied to base your decision and its source?  Yes  No
- g** If you answered "No" to any item on lines 4a through 4f, describe how you set compensation that is **reasonable** for your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c.
- 
- 5a** Have you adopted a **conflict of interest policy** consistent with the sample conflict of interest policy in Appendix A to the instructions? If "Yes," provide a copy of the policy and explain how the policy has been adopted, such as by resolution of your governing board. If "No," answer lines 5b and 5c.  Yes  No
- b** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you for setting their own compensation?
- c** What procedures will you follow to assure that persons who have a conflict of interest will not have influence over you regarding business deals with themselves?
- Note:** A conflict of interest policy is recommended though it is not required to obtain exemption. Hospitals, see Schedule C, Section I, line 14.
- 
- 6a** Do you or will you compensate any of your officers, directors, trustees, highest compensated employees, and highest compensated independent contractors listed in lines 1a, 1b, or 1c through **non-fixed payments**, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are determined, who is eligible for such arrangements, whether you place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- b** Do you or will you compensate any of your employees, other than your officers, directors, trustees, or your five highest compensated employees who receive or will receive compensation of more than \$50,000 per year, through non-fixed payments, such as discretionary bonuses or revenue-based payments? If "Yes," describe all non-fixed compensation arrangements, including how the amounts are or will be determined, who is or will be eligible for such arrangements, whether you place or will place a limitation on total compensation, and how you determine or will determine that you pay no more than reasonable compensation for services. Refer to the instructions for Part V, lines 1a, 1b, and 1c, for information on what to include as compensation.  Yes  No
- 
- 7a** Do you or will you purchase any goods, services, or assets from any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such purchase that you made or intend to make, from whom you make or will make such purchases, how the terms are or will be negotiated at **arm's length**, and explain how you determine or will determine that you pay no more than **fair market value**. Attach copies of any written contracts or other agreements relating to such purchases.  Yes  No
- b** Do you or will you sell any goods, services, or assets to any of your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," describe any such sales that you made or intend to make, to whom you make or will make such sales, how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you are or will be paid at least fair market value. Attach copies of any written contracts or other agreements relating to such sales.  Yes  No
- 
- 8a** Do you or will you have any leases, contracts, loans, or other agreements with your officers, directors, trustees, highest compensated employees, or highest compensated independent contractors listed in lines 1a, 1b, or 1c? If "Yes," provide the information requested in lines 8b through 8f.  Yes  No
- b** Describe any written or oral arrangements that you made or intend to make.
- c** Identify with whom you have or will have such arrangements.
- d** Explain how the terms are or will be negotiated at arm's length.
- e** Explain how you determine you pay no more than fair market value or you are paid at least fair market value.
- f** Attach copies of any signed leases, contracts, loans, or other agreements relating to such arrangements.
- 
- 9a** Do you or will you have any leases, contracts, loans, or other agreements with any organization in which any of your officers, directors, or trustees are also officers, directors, or trustees, or in which any individual officer, director, or trustee owns more than a 35% interest? If "Yes," provide the information requested in lines 9b through 9f.  Yes  No

**Part V Compensation and Other Financial Arrangements With Your Officers, Directors, Trustees, Employees, and Independent Contractors (Continued)**

- b** Describe any written or oral arrangements you made or intend to make.
- c** Identify with whom you have or will have such arrangements.
- d** Explain how the terms are or will be negotiated at arm's length.
- e** Explain how you determine or will determine you pay no more than fair market value or that you are paid at least fair market value.
- f** Attach a copy of any signed leases, contracts, loans, or other agreements relating to such arrangements.

**Part VI Your Members and Other Individuals and Organizations That Receive Benefits From You**

The following "Yes" or "No" questions relate to goods, services, and funds you provide to individuals and organizations as part of your activities. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1a** In carrying out your exempt purposes, do you provide goods, services, or funds to individuals? If "Yes," describe each program that provides goods, services, or funds to individuals.  **Yes**  **No**
- b** In carrying out your exempt purposes, do you provide goods, services, or funds to organizations? If "Yes," describe each program that provides goods, services, or funds to organizations.  **Yes**  **No**
- 2** Do any of your programs limit the provision of goods, services, or funds to a specific individual or group of specific individuals? For example, answer "Yes," if goods, services, or funds are provided only for a particular individual, your members, individuals who work for a particular employer, or graduates of a particular school. If "Yes," explain the limitation and how recipients are selected for each program.  **Yes**  **No**
- 3** Do any individuals who receive goods, services, or funds through your programs have a family or business relationship with any officer, director, trustee, or with any of your highest compensated employees or highest compensated independent contractors listed in Part V, lines 1a, 1b, and 1c? If "Yes," explain how these related individuals are eligible for goods, services, or funds.  **Yes**  **No**

**Part VII Your History**

The following "Yes" or "No" questions relate to your history. (See instructions.)

- 1** Are you a **successor** to another organization? Answer "Yes," if you have taken or will take over the activities of another organization; you took over 25% or more of the fair market value of the net assets of another organization; or you were established upon the conversion of an organization from for-profit to non-profit status. If "Yes," complete Schedule G.  **Yes**  **No**
- 2** Are you submitting this application more than 27 months after the end of the month in which you were legally formed? If "Yes," complete Schedule E.  **Yes**  **No**

**Part VIII Your Specific Activities**

The following "Yes" or "No" questions relate to specific activities that you may conduct. Check the appropriate box. Your answers should pertain to *past*, *present*, and *planned* activities. (See instructions.)

- 1** Do you support or oppose candidates in **political campaigns** in any way? If "Yes," explain.  **Yes**  **No**
- 2a** Do you attempt to **influence legislation**? If "Yes," explain how you attempt to influence legislation and complete line 2b. If "No," go to line 3a.  **Yes**  **No**
- b** Have you made or are you making an **election** to have your legislative activities measured by expenditures by filing Form 5768? If "Yes," attach a copy of the Form 5768 that was already filed or attach a completed Form 5768 that you are filing with this application. If "No," describe whether your attempts to influence legislation are a substantial part of your activities. Include the time and money spent on your attempts to influence legislation as compared to your total activities.  **Yes**  **No**
- 3a** Do you or will you operate bingo or **gaming** activities? If "Yes," describe who conducts them, and list all revenue received or expected to be received and expenses paid or expected to be paid in operating these activities. **Revenue and expenses** should be provided for the time periods specified in Part IX, Financial Data.  **Yes**  **No**
- b** Do you or will you enter into contracts or other agreements with individuals or organizations to conduct bingo or gaming for you? If "Yes," describe any written or oral arrangements that you made or intend to make, identify with whom you have or will have such arrangements, explain how the terms are or will be negotiated at arm's length, and explain how you determine or will determine you pay no more than fair market value or you will be paid at least fair market value. Attach copies or any written contracts or other agreements relating to such arrangements.  **Yes**  **No**
- c** List the states and local jurisdictions, including Indian Reservations, in which you conduct or will conduct gaming or bingo.

**Part VIII Your Specific Activities (Continued)**

**4a** Do you or will you undertake **fundraising**? If "Yes," check all the fundraising programs you do or will conduct. (See instructions.)  **Yes**  **No**

- |   |  |
|---|--|
| <input type="checkbox"/> mail solicitations                         | <input type="checkbox"/> phone solicitations                                   |
| <input type="checkbox"/> email solicitations                        | <input type="checkbox"/> accept donations on your website                      |
| <input type="checkbox"/> personal solicitations                     | <input type="checkbox"/> receive donations from another organization's website |
| <input type="checkbox"/> vehicle, boat, plane, or similar donations | <input type="checkbox"/> government grant solicitations                        |
| <input type="checkbox"/> foundation grant solicitations             | <input type="checkbox"/> Other   |

Attach a description of each fundraising program.

**b** Do you or will you have written or oral contracts with any individuals or organizations to raise funds for you? If "Yes," describe these activities. Include all revenue and expenses from these activities and state who conducts them. Revenue and expenses should be provided for the time periods specified in Part IX, Financial Data. Also, attach a copy of any contracts or agreements.  **Yes**  **No**

**c** Do you or will you engage in fundraising activities for other organizations? If "Yes," describe these arrangements. Include a description of the organizations for which you raise funds and attach copies of all contracts or agreements.  **Yes**  **No**

**d** List all states and local jurisdictions in which you conduct fundraising. For each state or local jurisdiction listed, specify whether you fundraise for your own organization, you fundraise for another organization, or another organization fundraises for you.

**e** Do you or will you maintain separate accounts for any contributor under which the contributor has the right to advise on the use or distribution of funds? Answer "Yes" if the donor may provide advice on the types of investments, distributions from the types of investments, or the distribution from the donor's contribution account. If "Yes," describe this program, including the type of advice that may be provided and submit copies of any written materials provided to donors.  **Yes**  **No**

**5** Are you **affiliated** with a governmental unit? If "Yes," explain.  **Yes**  **No**

**6a** Do you or will you engage in **economic development**? If "Yes," describe your program.  **Yes**  **No**

**b** Describe in full who benefits from your economic development activities and how the activities promote exempt purposes.

**7a** Do or will persons other than your employees or volunteers **develop** your facilities? If "Yes," describe each facility, the role of the developer, and any business or family relationship(s) between the developer and your officers, directors, or trustees.  **Yes**  **No**

**b** Do or will persons other than your employees or volunteers **manage** your activities or facilities? If "Yes," describe each activity and facility, the role of the manager, and any business or family relationship(s) between the manager and your officers, directors, or trustees.  **Yes**  **No**

**c** If there is a business or family relationship between any manager or developer and your officers, directors, or trustees, identify the individuals, explain the relationship, describe how contracts are negotiated at arm's length so that you pay no more than fair market value, and submit a copy of any contracts or other agreements.

**8** Do you or will you enter into **joint ventures**, including partnerships or **limited liability companies** treated as partnerships, in which you share profits and losses with partners other than section 501(c)(3) organizations? If "Yes," describe the activities of these joint ventures in which you participate.  **Yes**  **No**

**9a** Are you applying for exemption as a childcare organization under section 501(k)? If "Yes," answer lines 9b through 9d. If "No," go to line 10.  **Yes**  **No**

**b** Do you provide child care so that parents or caretakers of children you care for can be **gainfully employed** (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**c** Of the children for whom you provide child care, are 85% or more of them cared for by you to enable their parents or caretakers to be gainfully employed (see instructions)? If "No," explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**d** Are your services available to the general public? If "No," describe the specific group of people for whom your activities are available. Also, see the instructions and explain how you qualify as a childcare organization described in section 501(k).  **Yes**  **No**

**10** Do you or will you publish, own, or have rights in music, literature, tapes, artworks, choreography, scientific discoveries, or other **intellectual property**? If "Yes," explain. Describe who owns or will own any copyrights, patents, or trademarks, whether fees are or will be charged, how the fees are determined, and how any items are or will be produced, distributed, and marketed.  **Yes**  **No**

**Part VIII Your Specific Activities (Continued)**

- 11** Do you or will you accept contributions of: real property; conservation easements; closely held securities; intellectual property such as patents, trademarks, and copyrights; works of music or art; licenses; royalties; automobiles, boats, planes, or other vehicles; or collectibles of any type? If "Yes," describe each type of contribution, any conditions imposed by the donor on the contribution, and any agreements with the donor regarding the contribution.  Yes  No
- 
- 12a** Do you or will you operate in a **foreign country or countries?** If "Yes," answer lines 12b through 12d. If "No," go to line 13a.  Yes  No
- b** Name the foreign countries and regions within the countries in which you operate.
- c** Describe your operations in each country and region in which you operate.
- d** Describe how your operations in each country and region further your exempt purposes.
- 
- 13a** Do you or will you make grants, loans, or other distributions to organization(s)? If "Yes," answer lines 13b through 13g. If "No," go to line 14a.  Yes  No
- b** Describe how your grants, loans, or other distributions to organizations further your exempt purposes.
- c** Do you have written contracts with each of these organizations? If "Yes," attach a copy of each contract.  Yes  No
- d** Identify each recipient organization and any **relationship** between you and the recipient organization.
- e** Describe the records you keep with respect to the grants, loans, or other distributions you make.
- f** Describe your selection process, including whether you do any of the following:
- (i)** Do you require an application form? If "Yes," attach a copy of the form.  Yes  No
- (ii)** Do you require a grant proposal? If "Yes," describe whether the grant proposal specifies your responsibilities and those of the grantee, obligates the grantee to use the grant funds only for the purposes for which the grant was made, provides for periodic written reports concerning the use of grant funds, requires a final written report and an accounting of how grant funds were used, and acknowledges your authority to withhold and/or recover grant funds in case such funds are, or appear to be, misused.  Yes  No
- g** Describe your procedures for oversight of distributions that assure you the resources are used to further your exempt purposes, including whether you require periodic and final reports on the use of resources.
- 
- 14a** Do you or will you make grants, loans, or other distributions to foreign organizations? If "Yes," answer lines 14b through 14f. If "No," go to line 15.  Yes  No
- b** Provide the name of each foreign organization, the country and regions within a country in which each foreign organization operates, and describe any relationship you have with each foreign organization.
- c** Does any foreign organization listed in line 14b accept contributions earmarked for a specific country or specific organization? If "Yes," list all earmarked organizations or countries.  Yes  No
- d** Do your contributors know that you have ultimate authority to use contributions made to you at your discretion for purposes consistent with your exempt purposes? If "Yes," describe how you relay this information to contributors.  Yes  No
- e** Do you or will you make pre-grant inquiries about the recipient organization? If "Yes," describe these inquiries, including whether you inquire about the recipient's financial status, its tax-exempt status under the Internal Revenue Code, its ability to accomplish the purpose for which the resources are provided, and other relevant information.  Yes  No
- f** Do you or will you use any additional procedures to ensure that your distributions to foreign organizations are used in furtherance of your exempt purposes? If "Yes," describe these procedures, including site visits by your employees or compliance checks by impartial experts, to verify that grant funds are being used appropriately.  Yes  No

**Part VIII Your Specific Activities** *(Continued)*

- |           |  |                                     |                                    |
|-----------|--|-------------------------------------|------------------------------------|
| <b>15</b> | Do you have a <b>close connection</b> with any organizations? If "Yes," explain.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>16</b> | Are you applying for exemption as a <b>cooperative hospital service organization</b> under section 501(e)? If "Yes," explain.  | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>17</b> | Are you applying for exemption as a <b>cooperative service organization of operating educational organizations</b> under section 501(f)? If "Yes," explain.  | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>18</b> | Are you applying for exemption as a <b>charitable risk pool</b> under section 501(n)? If "Yes," explain.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>19</b> | Do you or will you operate a <b>school</b> ? If "Yes," complete Schedule B. Answer "Yes," whether you operate a school as your main function or as a secondary activity.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>20</b> | Is your main function to provide <b>hospital or medical care</b> ? If "Yes," complete Schedule C.  | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>21</b> | Do you or will you provide <b>low-income housing</b> or housing for the <b>elderly or handicapped</b> ? If "Yes," complete Schedule F.   | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |
| <b>22</b> | Do you or will you provide scholarships, fellowships, educational loans, or other educational grants to individuals, including grants for travel, study, or other similar purposes? If "Yes," complete Schedule H. | <input type="checkbox"/> <b>Yes</b> | <input type="checkbox"/> <b>No</b> |

**Note: Private foundations** may use Schedule H to request advance approval of individual grant procedures.

**Part IX Financial Data**

For purposes of this schedule, years in existence refer to completed tax years. If in existence 4 or more years, complete the schedule for the most recent 4 tax years. If in existence more than 1 year but less than 4 years, complete the statements for each year in existence and provide projections of your likely revenues and expenses based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. If in existence less than 1 year, provide projections of your likely revenues and expenses for the current year and the 2 following years, based on a reasonable and good faith estimate of your future finances for a total of 3 years of financial information. (See instructions.)

**A. Statement of Revenues and Expenses**

	Type of revenue or expense	3 prior tax years or 2 succeeding tax years				(e) Provide Total for (a) through (d)
		Current tax year	(a) From..... To .....	(b) From..... To .....	(c) From..... To .....	
<b>Revenues</b>	<b>1</b> Gifts, grants, and contributions received (do not include unusual grants)					
	<b>2</b> Membership fees received					
	<b>3</b> Gross investment income					
	<b>4</b> Net unrelated business income					
	<b>5</b> Taxes levied for your benefit					
	<b>6</b> Value of services or facilities furnished by a governmental unit without charge (not including the value of services generally furnished to the public without charge)					
	<b>7</b> Any revenue not otherwise listed above or in lines 9-12 below (attach an itemized list)					
	<b>8</b> Total of lines 1 through 7					
	<b>9</b> Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to your exempt purposes (attach itemized list)					
	<b>10</b> Total of lines 8 and 9					
<b>11</b> Net gain or loss on sale of capital assets (attach schedule and see instructions)						
<b>12</b> Unusual grants						
<b>13</b> Total Revenue Add lines 10 through 12						
<b>Expenses</b>	<b>14</b> Fundraising expenses					
	<b>15</b> Contributions, gifts, grants, and similar amounts paid out (attach an itemized list)					
	<b>16</b> Disbursements to or for the benefit of members (attach an itemized list)					
	<b>17</b> Compensation of officers, directors, and trustees					
	<b>18</b> Other salaries and wages					
	<b>19</b> Interest expense					
	<b>20</b> Occupancy (rent, utilities, etc.)					
	<b>21</b> Depreciation and depletion					
	<b>22</b> Professional fees					
	<b>23</b> Any expense not otherwise classified, such as program services (attach itemized list)					
	<b>24</b> Total Expenses Add lines 14 through 23					

Part IX Financial Data (Continued)

B. Balance Sheet (for your most recently completed tax year)

Year End:

(Whole dollars)

Table with 18 rows for Assets, Liabilities, and Fund Balances or Net Assets. Assets include Cash, Accounts receivable, Inventories, Bonds and notes receivable, Corporate stocks, Loans receivable, Other investments, Depreciable and depletable assets, Land, and Other assets. Liabilities include Accounts payable, Contributions, gifts, grants, etc. payable, Mortgages and notes payable, and Other liabilities. Fund Balances or Net Assets include Total fund balances or net assets and Total Liabilities and Fund Balances or Net Assets.

Part X Public Charity Status

Part X is designed to classify you as an organization that is either a private foundation or a public charity. Public charity status is a more favorable tax status than private foundation status. If you are a private foundation, Part X is designed to further determine whether you are a private operating foundation. (See instructions.)

- 1a Are you a private foundation? If "Yes," go to line 1b. If "No," go to line 5 and proceed as instructed.
b As a private foundation, section 508(e) requires special provisions in your organizing document in addition to those that apply to all organizations described in section 501(c)(3).
2 Are you a private operating foundation? To be a private operating foundation you must engage directly in the active conduct of charitable, religious, educational, and similar activities...
3 Have you existed for one or more years? If "Yes," attach financial information showing that you are a private operating foundation; go to the signature section of Part XI.
4 Have you attached either (1) an affidavit or opinion of counsel... or (2) a statement describing your proposed operations as a private operating foundation?
5 If you answered "No" to line 1a, indicate the type of public charity status you are requesting by checking one of the choices below.
a 509(a)(1) and 170(b)(1)(A)(i)—a church or a convention or association of churches.
b 509(a)(1) and 170(b)(1)(A)(ii)—a school.
c 509(a)(1) and 170(b)(1)(A)(iii)—a hospital, a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital.
d 509(a)(3)—an organization supporting either one or more organizations described in line 5a through c, f, g, or h or a publicly supported section 501(c)(4), (5), or (6) organization.

**Part X Public Charity Status (Continued)**

- e 509(a)(4)—an organization organized and operated exclusively for testing for public safety.
- f 509(a)(1) and 170(b)(1)(A)(iv)—an organization operated for the benefit of a college or university that is owned or operated by a governmental unit.
- g 509(a)(1) and 170(b)(1)(A)(vi)—an organization that receives a substantial part of its financial support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public.
- h 509(a)(2)—an organization that normally receives not more than one-third of its financial support from gross **investment income** and receives more than one-third of its financial support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions).
- i A publicly supported organization, but unsure if it is described in 5g or 5h. The organization would like the IRS to decide the correct status.

- 6 If you checked box g, h, or i in question 5 above, you must request either an **advance** or a **definitive ruling** by selecting one of the boxes below. Refer to the instructions to determine which type of ruling you are eligible to receive.
- a **Request for Advance Ruling:** By checking this box and signing the consent, pursuant to section 6501(c)(4) of the Code you request an advance ruling and agree to extend the statute of limitations on the assessment of excise tax under section 4940 of the Code. The tax will apply only if you do not establish public support status at the end of the 5-year advance ruling period. The assessment period will be extended for the 5 advance ruling years to 8 years, 4 months, and 15 days beyond the end of the first year. You have the right to refuse or limit the extension to a mutually agreed-upon period of time or issue(s). Publication 1035, *Extending the Tax Assessment Period*, provides a more detailed explanation of your rights and the consequences of the choices you make. You may obtain Publication 1035 free of charge from the IRS web site at [www.irs.gov](http://www.irs.gov) or by calling toll-free 1-800-829-3676. Signing this consent will not deprive you of any appeal rights to which you would otherwise be entitled. If you decide not to extend the statute of limitations, you are not eligible for an advance ruling.

**Consent Fixing Period of Limitations Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code**

For Organization

.....  
(Signature of Officer, Director, Trustee, or other authorized official)

.....  
(Type or print name of signer)

.....  
(Date)

.....  
(Type or print title or authority of signer)

For IRS Use Only

.....  
IRS Director, Exempt Organizations

.....  
(Date)

- b **Request for Definitive Ruling:** Check this box if you have completed one tax year of at least 8 full months and you are requesting a definitive ruling. To confirm your public support status, answer line 6b(i) if you checked box g in line 5 above. Answer line 6b(ii) if you checked box h in line 5 above. If you checked box i in line 5 above, answer both lines 6b(i) and (ii).
- (i) (a) Enter 2% of line 8, column (e) on Part IX-A. Statement of Revenues and Expenses. \_\_\_\_\_
  - (b) Attach a list showing the name and amount contributed by each person, company, or organization whose gifts totaled more than the 2% amount. If the answer is "None," check this box.
  - (ii) (a) For each year amounts are included on lines 1, 2, and 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each **disqualified person**. If the answer is "None," check this box.
  - (b) For each year amounts are included on line 9 of Part IX-A. Statement of Revenues and Expenses, attach a list showing the name of and amount received from each payer, other than a disqualified person, whose payments were more than the larger of (1) 1% of line 10, Part IX-A. Statement of Revenues and Expenses, or (2) \$5,000. If the answer is "None," check this box.

- 7 Did you receive any unusual grants during any of the years shown on Part IX-A. Statement of Revenues and Expenses? If "Yes," attach a list including the name of the contributor, the date and amount of the grant, a brief description of the grant, and explain why it is unusual.  Yes  No

**Part XI User Fee Information**

You must include a user fee payment with this application. It will not be processed without your paid user fee. If your average annual gross receipts have exceeded or will exceed \$10,000 annually over a 4-year period, you must submit payment of \$750. If your gross receipts have not exceeded or will not exceed \$10,000 annually over a 4-year period, the required user fee payment is \$300. See instructions for Part XI, for a definition of **gross receipts** over a 4-year period. Your check or money order must be made payable to the United States Treasury. *User fees are subject to change. Check our website at www.irs.gov and type "User Fee" in the keyword box, or call Customer Account Services at 1-877-829-5500 for current information.*

- 1 Have your annual gross receipts averaged or are they expected to average not more than \$10,000?  Yes  No  
If "Yes," check the box on line 2 and enclose a user fee payment of \$300 (Subject to change—see above).  
If "No," check the box on line 3 and enclose a user fee payment of \$750 (Subject to change—see above).
- 2 Check the box if you have enclosed the reduced user fee payment of \$300 (Subject to change).
- 3 Check the box if you have enclosed the user fee payment of \$750 (Subject to change).

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

**Please Sign Here**



.....  
(Signature of Officer, Director, Trustee, or other authorized official)

.....  
(Type or print name of signer)

.....  
(Date)

.....  
(Type or print title or authority of signer)

**Reminder:** Send the completed Form 1023 Checklist with your filled-in-application.

# APPLICATION FOR EXEMPTION FROM GENERAL EXCISE TAXES

PLEASE READ THE INSTRUCTIONS (FORM G-6A) BEFORE COMPLETING THIS APPLICATION

1. **NAME OF ORGANIZATION:** (Type or print clearly the full name of your group or organization)

\_\_\_\_\_

Mailing Address: \_\_\_\_\_ Business Address: \_\_\_\_\_

\_\_\_\_\_

E-mail: \_\_\_\_\_ Website (if any): \_\_\_\_\_

Contact person: \_\_\_\_\_ Daytime Telephone No.: ( \_\_\_\_\_ ) \_\_\_\_\_

2. **The above-named organization is applying for exemption from general excise taxes under the following general excise tax section:** (Check only one box. See instructions for more information.)

- Section 237-23(a)(3), Hawaii Revised Statutes       Section 237-23(a)(5), Hawaii Revised Statutes
- Section 237-23(a)(4), Hawaii Revised Statutes       Section 237-23(a)(6), Hawaii Revised Statutes

3. **Effective date requested** \_\_\_\_\_ . See instructions for required statement.

4. **Under what section of the Internal Revenue Code is the organization qualified for federal income tax exemption?** \_\_\_\_\_ . (Please fill in the blank with the appropriate IRC section. For example: IRC §501(c)(3).)

5. **The following items MUST be submitted with this completed application:** (See instructions for more information.)

- A. Articles of Organization
- B. Copy of By-Laws - If the organization has not adopted by-laws, enclose a statement to that effect.
- C. Copy of IRS determination letter granting federal tax exemption (if IRS determination is required for your organization). Subordinate organizations, see instructions. If you requested an IRS determination but have not received it, check this box. \_\_\_\_\_ and indicate the date the IRS determination letter was applied for \_\_\_\_\_. Upon receipt of the IRS determination letter, a copy must be submitted to the Department of Taxation.

**Mail the completed application to:**  
 State of Hawaii  
 Department of Taxation  
 Technical Section  
 P. O. Box 259  
 Honolulu, HI 96809-0259

Please enter your federal employer identification number (FEIN) here \_\_\_\_\_.

D. If IRS determination letter was not requested or required, explain why. \_\_\_\_\_

- E.  Twenty Dollars (\$20) Registration Fee enclosed, **OR** (check only one)
- The \$20 general excise license fee has been paid. Enter your general excise Hawaii Tax I.D. Number here:  
**W** \_\_\_\_\_ - \_\_\_\_\_.

### DECLARATION

I hereby declare under penalties provided by section 231-36, HRS, that I have examined this application and accompanying attachments, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Officer or Duly Authorized Agent	Title	Date
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### FOR OFFICIAL USE ONLY:

Approved by: \_\_\_\_\_ Date Approved: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE A**  
**STATEMENT OF ORGANIZATION**

Date of Inception: \_\_\_\_\_

Date Organization's Hawaii Activity Began if Different from Date of Inception: \_\_\_\_\_

Under the Laws of: \_\_\_\_\_

If Part of a Central (National) Organization, Indicate Name of the Central Organization: \_\_\_\_\_

Organization's Accounting Year End (Month/Day): \_\_\_\_\_

Character of Organization: \_\_\_\_\_

Purpose for Which Organized (describe fully): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Actual Activities in Hawaii (describe fully): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Types of Income in Hawaii (describe fully): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Disposition of Income in Hawaii (describe fully): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Date of Last Amendment to By-Laws: \_\_\_\_\_

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**SCHEDULE B**  
**LIST OF OFFICERS, DIRECTORS OR TRUSTEES**

Name in Full	Address	Daytime Telephone No.	Office Held	Salary	Time Devoted to Duties
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____





STATE OF HAWAII — DEPARTMENT OF TAXATION  
**APPLICATION FOR  
EXEMPTION FROM GENERAL EXCISE TAXES  
(SHORT FORM)**

PLEASE READ THE SEPARATE INSTRUCTIONS BEFORE COMPLETING THIS APPLICATION

1. **NAME OF ORGANIZATION:** (Type or print clearly the full name of your group or organization)

Mailing Address: \_\_\_\_\_ Business Address: \_\_\_\_\_

E-mail: \_\_\_\_\_ Website (if any): \_\_\_\_\_

Contact person: \_\_\_\_\_ Daytime Telephone No.: ( ) \_\_\_\_\_

2. **The above-named organization is applying for exemption from general excise taxes under the following general excise tax section:** (Check only one box. See instructions for more information.)

- Section 237-23(a)(3), Hawaii Revised Statutes
- Section 237-23(a)(5), Hawaii Revised Statutes
- Section 237-23(a)(4), Hawaii Revised Statutes
- Section 237-23(a)(6), Hawaii Revised Statutes

3. **Effective date requested** \_\_\_\_\_ **See instructions for required statement.**

4. **Date Organization's Hawaii Activity Began if Different from Date of Inception:** \_\_\_\_\_

5. **All of the following items MUST be submitted with this completed application:** (See instructions for more information.)

- A. Copy of filed federal Form 1023 **with all attachments** (for organizations described in IRC section 501(c)(3))  
or  
Copy of filed federal Form 1024 **with all attachments** (for organizations described in IRC sections 501(c)(4), (6), or (8))

**Mail the completed application to:**  
State of Hawaii  
Department of Taxation  
Technical Section  
P. O. Box 259  
Honolulu, HI 96809-0259

- B. Copy of IRS determination letter granting federal tax exemption. If you requested an IRS determination but have not received it, check this box. \_\_\_\_\_  
Upon receipt of the IRS determination letter, a copy must be submitted to the Department of Taxation.

- C.  Twenty Dollars (\$20) Registration Fee enclosed, **OR** (check only one)  
 The \$20 general excise license fee has been paid. Enter your general excise Hawaii Tax I.D. Number here: **W** \_\_\_\_\_ - \_\_\_\_\_

**DECLARATION**

I hereby declare under penalties provided by section 231-36, HRS, that I have examined this application and accompanying attachments, and, to the best of my knowledge and belief, they are true, correct, and complete.

Signature of Officer or Duly Authorized Agent \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_

**FOR OFFICIAL USE ONLY:**

Approved by: \_\_\_\_\_  
Title: \_\_\_\_\_

Date Approved: \_\_\_\_\_



STATE OF HAWAII — DEPARTMENT OF TAXATION  
**INSTRUCTIONS FOR FORM G-6 AND FORM G-6S**

**IMPORTANT NOTE: MAKE SURE THAT THE APPLICATION IS COMPLETE BEFORE FILING WITH THE DEPARTMENT OF TAXATION. IF THE APPLICATION IS NOT COMPLETE, THIS OFFICE WILL NOT REVIEW, CONSIDER, NOR APPROVE YOUR EXEMPTION REQUEST.**

## GENERAL INSTRUCTIONS

### PURPOSE OF FORM

Use Form G-6 or Form G-6S to apply for an exemption from the general excise tax based on an organization's tax exempt status recognized by the Internal Revenue Service (IRS) under specific sections of the Internal Revenue Code (IRC) as indicated below, or as provided for under the General Excise Tax Law of the Hawaii Revised Statutes (HRS).

### WHICH FORM TO FILE

Based on the criteria below, use either Form G-6 or Form G-6S.

The following organizations (except subordinate organizations) may use Form G-6S:

1. Organizations recognized by the IRS as tax exempt under IRC sections 501(c)(3), (4), (6), or (8), or
2. Organizations that have submitted an application to the IRS for tax-exempt status under IRC sections 501(c)(3), (4), (6), or (8) **no more than three years** before the filing of Form G-6S.

All other organizations that do not fall under categories 1 or 2 above **must** use Form G-6 including:

- Subordinate Organizations (See Subordinate Organizations below for more information.)
- Organizations that filed Form 1023 or 1024 **more than 3 years** before this application was made.

### Subordinate Organizations.

A subordinate organization is a chapter, local, post, or unit of a central organization (e.g. a church or the Boy Scouts). A subordinate organization may or may not be incorporated, but it must have an organizing document.

A central organization is an organization that has one or more subordinates under its general supervision or control.

A group exemption letter issued by the IRS is the document that grants an

exemption from federal income tax. The letter issued to the central organization may or may not cover subordinate organizations.

### A. Group Exemption letter

If the group exemption letter issued by the IRS covers the subordinate organization, submit a copy of the letter along with the completed Form G-6.

### B. No Group Exemption Letter

First, the subordinate organization should verify with the central organization (e.g. a church, or Boy Scouts) that it is not covered under the group exemption letter issued by the IRS. If it is not covered, ask the central organization to include the subordinate organization in the next annual group ruling update that it submits to the IRS. A conditional approval of Form G-6 may be granted until the subordinate organization can show that it is included in the central organization's group exemption.

## SPECIFIC INSTRUCTIONS

### IS YOUR APPLICATION COMPLETE?

Before submitting Form G-6 or Form G-6S, review the "Is Your Application Complete?" checklist on Page 4 of the instructions to ensure the application is complete, and the required attachments are included with the application.

**SIGNATURE AND TITLE:** Form G-6 or Form G-6S must be signed and dated by an officer or person with a valid power of attorney.

### WHERE TO FILE

The completed application and the required attachments should be mailed to:

State of Hawaii  
Department of Taxation  
Technical Section  
P. O. Box 259  
Honolulu, HI 96809-0259

**TELEPHONE NUMBER:** 808-587-1577

**PROCESSING TIME:** Processing of Form G-6 or Form G-6S will usually take

approximately 6 to 8 weeks from the date the complete application is received by the Department.

## LINE-BY-LINE INSTRUCTIONS

### FORM G-6 AND FORM G-6S LINES 1 THROUGH 3

The instructions for completing Lines 1 through 3 are the same for Form G-6 and Form G-6S. The instructions for completing the rest of Form G-6 starts on page 2 and ends on page 3. The instructions for completing the rest of Form G-6S starts on page 3 and ends on page 4.

### Line 1. Name of Organization:

The name of the organization should be the name that appears in the articles of incorporation or other organizing document, including amendments.

Enter the organization's mailing address and business address (where records are kept), e-mail address, and website, if any. Provide the name of a contact person and daytime telephone number, including the area code, at which the contact person can be reached during business hours. All correspondence with the organization, including the notice of exemption approval, will be addressed to the contact person. The organization may authorize the Department to provide the approval letter and exemption certificate to the organization's financial or legal advisor instead of the contact person. Photocopy charges will apply to requests for copies of these documents.

### Line 2. General Excise Tax Exemption Sections:

Check the box on the application for the section which describes the organization. Only organizations which are described below may receive a general excise tax exemption.

**Section 237-23(a)(3), HRS:** "Fraternal benefit societies, orders, or associations, operating under the lodge

system, or for the exclusive benefit of the members of the fraternity itself, operating under the lodge system, and providing for the payment of death, sick, accident, prepaid legal services, or other benefits to the members of such societies, orders or associations, and to their dependents.”

**Section 237-23(a)(4), HRS:** “Corporations, associations, trusts, or societies organized and operated exclusively for religious, charitable, scientific, or educational purposes, as well as that of operating senior citizens housing facilities qualifying for a loan under the laws of the United States as authorized by section 202 of the Housing Act of 1959, as amended, as well as that of operating a prepaid legal services plan, as well as that of operating or managing a homeless facility, or any other program for the homeless authorized under part VII of chapter 356D.”

**Section 237-23(a)(5), HRS:** “Business leagues, chambers of commerce, boards of trade, civic leagues, agricultural and horticultural organizations, and organizations operated exclusively for the benefit of the community and for the promotion of social welfare which shall include the operation of a prepaid legal service plan, and from which no profit inures to the benefit of any private stockholder or individual.”

**Section 237-23(a)(6), HRS:** “Hospitals, infirmaries, and sanitarium.”

**Line 3. Effective date requested:**

Enter the date the organization wants to have the exemption begin. If no date is indicated, the effective date will be the date the application is filed with the Department of Taxation, or if the application is filed within the first 3 months of the organization’s activity in Hawaii, then the exemption will be effective as of the date the organization started its activities in Hawaii. If the application is filed on or before March 31, the exemption will be effective as of January 1 of that year. Any taxable income received prior to the effective date of the exemption is subject to the general excise tax.

**Required statement:**

The Department may grant retroactive approval if the organization can show that it acted reasonably and in good faith by not filing its application sooner. If the

requested effective date is before the date the application is filed and the effective dates indicated above do not apply, attach a statement to the application, in the form of an affidavit as described below, giving reasons why the requested effective date should be granted (i.e., how the organization acted reasonably and in good faith), and why the application was not submitted earlier. An organization will be considered to have acted reasonably and in good faith if:

- (1) The organization files its application before the Department discovers the organization has not filed an application for exemption;
- (2) The organization inadvertently failed to file the application because of certain intervening events beyond the organization’s control or, because after exercising reasonable diligence (taking into account the organization’s experience), the organization was unaware of the necessity of the application;
- (3) The organization reasonably relied on the written advice of the Department; or
- (4) The organization was unaware of the necessity for filing the application and reasonably relied on a qualified tax professional, including a tax professional employed by the organization, and the tax professional failed to make or advise the organization to file the application.

The request for a retroactive effective date must be accompanied by a detailed affidavit describing the events that led to the failure to make a valid application and to the discovery of the failure. When the organization relied on a qualified tax professional for advice, the organization’s affidavit must describe the engagement and responsibilities of the professional as well as the extent to which the organization relied on the professional. The affidavit must be accompanied by a dated declaration, signed by an authorized representative of the organization, which states “Under penalties provided by section 231-36, HRS, I declare that I have examined this request, including accompanying documents, and, to the best of my knowledge and belief, the request contains all the relevant facts relating to the request, and such facts are true, correct, and complete.” The individual who signs for

the organization must have personal knowledge of the facts and circumstances at issue. The request for retroactive approval of an organization’s application must also state whether the Department is examining or auditing the organization’s returns for periods within the retroactive request period.

**COMPLETING FORM G-6**

**Line 4. Under what section of the IRC is the applicant qualified for federal tax exemption?**

If you do not know the section, contact the IRS.

**Line 5. Items A - E MUST Be Submitted With the Completed Application:**

**A. Articles of Organization** — The organization must include an executed copy of its articles of incorporation, articles of association, constitution, trust instrument, or any other written instrument by which it is created and sets forth the purposes of the organization. A subordinate organization may or may not be incorporated, but it must have an organizing document.

**B. By-Laws** — Submit a copy of the organization’s executed by-laws. If the organization does not have any by-laws, the organization should provide a written statement to this effect.

**C. and D. IRS Determination Letter Granting Federal Tax Exemption**

— Submit a copy of the IRS letter granting the organization exemption from the federal income tax. If the IRS has not yet issued the determination letter, the Department can approve the Form G-6 on a conditional basis. It is recommended that you file Form G-6 even if you have not yet received the IRS determination letter. Upon receipt of the IRS determination letter, a copy must be submitted to the Department, and the Department will change the conditional exemption to a permanent exemption. If the IRS does not make a favorable determination, the Department will revoke the conditional exemption.

If the organization is covered under a group exemption granted by the IRS to a central organization, submit (1) a copy of the IRS letter granting the

central organization a group exemption from the federal income tax, and (2) a letter from the central organization stating that the subordinate organization is included in the IRS group exemption letter.

**Note:** Churches, their integrated auxiliaries, and conventions or associations of churches, or any organization (other than a private foundation) normally having annual gross receipts of not more than \$5,000 are not required to apply for recognition of exempt status with the IRS, therefore, they are not required to submit the IRS determination letter. The organization must enter its federal employer identification number on line 5C.

If the organization is a subordinate controlled by a central organization (for example, a church or the Boy Scouts), check with the central organization to see if it has been issued a group exemption letter that covers the subordinate organization. If the group exemption letter does not cover the subordinate organization, ask the central organization to include it in the next annual group ruling update that it submits to the IRS. A conditional approval of this application for exemption from general excise taxes may be granted until the subordinate organization can show that it is included in the central organization's group exemption letter.

**E. \$20 Registration Fee** — There is a one-time registration fee of \$20 that must be paid. Make the check payable to: HAWAII STATE TAX COLLECTOR. If the organization has a general excise license and has already paid the \$20 general excise license fee, the organization does not have to pay the \$20 registration fee with the Form G-6. The organization must enter their Hawaii Tax I.D. Number on line 5E. If the organization has an employer's withholding identification number but not a general excise license, the organization must pay the \$20 registration fee with this application since there is no fee for acquiring an employer's withholding identification number. Do not enter the withholding identification number in the space provided.

## SCHEDULE INSTRUCTIONS

**NOTE: SCHEDULES A, B, C, and D MUST BE COMPLETED.**

### SCHEDULE A — STATEMENT OF ORGANIZATION:

If part of a central (national) organization, indicate the name of the central organization. A central organization is an organization that has one or more subordinates under its general supervision or control. A subordinate organization is a chapter, local, post, or unit of a central organization. A central organization may be a subordinate itself, such as a state organization that has subordinate units and is itself affiliated with a central (national) organization.

Indicate the character of the organization, for example: educational, scientific, business league, civic league, or an organization for the promotion of social welfare.

When describing the organization's purpose and actual activities in Hawaii, do not merely repeat the purpose clause from the articles of organization.

### SCHEDULE B — LIST OF OFFICERS, DIRECTORS OR TRUSTEES:

List the full name, address, daytime telephone number, office held, salary, and time devoted to duties for each officer, director, or trustee, as applicable. Attach a separate sheet if more space is needed.

### SCHEDULE C — COMPARATIVE BALANCE SHEET:

The comparative balance sheet must show assets, liabilities, and net worth as of the end of the previous year and current year. If the organization was recently formed and it has not yet acquired any assets nor incurred liabilities, you need not complete this schedule. The organization should, however, state on Schedule C that they do not have any assets or liabilities.

If the organization is engaging in business both within and without Hawaii, including a central (national) organization that is opening or establishing a Hawaii chapter, the organization must provide a comparative balance sheet from Hawaii activities only. If no assets or liabilities are from Hawaii activities, the organization should state this on Schedule C.

If the organization is a church that operates a preschool or day-care center, a comparative balance sheet for the preschool or day-care center must be provided in addition to and separate from the comparative balance sheet for the church.

### SCHEDULE D — COMPARATIVE STATEMENT OF RECEIPTS AND DISBURSEMENTS:

The organization must provide an itemized statement of receipts and disbursements for the previous year and the current year. If the organization was recently formed and it has not generated any income nor incurred expenses, prepare a projected budget of anticipated income and related expenses covering the current year and the next year. The statement should be a compilation of receipts and expenses for the year, not a listing of checks and deposits.

If the organization is engaging in business both within and without Hawaii, including a central (national) organization that is opening or establishing a Hawaii chapter, the organization must provide a comparative statement of receipts and disbursements from Hawaii activities only. If no receipts and disbursements are from Hawaii activities, the organization should state this on Schedule D.

If the organization is a church that operates a preschool or day-care center, a comparative statement of receipts and disbursements for the preschool or day-care center must be provided in addition to and separate from the comparative statement of receipts and disbursements for the church.

## COMPLETING FORM G-6S

### Line 4. Date Organization's Hawaii Activity Began.

Enter the date that the organization's Hawaii activity began if the date is different from the organization's date of inception. Subordinate organizations are to enter the date their Hawaii activity began, whether or not that date is the same as the date of inception.

### Line 5. Items A - C MUST Be Submitted With the Completed Application:

**A. Federal Form 1023 or 1024** — If you are an organization described in IRC

section 501(c)(3), submit a copy of the federal Form 1023, including all attachments such as the organization's articles of incorporation and by-laws, that you filed with the IRS. If you are an organization described in IRC sections 501(c)(4), (6), or (8), submit a copy of the federal Form 1024, including all attachments such as the organization's articles of incorporation and by-laws, that you filed with the IRS.

If the federal Form 1023 or 1024 was filed more than three years before this application is made, Form G-6S may not be used. You must use Form G-6.

**B. IRS Determination Letter Granting Federal Tax Exemption** — Submit a copy of the IRS letter granting your organization exemption from the federal income tax. If the IRS has not yet

issued the determination letter, the Department can approve the Form G-6S on a conditional basis. It is recommended that you file Form G-6S even if you have not yet received the IRS determination letter. Upon receipt of the IRS determination letter, a copy must be submitted to the Department, and the Department will change the conditional exemption to a permanent exemption. If the IRS does not make a favorable determination, the Department will revoke the conditional exemption.

**C. \$20 Registration Fee** — A one-time registration fee of \$20 must be paid. Make the check payable to: HAWAII STATE TAX COLLECTOR. If the organization has a general excise license and has already paid the \$20 general excise license fee, the organization does not have to pay the \$20

registration fee with the Form G-6S. The organization must enter their Hawaii Tax I.D. Number on line 5C. If the organization has an employer's withholding identification number but not a general excise license, the organization must pay the \$20 registration fee since there is no fee for acquiring an employer's withholding identification number. Do not enter the withholding identification number in the space provided.

**Line 6. List the Organization's Hawaii activities and related income from those activities.**

List each of the organization's Hawaii activities in the left column. In the right column, identify the kind of income received, if any, from each activity. Examples are printed on the first line of item 6.

## Is Your Application Complete?

### Form G-6 and Form G-6S filers:

- The application is signed.
- A check is enclosed or the organization's Hawaii General Excise Tax I.D. Number is filled-in, as applicable.
- A statement supporting request for retroactive approval of exemption is enclosed, if applicable.

### Form G-6 Filers:

- All items in Schedules A and B are complete.
- Schedule C, Comparative Balance Sheet for Hawaii Activities, is completed for 2 full years (not applicable for organizations less than a year old having no assets).
- Schedule D, Comparative Statement of Receipts and Disbursements for Hawaii Activities, is completed for 2 full years (or 2 year projected budget).
- Articles of Incorporation, including amendments, are enclosed.
- Current by-laws are enclosed.
- A copy of the IRS determination letter approving federal tax exemption is enclosed or the box on line 5 C is checked.

### Form G-6S Filers:

- Information requested on both pages of Form G-6S is completely filled in.
- A copy of the organization's federal Form 1023 or Form 1024 filed within 3 years of this application, **including ALL attachments**, is enclosed.
- A copy of the IRS determination letter approving federal tax exemption is enclosed or the box on line 5B is checked.

# **SUMMARY OF CHARITY REGISTRATION LAW AND FREQUENTLY ASKED QUESTIONS**

## ***New Provisions***

Act 174 requires charities that **solicit contributions** to register with the Attorney General unless exempted from the registration requirement.

- **What purpose does a registration law serve?**

Registration statements and other filings help potential donors and volunteers learn more about charitable organizations soliciting funds in Hawaii and provide the Attorney General with information needed to protect donors from fraud and promote donor confidence in and an accountable transparent charitable sector. To this end, all registration statements and annual financial reports will be available online from the Attorney General's website.

### **When is the registration requirement effective?**

The requirement is effective on January 1, 2009.

- **What is a Charitable Organization for purposes of the registration law?**

A charitable organization is any organization that solicits funds in Hawaii that is exempt under section 501(c)(3) of the Internal Revenue Code. Charitable organization also includes any person who is or holds itself out to be established for any benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic, or other eleemosynary purpose, or any person who in any manner employs a charitable appeal as the basis of any solicitation or an appeal that has a tendency to suggest there is a charitable purpose to the solicitation

- **What is the definition of "solicit?"**

The terms solicit or soliciting are already defined in the current law as:

**"Solicit"** and **"solicitation"** mean a request directly or indirectly for money, credit, property, financial assistance, or thing of value on the plea or representation that the money, credit, property, financial assistance, or thing of value, or any portion thereof, will be used for a charitable purpose or to benefit a charitable organization. These terms shall include the following:

- (1) Any oral or written request.
- (2) The making of any announcement to any organization for the purpose of further dissemination, including announcements to the press, over the radio or television, or by telephone, telegraph, or facsimile, concerning an appeal or campaign by or for any charitable organization or purpose.
- (3) The distribution, circulation, posting, or publishing of any handbill, written advertisement, or other publication that directly or by implication seeks to obtain public support.
- (4) Where the sale or offer or attempted sale, of any advertisement, advertising space, book, card, tag, coupon, device, magazine, membership, merchandise, subscription, flower, ticket, candy, cookies, or other tangible item in connection with which any appeal is made for any charitable organization or purpose; or where the name of any charitable organization is used or referred to in any appeal as an inducement or reason for making any sale; or where in connection with any sale, any statement is made that the whole or any part of the proceeds from any sale will be used for any charitable purpose or to benefit any charitable organization.
- (5) A request made through the use of receptacles for contributions such as honor boxes, vending machines, wishing wells, contribution boxes, and novelty machines, where a charitable appeal is used or referred to or implied as an inducement or reason to contribute.

- **What is the meaning of contribution? Does it include grants from government agencies, foundation grants, and dues from members? The term "contribution" means**

"the promise or grant of any money or property of any kind or value, including the promise to pay, except payments by members of a charitable organization for membership fees, dues, fines, or assessments, or for services rendered to individual members, if membership in the charitable organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit, other than the right to vote, elect officers, or hold offices, and except money or property received from any governmental authority, or a grant or subsidy from any organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code.

Thus, a grant received from the government, or another 501(c)(3) charity or private foundation is not a contribution. Nor are membership dues and assessments.

- Hawaii is using an Internet based registration system for charities to complete and submit their registration statement and to file annual financial reports. Here is a link to the Hawaii registration site.  
<http://efile.form990.org/frmNPParticipatingStateSCOHI.asp>  
Users will need to obtain a logon and password from this site and then return to complete and submit the registration data. The registration site will also allow professional advisors to complete registration and other forms.

**We highly recommend that you review the online tutorial before starting the registration process—it will answer many questions and simplify your registration process:**

<http://efile.form990.org/FileSys/Download/HawaiiTutorial.pdf>

- Requires use of three-page Unified Registration Form ("URS") used by 36 other states. A link to the paper copy of the form and instructions may be found at the following address.

[http://hawaii.gov/ag/charities/forms/urs\\_webv310.pdf](http://hawaii.gov/ag/charities/forms/urs_webv310.pdf)

- Requires the submission of an annual financial report as follows:
  - Provides that the report shall be the charity's IRS Form 990 or 990EZ
  - Must be filed with the Attorney General on or before the date that the charity files the Form 990 or 990EZ with the IRS.
  - Requires submission of an audited financial statement if the charity has over \$500,000 in **gross revenues**, or where the charity prepares and audited financial statement pursuant to a requirement by a governmental authority or third party. **Gross revenues do not include grants from governmental authorities of funds held in trust by the organization.**
- **When is a charity's Form 990 or Form 990EZ due with the Attorney General's Office?**

**Each registered charity files its Form 990 or Form 990EZ with the State on or before the filing deadline with the Internal Revenue Service (including authorized extensions).** The filing deadline for Form 990 or 990-EZ "the 15th day of the 5th month after [an] organization's accounting period ends." Thus, if a nonprofit's fiscal year ends on December 31, its 990 will be due May 15 of the following year. If the fiscal year ends on June 30, the 990 due date is November 15. A nonprofit can get an automatic three-month extension by submitting Form 8868 to the IRS. The organization often can get another three-month extension by submitting a second Form 8868.

Thus, a nonprofit can legitimately file its Form 990 with the IRS (and the Hawaii Attorney General) 11 months after its fiscal year ends:

<b>Accounting Period</b>	<b>990 Due Date</b>	<b>Due Date with 1 Extension</b>	<b>Due Date with 2 Extensions</b>
1/1/2008-12/31/2008	5/15/09	8/15/09	11/15/09
7/1/2007-6/30/2008	11/15/08	2/15/09	5/15/09

- **What are the Annual Fees and How are they Calculated?**

The law requires each registered charity to pay an annual fee based on the charities' annual gross revenue (lines 12 and 9 of the Form 990/990EZ, respectively):

<b>Annual Gross Revenue</b>	<b>Annual Fee</b>
Less than \$25,000	\$10.00
\$25,000 but less than \$50,000;	\$25.00
\$50,000 but less than \$100,000	\$50.00
\$100,000 but less than \$250,000	\$100.00
\$250,000 but less than \$500,00	\$150.00
\$500,000 but less than \$1 million	\$200.00
\$1 million but less than \$2 million	\$300.00
\$2 million but less than \$5 million	\$500.00
\$5 million and over	\$750.00

These fees are used to support personnel position needed to administer and enforce the registration law, investigate fraudulent solicitations and to make the registration data and other filings available to the public and publicly searchable.

- **How are the annual fees paid to the State?**

After each registered charity submits its annual financial report the registration system will generate an e-mail to the charity directing it to a State of Hawaii Internet site to complete the payment of their annual fees by credit card or electronic check. The Hawaii Payment Processing site URL is <http://ag.ehawaii.gov/charity/fein.html>.

- **What Charities are exempt from the registration requirement?**

The following charitable organizations are exempt from the registration requirements:

- Any duly organized religious corporation, institution, or society;
- Any parent-teacher association or educational institution, the curricula of which in whole or in part are registered or approved by any state or the United States either directly or by acceptance of accreditation by an accrediting body **(but not a supporting organization or foundation)**;
- Any nonprofit hospital licensed by the State or any similar provision of the laws of any other state **(but not any supporting organization or foundation)**;
- Any governmental unit or instrumentality of any state or the United States;
- Any person who solicits solely for the benefit of organizations described above (an officer or employee of a charity and not a paid solicitor); and
- Any charitable organization that normally receives less than \$25,000 in contributions annually, if the organization does not compensate any person primarily to conduct solicitations (professional solicitors).

### ***Amendments to Existing Law***

- Professional solicitor's end of solicitation event/campaign financial reports to report both national gross receipts and Hawaii based gross receipts. (effective January 1, 2009)

- Repeals surety bond requirement for professional fundraising counsels. *(effective July 1, 2008)*
- Imposes contract requirements on commercial co-venturers
- Requires commercial co-venturers to file their contacts with the Attorney General. *(effective July 1, 2008)*
- Prohibits charities from contracting with un-registered professional solicitors and professional fundraising counsels. *(effective July 1, 2008)*
- Clarifies what must be contained in the registration form for professional solicitors and professional fundraising counsels. *(effective July 1, 2008)*
- Provides that the attorney general may apply to the circuit court for the first circuit, State of Hawaii, for relief, and the court may issue a temporary injunction or a permanent injunction to restrain violations of this chapter, appoint a receiver, order restitution or an accounting, or grant other relief as may be appropriate to ensure the due application of charitable funds. *(effective July 1, 2008)*

## CHAPTER 414D

## HAWAII NONPROFIT CORPORATIONS ACT

## Part I

## General Provisions

- Sec.  
 414D-1. Short title.  
 414D-2. Reservation of power to amend or repeal.  
 414D-3. Filing requirements.  
 414D-4. Forms.  
 414D-5. Filing, service, and copying fees.  
 414D-6. Effective time and date of document.  
 414D-7. Correcting filed document.  
 414D-8. Filing duty of the department director.  
 414D-9. Appeal from the department director's refusal to file document.  
 414D-10. Evidentiary effect of copy of filed document.  
 414D-11. Certificates and certified copies to be received in evidence.  
 414D-12. Penalty for signing false document.  
 414D-13. Department director: powers.  
 414D-14. Definitions.  
 414D-15. Notice.  
 414D-16. Private foundations.  
 414D-17. Judicial relief.  
 414D-18. Miscellaneous charges.  
 414D-19. Shares of stock and dividends prohibited; compensation; distribution.  
 414D-20. Notice to the attorney general of commencement of proceeding.

## Part II

## Organization

- 414D-31. Incorporators.  
 414D-32. Articles of incorporation.  
 414D-33. Incorporation.  
 414D-34. Liability for preincorporation transactions.  
 414D-35. Organization of corporation.  
 414D-36. Bylaws.  
 414D-37. Emergency bylaws and powers.

## Part III

## Purposes and Powers

- 414D-51. Purposes.  
 414D-52. General powers.  
 414D-53. Emergency powers.  
 414D-54. Ultra vires.

## Part IV

## Names

- 414D-61. Corporate name.  
 414D-62. Reserved name.  
 414D-63. Repealed.  
 414D-64. Administrative order of abatement for infringement of corporate name.

## Part V

## Office and Registered Agent

- 414D-71. Registered office and registered agent.

## Sec.

- 414D-72. Designation or change of registered office or registered agent.  
 414D-73. Resignation of registered agent.  
 414D-74. Service on corporation.

## Part VI

## Members and Memberships

- 414D-81. Admission.  
 414D-82. Consideration.  
 414D-83. No requirement of members.  
 414D-84. Differences in rights and obligations of members.  
 414D-85. Member's liability to third parties.  
 414D-86. Member's liability for dues, assessments, and fees.  
 414D-87. Creditor's action against member.  
 414D-88. Repealed.  
 414D-89. Termination, expulsion, and suspension.  
 414D-89.5. Amendment terminating or canceling members; redemption of membership.  
 414D-90. Derivative suits.  
 414D-91. Delegates.

## Part VII

## Members' Meetings, and Voting

- 414D-101. Annual and regular meetings.  
 414D-102. Special meetings.  
 414D-103. Court-ordered meetings.  
 414D-104. Action by written consent.  
 414D-105. Notice of meeting.  
 414D-106. Waiver of notice.  
 414D-107. Record date; determining members entitled to notice and vote.  
 414D-108. Repealed.  
 414D-109. Members' list for meeting.  
 414D-110. Voting entitlement generally.  
 414D-111. Quorum requirements.  
 414D-112. Voting requirements.  
 414D-113. Proxies.  
 414D-114. Cumulative voting for directors.  
 414D-115. Other methods of electing directors.  
 414D-116. Corporation's acceptance of votes.  
 414D-117. Voting agreements.

## Part VIII

## Directors and Officers

- 414D-131. Requirement for and duties of the board.  
 414D-132. Qualifications of directors.  
 414D-133. Number of directors.  
 414D-134. Election, designation, and appointment of directors.  
 414D-135. Terms of directors generally.  
 414D-136. Staggered terms for directors.  
 414D-137. Resignation of directors.  
 414D-138. Removal of directors elected by members or directors.

CORPORATIONS AND PARTNERSHIPS

§ 414D-1

Sec.	Sec.	Sec.
414D-139. Removal of designated or appointed directors.	414D-207. Conversions into and from corporations.	414D-277. Repealed.
414D-140. Removal of directors by judicial proceeding.	414D-208. Articles of conversion.	414D-278. Cl...
414D-141. Vacancy on board.	414D-209. Repealed.	414D-279. Re...
414D-142. Compensation of directors.	414D-210. Effect of conversion.	414D-280. S...
414D-143. Regular and special meetings.	414D-211. Limitations on merger by public benefit corporations.	414D-281. A...
414D-144. Action without meeting.	Part XI	
414D-145. Call and notice of meetings.	Sale of Assets	
414D-146. Waiver of notice of meeting.	414D-221. Sale of assets in regular course of activities and mortgage of assets.	414D-282. W...
414D-147. Quorum and voting.	414D-222. Sale of assets other than in regular course of activities.	414D-283. G...
414D-148. Committees of the board.	Part XII	
414D-149. General standards for directors.	Distributions	
414D-150. Director conflict of interest.	414D-231. Prohibited distributions.	414D-301. C...
414D-151. Loans to or guaranties for directors and officers.	414D-232. Authorized distributions.	414D-302. I...
414D-152. Liability for unlawful distributions.	414D-233. Notice to the attorney general of intention to dissolve.	
414D-153. Required officers.	Part XIII	
414D-154. Duties and authority of officers.	Dissolution	
414D-155. Standards of conduct for officers.	414D-241. Dissolution by incorporators, initial directors, and third persons.	[§ 414D-] This ch Corporati
414D-156. Resignation and removal of officers.	414D-242. Dissolution by directors, members, and third persons.	History. L 2001, c
414D-157. Contract rights of officers.	414D-243. Articles of dissolution.	[§ 414D-] The Ha any time governed
414D-158. Officers' authority to execute documents.	414D-244. Revocation of dissolution.	History. L 2001, c
414D-159. Definitions.	414D-245. Effect of dissolution.	§ 414D-3 (a) A c section t departm (b) Th ment dir (c) Th contain (d) Th (e) Th need not and the English (f) Th (1) corpor (2) by an
414D-160. Authority to indemnify.	414D-245.5. Trustees or receivers for dissolved corporations; appointment; powers; duties.	
414D-161. Mandatory indemnification.	414D-246. Known claims against dissolved corporation.	
414D-162. Advance for expenses.	414D-247. Unknown claims against dissolved corporation.	
414D-163. Court-ordered indemnification.	414D-248. Grounds for administrative dissolution.	
414D-164. Determination and authorization of indemnification.	414D-249. Procedure for and effect of administrative dissolution.	
414D-165. Indemnification of officers, employees, and agents.	414D-250. Reinstatement following administrative dissolution.	
414D-166. Insurance.	414D-251. Appeal from denial of reinstatement.	
414D-167. Application of this part.	414D-252. Grounds for judicial dissolution.	
Part IX	414D-253. Procedure for judicial dissolution.	
Amendment of Articles of Incorporation and Bylaws	414D-254. Receivership or custodianship.	
414D-181. Authority to amend.	414D-255. Decree of dissolution.	
414D-182. Procedure to amend articles of incorporation.	414D-256. Deposit with director of finance.	
414D-183. Articles of amendment.	Part XIV	
414D-184. Restated, amended and restated, articles of incorporation.	Foreign Corporations	
414D-185. Amendment pursuant to judicial reorganization.	414D-271. Authority to transact business required.	
414D-186. Effect of amendment and restatement.	414D-272. Consequences of transacting business without authority.	
414D-187. Bylaws.	414D-273. Application for certificate of authority.	
414D-188. Approval by third persons.	414D-274. Change of name by foreign corporation.	
Part X	414D-275. Effect of certificate of authority.	
Merger	414D-276. Corporate name of foreign corporation.	
414D-200. Definitions.		
414D-201. Merger.		
414D-201.5. Foreign mergers.		
414D-202. Action on plan by board, members, and third persons.		
414D-203. Articles of merger.		
414D-204. Effect of merger.		
414D-205. Repealed.		
414D-206. Bequests, devises, and gifts.		

<p>Sec. 414D-277. Registered office and registered agent of foreign corporation. 414D-278. Change of registered office or registered agent of foreign corporation. 414D-279. Resignation of registered agent of foreign corporation. 414D-280. Service on foreign corporation. 414D-281. Application to corporations heretofore authorized to transact business in this State. 414D-282. Withdrawal of foreign corporation. 414D-283. Grounds for revocation of certificate of authority. 414D-284. Procedure and effect of revocation. 414D-285. Appeal from revocation.</p> <p style="text-align: center;">Part XV Records and Reports</p> <p>414D-301. Corporate records. 414D-302. Inspection of records by members.</p>	<p>Sec. 414D-303. Scope of inspection rights. 414D-304. Court-ordered inspection. 414D-305. Limitations on use of membership list. 414D-306. Financial statements for members. 414D-307. Report of indemnification to members. 414D-308. Annual report.</p> <p style="text-align: center;">Part XVI Superseding Chapters</p> <p>414D-311. Superseding chapters.</p> <p style="text-align: center;">Part XVII</p> <p style="text-align: center;">TRANSITION PROVISIONS</p> <p>414D-321. Application to existing domestic corporations. 414D-322. Application to qualified foreign corporations. 414D-323. Saving provisions. 414D-324. Severability.</p>
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PART I. GENERAL PROVISIONS

**[§ 414D-1.] Short title.**

This chapter shall be known and may be cited as the "Hawaii Nonprofit Corporations Act".

**History.**

L 2001, c 105, § 1

**[§ 414D-2.] Reservation of power to amend or repeal.**

The Hawaii legislature has power to amend or repeal all or part of this chapter at any time and all domestic and foreign corporations subject to this chapter are governed by the amendment or repeal.

**History.**

L 2001, c 105, § 1

**§ 414D-3. Filing requirements.**

(a) A document must satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the department director.

(b) This chapter must require or permit filing of the document with the department director.

(c) The document must contain the information required by this chapter. It may contain other information as well.

(d) The document must be typewritten or printed.

(e) The document must be in the English language. However, a corporate name need not be in English if written in English letters or Arabic or Roman numerals, and the certificate of good standing required of foreign corporations need not be in English if accompanied by an English translation under oath of the translator.

(f) The document must be certified and executed:

(1) By the presiding officer of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;

(2) If directors have not been selected or the corporation has not been formed, by an incorporator; or

888 Mililani St., Ste. 700  
 Honolulu, Hawaii 96813  
 Telephone: (808) 532-6699  
 Facsimile: (808) 537-3565

**NONPROFIT FORMATION CHECKLIST**

**Step 1: Organization of corporation**

	<b>Action</b>	<b>Status</b>	<b>Date of completion/information obtained</b>
1	<p>Analysis to ensure that nonprofit/public charity form of organization is appropriate.</p> <p>What purpose? For example:</p> <ul style="list-style-type: none"> <li>• Relief of the poor/distressed.</li> <li>• Promotion of health.</li> <li>• Lessening burdens of government.</li> <li>• Advancement of education.</li> <li>• Instruction of the individual/public.</li> <li>• Promotion of social welfare.</li> <li>• Promotion of the arts/culture/preservation.</li> <li>• Promotion of sports/amateur sports organizations.</li> <li>• Religious organizations.</li> </ul>		
2	Check database to ensure availability of proposed name.		
3	Optional: File application for reservation of corporate name with DCCA (Form X-1; \$10); reservation good for 120 days.		
4	<p>Draft:</p> <ul style="list-style-type: none"> <li>✓ Articles of incorporation.</li> <li>✓ Bylaws.</li> </ul>		

5	Incorporator/board to adopt articles of incorporation (minutes to be taken).  Incorporator to sign articles.		
6	Board of directors to adopt bylaws and ratify/approve articles of incorporation (minutes to be taken).		
7	Submit signed articles of incorporation to DCCA (\$25). Generally, 7-10 business days to process. <ul style="list-style-type: none"> <li>Note: if reservation of name filed, must also execute and submit transfer of reservation form X-2 (\$10).</li> </ul>		
8	Articles approved and filed by the DCCA.		
9	Draft: <ul style="list-style-type: none"> <li>✓ State business application for GET (Form BB-1).</li> <li>✓ Application for EIN (Form SS-4).</li> </ul> Submit State business application to the State Department of Taxation and obtain GET number (\$20 fee).  Obtain EIN from IRS.		

**Step 2: Obtaining tax exemption**

	<b>Action</b>	<b>Status</b>	<b>Date of completion/information obtained</b>
1	Draft: <ul style="list-style-type: none"> <li>✓ Federal application (Form 1023).</li> <li>✓ State application (Form G-6S).</li> <li>✓ Powers of attorney, if applicable (2) (Form 2848).</li> </ul>		
2	Draft: <ul style="list-style-type: none"> <li>✓ Conflict of interest</li> </ul>		

	<p>policy.</p> <p>✓ Annual conflict of interest statement.</p>		
3	<p>Board of directors to approve draft federal/state exemption documents (minutes to be taken).</p> <p>Officer to sign documents.</p>		
4	<p>Board of directors to adopt conflict of interest policy/annual statement (minutes to be taken).</p>		
5	<p>Because state window period for retroactive effect is 3 months and because state short form G-6S is used, which allows federal application to be attached to the State application:          Within 3 months from incorporation date submit federal application for exemption to the IRS (User Fee is either \$300 or \$750; will increase in 2010).</p>		
6	<p>Within 3 months from incorporation date: Submit the State application for exemption to State Department of Taxation.</p>		
7	<p>IRS recognition received.</p>		
8	<p>Submit a copy of the IRS recognition letter to State Department of Taxation.</p>		
9	<p>State recognition received.</p>		

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### Step 3: Federal Compliance and Board Orientation

	<b>Action</b>	<b>Status</b>	<b>Date of completion/information obtained</b>
1	Draft federally required policies that address the following: <ul style="list-style-type: none"><li>✓ Staff complaints and reporting suspected financial impropriety/misuse of charity resources.</li><li>✓ Establish standards for document integrity, retention, and destruction.</li></ul>		
2	Complete corporate records folder.  Complete director orientation folders.		
3	Board and officer orientation and governance overview and training.		

# Additional Resources

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## Web Resources:

### Best Practices for Nonprofits

- Blue Avocado: [www.blueavocado.org](http://www.blueavocado.org)
- Board Source: [www.boardsource.org](http://www.boardsource.org)
- Center for Excellence in Nonprofits: [www.cen.org](http://www.cen.org)
- CompassPoint Nonprofit Services: [www.compasspoint.org](http://www.compasspoint.org)
- Hawaii Alliance of Nonprofit Organizations: [www.hano-hawaii.org](http://www.hano-hawaii.org)
- Nonprofit Quarterly: <http://www.nonprofitquarterly.org/>
- Third Sector New England: [www.tsne.org](http://www.tsne.org)

### Compliance Information

- Information on Hawaii's **charitable solicitation law** and other issues related to tax-exempt status: <http://hawaii.gov/ag/charities/>
- Information on **federal compliance**: <http://www.irs.gov/charities/index.html?navmenu=menu1>
- Information on a nonprofit's **current corporate information filed with the state and status of its submission of annual reports**: <http://hawaii.gov/dcca/breg>
- GuideStar –The National Database of Nonprofit Organizations. Information on nonprofit organizations' 990 forms: [www.guidestar.org](http://www.guidestar.org)

### IRS Nonprofit Tax Forms

**Form 1023**, Application for Recognition of Exemption for 501(c)(3) Charitable Organizations: <http://www.irs.gov/pub/irs-pdf/f1023.pdf>

**Form 1024**, Application for Recognition of Exemption for 501(a) Organizations: <http://www.irs.gov/pub/irs-pdf/k1024.pdf>

**Form 1120**, U.S. Income Tax Return for Certain Political Organizations: <http://www.irs.gov/pub/irs-pdf/f1120pol.pdf>

**Form SS-4**, Application for Employer Identification Number (EIN): <http://www.irs.gov/pub/irs-pdf/fss4.pdf>

**Form 990**, Return of Organization Exempt from Income Tax: <http://www.irs.gov/pub/irs-pdf/f990.pdf>

**Form 990-EZ**, Short Form Return of Organization Exempt from Income Tax: <http://www.irs.gov/pub/irs-pdf/f990ez.pdf>

### Tax Information

**IRS Publication 4220**, Applying for 501(c)(3) Tax-Exempt Status - Includes general guidelines for organizations seeking tax-exempt status under section 501(c)(3) of the IRC, such as references to the statute, Treasury regulations, other IRS publications that explain the requirements for tax-exempt status and IRS forms with instructions: <http://www.irs.gov/pub/irs-pdf/p4220.pdf>

**IRS Publication 4221-PC**, Compliance Guide for 501(c)(3) Tax-Exempt Organizations: <http://www.irs.gov/pub/irs-pdf/p4221pc.pdf>

**IRS Publication 557**, Tax-Exempt Status for Your Organization - Includes rules and procedures for organizations applying for tax exemption under section 501(c)(3). For assistance on 501(c)(3) status, you may also want to consult a tax advisor: <http://www.irs.gov/publications/p557/index.html>

**IRS Publication 598**, Tax on Unrelated Business Income of Exempt Organizations (UBIT): <http://www.irs.gov/publications/p598/index.html>

**Tax-Exempt Organizations E-file Requirements:** <http://www.irs.gov/efile/article/0,,id=108211,00.html>

**Tax Exempt Organizations Tax Kit**, a packet of forms and publications often used by tax-exempt organizations: <http://www.irs.gov/charities/article/0,,id=96774,00.html>

## **Print Resources:**

**Executive Directors Guide: The guide for successful nonprofit management.** Authors: Deborah Linnell, Zora Radosevich, Jonathan Spack, and Third Sector New England, Boston, Massachusetts. Published by United Way of Massachusetts Bay. (2002)

**Good to Great: Why some companies make the leap . . . and others don't.** Author: Jim Collins. Published by HarperCollins Publishers, Inc. (2001)

**Good to Great and the Social Sectors: A monograph to accompany good to great.** Author: Jim Collins. Published by HarperCollins Publishers, Inc. (2005)

**Governance as Leadership: Reframing the work of nonprofit boards.** Authors: Richard P. Chait, William P. Ryan, Barbara E. Taylor, and BoardSource, Inc. Published by John Wiley & Sons, Inc, Hoboken, New Jersey. (2005)

**Logic Model Development Guide: Using logic models to bring together planning, evaluation and action.** Author and publisher: W. K. Kellogg Foundation, Battle Creek, Michigan. Revised edition. (2006)

**Navigating the Organizational Lifecycle: A capacity-building guide for nonprofit leaders.** Author: Paul M. Connolly. Published by BoardSource, Inc., Washington, D.C. (2006)

**The Nonprofit Answer Book: Practical guide for board members and chief executives.**

Authors: Robert C. Andringa and Ted W. Engstrom. Published by BoardSource, Inc., Washington, D.C. (2002)

## **HANO Workshops on Related Topics:**

### **Board Alive! Best Practices for Nonprofit Board Governance**

Effective board governance is critical to ensuring that a nonprofit organization delivers on its mission, manages its resources effectively, and maintains its reputation. This half-day workshop provides board members and executives with tools to help them become more engaged and informed and to fully understand the commitment of serving on a nonprofit board.

### **Budgeting Techniques for Nonprofits: A Hands-On Training**

This half-day workshop is geared to the needs of smaller nonprofit organizations that do not have a professional budget analyst. It introduces participants to the nonprofit budget preparation process. Participants get hands-on practice using a computer and take home an Excel-based budgeting tool.

### **Business Planning for Nonprofits**

Nonprofits today are increasingly motivated to use business planning tools and models to communicate their visions and their “value added” to funders, investors, clients and the community. This three-hour workshop highlights the critical elements and best practices in business planning for nonprofit organizations

### **Proposal Writing: An Interactive Exploration of Grant-Seeking from Hawai‘i Trusts and Foundations**

This full-day workshop will introduce you to basic techniques in researching grants, enhance your skills in proposal writing for foundation funding and give you hands-on experience in preparing and reviewing a proposal.

### **Strategies for Federal Grant Seekers**

With the changing economy and availability of ARRA monies, more nonprofits than ever are considering whether or not to add Federal grants into their mix of funding options. This half day workshop highlights the key differences between writing for Federal (public sector) and Foundation/Corporate (private sector) grants and describe strategies and share tools to help nonprofits increase their chances of successful accessing Federal dollars. This workshop presumes that participants have an understanding of the basic concepts of grant-writing.

For more information on workshops, go to [www.hano-hawaii.org](http://www.hano-hawaii.org) and click on the **Training** tab.

# 10 Common Mistakes Made When Starting a Nonprofit Corporation

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Source: About.com

## 1. Poor initial research

While having passion for your cause is necessary, conducting research is essential to determine if a need exists for a new organization to address it. Can the need be addressed if you partner with an existing organization? Do you have any idea of the operational aspects of a nonprofit organization? Would the organization qualify for tax-exempt status? Read everything you can before starting.

## 2. No Business Plan

You will quickly discover that a nonprofit organization is a business. In order to survive, it must have at least as much money coming in to the business as it has going out in services and expenses. Have you written a realistic business plan?

## 3. Not for a Charitable Purpose

Sure it's a great idea, but does it qualify as a charitable cause? The basic definition of a tax-exempt 501(c)(3) nonprofit organization is one that serves the public good and is organized for religious, charitable, educational, scientific or literary purposes. If you are unsure, you should research similar organizations for information.

## 4. Failure to Register

Registration of nonprofits is required in most states. Some people think they don't have to register—they are "nonprofit" so they really won't get in any trouble. Wrong! Registration protects citizens of states from becoming victims of fraud, and registration of charities, paid solicitors and fund-raising counsels helps to maintain a responsible environment for charitable work.

## 5. Failure to Keep Good Records

As a business, the organization will be required to file various reports of business activity. You simply cannot make things with the notion that you will not be held responsible. If you are not already organized, you should learn to be so before starting a nonprofit.

## 6. No Funding Plan

Raising money is a tough and competitive requirement of most nonprofit organizations. If your experience with raising funds is mostly through attending a dinner, golf outing, bake sale or car wash, you need help with raising funds. Without funding, there is no way to sustain a nonprofit organization.

## 7. Not Complying with IRS Statutes

You must file a federal tax return, and you do need to learn what the federal government requires of nonprofit organizations. You receive great tax breaks by being a 501(c)(3) nonprofit. Considering the benefits you receive, complying with reporting is a fair deal. To help you, the IRS has a Web site dedicated to exempt organizations.

## **8. Misjudging Time Requirements**

Running a nonprofit is not a hobby. If you think that you can run a nonprofit organization part time, you need to have others help you or you will likely fail. When you consider that your nonprofit organization is a business that is subject to filing and reporting requirements in addition to service work, you quickly realize that running it requires a full-time commitment.

## **9. Not Building an Effective Board**

Leadership is critical and an effective board is one that is composed of talented, dedicated and working people. Your board should add integrity to your work, offer access to funding, provide some of the expertise you need and be dedicated to your mission.

## **10. Not Investing in Professional Talent**

At a minimum, you will need a lawyer and an accountant to help you get started. They don't need to be on staff; they can be retained on an as-needed basis. The same is true for fund-raising counsel. There are a few critical areas that will make or break an organization, and you will be better able to survive by paying a professional only for the time you need rather than paying an inexperienced worker to muddle through a project. Having certain systems set up by experienced professionals will save money in the long run.