



AMERICAN LEGION AUXILIARY NATIONAL ORGANIZATION

IMPORTANT COMPLIANCE INFORMATION

For American Legion Auxiliary Units

This information is intended to **assist and guide** Units in understanding their obligations for:

- a) Operating as a tax-exempt nonprofit corporation or tax-exempt association permitted to use the name and trademarks of the American Legion Auxiliary
- b) Federal requirements of filing an annual IRS Form 990 Series and meeting any state and local requirements
- c) Taking appropriate steps for addressing the IRS' revocation of the tax-exempt status of an ALA Entity

ALA entities are separate organizations that operate independently as affiliates of the ALA National Organization. As independently operating nonprofit organizations, ALA entities must duly report to the federal government via the applicable series of IRS Form 990 as well as their respective state governments.

ALA entities that have requested inclusion under the group ruling and remain compliant with the IRS requirements, should be recognized as being federally tax exempt and able to receive tax-deductible donations as a subordinate of the ALA National Organization Group Exemption ruling, as identified by Group Exemption Number 0964.

ALA entities that have had their tax-exempt and deductibility 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 become compliant.

All ALA entity leaders should be knowledgeable about the following information.

FEDERAL TAX IDENTIFICATION NUMBER (TIN) / EMPLOYER IDENTIFICATION NUMBER (EIN)

The federal TIN or the federal EIN (both terms are used by the IRS interchangeably) is a unique 9-digit identification number assigned to your organization by completing IRS Form SS-4. Each TIN/EIN assigned is on file with the IRS and should be used on all tax returns, correspondence, and a copy of the letter confirming the TIN/EIN assignment should be retained permanently in the records of the organization.

If an ALA Unit discovers that they are currently operating with their American Legion Post as one entity, the ALA Unit needs to establish separate operations to conduct business. The organization can obtain a TIN/EIN by completing and submitting IRS Form SS-4 to the IRS. This form is where you initiate the entity type and structure of the classification as a 501(c)(19) – Veterans' Organization. **An additional step is required for formal recognition in seeking exemption from federal taxation and the ability to receive tax-deductible donations by choosing to seek a unique determination from the IRS by submitting IRS Form 1024 or requesting inclusion under the ALA National Group Exemption ruling.**

TAX EXEMPT AND DEDUCTIBILITY STATUS ARE NOT AUTOMATIC

An organization can be established as a nonprofit and have the required TIN/EIN but still NOT be tax-exempt or able to receive tax-deductible donations. It is at the discretion of the IRS to grant exemption from paying federal income taxes and the ability to receive tax-deductible donations – this is an entirely separate federal filing and determination process. For ALA entities, the ALA National Organization Group Exemption ruling provides federal tax-exemption and deductibility of donations unless the IRS has specifically revoked an ALA entity's status. See information about tax exempt status revocation that follows in this document.

Newly chartered ALA entities that have obtained a TIN/EIN to conduct business and operate, can seek federal tax-exempt recognition as a 501(c)(19) and the ability to receive tax-deductible donations per IRC § 170(c) by requesting inclusion under the ALA National Group Ruling. ALA entities seeking group ruling inclusion will need to complete an Inclusion Letter and provide verification of their TIN/EIN in the form of a copy of the IRS letter confirming the assignment of their TIN/EIN. A template of the Inclusion Request letter can be obtained by contacting ALA National Headquarters at compliance@ALAforVeterans.org.

Note: If your ALA entity indicated a classification as anything other than a 501(c)(19) on your IRS Form SS-4, the ALA National Organization will be unable to request your inclusion under the Group Exemption Ruling. Please contact the ALA Compliance Team at Compliance@ALAforVeterans.org for further guidance.

ALA entities have the option to seek their own unique tax-exempt and deductibility status by electronically completing IRS Form 1024 and paying applicable fees.

Note: Inclusion under the ALA National Group Ruling is strongly recommended.

ALA FEDERAL GROUP EXEMPTION NUMBER (GEN) GEN 0964

On October 31, 1946, the IRS granted a group ruling to the American Legion Auxiliary National Organization that allows the inclusion of ALA entities, by request, to be recognized as 501(c)(19) organizations for exemption from federal taxes with the ability to receive tax-deductible donations, as subordinates of a group exemption ruling. The IRS does not require separate applications of recognition from each individual subordinate for organizations like the ALA that have many affiliated organizations. However, the ALA National Organization does not file a group return. Subordinates of the group ruling are responsible for filing the appropriate 990 series of annual return for their ALA entity. The American Legion Auxiliary National Organization's group ruling is identified by the IRS Group Exemption Number (GEN) 0964. When proof of federal tax-exemption or the ability to receive tax-deductible donations is requested, a photocopy of the 1973 IRS Letter of Determination for ALA National Group Exemption ruling is generally sufficient.

Entities requesting a copy of the IRS Letter of Determination for the ALA National Group Exemption Ruling can contact the Compliance Team at compliance@ALAforVeterans.org. Verification that the entity is currently included under the Group Exemption ruling and compliant will be confirmed prior to sending a copy of the determination letter.

Note: The purpose of the IRS federal group exemption ruling is to exempt the American Legion Auxiliary National Organization and its ALA entities (subordinates) under the ALA's National Group Exemption ruling (GEN 0964) from federal income tax and with the ability to receive tax-deductible contributions. The Auxiliary at all levels is otherwise subject to other federal taxes such as payroll taxes and tax on unrelated business income. ALA entities may also be subject to certain state and local taxes, including hotel, hospitality, service, and sales taxes. Nonprofit tax requirements differ by state and locality; be sure to consult with a tax adviser knowledgeable about your state's nonprofit tax requirements to determine if nonprofit organizations in your state are afforded any state tax exemptions.

IRS FORM 990, 990-EZ, 990-N

When annual gross receipts are \$50,000 or less, an ALA entity may file IRS Form 990-N (e-Postcard). 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.

When annual gross receipts are greater than \$50,000, an ALA entity must file IRS Form 990 or 990-EZ. 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 990 is required. The IRS Form 990-EZ may be used when the gross receipts are less than \$200,000 and total assets are less than \$500,000.

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

IRS Form 8822-B Change of Address or Responsible Party

IRS Form 8822-B is used to notify the IRS of a change of address or a change in the responsible party for your organization. A "Responsible Party" is typically the person that signs your IRS Form 990/990EZ/990-N. It is the responsibility of the officers who manage the organization to notify the IRS if there has been a change in the responsible party and/or the organization has changed its address to receive correspondence.

The IRS Form 8822-B and its instructions can be found at the following IRS link:

<http://www.irs.gov/pub/irs-pdf/f8822b.pdf>. Going forward, Form 8822-B must be filed within 60 days of the date of change.

Annual Electronic Filing Requirement for Small Exempt Organizations

Form 990-N (e-Postcard)

About filing - Form 990-N, *Electronic Notice (e-Postcard) for Tax-Exempt Organizations Not Required to File Form 990 or Form 990EZ*, must be submitted electronically.

- The Form 990-N electronic-filing system is accessible via the IRS.gov website. **All filers** must register at IRS.gov (if not already registered) prior to filing their Form 990-N. This is a one-time registration; you won't be asked to register again when filing next year. Use the Form 990-N (e-Postcard) Electronic Filing System User Guide while registering and filing.
- Form 990-N must be completed and filed electronically. **There is no paper form.**
- Form 990-N filers **may choose** to file a complete Form 990 or Form 990-EZ instead.
- For filing system and website issues, see How to File: Frequently Asked Questions. If site issues are unresolved, call IRS Exempt Organization Division at 1-877-829-5500.
- Organizations should continue efforts to file within one year of the due date of the applicable tax year, even if late. Due dates for filing are determined by the fiscal year of record with the IRS.

Note: To find the 990-N (e-Postcard) User Guide or the How to File: Frequently Asked Questions, visit www.IRS.gov and type in "990 User Guide" and/or "990-N FAQ How to File" in the search box on the Home page.

Your IRS Form 990-N is due every year by the 15th day of the 5th month after the close of your tax year. **You cannot file the e-Postcard until after your tax year ends.**

If your 990-N is late, the IRS will send a reminder notice to the last address that is on record. While there is no penalty assessment for filing Form 990-N late, organizations that fail to file required Forms 990, 990-EZ or 990-N for three consecutive years will automatically lose their tax-exempt status. Revocation of the organization's tax-exempt status will happen on the filing due date of the third consecutively missed year.

Information you will need when filing Form 990-N

Form 990-N is easy to complete. You'll need only eight items of basic information about your organization:

1. TIN/EIN
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 \$50,000 or less
8. If applicable, a statement that the organization has terminated or is terminating (going out of business)

Ready to file?

After you have read the information above and the User Guide, use the Form 990-N Electronic Filing System (e-Postcard) page to start the process.

Note: Visit www.irs.gov and type "990-N" into the search box on the home page.

Additional information

- Form 990 Overview course at StayExempt.IRS.gov
- Frequently Asked Questions - Automatic revocation for not filing annual return or notice
- Final regulations (August 10, 2009)
- Educational tools - Help spread the word – Help small tax-exempt organizations stay exempt!
- EO Update - Subscribe to the IRS Exempt Organizations email newsletter that highlights new information
- IRS Business Master File (EO) – Search nonprofit organizations. You can download the excel file extracts specific to your state of registration.

TAX-EXEMPT STATUS REVOCATION

The Pension Protection Act of 2006 (Title XII; Subtitle B; Part I Sec. 1223) imposed certain reporting requirements on exempt organizations that were not previously required to file. Additionally, organizations that fail to file the required IRS Form 990 Series for three consecutive years automatically have their federal tax-exempt status and their ability to receive tax-deductible donations revoked. These requirements were implemented in the 2007 tax year.

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

1. Your ALA entity is no longer exempt from federal income tax, does not have the ability to receive tax-deductible donations, and will be subject to corporate income tax on annual revenue.

Note: Your ALA entity should proactively communicate with your donors explaining that the organization's tax-exempt status has been revoked. You 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.

2. State and local tax-exemptions, dependent on the organizations' federal tax-exempt status, may also be revoked. Please consult with the state and local regulatory agencies and/or a tax professional.
3. ALA entities that have had their tax-exempt status revoked are unlikely to be considered for grants.

Note: ALA entities that have lost federal (and/or state) tax-exempt status may still remain chartered entities with the American Legion Auxiliary. The ALA National Organization does not require chartered entities to be tax-exempt.

RECOMMENDED REINSTATEMENT PROCESS FOR CHARTERED ALA ENTITIES

To obtain any information on the status of the respective organization, the ALA entity should first consult the IRS resources of IRS Exempt Organization (EO) Tax Exempt Organization Search (f/k/a Select Check) website portal (<https://apps.irs.gov/app/eos/>) and the IRS Business Master File (<https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf>).

1. If an ALA entity has had its exempt status revoked by the IRS, it is the ALA entity's responsibility to resolve the matter. ALA entities must deal directly with the IRS. Since each entity is separately organized and has its own TIN/EIN, the ALA National Organization is prohibited from acting on behalf of the ALA entity but can provide guidance as needed.
2. If tax-exempt status is desired, it is strongly recommended that you retain a legal and/or tax professional knowledgeable in nonprofit tax matters to assist in the reinstatement process.
 - ALA entities might be able to retain legal and/or tax professionals pro bono, or they may consider working with other ALA entities, or Posts, to retain legal and/or tax professionals at a discounted group rate.
 - Filing for reinstatement of recognition as a 501(c)(19) federally tax-exempt organization (including the ability to receive tax-deductible donations) requires the use of IRS Form 1024, which must be submitted electronically through [IRS Pay.gov](https://www.irs.gov/charities-non-profits/exempt-organizations-business-master-file-extract-eo-bmf). Completion of this form will include payment by ACH or credit/debit card of the reinstatement fee, which is currently set at \$600 (as of 1/24/2022, subject to change by the IRS).
 - i. When going to IRS Pay.gov, search '1024' in the search bar to fill out the correct form.
 - ii. Select 'Continue' on the option labeled: Application for Recognition for Exemption Under Section 501(a) or Section 521
 - iii. You'll have to create a **single PDF** file (not exceeding 15MB) that you will upload at the end of the application. This PDF must contain a copy of your:
 1. Organizing document and any amendments (e.g., articles of incorporation, constitution, trust document, etc.)
 2. Bylaws, if adopted
 3. Signed and completed Form 2848 or Form 8821, if applicable
 4. Supplemental responses, if applicable, and
 5. Expedited handling request, if applicableIf your PDF file exceeds the 15MB limit, remove any items over the limit and contact IRS Customer Account Services at 877-829-5500 for assistance on how to submit the removed items.
 - ALA entities who have met the IRS requirements of reinstatement and receive their own unique tax-exempt status and deductibility of contributions determination from the IRS

can be reincluded to the ALA National Group Ruling, will need to contact Compliance@ALAforVeterans.org for further instructions.

- Your organization is reinstated as of the date indicated on the IRS letter (retroactively or postmark). Delays may occur in the publication of updated information by the IRS to the EO Tax Exempt Organization Search (f/k/a Select Check) website portal.
3. ALA entities that have been revoked have the option of remaining a taxable entity.
 - If the ALA entity chooses to remain a taxable entity, they are responsible for filing the appropriate tax forms with the IRS relative to their organizational structure (e.g. 1120 Corporate Tax Return). While you can remain a chartered ALA entity, your 501(c)(19) classification is in jeopardy with the IRS should you remain a taxable entity.
 4. If a legal and/or tax professional's review of the details regarding your tax-exempt status revocation determines that the revocation was due to IRS error, the ALA entity 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.

HOW TO CHECK YOUR IRS STATUS

ALA entities can contact the IRS Exempt Organization Division at (877) 829-5500. This IRS group is specially trained in tax-exempt issues and may be able to help answer questions and give direction for ALA entities that have had their tax-exempt status revoked by the IRS.

Use the IRS EO Tax Exempt Organization Search (f/k/a Tax Exempt Organization Search (f/k/a Select Check) portal of the IRS website

- <https://apps.irs.gov/app/eos/>

Use the assigned TIN/EIN to review the information reported to the public:

1. Is the organization able to receive tax-deductible contributions?
2. Has your Federal Tax-Exempt Status & Tax-Deductibility of Contributions been revoked?
3. Have you filed and met the requirements of the 990-N (e-Postcard)?

Note: Under the category "Are able to receive tax-deductible charitable contributions" - the IRS no longer includes the individual subordinates that are included in a group ruling, only the parent or central organization will appear. As a subordinate, this is verified per the IRS Determination Letter for the Group Ruling and is available upon confirmation through headquarters.

If your organization is not reflected in all three categories listed above then a) the TIN/EIN may no longer be listed in the IRS database, or b) the TIN/EIN associated has not properly elected to be recognized as a nonprofit in section of 501 (a) of the IRS code and therefore may not be recognized by the IRS as meeting the requirements to file a 990-N.

ALA entities that have had no activity since the implementation of the Pension Protection Act of 2006 may have been removed from the IRS database. Call the IRS Exempt Organization Division at 1-877-829-5500 for more information.

To stay current on federal tax-exemption matters, please go to the following link at IRS.gov to subscribe to "Exempt Organization Updates": <http://www.irs.gov/uac/e-News-Subscriptions-2>

FOR MORE INFORMATION

Visit www.ALAforVeterans.org and www.IRS.gov for resources, updates and more information or contact the American Legion Auxiliary at: compliance@ALAforVeterans.org