



## Don't lose your branch's tax-exempt status

**A**ll branch secretary-treasurers should check to see that a Form 990, 990-EZ or 990-N has been filed in the last three years, as the IRS will automatically revoke your tax-exempt status if you have not been complying, and will not notify the branch of the revocation or send further notices. A loss of tax-exempt status may require the branch to pay federal income taxes on a portion of its dues income as well as assessments, initiation or reinstatement fees and fines. Interest or dividend income earned from branch savings or other accounts or from other investments of branch funds may become taxable as well. Note: The revocation of an organization's tax-exempt status will not take place until the filing due date of the third year.

### What should the branch do if it has not filed a 990 in more than three years?

- You could file the appropriate 990 this year, as well as the "delinquent" 990s and hope the IRS does not penalize you. You should submit a letter explaining why the branch had not complied, which may assist you in avoiding or reducing any fine.
- The IRS has a compliance assistance program and you may contact them, admit the branch made an error and ask how to correct the error. The IRS may assess one or more penalties and/or fees under this method.
- There is a possibility the IRS may institute an amnesty program, so you could wait.

### What are the penalties for filing past the due date when no reasonable cause for failing to file has been provided?

A branch with gross receipts that exceed \$1 million could be fined for as much as \$100 per day with a \$50,000 per year limit. Most likely, however, the branch would be required to pay something relative to their asset base. Branches with less than \$1 million in gross receipts may be slapped with a \$20 per day penalty, with a maximum fine of \$10,000 per year or 5 percent of annual receipts, whichever is less. Note: The fines above may apply to *each* Form 990, 990-EZ, or 990-N the

branch has failed to file.

**As a reminder, years ago, the NALC obtained, at the national level, a group ruling from the Internal Revenue Service (IRS) under which the National Association and all of its affiliated branches are exempt from paying federal income tax.** Most branches have had an EIN for years; call my office if you need the number. In addition, if the branch changes its name, address or EIN, or if it incorporates (so as to buy real estate, for example), my office must be notified.

All NALC branches must file a Form 990, 990-EZ or a 990-N (e-Postcard) by the 15th day of the fifth month after the end of the branch's fiscal year. Thus, if your branch operates on a calendar year, the e-Postcard is due by May 15 of the following year. But not all branches file the same form, and to complicate matters, after the IRS introduced the 990-N, it also changed the income guidelines for the Form 990 and the 990-EZ as well as those for the 990-N. Therefore, you should check the IRS website each year to determine which form to file.

### Which form should your branch file for fiscal year 2010?

- **Form 990**—Branches whose annual gross receipts are generally \$200,000 or more and whose total assets are \$500,000 or more at the end of the fiscal year.
- **Form 990-EZ (or 990 if you prefer)**—Branches whose annual gross receipts are generally less than \$200,000 and whose total assets are less than \$500,000 at the end of the fiscal year.
- **Form 990-N**—Initiated in 2008, this form, also referred to as the e-Postcard, must be filed electronically. It involves only a few questions. Branches receiving \$50,000 or less in income per year (even those receiving no income) should file a 990-N, 990-EZ or 990.

**More information can be found on the IRS' website, [irs.gov](http://irs.gov).** For additional information, branches should obtain professional tax advice. ☒