

A. OVERVIEW OF TAX-EXEMPTION OPTIONS FOR SVDP CONFERENCES AND COUNCILS

BACKGROUND

Beginning October 1, 2018, the Society's conferences (except for isolated conferences) and councils will no longer be eligible for inclusion in the Society's Group Ruling with the Internal Revenue Service. What does this mean? Councils and conferences will be required to independently secure tax-exempt status with the Internal Revenue Service to continue to be tax-exempt under Section 501(c)(3).

Many of the Society's conferences and councils throughout the United States have already taken this step, and have structured themselves in different ways for tax reporting purposes. The Society encourages all tax and corporate reporting to occur at the diocesan or district council levels of the Society (discussed as Option #1 below). Conferences and councils are, however, free to select the best option that fits their situation. The following paragraphs outline the three options for conferences and councils to structure themselves for tax purposes.

SUMMARY OF OPTIONS FOR STRUCTURING TAX EXEMPT STATUS

Option #1. Conferences Operate as Integrated Units of a Council

Option #1 is the Society's recommended structure for most situations. Under Option #1, all conferences are not considered separate legal entities, but operate as integrated units of their district or diocesan council for corporate and tax purposes. This structure may be implemented at the district or diocesan council level. All conferences should use the Council's FEIN for banking and other purposes, and should not be incorporated or file separate tax filings.

Only councils are incorporated and apply for tax-exempt status with the IRS. Councils annually report all financial activity on behalf of their conferences on Form 990.

Conferences under Option #1 will not have separate reporting or legal requirements with government agencies but will be required to report to the Society and Council. The conferences' finances and operations are collectively reported on the Council's Form 990. Each conference under the Council may conduct business with their specific conference name by having the Council secure an assumed name (also known as DBA or fictitious name depending on the state) for the conference name.¹

¹ Conferences operating under a DBA may use the conference name only for checks and promotional materials, but should use the legal name of the council followed by DBA Conference name for government filings, legal contracts, and charitable receipting for donations.

Option #1 is ideal for:

- (a) A council with conferences located within a focused geographic area;
- (b) Conference presidents that are willing to collectively work together to oversee one organization at the council level; or
- (c) A council with paid staff that can actively help the conferences.

If a conference within the Council operates a special works involving employees, property ownership, or other complex operations, the council and conference may consider not including the specific conference under the Council's legal entity. The specific conference would then separately incorporate and secure tax exemption as an independent tax-reporting entity under Option #2 discussed below.

Option #2. Conferences and Councils Act as Independent Tax-Reporting Entities

Under Option #2, each conference and/or council is responsible for itself only. Conferences and some councils (as discussed below), will separately secure their own FEIN, apply for tax-exempt status, and be responsible to annually file IRS Form 990 (or an abbreviated version) and other government agencies. Each conference and council can decide whether they want to incorporate as a nonprofit corporation.²

Option #2 works well if:

- (a) Conferences have limited interaction at the council level or will not have an active council to consolidate reporting;
- (b) Conferences have diverse geographical locations; or
- (c) Conferences own unique property or special circumstances that would be better structured as independent for tax and reporting purposes.

Conferences. Each conference will need to have its own FEIN and file a 1023 Application or 1023-EZ Application with the IRS to secure tax-exempt status independent of the National group ruling. Most conferences with less than \$50k per annum in receipts can file a 1023 EZ.

Councils. If a council will receive money or need to open a bank account, under Option #2 it will also have to secure a FEIN and file a 1023 Application or 1023-EZ. In the event a council does not directly receive money or need to open a bank account, a council under Option #2 may wish to operate informally without a FEIN and without separately filing for tax-exempt status. In that case, the council itself would not have ongoing reporting requirements with the IRS and other state and federal regulators.

Option#2 does not require any special steps to reorganize the conferences and councils since each conference and council will continue to operate independently. However, each conference and council should decide whether to incorporate as a nonprofit corporation and must apply for federal tax-exemption as a public charity under Section 501(c)(3). For additional information on these steps, see Document F at <http://www.svdpusa.org/members/Documents/501-c-3>.

² For a useful summary on this issue, see www.wagenmakerlaw.com/should-we-incorporate2

Option #3. Council Oversees Group Ruling for Conferences

Option #3 will be the least common structure. Under Option #3, the District or Diocesan Council secures its own FEIN and tax-exempt status and then additionally applies with the IRS to be the central reporting entity of a group letter ruling. The conferences associated with the council will not be integrated with the council but will secure tax-exempt status as subordinates under the council's group letter ruling. Conferences in this model would be separate tax-reporting entities. Each conference will thus be required to have its own FEIN and be responsible to annually file an IRS Form 990 and other applicable government filings.³ The conferences would not have to independently apply for tax-exempt status with the IRS though.

Option #3 is a good option for a council that:

- (a) has paid staff that will oversee the group ruling process;
- (b) has conferences with special programming, property or other significant assets that should be held in a separate legal entity;
- (c) is willing to pay additional legal and filing fees for the set-up.

Councils must file a 1023 Application to secure tax-exempt status and then file for a group ruling. The applications can, but are not required, to be filed simultaneously. As of January 1, 2018, the IRS currently charges a User Fee of \$2000.00 in addition to the \$600.00 filing fee for the initial IRS Form 1023 Application. The group ruling application requires the council to provide detailed information about all of the conferences that will be included as subordinates under its group ruling. Each conference must have its own FEIN and may, but is not legally required, to be incorporated. Councils electing to proceed with Option #3 are encouraged to work with an attorney knowledgeable with group rulings to implement this option.

Given the complexity of filing and overseeing a Group Ruling, Option #3 is not advisable for most councils. Councils seeking to pursue Option #3 should secure legal counsel familiar with exempt organizations and the IRS' group ruling process.

ISOLATED CONFERENCES

An isolated conference may, upon request, continue to be included as a subordinate on the National group ruling, or may independently apply for tax-exemption. Isolated conferences are required to secure their own FEIN and have an ongoing IRS Form 990 filing.

³ A council with a group ruling could file one Form 990 and then a second consolidated Form 990 for its subordinates.