



## **Do We Need to Incorporate?**

By Carol Topp, CPA

Strong homeschool organizations are built on the foundations of establishing a board of directors, creating bylaws, and planning a budget. Some organizations also find that nonprofit incorporation is also very beneficial.

### **What is nonprofit incorporation?**

To incorporate an organization means that a separate legal entity has been formed. The mission and operation of the organization may stay the same, but a separate, legal corporation has been created.

A homeschool organization can exist in several forms. Most homeschool groups are formed as nonprofit organizations. Fewer are for-profit businesses. Nonprofits can be one of two forms: Unincorporated associations and nonprofit corporations. Unincorporated associations is the default form for a nonprofit and common for small groups and clubs. Other nonprofits form as nonprofit corporations by creating Articles of Incorporation and filing them in their state the Secretary of State's office.

### **Do we need to incorporate?**

Organizations will seek nonprofit corporation status for several reasons, but largely to for legal protection and as the initial step toward tax exempt status with the IRS.

Incorporating does not grant tax-exempt status with the federal government, but it is a good first step. Organizations should incorporate in their state before applying for 501(c)(3) tax exempt status with the IRS. Almost all 501(c)(3) organizations are nonprofit corporations in their states.

Incorporation allows legal protection for the organization's leaders. The corporation, not individuals, will become liable for any legal issues such as insurance claims or lawsuits. The directors of a corporation have limited liability, meaning that if a corporation is found to be responsible for an injury or loss, the corporation is responsible for legal claims. The liability is limited to the assets of the corporation and the liability will not spill over to the leaders' assets.

Without the benefits of limited liability from corporate status your group's leaders and every member is jointly and severally liable for any insurance claims or lawsuits brought against your group. This may be quite alarming to your group leaders and members.

Forming as a nonprofit corporation may help your leaders and members sleep better at night!

Other reasons to incorporate include a desire for the organization to exist beyond the current leadership and a desire for the organization to own property or hire employees. Any legal contacts such as purchasing land or real estate are entered into by the corporation and not individual leaders. Likewise, employment issues such as hiring and firing are done in the name of the corporation, not board members or leaders.

### **What does incorporating involve?**

Incorporating as a nonprofit corporation usually involves some fees and filing paperwork called Articles of Incorporation with the state Secretary of State. The paperwork is usually fairly simple. Most states require only a one-page form listing the legal name of the organization, its purpose, and the officers' names. Each state's Secretary of State's website will have information on incorporating as a nonprofit organization. The fees for incorporating may cost from \$10 to \$100 and the process may take 2-6 weeks.

**WARNING:** If your organization is incorporating as the first step toward applying for 501(c)(3) tax exempt with the IRS, then there is special language that the IRS requires to be included in your Articles of Incorporation. Most states do not tell you this and do not include this special language in their forms! Read the IRS required language [HomechoolCPA.com/Samples](http://HomechoolCPA.com/Samples) and make sure you include it in your state filings on my website at

### **After incorporation**

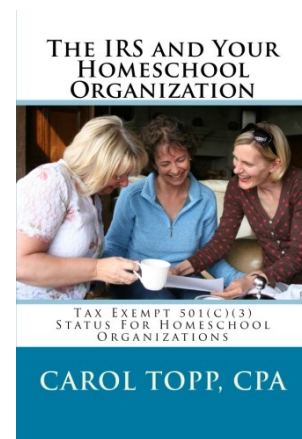
Your state may require annual reporting to make sure your nonprofit corporation is still active. Visit your Secretary of State's website to determine what reports are required for nonprofit corporations.

### **Conclusion**

Becoming a non-profit corporation has several benefits including establishing a separate legal identity and limited liability for leaders. There are fees and paperwork involved, and incorporation does not grant your organization tax-exempt status with the IRS, but it is a step that many homeschool organizations are pursuing. Homeschool leaders should read more about nonprofit incorporation and discuss its benefits with their group leaders.

My book *The IRS and Your Homeschool Organization* covers nonprofit incorporation and tax exempt status with the IRS in more detail. Order a copy at

<http://homeschoolcpa.com/bookstore/501c3-tax-exempt-status/>



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