



START A **NONPROFIT ORGANIZATION** IN OHIO





Dear Business Owner:

Business starts at the Secretary of State's office, and we're working hard to help Ohio entrepreneurs grow and succeed.

Ohioans have a reputation for being creative and industrious. And our state, year after year, is where businesses are growing and thriving. Their success is Ohio's success. Many nonprofits share a common goal -- making their communities a better place to live and work.

This publication is intended to help you make the decisions necessary to get your business started. After filing with the Secretary of State's office, there are many guidelines a nonprofit must follow to comply with state and federal requirements. This guide outlines many requirements but is by no means comprehensive. It is provided for informational purposes only and does not constitute legal advice. If you have specific questions, please consult a lawyer.

I also encourage you to visit our online resource: OhioBusinessCentral.gov. Through Ohio Business Central, you can file a number of forms online, obtain and request publications, search existing businesses and sign up for our Filing Notification System to track and protect your business from potential identity theft.

If you have further questions regarding corporate filings, please call 877.767.3453 or email business@OhioSoS.gov.

I wish you the best of luck in starting your nonprofit. Just as you work to help your venture succeed, we'll be doing our part to continue moving our great state forward.

Yours in service,

A handwritten signature in blue ink that reads "Frank LaRose". The signature is fluid and cursive, written over the printed name.

Frank LaRose
Ohio Secretary of State



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Business Identity Theft

Don't Be a Victim

- Thousands of companies around the country have been victims of business identity theft. Protect your identity by signing up for the Ohio Secretary of State's **UCC Watchlist**. The Watchlist helps protect users when fraudulent and incorrect UCC filings are submitted in their name.
- Identity theft affects businesses too. Criminals can use your business' identity to illegally transact business and establish lines of credit. Business Identity Theft costs companies time and money.
- The Secretary of State's office can help you protect your business identity with the **Business Filing Notification System**.



What is the Business Filing Notification System?

The Business Filing Notification System is a free service allowing you to track any filing changes or updates made to your business.

For more information and to sign-up, visit
OhioSoS.gov/IDTheft



PREFACE

This guide has been prepared for informational purposes only and does not constitute legal advice. It is recommended that you seek legal and tax counsel before acting upon this information. For help finding a lawyer in Ohio, visit the Ohio Bar Association at OhioBar.org.

PERSONAL INFORMATION

The Secretary of State's office has the authority to reject any document containing a Social Security number or federal tax identification number. Please remove all personal information from documents prior to filing them.

WHAT IS A NONPROFIT ORGANIZATION?

A nonprofit organization is formed for charitable, educational, religious, scientific, community development or other socially beneficial purposes. While nonprofit corporations are the most popular form of organization for nonprofit activities, unincorporated associations or trusts are also options to consider. The choice of entity may be necessitated by factors such as the longevity of the endeavor, the planned activities, the need to own or lease facilities and the need to hire staff.

Many people prefer to form a nonprofit corporation, in part, because of the liability protection a corporation provides. For example, if a nonprofit corporation is sued, the assets of its owners are generally protected because corporate assets are distinct from personal assets. Incorporating should therefore be considered if the organization will acquire assets such as buildings, equipment, or vehicles to be used in the delivery of services, or if it will be necessary to hire employees. Ultimately, your nonprofit organization may wish to consult an attorney and/or tax professional before deciding which nonprofit classification is best suited for your organization.



DOCUMENTING AN UNINCORPORATED ASSOCIATION

Ohio law recognizes unincorporated associations. Unincorporated associations still require organizational documents, known as constitutions, in order for the organization to be created. Additionally, such an organization usually has bylaws, which may set forth matters such as:

- Rules and regulations for the organization's operation.
- The method of adopting or amending the constitution and bylaws.
- The method of electing officers.
- The powers and duties of the officers and trustees.
- The rights of members.

Special attention should be given to the statement of purpose in the organization's constitution. The purpose may be critical in qualifying the organization for tax exemption or in meeting standards for funding. Defining the qualifications of members and directors is also important.

An unincorporated nonprofit association may legally conduct business in the state of Ohio without filing forms with the Secretary of State. However, unincorporated nonprofit associations may submit a statement appointing an agent authorized to receive service of process if they desire, pursuant to Ohio Revised Code Section 1745.13.

This statement provides the name of the unincorporated nonprofit association and the name and address in this state of the agent. In addition to a statement that appoints an agent, unincorporated nonprofit associations may revoke the appointment of an agent and appoint a new agent, and the agent may resign the appointment. Each of these actions can be completed by filing an Agent Notification Form for Unincorporated Nonprofit Associations (Form 580).



Pursuant to Ohio Revised Code Section 1745.51, if a statement of an unincorporated nonprofit association is on file with the Secretary of State, then upon adopting a voluntary resolution of dissolution, a copy of the written notice of dissolution must be filed with the Secretary of State. Ohio Revised Code Section 1745.55 requires a judicially dissolved unincorporated nonprofit association to file a certified copy of the order or judgment dissolving the association to be filed with the Secretary of State, if the association previously filed with the office. Both of these filings can be made by using the Notice of Dissolution for Unincorporated Nonprofit Associations (Form 581). The filing fee for both the Agent Notification Form and the Notice of Dissolution is \$25.00.

At the very least, an unincorporated association is required to register its name (fictitious name registration) with the Ohio Secretary of State, which gives notice that your organization is using the name. However, the registration of a fictitious name will not prevent others from registering the same name. Alternatively, the organization may wish to register its name as a trade name to further protect its exclusive use of its name. A trade name must be “distinguishable upon the records” from other previously registered trade names and business names and cannot generally be registered by more than one organization.

If the name you wish to use is already taken, you must have consent from the prior registrant to register the name.

ESTABLISHING A NONPROFIT CORPORATION

Registering a Nonprofit Corporation With the Secretary of State

To be legally organized, a nonprofit corporation must file Initial Articles of Incorporation (Articles) (Form 532B) with the Ohio Secretary of State’s office. The filing fee is \$99.00. Ohio Revised



Code Section 1702.04 provides a list of the information that **must** be included:

1. The name of the corporation.
2. The place in Ohio where the principal office of the corporation is to be located.
3. The purpose or purposes for which the corporation is formed.
4. The incorporator, as the person who creates the corporation, must sign the articles.

The Articles also may set forth the following:

1. The names of individuals who are to serve as the initial directors.
2. The names of any persons or the designation of any group of persons who are to be the initial members.
3. Any qualification of membership and the classification of members.
4. A provision to the effect that the corporation shall be subordinate to and subject to the authority of any head or national association, lodge, order, beneficial association, fraternal or beneficial society, foundation, federation, or any other nonprofit corporation, society, organization or association.
5. Any lawful provision for the purpose of defining, limiting, or regulating the exercise of the authority of the corporation, the incorporators, the directors, the officers, the members or any class of members, or creating or defining rights and privileges of the members among themselves or in the property of the corporation, or governing the distribution of assets on dissolution.
6. Any provision that may be set forth in the regulations.



7. A provision specifying the period of existence of the corporation if it is to be other than perpetual.

The required statement of purpose in the Articles must be carefully constructed, because the stated purpose(s) is the only purpose(s) for which the corporation may legally operate, and the purpose clause will help determine whether the corporation qualifies to be tax-exempt. The Articles may also include any additional provisions permitted by Chapter 1702 of the Ohio Revised Code governing nonprofit corporations.

Appointing a Statutory Agent

At the same time the Articles are filed, a nonprofit corporation must appoint a statutory agent to accept service of process on behalf of the corporation. When filing your Articles, you will also need to complete the Original Appointment of Statutory Agent portion of the Initial Articles of Incorporation to appoint the statutory agent. If a statutory agent is not appointed when the Articles are filed, the Secretary of State must reject the Articles.

The statutory agent must be one of the following: (1) A natural person who is a resident of this state; or (2) A domestic or foreign corporation, nonprofit corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited partnership association, professional association, business trust, or unincorporated nonprofit association that has a business address in this state.

The incorporator, or a majority of the incorporators if the entity has more than one, must sign the Original Appointment of Statutory Agent. The statutory agent must also sign to indicate his or her acceptance of the appointment.

The filing fee for the Articles and the Original Appointment of Statutory Agent (Form 532B) is \$99.00.



Choosing a Corporate Name

One important step in forming a nonprofit corporation is choosing a name. A nonprofit corporation's name cannot be registered unless it is "distinguishable upon the records" from the name of any corporation, limited liability company, limited partnership, limited liability partnership or trade name previously registered or currently reserved with the Ohio Secretary of State. To determine whether the name you wish to use is available, please visit the Secretary of State's website, OhioSoS.gov, or call the Secretary of State's office at 877.767.3453. If the name you have chosen is already reserved or registered, you may still register and use the name if you obtain consent from the prior registrant.

Name Reservation

If you choose a corporate name that is available but you are not ready to register it with the Secretary of State's office, you may reserve the name. Essentially, reserving a name is like putting it on "hold" temporarily so that others cannot register the name before you do. To do this, please submit the Name Reservation (Form 534B) and the corresponding filing fee of \$39.00 payable to "Ohio Secretary of State," and the name will be reserved for a period of six months (180 days).

ADDITIONAL REQUIRED FILINGS

A nonprofit corporation is required to make the following additional filings with the Secretary of State's office to remain in good standing in Ohio. All forms may be filed online at the Secretary of State's Ohio Business Central website at OhioBusinessCentral.gov. For more information, or to obtain other filing forms, visit the Ohio Secretary of State's website at OhioSoS.gov and click on "Businesses."



Statement of Continued Existence

Every five years, a nonprofit corporation must file a Statement of Continued Existence (Form 522) with the Ohio Secretary of State's office. Approximately four months in advance of the filing deadline, the Secretary of State will notify the nonprofit corporation's statutory agent that the Statement of Continued Existence (Form 522) is due. If the nonprofit corporation fails to file the Statement by the due date, the Secretary of State will cancel the nonprofit corporation's charter or registration. The filing fee for the Statement of Continued Existence (Form 522) is \$25.00.

Statutory Agent Update

Ohio law requires every nonprofit corporation to keep its statutory agent information current.

In the event the name or address of a company's statutory agent changes, or the statutory agent resigns or dies, the entity must choose a new statutory agent and submit the Statutory Agent Update (Form 521) and filing fee of \$25.00.

It is not sufficient to simply appoint a new agent internally; the Statutory Agent Update form must be filed so there is notice to the public and to the Ohio Secretary of State's office of the corporation's new agent. For example, if a volunteer serves as the corporation's statutory agent at the time the Articles are filed, but he or she later leaves the organization, a new agent must be appointed and the Statutory Agent Update must be filed.

If the Secretary of State's office learns that a nonprofit corporation has failed to maintain a statutory agent, the corporation will be notified that its statutory agent must be updated. Pursuant to Ohio Revised Code Section 1702.06, if the corporation fails to update its statutory agent within 30 days of the date on the Secretary of State's notice, the Secretary



of State may cancel the corporation's Articles without further notice to the corporation.

The address on file with the Secretary of State's office, either in the initial registration or in the most recent Statement of Continued Existence, will be used to send notice that the corporation must appoint a new agent or update the agent's information. If the corporation's agent resigns, and the latest corporate address on file is the statutory agent's address, the statutory agent and not the corporation will receive the notice. For this reason, it is important to remain aware of the statutory agent information on file with the Secretary of State's office and to make sure it is updated as necessary.

Reinstatement

If a nonprofit corporation's Articles are canceled for failure to file a Statement of Continued Existence or Statutory Agent Update, the corporation's articles may be reinstated at any time. The Secretary of State's office will hold a canceled corporation's name for one year from the date of cancellation so that the corporation can reinstate within that time and not forfeit its name. After one year, the name will be released and can then be registered by another filer.

If the corporation reinstates after one year, and another entity has registered its name, the corporation must choose a new name at the time of reinstatement. However, it may file a fictitious name registration for the new entity if it continues to use the prior name in its operations.

If the corporation was canceled for failing to file a Statement of Continued Existence, it may file a Reinstatement (Form 525B) together with a \$25.00 filing fee to reinstate the canceled corporation.

If the corporation was canceled for failing to maintain a statutory agent, it may file a Statutory Agent Appointment and Reinstatement (Form 525A) and a filing fee of \$25.00, to reinstate the canceled nonprofit corporation.



OBTAINING TAX-EXEMPT STATUS/TAX OBLIGATIONS

Internal Revenue Service

The Internal Revenue Code recognizes more than 20 types of tax-exempt entities. Exemption under a particular code section can have significant advantages to a nonprofit organization, including the deductibility of contributions made to the organization.

The Ohio Secretary of State does not grant nonprofit organizations tax-exempt status. In other words, your nonprofit organization does not automatically become tax-exempt upon filing its Articles with the Secretary of State's office. Any nonprofit organization that intends to solicit contributions or hold assets must seek a determination from the Internal Revenue Service (IRS) that it is a tax-exempt entity.

Consultation with a tax adviser familiar with the Internal Revenue Code is critical to selecting the tax-exempt category most favorable to the nonprofit organization. In addition, the IRS form that must be completed to obtain tax-exempt status is lengthy and asks for detailed information about the nonprofit organization, including financial data. It is therefore advisable to have legal and/or tax consulting assistance when preparing and submitting the IRS forms and related documents.

If the IRS determines that a nonprofit organization is tax-exempt, it will issue the nonprofit corporation a tax-exempt determination letter. Be sure to preserve the IRS determination letter, because it will be needed to document the organization's nonprofit status in the future.

IRS publication number 557, *Tax Exempt Status for Your Organization*, provides valuable information about IRS tax exemptions for nonprofit organizations and may be obtained online at IRS.gov (search "Tax Exempt Status for Your



Organization"); by writing to the IRS Forms Distribution Center, PO Box 8903, Bloomington, IL 61702-8903; or by calling the IRS at 877.829.5500.

Lobbying Activities Affecting Tax Exemption

Nonprofit organizations have a right to petition the Ohio Legislature and/or the United States Congress for changes in state or federal law. However, the Internal Revenue Code places restrictions on certain lobbying activities of tax-exempt organizations. At the time the organization consults an attorney and/or tax adviser about its tax-exempt status, the organization should review its anticipated lobbying and/or political activities so as not to jeopardize its tax exemption when it undertakes its advocacy activities.

Tax Obligations

Even if the IRS approves a nonprofit corporation's tax-exempt status, the organization may need to file annual state and federal tax returns. All nonprofit organizations are required to file an annual tax return (generally, IRS Form 990) even when no taxes are due. A nonprofit organization should consult with an attorney and/or tax adviser about its tax obligations. The following general rules apply:

- If the tax-exempt organization engages in commercial activities, it may have to pay income tax on profits derived from such activities under the IRS Unrelated Business Income Rules.
- Generally, nonprofit corporations are not subject to the Ohio Commercial Activity Tax. However, a nonprofit corporation must pay Ohio sales or use tax on purchases unless the corporation qualifies as a church or charitable organization. For more information on the Ohio Commercial Activity Tax, go to Tax.Ohio.gov and search "Ohio Commercial Activity Tax."



- Even if the organization generally must pay sales or use tax on purchases, there are numerous specific exemptions from the tax that may apply when making purchases. Nonprofit organizations should take the time to determine which exemptions apply by consulting an attorney and/or tax adviser. When an exemption is claimed, the supplier will require a completed tax exemption certificate at the time of purchase. Blank forms may be obtained from business supply stores.
- Nonprofit organizations that make sales must obtain a vendor's license and may be required to collect Ohio sales tax.
- A nonprofit organization may be required to pay real estate tax on property it owns unless the use of the property qualifies for a specific exemption. If the organization believes it qualifies for an exemption, it should file an application for exemption with the Ohio Department of Taxation. Tangible personal property is generally not subject to tax unless the property is used for commercial purposes.

FREQUENTLY ASKED QUESTIONS

Q: Is a nonprofit organization subject to payroll taxes?

A: Yes. Although a nonprofit organization may be exempt from the payment of federal and state income taxes, it is responsible for payroll taxes, including federal and state withholding and Social Security taxes. In addition, most municipalities in Ohio impose a city income tax and require employers to withhold the tax. Please consult your city treasurer's office to learn more.



Q: Is a nonprofit organization subject to Ohio workers' compensation and unemployment compensation laws?

A: Yes. As an employer, the nonprofit organization must comply with Ohio's unemployment and workers' compensation laws. Pursuant to these laws, the organization must establish workers' compensation and unemployment compensation accounts and pay the appropriate payroll taxes.

Q: Is a nonprofit organization subject to other employment regulations?

A: A nonprofit organization may be subject to additional employment laws and regulations, including, without limitation, the Employee Retirement Income Security Act (ERISA), which governs employer sponsored retirement programs, and the Ohio Civil Rights Commission's rules regarding hiring and employment practices. More information may be found by visiting the U.S. Department of Labor's website: DOL.gov; and the Ohio Civil Rights Commission's website: CRC.Ohio.gov.

Q: Do I need to purchase liability insurance to protect my nonprofit organization?

A: A nonprofit organization is not immune from liability for negligence and other torts. Liability insurance may be obtained to protect a nonprofit organization and its officers, directors and employees. You may wish to consult an insurance adviser to learn more about the availability and cost of liability insurance.

Q: Does the U.S. Postal Service offer reduced postage rates to nonprofit organizations?

A: Yes. The U.S. Postal Service offers special bulk mailing rates to qualified nonprofit organizations. Additional information may be obtained from any post office or on the web at USPS.com.



Q: Is copyright protection available for materials created by nonprofit organizations?

A: Copyright protection may be available to a nonprofit organization for materials the organization creates. Please note that there is no copyright registration at the state level in Ohio. Questions regarding copyright registration/protection should be directed to the United States Copyright Office, 101 Independence Avenue Southeast, Washington, D.C., 20559. You can also visit their website at Copyright.gov or call 877.476.0778 for more information.

Q: Can a nonprofit organization register a trademark or service mark?

A: Yes. If a nonprofit corporation uses words or symbols to identify the organization or its services, it may be able to register the words or symbols as a trademark or service mark. Please review our publication entitled *Register Your Trademark or Service Mark in Ohio* for more detailed information.

Q: Is a nonprofit organization required to register with the Ohio Attorney General's office?

A: The Ohio Attorney General has certain statutory duties to oversee the activities of charitable organizations. Some charitable organizations are required to register and file annual financial reports with the Attorney General's office. For more information, please contact the Attorney General's Charitable Law Section or visit the Attorney General's website: OhioAttorneyGeneral.gov (search "Charitable Law").

Q: Is a nonprofit organization subject to local charitable solicitation and reporting requirements?

A: A nonprofit organization may be subject to charitable solicitation and reporting regulations in its particular city. For example, a nonprofit organization may be required to obtain a permit in order to solicit contributions from



the public and to report the contributions received and expenses incurred. It's advisable to consult an attorney or the local city attorney's office or village solicitor.

SUBMITTING FILINGS

For quick and accurate service, complete filing forms online at OhioBusinessCentral.gov and pay with any major credit card. Filings will either be processed automatically upon submission or a review may be required and approval certificate will be sent to your email address after submission.

If you prefer, please obtain a filing form to be submitted by mail or dropped off in person at OhioSoS.gov. Please mail the form to the address provided on the first page of the filing form as well as a check or money order.

To submit a filing in person please go to the Secretary of State's Client Service Center at 22 North Fourth Street, Columbus, Ohio 43215 between 8:00 a.m. and 5:00 p.m., Monday to Friday. The Client Service Center is closed on holidays and the day after Thanksgiving.

BUSINESS IDENTITY THEFT: DON'T BE A VICTIM

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Identity theft affects businesses too. Criminals can use your business' identity to illegally transact business and establish lines of credit. Business Identity Theft costs companies time and money.

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EXPEDITED SERVICE

The Ohio Secretary of State offers three levels of expedited service for filings. An expedited level 1 filing may be mailed, submitted in person, or filed online. Levels 2 and 3 may only be submitted in person at 22 North Fourth Street, Columbus, Ohio 43215 or filed online at OhioBusinessCentral.gov.

Levels of Service	Additional Fee	Turnaround Time
Expedited 1	\$100.00	2 Business Days
Expedited 2	\$200.00	1 Business Day
Expedited 3	\$300.00	4 Hours*

The expedited filing fee must be added to each filing submitted. If only some of your filings require expedited service, please submit a separate check for the expedited filings.

In the event of an expedited 3 filing containing an error, the customer will be notified. If a filing is re-submitted by 1:00 p.m., the filing will be processed by 5:00 p.m.

***Please note:** Expedited level 3 filings submitted after 1:00 p.m. will be available the next business day.



CONTACT BUSINESS SERVICES

Ohio Secretary of State
Business Services Division
22 North Fourth Street
Columbus, Ohio 43215
614.466.3910
877.767.3453
TTY: 877.644.6889

Walk-In Client Service Center

22 North Fourth Street
Columbus, Ohio 43215

Hours of Operation

Monday - Friday 8:00 a.m. - 5:00 p.m.
Open 24 hours at OhioSoS.gov.

Email: business@OhioSoS.gov

Website: OhioSoS.gov

File online: OhioBusinessCentral.gov

Multilingual services are available.

ADDITIONAL RESOURCES

There are many agencies that regulate and/or assist Ohio businesses. The Ohio Secretary of State's office hosts the Ohio Business Resource Connection located at OhioSoS.gov/BusinessResources. The Resource Connection is a directory of services for all Ohio businesses and includes specific services for woman, minority, disability, and military or veteran owned businesses.

Quick-Start for Your Business

Doing our part to ensure a prosperous economy



To help you start this journey, we've put together a checklist of 10 important things you may want to consider.

- Register with the Ohio Secretary of State.
- Obtain a federal Employer Identification Number (EIN).
- Open a bank account.
- Register with the Ohio Department of Taxation at [Tax.Ohio.gov](https://tax.ohio.gov).
- Report newly-hired and re-hired employees to the Ohio New Hire Reporting Center.
- Determine what may be required of your business by the Ohio Bureau of Workers' Compensation.
- Identify requirements of the Ohio Department of Job & Family Services.
- Obtain the proper licenses and permits.
- File an Annual Report of Unclaimed Funds.
- Discover growth opportunities for your new business.

For more information on starting a business or nonprofit

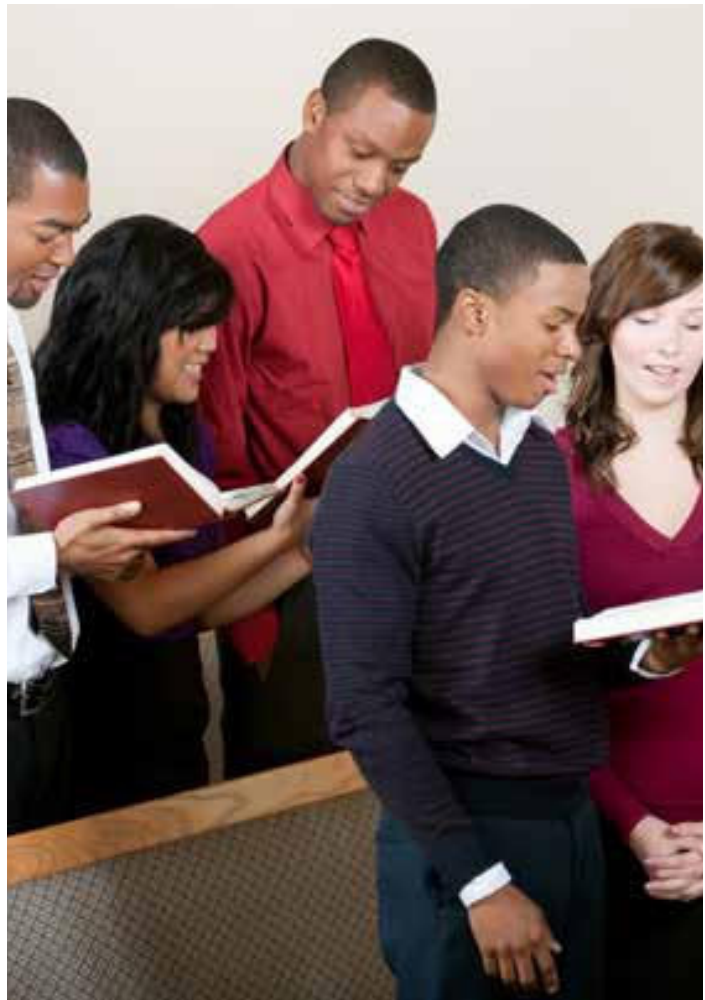
OhioSoS.gov

Special Considerations for Nonprofit Organizations

- Apply for tax exemption.**
Visit [IRS.gov](https://www.irs.gov) to apply to become a tax-exempt organization. Also, contact the Ohio Department of Taxation and your county and local governments to determine how to apply for applicable exemptions.

- Register with the Ohio Attorney General's Office if entity is a charitable organization.**
Ohio requires charitable organizations located in Ohio and groups that ask Ohioans for contributions to register and file annual reports. Go to OhioAttorneyGeneral.gov for more information.

- Apply for a nonprofit postal permit.**
Apply for a nonprofit mailing permit from the United States Postal Service at [USPS.com](https://www.usps.com).



BUSINESS SERVICES

OhioSoS.gov | business@OhioSoS.gov

877.767.3453 | TTY 877.644.6889

22 North Fourth Street | Columbus, Ohio 43215