

**ANSWERS YOU NEED TO RUN YOUR CC
BUSINESS**

BUSINESS Q&A FOR CC DIRECTORS

BY CAROL TOPP, CPA



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Business Q & A and CC Directors/ Carol Topp. —1st ed.

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Introduction

Through my website HomeschoolCPA.com, emails, and social media groups, I am asked a lot of questions by CC Directors about running their businesses. As the list of questions and my answers grew, I thought it best to organize them into this ebook.

It is my desire that all homeschool group leaders, including CC Directors, understand the task they are taking on. CC Directors are committed, hard-working people, who are homeschooling their own children and have taken on the task of helping other parents homeschool as well. As business owners, Directors take on a heavy load of responsibility and potential liability. There is a lot to learn and I hope that this ebook is helpful to impart the knowledge that Directors need to run their businesses.

This ebook has questions categorized into four categories

- Business Set up
- Using Church Space
- Taxes and Nonprofit/Tax exempt Status
- Employee or Independent Contractor

I hope you find the answers to your questions in this ebook. If not, please consider additional resources listed at the end of this ebook.

The fact that a company, organization, or website is mentioned does not mean that the author endorses the information or services provided. The resources mentioned in this book should be evaluated by the reader. Readers should also be aware that organizations and websites mentioned may have been changed or ceased operations since the publication of this book.

Carol Topp, CPA

HomeschoolCPA.com

Should a Classical Conversations Director be an LLC?

I am a CC director. I am not sure what is the best option when it comes to register our community. A LLC or as a Sole Proprietor? Thank you so much for your help.

Maria

Maria,

By default, if you are the only owner of your business, you are a sole proprietor. You could consider adding LLC status to your sole proprietorship business if you want the limited liability protections that LLC status offers.

The reason that most businesses use the LLC structure is for *limited liability*. That means the liability is limited to your business and its assets and not your personal assets. I organized my own sole proprietorship accounting practice as an LLC because I wanted limited liability and protection of my personal assets. LLC status can be added to your sole proprietorship business at any time. I ran my accounting business for 3 years and then added LLC status.

I recommend that you read up on LLC status, how to get it, maintain it (there are things you should do like not co-mingle funds and sign contracts in the name of the LLC, etc.) , and what is required in your state regarding fees and reports. Some states charge a one-time fee, some charge a yearly fee and annual reports.

Since this is a website mainly for homeschool nonprofit organizations, I will add this note: **For a nonprofit organization, such as most homeschool groups, I typically do not recommend LLC status since nonprofit corporation status in your state brings similar protections of limited liability.**

Here is a podcast episode where I discuss [Should Your Homeschool Group Be An LLC?](#)

But Maria is asking about LLC status for her for-profit business, not a nonprofit organization, and my advice to her may be very different from my advice to a nonprofit organization.

Carol Topp, CPA

I am not an attorney, nor am I offering legal advice. I recommend that you seek legal counsel if you have additional questions about Limited Liability Company status.

Liability for CC Directors

Colleen Eubanks, a CC tutor and F/E Director shares a video review of Classical Conversations.

<https://youtu.be/fmY9OtsV9ao>

About the **13:30 mark** (roughly half way), she clearly explains some of the liability that she carried as a CC Director. Her concerns include:

- Paying tutors as employees or Independent Contractor
- Not being hired as a Directors as an employee
- Securing a facility to meet
- Potentially jeopardizing the church's property tax exemption by operating her for-profit business in a church

Since Collen owned another business in addition to directing a CC Community, she knew about employees and Independent Contractors. She also consulted her CPA in running her CC Community business. Smart woman!

She explains her concerns clearly and factually. Any CC Directors should be aware of the liability they carry so they enter into a licensing agreement fully aware of these issues.

I hate to hear stories of CC Directors not being aware of the fact they are running a business! And it's very unfortunate when a church learns that a business has been operating on their property and asks the CC Community to leave. That gives homeschool groups a bad reputation with churches.

Listen to her comments at the **22:20-23:16 minute** mark she encourages CC Directors to fully understand the kind of business they are setting up and that just because it is a low-profit (or no profit) business does not make it a legitimate, nonprofit organization.

Are you considering converting your CC Community from a business to a legitimate nonprofit organization?

My webinar on [Create A Nonprofit for Your Homeschool Community](#) can help. It's only \$10 and runs 90 minutes. Typically you would pay \$150 for an hour and a half of my time, so the webinar is a bargain.

Carol Topp, CPA

Should My CC Community be a Nonprofit or For-Profit?

I am a new director of a CC campus in Michigan. I read on a FB comment you are THE lady to contact!!! :-) I'm trying to weigh how to set things up. Can you offer me a recommendation on if I should set up a for-profit or non-profit based on your knowledge of CC? Also I'm at a loss of how to even approach or explain CC and the situation to a CPA who has no understanding of it. Where do I start and what are important things s/he needs to know to help me make a good decision?

- Michelle

Michelle,

I'd venture to estimate that 90% of CC Communities are set up as for-profit businesses, sole proprietorships owned by the Director. A few larger ones with a mission focus have established boards, filed to become nonprofit corporations, and applied for 501(c)(3) tax exempt status with the IRS.

The main differences between a for-profit business and a nonprofit are:

- Profit motive. Nonprofits have a purpose other than making a profit; in this case it would be to educate children, which the IRS says can be a purpose for a 501(c)(3) organization.
- Ownership and Control. A nonprofit is not owned by anyone; the board runs everything and decides what everyone, even you, the founder and Director, will get paid. The board can also fire you and hire another Director. The board can decide not to renew their license with CC and decide to use another curriculum. So you surrender ownership and control of the CC community to the board.
- Tax exemption and tax deductible donations. Nonprofits who apply for 501(c)(3) tax exempt status with the IRS will be tax free on their surplus and can receive tax-deductible donations.
- Volunteers: For profit businesses cannot use volunteers nor can they ask their paid workers to volunteer. That would be a violation of the Federal Fair Labor Standards Act, which protects the rights of workers from unscrupulous employers.

If you'd like to discuss this decision with me, I would be happy to arrange a phone consultation with you. Contact me at [HomeschoolCPA.com/Contact](https://www.homeschoolcpa.com/contact)

Carol Topp, CPA

Is Your CC Program a Ministry or a Business?

Sometimes I hear people calling their business a “ministry.”

Maybe because they are motivated by concern and care for their customers or because they donate a lot of their time for free.

I don't refer to my accounting and consulting business as a ministry, but some people have thanked me for “my ministry” to homeschoolers. Yes, I do give a lot of my time away for free especially on social media like [this Facebook group for homeschool leaders](#) that I moderate and frequently I might reply to an email without charging a fee (if it is a short reply!). But I am running a business and I don't want to give the false impression that I am running a ministry or operating a nonprofit organization.

OK, not a lot of accounting firms get confused with nonprofits (!), but **there are some businesses and homeschool programs that present themselves as nonprofit organizations or “ministries” but they are really for-profit businesses.**

I don't like that. At best, it is confusing to call your business a ministry. At worst, it is deceptive and can damage the reputation of homeschooling. One lawyer called it “posturing as a nonprofit” and advised his client, a CC Director, to avoid appearing to be a nonprofit, especially regarding her relationship with her church host.

I have tremendous respect for the late Larry Burkett founder of Christian Financial Concepts (now Crown Financial Ministries) who was both a business owner and operated a nonprofit ministry. He wrote:

Don't practice deception. If you have a product to sell that you honestly believe will benefit other Christians, let it be known, but don't promote it as a ministry or as a spiritual happening.

Let your yes be yes and your no be no. In other words, let people know what the company is and what the product is. If there is a referral or finder's fee paid to another person for a lead, let that be known too.

If you're afraid of losing a sale because of total honesty, the program is dishonest.

Source: Larry Burkett in *Using Your Money Wisely* p. 76 and 77 copyright 1985. You can read a longer excerpt [here](#).

I have heard from several nonprofit homeschool organizations that say churches in their local communities got “burned” by CC groups posing as “ministries.” They tell the church they are “just a bunch of homeschool moms” or “a homeschool organization” and fail to explain that they are a for-profit business. Read [this blog post](#) to understand why churches are reluctant to host for-profit businesses.

Now legitimate *nonprofit* homeschool groups have difficulty getting a church to host their program.

Being deceptive hurts everyone.

We're better than that!

Carol Topp, CPA

Is Your Homeschool Group “Just a Bunch of Moms”?

I’ve heard this too many times from homeschool group leaders to ignore it any longer.

“We’re just a bunch of homeschool moms”

It’s usually used along with one of these sentences,

...therefore we don’t want to (or need to) ...

- be formally structured
- follow the law
- pay taxes
- apply for tax exempt status
- pay our workers as employees (according to the law)
- record our income or expenses
- notify our church host of the for-profit nature of our group, etc.

I’ve heard or read just about every one of these excuses!

Does saying “we’re just a bunch of homeschool moms” imply that:

- homeschool moms are incapable of running legitimate businesses or nonprofit organizations?
- homeschool moms can’t understand legal and tax issues?
- homeschool moms are claiming ignorance as a defense against obeying the law?

Homeschool moms are intelligent, capable women. I know of hundreds of homeschool moms running businesses and nonprofit organizations very successfully and legally. I know some that are accountants and lawyers or, in the true spirit of homeschooling, are self-educated to understand complex tax and legal situations.

So let’s not imply that homeschool moms are not capable or not intelligent by saying “we’re just a bunch of homeschool moms”!

Instead, we should do what we do at home with our children:

Get educated about the legal and financial aspects of running a homeschool organization.

Carol Topp, CPA

Homeschool Program Rejected by a Church

I am a director of a CC homeschool community in Illinois. It is my business, not a nonprofit organization. Our church is asking us to leave as they believe hosting us threatens their tax exempt status. Other churches who have heard this claim do not want to accept us. Any advice?

-Kimberly in IL

Kimberly,

I'm very sorry to hear about your problems with finding a church host.

The church is probably worried about their **property tax exemption** in Illinois since your CC program is a business and not a religious or educational nonprofit.

Property tax exemption is different from federal income tax exemption granted by the IRS. The IRS grants churches automatic status as 501(c)(3) religious organizations. That's not what is being threatened here.

Property tax exemptions are determined by the state and sometimes the county laws. That's what has the church worried. If they lose property tax exemption, it will be very expensive for them to pay property tax.

I did a little digging and found some information about church property tax exemption in Illinois. Illinois may deny property tax exemption to the church if an organization using the church's property has a "view to profit." Illinois says that having a "view to profit" is incompatible with property tax exemption.

Unfortunately, *as currently structured*, your homeschool program has a "view to profit" and the church doesn't want to offer your group space to meet and risk losing its property tax exemption.

The only advice I have is to ask the church if they would offer space to your program if it were a nonprofit organization with a religious and/or educational purpose. Illinois does grant property tax exemption to some educational organizations.

If you wish to re-form as a nonprofit organization, I can help you understand the pros and cons.

Carol Topp, CPA

FAQ on Property Tax for Churches Hosting Homeschool Programs

Many homeschool groups use churches for their educational programs. These groups are grateful to the churches for allowing homeschoolers to use their building, sometimes without charging rent.

But some homeschool programs are organized and operate as for-profit businesses and that could threaten the church's property tax exemption. Churches are granted property tax exemption by their states for conducting religious activities or worship services. In most states, a church cannot let their building be used for activities with a "view to profit" or for "pecuniary gain" (gain of monetary value) or the church could lose part or all of its property tax exemption.

Here are some frequently asked questions about property tax, churches and homeschool groups.

If my homeschool group is a nonprofit organization, can we use the church building?

Yes, probably. Nonprofits, especially those with a religious purpose, do not have a "view to profit" or engage in activities for "pecuniary gain," (those phrases are used in several state statutes regarding property tax exemption) so they may use church property without posing a threat to the church's property tax exemption.

What if my business doesn't make a profit?

The property tax exemption is based on the use of an exempt property (i.e., the church building) by a for-profit business. Exemption is not based on the profitability of the business entity using the church's property.

If I don't make a profit from my business, I'm a nonprofit then, right?

No. An organization is only a nonprofit if it is organized (with a board, bylaws, etc.) and operated (with a religious, educational, or charitable purpose) as a nonprofit. What you are is an unprofitable business, but not a nonprofit organization.

I'm not a business; we're just a bunch of moms gathered together to educate our children.

If you received money and in return offered a service (such as educational classes), then you are operating a business. You are not "just a bunch of moms."

What if my business doesn't pay rent to the church?

It is commonly assumed that if a church does not charge rent to a for-profit business, then no *income tax* would be owed by the church. That is usually correct and refers to unrelated business income tax (UBIT). No income, therefore no income tax to pay.

But income tax and property tax are two separate taxes. The property tax exemption is based on use of the church's real and personal property, not on any income the church receives from rental activities. Therefore, the fact that a church is generous and does not charge rent to the business owner using the church building, does not change the fact that the church's property tax exemption is at stake.

Renting out space could incur unrelated business income tax (UBIT). The IRS assesses UBIT on churches and all 501(c)(3) tax exempt nonprofits if they receive income from conducting a business unrelated to the church's religious purpose. If a church rents space to a for-profit business, the church is conducting a business and may be required to pay UBIT. There are several exceptions to UBIT, so the church should discuss the issue with their CPA.

What if my business gives a love offering or donation to the church?

Calling what you give to the church a "donation" or "love offering" is a simply renaming the payment. Calling your payment a donation does not change the fact that you are giving money to the church in exchange for use of its space. Even if the church does not bill you, it is payment for use of space and not a donation. Be honest. Call it what it is: rent.

Attorney and CPA, Frank Sommerville, says

"Many churches try to disguise rents by using other terminology or by claiming that the other organization is simply giving a donation to the church. Other times the church calls it a "cleanup fee" or tells the tenant to pay the janitor directly for his services. None of these name games work. If any amount is paid by the other organization to the church or the church's workers, then the IRS and state taxing authorities will likely treat it as rent paid to the church."

Source: <https://www.wkpz.com/content/files/Use%20of%20Church%20Facilities%20by%20Outside%20Groups.pdf>

Will the church lose its 501(c)(3) tax exempt status for hosting a for-profit business?

The church has 501(c)(3) tax exempt status as a religious organization and probably also charitable and educational purposes as well. As long as the church's activities are exclusively religious, charitable, and/or educational, their 501(c)(3) status is not in jeopardy. But two other issues need to be considered: inurement and unrelated business income tax (UBIT).

The church could lose its 501(c)(3) tax exempt status if they practice inurement. Inurement means "benefit" and includes the transfer or use of property to insiders for less than fair market value. The IRS forbids a 501(c)(3) tax exempt organization to use its income or assets to directly or indirectly benefit an individual, a person with a close relationship with the organization, or a person who is able to exercise significant control over the organization. These

“insiders” can be board members or donors and would also include the pastor, leaders, elders, deacons, trustees, and staff and their family members.

Here’s the IRS definition of inurement:

*A section 501(c)(3) organization must not be organized or operated for the benefit of private interests, such as the creator or the creator’s family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests. No part of the net earnings of a section 501(c)(3) organization may **inure** to the benefit of any private shareholder or individual. A private shareholder or individual is a person having a personal and private interest in the activities of the organization.*

Source: <https://www.irs.gov/charities-non-profits/charitable-organizations/inurement-private-benefit-charitable-organizations>

For example, the spouse of a pastor operating his or her for-profit business on the church’s property could threaten the church’s 501(c)(3) tax exempt status because the church may be guilty of inurement.

Inurement is a very serious matter and the IRS has revoked the 501(c)(3) tax exempt status from churches for practicing inurement.

Renting space is a commercial activity and not a religious, charitable or educational activity. So the IRS considers income from renting space as “unrelated business income” and will charge an unrelated business income tax (UBIT) on the profits from the rented space.

Property tax and unrelated business income tax are two separate taxes. Property tax is determined by state laws and administered by local county government. It is an ad valorem tax, meaning based on value. An ad valorem tax is based on the assessed value of an item such as real estate or personal property.

UBIT is determined and administered by the IRS at the federal level. It is a tax based on income, specifically business income unrelated to the exempt purpose of the tax exempt entity. Most churches strive to avoid UBIT and many have policies prohibiting for-profit businesses to rent or use the church’s property to avoid UBIT.

My business has a religious purpose. I’m a Christian, we pray before classes and quote Bible verses. So I fit the religious purposes of the church, right?

Having a religious faith or conducting religious activities such as prayer, Bible teaching, etc. does not mean your business has an exempt religious *purpose*. As a business, your purpose is to make a profit. Many state statues regarding property tax exemption are specific on what type of entities can claim the religious exemption.

What if the church knows I'm operating a for-profit business and doesn't mind or doesn't care?

It is quite rare for a church to knowingly allow a for-profit business use their facilities. The church is putting itself at risk of losing part or all of its property tax exemption. The church may be ignorant of their state's prohibition against using their tax-exempt property to conduct for-profit activities. Or you may have misrepresented the true nature of your business. Or you may have spoken with a pastor and not the church's business administrator or board of trustees, who are more aware of the legal and financial matters of the church.

What if my homeschool program is a nonprofit but I hire my teachers/tutors as Independent Contractors?

Many small nonprofits desire to avoid the hassles of employees and payroll, but hiring workers who provide the key activity of the nonprofit's purpose (education in the case of a homeschool program), means that these individuals are still conducting their for-profit businesses on the church's property. That could still threaten the church's property tax exemption. An educational nonprofit should treat workers (i.e., teachers or tutors) providing the key activity of their nonprofit (education) as employees.

Other workers such as a website designer or outside bookkeeper, who do not provide the primary or key services of the nonprofit, can be treated as Independent Contractor without threatening the church's property tax exemption.

What if my business is an LLC (Limited Liability Company)?

A single-member LLC taxed as a sole proprietorship is still a for-profit business. If you regularly conduct your for-profit business on the church's property, it could threaten the church's property tax exemption.

Isn't it the responsibility of the church to ask if my homeschool program is a for-profit business?

It is quite unusual for a church to let a for-profit business use their facilities, so they may not have even thought of asking. The church may be ignorant of their state's prohibition against using their tax-exempt property to conduct for-profit activities. Additionally, you may have misrepresented yourself as "just a bunch of moms" or as a homeschool group and not disclosed the for-profit nature of the business. You bear responsibility for disclosing the true nature of your business to the church.

My church houses a bookstore/coffee shop/Weight Watchers, etc.? How is that legal, but my homeschool business program is not?

These examples may be for-profit businesses operating in a church and may threaten the property tax exemption of the church. Alternately, the church may be paying property tax on the portion of the building being used by the businesses (if their state allows partial nonexempt use).

How do I know what my state laws say about property tax exemption for churches?

Do an internet search on property tax exemption and your state. Or search this pdf file (466 pages long) from The Civic Federation.

<https://www.civiced.org/file/4794/download?token=3ifCi8dl>. It lists the property tax laws or each state. After you do a search for state laws, call your local county tax assessor. The state sets the laws, but the local assessor applies the law to specific situations. Ask the assessor about business use of a church's building affecting property tax exemption.

Our church pastor/deacon/elder's spouse is the business owner. Is that a problem?

It could be. The church's 501(c)(3) status makes them exempt from *federal income tax* and usually state income tax as well. Hosting a for-profit business does not typically threaten the church's 501(c)(3) tax exempt status, but if the for-profit business is owned by a church "insider" or family member of an insider, the church could be guilty of inurement and that may threaten their 501(c)(3) status. Prohibited inurement includes the transfer or use of property to insiders for less than fair market value.

Aren't the churches making a big fuss over nothing?

Maybe not. Read this story about a church in Miami, FL that was assessed a \$7.1 million dollar property tax bill for conducting a for-profit school on their church property.

https://www.miamiherald.com/news/business/real-estate-news/article222993435.html?fbclid=IwAR2Ehjdp7kYjJQFeJHipP_wBKMXhjfc3U33vi0SNwwBMkqtzudi_dSryE9g

The facts in this case are different from most homeschool programs, but a tax assessor can levy a tax lien against a church for conducting a for-profit business (in this case a Christian school) on the church's property.

What should I do if I am the business owner?

- Become informed about the limits on business activities conducted by churches in your state's property tax exemption laws. This document may help you start your research: <https://www.civiced.org/file/4794/download?token=3ifCi8dl> This pdf file is 466 pages and lists the state statuses for every state. Then do an internet search "YOUR STATE nonprofit property tax exemption" or "YOUR STATE church property tax exemption."

- Call the government agency responsible for assessing property tax. In most states that is your local county property tax assessor. In other states, it may be the state department of revenue. Ask the person with the knowledge and authority to assess property tax, “Can a church let a for-profit business use the church’s building on a regular basis without harming our property tax exemption?” Ask for an assessment to be conducted and an estimate of the property tax to be calculated. Request a written report of their findings and opinion, especially if the county tax assessor declares there is “no problem.” Determine if your business can afford to pay the property tax bill. (expanded to clarify the proper agency to contact on April 5, 2019)
- Talk to your host church about this issue. Ask what they know about limits on business activity for churches in your state.
- Consider looking for a location that is not a church or other property tax exempt nonprofit organization.
- Consider converting your business to a nonprofit organization with a religious and educational purpose. That involves forming a board to operate the program, drafting bylaws, etc. It takes time and money, but then the nonprofit organization could use the church’s space without being concerned about threatening the church’s property tax exemption.
- Seek competent legal advice on your business’ use of church property regarding property tax exemption, UBIT, and inurement.

Tax Assessor Clears Confusion on CC Communities Using Churches

There is a lot of confusion about whether Classical Conversations Communities should be using churches for their Community Day activities.

Background: Unlike most homeschool programs and co-ops, Classical Conversations Communities are usually *not* nonprofit organizations. Instead they are for-profit businesses owned by the Communities' Directors who have licensing agreements with Classical Conversations, Inc. This may cause problems when a CC Community meets in a church. Many churches avoid hosting businesses on their property for several reasons including:

1. Jesus chastised the money-changers in the Temple in Mark Chapter 11. Many churches have a policy against business owners conducting their business on church property.
2. Churches enjoy property tax exemption from their state governments for their religious activities. Hosting a business may threaten that property tax exemption and churches would have to pay property tax. Churches want to avoid violating their property tax exemption and therefore do not typically allow business to be conducted on their property.

I wrote a long FAQ page about homeschool groups using churches [here](#).

One tax assessor in North Carolina, Jeremy Akins, kindly answered several questions regarding CC use of church property in his county Alamance, NC.

His document "[Classical Conversation FAQ](#)" answers several questions including:

- How authoritative is this document?"
- My CC Community operates out of a church. Does this put the church at risk of losing its property tax exemption?
- Classical Conversations is Christian education. It aligns with the values and beliefs of the host church. Shouldn't we be covered under the religious rather than nonprofit educational exemption?
- What if my church wants to set up a CC Community operated by the church itself?
- We only use the fellowship hall and outdoor areas for 6 hours per day, 30 days per year. Isn't this an incidental use by members of the general public? I've heard this doesn't jeopardize the exemption.
- What if I want to operate a CC Community with all volunteer staff (no payments to the Director / Tutors, just the cost of the curriculum, license fee and facility fee)?
- Are you saying that a CC Community cannot be structured as a for-profit business?

You can read Mr. Akins' response (5 pages) in full here. [Alamance County NC Classical Conversations FAQ.pdf](#)

Although Mr. Akins' FAQ document is limited to his jurisdiction (Alamance County, NC), he does make his assessment based on state-wide laws. Additionally, his FAQ gives helpful insight into

how a property tax assessor thinks and evaluates a for-profit homeschool business using church property to conduct its business.

Nonprofit Status for CC Communities

I would like to expound on one question that Mr. Akins answered:

Does this mean my CC Community must obtain 501(c)(3) status?

No, although that is something your Community may consider. All that is required for the purpose of the exemption is a North Carolina status as nonprofit.

Let me explain the difference between nonprofit and tax exempt status:

Nonprofit status is granted by your *state*, usually the Secretary of State's office. Creating a nonprofit corporation is forming a new legal entity.

501c3 tax exempt status is offered by the *IRS* to eligible nonprofit organizations.

Think of it like being married: Your state approves marriage licenses and you form a new family entity when you get married. You also are eligible for tax benefits from the IRS (called Married Filing Joint) if you are eligible and want it. Your homeschool group doesn't *have* to apply for 501c3 tax exempt status with the IRS. Just like a married couple does not have to file a joint tax return; they can file Married Filing Separately. While that usually costs more in taxes, but it can be done.

The same is true for a nonprofit organization. If a nonprofit does not apply for 501c3 tax exempt status with the IRS, the nonprofit will owe federal income tax on any surplus it has each year. The nonprofit organization will be required to file a federal corporate tax return (Form 1120) to report its income, expenses and profit. The federal corporate tax rate is 21%. So most eligible nonprofits apply for 501 federal tax exempt status and avoid paying 21% of their profit to the IRS.

Please understand that Mr. Akins' FAQ is addressing *property* tax exemption on churches, not federal income tax exemption, so he is addressing that tax and its tax basis.

Resources for Nonprofit and Tax Exempt Status

I have some resources to explain nonprofit and federal income tax exempt status. I do not make assessments regarding state and county property tax. They are different taxes and different tax agencies. I focus on federal income tax exemption from the IRS.

[Difference between nonprofit and tax exempt status](#) (3 minute video)

[Do I Have to Be Tax Exempt?](#) (3 minute video)

[Is My Homeschool Group Required to Have 501c3 Tax Exempt Status?](#) (13 minute podcast)

[Creating a Nonprofit](#) webinar: This webinar recording is helpful for new nonprofits, existing homeschool group, or for a business wanting to convert to a nonprofit organization. The webinar runs about 90 minutes and covers:

- The difference between a business and a nonprofit organization
- The advantages and disadvantages of being a nonprofit organization
- Forming a board: who can be one it, what do they do, etc.

I have helped several CC Communities convert to nonprofit organizations and assisted over 200 organizations apply for 501c3 federal income tax exempt status. If you have questions about the process, start with the resources above. If you have specific questions, we can arrange a phone [consultation](#).

Carol Topp, CPA

I'm a Classical Conversations Director. Do I Have to File Any Forms With the IRS?

On April 15 last year (you know, that day the personal tax returns are due!), I received this email:

I need to be sure I don't have any tax forms to file with IRS. This was our first year as a CC community, with only 2 tutors and 12 children.

-Name withheld to protect the guilty

Just as aside before I answer her question: This CC Director treated her tutors as independent contractors all year long. That may or may not have been the proper worker classification for them. She may have exerted enough control over the tutors that they should have been treated as employees, but I did not address that issue with her. At this point, what the director did in the past with regard to paying her tutors is done; it cannot be changed now. I addressed what she needs to do now to properly file her taxes.

Dear Name withheld,

As a Classical Conversations (CC) director, you are a small business owner.

You should have given your tutors a Form 1099-MISC to report the income you paid them (assuming you classified them as independent contractors). The Form 1099-MISC is to be given to each tutor **by January 31** each year for the income paid in the prior year. A copy is also sent to the IRS. It sounds like you missed that deadline.

By the way, you cannot simply print the Form 1099-MISC from the IRS website. You must order forms from the IRS, purchase them at an office supply store, or **use an online filing program like [Yearli.com](https://www.yearli.com)** (that's the service I've used to file my 1099-MISC and my affiliate link).

You should also have reported your income and expenses from your CC business on your personal income tax return, using Form 1040 Schedule C Profit or Loss from Business.

If you had a profit of more than \$400 for the year, you will also owe Self-Employment Tax. It is calculated on Form 1040 Schedule SE.

I'm afraid Name-withheld is very late in filing these forms! She may owe a penalty for late filing your 1099-MISC forms. She may need to file an amended federal income tax return (Form 1040X) if she failed to include her CC income and expenses. She may also need to amend her state income tax return.

I strongly recommend that Name-withheld contact a local CPA to discuss amending her federal and state income tax returns.

She may also need to address if independent contractor status is the proper classification for her tutors. My book [Paying Workers in a Homeschool Organization](#) can help determine the best classification for workers.

Carol Topp, CPA

Tax Return for a Classical Conversations Business

We are a new Classical Conversations community set up as a single member LLC. We only had 2 students and so my tutor's income was below the requirement for filing 1099s. Same for me. However, I saw that I shouldn't be filing a 1099-MISC for myself. What should I be doing?

And what is considered profit for a CC community?

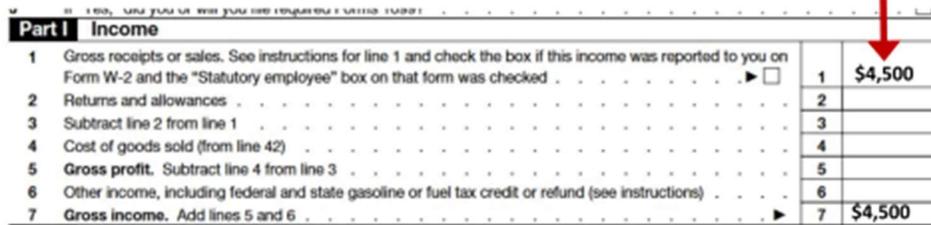
Esther

Esther,

As a single member LLC, you are a sole proprietorship and you report your income and expenses from your CC business on a [Schedule C](#) Profit or Loss from Business as part of your Form 1040.

All your income from the tuition and fees charged to your customers (i.e. parents) goes on line 1 Gross receipts or sales. In this example the total income is \$4,500.

Line 1 enter all your income from tuition charged to parents.



Part I Income			
1	Gross receipts or sales. See instructions for line 1 and check the box if this income was reported to you on Form W-2 and the "Statutory employee" box on that form was checked <input type="checkbox"/>	1	\$4,500
2	Returns and allowances	2	
3	Subtract line 2 from line 1	3	
4	Cost of goods sold (from line 42)	4	
5	Gross profit. Subtract line 4 from line 3	5	
6	Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)	6	
7	Gross income. Add lines 5 and 6	7	\$4,500

Your payment to your teacher(s) goes on Line 11 Contract Labor. In this example a total of \$2,250 was paid to independent contractors. Other expenses go in the categories listed in Part II of the Schedule C. Other expenses made the total expenses sum to \$2,982 as shown on Line 28.

The profit is shown on Line 31. It is calculated from Gross Income (Line 7 on the form) minus Expenses (Line 28). The profit is what you get to keep (and pay taxes on!) as the business owner. In this example the profit is \$1,518. This amount will be carried forward to the Form 1040.

Part II Expenses. Enter expenses for business use of your home only on line 50.						
8	Advertising		18	Office expense (see instructions)	18	
9	Car and truck expenses (see instructions)		19	Pension and profit-sharing plans	19	
10	Commissions and fees		20	Part or lease (see instructions):		
11	Contract labor (see instructions)	\$2,250	a	Vehicles, machinery, and equipment	20a	
12	Depreciation		b	Other business property	20b	
13	Depreciation and section 179 expense deduction (not included in Part II) (see instructions)		21	Repairs and maintenance	21	
14	Employee benefit programs (other than on line 14b)		22	Supplies (not included in Part II)	22	\$132
15	Insurance (other than health)	\$300	23	Taxes and licenses	23	
16	Interest:		24	Travel, meals, and entertainment:		
a	Mortgage (paid to banks, etc.)		a	Travel	24a	
b	Other		b	Deductible meals and entertainment (see instructions)	24b	
17	Legal and professional services		25	Utilities	25	
28	Total expenses before expenses for business use of home. Add lines 8 through 27a		26	Wages (less employment credits)	26	
29	Tentative profit or (loss). Subtract line 28 from line 7		27a	Other expenses (from line 48)	27a	\$500
30	Expenses for business use of your home. Do not report these expenses elsewhere. Attach Form 8829		b	Reserved for future use	27b	
31	Net profit or (loss). Subtract line 30 from line 29.		28		28	\$2,882
	* If a profit, enter on both Forms 1040, line 12 (or Form 1040NR, line 12) and on Schedule SE, line 2. (If you checked the box on line 1, see instructions). Estates and trusts, enter on Form 1041, line 3.		31		31	\$1,518

There is a lot to learn about running a business. I have a webinar to help you understand the tax implications.

My webinar **Tax Preparation for Homeschool Business Owners** should be a lot of help to tutors, non-employee co-op teachers and other homeschool business owners! You can watch the recording at HomeschoolCPA.com/HSBIZTAXES for a small fee of \$10.

“Carol, thank you again for the webinar. It was one of the BEST webinars I’ve EVER attended. If you do hold another one, I would pay for it hands down. Totally worth the \$10!” -Denise, webinar attendee

“I actually don’t care for webinars at all – it is not my learning style at all and I struggle to focus, but this one was extremely value and had my attention”. -Mary, webinar attendee

Carol Topp, CPA

Top Tax Mistakes CC Directors Make

I've talked to a lot of CC Directors in the past few years. These people have a huge heart for homeschooling, but many do not understand that when they sign their licensing agreements, *they begin operating a business*. They don't see themselves as business owners (but they are!), and so they neglect getting educated about running a business and may make a lot of mistakes.

Here are the top tax mistakes I see CC Directors make:

1. Giving themselves a 1099-MISC.
2. Not understand that they are business owners.
3. Paying tutors as Independent Contractors but treat them as employees.
4. Not understanding their tax obligations.
5. Not being prepared for self-employment tax.
6. Not being aware of potential penalties for worker misclassification.
7. Not keeping good records.
8. Not seeking professional advice before signing an agreement or hiring workers.
9. Not getting tax advice.
10. Asking tutors, parents or employees to volunteer their time. That is illegal in most states.
11. Not realizing fundraisers are taxable income.
12. Thinking they can form a nonprofit by filing a piece of paper but not forming a board or drafting bylaws.

I explain a lot of these tax mistakes in my webinar on **Tax Preparation for Homeschool Business Owners**. It should be a lot of help to for-profit directors, tutors, co-op teachers and other homeschool business owners! For details visit HomeschoolCPA.com/HSBIZTAXES

Additionally my book [Paying Workers in a Homeschool Organization](#) explains in detail why tutors should be paid as employees and the risk a homeschool business owner is taking if she pays her teachers or tutors as Independent Contractors.

I'm not trying to scare anyone! Sorry if I did, but maybe it will compel you to change your actions. I'm not trying to talk you out of being a homeschool business owner or CC director, or tutor if you love it.

But I am trying to help you stay out of trouble with the IRS and your state government.

The *last thing* I want is an audit of homeschool programs or businesses by the IRS or state governments! No one wants the reputation of homeschooling tainted in the eyes of our government. We don't need that!

Carol Topp, CPA

Do CC Directors Pay for Their Own Children's Tuition?

Do Classical Conversations (CC) Directors have to write a check (to themselves) for full tuition for each of their kids?

Karen-CC Director

Karen,

No. You do not have to write a check to your business for your children's tuition.

Here's why:

If you pay your licensing fee based on student enrollment/tuition collected, you should track the total tuition collected *including your own children* in that head count. That way you is paying the correct amount for your licensing fee.

But for tax purposes, you should NOT write your business a check for your own children's tuition. Additionally, you do not include your child's tuition in the income reported on your tax return (I'm assuming Karen, that you are operating your business as a sole proprietorship).

The reason is a principle in taxation called **imputed income**.

It states that a person should not be taxed when they avoid paying for services by providing the services to themselves.

There was a court case in 1928 that ruled that the imputed income from produce grown and eaten by a farm owner is not taxable as income to the farmer.

Source: https://en.wikipedia.org/wiki/Imputed_income#cite_note-9. See Footnote 9 *Morris v. Commissioner*, 9 B.T.A. 1273, 1278 (1928). Accessed January 20, 2019. See footnote 9

Conclusion: Karen must keep track of the tuition she would owe for her children so that she pays the correct licensing fees, but she does not need to write a tuition check to her business and she should not report her child's tuition as taxable income on her business tax return (Schedule C).

Carol Topp, CPA

Is the Rent Our CC Community Pays to a Church a Donation?

Our CC Community meets at a church, but they do not want to bill us for rent. We give a gift/donation to the church as a thank you and so the church records it that way for their tax purposes. Do we need to classify our "donation" to the churches as rent?

We have been informed by the church that this would affect their taxes and financial recordings since they are classifying our payment as a donation received. The last thing we want to do is cause problems for the churches sharing their space with us. Please advise/explain.

Kelly

Let me start off by saying that simply calling what you give to the church a "donation" is a simply renaming the payment. Calling your payment a donation does not change the fact that you are giving money to this church in exchange for use of its space. Even if they do not bill you, it is payment for use of space and not a donation. **Be honest. Call it what it is in your records: rent. What the church wants to call it is up to them.**

I'm not alone in my opinion about this. Attorney and CPA, Frank Sommerville, says:

"Many churches try to disguise rents by using other terminology or by claiming that the other organization is simply giving a donation to the church. Other times the church calls it a "cleanup fee" or tells the tenant to pay the janitor directly for his services. None of these name games work. If any amount is paid by the other organization to the church or the church's workers, then the IRS and state taxing authorities will likely treat it as rent paid to the church."

Source: Frank Sommerville, JD, CPA

<https://www.wkpz.com/content/files/Use%20of%20Church%20Facilities%20by%20Outside%20Groups.pdf>

But the church is worried about taxes, so let's address that. The church is worried about two things:

- IRS federal income tax exempt status as a 501(c)(3) religious organization
- Local property tax exemption.

Let's address each concern:

IRS federal income tax exemption.

The church has 501(c)(3) tax exempt status as a religious organization and probably also charitable and educational purposes as well. So long as they stick to religious, charitable, and educational activities their 501(c)(3) status is not in jeopardy.

But renting space to your CC business is a *commercial* activity and not religious, charitable or educational. So the IRS considers income from renting space as “unrelated business income” and will charge an unrelated business income tax called UBIT on the profits from the rented space.

Fortunately, there are exceptions to UBIT. Three factors will determine whether the church would owe any UBIT on rental income (See [IRS Pub 598](#)) :

1. Whether the group renting the church space helps the church fulfill its mission in some way. There is no UBIT if the tenant’s activities helps the church meet its mission. A *nonprofit* homeschool group, *if religious in its purpose*, helps the church accomplish its mission and the rent would not be an unrelated source of income for the church. But a for-profit business, as most CC Communities are operated, is rarely seen by tax assessors as having the same religious mission as a church.
2. Whether the church is charging fair market value for the space. If they are charging above fair market value, there is a profit and therefore tax to pay.
3. The church has a mortgage or other debt financing on the building (called debt-financed property by the IRS). If the building is debt financed property, the rental income is unrelated business income and therefore taxable.

If the church determines they have unrelated business income, they will have to file a Form 990-T to declare the unrelated business income. But they are also allowed to deduct any expenses related to the rental income such as utilities, custodian care, etc. Typically, the expenses outweigh the income and so no tax is owed. But the church needs to file the 990-T to prove that don’t owe any tax.

Thanks to https://www.corestrategies4nonprofits.com/nonprofit_core/Go_Ahead_-_Rent_Your_Extra_Space

Property tax exemption:

The church may be concerned about its property tax exemption from the state or county. In general if the tenant’s mission matches the church’s mission (religious, charitable and/or education), the church’s property tax exemption is not jeopardized.

Since your CC Community is *not* a nonprofit organization (meaning it is a for-profit business), using church property could endanger the property tax exemption of the church. The loss of property tax exemption can be in whole or in part; it depends on local and a state property tax exemption laws.

Conclusion: Kelly could go back to the church and determine the basis for their concern. I recommend that Kelly record the payment to the church in her bookkeeping as “rent.” How the church wishes to record it is ultimately up to them, but in my opinion (and other professionals’ opinions), ***it is not a donation***; it is payment for use of space.

Hopefully the church will be honest to the government and prepare the Form 990-T, if required. This is rendering to Caesar what belongs to Caesar (Matt 21:22). Whether or not the church will owe UBI tax on this money is dependent on if they have a mortgage on the building and the amount of expenses they have.

Carol Topp, CPA

Can a CC Director Deduct Her Child's Tuition on Her Tax Return?

I'm a director for a CC Community. I am required to have all my children enrolled in the program. I see this as a requirement for being a director and therefore a business expense. Can I deduct my children's' tuition and fees as a business expense on my tax return?

-T

Dear T,

No. The tuition and fees are not a business expense; they are a personal expense. They are not tax deductible as a business expense.

Just because the program you use requires you to have all your children enrolled in the program, does not make those expenses "ordinary and necessary" business expenses allowed by the IRS.

To be a bit ridiculous consider this:

I have to eat in order to stay alive and operate my business, but that doesn't make my meals eaten at home are a business expense!

I wear clothing. I imagine that the parents and children wants to you to wear clothing while teaching, but your typical street clothes are not a tax deductible business expense. They are a personal expense.

Here's the word from the IRS:

To be deductible, a business expense must be both ordinary and necessary. An ordinary expense is one that is common and accepted in your trade or business. A necessary expense is one that is helpful and appropriate for your trade or business.

Generally, you cannot deduct personal, living, or family expenses. (emphasis added)

Source: <https://www.irs.gov/businesses/small-businesses-self-employed/deducting-business-expenses>

Your children's' tuition is a "family expense," not a business expense.

Do not deduct it on your Schedule C Profit or Loss from Business tax form.

Carol Topp, CPA

Can a Classical Conversations Community be a Tax Exempt Nonprofit?

I am directing a local Classical Conversations group, and many churches in our area will not consider housing us because we are not a nonprofit. Since I am basically an independent contractor licensed by CC corporate to run a community in my area, am I potentially eligible to have my community declared a nonprofit?

-Jen, Classical Conversations Director

Jen,

I recently discussed nonprofit status for CC Communities with Classical Conversations COO, Keith Denton. He explained to me that "CC Directors (who are licensees of CC) may form an entity through which to run their homeschooling operations.

"CC does not require a director to run his/her homeschooling program through an entity, nor does it require that such director choose a specific type of entity (non-profit versus for profit) for its homeschooling community.

"CC recommends that all directors consult with an accountant and lawyer when making the decision of whether to form an entity, and what type. The decision of which entity to form depends on a variety of factors specific to the director and state where the homeschooling community is formed. As such, consultation with an attorney and accountant in a director's community is highly recommended to best address all relevant factors."

I can help you weigh the pros and cons of for profit or nonprofit status for your CC Community. [Contact me](#) to schedule a phone consultation.

Carol Topp, CPA

I Started a Nonprofit CC Community. Can I Pay Myself?

I've started a CC Community Washington state. To be able to host my community at my church, we were asked that we create a non-profit organization, so I did. I created a separate non-profit banking account from my personal account. All money that has gone out has been for supplies and Independent Contractor payments. Although, it would appear within the CC framework that I can pay myself, I'm unclear with the non-profit status if I actually should, so I have taken no payment at all for my work.

Can I actually pay myself a small stipend to help off set my personal expenses?

Wages and salaries in a nonprofit are determined by the board of directors of the nonprofit. You seem to lack a board for your nonprofit organization. You see, a nonprofit is not owned by anyone (unlike a for profit business which does have an owner). A nonprofit is operated by a board or team of people. This board determines when and how much to pay staff (you or the tutors).

So to answer your question, no, you cannot pay yourself. A board of people unrelated to you must vote on what all workers get paid. That how a nonprofit is very different from a for profit business.

I had a conversation with a CC Director who, on the advice of her Support Representative (SR), filed paperwork to be a nonprofit corporation in her state. She never did anything else. She never formed a board, adopted bylaws, or applied for tax exempt status, etc.

“How do I get paid?” she asked me.

“Your nonprofit’s board determines your salary,” I explained. “They should have been paying you a salary all year long.”

“There is no board,” she said. “It’s just me.”

Oh, my! That opened up a much longer conversation about how her SR had given her incomplete information. This poor Director did not understand the basic differences between operating a business and operating a nonprofit organization.

Do you know the differences between for-profit business and a nonprofit organization? This webinar [Creating a Nonprofit for Your Homeschool Community](#) will help.

She ended up filing a corporate income tax return and paying taxes on her profit. She also spent time and money dismantling the nonprofit corporation she established and is no longer a CC Director.

Carol Topp, CPA

Fundraisers for CC Communities

A CC Director posted in a public social media forum this problem regarding fundraising:

Our CC campus looked into fundraising but most avenues did not work for us because we didn't have nonprofit status. We specifically looked at Chick Fil A.

Another CC Directors replied with this comment:

We just had a fundraising event at ChickFilA for my daughter's class who are taking a trip to Washington DC. Initially not being a nonprofit organization looked to be an issue, but working with the marketing people, we had to provide specific details on what we were raising funds for and they allowed us to do it. No one at CFA said anything about reporting income.

Chik Fil A cannot be expected to give income tax advice to its customers. That's why "No one at CFA said anything about reporting income." I'm sure CFA asked who to write the check out to. The CC Director would have given her name (or the CC Community's name if the business had a name) since she is the owner of the Community. ***She should report the fundraiser income on her business tax return as taxable income.***

Income from a fundraiser is not automatically tax exempt any more than income earned by a candy selling business is tax exempt! Nonprofit organizations typically avoid paying taxes on their fundraisers because the fundraiser is run by volunteers, but businesses cannot have volunteer workers.

If a group of parents tried to offset their CC costs by selling candy bars or hosting car washes, they should each report their share of the money raised as taxable income on their tax returns.

Bear in mind that most people do not donate money to a for-profit business, or to your personal homeschool expenses. So it is not typical for a business to hold a fundraiser. Businesses make money by providing goods and services to their customers. If Walmart put out a box asking for a "donation" to pay for their employees or utilities, would you contribute? Probably not!

So be honest and upfront with your customers about the fact that you are raising money *as a business* for a group of homeschooling parents. Many customers may do not care if you are organized as a business or nonprofit, but don't look or sound like a nonprofit organization when you are not. Then be honest again and inform the families that they need to report the fundraising income as income on their tax returns. You may want to give each family a 1099-MISC for their share of the fundraising proceeds.

Carol Topp, CPA

What Are the Consequences of Misclassifying a Worker?

In the news and social media recently has been the sad story about a popular service offering classes for homeschool students having to close. In late December 2016, Landry Academy announced “It is with much sadness that we close the doors of Landry Academy.”

I do not know the details of their unfortunate situation, but it seems that there was an IRS requirement for Landry Academy to reclassify their teachers as employees, rather than independent contractors.

You may be wondering: What are the consequences of misclassifying workers?

Here’s what I tell business owners, nonprofit leaders, and anyone else hiring workers:

IRS Penalties

Under Internal Revenue Code section 3509 the penalties for worker misclassification include:

- Paying a portion of federal income tax (1.5% of payroll),
- Employer (100%) and employee (20%) shares of FICA taxes
- Federal unemployment compensation taxes (FUTA).
- In addition penalties for missed deposits (10%) and withholdings (20%) can be assessed.

Additional penalties include:

- \$50 for each Form W-2 that the employer failed to file because of classifying workers as an independent contractor.
- A Failure to Pay Taxes penalty equal to 0.5% of the unpaid tax liability for each month up to 25% of the total tax liability.

Other Penalties

That’s pretty bad when you add it all up, but the list of consequences goes on to include:

- Penalties for failure to file state and local income tax withholding
- Penalties due to unemployment insurance shortfalls
- Worker’s compensation violations
- Improper exclusion from benefit plans such as pension, retirement plans, health insurance, paid leave, severance pay, etc.

Here’s a long list of [The Consequences of Misclassifying Your 1099 Contractors](#)

Scared yet? You probably should be.

Worker misclassification is a serious issue and can cause significant financial hardship and has caused several businesses to close.

Here's help

My book [Paying Workers in a Homeschool Organization](#) can help clear a lot of confusion, but perhaps you want to discuss your particular situation in a private, individual phone consultation.

I offer [phone consultations](#) to help you determine if your homeschool organization's workers are employees or independent contractors. The phone call will be followed up with an email containing a fact-based determination and information to help you take the next steps.

To request a consultation, [please contact me](#). I'm happy to help and relieve any anxiety you have about this confusing topic.

Carol Topp, CPA

CC Directors: Do Not Give Yourself a 1099-MISC

I have spoken to several Classical Conversations (CC) Directors lately who tell me that they gave themselves a 1099-MISC to report what they paid themselves.

But this is not correct! **CC Directors should not give themselves a 1099-MISC.**

I can understand their confusion. These Directors are business owners of a Classical Conversations community offering classes for homeschool students and their parents in how to educate their children using classical methods. Typically, these Directors hire tutors as independent contractors to teach a class once a week and frequently the Directors also teach a class themselves.

They give their tutors a 1099-MISC to report their earned income and so they think they should give themselves a 1099-MISC as well. But this is not the correct way to report income as a CC Director.

As a business owner (and I'm referring to a sole proprietorship filing a Schedule C on their Form 1040) a CC Director is not paid as an independent contractor. Business owners are not "paid" at all. Instead they get to keep all the profit that the business makes. That profit is their "pay" or earnings from the business.

How to correctly report your income from your CC business

One Director told me that she reported her 1099-MISC as her total income on her Schedule C Business Income or Loss. But this is not correct. I explained that she needed to report *all the income that the participating families paid her*. That amount is her total income, not what she "paid herself" and reported on a 1099-MISC (incorrectly).

"Oh dear," she replied, "I've been doing it wrong for three years!" Yes, she had been.

I explained that she needed to file a [Form 1040X Amended Tax Return](#) to correctly report her income on her Schedule C for those prior years.

I also advised her to contact a local CPA to help her learn how to correct her tax returns and prepare it properly in the future.

How to correct a 1099-MISC

If you have given yourself a 1099-MISC, then you need to correct it ASAP!

Start by reading [IRS Instructions to Form 1099-MISC](#) page 10. Follow the instructions carefully. Check the CORRECTED box. Include yourself with \$0 (zero) in Box 7 Non-employee compensation.

I recommend you contact a local CPA to help you file the corrected 1099-MISC.

If you've already prepared your tax return with the incorrect 1099-MISC, you'll need to file a 1040X as well to amend your tax return. It's time to get professional help!

There is a lot to learn about running a business. I don't mean to discourage you or anyone else away from operating a homeschool business. You provide a valuable service to homeschool families! I am offering this webinar to help you understand the tax implications:

I recorded a webinar on **Tax Preparation for Homeschool Business Owners**. It should be a lot of help to tutors, non-employee co-op teachers and other homeschool business owners! You can watch the recording at HomeschoolCPA.com/HSBIZTAXES for a small fee of \$10.

Business taxes and paying employees or independent contractors is not a guessing game! There are professionals like CPA and tax professionals who can help you file your 1099-MISC and tax returns correctly.

Carol Topp, CPA

Most Homeschool Teachers Should Be Paid as Employees

I state pretty clearly in my book [Paying Workers in a Homeschool Organization](#) (3rd edition) that teachers or tutors in a homeschool program should be treated as employees not Independent Contractors.

I've gotten some push back on my opinion. I understand why. No one likes the expense and paperwork involved in employees, especially when they are hiring part-time and seasonal employees.

But my goal is to keep homeschool organizations and their leaders out of trouble with the IRS and state governments. We don't need a target on our backs! So I'm going to stick to my opinion because I think it's correct and best protects homeschool leaders and CC Directors.

So let me explain why I have the opinion I do:

The IRS guidelines on worker classification are where I start. The IRS has the [old 20-factor test](#) and the newer [3 factor common law rules](#). I wrote about both of these guidelines extensively in *Paying Workers*.

But, **I base my opinion on more than the IRS guidelines**. I base it on hours of reading IRS rulings and tax court cases and my understanding of how homeschool programs operate.

I also base my opinion on this statement given by Bertrand M Harding, an attorney who specializes in nonprofit law. In his book *The Tax Law of Colleges and Universities* (Third Edition, Wiley, 2008) he writes,

"In at least one audit, the IRS agents asserted that, because instruction is such a basic and fundamental component of a college or university, **individuals who are hired to provide instruction should always be treated as employees** because the school is so interested and involved in what they do that it will always exercise significant direction and control over their activities."* (emphasis added)

* The IRS was specifically addressing instructors at colleges and universities, but I believe their conclusion applies to public schools, private schools, and homeschool programs as well.

Some homeschool leaders differ with my opinion. Oaky. That can happen. Tax law is not black and white all of the time.

I believe they are putting themselves at risk and I caution them about IRS penalties for misclassifying workers. The [Landry Academy IRS problems](#) was a wakeup call of how bad it can get. Although I don't know the particular details on the financial penalties faced by Landry

Academy for treating their teachers as Independent Contractors rather than as employees, but it was significant enough that the business declared bankruptcy.

Carol Topp, CPA

HomeschoolCPA.com

Are Classical Conversations Tutors Employees or Independent Contractors?

I am a part of a Classical Conversations community with a Foundations/Essentials director. The Foundations/Essentials directors hire tutors to run the classrooms on community day.

I am concerned that the tutors are being treated as employees even though they are paid as independent contractors. Can a Foundations director hire tutors as independent contractors and still be able to specify what time they start, what material to cover and for how long they are to cover it, require training in the summer and training every 6 weeks of class, etc.?

Would a contract help? It seems like the contract could call the tutor an independent contractor but the Director could still treat them like employees.

This is hugely concerning and our campus wants to operate in a legal way. We are considering hiring a lawyer to help us understand all this. Is the lawyer the way to go? Or would you be able to advise us on how to handle this?

We want to be legal and try to sort out truth in this whole legal situation.

Thank you for your time,

Katherine

Katherine,

Thank you for contacting me. I have been talking to several Classical Conversation (CC) Directors and tutors about worker classification. It's a confusing and complex topic!

Factors: control and key activity

The question of whether CC tutors are independent contractors (IC) or employees involves many factors to consider including some you mentioned such as training, specific time and place to work, the curriculum to use, etc. But you are majoring in the minors and neglecting the overarching issues.

Two overarching factors to consider are:

1. the amount of **control** the Director exerts (or has the right to exert) over the worker
2. if the tutors are providing **the key activity of the business**.

By the way, these factors of control and providing a key activity apply to all types of homeschool groups, not just Classical Conversations.

Some homeschool organizations may depend heavily on the tutors' services as the key activity of the business, while other homeschool groups may not use tutors as the key activity because they rely on volunteer parents to teach their classes.

My conclusion: CC tutors are employees

In my professional opinion as a CPA qualified and licensed to practice before the IRS and after much research and interviews with CC Directors, I conclude that CC tutors provide the key activity of the business and the Director has the right to exert control over the tutor, making them *employees*.

Would a contract help?

You asked, *"Would a contract help? It seems like the contract could call the tutor an independent contractor but the Director could still treat them like employees."*

You've hit the nail on the head. Having a contract is not assurance that a tutor is an independent contractor; how they are **treated** carries more weight in determining proper worker classification.

Worker Classification Determination

You asked, *"Is the lawyer the way to go? Or would you be able to advise us on how to handle this?"*

I can make a fact-based [worker classification determination](#). In this determination, I substantiate my opinion based on all the facts, not just the few you mentioned, and court cases involving worker classification.

Additionally, my book [Paying Workers in a Homeschool Organization](#) explains both the current criteria the IRS uses and the criteria they have used in the past to determine independent contractor or employee status.

You could, of course, convert all your tutors to employees, and sleep better at night! I can explain the steps you'll need to take. It will be more paperwork and more expense, but you won't worry about an IRS investigation on worker status.

Carol Topp, CPA

HomeschoolCPA.com

California's New ABC test for Independent Contractors. How Will It Affect Homeschool Groups?

California's new law (AB5) puts into effect the 2018 ruling by the California Supreme Court in the *Dynamex* case that makes it more difficult to treat workers as Independent Contractors. The new law uses an ABC test introduced in the *Dynamex* case. It's a simple three-part test that makes it more difficult to legally pay workers as Independent Contractors.

The California Supreme Court said that the worker could only be an independent contractor if **each** (meaning ALL) of these three factors was met:

1. The worker is free from the control and direction of the hiring entity in connection with the performance of the work, both under the contract for the performance of the work and in fact *and*
2. The worker performs work that is outside the usual course of the hiring entity's business *and*
3. The worker is customarily engaged in an independently established trade, occupation, or business of the same nature as the work performed.

I recorded a podcast episode about the ABC test when it first came out. [ABC Test for Independent Contractors \(podcast episode\)](#)

How does this affect homeschool groups?

- If your homeschool group is a nonprofit organization, these employment laws apply to your organization. Your nonprofit status (with or without 501c3 tax exempt status) does not exempt your organization from obeying the employment laws of the IRS and your state.
- If you're in a homeschool business, such as a CC Community, then you are affected by this ruling, especially if you live in California.
- If you are an all-volunteer homeschool program (no one is paid), then this law does not affect you.

I'm a homeschool group leader. What do I need to do?

If you live in California, convert your teachers/tutors to employees starting January 1, 2020.

If you live in another state, strongly consider having me (or another qualified CPA) do a [worker determination](#). There may be changes you can make to your homeschool program that are simple and inexpensive.

Will this spread to other states? What about the IRS?

Probably. I predict within 5 years, most states will adopt something like the California ABC test for Independent Contractor status.

So far the IRS is not using the ABC test, but they use similar criteria that causes me to conclude teachers in a homeschool program should be treated as employees not Independent Contractors.

Which law do I follow? State or Federal/IRS?

The general rule is that you must follow whichever law is most generous to *employees* (not yourself as the employer or hirer). Federal and state default status is that workers are employees. The burden of proof is on the employer (your homeschool group) to prove they are eligible for independent contractor status.

I talked to a CPA about this a few years ago and he said we're fine

or

My CC SR or AR said I'm OK treating my tutors as ICs; their lawyers know about the situation.

A worker determination should be *in writing* on the letter head of either a CPA, Enrolled Agent or attorney. Only those three professions are allowed to practice before the IRS. This determination, *in writing and on the letterhead of the professional*, may help abate any penalties for misclassifying workers if the IRS or your state audits you.

Do not rely on verbal statements. Do not rely on verbal statements made by CPAs, EAs or attorneys. Get it in writing. Do not rely on verbal statements made by non-CPAs, non-EAs or non-attorneys, no matter how reassuring they are that they have talked with a professional. Get an opinion specific to your organization in writing.

Ask for a statement in writing addressed to your particular business/nonprofit from a qualified professional who has assessed your situation in particular.

What if the parents pay the teachers directly?

or

My CC tutors are now sublicensees, not my Independent Contractors; I've been told that is OK.

The fact that you (as the homeschool group or homeschool business owners) do not pay the worker does seem to avoid the worker classification issue, but it introduces at least two other issues:

1. You cannot control, supervise or direct that worker. They are their own business owner and you have *no* opportunity to oversee their methods or their performance. You

cannot direct them; you cannot supervise them. Do you really want that? Would your parents accept this? You're working with children, don't you need to supervise and direct the people teaching the children?

2. If you host your program at a church or other property-tax exempt facility (like a library), then the teacher/sublicensee tutor is conducting his or her business on church property. Does your church host know this? They may have a policy against conducting business on their property because it threatens their property tax exemption. Please refer to my [Property Tax FAQ page](#) for more information.

Additionally, the sublicensee arrangement is a legal relationship. I strongly recommend you have an attorney read it as well your licensing agreement with CC before sub-licensing tutors.

How can I learn more about paying workers?

My book will help [Paying Workers in a Homeschool Organization](#)

- Have a payroll consultation with **Mary Musick, CPA (inactive)** and current homeschool mom. Mary runs a bookkeeping service and will discuss payroll with you. It may not be as awful as you fear since you are probably hiring part-time, seasonal employees with no benefits. Her email is hfbkkpg@gmail.com.
- Or have a payroll consultation with **Jamie Buckland, The Classical Homeschool Consultant**. Jamie runs payroll herself for her homeschool classical academy. She can do research on what your state payroll taxes are and reassure that if she can do it, you can do it! Jamie's website is <https://jamiebuckland.net/>

Understand your risk, your legal and tax requirements, get compliant and get help! We don't want homeschool organizations to get in trouble with the IRS or state agencies.

Carol Topp, CPA

Aren't Classical Conversations Tutors Just Like Online Tutors?

I'm a Classical Conversations Director and I have a local CPA. I have a question about independent contractor status for tutors. The articles I read here seem to suggest we should treat tutors as employees. Yet, for several years I worked as a tutor for national online tutoring company as an independent contractor. I was given training, direct oversight, evaluations, worked for 5-10 hours a week, yet I was an independent contractor.

What is the difference with CC tutors in the eyes of the IRS? Just trying to understand!

Thanks, Allison

Allison,

You seem to assume that your worker classification as an Independent Contractor as a tutor for a national online tutoring company was the correct classification. I'm not convinced it was.

You only told me four bits of information about your relationship with the online tutoring company (*I was given training, direct oversight, evaluations, worked for 5-10 hours a week*), yet three of those practices (training, evaluations, and oversight) would confirm your status should have been as an employee, not an Independent Contractor.

When I make a worker determination, I do not base my conclusions on what other companies have done or are doing. I base my conclusions on the IRS guidelines, tax court cases, IRS rulings, and the facts and circumstances of each case.

You asked, "*What is the difference with CC tutors in the eyes of the IRS?*" There may not be many differences in the online tutoring and tutoring for CC, but I don't assume that you were correctly treated as an IC when you did the online tutoring.

In [Taxes for Homeschool Business Owners](#) I explain the options to CC Directors in how to pay tutors. You can treat your tutors as Independent Contractors and in the ebook I explain the risks and consequences involved.

You might show portions of the ebook to your local CPA and get his/her opinion. If he or she determines your tutors are Independent Contractors, then you should request that your CPA put his/her conclusion in writing and on their CPA firm letterhead. A letter like that could possibly help you avoid IRS penalties if you are ever investigated by the IRS.

Carol Topp, CPA

HomeschoolCPA.com

IRS Amnesty Program for Employers: How to Avoid Penalties for Paying Workers as Independent Contractors

You may have heard about the IRS crackdown on misclassifying workers and the penalties that your business or homeschool program could face if you are audited by the Internal Revenue Service (IRS).

What can you do to avoid the IRS penalties?

The IRS has a program called the [Voluntary Classification Settlement](#) program (VCSP). The VCSP (aka the IRS amnesty program) allows employers to avoid the penalties for paying their workers as Independent Contractors when they should have been paid as employees.

Eva Rosenberg, the Tax Mama, explains the IRS Voluntary Classification Settlement Program in plain, clear English. Just the way your mama would talk to you. Eva explains,

“This is your opportunity to have IRS agree not to audit you for your past employment tax sins – in exchange for two things:

- 1. You pay about 1% (yes, that’s ONE percent) of the prior year’s taxes – without any penalties or interest.*
- 2. You agree to treat all your employees AS EMPLOYEES and keep them on payroll for at least the next three years, giving IRS the right to audit each of those three years for 6 years, instead of for 3 years.”*

Source: <https://taxmama.com/asktaxmama/clarification-of-the-voluntary-classification-settlement-program-for-employers/>

For employers who do apply for the VCSP, the savings can be substantial. For example, if a small business had payroll of \$6,250 in a year, under the amnesty, the payment to the IRS would be under \$60. Without the amnesty, with the IRS looking back for three years, it would cost the employer over \$2,920 (for six years, over \$6,200).

I can help you determine if the IRS amnesty program is a good option for your homeschool business or nonprofit organization. [Contact me](#) and we can talk about your options.

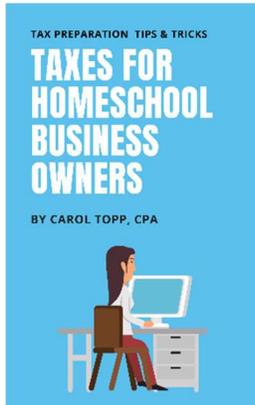
One homeschool group leader decided to apply for the IRS amnesty program and convert her tutors to employees. She said, “For \$145 (her fee to the IRS), I can sleep better at night knowing the IRS won’t audit me or make me pay a penalty.”

Carol Topp, CPA

HomeschoolCPA.com

Additional Resources

If you found this ebook helpful, you may consider other resources by Carol Topp, CPA available at HomeschoolCPA.com/bookstore



The 60 page ebook contains information on:

- Business Start Up and LLC status
- Tax Deductions and Tax Forms
- Sample Tax Returns
- Self Employment Tax
- Paying Yourself and Paying Others
- Businesses Using Churches
- Should My Homeschool Program Be a Nonprofit?



This 90-minute webinar covers:

- IRS tax forms for a sole proprietorship
- Self-employment tax
- How to pay yourself
- Tax deductions common to homeschool business owners
- Two sample tax returns.
- Common mistakes to avoid

Get the answers you need!

BUSINESS CONSULT FOR CC DIRECTORS

HomeschoolCPA.com/CCBiz

Carol Topp, CPA offers business consultations to CC Directors. During this hour-long phone consultation we can discuss business set up, paying my tutors as employees or Independent Contractors, paying yourself, meeting in a church, record keeping, taxes and tax deductions.

Email Carol at HomeschoolCPA.com/Contact

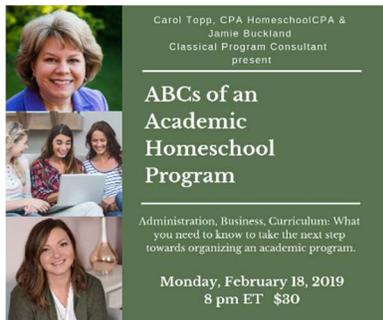
Nonprofit Resources

If you are considering converting your CC business to a nonprofit organization these resources will be very helpful. Available at HomeschoolCPA.com/Bookstore

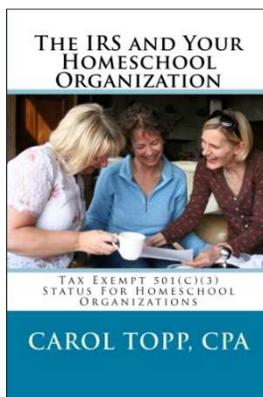


Create a Nonprofit for Your Homeschool Community. This 90 minute webinar covers:

- The difference between a business and a nonprofit
- Forming a board: who can be one it, what do they do, etc.
- Creating bylaws and Drafting a budget
- Forming a nonprofit corporation in your state
- The timeline and expense to get this all done



ABCs of an Academic Homeschool Program. This 90 minute webinar with Classical Homeschool Consultant Jamie Buckland is packed with information to help you launch an academic homeschool program.



The IRS and Your Homeschool Organization book explains: the benefits of 501(c)(3) status, why your organization should consider becoming a nonprofit corporation, what is the difference between nonprofit incorporation and tax exemption, and the IRS requirements after you are tax exempt.

About the Author



Carol L. Topp, CPA, is an accountant and a retired homeschooling mother. She earned her Bachelor of Science degree from Purdue University and worked as a Cost Analyst for the US Navy for ten years. In 2000, Carol passed the Certified Public Accountant (CPA) examination. Carol began homeschooling her two daughters when they started first grade. They are now homeschool graduates (and college graduates!). She was very active in her local homeschool community teaching classes and serving as her co-op's treasurer.

As an accountant, Carol has served on several nonprofit boards, including American Heritage Girls' national board. She has consulted with leaders from over 500 homeschool organizations and helped more than 100 organizations obtain 501(c)(3) tax-exempt status. In 2006, Carol launched her website www.HomeschoolCPA.com to help homeschool organizations lead successful groups. It has been voted a Top Accounting Blog six times, including 2020.

She is the author of *Homeschool Co-ops: How to Start Them, Run Them and Not Burn Out*, *The IRS and Your Homeschool Organization*, *Money Management in a Homeschool Organization: A Guide for Treasurers*, and *Paying Workers in a Homeschool Organization*.

Carol's publications include numerous articles, podcasts, and webinars about operating a homeschool nonprofit organization. Her articles have appeared in *The Old Schoolhouse*, *Home Education*, and *Home School Enrichment* magazines. In addition, Carol has enjoyed conducting workshops for homeschool leaders at conventions across the country. She currently moderates the Facebook group I am a Homeschool Group Leader.

Carol lives with her husband in Cincinnati, Ohio, where she enjoys reading, painting, traveling, and helping homeschool leaders.

Carol can be contacted through her website www.HomeschoolCPA.com.