



Starting a JGS: ORGANIZING STRUCTURE

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Organizing a Nonprofit Within Your State

The laws of your state provide that a JGS has a choice of organizational structures under which it can operate. It can choose to be a non-profit corporation or a non-profit limited liability company (referred to as an LLC and considered unincorporated.) In both cases, your organization will need to apply for such status with the Secretary of State and submit its bylaws. It must also file an annual report with the Secretary of State annually. Some minimal fees may accompany these filings. Nonprofit corporations and LLCs also may have to file each year with another branch of state government that regulates nonprofits, often within the attorney general's office.

A JGS can also be an informal association-- a group of people. This may be a structure for a new group with very limited membership and very minimal revenue net of expenses. Unlike a JGS that is a corporation or LLC, the association's net revenue is not tax-exempt, and its members cannot deduct their dues. Taxes on the association's net income must be included in the tax return of an individual member.

A JGS can also operate with a fiscal sponsor where the nonprofit structure is held by the sponsor, rather than the JGS.

Corporations and LLCs have limited liability while an informal association does not. In the case of a corporation or LLC, only the entity could be sued. Organizations can face suits related to contracts, employees (if you have any) or personal injury. For an informal association, the risk resides with officers and members. Another disadvantage to informal associations is that they cannot reserve a name in their state. If another legal entity applies for the name under which the JGS has been operating, the legal entity gets the name and the JGS would need to stop using it.

Obtaining a Tax ID Number (TIN)

After you form your organization as a nonprofit corporation or LLC, you will want to obtain a TIN (Tax ID Number- sometimes referred to as an Employer ID Number or EIN) to get a bank account. An informal association will need to set up an account using the social security number of an organizing member.

You can apply for a TIN on-line, over the telephone, via fax or through the mail. See the [instructions](#) regarding Form SS-4 *Application for Employer I.D. Number*, for further details. If you apply for a TIN [electronically](#), you will receive it within 48 hours.

The IRS cautions not to apply for a TIN until your organization is legally formed. Nearly all organizations are subject to automatic revocation of their tax-exempt status if they fail to file a required return or notice for three consecutive years. When you apply for a TIN, the IRS presumes you're legally formed, and the clock starts running on this three-year period.

501 (c) (3) Status

You frequently hear nonprofits referred to as a 501 (c) (3). You can be a nonprofit through your filing with the state without filing for 501 (c)(3) status. The term 501 (c)(3) refers to a section of the federal tax code and is a federal, not a state, designation, distinct from the state filings we have discussed thus far. A 501 (c) (3) entity is exempt from federal tax and donations to it are usually tax deductible. To learn about filing for 501(c) (3) status read the article: [Getting IRS Tax-Exempt Status](#).

Annual Filings

Non-profits must file a tax return every year on form 990. If their usual receipts (based on a five-year rolling average) are less than \$50,000, they can file a 990-N. It is an on-line form with eight questions – name, address, are you still in business, name of principal officer, total receipts etc. The 990 is due by the 15th day of the 5th month of your fiscal year. May 15th for calendar year entities.

To recap, annual filings for a JGS depending on structure can include the following:

- Federal tax return – 990N or 990EZ (if 501(c)-(3)), an 1120 if incorporated, but not a 501 (c)-(3)
- Secretary of State – annual report (corporation or LLC)
- State office for non-profits – annual report (corporation or LLC)
- IAJGS renewal-all iAJGS JGS members