

# AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS



## IMPORTANT TAX INFORMATION

The following information is intended to inform and assist Units and Departments in understanding the basic tax structure under which the American Legion Auxiliary operates. ALA Departments and Units are considered affiliates of the ALA National Headquarters. Departments and Units that have maintained their exempt status by complying with IRS requirements and that are in good standing are tax exempt under the ALA National Headquarters Group Exemption Number (GEN).

Units that have had their exempt status revoked by the IRS for failure to file or, in some instances, due to IRS error need to initiate appropriate steps to regain tax exempt status. Unit and Department leaders should be knowledgeable about the following information.

### NOT FOR PROFIT CORPORATION

Incorporation provides legal protection by limiting the liability of the individual members but the act of incorporating does not automatically confer tax-exempt status.

### FEDERAL TAX EXEMPTION

**501(c) (19) as of 3/73**

Exemption from Federal income taxes is granted the American Legion Auxiliary National Organization and all Departments and Units under **Section 501 (c) (19)** of the Internal Revenue Service Code. This was confirmed by a letter from the Internal Revenue Service dated March 26, 1973.

*(All Departments have been provided a copy of this letter. Another is attached. Please file for ready reference.)*

### GROUP EXEMPTION NUMBER (GEN)

**0964**

This is the GEN for National Headquarters and all Departments and Units. Often when Units are applying for special permits that require proof of tax-exempt status a copy of this ruling is needed. A photocopy of the letter will be sufficient. Although the American Legion Auxiliary is exempt from Federal income tax, we are subject to other Federal taxes such as payroll taxes and tax on unrelated business income.

### EMPLOYER IDENTIFICATION NUMBER

**(unique for each Unit)**

An Employer Identification Number (EIN) is a unique 9-digit identification number. Each Unit has a unique EIN and each newly chartered Unit must apply for this ID number. **THE EMPLOYER IDENTIFICATION NUMBER IS NOT AN INDICATOR OF TAX EXEMPT STATUS.** Each Unit's EIN is on file with the Internal Revenue Service and that number must be used on all tax returns.

### STATE TAXES

Federal tax exemption does not guarantee state tax exemptions. Each state has its own tax rulings and state tax exemptions (including sales tax); state tax exemptions must be secured in the state where your headquarters is located. Sales tax exemption is only recognized in the state where it is granted. State not-for-profit corporation tax returns may be required for the organization to retain exempt status, even if a federal return (discussed below) is not required. This is the case in Indiana which requires a form NP-20 and form IT-20NP (if applicable). Check your state's filing requirements prior to concluding that a state return is not required.

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## **IMPORTANT TAX INFORMATION** (continued)

### **FORM 990**

Units must file IRS Form 990 or 990EZ if their annual gross receipts are greater than \$50,000.

If a Unit, which normally has gross receipts less than \$50,000 receives an IRS Form 990 package with a pre-addressed mailing, label, it should complete Section 1, stating that its receipts are less than \$50,000, and return the form to the correct filing center. It is not necessary to complete the remainder of the form when gross receipts are normally \$50,000 or less. For those Units with gross receipts of \$50,000 or less, please see instructions for filing the Form 990N (e-Postcard) on the following page. The filing due date is the same regardless of which form the Unit is required to file. IRS Form 990, 990EZ, or e-Postcard are each due every year by the 15<sup>th</sup> day of the 5<sup>th</sup> month after the close of the Unit tax year. All organizations that file Form 990 are required by law to make this form available for public inspection upon request during regular business hours and at the organization's principal office or at a reasonable location if there is no office.

### **ALA COUNTIES AND DISTRICTS**

Administratively, ALA Counties and ALA Districts are part of a Department. An ALA County or ALA District may separately incorporate only with the approval of its respective Department, and it may not be tax exempt unless its respective Department grants approval for the ALA County or ALA District to seek its own tax exempt status with the IRS. In all cases, the ALA National Headquarters must approve the use of the ALA emblem by an ALA County and ALA District.

If an ALA County or ALA District is incorporated, has its own EIN and therefore its own tax exemption, it must file an IRS Form 990 for activities distinct to that ALA County or ALA District EIN and tax exemption.

Unincorporated ALA Counties and ALA Districts without an EIN are part of the department. Unincorporated ALA Counties and ALA Districts should report their activities to their respective Department and their financial information should be submitted to their department for inclusion in the department's 990. Unincorporated counties and districts do not file a 990, 990EZ, or e-Postcard.

ALA Counties and Districts, whether incorporated or not, do **not** fall under the ALA National Headquarters Group Exemption Number (GEN), because they are not chartered entities and their funds are considered Department funds.

### **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 filed in addition to Form 990.

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](#) (\$25,000 for tax years ending before December 31, 2010) 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.

### 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.**

### 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:

1. [Employer identification number](#) (EIN), also known as a Taxpayer Identification Number (TIN)).
2. [Tax year](#)
3. Legal name and mailing address
4. Any other names the organization uses
5. Name and address of a principal officer
6. Web site address if the organization has one
7. Confirmation that the organization's annual [gross receipts](#) are [normally \\$50,000 or less](#) for tax years ending on or after December 31, 2010.
8. If applicable, a statement that the organization has terminated or is terminating (going out of business)

### Who Must File

Most small tax-exempt organizations with gross receipts that are normally \$50,000 or less (\$25,000 for tax years ending on or after December 31, 2007 and before December 31, 2010) 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](#)

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: August 03, 2011  
blue/undelined indicates link on website to additional information*

# AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

## OVERVIEW – RECOMMENDED REINSTATEMENT PROCESS FOR UNITS WHOSE EXEMPT STATUS WAS REVOKED BY IRS

1. Units must deal directly with IRS. Since each Unit is separately incorporated each with its own employer identification number (EIN), the American Legion Auxiliary national organization is not allowed to assist, per IRS requirements.
2. Units can contact the IRS in Cincinnati, Ohio. This IRS group is especially trained in tax exempt issues and may help solve a lot of the problems Units are having. The usual IRS telephone numbers reach people who have not been trained and may not give the proper information. The toll free number to call in Cincinnati is: **(877) 829-5500**.
3. Units should confer with a tax attorney and /or CPA/tax accountant concerning revocation particulars.
  - a. Filing for reinstatement of tax exempt status requires the use of IRS Form 1024.
  - b. Reinstatement of tax exempt status is for each individual Unit only. A Unit reinstated as tax exempt under these circumstances will now have its own EIN; The IRS will not allow that Unit to be reinstated under the ALA's National Group Exemption (GEN).
4. Units should retain a tax attorney knowledgeable in nonprofit tax matters and exemptions and a CPA/tax accountant, both with tax exempt experience to review the situation and handle reinstatement of tax exempt status if retaining tax exempt status is desired. Revoked Units have the option of being a taxable entity.
  - a. Units might be able to retain a tax attorney and a CPA/tax accountant pro bono, or may consider working with other Units, Posts, or districts to retain counsel and a CPA at a discounted group rate.
  - b. If a Unit loses its exempt status and chooses to remain a taxable entity, it must file the appropriate corporate tax forms with the IRS (IRS Form 1120 etc.). This is a time consuming and costly process.
5. If a tax attorney's and/or CPA/tax accountant's review of the details regarding a Unit's exempt status revocation determines that the revocation was due to IRS error, then the Unit may send documentation that proves the revocation was due to IRS error to ALA National Headquarters, Attention: Membership Division.
6. ALA National Headquarters will forward the Unit's documentation disputing the IRS error to the National Judge Advocate for review and appeal assistance.

# AMERICAN LEGION AUXILIARY NATIONAL HEADQUARTERS

## BLANKET FIDELITY BOND

The National Organization writes a Fidelity Bond, which covers **ALL** Unit members and employees of the American Legion Auxiliary. Each Department is billed at the beginning of the three year policy term for its proportionate share of the bond premium.

### Limits of coverage are:

- On all officers, members and employees of Units and/or Districts - \$10,000.
- A deductible of \$250 is in effect on all claims.

The bond covers 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 to sustain a loss and to enrich herself or another person.

The coverage does not apply to any member/employee for which the insured has knowledge that he/she has committed any fraudulent or dishonest act in the service of the insured or otherwise.

***SPECIAL NOTE: The bond does NOT cover loss, mysterious disappearance or burglary.***

As soon as a loss is discovered, an audit should be conducted establishing **proof of loss, which must be submitted within four months of discovery.**

All claims should be reported to the Department Secretary who will forward the information to the National Treasurer. Notification to the National Treasurer should be in writing and include the name, address and phone number of the person in the Unit and/or Department the bonding company should contact. ***(See attached sample notification)***

### 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 Audit and specify how such audit is to be made.
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 with a check.
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.

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### 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 or Department making the claim. ***A sample notification is attached.***

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

- the name of the person or person 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 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 or Department 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 or Department 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 faxed to the National Treasurer; include a request in your fax if you also want the National Treasurer to 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 or Department. It is your 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.

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# Sample

**NOTIFICATION  
OF  
POTENTIAL BOND CLAIM**

**TO:** National Treasurer  
American Legion Auxiliary

**FROM:** Jane Doe, Department Secretary  
Auxiliary Legion Auxiliary, Dept of Anystate

**DATE:** 9-24-03

**SUBJ:** Potential Bond Claim

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

Please advise the bonding company to contact:

Susie Smith (President of Unit 123)  
1234 Main Street  
Anytown, Anystate 12345  
Home Phone: 123-456-7891  
Work Phone: 234-567-8912  
Fax: 345-678-9123

Federal Income Tax Exemption letter

Department of the Treasury



Internal Revenue Service  
Washington, DC 20224

Date: --- In reply refer to:  
MAR 26 1973 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.

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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