TO: SoCAL CoDA

DATE: 4-9-16

FROM: Carey C. (vcrancho@earthlink.net), GSR for Menifee, CA, to the San Diego Community Intergroup.

A few months ago, I had considered serving as Treasurer for the San Diego Community intergroup. But I did not volunteer because of a number of concerns, namely the potential liability of officers for taxes, interest, penalties and legal fees, as well as personal injury occurring at meetings or other related events, because SDC CoDA was neither incorporated, nor did it have insurance coverage for either *Directors and Officers*, or *General Liability*. This left officers exposed to lawsuits that could potentially wipe out their personal assets.

As a result of these concerns, and as a retired NJ CPA, and a member of CoDA wishing to be of service, I have been doing research on these issues: (1) the process of incorporation for voting entities and intergroups (benefits, responsibilities and costs), and (2) the process of the corporation becoming recognized as a **non-profit** both by the federal and state governments (benefits, responsibilities and costs). I am offering the below information solely as a service to CoDA. I will not address the issues of *sales tax* and *use tax* liabilities, which also exist, since these rules vary from state to state, and really need the advice of an attorney in that state. Further, none of my research is meant to be interpreted as legal advice, but rather as sources of information that any group (regional or intergroup) may use to further investigate. For this purpose, I have provided some websites of, and information from, legal services that I felt might be informative for purposes of investigation, but which neither I, nor any CoDA group, endorse in any way, in keeping with Tradition 6: “A CoDA group ought never endorse, finance, or lend the CoDA name to any related facility or outside enterprise, lest problems of money, property, and prestige divert us from our primary spiritual aim.”

**ISSUE 1:** The process of incorporation for voting entities and intergroups: benefits, responsibilities and costs (Total projected costs: $284 to create corporation, and $60-$318/year to maintain, if using a legal service, details below)

*BENEFITS*: The “veil of incorporation” protects the personal assets of the officers of that corporation from a lawsuit that could result from a governmental tax audit, or personal injury (someone comes to a meeting and trips, falls and gets injured), since the corporation would be named in the lawsuit, instead of its officers. Although I am not addressing the issues of sales tax liability, the “corporate veil” would protect officers from these tax audits, as well.

*FILING RESPONSIBILITIES AND COSTS* using, as example, the LegalZoom service for the state of CA: (for information on other states, use this website: <https://www.legalzoom.com/business/business-formation/nonprofit-pricing.html>)

1. Creation & filing the corporate organization documents with the Secretary of State $284 ($239 LegalZoom fee + $45 state filing fee)
2. Creating the application for the corporation’s federal TIN (taxpayer identification number) for you to sign and file. No additional charge.
3. Creation of the corporate Bylaws. Legal Zoom provides a free booklet with instructions on how to create your bylaws, or review your existing bylaws for compliance.
4. Naming a “registered agent” with the Secretary of State to receive service of process on behalf of your corporation. Legal Zoom charges $159/year for this service, but any adult available during normal business hours at a street address in the state in which the business is formed would qualify.
5. Filing the annual informational report with your state. Varies by state; for California the fee for Legal Zoom to file is $35 plus the state filing fee of $25.
6. Preparing corporate minutes. LegalZoom offers an online format for the ongoing input of corporate minutes for $99/year.
7. Filing Federal and state tax returns (see *ONGOING FILING RESPONSIBILITIES FOR THE GROUPS*, later).

**ISSUE 2**: The process of becoming recognized as a ***non-profit*** corporation: benefits, responsibilities and costs (Total projected federal costs, $995-$1495, **unless** a group exemption letter is in place\*\*, state costs $1000, see details below.)

*BENEFITS*: The 7th tradition treasuries would not be vulnerable to federal or state tax audits. Without non-profit recognition, all the treasury funds would be considered taxable, with sizeable penalties and interest assessed for a minimum of three years.

*INITIAL RESPONSIBILITIES AND COSTS*:

1. File Federal Form 1023, “Application for Recognition of Exemption” if you are seeking recognition under section 501 c 3, which is the category under which CoDA World (CoDA International, Inc) is qualified. Legal Zoom will do this for $595.
2. Filing Federal Form 8718, “Exempt Organization Determination Letter Request”, and paying the appropriate User Fee. The user fees are as follows: $400 if the organization’s *gross receipts* (income before expenses) are less than $10,000 annually; $850 if the *gross receipts* are more than $10,000 annually. If the organization’s *gross receipts* are normally less than $5000 annually, it is not required to file for tax exempt status with the IRS; however, it might still prudent for them to incorporate in order to protect their officers from personal liability.
3. Filing for *State Exemption*. Legal Zoom does not provide this service, but a San Diego attorney has provided a quote of $1000 (which includes a $25 state filing fee) to file this initial registration with the California Attorney General.

NOTE: The Alcoholics Anonymous website, <http://www.aa.org/assets/en_US/mg-15_finance.pdf> , has more information on this subject. Of particular note is their answer to this question:

Q: What should I do if my group takes in more than $5000 but does not think it is important to file the appropriate paper work?

A: Try to have a discussion at the business meeting that explains that as good members of society the group should be mature enough to comply with appropriate laws.

*ONGOING FILING RESPONSIBILITIES FOR THE GROUPS:*

1. Federal annual tax filing responsibilities: If gross receipts are less than $50,000 per year, all the organization would have to file annually with the IRS is an “efile postcard” (990N) answering the questions below:

Employer identification number (EIN), also known as the Taxpayer Identification Number (TIN),

The tax year

The legal name and mailing address of the entity

Any other names the organization uses

The name and address of a principal officer

The website address, if the organization has one

Confirmation that the organization’s annual gross receipts are $50,000 or less

If applicable, a statement that the organization has terminated, or is terminating, (going out of business)

The group’s *Treasurer* or *Secretary* could easily complete this efile form. The details of this duty would have to be included in the group’s formal description of officer responsibilities.

1. State annual tax filing responsibilities: state efile forms are very simple and similar to the federal (above).

The group’s *Treasurer* or *Secretary* could easily complete this efile form. The details of this duty would have to be included in the group’s formal description of officer responsibilities.

\*\*GROUP EXEMPTION LETTER: This is a very unique concept on the federal level through which CoDA World could become instrumental in helping the voting entities and intergroups significantly reduce the cost of applying for non-profit status. The IRS explains it in Publication 4573 as follows:

What is a group exemption letter?

The IRS sometimes recognizes a group of organizations as tax-exempt if they are associated with a central organization. This avoids the need for each of the organizations to apply for federal exemption individually. A group exemption letter has the same effect as an individual exemption letter except that it applies to more than one organization.

What is the reason for group exemptions?

Group exemptions are an administrative convenience for both the IRS and organizations with many associated organizations. Subordinates in a group exemption do not have to file, and the IRS does not have to process, separate applications for exemption. Consequently, subordinates do not receive individual exemption letters.

*BENEFITS OF THE GROUP EXEMPTION LETTER*: Once the IRS approved the Group Exemption Letter for CoDA World, any voting entity or intergroup could request to be included on the roster that CoDA World submits to the IRS annually. This provides automatic *non-profit recognition* for the group and thus saves them the legal cost of filing ($595 with Legal Zoom), and the filing fee for the IRS ($450 – $800). The only information needed for the roster is: the group’s name, address, and TIN (taxpayer identification number). Asking to be included on the roster is voluntary, and CoDA World would have absolutely no control over any of the groups making the request, in keeping with Tradition 9 (CoDA as such ought never be organized, but may create service boards or committees directly responsible to those they serve), and Tradition 4 (Each group should remain autonomous *except* in matters affecting other groups or CoDA as a whole).

I have consulted two different San Diego attorneys specializing in non-profit organizations, and both assured me (based on my description of CoDA being a twelve step program modeled on AA) that there should be no problem in qualifying CoDA World (*Codependents Anonymous, International Inc.)* for the “group exemption letter”.

*LEGAL AND FILING COSTS FOR CODA WORLD TO ESTABLISH THE GROUP EXEMPTION LETTER*:

Here is one estimate from a San Diego attorney:

* Preparation of Group Exemption Application Filing of Form 1023
* Preparation of three-year budget and narrative
* Preparation of procedures for monitoring group exemption subordinates

(Note: the initial application must include at least one subordinate which already has a Taxpayer Identification Number with the IRS.)

Estimated Cost to CoDA World: $3500 (which includes a $3000 IRS filing fee)

*ANNUAL FEDERAL FILING REQUIREMENTS* *FOR CODA WORLD* regarding the maintenance of the *Group Exemption Letter* (Publication 4573):

Annual updates to the IRS must contain the following information:

1. Information about changes in purposes, character, or method of operation of subordinates included in the group exemption letter (if any).
2. Lists of:

* subordinates that have changed their names or addresses during the year;
* subordinates no longer to be included in the group exemption letter because they have ceased to exist, disaffiliated, or withdrawn their authorization to the central organization; and
* subordinates to be added to the group exemption letter because they are newly organized or affiliated or have newly authorized the central organization to include them.

**INSURANCE ALTERNATIVES FOR PROTECTING OFFICERS AND TREASURIES FROM LIABILITY**:

Purchasing *Director and Officer Errors and Omissions* insurance (which protects the officers) and *General Liability* insurance (which protects the organization), each costs several thousand dollars per year, which is much more expensive than the ongoing cost to maintain a *non-profit corporation* (approximately $60 -$318 per year), which would protect both the officers and the organization. I have also been told by the insurance agents that the premiums would be less and easier to obtain if the organization was already incorporated as a non-profit. So being a *non-profit corporation* might be additionally helpful in cases where an outreach activity, such as presence at a fair, requires liability insurance for that special event. An additional benefit of insurance is that it covers the *legal fees* of a lawsuit, and thus further protects the organization’s treasury.

**OPTIONS FOR LEGAL ADVICE**: Legal Zoom, as example, offers a program for ongoing legal advice from licensed attorneys. Prices start at $23.99. For more information, see http://www.legalzoom.com/attorneys/legal-plans/business.html.

**CONCLUSION:**

It appears fairly inexpensive, if using a legal service, to incorporate ($284), and maintain the corporation ($60-$318/year). With a *group exemption letter* in place for CoDA World, the process of federal *non-profit recognition*, for voting entities and intergroups, might be reduced from $995-$1445 (depending on the group’s annual gross receipts), to **ZERO**. This offers the possibility of tremendous savings for the CoDA community nationwide.

While State non-profit recognition may still have to be done by an attorney (possibly $1000), the process is simplified once federal recognition is already established. In California, the form that can then be used is 3500A, which is a simplified version of the regular Form 3500, and could probably be done by a volunteer or officer, thus potentially reducing the state process to ZERO.

**PROPOSAL**:

To petition CoDA World to investigate the possibility of obtaining a “Group Exemption Letter” on behalf of the CoDA community. And if they agree, to suggest that once the IRS approval is given, to post information on their website for all groups to be aware of both the responsibilities and opportunities available to them with regard to incorporation and non-profit status. I also think that any group considering becoming a non-profit corporation should wait until CoDA World gives an answer to SoCAL.