

## LEGAL STATUS OF CHAPTERS

HSMIAI chapters are separate legal entities from the International association. This is true whether you have or have not been incorporated. Your chapter by-laws form the basis for the legal existence of the chapter.

### **Incorporation**

Incorporation is not necessary unless the chapter had \$25,000 or more in annual gross revenue. Incorporation, simply put, creates a “legal” entity. This status protects the officers and directors of a chapter from potential personal financial liabilities as a result of chapter actions. Example: Debts and Obligations

### **HSMIAI recommends incorporation**

Since HSMIAI cannot share liability responsibility for chapter actions, it is wise for the chapter to protect its board.

### **How to incorporate**

The first thing to do is hire an attorney. Find a friend or business associate who will not impose a hefty legal fee. Budget around \$300 to \$500. Your goal is to file for non-profit, tax-exemption under IRS code 501 [c] 6. **Do not file under IRS code 501 [c] 3!** You must file under the same code as HSMIAI, and we are a 501 [c] 6!

You will need a copy of your chapter by-laws, which have been approved by HSMIAI. The sample chapter by-laws in this manual meet the requirements.

### **What happens when a chapter dissolves?**

Although the chapter is a separate legal entity, when it dissolves, its assets will be disposed of in accordance with Article XI of the chapter by-laws, which states all assets of the chapter will be turned over to the HSMIAI Foundation for educational and research projects. This issue is conditional of a chapter receiving and/or maintaining its chapter charter. This requirement is based upon the fact that the parent organization funds the chapter with each member’s annual payment of dues.

### **Tax-exempt Status for HSMAI Chapters**

It is highly recommended that all HSM

AI chapters file with the IRS as non-profit organization: Specifically as 501©(6) business league organizations. The tax forms needed are listed below.

### **Obtaining Your Tax-exempt Letter**

In many cases, it is the belief that a local association has filed for exempt status but they can't find the IRS tax-exempt determination letter (which should be kept in the chapter's permanent records file). If this is the case, a certified return receipt requested letter should be sent to the IRS simply requesting a copy of the determination letter. Name and address of your local organization should be provided in your letter and the approximate date the chapter was organized. This letter should be mailed to:

**Internal Revenue Service Center  
Exempt Organization Division  
Ogden, Utah 84201**

Generally the association will receive a letter from the IRS in 2 to 3 months with a copy of the exempt letter, or a determination that exempt status has never been applied for will be known.

### **Filing for IRS Tax-exempt Status**

If your association needs to file for exempt status, it will be necessary to contact the IRS Forms Division toll free at 1-800-TAX-FORM and request the following documents:

- A. **SS-4**: Application for Employer Identification Number (Must have even if the association does not have employees).
- B. **Publication 557**: Tax-exempt Status for Your Organization

Completing this application process is somewhat of a chore but it's very important. Two to three members or staff might work together to complete the forms. Certainly the association's secretary/treasurer should be involved. Be sure to contact HSM

AI if you have any specific questions about the application.

Once exempt status has been obtained, it is incumbent upon the chapter to annually file the appropriate informational returns: Form 990, Form 990ez, and if necessary Form 990T. It is mandatory that tax-exempt organizations file the Form 990 annually if gross

revenue is over \$25,000. Associations should also obtain a copy of IRS Publication 598, Tax on Unrelated Business Income of Exempt Organizations.

### **State Exemption Requirements**

State laws differ on the requirements for tax-exempt organizations. Some are very lax in enforcement, others are quite restrictive.

In addition, there are some benefits for having a local chapter incorporated with the state. Many states have volunteer protection laws for exempt organizations but protection is provided only for filed exempt organizations. This option should receive serious consideration.

### **What is the federal tax status of a chapter?**

As a separate legal entity, the chapter must have its own tax status. It can obtain tax-exempt status by filing its own Application For Recognition of Tax-exempt Status with the IRS.

### **Summary of legal status information**

The legal status of chapters is a complex issue. Paula Cozzi Goedert of Jenner & Block has written a book "Legal Status of Chapters – Questions and Answers". Please write or call to purchase a copy if you have additional questions.

Telephone: 312-222-9350

Address: One IBM Plaza, Chicago, IL 60611

### **Insurance considerations for your chapter**

As with legal issues, a periodic review of insurance requirements is urged. Obviously, no one wants to pay premiums for unnecessary insurance. We cannot specify what insurance is necessary for your chapter because of the variables of chapter activities. We are listing here, for your reference, possible considerations of chapter insurance coverage.

Professional/Officer and Director Insurance: This type of insurance is extremely expensive and difficult to obtain. For this reason we recommend the incorporation of the chapter to protect the board and officers from individual liability.

Workers' Compensation Insurance: If you employ staff, workers' compensation insurance is required. If you retain administrative help under contract, the administrator should carry worker's compensation insurance.

Multi-Peril Insurance: This type of insurance will cover loss for damage or injury as a result of fire or other calamity if you maintain an office or headquarters for your chapter. If you retain, under contract, administrative help and the administrator maintains the chapter files and equipment, the administrator would be responsible for this coverage.

Liability Insurance: If someone attending a chapter function drinks too much and has an accident or if there is an accident during your annual boat cruise, consider the legal implications. We recommend the chapter investigate coverage of a liability policy that would offer some protection in the event of claims.

Cancellation Insurance: If you have a major annual event upon which a chapter relies for a significant amount of its annual revenue, consider a cancellation insurance policy that would reimburse the chapter for unrealized net income which would otherwise be lost.