



# Legal Compliance Checklist for North Carolina Nonprofits

Created by the North Carolina Center for Nonprofits and updated annually, the legal compliance checklist outlines laws that affect North Carolina nonprofits' governance, finances, advocacy, human resources, and fundraising. This checklist is not intended to give legal advice and should not be relied on without your attorney's counsel. Throughout the document, the term "nonprofit" generally refers to 501(c)(3) public charities incorporated in or operating in North Carolina. Private foundations and nonprofits classified as tax-exempt under other Internal Revenue Code sections may be subject to different rules and regulations.

Have you	Who has to do it	How and when to do it	Notes
<input type="checkbox"/> Filed your articles of incorporation?	<ul style="list-style-type: none"> <li>All NC nonprofits must file articles of incorporation with the NC Secretary of State to operate as a nonprofit corporation.</li> <li>Any individual (incorporator) can file the articles.</li> </ul>	<ul style="list-style-type: none"> <li>File with the NC Secretary of State Business Registration Division, <a href="http://www.sosnc.gov/divisions/business_registration">www.sosnc.gov/divisions/business_registration</a>.</li> <li>Then adopt bylaws and related governance policies at your initial board meeting.</li> <li>It is a good practice for nonprofit boards and key staff to review articles of incorporation and bylaws regularly to be certain they are consistent with each other, with state laws, and with the organization's actual practices.</li> <li>Nonprofits that need to make changes to their articles of incorporation can file articles of amendment or restated articles of incorporation with the NC Secretary of State Business Registration Division.</li> </ul>	
<input type="checkbox"/> Updated your registered agent's name, phone number, and physical addresses with the NC Secretary of State?	<ul style="list-style-type: none"> <li>Any nonprofit incorporated (or authorized as a foreign nonprofit) in North Carolina that has changed its principal office address, registered office address, or registered agent.</li> <li><b>Note:</b> If your nonprofit is registered as a foreign corporation in other states, you may need to file annual reports in those states. Currently, North Carolina is one of the few states that does not require nonprofit corporations to file annual reports. The Center continues to advocate for the state to adopt a simple, no-fee annual report for nonprofit corporations.</li> </ul>	<ul style="list-style-type: none"> <li>File a Change of Registered Office/Agent or Change of Office Address form at any time. To get the form or check what is on file now, contact the NC Secretary of State, <a href="http://www.sosnc.gov/divisions/business_registration">www.sosnc.gov/divisions/business_registration</a>.</li> </ul>	
<input type="checkbox"/> Filed IRS Form 1023 to apply for federal corporate tax exemption and made it available to the public?	<ul style="list-style-type: none"> <li>All nonprofits with gross receipts of \$5,000 or more that want to receive tax-deductible grants or contributions.</li> <li>Churches, their integrated auxiliaries, and conventions or associations of churches do not have to apply. For more, see IRS Publication 1828 (<a href="http://www.irs.gov/pub/irs-pdf/p1828.pdf">www.irs.gov/pub/irs-pdf/p1828.pdf</a>).</li> <li>Many organizations with annual gross receipts of \$50,000 or less and total assets of \$250,000 or less may file the online Form 1023-EZ.</li> </ul>	<ul style="list-style-type: none"> <li>Make your form available for review by anyone who requests it.</li> <li>Download Form 1023 at <a href="http://www.irs.gov/pub/irs-pdf/f1023.pdf">www.irs.gov/pub/irs-pdf/f1023.pdf</a> and instructions at <a href="http://www.irs.gov/pub/irs-pdf/i1023.pdf">www.irs.gov/pub/irs-pdf/i1023.pdf</a>.</li> <li>Download Form 1023-EZ at <a href="http://www.irs.gov/pub/irs-pdf/f1023ez.pdf">www.irs.gov/pub/irs-pdf/f1023ez.pdf</a> and instructions at <a href="http://www.irs.gov/pub/irs-pdf/i1023ez.pdf">www.irs.gov/pub/irs-pdf/i1023ez.pdf</a>. The form must be filed electronically at <a href="http://www.pay.gov">www.pay.gov</a>.</li> <li>File within 27 months of incorporation for retroactive recognition of tax exemption.</li> </ul>	

## Have you

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## Notes

Filed Form 990, 990-EZ, or 990-N (e-Postcard) and made your forms for the past three years publicly available?

- Nonprofits with \$50,000 or less in annual gross receipts may use the online Form 990-N (e-Postcard). Very small nonprofits with budgets under \$5,000 do need to file, even if they are not required to file Form 1023 or Form 1023-EZ.
- Nonprofits with annual gross receipts of more than \$50,000 or with an average of more than \$50,000 over the past three years must file Form 990 or 990-EZ.
- Nonprofits with annual gross receipts under \$200,000 and total assets under \$500,000 may file Form 990-EZ.
- All supporting or controlling organizations must file Form 990 or 990-EZ.
- Nonprofits that fail to file their 990, 990-EZ, or 990-N for three consecutive years will automatically lose their tax-exempt status. **The IRS must provide notice of this possible revocation of tax-exempt status to organizations that have failed to file a Form 990, 990-EZ, or 990-N for two consecutive years.**
- Churches, their integrated auxiliaries, and conventions or associations of churches don't have to file.
- Private foundations file Form 990-PF.

- File the form each year by the 15<sup>th</sup> day of the 5<sup>th</sup> month after your fiscal year ends (e.g., November 15 if your year ends June 30).
- All 501(c)(3) nonprofits must file their 990s electronically.
- **For nonprofits filing Form 990 and 990-PF, electronic filing requirements took effect for tax years ending July 31, 2020 and later. For nonprofits filing Form 990-EZ, electronic filing requirements took effect for tax years ending July 31, 2021. For more information, see [www.irs.gov/e-file-providers/e-file-for-charities-and-non-profits](http://www.irs.gov/e-file-providers/e-file-for-charities-and-non-profits).**
- Get forms at [www.irs.gov/charities-non-profits/required-filing-form-990-series](http://www.irs.gov/charities-non-profits/required-filing-form-990-series) and [www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard](http://www.irs.gov/charities-non-profits/annual-electronic-filing-requirement-for-small-exempt-organizations-form-990-n-e-postcard).
- You must make your forms available for review by anyone who requests them. You must provide immediately for in-person requests or within 30 days for written requests. You may charge a reasonable copying fee and postage, if any. Alternately, post your three most recent forms on your website or GuideStar.
- For what to file, see [www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in](http://www.irs.gov/charities-non-profits/form-990-series-which-forms-do-exempt-organizations-file-filing-phase-in).
- Ask the IRS (877-829-5500) or your CPA for details.
- State law requires nonprofits that receive \$5,000 or more in federal, state, or local grants or loans to make their Forms 990, 990-EZ, or 990-N available to the public. Comply by posting it on your website or GuideStar (<https://guidestar.candid.org/update-nonprofit-profile>). These nonprofits must also give anyone who asks a basic statement about the amount of public funds received and how they were used.

Made sure that your board members understand their fiduciary duties?

- All nonprofits.
- Every nonprofit board member is a fiduciary of the organization and has duties of care, loyalty, and obedience.

- Part 3 of the North Carolina Center for Nonprofits' *Guidebook for Boards of Directors of North Carolina Nonprofits* explains the duties and liabilities of board members ([www.ncnonprofits.org/sites/default/files/resource\\_attachments/BoardGuidebook\\_2ed.pdf](http://www.ncnonprofits.org/sites/default/files/resource_attachments/BoardGuidebook_2ed.pdf)). Share it with your board.
- **Nonprofits with board members who are local government elected officials (e.g. county commissioners, city council members, or mayors) should be particularly careful that these board members avoid potential conflicts of interest if the local government where they serve awards grants, contracts, or appropriations to the nonprofits on whose boards they serve. A new state law that took effect on January 1, 2022 requires these local elected officials to recuse themselves from**

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<p><i>continued</i></p> <p>Made sure that your board members understand their fiduciary duties?</p>		<p>voting on the award of grants, contracts, or appropriations to the nonprofits on whose boards they serve. The law does not prohibit local elected officials from serving on nonprofit boards, and it does not apply to employees of counties or municipalities. The criminal penalties in the law only apply in cities and towns with at least 15,000 residents and in counties that have cities or towns with at least 15,000 residents.</p>	
<p><input type="checkbox"/> Adopted and adhered to policies on conflicts of interest, gift acceptance, Form 990 review, whistleblower protection, and document retention and destruction?</p>	<ul style="list-style-type: none"> <li>• Most nonprofits.</li> <li>• On Part VI of Form 990, nonprofits may be required to indicate whether they have these policies in place.</li> <li>• On Part VI of Form 990, nonprofits are also asked whether officers, directors, trustees, and key employees are required to disclose annually interests that could give rise to conflicts.</li> </ul>	<ul style="list-style-type: none"> <li>• See the Center's website for sample policies on conflicts of interest (<a href="http://www.ncnonprofits.org/resources/sample-conflict-interests-policy">www.ncnonprofits.org/resources/sample-conflict-interests-policy</a>), gift acceptance (<a href="http://www.ncnonprofits.org/resources/gift-acceptance-policies">www.ncnonprofits.org/resources/gift-acceptance-policies</a>), whistleblower protection (<a href="http://www.ncnonprofits.org/resources/whistleblowing-retaliation">www.ncnonprofits.org/resources/whistleblowing-retaliation</a>), and document retention and destruction (<a href="http://www.ncnonprofits.org/resources/document-retention-and-destruction-policy">www.ncnonprofits.org/resources/document-retention-and-destruction-policy</a>).</li> </ul>	
<p><input type="checkbox"/> Complied with the limitation on private benefit and the prohibition on private inurement for 501(c)(3) organizations?</p>	<ul style="list-style-type: none"> <li>• All 501(c)(3) public charities.</li> </ul>	<ul style="list-style-type: none"> <li>• Under the private benefit doctrine, tax-exempt nonprofits must be organized and operated for public purposes, and any benefits to specific private individuals must only be incidental. For more, see <a href="http://www.irs.gov/pub/irs-tege/eotopich01.pdf">www.irs.gov/pub/irs-tege/eotopich01.pdf</a>.</li> <li>• Under the private inurement doctrine, tax-exempt nonprofits are prohibited from providing unjust enrichment to insiders, including board members and officers. Common examples of private inurement include paying excessive compensation to an executive director and paying a board member greater than fair market value for goods or services provided to the nonprofit. For more, see <a href="https://nonprofitlawblog.com/private-benefit-rules-part-ii-private-inurement-doctrine">https://nonprofitlawblog.com/private-benefit-rules-part-ii-private-inurement-doctrine</a>.</li> <li>• The Internal Revenue Code may impose “intermediate sanctions” on insiders who receive excess benefits from their transactions with the nonprofits they serve. These sanctions can require the organization to undo the transaction with the insider and lead to excise taxes on the insider and other board members and officers of the nonprofit. For more, see <a href="http://www.irs.gov/charities-nonprofits/charitable-organizations/intermediate-sanctions">www.irs.gov/charities-nonprofits/charitable-organizations/intermediate-sanctions</a>.</li> </ul>	
<p><input type="checkbox"/> Satisfied the public support requirement to be classified as “not a private foundation” under Section 501(c)(3) of the Internal Revenue Code?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>• All 501(c)(3) public charities.</li> </ul>	<ul style="list-style-type: none"> <li>• To be treated as a public charity rather than a private foundation for federal income tax exemption purposes, a nonprofit must demonstrate that it has broad public support.</li> <li>• There are two basic tests for public support: (1) a donative test under Section 509(a)(1) of the Internal Revenue Code in which at least one-third of a nonprofit's support comes from contributions from the general public, or at least 10% of the nonprofit's support comes from contributions from the general public, and it also meets a facts and circumstances test; and (2) a gross</li> </ul>	

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<p><i>continued</i></p> <p>Satisfied the public support requirement to be classified as “not a private foundation” under Section 501(c)(3) of the Internal Revenue Code?</p>		<p>receipts test under Section 509(a)(2) of the Internal Revenue Code in which at least one-third of a nonprofit’s support comes from a combination of contributions from the general public and mission-related earned income, and no more than one-third of the nonprofit’s support comes from investment income or unrelated business income. For more, see <a href="http://www.irs.gov/charities-non-profits/exempt-organizations-annual-reporting-requirements-form-990-schedules-a-and-b-public-charity-support-test">www.irs.gov/charities-non-profits/exempt-organizations-annual-reporting-requirements-form-990-schedules-a-and-b-public-charity-support-test</a>.</p> <ul style="list-style-type: none"> <li>• Some other organizations qualify as public charities because they are organized and operated in support of another tax-exempt nonprofit.</li> <li>• Hospitals, schools, houses of worship, and medical research organizations are deemed public charities by the nature of their activities and are not required to meet a public support test.</li> </ul>	
<p><input type="checkbox"/> Reported and paid tax on Unrelated Business Income (UBIT) and made your Form 990-T for the past three years publicly available?</p>	<ul style="list-style-type: none"> <li>• Any nonprofit with unrelated business income of \$1,000 or more.</li> <li>• Nonprofits with more than one line of unrelated trade or business must “silo” their tax liability for each “separate” “trade or business” and pay UBIT on each of these rather than aggregating all the profits and losses from all of their unrelated business income activities.</li> <li>• See IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations (<a href="http://www.irs.gov/pub/irs-pdf/p598.pdf">www.irs.gov/pub/irs-pdf/p598.pdf</a>). Ask the IRS (877-829-5500, <a href="http://www.irs.gov/charities-non-profits/unrelated-business-income-defined">www.irs.gov/charities-non-profits/unrelated-business-income-defined</a>) or your CPA for details.</li> </ul>	<ul style="list-style-type: none"> <li>• File IRS Form 990-T (<a href="http://www.irs.gov/pub/irs-pdf/f990t.pdf">www.irs.gov/pub/irs-pdf/f990t.pdf</a>) each year by the 15<sup>th</sup> day of the 5<sup>th</sup> month after your fiscal year ends (e.g., November 15 if your year ends June 30). <b>Nonprofits are required to file Form 990-T electronically for tax years ending December 2020 and later with a due date on or after April 15, 2021.</b></li> <li>• File Form CD-405 with the NC Department of Revenue by the 15<sup>th</sup> day of the 5<sup>th</sup> month after your fiscal year ends and pay any applicable state corporate income tax.</li> <li>• <b>In December 2020, the IRS issued proposed regulations on siloing of UBIT expenses (<a href="http://www.govinfo.gov/content/pkg/FR-2020-12-02/pdf/2020-25954.pdf">www.govinfo.gov/content/pkg/FR-2020-12-02/pdf/2020-25954.pdf</a>).</b></li> <li>• A state law requires the NC Department of Revenue to inform the NC Secretary of State of any nonprofit that fails to pay state income tax on UBIT for 90 days after it is due and for the Secretary of State to immediately suspend the nonprofit’s articles of incorporation. If a nonprofit corporation has its corporate status suspended, it may be reinstated by paying any state taxes, fees, and penalties that are due to the NC Department of Revenue.</li> </ul>	
<p><input type="checkbox"/> Stayed nonpartisan?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>• Under federal tax law, all 501(c)(3) nonprofits are prohibited from supporting or opposing candidates for office or political parties. This means that nonprofits can’t endorse candidates, contribute money in partisan elections, or coordinate activities with political campaigns.</li> </ul>	<ul style="list-style-type: none"> <li>• Be certain your staff and board understand that they may not suggest or imply that they are speaking on behalf of your nonprofit when they engage in personal political activities.</li> <li>• Nonprofits can (and should) engage in a wide range of nonpartisan election-related activities, including voter registration, voter education, and get-out-the vote efforts (<a href="http://www.nonprofitvote.org">www.nonprofitvote.org</a>).</li> <li>• Nonprofits also may take positions on ballot measures such as state constitutional amendments and bond initiatives.</li> </ul>	

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<p><i>continued</i></p> <p>Stayed nonpartisan?</p>		<ul style="list-style-type: none"> <li>For more on what nonprofits can and can't do during an election year, see <a href="http://www.ncnonprofits.org/blog/everything-you-wanted-know-about-nonprofits-and-elections-but-were-afraid-ask">www.ncnonprofits.org/blog/everything-you-wanted-know-about-nonprofits-and-elections-but-were-afraid-ask</a> and <a href="http://www.ncnonprofits.org/blog/answers-common-questions-about-nonprofits-and-2022-election">www.ncnonprofits.org/blog/answers-common-questions-about-nonprofits-and-2022-election</a>.</li> <li>For more on the nonpartisanship requirement and why it matters for charitable nonprofits, see <a href="http://www.ncnonprofits.org/blog/why-weakening-johnson-amendment-would-be-devastating-nonprofits">www.ncnonprofits.org/blog/why-weakening-johnson-amendment-would-be-devastating-nonprofits</a>.</li> </ul>	
<p><input type="checkbox"/> Elected 501(h) status to have clearer and more generous limits on your lobbying than if you stay with the default option of “insubstantial part test”?</p>	<ul style="list-style-type: none"> <li>Any charitable nonprofit (other than a house of worship and integrated auxiliaries of houses of worship) that lobbies can choose to elect 501(h) status. Under Section 501(h), nonprofits can use for direct lobbying up to 20% of the first \$500,000 of their exempt purpose expenditures. For larger organizations, this limit increases on a sliding scale up to \$1 million. Under Section 501(h), the limit on grassroots lobbying expenditures (i.e., asking members of the public to contact legislators with a specific call to action) is 25% of the limit on direct lobbying expenditures.</li> <li>Nonprofits that do not take the 501(h) election must be prepared to demonstrate that lobbying is an “insubstantial” part of their activities.</li> </ul>	<ul style="list-style-type: none"> <li>Complete the simple one-page IRS Form 5768 once (<a href="http://www.irs.gov/pub/irs-pdf/f5768.pdf">www.irs.gov/pub/irs-pdf/f5768.pdf</a>); the election will apply for the current and subsequent tax years. See <a href="http://www.councilofnonprofits.org/nonprofit-advocacy/501h-election">www.councilofnonprofits.org/nonprofit-advocacy/501h-election</a>.</li> <li>Note that advocacy for or against ballot measures, such as state constitutional amendments and bond initiatives, is direct lobbying. A nonprofit's expenditures advocating for or against ballot measures are included as direct lobbying expenses for the 501(h) expenditure test. For a nonprofit not taking the 501(h) election, ballot measure advocacy activities are included in the “insubstantial” part determination.</li> <li>Nonprofits that engage in lobbying must complete Schedule C of Form 990.</li> </ul>	
<p><input type="checkbox"/> Provided donors with letters of acknowledgment for “quid pro quo” gifts of \$75 or more and all gifts of \$250 or more?</p>	<ul style="list-style-type: none"> <li>Every nonprofit that provides goods or services to donors in exchange for contributions above \$75. Your nonprofit must disclose the value of the goods or services received by the donor. Only the remaining amount is tax-deductible.</li> <li>The U.S. Tax Court has denied a donor's significant tax deduction in part because the nonprofit didn't follow these rules!</li> </ul>	<ul style="list-style-type: none"> <li>See IRS Publication 1771 (<a href="http://www.irs.gov/pub/irs-pdf/p1771.pdf">www.irs.gov/pub/irs-pdf/p1771.pdf</a>) for gift acknowledgement guidelines.</li> <li>Donors are responsible for obtaining written gift acknowledgments for contributions of \$250 or more, but it is a good practice for nonprofits to send timely acknowledgements for <i>all</i> contributions.</li> </ul>	
<p><input type="checkbox"/> Applied for a state charitable solicitation license, renewed it every year, and included the required disclosure statement on your fundraising materials and donor acknowledgement letters?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>Most nonprofits must contact the NC Secretary of State each year. Generally, any nonprofit that receives \$25,000 or more a year in private grants and contributions is required to have a charitable solicitation license.</li> <li>If your nonprofit receives less than \$25,000 per year in contributions, you may be eligible to apply annually to become exempt from requiring the license. Government grants and contracts, fees for services, and other earned or investment revenues are not included. <b>In 2021, the NC House of Representatives passed a bill that would have increased the threshold for charitable solicitation exemption to \$50,000 in contributions per year. The bill also would have eliminated notarization requirements for charitable solicitation filings and would have brought the filing deadlines for charitable solici-</b></li> </ul>	<ul style="list-style-type: none"> <li>Apply at any time and renew annually by the 15<sup>th</sup> day of the 5<sup>th</sup> month after your fiscal year ends. Contact the Charitable Solicitation Licensing Section, NC Secretary of State, <a href="http://www.sosnc.gov/csl">www.sosnc.gov/csl</a>. <b>Online filing is available, but not required.</b></li> <li>A Unified Registration Statement is acceptable if you also complete the NC Addendum (<a href="http://www.multistatefiling.org">www.multistatefiling.org</a>).</li> <li>Check requirements if you solicit funds in other states. For more, see <a href="http://www.councilofnonprofits.org/tools-resources/charitable-solicitation-registration">www.councilofnonprofits.org/tools-resources/charitable-solicitation-registration</a>. The National Association of State Charity Officials (NASCO) is working on developing a single portal that may simplify multi-state filing for nonprofits that solicit funds in more than one state.</li> <li>Conspicuously display (in at least 9-point bold type) this</li> </ul>	

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<p><i>continued</i></p> <p>Applied for a state charitable solicitation license, renewed it every year, and included the required disclosure statement on your fundraising materials and donor acknowledgement letters?</p>	<p>tion renewals into alignment with Form 990 filing deadlines and extensions to help prevent nonprofits from having their charitable solicitation licenses lapse. The NC Senate did not take up this legislation during the 2021-22 legislative session, but the Center will again advocate for legislators to pass it in 2023.</p> <ul style="list-style-type: none"> <li>Nonprofit churches, hospitals, YMCAs, YWCAs, and schools are generally exempt. For other statutory exemptions to this requirement, contact the Charitable Solicitation Licensing Section (<a href="http://www.sosnc.gov/csl">www.sosnc.gov/csl</a>) or see <a href="http://www.ncnonprofits.org/resources/charitable-solicitation-faqs">www.ncnonprofits.org/resources/charitable-solicitation-faqs</a>.</li> </ul>	<p>disclosure statement on every printed solicitation, written confirmation, receipt, and contribution reminder:</p> <p><b>Financial information about this organization and a copy of its license are available from the Charitable Solicitation Licensing Section at 888-830-4989. The license is not an endorsement by the State.</b></p>	
<p><input type="checkbox"/> Confirmed that any contract fundraisers or fundraising consultants are licensed?</p>	<ul style="list-style-type: none"> <li>Any nonprofit that uses a contractor to solicit contributions or to advise or assist in fundraising-related activities. <b>Note: All contracts with solicitors and fundraising consultants are filed with the NC Secretary of State and available to the public.</b></li> </ul>	<ul style="list-style-type: none"> <li>Check the registry of licensed solicitors and fundraising consultants at <a href="http://www.sosnc.gov/search/index/csl">www.sosnc.gov/search/index/csl</a>.</li> <li>Have at least two officials of your nonprofit (including at least one board member) sign all contracts with solicitors and fundraising consultants.</li> </ul>	
<p><input type="checkbox"/> Requested state corporate income and franchise tax exemption?</p>	<ul style="list-style-type: none"> <li>To be exempt from corporate taxes, all North Carolina nonprofits must request these state tax exemptions from the NC Department of Revenue.</li> </ul>	<ul style="list-style-type: none"> <li>Send a request to the NC Department of Revenue with a brief description of your charitable purposes and dissolution provision.</li> <li>Enclose copies of your articles of incorporation, certified copy of bylaws, and IRS determination letter.</li> <li>Send the request to NC Department of Revenue, Corporate Income and Franchise Tax Department, PO Box 871, Raleigh, NC 27602.</li> </ul>	
<p><input type="checkbox"/> Applied for exemption from local property taxes?</p>	<ul style="list-style-type: none"> <li>Most nonprofits owning real or personal property (buildings, land, or property such as office equipment) used wholly and exclusively for tax-exempt purposes.</li> </ul>	<ul style="list-style-type: none"> <li>Apply with your local county tax assessor. Contact your local county tax office for details. You may appeal the local board's decision to the State Property Tax Commission.</li> <li>Notify the county assessor of any change in the use of your nonprofit's property.</li> <li>A September 2018 article in the <i>North Carolina Law Review</i> provides a good overview of nonprofit property tax exemption in North Carolina (<a href="https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=6690&amp;context=nclr">https://scholarship.law.unc.edu/cgi/viewcontent.cgi?article=6690&amp;context=nclr</a>).</li> <li>Let the Center know if your request for property tax exemption is unreasonably denied by your county assessor.</li> </ul>	
<p><input type="checkbox"/> Applied for refunds of state and local sales and use taxes that you have paid?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>Any qualifying nonprofit that wants refunds of sales tax it pays on purchases in NC.</li> <li>Qualifying nonprofits include all 501(c)(3)s except those properly classified with NTEE codes of Community Improvement and Capacity Building, Public and Societal Benefit, or Mutual and Membership</li> </ul>	<ul style="list-style-type: none"> <li>Apply for an Account ID number from the Central Examination Division, NC Department of Revenue. Details at <a href="http://www.ncdor.gov/taxes-forms/sales-and-use-tax/amended-returns-and-refund-claims/frequently-asked-questions-regarding-form-e-585-nonprofit-and-governmental-entity-claim-refund-state">www.ncdor.gov/taxes-forms/sales-and-use-tax/amended-returns-and-refund-claims/frequently-asked-questions-regarding-form-e-585-nonprofit-and-governmental-entity-claim-refund-state</a>.</li> </ul>	

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<p><i>continued</i></p> <p><b>Applied for refunds of state and local sales and use taxes that you have paid?</b></p>	<p>Benefit organizations (<a href="https://nccs.urban.org/project/national-taxonomy-exempt-entities-ntee-codes">https://nccs.urban.org/project/national-taxonomy-exempt-entities-ntee-codes</a>).</p> <ul style="list-style-type: none"> <li>• Applies to purchases made directly by the organization <i>and</i> through staff reimbursement (other than reimbursement for travel expenses).</li> <li>• Refunds are capped at \$45 million per year (total of state and local sales taxes paid) per nonprofit.</li> <li>• Nonprofits are generally not exempt from North Carolina’s 3% highway use tax and are not eligible for refunds of this tax. Charitable nonprofits may be exempt from highway use tax on vehicles that are donated solely for the purpose of resale by the nonprofits.</li> </ul>	<ul style="list-style-type: none"> <li>• File Form E-585 semi-annually for refunds: by October 15 for taxes paid January-June; by April 15 for taxes paid July-December.</li> <li>• If the Internal Revenue Service misclassifies your non-profit’s NTEE code, you may appeal and request refunds from the NC Department of Revenue based on the proper classification.</li> <li>• <b>Note: Under North Carolina’s current tax laws, nonprofits are not eligible for point-of-sale exemption from sales and use tax, and the NC Department of Revenue does not issue sales and use tax exemption certificates to nonprofits on the basis of their federal tax-exempt status. Some businesses erroneously ask North Carolina nonprofits to provide a sales tax exemption certificate (Form E-595E) when they make purchases.</b></li> <li>• <b>The Center continues to advocate for legislators to replace the current nonprofit sales tax refund process with a point-of-sale exemption from sales tax for most 501(c)(3) nonprofits.</b></li> </ul>	
<p><input type="checkbox"/> <b>Collected sales tax on items you sell and remitted these funds to the State?</b></p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>• Any nonprofit selling physical or digital retail items like books, videos, t-shirts, concessions, recordings of webinars, and e-publications.</li> <li>• Sales are exempt if conducted on an annual basis to raise funds <i>and</i> if all products are delivered within 60 days after the solicitation (e.g., Girl Scout cookie sales). Nonprofits may have separate distinct annual sales events that are exempt from sales tax. Note: This exemption doesn’t apply to sales tax on admission charges.</li> <li>• Other nonprofit exemptions from sales tax include: (a) sales where the proceeds are given to the State of North Carolina or a state agency (e.g., public schools); (b) sales of concessions at school events that benefit the school, even if the proceeds go through a charitable nonprofit; (c) nonprofits’ sales of meals to seniors and individuals with disabilities where the meals are delivered to the individuals’ homes; and (d) food or prepared food sold by a house of worship where the proceeds are used for religious activities.</li> <li>• A nonprofit charging admission for entertainment activities, including live performances or live events for the purpose of entertainment, motion pictures, museums, cultural sites, gardens, exhibits, shows, and similar attractions. Educational, recreational, and many fundraising events done by nonprofits are not subject to this tax. Nonprofits do not need to charge sales tax on tuition or registration fees for educational events, regardless of whether enter-</li> </ul>	<ul style="list-style-type: none"> <li>• Register with the NC Department of Revenue for a Certificate of Registration.</li> <li>• File Form E-500 and pay the tax quarterly or monthly, depending on your volume of sales (<a href="http://www.ncdor.gov/taxes-forms/sales-and-use-tax/sales-and-use-tax-forms-and-certificates/tax-returns-schedules/form-e-500-sales-and-use-tax-return-october-2014-and-forward">www.ncdor.gov/taxes-forms/sales-and-use-tax/sales-and-use-tax-forms-and-certificates/tax-returns-schedules/form-e-500-sales-and-use-tax-return-october-2014-and-forward</a>).</li> <li>• If your nonprofit has collected taxes in more than one county, also file Form E-536 (Schedule of County Sales and Use Taxes). The county rate you charge is generally based on the delivery location. The tax rate differs by county (<a href="http://www.ncdor.gov/taxes-forms/sales-and-use-tax/sales-and-use-tax-rates-other-information">www.ncdor.gov/taxes-forms/sales-and-use-tax/sales-and-use-tax-rates-other-information</a>).</li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p><b>Collected sales tax on items you sell and remitted these funds to the State?</b></p>	<p>tainment is offered as an ancillary feature of these events.</p> <ul style="list-style-type: none"> <li>• Admission fees are exempt if they are tax-deductible contributions, including any tax-deductible portion of membership fees that would otherwise be subject to the tax.</li> <li>• Admission fees are also exempt if they are: (a) events sponsored by elementary or secondary schools; or (b) sponsored by “volunteer only” nonprofits that do not pay salary or other compensation to individuals and that do not compensate anyone for performing in, placing in, or producing the event.</li> <li>• <b>Beginning on October 1, 2019, nonprofits and businesses were required to collect and remit sales tax on digital property, including many online educational offerings. A 2020 law created an exemption from the sales tax on digital property for sales of digital audio or audiovisual works that consist of the contemporaneous access to a non-taxable service. Effectively, this means that nonprofits do not need to charge sales tax on registration fees for online educational participatory events like webinars, conferences, workshops, or fitness classes. However, nonprofits are required to collect and remit sales tax if they sell recordings of these types of online offerings.</b></li> <li>• <b>Under a law effective November 9, 2019, marketplace facilitators such as Amazon or Ebay are required to collect and remit sales tax on sales made through their platforms. This means that nonprofits may not need to collect and remit sales tax on goods and services sold through certain third-party websites.</b></li> </ul>		
<p><input type="checkbox"/> <b>Properly classified all employees and independent contractors?</b></p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>• Any nonprofit with paid staff, consultants, or contractors. The U.S. Department of Labor, IRS, and NC Department of Revenue can impose penalties for improper classification of consultants and contractors who are really employees.</li> </ul>	<ul style="list-style-type: none"> <li>• See IRS Publication 1779 (<a href="http://www.irs.gov/pub/irs-pdf/p1779.pdf">www.irs.gov/pub/irs-pdf/p1779.pdf</a>) to find specific criteria for classifying employees vs. contractors for the purpose of federal tax laws.</li> <li>• <b>In October 2022, the U.S. Department of Labor issued a proposed regulation (<a href="http://www.govinfo.gov/content/pkg/FR-2022-10-13/pdf/2022-21454.pdf">www.govinfo.gov/content/pkg/FR-2022-10-13/pdf/2022-21454.pdf</a>) setting new standards for classifying workers as employees or independent contractors under the Fair Labor Standards Act. Until the new rule is finalized, the U.S. Department of Labor continues to follow a March 2021 rule that created a two-prong test focusing on the employee’s exercise of control over their work and their opportunity for profit or loss. This “economic realities” test allows more employers – including some nonprofits – to classify their workers as contractors to avoid paying benefits and payroll taxes.</b></li> </ul>	



Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p>Properly classified all employees and independent contractors?</p>		<ul style="list-style-type: none"> <li>• When the most recent regulations are finalized and take effect (most likely in 2023), the DOL will once again use a multi-factor “totality of circumstances” test to determine whether workers are properly classified as employees or independent contractors for purposes of federal employment laws. The six factors in the proposed new regulations are: (1) opportunity for profit or loss depending on managerial skill; (2) investments by the worker and the employer; (3) degree of permanence of the work relationship; (4) nature and degree of control by the employer; (5) extent to which the work performed is an integral part of the employer’s business; and (6) the worker’s skill and initiative. For more information, see <a href="http://www.dol.gov/agencies/whd/flsa/misclassification">www.dol.gov/agencies/whd/flsa/misclassification</a>.</li> <li>• Starting in 2021, nonprofits that paid individuals \$600 or more as independent contractors must file IRS Form 1099-NEC with the IRS and with these contractors. In the past, nonprofits used IRS Form 1099-MISC to report non-employee compensation to contractors. Nonprofits should still use Form 1099-MISC to report compensation of \$600 or more paid to attorneys and for raffle prizes of \$600 or more. See <a href="http://www.irs.gov/instructions/i1099misc">www.irs.gov/instructions/i1099misc</a>.</li> </ul>	
<p><input type="checkbox"/> Properly classified all employees as either exempt or non-exempt from the Fair Labor Standards Act and paid overtime where appropriate?</p>	<ul style="list-style-type: none"> <li>• All nonprofits and foundations with paid employees.</li> <li>• Under the Fair Labor Standards Act (FLSA) and the NC Wage and Hour Act, you <i>must</i> provide overtime pay to all workers unless they are <i>specifically</i> exempted from coverage. See p. 20-22 of the Center’s <i>Employment Law for North Carolina Nonprofits</i> (<a href="http://www.ncnonprofits.org/sites/default/files/resource_attachments/EmploymentLawHandbook.pdf">www.ncnonprofits.org/sites/default/files/resource_attachments/EmploymentLawHandbook.pdf</a>).</li> <li>• <b>Note: In September 2019, the U.S. Department of Labor issued final regulations that increased the salary threshold for exempt employees. Starting in 2020, more nonprofit employees were eligible for overtime pay when they work more than 40 hours in a work week. The U.S. Department of Labor is expect to issue updated regulations further increasing the salary threshold in late 2022 or early 2023. These regulations, which also could potentially clarify parts of the duties tests for administrative, executive, and professional employees, will likely take effect sometime in 2023.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Employees are exempt from the overtime pay requirements of FLSA if they: (1) are paid at least the minimum salary level; (2) are paid on a salary basis; and (3) exercise job duties that are classified as exempt (<i>i.e.</i>, executive, administrative, or professional).</li> <li>• Effective January 1, 2020, the salary threshold for exempt administrative, executive, and professional employees increased to \$35,568 per year (\$684 per week), and the salary threshold for highly compensated employees increased to \$107,432 per year. For more details about the increased salary threshold for overtime pay and compliance options for nonprofits, see <a href="http://www.ncnonprofits.org/resources/2019-dol-overtime-rule-and-nonprofits">www.ncnonprofits.org/resources/2019-dol-overtime-rule-and-nonprofits</a>.</li> <li>• Nonprofits can change an employee’s status any time during the year.</li> <li>• Nonprofits must pay non-exempt staff 1.5 times their usual hourly pay rate for any time they work more than 40 hours in one work week.</li> <li>• The U.S. Department of Labor has a fact sheet with more details about the duties tests for administrative, executive, and professional employees at <a href="http://www.dol.gov/whd/overtime/fs17a_overview.pdf">www.dol.gov/whd/overtime/fs17a_overview.pdf</a>.</li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<input type="checkbox"/> Followed all state and federal employment laws including: filing I-9, W-2, and W-4 forms; withholding tax; paying employment taxes; and putting up posters?	<ul style="list-style-type: none"> <li>Any nonprofit with paid employees, whether part-time or full-time.</li> <li>Your nonprofit must pay Social Security and Medicare taxes for <i>all</i> employees.</li> <li>State law requires nonprofits with 25 or more employees to use the federal E-Verify system to check the immigration status of new employees.</li> </ul>	<ul style="list-style-type: none"> <li>Contact the U.S. Department of Labor, <a href="http://www.dol.gov">www.dol.gov</a>, or NC Department of Labor, <a href="http://www.labor.nc.gov">www.labor.nc.gov</a>.</li> <li>Download free employment posters at <a href="http://www.labor.nc.gov/safety-and-health/publications">www.labor.nc.gov/safety-and-health/publications</a>. You do not need to buy these posters!</li> <li>See the Center's <i>Employment Law for North Carolina Nonprofits</i> (<a href="http://www.ncnonprofits.org/sites/default/files/resource_attachments/EmploymentLawHandbook.pdf">www.ncnonprofits.org/sites/default/files/resource_attachments/EmploymentLawHandbook.pdf</a>).</li> <li>For more on withholding and paying federal employment taxes, see <a href="http://www.irs.gov/charities-non-profits/employment-taxes-for-exempt-organizations">www.irs.gov/charities-non-profits/employment-taxes-for-exempt-organizations</a>.</li> </ul>	
<input type="checkbox"/> Applied for an Unemployment Tax Number and paid State Unemployment Tax?	<ul style="list-style-type: none"> <li>Nonprofits generally pay state unemployment insurance (UI) taxes.</li> <li>Nonprofits that have employed four or more people for any part of 20 different weeks in the current or previous calendar year.</li> <li>Nonprofits have the option of electing to reimburse the state for unemployment claims instead of paying UI taxes. Nonprofits electing to reimburse must maintain 1% of their total payroll in an escrow account with the NC Department of Commerce.</li> <li><b>Reimbursing nonprofits in North Carolina were not charged for UI claims arising due to COVID-19 from the beginning of the pandemic through September 4, 2021. The federal and state laws providing for partial non-charging of benefits to reimbursing nonprofits expired on September 4, 2021, so reimbursing nonprofits are responsible for the cost of benefits beginning on September 4, 2021.</b></li> <li><b>Most nonprofits with fewer than four employees and most religious nonprofits are exempt from paying state UI taxes. Employees of exempt nonprofits are generally not eligible for UI benefits if they are out of work. During the COVID-19 pandemic, individuals who worked for exempt nonprofits and were out of work due to COVID-19 were eligible to apply for up to 39 weeks of UI benefits through September 4, 2021 through the Pandemic Unemployment Assistance program.</b></li> </ul>	<ul style="list-style-type: none"> <li>Apply before hiring employees.</li> <li>Contact the Division of Employment Security (DES) of the NC Department of Commerce, <a href="http://des.nc.gov">http://des.nc.gov</a>.</li> <li><b>The Center's unemployment tax savings program for members has already saved nonprofits more than \$9 million.</b> For details, see First Nonprofit at <a href="http://www.ncnonprofits.org/services/money-saving-partnerships#FirstNonprofit">www.ncnonprofits.org/services/money-saving-partnerships#FirstNonprofit</a> and contact Cheryl Jones (612-308-4283, <a href="mailto:cjones@firstnonprofit.com">cjones@firstnonprofit.com</a>).</li> <li>Nonprofits that elect to reimburse the state for unemployment claims may apply for a refund if they erroneously remit more than the required 1% of payroll to the state.</li> <li>Because unemployment benefits are lower in North Carolina than in other states, electing to reimburse may be a more cost-effective approach for many North Carolina nonprofits.</li> <li><b>Nonprofits that pay state unemployment tax (SUTA) instead of reimbursing for unemployment claims must pay SUTA quarterly. The SUTA tax rate is a combination of the base rate (1.9% in 2022) and employers' experience rating, which is based on the history of UI claims by their employees.</b></li> </ul>	
<input type="checkbox"/> Obtained workers' compensation insurance?	<ul style="list-style-type: none"> <li>Any incorporated nonprofit with three or more employees and/or corporate officers. Nonprofits are not required to provide workers' compensation for uncompensated board officers.</li> </ul>	<ul style="list-style-type: none"> <li>Contact the NC Industrial Commission, 800-688-8349, <a href="http://www.ic.nc.gov">www.ic.nc.gov</a>.</li> <li>For more, see <a href="http://www.ncnonprofits.org/public-policy/workers-compensation-good-nonprofit-employees-and-employers">www.ncnonprofits.org/public-policy/workers-compensation-good-nonprofit-employees-and-employers</a>.</li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<input type="checkbox"/> Used comparability data to determine executive compensation?	<ul style="list-style-type: none"> <li>• Nonprofits with paid employees.</li> <li>• On Form 990, nonprofits are required to indicate whether they used comparability data to determine salaries and benefits.</li> </ul>	<ul style="list-style-type: none"> <li>• The Center publishes a biennial report on salaries and benefits in NC nonprofits (<a href="http://www.ncnonprofits.org/resources/salaries-and-benefits">www.ncnonprofits.org/resources/salaries-and-benefits</a>).</li> </ul>	
<input type="checkbox"/> Properly compensated your paid interns?	<ul style="list-style-type: none"> <li>• Charitable nonprofits can use volunteer interns as long as they are unpaid and not provided a stipend.</li> <li>• If a 501(c)(3) nonprofit chooses to pay its interns, these interns may be classified as employees who are subject to minimum wage and overtime pay requirements under the Fair Labor Standards Act. If a nonprofit pays an intern a stipend lower than the minimum wage of \$7.25 per hour, it must be certain that the internship satisfies the “economic realities” test that the relationship is not employment.</li> </ul>	<ul style="list-style-type: none"> <li>• The U.S. Department of Labor provides guidance with a seven-factor test to determine whether paid interns are classified as employees who are subject to the minimum wage requirements of the Fair Labor Standards Act (<a href="http://www.dol.gov/whd/regs/compliance/whdfs71.pdf">www.dol.gov/whd/regs/compliance/whdfs71.pdf</a>).</li> <li>• See the National Council of Nonprofits’ resource on nonprofit interns at <a href="http://www.councilofnonprofits.org/tools-resources/interns-employee-or-volunteer">www.councilofnonprofits.org/tools-resources/interns-employee-or-volunteer</a>.</li> </ul>	
<input type="checkbox"/> Created a plan document for your employee retirement plan and electronically filed a Form 5500?	<ul style="list-style-type: none"> <li>• Nonprofits with 403(b) plans and other retirement plans subject to the Employment Retirement Income Security Act (ERISA).</li> </ul>	<ul style="list-style-type: none"> <li>• You must file Form 5500 electronically. It is due seven months after your plan’s year-end date. See <a href="http://www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500">www.dol.gov/agencies/ebsa/employers-and-advisers/plan-administration-and-compliance/reporting-and-filing/form-5500</a>.</li> <li>• Those at your nonprofit responsible for signing your Form 5500 need to register on the Department of Labor’s EFAST2 website, <a href="http://www.efast.dol.gov">www.efast.dol.gov</a>.</li> <li>• If your nonprofit has a 403(b) plan, you must have a written plan document. See <a href="http://www.irs.gov/retirement-plans/irc-403b-tax-sheltered-annuity-plans">www.irs.gov/retirement-plans/irc-403b-tax-sheltered-annuity-plans</a>.</li> <li>• <b>The Center now offers a multiple employer plan (MEP) for member nonprofits through Mutual of America. Nonprofits participating in the MEP have streamlined compliance requirements and are not required to file separate Form 5500 filings each year. For more information, see <a href="http://www.ncnonprofits.org/services/money-saving-partnerships#Mutual">www.ncnonprofits.org/services/money-saving-partnerships#Mutual</a>.</b></li> </ul>	
<input type="checkbox"/> Provided health insurance for your employees?  <i>continued</i>	<ul style="list-style-type: none"> <li>• <b>Any nonprofit with 50 or more full-time employees (including full-time equivalents) on average for the prior year is a large employer that is required to offer health insurance to its employees under the Affordable Care Act.</b></li> <li>• <b>Smaller nonprofits have the option of offering health coverage for their employees. Nonprofits that offer employer-based health coverage also have the option of covering some or all of the costs for employees’ spouses and dependents to participate in these health plans.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Nonprofits that qualify as large employers are required to provide health insurance for their employees and must file Form 1095-C and 1094-C with the Internal Revenue Service. The IRS has more information about requirements for large employers at <a href="http://www.irs.gov/affordable-care-act/employers/aca-information-center-for-applicable-large-employers-ales">www.irs.gov/affordable-care-act/employers/aca-information-center-for-applicable-large-employers-ales</a>.</li> <li>• <b>Smaller nonprofits have a variety of options for providing (or not providing) health coverage for their employees. These options include obtaining a group health insurance for employees and offering a taxable salary supplement to cover some or all of employees’ health insurance costs and tax-free Qualified Small Employer Health Reimbursement Arrangement (QSEHRA). Healthcare.gov has more information about QSEHRAs (<a href="http://www.healthcare.gov/glossary/qsehra">www.healthcare.gov/glossary/qsehra</a>).</b></li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p>Provided health insurance for your employees?</p>		<ul style="list-style-type: none"> <li>Some nonprofits that offer health insurance for their employees may be eligible for a refundable tax credit under the Small Business Health Care Tax Credit (<a href="http://www.healthcare.gov/small-businesses/provide-shop-coverage/small-business-tax-credits">www.healthcare.gov/small-businesses/provide-shop-coverage/small-business-tax-credits</a>).</li> <li>A law that took effect on October 1, 2021 allows nonprofits and small businesses to form exclusive provider benefit (EPO) plans for their employees. EPO benefit plans are typically about 10% less expensive than other health insurance plans and allow participants to use a limited network of local health care providers while paying the full cost for any out-of-network health services other than emergency care.</li> <li>Under 2013 IRS regulations, employees and their spouses and dependents were ineligible for Affordable Care Act marketplace premium subsidies if the employee had access to “affordable” health insurance through their employer, regardless of whether other family members had access to “affordable” health coverage. New IRS regulations issued in October 2022 will make spouses and dependents of employees eligible for Affordable Care Act marketplace premium subsidies if coverage for the entire family costs more than 9.12% of household income under the lowest-cost employer-provided health plan. This change, which takes effect on January 1, 2023, will mean that many family members of nonprofit employees will become eligible for less-expensive health coverage on the Affordable Care Act marketplace.</li> <li>The Center has more information on health insurance options for nonprofits at <a href="http://www.ncnonprofits.org/nonprofit-health-insurance">www.ncnonprofits.org/nonprofit-health-insurance</a>.</li> </ul>	
<p><input type="checkbox"/> Followed state laws for raffles, bingo events, game nights, and alcohol at fundraising events?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>Any nonprofit that offers a raffle or bingo game as a fundraising event.</li> <li>Any nonprofit that offers a game night (or casino night) as a fundraising event.</li> <li>Any nonprofit that serves or sells alcohol at a fundraising event.</li> </ul>	<ul style="list-style-type: none"> <li>Nonprofits may conduct up to four raffles per year as fundraising events. The maximum cash prize for any raffle is \$250,000, and nonprofits may raffle real property valued at up to \$500,000. At least 90% of the net proceeds of the raffle must be used for a nonprofit’s mission-related purposes, and none of the net proceeds can be used to pay a person to conduct a raffle or to rent a space where the raffle is conducted. Nonprofits are not required to have a license to conduct raffles. See <a href="http://www.ncnonprofits.org/resources/raffles-101">www.ncnonprofits.org/resources/raffles-101</a>.</li> <li>Nonprofits may offer alcohol in the manufacturer’s original closed container as a prize for a raffle or auction, as long as the nonprofit has obtained a special one-time alcohol permit for the event. For more on one-time alcohol permits, see <a href="https://abc.nc.gov/Permit/QualificationSOTNP">https://abc.nc.gov/Permit/QualificationSOTNP</a>.</li> <li>It is legal for nonprofits to offer casino nights or game nights as fundraising events anywhere east of I-26 in</li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p>Followed state laws for raffles, bingo events, game nights, and alcohol at fundraising events?</p>		<p>North Carolina. Nonprofits may offer up to four game nights per year (not more than one per quarter) and must obtain a license from the NC Department of Public Safety (<a href="http://www.ncdps.gov/our-organization/law-enforcement/alcohol-law-enforcement/game-nights">www.ncdps.gov/our-organization/law-enforcement/alcohol-law-enforcement/game-nights</a>). The fee for a game night sponsor license is \$100.</p> <ul style="list-style-type: none"> <li>• A nonprofit conducting bingo games is required to get an annual license from the NC Department of Public Safety (<a href="http://www.ncdps.gov/our-organization/law-enforcement/alcohol-law-enforcement/bingo">www.ncdps.gov/our-organization/law-enforcement/alcohol-law-enforcement/bingo</a>). The annual fee for a nonprofit bingo license is \$200.</li> <li>• Nonprofits may obtain special one-time permits from the NC Department of Public Safety to sell or serve alcohol at fundraising events (<a href="https://abc.nc.gov/Permit/QualificationSOTNP">https://abc.nc.gov/Permit/QualificationSOTNP</a>).</li> <li>• Nonprofits must file IRS Form W-2G on raffle prizes of \$600 or more where the payout is at least 300 times the amount of the wager, and must withhold 25% taxes on raffle prizes of \$5,000 or more. Raffle tickets are not deductible as charitable contributions. For more, see <a href="http://www.irs.gov/pub/irs-tege/notice_1340.pdf">www.irs.gov/pub/irs-tege/notice_1340.pdf</a>.</li> </ul>	
<p><input type="checkbox"/> Complied with donor instructions not to reveal their identity?</p>	<ul style="list-style-type: none"> <li>• Nonprofits receiving contributions from donors who provide written instructions prior to, or at the time of, their donations that the nonprofit may not disclose their identity.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Under legislation that passed the NC General Assembly in 2021 but was vetoed by Governor Cooper, nonprofits would have been required to keep private (and not disclose) the identity of donors who provided written notice requesting that their identity not be disclosed. Although this limitation is not currently required by the NC Nonprofit Corporation Act, it is a good practice for nonprofits to follow written instructions from their donors requesting that their identities not be disclosed. It is possible that the NC General Assembly could consider similar legislation in 2023.</b></li> </ul>	
<p><input type="checkbox"/> Studied current reporting requirements and contracting rules for any funds that your nonprofit receives through the State?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>• Any nonprofit that receives state grant funds or federal grant funds that pass through a state government agency.</li> <li>• <b>Starting on July 15, 2022, nonprofits with grants and contracts through the NC Department of Health and Human Services have additional contractual rights.</b></li> </ul>	<ul style="list-style-type: none"> <li>• Any nonprofit receiving state grants and/or appropriations must provide certification to its granting agency that its state funds were used for the purposes for which they were awarded and must provide an accounting of all state funds it receives, uses, holds, or spends.</li> <li>• Any nonprofit receiving a state grant must provide the granting agency a copy of its conflict of interest policy and must certify to the granting agency that it does not have overdue federal, state, or local tax debts.</li> <li>• Any nonprofit receiving \$25,000 or more in state grants and/or appropriations must report to its granting agency on its activities and accomplishments, including reporting on any relevant performance measures.</li> <li>• Any nonprofit receiving \$500,000 or more in state grants and/or appropriations must have a single or program-specific audit prepared in accordance with Generally Accepted Governmental Auditing Standards (also known as a Yellow Book Audit).</li> </ul>	

**Have you**

**Who has to do it**

**How and when to do it**

**Notes**

*continued*  
**Studied current reporting requirements and contracting rules for any funds that your nonprofit receives through the State?**

- Nonprofits receiving state grants and/or appropriations must submit reports directly to their granting agencies.
- Cities and counties *may* require nonprofits receiving grants or appropriations of \$1,000 or more in any fiscal year to have an audit.
- The NC State Auditor has the authority to audit any nonprofit receiving \$1,000 or more in state funding in any fiscal year.
- Under a law that took effect on October 21, 2021, any nonprofit with a state grant or state contract that does not provide information requested by the State Auditor as part of a state verification audit is presumed to have “failed to meet any condition precedent, classification, or other eligibility or qualifying standard subject to the verification audit.”
- **Under a new law that took effect on July 15, 2022, any nonprofit with a grant or contract through the NC Department of Health and Human Services (DHHS) has three new rights: (1) the right to two-year contracts, with the opportunity for an extension for a third year if the nonprofit is receiving recurring funding and multi-year contracts are not prohibited by other funding sources; (2) the ability to receive three-month continuity of services extensions if the nonprofit has been operating for at least five years, receives recurring funding, has an unqualified report on its most recent audit, and has a track record of timely performance and financial reporting; and (3) the right to a *de minimis* indirect cost rate of 10% of modified total direct costs for nonprofits without negotiated federal indirect costs rates. The Center successfully advocated for this new law based on input from, and with collaboration from, a large coalition of nonprofits. The Center continues to work with the NCDHHS on clarification for how the law is being implemented and will continue to work with other nonprofits, the Department, and legislators on any additional changes that are necessary to improve the contracting process for nonprofits with state grants and contracts.**

**Followed the federal grant and contract rules under the OMB Uniform Guidance?**

• Nonprofits with federal grants or contracts – or state or local grants or contracts that include federal funds.

- Nonprofits without a federally-approved indirect cost rate can elect to be paid a *de minimis* rate of 10% of modified total direct costs.
- Pass-through entities (state and local governments) are required to recognize this *de minimis* rate of nonprofits’ federally-negotiated rates.
- More costs (e.g., some program administration costs) are treated as direct costs under the OMB Uniform Guidance.
- The threshold for single audits is \$750,000.

*continued*

Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p>Followed the federal grant and contract rules under the OMB Uniform Guidance?</p>		<ul style="list-style-type: none"> <li>The OMB Uniform Guidance requires the use of consistent, documented procurement processes for purchases made with federal funds.</li> <li><b>In August 2020, OMB issued updates to the Uniform Guidance (<a href="http://www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf">www.govinfo.gov/content/pkg/FR-2020-08-13/pdf/2020-17468.pdf</a>). These changes took effect on November 12, 2020.</b></li> <li>For more information, see <a href="http://www.councilofnonprofits.org/omb-uniform-guidance">www.councilofnonprofits.org/omb-uniform-guidance</a>.</li> </ul>	
<p><input type="checkbox"/> Complied with Uniform Prudent Management of Institutional Funds Act (UPMIFA) to invest and spend from endowed and other restricted funds?</p>	<ul style="list-style-type: none"> <li>All nonprofits holding funds with donor-imposed restrictions.</li> <li>These rules do not apply to funds set aside for specific purposes by the board.</li> <li>Restrictions may be released for funds created more than 10 years ago <i>and</i> with total assets less than \$100,000.</li> </ul>	<ul style="list-style-type: none"> <li>Adopt a policy that requires the board to analyze statutory “prudence factors” when investing and spending from endowed and other restricted funds.</li> <li>Retain gift agreements creating endowed and other restricted funds in your permanent records.</li> </ul>	
<p><input type="checkbox"/> Registered with the state as a lobbyist principal or solicitor (organizations) and as a lobbyist (individuals), as well as filed quarterly reports?</p>	<ul style="list-style-type: none"> <li>Nonprofit employees (but not volunteers) who spend at least 5% of their time lobbying members of the NC General Assembly or NC executive branch officers in any 30-day period must register as lobbyists. Any paid nonprofit contractor who lobbies must register as a lobbyist. Nonprofits compensating lobbyists need to register as “lobbyist principals.”</li> <li>Prior to 2019, nonprofits that were not “lobbyist principals” but that asked members of the general public to engage in lobbying were required to register as solicitors if they spend at least \$3,000 in any 90-day period on this type of solicitation. <b>This requirement is no longer in place.</b></li> <li><b>Nonprofits that collaborate with other organizations on ballot measure advocacy must register as “referendum committees.”</b></li> </ul>	<ul style="list-style-type: none"> <li>Lobbyists, principals, and solicitors must register with the NC Secretary of State every year (within one day of starting to lobby) and pay a \$250 annual fee (separate fees for lobbyists and principals). Principals must report total compensation paid to lobbyists for actual lobbying and related activities once a year on their final reports. Lobbyists, principals, and solicitors must file notarized quarterly reports of their lobbying and solicitation activities. All forms must be submitted electronically (and, therefore, also include a \$3 electronic filing fee).</li> <li>Get forms at <a href="http://www.sosnc.gov/divisions/lobbying">www.sosnc.gov/divisions/lobbying</a>. See a summary of NC lobbying laws at <a href="http://www.ncnonprofits.org/resources/summary-north-carolina-lobbying-law">www.ncnonprofits.org/resources/summary-north-carolina-lobbying-law</a>.</li> <li><b>For statewide ballot measures, referendum committees must register with the NC State Board of Elections. For local ballot measures, referendum committees must register with the county board of elections in the county where the initiative appears on the ballot. For more information, see <a href="http://www.ncsbe.gov/campaign-finance/referendum-committees">www.ncsbe.gov/campaign-finance/referendum-committees</a>.</b></li> </ul>	
<p><input type="checkbox"/> Filed for an assumed business name certificate?</p> <p><i>continued</i></p>	<ul style="list-style-type: none"> <li>Any nonprofit that operates under a name other than the name identified in its articles of incorporation.</li> </ul>	<ul style="list-style-type: none"> <li>Starting December 1, 2017, a nonprofit that operates using a name other than its legal name (e.g., the name in its articles of incorporation) is required to file for an assumed business name certificate with the register of deeds in one NC county where it conducts business. Under a new law passed in 2016, the NC Secretary of State will maintain a statewide database of assumed business names so nonprofits will no longer need to file in more than one county.</li> </ul>	

Have you	Who has to do it	How and when to do it	Notes
<p><i>continued</i></p> <p>Filed for an assumed business name certificate?</p>		<ul style="list-style-type: none"> <li>All assumed name certificates issued under the old law (Article 14 of Chapter 66 of the NC General Statutes) will expire on December 1, 2022, so nonprofits with existing assumed business name certificates will need to refile these under the new law (Article 14A of Chapter 66 of the NC General Statutes) in one county to continue to have an assumed business name certificate after that date.</li> <li>More information, assumed business names searches, and registration forms are available at <a href="http://www.sosnc.gov/divisions/business_registration/assumed_business_names">www.sosnc.gov/divisions/business_registration/assumed_business_names</a>.</li> </ul>	
<p><input type="checkbox"/> Provided notice of actions taken to limit the spread of COVID-19 at your nonprofit's facility?</p>	<ul style="list-style-type: none"> <li>Any nonprofit that owns or rents a physical space.</li> <li>A 2020 state law provides limited immunity for nonprofits and businesses for the contraction of COVID-19 at their facilities unless the act or omission leading to the contraction of COVID-19 was due to gross negligence, willful or wanton conduct, or intentional wrongdoing. This limitation of liability continues through February 11, 2023 (180 days after the expiration of the state's emergency declaration due to COVID-19 on August 15, 2022).</li> <li>The law also requires nonprofits and businesses to provide reasonable notice of the actions they have taken to reduce the spread of COVID-19 on their premises.</li> </ul>	<ul style="list-style-type: none"> <li>Nonprofits should post clear and public notice of the steps they are taking to reduce the spread of COVID-19 at their facilities, including policies related to face coverings, social distancing, and sanitation.</li> </ul>	
<p><input type="checkbox"/> Considered whether to require your nonprofit's employees to have COVID-19 vaccinations?</p>	<ul style="list-style-type: none"> <li>Under a federal regulation, workers at nonprofit health facilities with Medicare or Medicaid reimbursement must be vaccinated against COVID-19 or be tested at least weekly for COVID-19.</li> <li>Any nonprofit with employees should consider whether a vaccination requirement is an appropriate measure to help protect its staff, clients, and visitors from the spread of COVID-19.</li> </ul>	<ul style="list-style-type: none"> <li>On November 5, 2021, the Centers for Medicare and Medicaid Services (CMS) issued Emergency Temporary Standards (ETS) on COVID-19 vaccinations for health facilities that receive Medicaid or Medicare reimbursements. The CMS ETS requires covered health facilities to have policies requiring their employees to be vaccinated against COVID-19. On January 13, 2022, the U.S. Supreme Court allowed the CMS ETS to move forward. For more information on the CMS Emergency Temporary Standards, see <a href="https://www.cms.gov/files/document/cms-omnibus-covid-19-health-care-staff-vaccination-requirements-2021.pdf">https://www.cms.gov/files/document/cms-omnibus-covid-19-health-care-staff-vaccination-requirements-2021.pdf</a>.</li> <li>Federal and state laws give nonprofits the option of requiring employees to be vaccinated against COVID-19. Nonprofits that adopt vaccination requirements must provide exceptions for employees who are unable to be vaccinated for medical reasons or because of sincerely-held religious beliefs. Nonprofits may also wish to consider whether to update their vaccination policies to take into account COVID-19 vaccination boosters.</li> <li>More information is available at <a href="http://www.ncnonprofits.org/blog/covid-19-vaccination-requirements-considerations-nonprofits">www.ncnonprofits.org/blog/covid-19-vaccination-requirements-considerations-nonprofits</a>.</li> </ul>	



Have you	Who has to do it	How and when to do it	Notes
<input type="checkbox"/> <b>Considered applying for the Employee Retention Tax Credit?</b>	<ul style="list-style-type: none"> <li>• Nonprofits with a 20% drop in revenue for any of the first three quarters in 2021 compared to the same quarter in 2019.</li> </ul>	<ul style="list-style-type: none"> <li>• In December 2020, Congress extended and expanded the Employee Retention Tax Credit. Eligible nonprofits may receive this refundable payroll tax credit if they had a 20% decline in revenue for any of the first three quarters of 2021 compared to the same quarter in 2019. Nonprofits that received Paycheck Protection Program loans may also apply for the ERTC, but they must use separate expenses for the two federal relief programs.</li> <li>• <b>The deadline for application for the ERTC is March 12, 2023.</b></li> <li>• See <a href="http://www.councilofnonprofits.org/thought-leadership/nonprofits-don-t-overlook-your-potential-refund-under-the-employee-retention-tax">www.councilofnonprofits.org/thought-leadership/nonprofits-don-t-overlook-your-potential-refund-under-the-employee-retention-tax</a>.</li> </ul>	
<input type="checkbox"/> <b>Followed state laws for remote membership meetings?</b>	<ul style="list-style-type: none"> <li>• Nonprofits with voting members.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>A new law that took effect on September 20, 2021 allows nonprofits to conduct membership meetings remotely or in person and allows nonprofits to conduct membership votes by written ballots or electronic votes without a meeting. For more information, see <a href="http://www.ncnonprofits.org/blog/new-options-electronic-voting-boards-and-remote-membership-meetings">www.ncnonprofits.org/blog/new-options-electronic-voting-boards-and-remote-membership-meetings</a>.</b></li> </ul>	
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