

FINANCIAL AND LEGAL Q&A FOR CEC UNITS IN THE U.S.

This Q&A briefly addresses some of the questions units have concerning financial and legal issues. It should not be assumed that the information below is tantamount to legal advice. Should you have further questions, we suggest you contact an accountant, an attorney, or your local IRS office, as applicable. Many of the Internal Revenue Service publications mentioned below may be downloaded from the IRS Web site at www.irs.gov, or contact your local IRS office.

WHAT'S AN EMPLOYER IDENTIFICATION NUMBER?

An EIN is like a Social Security number for an organization. Even though CEC units are not usually employers, they are required to file form SS-4 (Application for Employer Identification Number) and receive an EIN as nonprofit organizations, specifically as nonprofit educational associations. The form includes all necessary instructions for filing; the process is quite simple and quick. The EIN "belongs" to your unit and will not change when your treasurer changes.

HOW DO WE OPEN A BANK ACCOUNT?

Choose a bank that is both convenient and known for its service to nonprofit groups. The type of account you establish depends on the services you require. Many banks require the group's EIN to open the account, so you should acquire your EIN beforehand. By using your unit's EIN, you will avoid having to use a member's personal Social Security number when opening your unit's account.

ARE TAX EXEMPT STATUS AND INCORPORATION THE SAME THING?

No. Tax exempt status is a financial issue primarily related to federal income tax. Incorporation is primarily a legal issue. Incorporation limits liability to the assets of the corporation.

AS A UNIT OF CEC, ARE WE AUTOMATICALLY TAX EXEMPT?

NO. CEC units are not tax exempt unless they have applied for and received tax exempt status. **CEC's tax exempt status (501(c)(3)) does NOT cover its units.** When CEC applied for a group exemption in 1993, it was informed by the IRS that in order to qualify for the group exemption, "the subordinates are subject to the general supervision and control of the parent organization." In accordance with CEC policy, CEC does not (fiscally) supervise or control its chapters, state/provincial units, divisions or subdivisions. Therefore, CEC cannot "extend" its tax exempt status to its units under the present IRS regulation.

SHOULD WE APPLY FOR TAX EXEMPT STATUS?

There is no answer that applies to every CEC unit. The advantages of being a tax-exempt organization include: (a) contributions to domestic organizations are deductible as charitable contributions on the donor's income tax return; (b) the organization's chances for receiving a privileged postal rate are greatly increased; and (c) the organization is often exempt from state and local taxes. These "benefits" may not be needed by your unit. Some units feel that the time and expense incurred to file for tax exempt status and fulfilling the requirements to retain tax exempt status outweigh the benefits.

HOW DO WE APPLY FOR TAX EXEMPT STATUS?

Normally, an attorney is used to prepare and file the necessary documents. IRS Form 1023 (Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code) must be completed and submitted along with supporting documentation to the IRS. In addition to the attorney's fees, it will also require the payment of an application fee that ranges from \$100 to \$500 depending on the annual budget of the applying organization. Although CEC cannot assist its units in applying for tax exempt status, it may be helpful for unit officers to examine CEC's completed Form 1023. Contact CEC's

Constituent Services Center (toll free 888/232-7733 or e-mail service@cec.sped.org) for a copy. IRS Publication 557, "How to apply for and retain exempt status for your organization" may also be helpful.

DO WE HAVE TO BE INCORPORATED TO APPLY FOR TAX EXEMPT STATUS?

Not necessarily.

SHOULD OUR UNIT INCORPORATE?

There is no answer that applies to every CEC unit. CEC is organized as a corporation, as are some of its units. However, a majority of CEC units are unincorporated. A major disadvantage of not incorporating is that the members or organizing individuals may be held personally liable for torts and contractual obligations of the organization. There are substantial advantages to incorporation including "Corporate status...in most cases provides a liability shelter against individual financial responsibility for corporate officers and directors." For the most part, incorporation is not required of associations either for the purpose of carrying on normal activities or for applying for nonprofit status.

HOW DO WE INCORPORATE?

Normally, an attorney is used to prepare and file the necessary documents in the state in which you wish to incorporate. In addition to the attorney's fees, there is a filing fee and annual renewal fees for incorporation. Although CEC cannot assist in this procedure, it may be helpful for unit officers to examine CEC's Articles of Incorporation when preparing their own application. Contact CEC's Constituent Services Center (toll free 888/232-7733 or e-mail service@cec.sped.org) for a copy.

ARE WE SUPPOSED TO FILE A RETURN WITH THE IRS?

For some units, the answer is yes; for others, no. We suggest that you contact an accountant or attorney to determine what is required for your unit. If your unit has obtained 501(c)(3) tax exempt status, you are required to file IRS Form 990 and possibly Form 990T depending on the amount and types of your revenues. In some cases, no filing is needed.

HELP--I'M REALLY CONFUSED! WHERE CAN I GET MORE INFORMATION?

CEC has prepared a [Guidelines for Units on Legal Issues: A Primer](#). This document provides additional information on the topics covered in this Q&A and other legal/financial issues. Contact CEC's Constituent Services Center (toll free 888/232-7733 or e-mail service@cec.sped.org) for a copy. Many of the Internal Revenue Service publications mentioned above may be downloaded from the IRS Web site at www.irs.gov, or contact your local IRS office. Should you have further questions, we suggest you contact an accountant, an attorney, or your local IRS office, as applicable.