



#32 USA banking, EIN, and tax liability information

This paper, written in 2004, is meant to provide interested groups and service boards and committees with information regarding three related topics: 1) group and service committee bank checking (demand deposit) accounts, 2) Employer Identification Numbers, and 3) potential tax liability. Please keep in mind that the information is directed toward the US community and may at any time become outdated by some action beyond our purview.

GROUP AND SERVICE COMMITTEE CHECKING (DEMAND DEPOSIT) ACCOUNTS

Many NA groups and service committees make the decision to utilize a bank checking account to help manage and protect the NA funds they collect. While this commitment to accountability is commendable, caution should be exercised when a group or committee decides to open a bank checking account. Such accounts typically require an Internal Revenue Service (IRS) identification number to be initiated. Two different numbers are used for this purpose: a Social Security Number (SSN) for individuals and an Employer Identification Number (EIN) for groups and entities other than individuals. These identification numbers can be used by the IRS for financial tracking purposes, and banks are required to report certain account activity information to the IRS—large cash deposits, for example.

It is important that NA groups and service committees refrain from using an individual's SSN to open a checking account. If an individual's SSN is used to open an account, he or she can be held responsible for the financial activity of that account regardless of whether he or she has knowledge of or has participated in the checking account activity. Also, the funds in the account may be considered the personal funds of the individual whose SSN is on the account, and in some cases may be accessed by that individual as long as that SSN is on the account. For these reasons, we recommend that any group or service committee that decides to open a checking account use only an EIN.

Please keep in mind that using a SSN to open an account is different from supplying identification, like a driver's license number, for authorized signatures on an account. Banks typically require those who have the authority to withdraw funds to supply specific information to be kept on record at

the bank. This information is not used to initiate the bank account, does not assign IRS responsibility for account activity, and is changed as signatures on the account change.

EMPLOYER IDENTIFICATION NUMBER

The Employer Identification Number, also known as a federal tax identification number, is used by the IRS for identification purposes. If your group or service committee is interested in acquiring an EIN, you will need to complete IRS Form SS-4. A copy of the form can be obtained by contacting the IRS, logging on to their website at <http://www.irs.gov/index.html>, or stopping by a US Post Office. The application form is straightforward, and there is no registration fee.

Here is some information that may help when filling out an EIN application form. The form asks about the type of organization, and usually groups and unincorporated service committees choose "An unincorporated group of individuals." The form also asks the reason for applying for the number, and most groups and committees select "for banking purposes only." In addition, we recommend that the activities of the group be stated simply so as to be understandable to those outside of NA; for example, "provide a non-medical, self-help atmosphere for those with drug problems to stop using drugs" would probably work well.

The EIN may take a few weeks to be issued, or you can contact the IRS via phone to expedite the process before sending the application. Once your group or committee is assigned an EIN, you may receive a notice from the IRS to file a Form 940 or 941 (for employers); simply return the notice marked "no employees and no payroll" as long as that is the case. Care should be taken not to use the number for any purpose other than the group's or committee's business. It is important to keep in mind that the original applicant is responsible for all financial activity linked to the EIN. If anyone uses the number inappropriately, it may cause a report to be made to the IRS and result in considerable difficulty to the EIN holder. It is also important to remember that accurate records, such as treasurer's records, bank statements, and other receipts, should be maintained for all of the group's or committee's financial activities.

The EIN is sometimes mislabeled a "nonprofit" number. It is not; nor is it a "tax-exempt" number. For more information on issues of nonprofit and tax-exempt status, see the following sections of this bulletin.

TAX LIABILITY

Whether a group or service committee must file a tax return depends on how much money is received each year. Currently, groups or organizations with \$5,000 or more gross or total income (regardless of the source) in a year are required to file a tax return, usually using IRS Form 990. If you have questions about your group's or committee's financial reporting responsibility, you may want to check with a licensed local tax professional.

To our best knowledge, the IRS has not made any coordinated effort to identify or engage NA groups or committees that take in more than the \$5,000 annual threshold. But groups and committees should consider that if the IRS contacts them, valid financial information will likely be requested. This is one reason groups and committees might want to use a bank account for their financial activity, because it will generate account statements and related records.

In any case, detailed records should be maintained so that financial information can be produced if requested. Another way for a group to maintain accurate financial records is to use the group record worksheets in the *Group Treasurer's Workbook*. The worksheets and bank records should be kept for at least five years, and care should be taken when assigning responsibility for storage of the records so that they remain available to the group or committee, if needed.

Nonprofit Organizations

A nonprofit organization is one that, when it generates income in excess of expenses, does not use that excess in ways that personally "profit" its members or directors. For example, if a group collected \$1,000 during the year and actually spent only \$900, the group would not divide the leftover \$100 among its members. The money can, however, be used to reimburse individuals for personal expenses incurred from activities related to the purpose of the organization. In other words, reimbursing gas or meal expenses for a trusted servant who is required to travel as part of his or her service commitment would not be in conflict with the nonprofit concept. Nor is it a conflict for a group or committee to send money to service boards or committees to fund their work in service to the fellowship.

While NA groups and service committees practice the principle of being nonprofit, the legal status of an NA group or service committee is a different matter. Such status is discussed further in the next section.

Tax-Exempt Status

As we said earlier, acquiring an EIN and securing tax-exempt status are two different things. An EIN can be obtained relatively easily; tax-exempt status is a much more complex endeavor. Typically, tax-exempt status is achieved as part of the process of becoming a corporation. The IRS number associated with this type of corporation is 501C-3, also known as a not-for-profit corporation. This sometimes-costly process of incorporating requires formal, detailed reporting and financial accountability to the IRS and state agencies on an ongoing basis. For these reasons, we recommend against incorporating and seeking tax-exempt status for NA groups and most service committees, with specific exceptions. (In most cases, for instance, convention committees may want to incorporate.) If your group or committee decides it wants to investigate the subject further, while NA World Services is available as a resource, we strongly recommend also discussing the topic with a licensed tax professional familiar with not-for-profit and tax-exempt entities.

It is also important to remember that a service committee's tax-exempt or not-for-profit status cannot be "loaned" to any other element of the fellowship. If a group or committee does not have tax-exempt status and that status is required in order to secure a facility, the group or committee may want to find an alternative location for activities or meetings.

State Sales Tax or End-User Tax

The last tax liability topic we will address is sales tax or end-user tax liability. Many states require consumers to pay a tax on goods and services purchased or used in their states. NA groups and committees must pay these taxes. We have found that even those committees that have secured 501C-3 status are not exempt from end-user tax.

CONCLUSION

We hope this information is helpful to your group or service committee in your efforts to meet your financial responsibility to the fellowship and any government agencies. As always, thorough discussion among interested members will serve best in your decision-making efforts. We also suggest seeking guidance from an informed licensed tax professional whenever there is a question. Finally, we remain available as a resource for you.