INTRODUCTION

What is Not-For-Profit Law?

Not-For-Profit Law deals with taxation and the special problems faced by organizations whose central motivation is service and not profit. No part of a Not-For-Profit’s income is redistributed as salaries to its members, directors, or officers. Not-For-Profits can take the form of a corporation, unincorporated association, partnership, foundation, or condominium. These organizations must be designated as a nonprofit entity upon creation, and may only pursue permissible purposes as defined by statute.

Not-For-Profit organizations include churches, public schools, public charities, public clinics and hospitals, political organizations, legal aid societies, volunteer services organizations, labor unions, professional associations, universities, research institutes, museums, and some governmental agencies.

Where does federal tax law apply?

Under federal tax policy, Not-For-Profit organizations are exempt from taxation if they are organized and administered solely for religious, charitable, scientific, public safety, literary, educational, prevention of cruelty to children or animals purposes, and/or to develop national or international sports.
What is the role of state law?

Not-for-Profits are organized under state law. Each state defines Not-for-Profits differently. These definitions will dictate what legal privileges are afforded the nonprofit organization. Some states have adopted the *Uniform Unincorporated Non-Profit Association Act* and the *Revised Model Non-Profit Corporation Act* to provide legislation governing Not-For-Profit organizations in their state.

States may exempt Not-For-Profit organizations from state tax and state employment programs. Other perks include limited immunity from tort liability and tort liability damages caps. These privileges vary by state. State law also governs solicitation privileges and accreditation requirements such as licenses and permits.

This guide lists resources that can found in the Barclay Law Library and on the internet. It is divided into several parts as set forth in the outline below. These resources are useful for citations and serve as a starting point in your research. For online access to comparable resources found in either Westlaw, Lexis or other law library electronic resources please consult with a reference librarian.

**Not-For-Profit Law Research Guide Outline**

- Introduction
- Not-for-Profit Entities
- For-Profit Entities
- Real Estate Transactions
- Internet Sources (Internal Revenue Service)
- Nolo Publications: Community Legal Resource Center
- Additional Titles
FORMATTION & TAX EXEMPT STATUS

*New York Nonprofit Law and Practice: With Tax Analysis* (LexisNexis)
Stack 1 Call Number: KFN5342 B582

This resource is a reference tool for organizing, advising, managing, or serving as a board member on a New York Not-For-Profit organization. It sets forth the steps an organizer will need to follow to manage and administer the organization.

*New York Practice Guide: Business & Commercial* (Bender)
Stack 1 Call Number: KFN5337 .N48 5 vols.

This resource provides legal and practical information concerning New York business entities.

Chapter 1: Part A discusses the legal background for various business organizations such as corporations, limited liability companies, partnerships and Not-For-Profit corporations. Part B discusses the practical considerations for establishing a particular enterprise such a partnership or limited liability company.

Chapter 2: Part A discusses the tax considerations for choosing a particular business entity. Part B discusses when to use a Limited Liability company or a Partnership Limited Liability company.

Chapter 8 is dedicated to Not-for-Profit Corporations. It explains the different corporate purposes allowed under the New York *Not-for-Profit Corporation Law*. Information is provided for preparing various essential documents and the steps required for commencing corporate operations. Also discussed is the role of members, directors, and board of management in the corporation, as well as the duties of officers. Sample Not-For-Profit forms are included.

*Bruce Hopkins, Starting and Managing a Nonprofit Organization: A Legal Guide* (J.Wiley & Sons)
Reference - Community Legal Resource Center Call Number: KF1388 .H66

Provides information on such matters as starting a nonprofit organization, governance, annual reporting requirements and regulations concerning fundraising and income.
OBTAINING NOT-FOR-PROFIT STATUS

Tax Planning and Compliance for Tax-Exempt Organizations: Rules, Checklists, Procedures (J. Wiley & Sons) 5th Floor Call Number: KF6449 .B58

This resource explains how an organization can qualify under IRC § 501(c)(3). It provides explanations and examples of different exempt purposes, unrelated business income, creation of a for-profit subsidiary, and obtaining and maintaining tax-exempt status.

Bruce Hopkins, The Law of Tax-Exempt Organizations (Wiley) Reserves Call Number: KF6449 .H6

This introduction to the law of tax-exempt organizations discusses different exempt purposes, the acquisition and maintenance of tax exemption, for-profit subsidiaries and, governance principles.

Marilyn E. Phelan, Nonprofit Enterprises: Corporations, Trusts, and Associations (West Group) Stack 4 Call Number: KF1388 .P47

Explains how to obtain federal tax-exempt status and explains different tax-exempt purposes.

Subjects discussed include:
- Ch. 1 – Nature of Non-Profit Enterprises
- Ch. 2 – Creation of a Non-Profit corporation
- Ch. 3 – Members and Directors of a Non-Profit Corporation
- Ch. 4 – Liability of Members & Directors
- Ch. 6 – Accounting for Non-Profit Enterprises
- Ch. 11 – Unrelated Business Taxable Income

MAINTENANCE

Guidebook for Directors of Nonprofit Corporations (ABA) Stack 4 Call Number: KF1388.7.Z9 G85

Topics include: activities of nonprofit directors; committees and advisory bodies; taxation; creation of for-profit subsidiaries and joint ventures; duties and liabilities of directors; and the legal environment of the nonprofit corporation.
Joint Ventures Involving Tax-Exempt Organizations (Wiley)
Stack 4 Call Number: KF1388 .S257

Explains how nonprofits can function with other entities in business transactions. One example, the book addresses involves using a For-Profit subsidiary to protect tax-exempt status.

Subjects discussed include:
• Ch. 2 – Taxation of Charitable Organizations
• Ch. 3 – Taxation of Partnerships & Joint Ventures
• Ch. 4 – Overview: Joint Ventures Involving Exempt-Organizations
• Ch. 5 – Private Benefits, Private Inurement & Excess Benefit Transactions
• Ch. 8 – Unrelated Business Income Tax

White, New York Business Entities (Bender)
Stack 1 Call Number: KFN5340 .W48

Volumes 6 and 7 are dedicated to New York Not-for-Profit Corporation Law. Volume 8 provides sample forms with tips and explanations.

New York Corporations (Bender)
Stack 1 Call Number: KFN5340 .W48

Volumes 6 through 8 discuss New York Not-for-Profit Corporate Law and includes forms and explanations.

For-Profit Entities

White, New York Business Entities (Bender)
Stack 1 Call Number: KFN5340 .W48

Provides guidance on how to establish, maintain, and terminate a business in New York. Volumes 1 – 4 discuss business corporation law. Volume 5 covers limited liability company law. The book also covers federal tax analysis regarding pre-incorporation, sale, liquidation and dissolution; corporate purposes and powers; corporate name and service; formation of corporations; corporate finance; and amendments and changes.

New York Corporations (Bender)
Stack 1 Call Number: KFN5340 .W48
This multi-volume work discusses the formation of corporations and general corporation law. Also covers New York law pertaining to corporations (*Business Corporations Law & Not-for-Profit Corporation Law*).

Subjects discussed include:

- Vol. 1-4: Business Corporation Law with forms
- Vol. 5: Limited Liability Company Law with forms
- Vol. 9: Partnership Law with forms

*New York Practice Guide: Business & Commercial* (Bender)
Stack 1 Call Number: KFN5337 .N48

This is a practice tool for attorneys for New York business and commercial transactions.

Subjects discussed include:

- Ch. 1 – Choosing the Business Organization
- Ch. 2 – Tax Considerations in Choosing the Business Organization
- Ch. 3 – Limited Liability Companies & LLPs
- Ch. 4 & 5 – Sole Proprietors and Partnerships
- Ch. 6 – Corporations

*Schorr on New York Limited Liability Companies and Partnerships* (Callaghan)
Stack 1 Call Number: KFN5339.5 .S37

This resource discusses New York law with respect to Limited Liability Companies.

Subjects discussed include:

- Ch. 2 – Formation
- Ch. 3 – Service of Process
- Ch. 4 – Management by Members or Managers
- Ch. 6 – Members and Membership
- Ch. 7 – Dissolution
- Ch. 15 – New York State and City Taxation
- Ch. 16 – Limited Liability Partnerships
This resource provides guidance on selecting a suitable organization for a client. It explains also
the tax considerations when choosing an entity, the formation of a LLC and LLP, the
management of an entity and memberships, the assignment of membership interest, the
withdrawal of a member, and the dissolution of an entity.

Provides annotated forms for practice in most areas of New York civil law. Areas include real
property, leases, contracts, business enterprises, and non-profit organizations.

This resource provides “how-to” guidance for handling real estate transactions. It includes
analysis of the law, forms, and checklists.

Subjects discussed include: the purchase and sale of all types of real estate, from pre-contract
stage through closing and post-closing; zoning, environmental controls, and historic
preservation; real estate tax assessment; landlord-tenant law and practice; construction and
operation of the lease from the perspective of both the landlord and tenant; and condominiums,
cooperatives, and homeowners associations.

This multi-volume set offers an encyclopedic treatment of real estate law.

This guide to residential and commercial real estate transactions. It provides information on how
to prepare for sales and purchases, draft contracts, prepare for closings and take care of post-
closing obligations.
**Real Estate Practice Forms** (NYSBA)
Stack 1  Call Number:  KFN5140.A65 R42

Offers a compilation of forms for real estate transactions. Includes sample contracts and checklists.

**Internet Sources**

**U.S. Internal Revenue Service Selected Links:**

Tax Information for Charities & Other Non-Profits


http://www.irs.gov/charities/article/0,,id=96102,00.html

**Nolo Publications - Community Legal Resource Center  Floor 3 (by national encyclopedias)**

**How to form a Nonprofit Corporation** (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number:  KF1388.Z9 M36

Explains the process for becoming a tax-exempt organization. Includes instructions and forms for obtaining 501(c)(3) tax exemption and for qualifying for public charity status with the IRS.

**Incorporate Your Business** (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number:  KF1420.Z9 M36

This book discusses why and when to incorporate; what you need to know about corporate taxation; whether to elect S corporation tax status; and how to incorporate an existing business.
LLC or Corporation? (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF1380.Z9 .M36

Discusses whether to form a Limited Liability Company or a corporation; the basics of business entities; the extent to how each business structure protects you from liability; profits, losses, and tax treatments; and converting from one type of business entity to another.

Your Limited Liability Company (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF1380.Z9 M36

This guide for managing an LLC includes checklists and sample documents.

Form You Own Limited Liability Company (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF1380 .M36

This guide discusses the benefits of forming a limited liability company; provides step-by-step instructions; forms necessary to form an Limited Liability Company; and IRS tax rules and checklists.

Legal Guide for Staring and Running a Small Business (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF1659 .S745

Explains the practical and legal matters you need to know in order to start and maintain a business.

Legal Forms for Starting and Running a Small Business (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF1659.A65 S74

This resource includes forms for drafting legal documents required for day-to-day business.

Leases and Rental Agreements (Nolo)
Location: Law Library - Reference - Community Legal Resource Center
Call Number: KF590.Z9 L43

This is a useful handbook for landlords owning or managing rental property.
The following is a partial listing of additional relevant titles available in the Barclay Law Library.


