

*Note: The following discussion is provided for informational purposes only and is not intended to serve as legal or tax advice. For specific information about IRS Form 990-N and provisions of the Pension Protection Act of 2006 mandating the revocation of exempt status for organizations that do not comply with the tax law, consult your attorney or tax advisor.*

## **The Pension Protection Act of 2006 and Nonprofit Reforms**

In August 2006, the President signed into the law the Pension Protection Act of 2006 (PPA). Title XII of the PPA, Provisions Relating to Exempt Organizations, has a direct and immediate effect on units and districts of the ACBL.

Prior to the Pension Protection Act of 2006, tax-exempt organizations with annual gross receipts under \$25,000 did not have any annual reporting requirement at the federal level. This included many ACBL units and districts. Starting with tax year 2007, with the IRS form due in 2008, these organizations will have to annually report to the IRS, in electronic form, certain basic information about the organization which will become publicly available. This notice will include: the legal name of the organization; any name under which the organization operates or does business; the organization's mailing address and Internet web site address (if any); the organization's taxpayer identification number; the name and address of a principal officer; and evidence of the continuing basis for the organization's exemption from filing a Form 990.

Failure to file the 990 or provide this new notice to the IRS for three consecutive years results in the automatic revocation of exempt status. Organizations may apply to have their exempt status reinstated.

### **Summary of IRS Filing Requirements for ACBL Units and Districts**

Q: Who needs to file some version of Form 990 with the IRS?

A: Starting with tax year 2007 (form due in 2008), every U.S. unit and district will be required to file some version of Form 990 with the IRS, regardless of the amount of gross annual receipts.

Q: Does this apply to even small units or districts that aren't incorporated?

A: The provisions of the Pension Protection Act that address nonprofit reforms apply to all U.S. units – whether or not the unit is incorporated. All U.S. units and districts, from the smallest to the largest, are affected in some way by this legislation. ACBL units and districts do not fall within any of the categories of exceptions to the new filing requirements.

Q: What is our legal status? Does that affect our filing requirements?

A: Every U.S. unit or district exists in one of two forms: as a nonprofit corporation formed according to state law, OR as a nonprofit unincorporated association. Both forms of organization have mandatory IRS filing requirements.

Q: How does this relate to federal tax exemption?

A: An organization (such as a unit of the ACBL) is either 1) exempt from paying federal income tax or 2) subject to paying federal income tax. Exemption is not automatic. Units and districts must comply with federal law in order to avoid being liable for federal income tax.

Q: When is this IRS form due?

A: If your fiscal year is the same as the calendar year, the 2007 form will be due by May 15, 2008. Otherwise, the form is due 4½ months after the conclusion of your fiscal year (officially described as the 15<sup>th</sup> day of the 5<sup>th</sup> month after the close of your fiscal year).

Q: How does a unit or district know which form to file?

A: In general, a unit or district with less than \$25,000 in annual gross receipts will file the new e-Postcard version of 990 (Form 990-N). This is the new filing requirement mandated by the Pension Protection Act. The e-postcard will require the unit or district to provide the following information:

Organization's name

Any other names the organization uses

Organization's mailing address

Organization's website (if applicable)

Organization's employer identification number (EIN)

Name and address of a principal officer of the organization

Organization's annual tax period

A statement that your organization's annual gross receipts are still normally \$25,000 or less, and

If applicable, indicate that your organization is going out of business.

In general, a unit or district with between \$25,000 and \$100,000 in annual gross receipts will file Form 990-EZ. In general, a unit or district with more than \$100,000 in annual gross receipts will file Form 990.

The filing requirements for organizations having gross receipts over \$25,000 are not new. However, the automation revocation of tax-exempt status if these organizations fail to file Form 990's for three years is a new provision of the law. This automatic

revocation provision applies to all organizations, regardless of the amount of gross receipts.

Q: How do we file Form 990-N (e-Postcard)?

A: Form 990-N, also known as the e-Postcard, must be filed electronically. There will be no paper form. The IRS is developing an electronic filing system for the e-Postcard, and will publicize the filing procedures when the system is completed and ready for use.

Q: Will we need to purchase a computer and software to file the e-Postcard?

A: The IRS plans to deliver a simple, internet based process for filing the e-Postcard. Units that do not have access to a computer can go to places such as the local library to file the e-Postcard. Because the system will be internet based, units will not need to purchase software to file.

Q: What is included in “gross receipts”?

A: Such receipts would include but not be limited to all gross entry fees from all tournaments (including receipts from Canadian or Mexican tournaments for those districts that cross international boundaries), gross entry fees from unit games and other special events, membership dues rebated from ACBL and interest and dividends.

Q: The new requirements include listing our EIN. We don't know what an EIN is or how to get one. What should we do?

A: An EIN is federal tax identification number (it is not a “tax-exempt” number). Just as your social security number is an identifying number that is unique to you, the EIN is an identifying number that is unique to an entity. EIN's are issued to non-profit organizations, for-profit businesses, estates, trusts, and certain other entities.

EIN stands for Employer Identification Number. The name has become misleading, because many entities that do not have employees are required to obtain an EIN.

Upon request, the IRS will issue an EIN to your unit or district, even if it is not incorporated. In fact, your unit or district must obtain an EIN in order to comply with this new filing requirement.

You can obtain an EIN online or by telephone. The IRS phone number for obtaining an EIN for your unit or district is 1-800-829-4933. For more information on EIN's, see this page on the IRS website:

<http://www.irs.gov/businesses/small/article/0,,id=97860,00.html>

Q: What will happen if my unit or district never files any version of form 990?

A: The Pension Protection Act requires the IRS to automatically revoke the tax-exempt status of any organization that fails to meet their annual filing requirement for three consecutive years. Therefore, any unit or district that does not file the appropriate version of Form 990 for three consecutive years will have their tax-exempt status revoked as of the filing due date of the third year.

Q: Why should the ACBL care whether we file with the IRS?

A: The ACBL point of view: An ACBL “Unit in Good Standing” must comply with ACBL Bylaws, rules and regulations, as well as with all governmental (federal, state/provincial and local) laws, rules and regulations. Additionally, a Unit warrants that it is incorporated as a nonprofit corporation in good standing or that it is an unincorporated association in good standing as defined by the state or other government authority in which the Unit has its primary place of business, and that it shall remain in good standing.

In other words, the ACBL expects units and districts to comply with the law.

Q: How would the IRS ever know we exist if we have never filed before?

A: The ACBL files its own form 990 with the IRS, listing [www.acbl.org](http://www.acbl.org) as the organization’s website. There is information on the ACBL website about your unit and your district. The districts and units that currently file Form 990 (and there are many of them) provide their website address to the IRS. Every ACBL unit and district is linked on the web to every other unit and district.

The internet is a primary research tool for the IRS.

Q: Can’t we just negotiate a settlement with IRS?

A: It’s not that simple. The new law requires the IRS to automatically revoke the tax-exempt status of any U.S. unit/district that fails to file the appropriate tax form (either 990, 990EZ, or 990-N) for three consecutive years. Your unit/district, if it does not file anything with the IRS between now and May 2010, will automatically have its tax-exempt status revoked.

Q: What are the real world consequences of revocation of tax exempt status?

A: First and foremost, the IRS will consider your unit or district to be subject to federal business income taxes just like the corner flower shop or pizza store. You will be required to pay federal income tax on profits from sectionals and other activities. Your board members may be personally liable for IRS penalties and interest for failure to file a business tax return and pay federal taxes. The IRS may attach all the assets (bank accounts) of the unit or district and of the board members.

Second, your unit will no longer be a unit in good standing with the ACBL.

Q: Could our unit or district regain tax-exempt status?

A: Yes, it may be possible, but it is definitely not automatic. The IRS *may* reinstate tax-exempt status *if* the unit or district pays an appropriate user fee and completes a detailed, lengthy form, *Application for Exemption Under Section 501(a)*. Reinstatement *may* be retroactive *if* you can show that you had reasonable cause for not filing. After reinstatement, the unit would, of course, have to annually file the appropriate version of IRS Form 990. Your organization can avoid this difficult process by simply filing the appropriate form at the appropriate time.

### **More Information on Form 990-N**

- "New Electronic Filing Requirement for Small Tax-Exempt Organizations—Annual Electronic Notice—e-Postcard (Form 990-N)," [www.irs.gov/charities/article/0,,id=169250,00.html](http://www.irs.gov/charities/article/0,,id=169250,00.html)
- "Frequently Asked Questions: New Annual Electronic Notice—e-Postcard (Form 990-N)," [www.irs.gov/pub/irs-tege/epostcard\\_faqs\\_final.pdf](http://www.irs.gov/pub/irs-tege/epostcard_faqs_final.pdf)