

Incorporation Explanation

By Tony Yamamoto on behalf of the National Chapter Structure Task Force

There are two parallel incorporation processes: one for the state and one for the federal. Typically, when you incorporate you submit two applications simultaneously to the state and the federal level. One typically goes to the State Dept. of Corporation or whatever it is called in each state and the other application goes to the IRS at the federal level. Both require a filing fee and completion of the application. Both require enabling or organizing documents (articles of incorporation, bylaws, officers' listing). At the federal level you file the 1124 or 1123 depending upon what non profit status you are seeking (501(c), 1,2,3,4,5,6, etc. This process is detailed in publication 557 from the IRS. Since the SSWLHC is registered as a corporation as a national organization, we have on file our federal designation. We are classified as a central organization which is defined as "*an organization that has one or more subordinates under its general control.*" The chapters are seen as a subordinate organization which is defined as "*a chapter, local, post, or unit of a central organization.*"

Since the Society is nationally organized and are operating as the central organization, a chapter does not have to apply for a non profit status at the federal level. Hence, they avoid having to file for the one time IRS designation and the 1124. As such, the Society will file for each of the affiliate chapters under this provision under what is called a "group exemption". According to consulting attorney Hugh Webster, we can add or subtract chapters as they join or leave. There is presently no other fee except for our first time filing fee for this group exemption. Once we file, the IRS will review the application to determine if the chapters meet the criteria as a subordinate organization and a central organization and then issue a "group exemption letter" to the Society which is defined as a "*ruling or determination letter issued to a central organization recognizing on a group basis the exemption under section 5-1(c) of subordinate organizations on whose behalf the central organization has applied for recognition of exemption.*"

The confusing part of the 557 IRS publication, it states...A subordinate organization may or may not be incorporated, but it must have an organizing document...about which Hugh Webster informed us. However, it is evident that most states require that an entity be incorporated in their state.

We will be required annually to submit an update to the IRS if chapters have dropped or been added to the Society. **Note: if a Chapter withdraws from National, the chapter will be required to file with the IRS and seek their non profit status on their own with the federal government since the chapter is no longer covered under SSWLHC's umbrella. They will be responsible for legal and filing fees.** Their state non profit status alone does not suffice for the IRS requirements.

Any new chapter will also avoid the federal application costs and paperwork if they affiliate with national.

According to IRS Publication 557, the Society is responsible for keeping information for subordinate organizations: bylaws, officer listing, membership listing, any incorporation documents, affiliation agreement, record of accounting returns, details of activities of the chapters.