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You're a Nonprofit, Now What? Ongoing Compliance Obligations for New York 501(c)(3) Nonprofit Corporations

Establishing a nonprofit corporation and successfully obtaining tax-exempt status is a significant milestone for any nonprofit, but you should take note of ongoing obligations in order to maintain the organization's good standing. Below is a summary of the annual filings required for New York nonprofit organizations. The links provided will direct you to each authority's website for more information or downloadable forms. In addition, we have noted governance compliance obligations, as well as some common types of ongoing obligations.

Annual Filings

- **File an IRS Form 990 annually with the IRS:** Most organizations exempt from federal income tax must file an annual return. Exceptions can be found here: <https://www.irs.gov/charities-non-profits/annual-exempt-organization-return-who-must-file>. The Form 990 is due 4 1/2 months after the end of the organization's fiscal year, and should include updated bylaws and/or amended certificate of incorporation to the extent updates to such governance documents were made during the course of the year. There are three options of the Form 990, based on the organization's annual gross revenue. Filing thresholds can be found here: <https://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in>. Failure to file the Form 990 for three consecutive years will result in automatic revocation of your tax exempt status.
- **File annual CHAR 500 Form with the New York State Attorney General:** The CHAR 500 is required on an annual basis regardless of whether the organization raised any funds in a fiscal year. Depending on the size of your organization, you may also be required to file financial statements, an independent auditor's report, or unaudited financials along with the CHAR 500. Like the federal 990 filing, the CHAR 500 is due 4 1/2 months after end of fiscal year, or 6 months after the end of the fiscal year if only filing under the Estates, Powers and Trusts Law (EPTL). See https://www.charitiesnys.com/charindex_new.html#filing for forms and instructions.

Annual Real Property Filings

- **File Renewal Applications for Real Property Tax Exemption:** Eligible nonprofits that own real property that has received a real property tax exemption should remember to file an annual renewal application. Look for a notice from the New York City Department of Finance in October with your user ID and password. The filing deadline is January 5th

each year. See <http://www1.nyc.gov/site/finance/benefits/benefits-not-for-profit-organizations.page>.

- **File Real Property Income and Expense Report:** Owners of income-producing property are required to file an annual Real Property Income & Expense (RPIE) form with the NYC Department of Finance. Property owned by a not-for-profit organization that is fully exempt from taxation and is not rented to any commercial, non-exempt tenants may claim an exclusion from filing by completing Section D of the RPIE form. For more information on the RPIE filing and for eligibility for a claim of exclusion from filing see <http://www1.nyc.gov/site/finance/taxes/property-rpie.page>.

Governance Obligations

- **Hold annual meetings and provide annual financial report:** Membership organizations are required to hold an annual membership meeting and annual Board meeting, and non-membership organizations must hold an annual Board meeting. In each case, you should consult the organization's bylaws to consider whether the organization should be electing any Board members or officers. An annual financial report must be provided at the annual meetings.
- **Compile annual conflict of interest disclosure statements:** Before their election to the Board and at the annual meeting thereafter, Board members must complete an annual conflict of interest disclosure statement in order ensure the organization can properly review and document transactions between the organization and any individuals deemed insiders under New York State or federal law.

Other Considerations

The additional filing obligations and compliance obligations for any nonprofit will depend on the specific activities in which the organization is engaged, and therefore a comprehensive list is not possible. Funders, particularly government agencies, often impose additional filing or disclosure obligations. However, below are some of the typical filings required of nonprofits:

- **Employment filings:** If the organization has employees, it has registration and regular reporting requirements as an employer under federal law and the New York State Tax Law and Labor Law. This is true whether or not wages are subject to withholding of tax or payment of tax under the personal income tax law. See <https://www.tax.ny.gov/pdf/publications/withholding/nys50.pdf>.
- **Advocacy disclosure filings:** Nonprofit organizations engaged in legislative advocacy may be required to file regular disclosure statements under federal, state, and/or local law. See http://lawyersalliance.org/pdfs/news_legal/Nonprofits_and_Lobbying_FAQ_10-27-2015.pdf.

- **Renew insurance:** Under most circumstances, the organization's commercial insurance and directors and officers insurance policies should be reviewed and renewed annually.
- **Renew licenses:** Organizations that have obtained licenses from government agencies (such as a school-aged child care license, or a waiver allowing the organization to employ licensed social workers) should make note of any related renewal and disclosure obligations.

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