

Clarifying Unit Tax-Exempt Status

We would like to clarify the federal tax status of Boy Scout packs, troops, and other units, in response to questions we have received.

The IRS recognizes the Boy Scouts of America National Council as tax exempt under IRC Section 501(c)(3). This tax exempt status extends only to BSA local councils and their trust funds. It does not extend to or include Scout packs, troops or other units. Scout units are not considered subordinate organizations of the BSA, they are not included within the BSA group exemption, and they are not entitled to use the BSA's Group Exemption Number ("GEN"). Sometimes, the IRS correctly explains to a unit the process for an organization to be considered a "subordinate" of a parent organization, and this explanation is sometimes interpreted as permission to do so. But, the BSA National Council is not organized in a manner that permits units to be its subordinates. Units are organized under chartering organizations (CO), allowing them to be subordinates of the CO, and if the CO is tax exempt, like for example a Church, school, etc., it can use the EIN of the CO or apply to use the CO's Group Exemption Number.

Units must either: 1) use the EIN/GEN of their chartering organization, or 2) form their own nonprofit corporation with the Florida Secretary of State, and then obtain their own employer identification number ("EIN") using IRS Form SS-4.

It is almost always best to obtain permission and use the chartering organization's EIN, as its subordinate or its GEN. If the CO is exempt and wants a unit to obtain its own EIN, that can be done also. See the instructions below under the title of "Checking Account Instructions".

Otherwise, after obtaining its own EIN, a unit must apply for its own determination that it is an exempt supporting organization of the Church or other tax exempt CO. If this approach is taken, it is strongly recommended that the unit work with an accountant and attorney, hopefully volunteer committee members, to assist with the formation and application process. In addition to formation issues, there are regular corporate formalities and tax compliance requirements, including recording of minutes, election of officers and tax returns/tax notices to file based upon the amount of annual gross receipts.

To be deductible by the donor, and used for the unit's benefit, gifts must be made through the Church or other exempt sponsor, and not through Scouting. Gifts designated for a specific unit should not go to a local council with the expectation that the gifts will pass through the council to the unit. This includes gifts from corporate charitable incentive plans and employee matching grants programs. Councils may hold funds in a unit account for things such as camperships at the council's camp or program-related items and awards. However, due to the added staff burden and expense it creates for the council, each local council is free to choose whether it will create unit accounts.

Remember also that Article XI of the BSA Charter and Bylaws states that "Contributions shall be solicited in the name of the Boy Scouts of America only through or by the authority of the Corporation and shall be limited to the National Council or chartered local councils..." Similarly, the BSA Rules and Regulations give each council the power to "control the raising and expenditure of all funds for local Scouting work in their jurisdiction." As such, attempting to incorporate a Scout unit as a separate tax exempt entity is strongly discouraged as a potential conflict with BSA rules and bylaws.

We hope this information is helpful, and thank you for all you do for Scouting.

Checking Account Instructions

Opening a Unit Checking Account

Every unit will eventually need to have a checking account. Sometimes this gets confusing for the newly organized unit because the bank demands a federal tax number (EIN) to open the account. You would not want to use your social security number for this purpose because all income would be reported to IRS under the applicant's individual Social Security number. Not good. Here are two approaches. We will start with the fastest method "Plan A."

Plan A

Due to the charter agreement and tax laws, units are "subordinate" to your chartered organization (CO). Some COs are willing to allow units to use their tax number so their unit will be able to obtain a checking account. This is perfectly legal, but some COs for their own reasons will not allow this. Simply request that they provide you with their EIN or GEN for your unit's own application and, upon receipt, go to Plan B. **If your chartered partner is a business, public school or PTO go straight to plan B without presenting the Plan A concept.**

Plan B

This is the best plan to follow when you are faced with the need for a checking account (the bank needs an EIN and your CO doesn't feel they can help you accomplish the task). What follows are specific instructions for units (Packs, Troops, Posts) to complete IRS form SS-4 (Application for Employer Identification Number (EIN)). If you are opting for this approach it is important for this SS-4 Form to be carefully completed according to instructions. **Several options are available for fast processing at the end of this document.**

Instructions. Please review the IRS instructions completely and follow the specific BSA instructions as follows:

Line 1 – Name of chartered organization (legal name of applicant) and unit designation; e.g.: First United Methodist Church Pack/Troop 151.

Line 2 – Normally not applicable

Line 3 – "Care of" name (Unit treasurer, committee chairman, or chartered organization representative).

Lines 4, 4a – Mailing address, city, state, ZIP code.

Line 5 and Line 5a – Address, if different from Line 4.

Line 6 – County and state.

Line 7a, 7b – Name of principal officer, grantor, or general partner (use chartered organization representative or committee chairperson, and their tax ID number. *Please Note: If you do not have the CO's EIN, leave it blank.*)

Important. Before you fill in *Block 8a, Type of Entity*, remember that the national office issues charters directly to local chartered organizations and not to units. Units should ask *their chartered organization* for permission to use their EIN if at all possible.

Block 8a Type of Entity – Most units will check one of three boxes:

- a. "Church or church controlled organization", if chartered organization fits this description.
- b. "Other nonprofit organization (specify)", if unit is chartered to a nonprofit organization other than a church.
- c. "Other (specify)", if chartered organization is not a church or other nonprofit organization – just put Boy Scout troop, Cub Scout pack, etc.

If your unit's chartered organization has a GEN (Group Exemption Number) that the unit is permitted to use, put that number in this section. Note, however, that the **Group Exemption Number used by BSA local councils may not be used by a unit.**

Line 9 – Check appropriate reason (one only) for applying. Most units will check banking purpose

(specify) interest account, etc.

Line 10 – Leave blank.

Line 11 – Enter closing month of unit accounting year (*most units will use charter expiration month*).

Line 12 – Leave blank.

Line 13 – Leave blank.

Line 14 – Check "Other" and put "Youth program character development" or similar statement.

Line 15 – Put "N/A"

Line 16a – Check appropriate box.

Lines 16b and c – As needed or leave blank.

Third Party Designee – Give name and unit position of the contact person, such as the chartered organization representative or committee chairman.

Important. Remember that the tax-exempt status of a pack, troop, or post is consistent with the tax status of the chartered organization. The employer identification number does **not** provide tax-exempt status it provides identification!

You will receive a letter from the IRS that includes your organization name and address, and your EIN. You also may receive other forms, such as Form 1023, *Application for Recognition of Exemption*, under Section 501(c)(3) of the IRS code.

Your units should use Form 1023 to apply for recognition of exemption, only if absolutely necessary, for example, where the CO will not allow the unit to use its EIN or GEN on the application, or if the CO is not itself recognized by IRS as an exempt organization. Among other reasons, this is due to the normally prohibitive cost, and the requirements for your unit to adopt articles of incorporation and provide a substantial amount of information with the application, annual Form 990 or notice filings, minutes of meetings, many other compliance items, with exposure to penalties for non-compliance.

Filing Options

If you are filing by mail it will take 30 days turnaround.

The mailing address for Florida is:

Internal Revenue Service

You may Fax the SS-4 you will probably experience a 5-day turnaround. Be sure to request a Fax back. The Fax number is _____.

"Complete" Form SS-4 over the phone, and receive your EIN immediately. Call 1 (800) 829-4933.

Additionally, there is an online option of the SS-4 available that also offers immediate filing and approval capability.

For more information and a copy of the most current Form SS-4, please visit the IRS website, www.irs.gov. Thank you for all you do on behalf of Scouting in your community.

We have the EIN but the Bank wants more! What do we do?

Your account is considered a commercial account and the bank employee may not be accustomed to commercial accounts or has not dealt with unit accounts. They may ask for articles of incorporation, bylaws, list of officers, etc. Just explain that this is a unit account for Scouts and all that should be needed is the EIN. If your explanation is not accepted please ask to speak with the branch manager or officer within the bank that can help render a decision.