

Creating Your New Non-Profit Corporation

❑ How do I form a nonprofit public benefit corporation?

The first step is filing Articles of Incorporation with the California Secretary of State. Articles must include certain information such as the name of the corporation, identification as a public benefit corporation, a statement describing the specific purposes of the corporation, the initial agent for service of process and specific language required to obtain tax exempt status. A separate Statement of Information must be filed with the Secretary of State within 90 days after filing the Articles, and biennially thereafter.

❑ Is the corporation automatically tax exempt?

No, the corporation is not automatically tax exempt. After filing its Articles, the corporation must file federal and state applications to obtain tax exempt status. The federal application must be filed within 27 months of incorporation in order for tax exempt status to be granted effective as of the date of incorporation.

❑ How are the initial members of the governing board appointed?

Typically the initial members of the governing board are either identified in the Articles or appointed by the incorporator after the Articles are filed.

❑ What are bylaws and how are they adopted?

Bylaws establish the governance and operational framework for the corporation. Certain minimum information must be included in bylaws, such as the number (or minimum and maximum number) of directors if not specified in the Articles. Bylaws are typically adopted by the corporation's governing board at an initial organizational meeting.

-Continued on second page-

□ **What else should be considered at the initial organizational meeting?**

It is typical for the governing board to take such actions as ratifying the actions of the incorporator, establishing the accounting year, authorizing and directing payment of expenses associated with incorporation and organization of the corporation, opening of bank accounts, filing of tax exemption applications and a statement of information, and obtaining a federal employer identification number. This list provides some examples and is not intended to be exhaustive.

Contact

A. Aiko Yamakawa

Associate, Procopio, Cory, Hargreaves & Savitch LLP

619.525.3882 | fax: 619.398.0135

aiko.yamakawa@procopio.com

Disclaimer: Although the information contained herein is provided by professionals at Procopio, the content and information should not be used as a substitute for professional services. If legal or other professional advice is required, the services of a professional should be sought.

Procopio, Cory, Hargreaves & Savitch LLP

Downtown San Diego Office: 525 B Street, Suite 2200 | San Diego CA 92101 | t. 619.238.1900

North County Office: 1917 Palomar Oaks Way, Suite 300 | Carlsbad, CA 92008 | t. 760.931.9700

www.procopio.com