

Section 3. Chapter Finances, Taxes, and Insurance

Nonprofit Status and Tax Exemption

SMPS chapters qualify as tax-exempt corporations under Section 501(c)(6) of the Internal Revenue Code because they are membership organizations operated primarily to promote the common business interests of professional services marketers.

CAUTION: This tax exemption applies ONLY to federal and state income taxes. Most SMPS chapters are NOT exempt from state and local sales taxes, although at least one state (Missouri) does extend the exemption to sales taxes by separate application to the state. Each chapter is legally required to maintain appropriate financial records and to file returns with all taxing authorities that have jurisdiction over the chapter.

The national office maintains a group tax exemption with the IRS for all chapters. Even though your chapter is exempt from taxes, **all chapters are still required to file an annual information return with the IRS, and in many cases with your state.** If your chapter has gross receipts less than \$25,000 (determined as an average of the last three years) you are required to file a brief electronic report with the IRS on Form 990N. If your gross receipts are between \$25,000 and \$200,000, you must file a longer annual information return on **Form 990EZ**. The information return is essentially a report to IRS on financial and operating activities of the chapter during the year. This information enables the IRS to ascertain that the chapter continues to qualify for exempt status. State requirements for information returns are often similar but will vary from state to state.

Take your filing obligation seriously! Small chapters who fail to file the electronic 990N will forfeit their exempt status, For the larger chapters filing 990EZ returns, **there is a penalty of \$20 per day for late filing, up to a maximum of \$10,000**, and the IRS really will assess this penalty against your chapter if your return is not filed on time.

Assistance with IRS Information Returns

The national office has prepared a manual to help chapters determine which return they are required to file and provides detailed instructions on how to file the returns. This manual is mailed to the each chapter's Treasurer and President every year and is available on-line at www.smeps.org. The staff is available to answer many of your IRS-related questions as well.

Disclosure of Non-deductibility of Contributions (applies to larger chapters only)

If your annual income exceeds \$100,000, IRS regulations require you to include the following text (in a conspicuous and easily recognizable format) on statements, invoices, or letters soliciting financial support and contributions:

Although payments and contributions to the _____ Chapter of SMPS are not tax deductible as charitable contributions for federal income tax purposes, they may be deductible as business expenses under other provisions of the Internal Revenue Code.

Failure to include this statement may subject the chapter to substantial penalties (\$1,000 per day for each day on which a violation is found to have occurred, up to \$10,000 maximum).

Unrelated Business Income Tax (UBIT)

Even though SMPS chapters are generally exempt from federal and state income taxes, a non-profit organization can still be liable for taxes if it has what the IRS calls unrelated business income.

IRS uses three criteria to determine unrelated business income:

1. The revenue must be derived from a trade or business (some activity produced the income – as opposed to passive income such as interest, dividends, royalties, etc.)
2. The unrelated business activity must be regularly carried on (not a one-time activity)
3. The activity must be unrelated to the exempt function, and is usually one in which other non-exempt businesses may provide the same or similar services.

The most likely source of taxable unrelated business activity for SMPS chapters is sales of advertising (including job bank ads) and rental of membership mailing lists. If your chapter has combined annual income from either or both of these sources of more than **\$1,000**, you may be subject to UBIT. IRS allows you to deduct the cost of producing taxable income so that you pay taxes only on the net income. (For example, you can deduct from advertising income a percentage of newsletter or directory production costs equal to the percentage of advertising it contains.)

The fact that some activity may result in unrelated business tax does not mean you should not do it. It simply means that you should be aware that there are activities where even non-profits have to pay taxes. It's better to earn some money and keep 70%–80% of it than not to earn anything at all! Check with your accountant or the National office if you have questions about taxable income. The UBIT regulations are complex and confusing, so seek help if your chapter is affected.

State and Local Taxes

Chapters are not exempt from state and local taxes.

Missouri is the only state that does exempt 501(c)(6) corporations from paying sales tax, but only if they apply to the state for that exemption and meet certain state qualifications. Even though all chapters are non-profit and exempt from federal and state income tax, most are not exempt from state and local sales taxes. This means you must pay sales taxes on events and purchases of supplies, printing, gifts, and other purchases.

Other annual or occasional reporting requirements

In addition to the chapter's annual corporation report to the Secretary of State and federal and state informational tax returns described previously in this overview, there are still other reports that must be filed either annually or when certain types of changes occur.

Registered Agent/Registered Office

A common provision of most states' non-profit corporation law requires your chapter to designate a registered agent and a registered office. The registered agent is the individual who will receive official notices from the state government and who should pass them along to the chapter officers. The registered office is usually just the mailing address of the registered agent. The registered agent may be an officer or member of the chapter, a local attorney, or even a company that acts in this capacity for a fee. Usually the registered agent must be listed in the annual corporation report mentioned above, along with the names and addresses of all current officers and directors. Your chapter may be required to file a separate "Statement of Change of Registered Office/Registered Agent" with the state whenever either of these change.

Chapter Employees and Managers

Paid Chapter Staff—Employees versus Independent Consultants

Some chapters employ either an individual or an association management company to provide administrative support, meeting registration, or bookkeeping/accounting services.

If an individual is in business to provide the same type of management or administrative services to others, the service provider may be considered an independent contractor, not an employee, and tax withholding will not be necessary. But if an individual is hired who does not do similar work for others, he or she will be viewed as an employee and the chapter is then obligated to withhold and pay employment taxes, including Federal and state income tax, Social Security taxes and unemployment taxes.

Many more chapters utilize firms or independent contractors, instead of employees, but even then some record-keeping and payment reporting may be necessary. Many chapters also pay fees to program speakers and other individuals for whom similar reporting may be required.

Reporting payments to non-employee service providers and to speakers (1099 Forms)

NOTE: For the purposes of this requirement, you need to track payments made during each calendar year (January–December) as opposed to the fiscal year (September–August) that you use for other reporting requirements.

If you pay fees paid to non-employees, unless they are incorporated businesses, your chapter should prepare and file **Form 1099-MISC** at the end of each calendar year for any individual you paid more than \$600 during that year. The \$600 threshold includes fees only; reimbursed expenses are not included in determining the requirement to report payments. You will send a copy of form 1099-MISC to each payee and to the IRS. Think of this as a W-2 form for non-employees. It serves a similar purpose, advising both the recipient and the IRS that there was a payment.

1099 reporting is required for payments to any individual or unincorporated business such as a sole proprietorship or a partnership, including accountants and lawyers in addition to providers of management services. Fees paid to speakers at your programs and events are also reportable if they exceed \$600 in any year, not including reimbursable expenses. All payments to lawyers are reportable, even if they total less than \$600. Amounts paid as scholarships to students do not need to be reported on a 1099.

You will need to determine if individuals to whom fees are paid are acting as individuals or as unincorporated businesses, and you will need to obtain a social security number or employer id number for each payee requiring a 1099 form. You should obtain this information by requesting the payee to complete a W-9 form. W-9 forms are becoming commonplace, and most individuals will be familiar with your request for this information (see discussion of W-9 forms below).

You will need to order 1099 forms directly from the IRS, as well as a 1096 summary form, which is used to transmit copies of your 1099 forms to the IRS. These particular forms are prepared with specially-treated ink and cannot be downloaded from the internet or copied. The deadline for mailing forms to individuals you have paid is January 31 for the previous calendar year. Contact the national office for more information or assistance if you think you need to prepare 1099 forms.

W-9 Forms

Recently we have been seeing an increased volume of requests from vendors for information required by the IRS W-9 form. Many companies have adopted a policy of not issuing payments to vendors, including SMPS chapters, unless they have a W-9 form on file. This is becoming a very routine practice, and you should keep copies of the W-9 form on hand to reply to such requests. Contact the national office to obtain a fill-in pdf of the W-9 form for your chapter. This same form, but without your chapter information filled in, should be sent to service providers or speakers to whom you pay fees in excess of \$600 in any calendar year (see discussion of 1099 reporting requirements above).

Annual Reports to the SMPS National Office

Chapters are required to submit an annual financial report to the SMPS national office. This form provides the national office with data needed to maintain your chapter's tax-exempt status, monitor your IRS reporting, and it provides information used to prepare and track statistics on chapter operations.

(Attachment 3.A)

The chapter financial report is due to the national office by **September 30** each year. Failure to submit this report will jeopardize your eligibility to receive payments of membership dues shared with chapters for as long as a full year. There is a similar requirement to submit an annual report on chapter educational programs, also due to the national office each September 30.

A copy of your annual information return to IRS, Form 990N or 990EZ, must also be forwarded to the National office upon completion. Unless an extension is requested from the IRS, the filing deadline is January 15.

Chapter Financial Support

Shared Dues for New Members: Each new member of SMPS pays a one-time origination fee of \$50 in addition to the annual dues. This amount is split equally between chapters and SMPS National. Chapters receive \$25 for each new member of SMPS affiliated with the chapter.

Shared Dues for Renewing Members: Chapters receive \$20 of the annual dues paid by each member affiliated with the chapter who renew their membership.

Insurance: The national society pays premiums to provide general liability coverage for chapters, and director and officer liability for elected leaders. More information about insurance coverage is provided in the next section of this overview.

Presidents Leadership Symposium and Attendance Stipend: Each April, we host a two-day leadership training, best practices, and networking session for all incoming Chapter Presidents. In addition to paying for program costs and meals, we provide a \$300 stipend for each attending President-Elect to help defray the cost of travel and lodging at that session.

Chapter Team Discounts for Conference Registrations: Each chapter has the opportunity to designate up to five recipients for a discounted registration fee for the national conference.

Board and Staff Attendance at Chapter Meetings/Events: Members of the Board of Directors and some of the national staff frequently travel to and participate in chapter events as speakers and presenters, facilitators, instructors and in other capacities.

Support of Regional Conferences: In recent years there has been an increase in the number of regional conferences conducted jointly by two or more neighboring chapters. The National Society has been providing a \$1,000 sponsorship, in addition to other substantial support of these conferences, including help in marketing the event, staff and national Board attendance, and promotional items.

In addition to this direct financial support of chapter activities, during the past year the national staff has recorded a combined total of over 3,000 hours of staff support to chapters, the equivalent of one and one-half full-time employees, assisting chapters with a variety of services.

This staff support has included working with local groups to start up new chapters (five in the past year), attending chapter meetings and events, assistance with web site development, educational programs, guidance on bylaws, governance, financial and tax matters, a quarterly chapter leaders newsletter, planning and conducting the annual President's Leadership Symposium, and professional assistance with a host of other questions and chapter needs.

Insurance

SMPS chapters have three major categories of insurance needs: general liability insurance, directors and officers liability insurance, and special events insurance. These three categories are summarized in this section. The summary explains the significant elements of the SMPS liability portfolio — who is covered, what is covered, and the limits of coverage.

The summary below was prepared by The Novick Group, the agency retained by SMPS for insurance matters. The purpose of this summary is to provide only a general overview of coverage information. In the event of any conflict, omission, and/or misstatement in the summary, the actual policies currently in force will always control.

General Liability Insurance

Claims involving bodily injury or property damage are covered under the general liability policy maintained for chapters by the national society and coverage for this exposure extends to all chapters in good standing. The limit of liability is \$1,000,000 per occurrence and \$2,000,000 in the aggregate for all occurrences. An umbrella policy provides an additional \$2,000,000 of insurance protection should a claim exceed the limits of the basic policy. Although claims under the general liability policy are rare, chapters should not be without this important coverage.

The general liability insurance protects chapters when they host or sponsor educational meetings, seminars, luncheons, receptions, chapter meetings, networking events, and social functions [but refer to the section below for a discussion of special events insurance]. This liability protection does not include "office premises" coverage for any chapter that has its own offices.

This liability protection includes "host liquor liability" so your chapter is covered for an event at which alcohol is served, but it is your responsibility to be certain that members and guests drink responsibly. You must be careful not to serve minors, not to serve people who appear to be intoxicated and to cut off anyone who becomes that way. That's pretty much how bars and restaurants operate. You're expected to do the same. Whenever possible it is best to use a catering service or hotel staff to actually provide liquor service and to obtain a Certificate of Insurance from the vendor providing and serving the liquor.

Insurance Certificates

Often restaurants, hotels, and meeting facilities will require evidence of general liability insurance, usually a “certificate of insurance,” and in some cases may seek to be named as an additional insured on the chapter’s policy. This is a routine request and there is no charge for a certificate. If you need to obtain an insurance certificate, complete the two-page **Insurance Certificate Request Form (Attachment 3.B)** and fax it to our insurance agency, the Novick Group, at 301.795.6610. Questions can be directed to Karen Beard at the Novick Group, at 301.917.6549 or kbeard@novick.com.

Directors & Officers Liability Insurance Policy

The national society also provides directors and officers (D&O) liability insurance for all chapters in good standing. The policy is specifically tailored to the needs of not-for-profit organizations such as ours. The limit of liability is \$1,000,000 with a deductible of \$2,500.

Notwithstanding the protection against personal liability provided by the corporate form of organization, there are conceivable circumstances under which damages may be sought from chapter directors and officers for their actions in their capacity as directors or officers as well as for actions of the board. The directors and officers liability insurance policy helps protect the individual officer or director from personal liability. Like the directors and officers, the chapter itself is also an insured under the policy. The D&O liability policy protects against claims involving breaches of administrative management. Typical sources of claims involving 501(c) organizations include adverse employment actions, libel and slander, invasion of privacy, and copyright infringement. In the unlikely event that such action is taken, the policy pays the cost of defending officers and directors and any damages negotiated or awarded, up to a total of \$1 million, after payment of a \$2,500 deductible by the chapter.

Special Events Insurance

The SMPS general liability insurance covers a wide range of chapter activities; however, it does not provide coverage for certain special events. Activities that require extraordinary exertion, athletic competition, functions held on boats (larger than 26 feet), or that are held in unusual circumstances will not be covered by the standard general liability policy. Chapters may purchase special events coverage to supplement the general liability provided by the national society.

The need for special events insurance should be assessed for any activity or meeting that extends beyond “normal” chapter business. Examples of special events include but are not limited to:

- golf, tennis, or softball tournaments
- ski, boat, or float trips
- group bus rides
- meetings or receptions aboard boats
- regional conferences
- fun runs or marathons regardless of distance

For specific information about whether a particular event may require special events insurance, consult our insurance agent: Karen Beard at the Novick Group, at 301.917.6549 or kbeard@novick.com or the SMPS National office.

RECOMMENDED PROVIDERS FOR SPECIAL EVENTS COVERAGE:

Cost of special events coverage will vary according to nature of event, number of participants, etc., probably in the \$300-\$500 range for most events.

Gales Creek Insurance Services

(Preferred source – you can go on-line and fill out a form and be covered quickly)
800 NW 6th Avenue, Suite 335
Portland, OR 97209
503.227.0491
www.galescreek.com

K&K Insurance Group, Inc.

P.O. Box 2338
Fort Wayne, IN 46801-2338
866.554.4636
www.kandkinsurance.com

SMPS's Primary Agent:

(Contact her if you have difficulty locating a source for coverage or need other help.)

Karen Beard
The Novick Group
One Church Street, Suite 400
Rockville, MD 20850
301.795.6600
slytle@novickgroup.com

Insured's Duties in the Event of a Claim

Each of the policies referenced above imposes specific duties (contractual obligations) on the insured in the event of a claim. When practicable, all insured—directors, officers, trustees, employees—have the responsibility of disclosing their knowledge of a claim or of circumstances of which they are aware that might reasonably be expected to lead to a claim. If you become aware of a claim, or even the probability that a claim may be filed against the chapter or against one of more of the officers and directors, please notify the National staff immediately so that the incident can be reported to our insurance agency and the facts of the incident can be recorded in the detail needed for handling the claim.

Chapter Financial Management

Chapter Fiscal Year

Each chapter's fiscal year must coincide with the SMPS National's fiscal yearL **September 1–August 31**. This is your chapter's operating year, when annual terms of officers and directors begin and end, and it is also your budget year and annual accounting period.

Chapter Treasurer

Each chapter should have an elected Treasurer at all times. Smaller chapters sometimes combine the duties of both Secretary and Treasurer into a single office (Secretary/Treasurer), but it is important to have one officer responsible for chapter finances at all times. A listing of typical responsibilities and duties of a chapter Treasurer is found in **Attachment 3.C**. This Treasurer's "job description" is intended only as a guide, since actual duties and responsibilities can vary significantly from chapter to chapter. Several larger chapters contract for management assistance and often pay an individual or management company to perform some or all of the financial functions specified in the model job description.

Professional Accounting Assistance

Some chapters, the larger ones in particular, will seek outside guidance with accounting and auditing needs. Others will rely on the knowledge and experience of their own Treasurer or will seek advice from the national office when questions arise. Professional financial advice is recommended, if it is affordable. The following are tips for choosing an outside accountant for your chapter:

- Choose a local manager or management/bookkeeping service that specializes in work for non-profit organizations.
- Your accountant should be familiar with state and local laws and have non-profit experience. This is especially important to your chapter. Ask for references from organizations similar in size and status.
- Your accountant should understand that, as a very small corporation, you do not need complex financial reports and must be willing to work with you to keep costs down.
- You do not necessarily need certified statements (financial statements with the accountant's name on them). Basically, all you want is someone to take care of your legal reporting requirements and to help you when bookkeeping questions arise.

Federal Identification Number (EIN)

Your chapter's federal Employer Identification Number (EIN) is the number that identifies your chapter to the IRS and others, much like your personal social security number (your chapter's EIN can be found in **Attachment 2.A**). Your EIN is used to open a bank account, on federal and state tax returns, W-9 and 1099 forms, and elsewhere. Members' companies will often require that you furnish this number before they will issue checks to your chapter. They may request that you provide this information on a W-9 form, and you are required to respond to their request.

Bookkeeping Procedures

It is important to keep accurate financial records and to maintain consistency of information from year to year. You should choose a bookkeeping system that is relatively easy to understand and use and that can be transferred easily from one treasurer to the next. There are excellent off-the-shelf software programs now available to handle your bookkeeping processes. "QuickBooks" is used by the National office and highly recommended as being an ideal program for all chapters who do their own bookkeeping and accounting, regardless of the chapter's size.

All bookkeeping and accounting procedures use a "chart of accounts" to classify and track income, expenses and bank account balances. (See **Attachment 3.D** for a suggested chart of accounts a typical SMPS chapter might use.) This is a listing of asset, liability, income and expense accounts, numbered for ease of data entry, which are used to record each financial transaction. This chart of accounts conforms to the Form 990 reporting categories to make it easier for you or your accountant to complete those returns. Not all chapters will need all categories and accounts. Larger chapters will usually need a more detailed breakdown of accounts than smaller chapters. The account chart is intended as a guide to organizing your bookkeeping and accounting system. Your chapter may want to add additional accounts for other activities not included in the model or to provide for more detailed reporting of the activities suggested.

Copies should be made of all checks deposited and kept with a copy of the deposit slip. All invoices paid by the chapter should be marked with the check number and check date and maintained in a file. All deposits and paid invoices should be kept for a period of three years. Financial statements and journals should be kept for seven years. (See **Attachment 3.E** for detailed record retention requirements.)

SURPLUS AND RESERVES

All chapters should maintain and grow a cash reserve during good times to help them continue their activities and programs during tough times. Just as we all try to keep savings available for emergencies or save up for a special purchase, the chapter needs a “nest egg” just as much as an individual does. Chapters need to be able to cover expenses if a program fails to generate enough income to offset its cost, to supplement income if there is a decline in membership due to an economic downturn, and to fund special projects that may exceed the resources available in a single year.

Even though SMPS chapters are “non-profit” corporations, this does not mean that chapters cannot make money on their operations. Non-profit really means that no individuals can profit by receiving distributions of income from chapter activities. As long as any surplus income is not paid to individual officers or members, chapters can earn profits and accumulate reserve funds without incurring penalties or jeopardizing their tax exempt status.

The amount of your chapter’s reserve fund can vary greatly depending upon chapter size or plans for any long term special projects or programs, and upon the chapter’s ability to generate surplus funds from its regular programs to add to its reserves. A good long-range target for your reserve fund balance is between 30% and 50% of your annual budget, but proceed slowly so you do not charge your current members unreasonably to provide for the possible needs of future members. Even a three-month equivalent is a very comfortable reserve for many SMPS chapters.