

ALA ENTITY STRUCTURE: NONPROFIT CORPORATION OR ASSOCIATION (UNICORPORATED)

Incorporation is a legal process used to form a corporate legal entity. A corporation is a separate legal entity from its organizers that has its own rights and obligations and provides legal protection for an organization by limiting the liability of the individual members of the organization. A nonprofit corporation is a special type of corporation that has been organized to meet specific tax-exempt purposes. Incorporation involves jurisdiction (state) specific registration information and fees. The American Legion Auxiliary's Counsel General strongly recommends incorporation.

Note: *The act of incorporating as a nonprofit corporation does not automatically grant federal tax-exempt status and the ability to receive tax-deductible donations.*

A nonprofit association forms whenever at least two people agree to pursue a common lawful purpose that is not for profit. In general, an association is a group of persons banded together for a specific mission and purpose. Historically, a majority of ALA Units were formed with this entity structure and continue in existence. The definition of a nonprofit association can vary under state law. You may wish to consult the law of the state in which the organization exists. The nonprofit association may be subject to certain legal requirements, even though it hasn't filed for incorporation under its state's incorporation laws. There may also be multiple state and local registration requirements no different from a similar nonprofit corporation, such as charitable solicitation registration, out-of-state qualifications to do business, and local business registration.

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.

The American Legion Auxiliary Constitution, Bylaws and Standing Rules as adopted, revised, and updated, provides guidance as to the expectation that Departments and Units will operate as independent separate entities as affiliates of the ALA National 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.

NONPROFIT ORGANIZATION CLASSIFICATION 501(c)(19)

The American Legion Auxiliary National Organization is recognized as a 501(c)(19) – Veterans’ Organization classification for federal tax-exempt purposes and is able to receive tax-deductible donations per the Internal Revenue Code (IRC) Title 26 §170(c)(3). In October of 1946 the individual ruling letter for the American Legion Auxiliary National Organization was changed to include the recognition of the subordinate ALA entities as being classified as 501(c)(19) organizations that meet the following criteria:

1. Organized in the United States or any of its possessions
2. 75% of members are spouses of or within two degrees of kinship related to past or present members that served in the U.S. Armed Forces
3. No personal inurement benefit is received by an individual
4. Affiliated and organized in accordance with the bylaws and regulations formulated by the parent organization

(Please see IRS Publication 557 and Publication 3386 for more detailed information)

The IRS affirmed the ALA National Organization’s federal tax-exempt status and its ability to receive tax-deductible donations of the group ruling via its IRS Letter of Determination to the American Legion Auxiliary National Secretary dated March 26, 1973.

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.*

Tax Deductible Donations and Gifts

Per the IRS Determination Letter for the ALA National Group Ruling, donations and contributions to organizations included in the group ruling are tax deductible per Internal Revenue Code Section 170(c)(3).