



**VTR Chapter Guidance:
Should it incorporate?
How about its' tax status?
Does it need insurance?**

By Steve Ward

Questions arise from time to time as to whether a club needs to incorporate, seek tax exempt status, and whether there is a need to have insurance. The following article seeks to answer those questions and explain why each of these is important.

Should our club incorporate?

Yes, all clubs should incorporate. This is simply a matter of doing everything you can to limit financial and tort liability for the individual members. Clubs sponsor events- from group drives to car shows- and the chances of someone (be it a club member or third party) getting hurt in a crash or some other mishap is a foreseeable risk. If the club is not incorporated then each member is potentially liable for any judgment against the club, but incorporation insulates the individual Club members, especially the officers, from being personally liable. By incorporating it is the club that would face liability. I cannot stress strongly enough how important it is for a club to incorporate.

What about our club's tax status?

With incorporation comes the requirement of filing a tax return and it is important for the club

to obtain the appropriate tax status. Most folks have heard about 501(c)(3) nonprofits and immediately think that is what the club should seek. But 501(c)(3) status is reserved for charitable groups and a car club does not meet the criteria. The club may have an annual car show and announce that the profits will go to charity, but the club's purpose is not to do charitable work. The more appropriate status is a 501(c)(7) which is for social and recreational clubs. (I would suggest you go on line and get a copy of the IRS publication 557 which explains all of this.)

In the publication it explains that 501(c) (7) status covers hobby and social clubs. You must limit your membership "consistent with the character of the club." That is why my club states in its by-laws and on the application form that it is for those that "own and have an interest in Triumph Automobiles." The publication goes on to say that the club should be supported solely by "membership fees, dues, and assessments" and that no more than 35% of your gross receipts can come from sources outside those listed above. Which raises the thorny issue of hosting a car show and then MAKING MONEY. Some clubs designate that all profits will be donated to a charity they name in advance as a way to get around this issue. (Our club takes a different tack and operates our show on a zero profit basis. We calculate in advance what the costs will be for trophies, signage, T-shirt sales, etc. and then set the price of entry accordingly. We have done a show for 35 years and so have a very good idea of what our costs will be and can plan accordingly. In fact, we cut it so close that we usually loose a couple hundred on the show and that solves the problem.)

Another issue that I have heard people mention is "the IRS will audit you if your club has more than \$10,000 in the bank." An urban legend has cropped up saying the IRS uses \$10,000 as a trigger to determine if a club is "making a profit." Frankly I do not know how true that legend might be. (I did not practice tax law.)

But regardless of the urban legend, you do not want to have too much money on hand. It could be a red flag to the IRS that you are operating at a profit. And rather than operate on rumor, I would strongly suggest that you talk to an accountant. Perhaps there is one in your club or another British Car Club in the area who can give you some advice.

Aren't the required tax filings burdensome?

I know some folks say, "But if we incorporate, we will have to file a tax return and that will cost us a lot of money so let's just remain unincorporated." I could not disagree more. The filing requirements for a club with a 501(c)(7) status can be as simple filling out a postcard and answering 10 questions.

The security of limiting your financial and tort liability far outweighs the costs of setting up a corporation and filing a return each year. It comes down to it being better to be safe than sorry.

And finally, what about insurance for our club?

As a VTR Chapter you are required to have insurance. Some clubs purchase it through VTR (and this policy includes an Officers and Directors Errors and Omissions clause) while other chapters choose to purchase it from another source. The insurance policy would be the vehicle for paying any judgment against the club or its officers and directors. Some people erroneously believe that because a participant signs a waiver that the club is insulated from liability. Most of these waivers are poorly drafted and do not in fact absolve the club of liability. These waivers do not provide the protection you believe they do.

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