

## **TAX PROCEDURES FOR SQUARE DANCE ORGANIZATIONS**

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### **INTRODUCTION:**

The revisions to the tax procedures have been made by the combined background and experience of Pete Murray, Doug Schafer and Kay Mahan. Compilation of old and updated information in these guidelines, IRS (IRS Publication 557, Revised January 2018 and website information) and WA Secretary of State Corporations (Non Profit Handbook, 2009 Edition and website information) have been used for reference. This updated information will replace previous versions of the information in this book, and is not intended to discredit previous authors. This is to be used as a guideline – you should take care to check for current IRS or State rules, web addresses and fees.

According to the Bylaws of the Square and Folk Dance Federation of WA (Article I, F & Article IV, A) membership is open to nonprofit groups – your organization must be nonprofit to belong to the Federation. This means that it must be governed by elected or appointed club members who control its treasury and pay its bills. A club that is run as a business by a caller or cuer is not a nonprofit group. If a club is chartered by the WA Secretary of State as a nonprofit corporation, as we recommend, then it is nonprofit because state law bars it from disbursing profits to anyone, though it may pay reasonable compensation and expenses.

### **FEDERAL INCOME TAX LAW COMPLIANCE:**

A nonprofit group, whether or not incorporated, must pay federal corporate income taxes on its net income unless it qualifies as a "tax-exempt organization" under the federal Internal Revenue Code (IRC). The federal tax exemption classifications for square dance organizations are IRS code 501(c)(3) for charitable and educational organizations; 501(c)(4) as promoting social welfare; and 501(c)(7) for social and recreation clubs.

Existing clubs most likely have been exempt from federal income taxes (and filing corporate tax returns) for years or decades as social welfare organizations under 501(c)(4) or as social clubs under 501(c)(7). No IRS application has ever been required to claim the applicability of those tax exemptions. Though a nonprofit could apply for an IRS letter confirming its exemption under 501(c)(4) or (c)(7), few chose to do so. In contrast, nonprofits seeking recognition as a charitable/educational organization under 501(c)(3) have had to apply to the IRS for a determination letter affirming that. That requirement remains. Tax advisors familiar with square dance clubs discourage them from claiming the 501(c)(7) social club exemption because of tax rules that limit the percentage of revenue from non-members and that require onerous recordkeeping. Square dance clubs should avoid being so classified!

### **FORMING A NEW CLUB:**

Founding documents for new organizations – Articles of Incorporation, Constitution, Association agreements, etc that describe the purposes of an organization and its basic rules. Your organization does not have to be a corporation; it can be an association. However a corporation provides more protection of its members from lawsuits.

There are sample Articles of Organization on page 70 of IRS Publication 557: Tax-Exempt Status for your Organization (Revised January 2018). You can download or order this and other IRS forms and publications on the IRS website: [www.irs.gov](http://www.irs.gov).

Your club may have to go through a revision process to change your Articles of Incorporation or Constitution. This process should already be provided for in those documents.

It is important that you get these documents in order and have the most recent copies signed by at least two officers and placed in a safe and accessible place.

Determine Fiscal Year – If you have not done so already, choose a fiscal year. For square dance clubs, reasonable choices for year-end are Dec 31, June 30, Aug 31, or whenever you change officers. This will determine when your tax return needs to be filed.

#### HOW TO VERIFY YOUR TAX EXEMPT/NONPROFIT STATUS:

UBI (Unified Business ID) WA Secretary of State - [www.sos.wa.gov/corps/](http://www.sos.wa.gov/corps/) Enter information in CCFS Advanced Search – it should give you the status of your organization.

EIN (Employer Identification Number) IRS - <https://apps.irs.gov/app/eos/> Exempt Organizations Select Check. If you are not sure whether you already have a valid number, call IRS at 1-800-829-4933

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#### TO APPLY FOR NONPROFIT/TAX EXEMPT NUMBERS:

UBI (Unified Business ID) Number  
WA Secretary of State – To download paper forms on the website - [www.secstate.wa.gov/corps/nonprofitcorporationsonlineandpaperregistration.aspx](http://www.secstate.wa.gov/corps/nonprofitcorporationsonlineandpaperregistration.aspx)  
Nonprofit Corporations, Online and Paper Registration. The application fee for online registration is \$50, for paper registration the fee is \$30.

EIN (Employer Identification Number)

IRS – There are three ways to get a new Tax ID number:

1. Online at [www.irs.gov/businesses/small](http://www.irs.gov/businesses/small) Click on the Employer ID numbers link, Interview-style online EIN application. You will need to furnish information about your

organization, including fiscal year. The application includes embedded help topics and hyperlinked keywords and definitions, so separate instructions aren't needed. After all

validations are done, you will get your EIN immediately upon completion. You can then download, save and print your confirmation notice.

2. By mailing form SS-4 to the address given on the form. You can download this form from [www.irs.gov](http://www.irs.gov) or you can have it mailed to you. Instructions are at [www.irs.gov/pub/irs-pdf/fss4.pdf](http://www.irs.gov/pub/irs-pdf/fss4.pdf)

3. By faxing form SS-4 to the IRS using the appropriate fax number listed in *Where to File or Fax*. Be sure to provide you fax number so the IRS can fax the EIN back to you. You can receive your EIN by fax generally within 4 business days

To avoid duplication, do only one of these. Get Form SS-4 ahead of time so you know what information you will need. It may take 4 – 5 weeks for your Tax ID become part of the IRS permanent records if it is mailed in. You must wait until this occurs before you file the 990-N.

#### TO APPLY FOR IRS TAX EXEMPTION RECOGNITION:

For 501(c)(3) organizations – File Form 1023-EZ, Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code (online application). You may be eligible if you are a smaller organization (assets of \$250,000 or less and annual gross receipts of \$50,000 or less) seeking recognition of exemption under section 501(c)(3) – \$275 Filing Fee.

501(c)(4) organizations must notify the IRS of intent to be tax exempt within 60 days of their formation. There is no requirement that a club claiming to be exempt under 501(c)(4) apply for an IRS determination letter - see Form 8976 below.

File Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code if you are seeking recognition of exemption under section 501(c)(4), tax exempt organizations with less than \$50,000 annual income.

Form 1024, Application for Recognition of Exemption under Section 501(a) if you are seeking recognition of exemption under Section 501(c)(7) Social clubs. – this classification is not recommended. Before you apply for 501(c)(7) status, review the requirements.

For Forms 1024 & 1024-A You must also submit Form 8718 User Fee (Rev March 2018) for Exempt Organizations and an application fee of \$600.

#### NOTICE OF INTENT TO BE TAX EXEMPT BY 501(c)(4):

Form 8976 Electronic Notice Registration System is required regardless of whether a group intends to apply for a determination letter. The corresponding fee may only be completed and submitted electronically <https://services.irs.gov/registration>. This is a one-time notification. However, you will have to file annual information returns or

notices (e.g., Form 990, Form 990-EZ, or Form 990-N) depending on your total assets and gross receipts.

A fee of \$50 (these fees may change, so check for current fees) must be submitted to Pay.gov within 14 days of submitting Form 8976 to complete your organization's notification. If you don't submit the fee within 14 days, your form will be rejected. The noncompliance penalty for late filing a Form 8976 is \$20 a day, up to \$5,000; and that penalty can be assessed against individual officers who fail to file the Form 8976 within a deadline set in a letter sent to them by the IRS.

In addition to submitting the Form 8976 notice, 501(c)(4) applicants may also choose to file a complete Form 1024-A. Submission of a Form 1024-A does not relieve an organization of the requirement to submit a Form 8976.

#### FILING ANNUAL REPORTS:

WA SECRETARY OF STATE ANNUAL NONPROFIT REPORT – You should receive a renewal form each year addressed to the last agent of record. You write the names and addresses of your officers on the form and send it, with \$10, to complete the renewal. Or, you can renew online <https://ccfs.sos.wa.gov>. You can do an Express Annual Report with or without changes. Failure to file this annual report by your expiration date will result in a \$25 delinquency fee and may result in administrative dissolution

IRS – ANNUAL FORM 990-N SUBMISSIONS – For tax-exempt groups with annual gross income of less than \$50,000.

Unless a club has previously filed a Form 990-N or applied to the IRS for a tax-exemption letter, the online system will not accept its Form 990-N until a club officer phones the IRS at 877-829-5500 (toll-free), but long on-hold times) and requests that the club's EIN be added to the exempt entities database, a process that takes about six weeks. After that, a club officer may file the Form 990-N. We suggest you not call that number if the club already has failed for three consecutive years to file the Form 990-N.

In 2006, Congress enacted a law that requires smaller tax-exempt groups annually to file online an "electronic postcard" called Form 990-N that essentially lets the IRS know that they still exist. It must be filed by the 15th day of the fifth month after the club's fiscal year ends. That law automatically revokes the tax exemption from clubs that fail for three consecutive years to file a Form 990-N notice or a Form 990-series return. Instructions are at [www.irs.gov/990n](http://www.irs.gov/990n).

So if your club has failed for three consecutive years to file the Form 990-N, the club is no longer exempt from federal income tax, and it should be filing corporate tax returns using IRS Form 1120. While it is unlikely that the IRS would devote its limited resources to enforcement actions against a small club, if it should do so, the penalties and other consequences likely would destroy the club. If you contact the

IRS and confirm that the club has existed since before 2006, its agents will quickly

recognize that it failed for at least 3 consecutive years after 2006 to file the Form 990-N and the IRS will cause the club's name to be published on its periodic listing of entities whose tax exemption was automatically revoked.

If your club's federal tax exemption has been automatically revoked because it failed for 3 consecutive years to file a Form 990-N, it may reinstate its exemption as a 501(c)(4) by applying with Form 1024-A (\$600 filing fee) for an IRS determination letter. The reinstatement process is complicated ([www.irs.gov/pub/irs-pdf/p4991.pdf](http://www.irs.gov/pub/irs-pdf/p4991.pdf)). Existing clubs intending to be exempt under 501(c)(4) that have not filed at least one Form 990-N (or other Form 990) before July 2016 may be subject to onerous penalties for having failed to file the new Form 8976 (discussed below) by its initial deadline in September 2016.

If your club offers classes and demonstrations, and its governing documents limit its purpose to something like “educating the general public about and promoting the art and culture of square dance and related forms of dance” then it might reinstate its tax exemption by applying to the IRS for exemption under 501(c)(3) as an education group. Clubs may apply online using a new simple Form 1023-EZ (\$275 filing fee), but be sure to read the instructions to that form first and amend the club’s governing document (articles of incorporation, or a constitution if unincorporated) to include specific language required those instructions. A club with an IRS 501(c)(3) exemption letter might get discounted charges for using schools and other public facilities, and discounted or free advertising from media outlets.

An alternative approach to coming into compliance is to form a new club (\$50) with a different legal name, get a new federal tax ID, file a one-time Form 8976 (\$50), and begin filing annual Form 990-Ns to be compliant as a new club.

#### REINSTATEMENT OF A WASHINGTON NONPROFIT CORPORATION:

To reinstate nonprofit status you will need to go to the website [www.secstate.wa.gov/corps/nonprofitcorporations](http://www.secstate.wa.gov/corps/nonprofitcorporations) and create a new account, entering old information for the organization that you have available. The fee for reinstatement is listed as “calculated” on the website, so it will be determined once you have provided the necessary information.

## Frequently Asked Questions

### 1. How does a club report foreign caller/cuer income to the IRS?

According to the Canada/USA Tax Treaty, Article XV Income from Employment – Income is not taxable if it does not exceed \$10,000 in US currency.

### 2. Does each club need a Tax ID number? Why can't we just use the State Federation's number?

Yes, each club needs its own Tax ID number. There is a provision in the tax code for a "Group Exemption" (from federal tax), but it is not workable for us. (P. Murray, 4/20/09)

### 3. Is our caller (cuer) an employee or an independent contractor?

Most callers should be classified as independent contractors because (a) the club has a contract with the caller that specifies what he/she does, but not how it is done; and (b) the caller provides his own equipment. The IRS has a list of about 20 factors to use to decide this.

If you consider your caller an employee, then you have to withhold federal income tax on the earnings and send it to the IRS, and you have to withhold and pay Social Security taxes, and maybe industrial accident and unemployment taxes. You don't want to do this without competent legal advice. (P. Murray, 4/27/09)

### 4. Do we have to pay sales tax on revenue?

Washington state tax law affords no blanket tax exemption for nonprofit or federally tax exempt groups. The taxes of relevance are sales taxes and the business and occupation (B&O) taxes. State law expressly exempts a federally tax-exempt group from collecting sales taxes or reporting and paying B&O taxes on revenue from fund-raising activities that are used to further its goals.

M Fund-raising activities are exempt so long as the activity is not at a regular place of business in which the sales are made during regular business hours. If you have just an occasional sale, then no sales tax need be collected.

The state legislature repealed a statute to make it clear that sales tax need not be collected for dance admission charges. The state Department of Revenue (DOR) asserts that dance admission revenue is not exempt from the B&O tax. However, unless a club has annual revenue exceeding \$12,000 it need not even register with the DOR. Even if a club registers with the DOR, that agency upon request will place the club on an "active nonreporting status" if its annual revenue is less than \$46,667. (Sources: RCW 82.04.3651, 82.08.02573, 82.32.030, 82.32.045; WAC 458-20-169, 458-20-101; Ch. 169 of WA Laws of 2015)