



## AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

# IMPORTANT TAX AND FIDELITY BOND INFORMATION

This information is intended to assist Units, Departments, Districts/Counties/Councils in understanding their obligations for:

- a) Operating as a tax exempt not-for-profit corporation permitted to use the name and trademarks of the American Legion Auxiliary
- b) Operating with a proper surety bond
- c) Filing an annual IRS Form 990
- d) Taking appropriate steps for addressing the IRS' revocation of the tax exempt status of a Unit or District/County/Council

American Legion Auxiliary (ALA) Units and Departments are separate entities that operate independently as affiliates of the ALA National Organization. Intermediate bodies of the Departments – Districts/Counties/Councils (D/C/Cs) – are subordinate to the Department. All ALA entities – Units, Departments, D/C/Cs – are permitted by the National Organization to use the name and trademarks of the American Legion Auxiliary and must comply with the national legal requirements for use of same. As independently operating not-for-profit corporations, Units and Departments must duly report to their respective state governments and to the federal government via the IRS Form 990. Departments should advise their intermediate bodies regarding the filing of IRS annual reports.

Units, Departments, and D/C/Cs that have maintained their exempt status by complying with IRS requirements and that are in good standing are tax exempt under the ALA National Organization Group Exemption Number (GEN).

Units, Departments and D/C/Cs that have had their tax exempt status revoked by the Internal Revenue Service (IRS) for failure to file, or in some instances due to IRS error, need to initiate appropriate steps to regain tax exempt status.

Unit, Department, and D/C/C leaders should be knowledgeable about the following information.

### NEW FOR 2014

#### Form 8822-B Change of Address or Responsible Party – Business

The IRS recently added a new form required for every enterprise with a TIN/EIN. This applies to all incorporated and non-incorporated Units, Departments and D/C/Cs. Beginning January 1, 2014, the IRS requires organizations to file IRS Form 8822-B "Change of Address or Responsible Party – Business" if an organization has had a change of address and/or a change to the organization's responsible party. Form 8822-B and it's instructions can be found at the following IRS link:  
<http://www.irs.gov/pub/irs-pdf/f8822b.pdf>

This is a basic form that looks like a "Change of Address" form. A "Responsible Party" is typically the person that signs your IRS 990/990EZ/990-N. Going forward, Form 8822-B must be filed within 60 days of the date of change.

## **NOT- FOR- PROFIT CORPORATION**

Incorporation provides legal protection for an organization by limiting the liability of the individual members of the organization. The American Legion Auxiliary's Counsel General strongly recommends incorporation. It should be noted that the act of incorporating as a not-for-profit corporation does not automatically confer tax exempt status. A not-for-profit corporation may exist and operate according to the purpose of its articles of incorporation without being tax exempt. Also, if a not-for-profit corporation loses its tax exempt status, it may still otherwise continue its operations; however, it must pay appropriate federal, state and local taxes, and donations it receives are not tax-deductible to the donor.

## **FEDERAL TAX EXEMPTION 501(c) (19)**

Exemption from federal income taxes is granted to the American Legion Auxiliary National Organization. Therefore, by virtue of the American Legion Auxiliary National Organization Group Exemption, ALA Units, Departments, and D/C/Cs fall within the Group and are tax exempt under **Section 501 (c) (19) of the Internal Revenue Service Code.**

Departments have the discretion to establish intermediate bodies – i.e. D/C/Cs – that are now recognized in the American Legion Auxiliary National Bylaws. Therefore, such intermediate bodies are included in the National Organization's Group Exemption unless a) such intermediate bodies have been granted their own tax exempt status as evidenced by a unique Letter of Determination from the IRS; or b) the D/C/C has had its exempt status revoked by the IRS.

The IRS confirmed the ALA National Organization's tax exempt status via its Letter of Determination to the American Legion Auxiliary National Secretary dated March 26, 1973. For your convenience, a copy of the ALA National Organization's 4-page 1973 IRS Letter of Determination is attached. Please retain this document permanently for ready reference.

To stay current on federal tax-exemption matters, please go to the following link at IRS.gov to subscribe to "Exempt Organization Updates":

<https://public.govdelivery.com/accounts/USIRS/subscriber/new>

## **ALA FEDERAL GROUP EXEMPTION NUMBER (GEN)**

**GEN 0964**

The American Legion Auxiliary National Organization's IRS Group Exemption Number is GEN 0964. Units, Departments, and D/C/Cs, when applicable, are included in the National Organization's Group Exemption. When proof of tax exempt status is requested, a photocopy of the 1973 IRS Letter of Determination is generally sufficient.

Note: The purpose of the IRS federal group exemption is to exempt the American Legion Auxiliary National Organization and those falling under the ALA's National Group Exemption (GEN 0964) from federal income tax. The Auxiliary at all levels is otherwise subject to other federal taxes such as payroll taxes and tax on unrelated business income. Units, Departments, and D/C/Cs may also be subject to certain state and local taxes, including hotel, hospitality, service, and sales taxes. All states are different; be sure to consult with a tax adviser knowledgeable about your state's not-for-profit tax requirements to determine if not-for-profit organizations in your state are afforded any state tax exemptions.

## **FEDERAL TAX IDENTIFICATION NUMBER (TIN) EMPLOYER IDENTIFICATION NUMBER (EIN)**

Both the federal TIN and the federal EIN are unique 9-digit identification numbers. If Units, Departments, and D/C/Cs have or will have employees, an EIN is required; otherwise, a TIN is sufficient. While Units, Departments, and D/C/Cs are strongly advised to incorporate, the Units, Departments, and D/C/Cs should apply for and obtain a TIN/EIN whether or not incorporated. Each TIN/EIN is on file with the IRS and should be used on all tax returns and correspondence, and should be retained permanently for ready reference.

**The federal TIN/EIN does NOT indicate tax exempt status.** An organization can be incorporated as a not-for-profit and have the required TIN/EIN but still NOT be tax exempt. The IRS's discretion to grant not-for-profits exemption from paying federal income taxes is an entirely separate federal filing and determination process. For Units, Departments and D/C/Cs, the ALA National Organization Group Exemption provides tax exempt status unless the IRS has specifically revoked a Unit's or D/C/C's exempt status. See information about exempt status revocation elsewhere in this document.

## **STATE TAXES**

Federal tax exemption does not automatically grant state tax exemption(s). Each state has its own tax laws and rulings regarding state tax exemptions, including sales tax. State tax exemptions may only be granted by the state in which your Unit, Department, and D/C/C is located. Sales tax exemption is only recognized in the state where it is granted.

Most states require a specific not-for-profit status tax return form be filed annually. State tax returns for a not-for-profit corporation may be required for that organization to maintain any state and local tax exempt status which a state may grant. Some states regulate charitable organizations' fundraising activities. Be sure to consult with knowledgeable legal and/or tax professionals in your state to ensure you are meeting all the requirements for filing and maintaining any state and local exemptions granted by your state.

## **IRS FORM 990, 990EZ, 990N**

Generally, Units, Departments, and D/C/Cs must file IRS Form 990 or 990EZ when their annual gross receipts are greater than \$50,000. The IRS Form 990 is required when gross receipts are greater than or equal to \$200,000 or total assets are greater than or equal to \$500,000. The IRS Form 990EZ may be used when the gross receipts are less than \$200,000 and total assets are less than \$500,000.

IRS Form 990N (e-Postcard) may be used when a Unit, Department, or D/C/C normally has gross receipts of \$50,000 or less. For those with gross receipts of \$50,000 or less, please see instructions for filing the Form 990N (e-Postcard) that follow in this document.

The federal filing due date for the IRS Form 990, 990EZ, or 990N (e-Postcard) is the 15<sup>th</sup> day of the 5<sup>th</sup> month after the close of the organization's tax year. For example, if your fiscal year ends June 30<sup>th</sup>, your filing due date for whatever version of the IRS Form 990 you are required to complete is November 15<sup>th</sup>. If your fiscal year ends September 30<sup>th</sup>, your federal filing due date is February 15<sup>th</sup>. If your fiscal year ends December 31<sup>st</sup>, your federal filing due date is May 15<sup>th</sup>.

Tax exempt organizations that file IRS form 990 and 990-EZ (including extensions) must make available for public inspection or copying its annual return(s).. The IRS provides access to filings of all versions of the IRS Form 990 available online to charity rating and watchdog organizations,

and to the news media. To view the Exempt Organization Public Disclosure and Availability Requirements, please go to:

<http://www.irs.gov/Charities-&-Non-Profits/Exempt-Organization-Public-Disclosure-and-Availability-Requirements>

Form 990 is not just a disclosure of a nonprofit's financial statements, but also serves as a tool for compliance and accountability reporting that meets the diverse needs of both the regulatory community and the public. The Form 990 asks specific questions about your governance policies and program achievements. Lack of adequate governing and oversight policies increases the chance for an audit or scrutiny of your tax-exempt organization.

It is strongly recommended that the Units, Departments and D/C/Cs have written policy and procedures that document the organization's 990 Review process. Although no 990 Review policy is legally required, having one written increases the accuracy and transparency of the organization's 990 return.

**For D/C/Cs that do not have their own TIN/EIN**, please see the documents "ALA Determining 990, Charter Needs for ALA Districts/Counties/Councils" and "ALA District/Counties/Councils Organization Structure & 990 Tax Return Frequently Asked Questions".

## IRS FORM 990T

Not all receipts are exempt from Federal income tax. Gross income in excess of \$1,000 from business unrelated to the organization's exempt purpose must be reported on Form 990T. Form 990T must be completed in addition to Form 990.

## TAX-EXEMPTION REVOCATION

Following the Internal Revenue Service's adoption of the completely revised IRS Form 990 series for FY2010, the IRS began vigorously conducting federal reporting compliance reviews of not-for-profits across the United States. As a result, approximately 800 ALA Units had their tax exempt status revoked. *Please see "Recommended Reinstatement Process for ALA Units, Departments and District/Counties/Councils" on page 8.*

Consequences of losing your federal tax-exemption may include but are not limited to the following:

1. Your Unit, Department and D/C/C is no longer exempt from federal income tax and will be subject to corporate income tax on annual revenue.
2. Your Unit, Department and D/C/C should proactively communicate with your donors explaining that the organization's tax-exempt status has been revoked. The Unit, Department and D/C/C should communicate the reason for the revocation, consequences of the revocation, and that all steps are being taken to have the organization's tax-exempt status reinstated.
3. Any state tax-exemption dependent on federal tax-exempt status your Unit, Department and D/C/C had is also now revoked.
4. Your organization will not be listed in IRS Publication 78, *Cumulative List of Organizations described in Section 170(c) of the Internal Revenue Code of 1986*, which is a list of organizations eligible to receive tax-deductible charitable contributions. Donations to non-tax-exempt Units, Departments and D/C/Cs are not tax deductible.

5. Private foundations are unlikely to give a grant directly to nonprofits that are not tax-exempt.
6. The revocation date is the date set by the Secretary of Treasury. Please see Revenue Procedure 2014-11 IRS website: [http://www.irs.gov/irb/2014-3\\_IRB/ar08.html](http://www.irs.gov/irb/2014-3_IRB/ar08.html)

**Note:** Units, Departments and D/C/Cs that have lost federal (and/or state) tax-exempt status may still remain chartered entities in good standing with the American Legion Auxiliary. ALANHQ does not require chartered entities to be tax-exempt, although, units who have lost tax-exemption should communicate with department headquarters concerning applicable department requirements.

### **Public Scrutiny of IRS Tax Documents**

As a general summation of the IRS's rules regarding public inspection of tax documents, when a member of the public makes a request to inspect tax documents or obtain copies, your Unit, Department and D/C/C must comply in a reasonable time and manner. Your Unit, Department and D/C/C can make compliance with these rules easier by posting PDF files of required documents on the Unit, Department or D/C/C website.

#### **Rules for Public Disclosure of Tax Documents:**

1. By law, the public has a right to view and receive copies of any 990 (including 990-T) forms filed by a tax-exempt organization for the last three (3) years plus the IRS exemption application and award letter.
2. Tax-exempt organizations are required to make these documents available for inspection, without charge, at its office during regular business hours.
3. If your organization only fills out the form 990 N postcard online, you can direct all requests for inspection to the IRS website, [www.irs.gov](http://www.irs.gov), where it can be downloaded for free.
4. If a tax-exempt organization does not have a place of business or its office hours are limited, it must make the documents available for inspection at a reasonable time and location of its choice within two (2) weeks of the request being made.
5. If a tax-exempt organization does not have an established place of business or its office hours are limited, requests to inspect documents in person may be satisfied accommodated instead by mailing the copies of the documents within two (2) weeks of receiving the request copies of the documents to the requester. This may substitute for an in-person inspection. In such a case however, fees for copies and postage may only be charged if the requester consents. No fee for services or access may be charged.
6. Should a requester contact your department/unit in writing (by mail, email, or fax) and request that you send written copies of documents to them:
  - You must mail the copies requested within thirty (30) days of receiving the request.
  - If you require prepayment for copy and postage costs in advance, the documents must be sent within thirty (30) days of receiving payment. No fees for services or access may be charged.
  - If you receive a request without payment and require payment (for copy and postage costs), you must notify receiver of prepayment policy within seven (7) days of receiving the request.
  - If you receive consent from requester, you may provide electronic rather than paper copies of the documents.
7. If your department/unit has made your documents widely available on a website, then you are not required to provide copies requested through the mail, email, or fax, but must notify



the requester of the availability of the documents online. An organization must still provide a copy if a request to do so is made in-person.

- The IRS deems documents to be widely available if:
  - they are available to all readers on a website and the website clearly informs readers of the documents' presence;
  - the document can be easily viewed, downloaded, and printed without special software or charge; and
  - the documents are exact reproductions of the images of the original documents and are not subject to loss, destruction, or alteration.
8. If your department/unit has a permanent place of business, and a requester appears in person during office hours, the following guidelines apply:
- You may have an employee/volunteer in the room with the requester while he/she examines the documents.
  - The requester may take notes freely.
  - Should the requester bring his/her own portable photocopy equipment (such as a camera, scanner, etc.), your department/unit must allow the requester to photocopy the document at no cost.
  - Should the requester ask for copies, you may charge a reasonable fee for actual copy costs only. No fee for services of access may be charged.
  - Copies must be provided to the requester the same day a request is made, except in unusual circumstances.

## **ALA DISTRICTS/COUNTIES/COUNCILS (D/C/Cs)**

The American Legion Auxiliary National Bylaws were amended at the 2012 National Convention to grant Departments the authority to create intermediate bodies between the Units and Departments to act as a liaison between such organizations for the purpose of promoting the programs of the American Legion Auxiliary. Departments now have the nationally recognized option to establish D/C/Cs.

Administratively, a D/C/C is part of a Department. A D/C/C may separately incorporate only with the approval of its respective Department. A D/C/C is federally tax exempt under the ALA National Organization Group Exemption unless the D/C/C has obtained its own tax exempt status with the IRS. In all cases, the ALA National Headquarters must approve the use of the ALA emblem by ALA D/C/Cs.

Departments should require that their D/C/Cs report monthly to the Department as well as provide guidance for how their D/C/Cs are to report to the IRS. *Please see the document "ALA Determining 990, Charter Needs for ALA Districts/Counties/Councils"*

If a D/C/C is incorporated and has its own TIN/EIN, it must file its own appropriate IRS Form 990 series and provide a copy to the respective Department. A D/C/C that has its own tax exempt status granted by the IRS, as evidenced by a unique Letter of Determination from the IRS, must also file its own appropriate Form 990 series and provide a copy to the respective Department. Those D/C/Cs without a TIN/EIN are required to report their financial activities to their Department and be included in that Department's duly filed IRS Form 990 series.

Departments should instruct their D/C/Cs regarding 990 reporting rules and the importance of being compliant. D/C/Cs should provide copies of duly filed 990s to their Departments.

Those Departments that already have D/C/Cs also have the authority to require D/C/Cs be bonded and who pays for the bond. Departments and D/C/Cs are not included in coverage under the ALA National Organization's Fidelity Bond. The company underwriting the ALA National Organization's

surety bond will not permit Departments and D/C/Cs (as subordinate entities of the Department) to be included in the National Organization's surety bond.

For a summary D/C/C Form 990 series of reporting requirements, please see the documents "ALA Determining 990, Charter Needs for ALA Districts/Counties/Councils" and "ALA District/Counties/Councils Organization Structure & 990 Tax Return Frequently Asked Questions."

From IRS website:

### ***Annual Electronic Filing Requirement for Small Exempt Organizations — Form 990-N (e-Postcard)***

Most small tax-exempt organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, also known as the *e-Postcard*, unless they choose to file a complete Form 990 or Form 990-EZ instead.

If you do not file your *e-Postcard* on time, the IRS will send you a reminder notice. There is no penalty assessment for late filing the *e-Postcard*, but an organization that fails to file required *e-Postcards* (or information returns – Forms 990 or 990-EZ) for three consecutive years will automatically lose its tax-exempt status. The revocation of the organization's tax-exempt status will not take place until the filing due date of the third year. Watch the IRS YouTube presentation.

**Due Date of the *e-Postcard*:** The *e-Postcard* is due every year by the 15th day of the 5th month after the close of your tax year. For example, if your tax year ended on December 31, the *e-Postcard* is due May 15 of the following year. If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day. **You cannot file the *e-Postcard* until after your tax year ends.**

#### **How to File**

Use this link to file the *e-Postcard*. If you have trouble accessing the system using that link, you may be able to access the filing site directly by typing or pasting the following address into your Internet browser: <http://epostcard.form990.org>. When you access the system, you will leave the IRS site and file the *e-Postcard* with the IRS through our trusted partner, Urban Institute. The form must be completed and filed electronically. There is no paper form.

**Information You Will Need to File the *e-Postcard*:** The *e-Postcard* is easy to complete. All you need is eight items of basic information about your organization.

**Who Must File:** Most small tax-exempt organizations with gross receipts that are normally \$50,000 or less must file the *e-Postcard*. Exceptions to this requirement include:

- Organizations that are included in a group return,
- Churches, their integrated auxiliaries, and conventions or associations of churches, and
- Organizations required to file a different return

To search for organizations that have filed an e-Postcard and to view their filings, see *Exempt Organizations Select Check*. You can also download the entire database of *e-Postcard* filings on that site.

#### **Additional Information**

- Frequently Asked Questions - *e-Postcard*
- Frequently Asked Questions - Automatic Revocation for Not Filing Annual Return or Notice
- Final regulations (July 23, 2009)
- Educational tools: Help spread the word – Help small tax-exempt organizations stay exempt!
- EO Update: Subscribe to Exempt Organization's regular email newsletter that highlights new information posted on the Charities and Non-Profits pages of IRS.gov.
- Account, tax law, or questions about filing the *e-Postcard* should be directed to Customer Account Services at 1-877-829-5500. For questions about or problems with the *e-Postcard* filing system, use the **Technical Support** link on the filing site.

From IRS website, last reviewed/updated: 14-Jan-2014

blue/underlined indicates link on website to additional information

## RECOMMENDED REINSTATEMENT PROCESS FOR ALA UNITS, DEPARTMENTS, and DISTRICTS/COUNTIES/COUNCILS

1. If an American Legion Auxiliary Unit, Department and District/County/Council (D/C/C) has had its exempt status revoked by the IRS, it is the responsibility of the Unit, Department and D/C/C to handle the matter. American Legion Auxiliary Units, Departments and D/C/C must deal directly with the IRS. Since each Unit, Department and D/C/C is separately organized, incorporated, and has its own separate Tax Identification Number/Employer Identification Number (TIN / EIN), the American Legion Auxiliary National Organization is prohibited from providing assistance, per IRS directives.
2. Units, Departments and D/C/Cs can contact the IRS in Cincinnati, Ohio at a specific toll free number developed for the tax exempt status revocation process. This IRS group is specially trained in tax exempt issues and may be able to help answer questions and give direction for Units, Departments and D/C/Cs that have had their tax exempt status revoked by the IRS. The standard IRS telephone numbers reach people who have not been specially trained and may not give the proper information. The toll free number to call in Cincinnati is: **(877) 829-5500**.
3. Units, Departments and D/C/Cs should confer with legal and/or tax professionals concerning revocation particulars.
  - a. Filing for reinstatement for a 501(c)(19) tax exempt status requires the use of IRS Form 1024.
  - b. Reinstatement of tax exempt status is for each individual Unit, Department and D/C/C. Units, Departments and D/C/Cs requesting reinstatement as tax exempt organizations under these circumstances will now be required to obtain their own unique exempt status from the IRS, applying to the IRS using their own TIN/EIN to request a Letter of Determination for Exempt Status from the IRS. The IRS will require a Form 1024 Application for Recognition of Exemption under Section 501(a) be filed. The IRS will not allow the Unit, Department and D/C/C to be reinstated under the ALA National Organization Group Exemption (GEN).
4. If tax exempt status is desired, Units, Departments and D/C/Cs are strongly recommended to retain a legal and/or tax professional knowledgeable in not-for-profit tax matters and exemptions to review the situation and handle reinstatement of tax exempt status. Revoked Units, Departments and D/C/Cs have the option of being a taxable entity.
  - a. Units, Departments and D/C/Cs might be able to retain legal and/or tax professionals pro bono, or they may consider working with other Units, D/C/Cs, or Posts, to retain legal and/or tax professionals at a discounted group rate.
  - b. If a Unit, Department or D/C/C loses its tax exempt status and chooses to remain a taxable entity, the Unit, Department and D/C/C is responsible to file the appropriate tax forms with the IRS relative to the Unit, Department or D/C/C organizational structure (e.g. 1120 Corporate Tax Return).
5. If a legal and/or tax professional's review of the details regarding a Unit's, Department's or D/C/C's tax exempt status revocation determines that the revocation was due to IRS error, the Unit, Department or D/C/C may send documentation that supports the error to ALA National Headquarters, Attention: Membership Division. The ALA National Headquarters staff will forward the documentation disputing the IRS error to the National Judge Advocate for review and appeal assistance when appropriate.



## AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

### BLANKET FIDELITY BOND

The American Legion Auxiliary (ALA) National Organization procures a Fidelity Bond which provides coverage for American Legion Auxiliary Unit members and employees in addition to coverage for national officers, national directors, and National Headquarters employees. ALA Departments and ALA Districts/Counties/Councils are not included in the Fidelity Bond coverage provided by the National Organization. Each Department is billed at the beginning of the three-year policy term for its proportionate share of the bond premium for the coverage of its Units.

For Units, the current limits of coverage for Unit officers, Unit members volunteering for ALA programs and operations, and Unit employees is \$10,000 per claim with a deductible of \$250 for each claim.

The Fidelity Bond covers a Unit's loss through larceny, embezzlement, theft, forgery, misappropriation, willful misapplication, or any other act of fraud or dishonesty caused by any member/employee of the American Legion Auxiliary if that person's manifest intent is to cause the Auxiliary Unit to sustain a loss and to enrich herself or another person.

The coverage does not apply when the insured has knowledge that a member/employee has committed a fraudulent or dishonest act in the service of the insured and does not cover mysterious disappearance or burglary.

**To help prevent losses and provide more reliable financial data, the following are recommended Financial Controls:**

1. Bylaws should provide for a regular (monthly or quarterly) Financial Report from the Treasurer.
2. Bylaws should provide for an Annual Independent External Audit or Annual Independent External Review and specify how such audit or review is to be arranged or conducted (e.g. who has the responsibility for selecting and engaging the independent external auditor.)
3. Receipts should be issued for all money received.
4. Involve a second person in cash receipts processing.
5. Make certain that your cash receipts log matches the cash receipts entry in the ledger and the actual bank deposit.
6. Countersignatures should be required on all checks.
7. All bills should be paid in a form other than cash.
8. Blank checks should **never** be pre-signed.
9. Someone independent of check processing should open and review bank statements.
10. Someone independent of check processing should review bank reconciliations on a monthly basis.
11. Someone independent of check processing should review the vendor list – check to see if any vendor addresses match each other and/or employee addresses.
12. Someone independent of the request for wire transfers should verify all wire transfers.

## AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

### Blanket Fidelity (*Dishonesty*) Bond CLAIMS PROCESS

As soon as a loss is discovered, an audit should be conducted establishing "proof of loss." Units are strongly encouraged to contact local law enforcement authorities upon discovery of a loss.

Notice of a potential claim should be given, in writing, at the earliest practical time after discovery. It should first be reported to the Department Secretary. The Department Secretary should forward the information to the National Treasurer – again, in writing. At the very least, the notification should include the name, address and phone number of the contact person in the Unit making the claim. (*See sample notification on the following page*)

To expedite processing, the notification should include all relevant information about the loss (*see sample notification*):

- the name of the person or persons suspected of being involved in the fraudulent or dishonest acts
- the date or dates of each and every fraudulent or dishonest act
- a brief outline of the events, including whether or not the incident had been reported to the police
- a detailed statement of the items of loss caused by the fraudulent or dishonest acts
- a copy of all statements and other evidence to support the claim

Once the National Treasurer receives the written notification, it is forwarded to the insurance agency who then forwards the notification to the bonding company.

When the bonding company receives the notification, an investigator is assigned to the case. The investigator will normally contact the Unit making the claim within one week of receiving the notification. At that time, the bonding company will provide the Proof of Loss form and advise what else might be needed to comply with the policy provisions.

It's important to remember that the burden of proof is on the Unit making the claim and that the bonding company must receive the completed Proof of Loss form within four months of the discovery. If time is running short, the notice may be emailed or faxed to the National Treasurer; include a request in your email or fax if you also want the National Treasurer to email or fax the notice to the insurance agency. However, the notification must also be mailed to the National Treasurer so that it can be forwarded to the bonding company.

Filing a bond claim is nothing more than filing an insurance claim and does not replace any independent legal action necessary on the part of your Unit. It is the Unit's responsibility to report illegal activity to the authorities deemed appropriate. You may also refer to your Unit Handbook for information on discipline of a Unit member.

AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

# Sample

## NOTIFICATION OF POTENTIAL BOND CLAIM

**TO:** National Treasurer  
American Legion Auxiliary

**FROM:** Jane Doe, Department Secretary  
Auxiliary Legion Auxiliary, Department of *(State)*

**DATE:** 10-15-12

**SUBJ:** Potential Bond Claim

Unit #123 of the Department of Any state has informed us of a potential bond claim.  
All relevant information is detailed in the attached materials.

Please advise the bonding company to contact:

Name (President of Unit 123)  
Address  
City, State Zip  
Home Phone:  
Work Phone:  
Fax:  
Email:

Department of the Treasury



Internal Revenue Service

Washington, DC 20224

Date: MAR 26 1973 In reply refer to: T:MS:EO:R:1

American Legion Auxiliary  
c/o Doris Anderson  
777 North Meridian Street  
Indianapolis, Indiana 46204

Group Exemption Number - 0964

Mesdames:

This refers to the letter from the National Judge Advocate dated January 2, 1973, requesting that your ruling letter of March 14, 1946 be modified to show that you are recognized to be exempt from Federal income tax under section 501(c)(19) of the Internal Revenue Code. You state that you are an auxiliary of The American Legion, an organization which limits its membership to persons who have served in the Armed Services of the United States during a period of war.

Our records show that on January 18, 1933, you received a letter recognizing you to be exempt from Federal income tax. On October 31, 1946, your individual ruling letter was modified to include your auxiliary units and departments. The letter held that you and your subordinates were recognized to be exempt from Federal income tax under section 101(8) of the 1939 Code. By letter dated January 17, 1955, we held that you and your subordinates were recognized to be exempt under section 501(c)(4) of the 1954 Code and that contributions made to the units listed were deductible as provided by section 170 of the Code.

Based on the information furnished we rule that you and your subordinate departments and units are recognized as being exempt from Federal income tax under section 501(c)(19) of the Code.

You are required to file the annual return, Form 990, on or before the 15th day of the 5th month after the end of your annual accounting period if your annual gross receipts are normally more than \$5,000.



American Legion Auxiliary

Failure to file the Form 990 by this date may subject you to a penalty of \$10 for each day during which such failure continues, up to a maximum of \$5,000. Your subordinates will have to file an annual information return, Form 990, if their gross receipts in each taxable year are normally more than \$5,000. If you do not include the subordinates in a group return, each must file an annual return by the 15th day of the 5th month after its annual accounting period closes.

You and your subordinates are not required to file Federal income tax returns unless you or your subordinates are subject to the tax on unrelated business income under section 511 of the Code, if so, you and your subordinates must file an income tax return on Form 990-T. In this letter we are not determining whether any of your, or your subordinates', present or proposed activities is unrelated trade or business as defined in section 513 of the Code.

Unless specifically excepted, you and your subordinates are liable for taxes under the Federal Insurance Contributions Act (social security taxes). Also, unless excepted, you and your subordinates are liable for tax under the Federal Unemployment Tax Act if, during the current or preceding calendar year, you have one or more employees at any time in each of 20 weeks, or you pay wages of \$1,500 or more in any calendar quarter. Any questions concerning excise, employment, or other Federal taxes should be submitted to your key District Director in Cincinnati, Ohio.

Contributions made to your exempt subordinate units are deductible as provided by section 170 of the Code.

You should advise each of the subordinates of the provisions of this ruling, including the requirements for filing information or other returns.

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Each year within 45 days after the close of your annual accounting period, please send the following to the Philadelphia Service Center, 11601 Roosevelt Boulevard, Philadelphia, Pennsylvania 19155, Attention: EOR Branch:

1. A statement describing any changes during the year in the purposes, character, or method of operation of your subordinates.
2. A list of the names, mailing addresses including ZIP Codes, and employer identification numbers (if required for group exemption letter purposes) of subordinates on your group exemption roster that during the year:
  - a. changed names or addresses;
  - b. were deleted from the roster;
  - c. were added to the roster.

An annotated directory of subordinates will not be accepted for this purpose.

3. For subordinates added to the roster, a letter signed by one of your principal officers containing or attaching:
  - a. a statement that the information which your present group exemption letter is based applies to the new subordinates;
  - b. a statement that each has given you written authorization to add its name to the roster;
  - c. a list of those to which the Service previously issued rulings or determination letters relating to exemption.

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4. If applicable, a statement that your group exemption roster did not change during the year.

To the extent that this ruling is inconsistent with it this ruling modifies our ruling issued to you on October 31, 1946.

Your key District Director is being advised of this action.

Sincerely yours,

*Duane B. Johnson*

Director,  
Miscellaneous and Special  
Provisions Tax Division



## Determining 990, Charter Needs for ALA Districts/Counties/Councils

Is your American Legion Auxiliary District/County/Council Incorporated? (ALA D/C/C)

YES our ALA D/C/C is Incorporated.

**CHARTER APPLICATION**  
ALA National requires charter for an ALA D/C/C to be included in the ALA National Federal Group Tax Exemption (GEN). ALA National strongly recommends chartering to protect trademarks. (See ALA D/C/C Organizational Structure & 990 Tax Return FAQs)

ALA D/C/C has its own (unique) IRS Tax Exempt status (letter of Determination)

ALA D/C/C files an IRS 990 (990-N, 990-EZ) Tax Return under the TIN/EIN issued to ALA D/C/C and provides a copy to its ALA Department. (See ALA D/C/C Organizational Structure & 990 Tax Return FAQs)

ALA D/C/C desires to be part of the ALA National Group Exemption (GEN)

ALA D/C/C has had its tax exempt status revoked by the IRS

See attached recommended reinstatement process for ALA D/C/C

NO

NO our ALA D/C/C is not Incorporated.

Our ALA D/C/C manages money independently from the ALA Department

Our ALA D/C/C has no bank account and does not manage money independently of the ALA Department

ALA D/C/C has obtained a Tax Identification Number (TIN) or commonly known as EIN), and maintains an ALA D/C/C bank account

Not required to be Incorporated or Chartered (See ALA D/C/C Organizational Structure & 990 Tax Return FAQs)

ALA D/C/C has had its tax exempt status revoked by the IRS

**CHARTER APPLICATION**  
ALA National requires charter to be included in the ALA National Tax Exempt Group (GEN)

ALA D/C/C reports activities to its ALA Department as may be required by ALA Dept

ALA Department includes ALA D/C/C financial activities in the ALA Department IRS 990 (990-N, 990-EZ) Tax Return

ALA D/C/C files an IRS 990 (990-N, 990-EZ) Tax Return under the TIN/EIN issued to its ALA D/C/C and provides a copy to ALA Department. (See ALA D/C/C Organizational Structure & 990 Tax Return FAQs)

*\*2012 Amendment to the American Legion Auxiliary-Constitution & Bylaws Provides: Article 1 - Section 4; Departments shall have authority to create intermediate bodies between the Units and Department to act as a liaison between such organizations and for the purpose of promoting the programs of the American Legion Auxiliary. Amendment approved 8/28/2012 ALA National Convention (www.ALAforVeterans.org)*





## Districts/Counties/Councils Organization Structure & 990 Tax Return Frequently Asked Questions

QUESTIONS	RESPONSES
Has there been a change in how the ALA National Organization accounts for the ALA Districts/Counties/Councils (D/C/C)?	<p>Yes, the American Legion Auxiliary National Constitution &amp; Bylaws AMENDMENT adopted 8/28/2012 amended the National Bylaws Article 1-Organization, Sections 3 and 4, to grant discretionary authority to Departments to create intermediate bodies between the Units and Department (commonly known as districts/counties/councils)</p> <p><b>Section 4.</b> Departments shall have authority to create intermediate bodies between the Units and Department to act as a liaison between such organizations and for the purpose of promoting the programs of the American Legion Auxiliary.</p> <p>*Note, revisit your ALA Department Constitution and Bylaws regarding the Department's recognition of Districts, Counties, Councils. Make sure the Department's bylaws grant the Department governing body the authority to establish ALA D/C/Cs.</p>
Our ALA District/Council (D/C/C) has an EIN. Does that mean our ALA D/C/C is incorporated?	No, obtaining a Tax Identification Number/Employer Identification Number (TIN/EIN) DOES NOT incorporate, nor legalize your ALA District/Council to conduct business as a separate entity with the related benefits and protections of incorporation. The state in which your Department exists is where you would initiate the incorporation of your ALA District/Council to legalize the organizational structure. Visit your state government website for guidance, as each state varies regarding nonprofit incorporation and registration.
What does "incorporated" mean?	An incorporated organization has filed the required federal, state and local government paperwork to create and register the organization as a separate legal entity for conducting business and is recognized by the federal, state and local government.
How do we become incorporated?	The proper steps to lawfully organize your ALA District/Council/Council varies from state to state as to the incorporation and registration process. The first step is to determine your state requirements. <i>Seek professional advice regarding to the lawful establishment of your organization's structure. "Incorporation" is a term for classification purposes. The answers to these FAQs do not constitute professional advice by the ALA National Organization.</i>
What does "TIN/EIN" mean?	The TIN/EIN is the identifier assigned by and used for reporting business activities at both the Federal and State levels.
How does an ALA D/C/C apply for an ALA charter?	A separate application and instructions for ALA Districts/Counties/Councils has been published by the ALA National Organization and made available to each ALA Department or via the ALA National website ( <a href="http://www.ALAforVeterans.org">www.ALAforVeterans.org</a> ). Submission of your application for an ALA D/C/C charter initiates the process by the ALA Department. The ALA Department submits the application to ALA National Headquarters, Membership Division, for processing.  In the interest of time and convenience, the ALA National Headquarters will not impose a processing fee for the ALA D/C/C charter applications in Fiscal Year 2013 & Fiscal Year 2014.



## Districts/Countries/Councils Organization Structure & 990 Tax Return Frequently Asked Questions

QUESTIONS	RESPONSES
When does an ALA D/C/C need to submit its Charter Application?	The ALA National Organization requires all NEW charter applications be completed by April 30th of each year for the listing and inclusion of ALA chartered organizations in the 6/30 annual report submitted to the IRS for the ALA National Group Exemption.  Please note that the process is ongoing and the ALA National Organization will submit a Group Exemption inclusion letter after each charter application is processed and an ALA National Charter has been issued.
Why does our ALA D/C/C need to be concerned about trademark protections?	The American Legion (TAL) owns the name, emblem and trademarks of the American Legion Auxiliary (ALA). The ALA is required to authorize and control the use of the ALA's name, emblem and trademark. Permission for affiliated chartered organizations to use the name and marks of the ALA must be granted by the National Secretary in keeping with corporate law and federal regulations.
Does our ALA D/C/C need to file a 990-N?	990-N  Organizations that accept money must account for receipts (revenues and contributions). Organizations whose receipts are less than \$50,000.00 in total for the organization's tax year are eligible to file the 990-N (e-postcard) series electronically - ( <a href="http://www.irs.gov">www.irs.gov</a> ). Organizations with receipts \$50,000 and over must file a 990-EZ or 990. See the next 2 questions.
Does our ALA D/C/C need to file a 990-EZ?	990-EZ  Organizations with receipts (revenues and contributions) that are less than \$200,000.00, and with total assets of less than \$500,000 for the organization's tax year are eligible to file the 990-EZ series of tax return - ( <a href="http://www.irs.gov">www.irs.gov</a> ).
Does our ALA D/C/C need to file a 990?	990  Organizations with receipts (revenues and contributions) that are greater than/equal to \$200,000.00, OR the ALA D/C/C has total assets of greater than/equal to \$500,000.00 for the organization's tax year meet the IRS requirement to file the 990 series tax return - ( <a href="http://www.irs.gov">www.irs.gov</a> ).
The ALA D/C/C has tried to file a 990 series tax return for a prior year and the IRS has rejected the tax return. What should we do?	While there are many different situations that result in the IRS rejecting a 990, the most common reasons are:  1. According to IRS records, the TIN/EIN used on the 990 does not belong to the ALA D/C/C filing the 990. 2. According to IRS records, there were no 990's for that TIN/EIN filed the last 3 years.  <b>The ALA D/C/C should only use the TIN/EIN assigned specifically by the IRS for the ALA D/C/C organization on all relative tax returns and correspondence with the IRS.</b>