

Questions and Answers for Chapters on National Unification With Society for Social Work Leadership In Health Care

Updates: 3/31/09
4/1/09
4/2/09

Disclosure Statement:

The following question and answer document was developed to assist the local state chapters of the Society about the recent changes in IRS ruling, questions surrounding unification of local chapters with the national organization, and the organizational considerations. The document was prepared with legal and financial consultation with a specialty attorney in non-profit organizations and a certified public accountant. The responses are intended to provide you will information and not legal counsel or financial advice about your respective chapters. If you need legal advice or financial counsel, we recommend that you seek an attorney and certified public accountant.

1. Under the new 990 IRS regulations, what decisions will the chapters have to make before the end of 2009?

Answer:

Any chapter that is operating and engaged in “non profit” activity must decide on one of the options if not a non-profit organization:

- a. affiliate with the national Society for Social Work Leadership in Health Care and use the national Society’s non-profit number and **NOT become a separate non-profit organization.**
- b. if presently affiliated with a non-profit organization, continue an affiliation with that organization. However, if the chapter utilizes that organization’s non profit status, the chapter **no longer continues** its association as a chapter of the national Society
- c. **chapter secures own non profit status** within their state and **affiliates with national SSWLHC**
- d. **secures one’s own non profit status** within their state and does **NOT affiliates with national SSWLCHC**

2. When does this new regulation go into effect?

Answer:

The new 990 law goes into effect **this year (2009)** tax filing for fiscal year 2008. If a chapter is already a non-profit corporation, but has never filed a tax return, the non-profit corporation will need to file. If a chapter is not

incorporated, the chapter will need to decide what options it chooses to pursue as stated in the previous question.

3. If a chapter is already a non profit organization, what is the first decision does the chapter have to do?

Answer:

The chapter would need to first decide whether it is going to affiliate with the national SSWLHC or become independent from the national Society. If the chapter remains with the national Society, the chapter will need to sign an affiliation agreement and operate under the conditions of the affiliation agreement. The chapter would continue utilizing the name “Society for Social Work Leadership in Health Care” and receive benefits through this association.

If the chapter decides not to sign the affiliation agreement, the chapter will become an independent entity and will be required to drop the name of the Society and submit a change in the name of the organization and rename the chapter.

4. Does a local chapter have to be incorporated?

Answer:

This question is twofold. A chapter does not have to incorporate if it is affiliated with the national Society or if it affiliates with another non-profit organization. However, it must operate under some organization’s non-profit status. This new IRS action is the purpose of the new regulation...to identify organizations out there that have been conducting non-profit business without their non-profit exempt status.

However, regardless if an organization seeks a non-profit status, continues with its current non-profit status, or does not incorporate, the chapter will need to secure an IRS employer identification number (EIN). The purpose of the number is to provide IRS a method to track any income that is coming to that organization such as membership dues and workshop registration fees.

5. What do chapters need to do to be compliant with the new IRS 990 regulation?

Answer:

The chapters would need to do the following measures:

- a) Secure an Employer Identification Number with IRS, regardless if the chapter is incorporated or not.
 - b) Either become a non-profit corporation or operate under the status of non-profit, tax-exempt organization. (Chapters that are non-profit currently can still retain their non-profit status and choose either to affiliate with the Society or become independent.)
 - c) File the 990 and submit their annual tax returns regardless if a non-profit or not. If operating under another non-profit organization OTHER THAN THE SOCIETY, that non-profit organization would need to determine if this organization will file for the chapter or if they will file separately.
 - d) **If the chapter decides to incorporate, they will need to complete their incorporation papers in their respective states (the process and the applications are different in each state). Obtaining a non-profit status IS NOT THE SAME AS SECURING A TAX EXEMPTION. The application is an entirely separate process from applying for a tax exemption from the IRS.**
 - e) At the same time, the organization would need to complete the 1123 or 1124, Application for Tax Exemption after securing a non-profit number. This form does two things: 1) it identifies the entity that is involved in non profit activities and 2) the entity is receiving revenues and this revenue is exempt for taxation as ordinary income except for sales tax. To get information for this process, you refer to the IRS publication 557. This publication details what forms and processes that you need to complete. There is also a web site to help guide you: www.muridae.com. Another helpful web site is: www.nonprofit.about.com
 - f) **The new redesigned 990 form requires new additional information:**
 - *A summary page providing the organization's information and a snapshot of the organization's key financial compensation, governance and operational information.*
 - *Composition of the board and certain other governance and financial statement practices*
 - *Schedules that will focus reporting on certain areas of interest to the public and the IRS such as fundraising, compensation of officers and/or management, tax exempt bonds and non-cash charitable contributions*
 - *All chapters that are incorporated must comply with this additional information. These incorporated chapters will need to take this responsibility.*
6. Are there other new requirements for non-profit organizations to comply under the 990 ruling?

Answer:

Yes. Under the new 990 requirements, current and new non-profits are strongly recommended to have these policies adopted:

- Conflict of Interest Policy-should define what is a conflict of interest, who is covered by this policy, a process for facilitating disclosures of conflict of interest and a protocol for managing conflicts of interest
- “Whistleblower” Policy-promotes staff and volunteers to report illegal practices or serious violations of the organization, protection of individuals who whistle-blowing, and a process for reporting
- Retention and Destruction Policy-identifies the record retention responsibilities of staff, volunteers and members of the board and outsiders for maintaining and documenting the storage and destruction of the organization’s document and records
- Policy on determining Compensation-applies to the organization’s chief executive officer, other officers and key employees

The Society has already met this recommended action and has formally adopted these policies. If a local chapter affiliates with the national Society, they would have met this consideration. If a chapter is a non-profit, the chapter will need to take similar action.

7. If a chapter is considering forming a non-profit, what legal status should they choose?

Answer:

The primary exempt status designation is a 501 (c). Within this tax Code, there are **27 sub code designations.** For purposes of the Society, we will be generally designated as a 501 (c) 3. It is a non-profit organization that is engaged in charitable, religious, educational, scientific literary, fostering amateur sports competition, and prevention of cruelty to animals and children.

8. If a chapter wants to dissolve its non-profit status and wants to affiliate with the national organization, what does the chapter have to do?

Answer:

If the chapter decides to dissolve its non profit status and just wants to affiliate with national, the non profit chapter will continue to operate until it formally communicates to the IRS and the state where it is incorporated that is dissolved. Until then, the organization must comply with the management and reporting requirements to the IRS.

9. Who will need to file the tax returns for the chapters?

Answer:

Chapters that are already incorporated file their own tax return. This practice would be continued under the Society. The Society will not file tax returns for the incorporated or non-incorporated, affiliated chapters. Chapters that are affiliated with another non-profit will need to detail any arrangements with that non-profit organization. If the chapter makes less than \$25,000, the chapter will file the 990 N post card. If the chapter makes more than \$25,000, the chapter will need to file the regular 990 form.

10. What will be the financial relationship the National Society?

Answer:

National will phase in a process for dues collection that includes national and local membership. We will no longer use the terms national or local member, all those who pay dues are “members.” The national Society will rebate a percentage of the membership dues collected for the operation of the local chapter. If the local chapter generates revenues from other sources such as fundraisers, donations, or educational trainings, the monies goes to the local chapter. This arrangement is no different from the current situation. If a chapter and the national jointly plan and collaborate for a local event, then there would be a cost sharing and revenue sharing arrangement developed based upon a mutual agreement with the chapter and the national.

11. If a chapter decides to affiliate with the national organization, can the chapter or national organization choose to terminate the affiliation agreement?

Answer:

The affiliation agreement will have a renewal date as established between the national Society and the chapter. There will be an exit clause if the chapter or national elect to end the agreement.

12. If a chapter is NOT a non profit and decides not to affiliate, what will happen?

Answer:

The chapter will no longer be recognized by the national organization as a chapter of the Society. The chapter will need to stop using the “branded name” of the Society for Social Work Leadership in Health Care. The chapter will either need to be a “free-standing non profit organization” or affiliate with another non-profit organization.

13. There is confusion between filing to be non profit organization, filing with the IRS, and filing for an exemption. What is the difference between these three filing statuses?

Answer:

Any organization that is engaged in non-profit activities are required to incorporate as a non-profit or affiliate with a non-profit organization. If a chapter chooses not to incorporate, the chapter can fall under national’s non-profit status. The chapter does not have to complete a filing for non-profit status or seek a filing for a non-profit exemption. The chapter will still need to file their tax returns with the IRS under the 990 ruling. The national Society will not be filing the local chapter’s tax return.

If a chapter chooses to be a non-profit and be incorporated, the chapter must file an application to be non-profit organization to their state. The chapter must also file for a tax exemption for the chapter. These filings are two different processes. Once the chapter gets their non-profit ID number, and tax exemption, the chapter would need to file their tax returns to IRS.

14. If a state chapter has districts regions, what should the state chapter under this arrangement?

Answer:

The chapters have these options:

- 1) If the state chapter is already a non-organization, the chapter can have the districts use the chapter’s non-profit status and tax exemption status and file the tax returns for the district regions.
- 2) The district regions could either form their separate non-profit corporations and affiliate/or not affiliate with the national organization.
- 3) If the state chapter is not a non profit, the state chapter would need to decide if the chapter is wanting to be a non profit corporation or not. If the state chooses not to become a non profit, the state chapter would have decide with the regions district boards whether the regions wanted to align with national or separate.

15. If an organization has no prior relationship with the national organization, but has some interest with joining with the national Society, what is required?

Answer:

If another organization is interested in joining national Society, it would be required to follow the same requirements as a new chapter. All members of the organization would need to be national members and the organization would need to sign an affiliation agreement.

16. If a local chapter has memberships from two different states and wants to be incorporated, does the chapter have to be incorporated in two different states.

Answer:

No. If the chapter wants to be incorporated, it would need to just file an application for incorporation in one state.