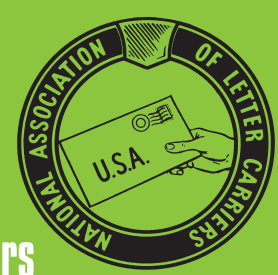


BUS, PUBLIC AND PRIVATE

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NALC Branch Officer's Guide
to **Finance**
and
Administration



National Association of Letter Carriers



**NALC Branch Officer's Guide
to **Finance**
and
Administration**

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National Association of Letter Carriers • September 2009

**Dear Branch
and State Officers:**



We are proud to provide to NALC branches and state associations this updated educational publication for local and state financial and administrative officers.

This guide is designed to assist branch and state officers who share responsibility for managing the business side of their organizations. Taking care of branch and state business can be a complicated task, requiring several officers to contribute their time, energy and expertise. It is also a job that must be done correctly at all times, not only because federal laws require it, but also because the members of our democratic union deserve no less.

This guide is intended to help financial and administrative officers learn some of their core responsibilities as responsible caretakers of the members' property. It explains the legal fiduciary duties that require you to manage and safeguard the organization's assets. Additional chapters explain how branches and states participate in the collection of NALC dues, how to comply with U.S. Department of Labor reporting requirements, how I.R.S. tax rules apply to branch and state operations, how to obtain required bonding for officers, and how to assure that branch and state records are kept orderly and in accordance with the law.

We salute all of the officers who perform these essential functions for NALC's branch and state organizations. You are the strong backbone of the union at the state and local levels, where letter carriers see NALC working for them every day. We hope this revised publication helps you to continue providing first-rate service to our members.

Sincerely and fraternally,

A handwritten signature in black ink, appearing to read "Fredric V. Rolando".

Fredric V. Rolando
President

A handwritten signature in black ink, appearing to read "Jane E. Broendel".

Jane E. Broendel
Secretary-Treasurer

Introduction

This guide provides information about several of the most important jobs performed by branch financial and administrative officers.

The guide is divided into six chapters, each with its own table of contents.

Contents

- 1. Duties of Branch Financial and Administrative Officers.** A general introduction to the roles of branch financial and administrative officers. The major requirements of the job are addressed—responsibility, knowledge, and a conscientious approach to the job.
- 2. NALC Dues.** An explanation of how NALC keeps track of membership dues at all levels, including: branch responsibilities in the dues tracking system, the dues paid by different types of members, and the four methods of dues payment.
- 3. Reporting to the U.S. Department of Labor.** An explanation of the branch's responsibilities for filing certain reports with the U.S. Department of Labor, including organizational reports and annual financial reports. Also covered are certain additional requirements of the federal Labor-Management Reporting and Disclosure Act (LMRDA).
- 4. Reporting to the Internal Revenue Service.** A brief explanation of certain Internal Revenue Service requirements that apply to NALC branches: tax-exempt status, the tax consequences of various types of payments to branch officers or other members (salary, lost time, expenses), the filing of tax returns to report branch income over \$25,000, and special reporting and tax payment responsibilities for “unrelated business income.”
- 5. Bonding Requirements.** A brief explanation of federal legal requirements that certain branch officials be “bonded,” or insured against acts of fraud or dishonesty.
- 6. Branch Record-Keeping.** A discussion of the branch record-keeping system, including a suggested filing plan for branch records, filing hints, and a “Retention Schedule” for the different types of branch records.

Chapter 1

Duties of Branch Financial and Administrative Officers

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INTRODUCTION

This guide offers information and advice for those NALC branch officers who handle the “business” components of local union leadership: Managing and budgeting the branch’s finances, tracking membership and dues, keeping the branch books, managing bank accounts, investments and other branch property, filing tax returns and other government reports, and so forth.

No matter how a branch is structured, several officers have central financial and administrative responsibilities. The President must oversee all aspects of branch operations, including these core branch business activities. The Secretary, Financial Secretary and Treasurer all have financial and administrative duties, as do combined officer positions such as Secretary-Treasurer. Branch Trustees also have specific duties to safeguard branch property and to audit the books twice a year, as set forth in the NALC Constitution for the Government of Subordinate and Federal Branches.

This guide is intended for all of these officers, and for any other branch member who handles branch funds or other property or who is charged with maintaining the branch’s business operations.

To manage the branch’s business effectively, officers need to have special qualities and capabilities, most importantly: a strong sense of responsibility; knowledge of many technical subjects; and a very conscientious, well-organized and careful approach to performing the job. These three areas are discussed briefly below.

A. RESPONSIBILITY

A branch financial officer must have a strong sense of responsibility. He or she is entrusted by the membership with the faithful performance of vital duties: Safeguarding the property of the branch and its members, collecting and disbursing branch funds, accurately recording all financial transactions, reporting to federal government agencies, and so forth.

Fiduciary duties. Because branch officers manage and handle funds which belong to the branch and its members, they hold positions of trust—known in the law as “fiduciary” positions.

There are “fiduciary duties” imposed on union officers by law—duties to handle branch money and other property honestly and in the members’ best interests. Federally-imposed fiduciary duties are set forth in Section 501 of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), which provides that union officers must:

- 1 Hold money and property solely for the benefit of their union and its members;
- 2 Manage, invest, and disburse funds and property only as authorized by the union’s constitution and by-laws or proper resolution of its governing body;
- 3 Refrain from financial or personal interests which conflict with those of their union; and
- 4 Account to their union for any profits received from transacting union business.

Union officials who violate these federally created fiduciary duties are subject to civil lawsuits in federal or state court for money damages or other appropriate relief. In addition, there are criminal penalties for embezzling or stealing branch property—fines up to \$10,000, imprisonment for up to five years, or both.

B. KNOWLEDGE OF REQUIREMENTS

To perform their jobs successfully, branch financial and administrative officers must have general knowledge on a range of technical subjects. The business side of leadership is governed by many rules, regulations and requirements.

Each branch officer cannot be expected to be an expert on all of those requirements. Nonetheless many of them are mandatory. So it is necessary to be aware that certain requirements exist, to know the basics, and to know how to find answers in areas that are difficult or unclear. This manual is intended to provide some of those answers, and wherever possible it tells how to obtain extra assistance and information.

The major requirements affecting the branch financial officer's duties are contained in the NALC Constitution, branch by-laws and federal laws. Each of these is discussed briefly below.

The NALC Constitution. Branch officers are responsible for knowing and following the NALC National Constitution and the NALC Constitution for the Government of Subordinate and Federal Branches. These documents set forth rules and regulations covering many aspects of the financial officer's functions: Branch membership; collection and expendi-

ture of branch funds; financial reporting to the membership and to the U. S. Department of Labor; bonding of branch officers, and so forth.

Branch By-laws. In addition to the NALC Constitutions, the branch's by-laws may specify additional rules, regulations, and duties for branch financial officers. The by-laws also must provide for the branch's dues structure. Branch officers must be thoroughly familiar with all relevant portions of the by-laws.

Federal laws. The branch financial officer also must know and follow the requirements of federal laws. This manual covers important requirements of two federal statutes—the Labor-Management Reporting and Disclosure Act (LMRDA) and the Internal Revenue Code.

■ **LMRDA:** The LMRDA requires branches to file certain reports, including annual financial reports, with the U. S. Department of Labor.¹ The same law also contains bonding requirements that apply to officers who handle branch funds or property,² and record-keeping requirements that apply to branches.³

■ **Internal Revenue Code:** Although NALC is considered a tax-exempt organization by the Internal Revenue Service, branches must pay employment taxes on salary and lost time payments, file I.R.S. forms to report certain expense and per diem payments, file income returns with the I.R.S. in some circumstances, and even pay tax on certain types of branch income.⁴

C. CAREFUL APPROACH TO THE JOB

Branch leaders need both a broad grasp of branch goals and an accountant's eye for accurate detail to manage branch finances and administration successfully. Financial transactions must be recorded accurately, government reports must be completed properly and filed on time, procedures must be followed faithfully, and all branch business operations must be carefully documented.

In addition, branch officers must have the organizational skills to manage a host of different administrative operations and records—including everything from maintaining financial and membership records to keeping up with routine correspondence and filing.

NALC continues to enjoy an excellent reputation as a good, honest, democratic, well-run labor union. Branch officers who manage the branch's business operations are largely responsible for our well-deserved reputation.

¹ See Chapter 3, Reporting to the U. S. Department of Labor.

² See Chapter 5, Bonding Requirements.

³ See Chapter 6, Record Keeping.

⁴ See Chapter 4, Reporting to the Internal Revenue Service.

Chapter 2

NALC Dues

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INTRODUCTION

Collecting and tracking membership dues is a vital union function at all levels. All NALC members (except life members) must pay dues to maintain membership and its privileges. Dues keep the NALC alive by paying for the full range of union activities.

Branch officers need to keep close track of their members and their dues payments. Members must keep up their dues payments to maintain good standing and participate in union functions. Branches must keep their membership records current so they can mail newsletters, election ballots and other communications to local members. And local financial officers must track dues payments to ensure the branch receives the income to which it is entitled.

This chapter explains how NALC members join the union and pay their dues. It begins by explaining the various dues-related communications and transfers of dues monies between NALC's headquarters and local branches. It focuses on branch responsibilities to verify dues information and notify headquarters of certain status changes, and answers a number of questions frequently asked of the membership department at NALC headquarters. The chapter also explains in detail the dues amounts paid by the different kinds of NALC members and the several ways members pay their union dues. There is also a brief appendix on membership information that branches may receive on CD.

Collecting NALC dues is a cooperative task, requiring the joint efforts of branch and state association financial and administrative officers and NALC's headquarters membership depart-

ment, which operates under the national Secretary-Treasurer's direction. In the branch, dues amounts received should be verified and deposited immediately and any problems should be reported immediately to the membership department at NALC headquarters.

If you have questions that are not answered in this material, feel free to call NALC at (202) 393-4695 and select Membership Department from the menu. Headquarters office hours are 9:00 a.m. through 4:30 p.m. (EDT) Monday-Friday.

This chapter has four main sections (and an appendix):

- A. Keeping Track of Member Dues:** An explanation of dues monies and related dues information on individual members which are transmitted between NALC headquarters and NALC branches, plus information and advice for branch officers responsible for tracking member dues.
- B. Three Types of NALC Dues:** An explanation of branch dues, state per capita tax and national per capita tax.
- C. The Four NALC Dues Payment Categories:** An explanation of the dues amounts payable by different types of members.
- D. The Four Ways NALC Members Pay Dues:** A description of the four methods by which NALC members pay their dues.

Appendix: Receiving membership information on CD.

A. KEEPING TRACK OF MEMBER DUES

Most NALC dues are collected either by the Postal Service through payroll deductions or by the U.S. Office of Personnel Management through retirement annuity deductions. NALC's national headquarters collects the full dues amounts from USPS and OPM along with computer tapes containing information about each member whose dues are paid by these methods.

NALC's membership and computer departments process this information, collect national per capita tax from the total dues received, and then pass on the proper dues amounts and individual member dues information to the appropriate branches and state associations.

This section describes briefly the dues monies and accompanying information that is transmitted between NALC headquarters and NALC's branches and state associations. For detailed explanations of how the dues collection process works, see "D. The Four Ways NALC Members Pay Dues."

National communications to branches:

Branches receive the following dues monies and dues-related communications from NALC headquarters:

- 1 Dues check and computer listing for active members paying dues through payroll withholding, every two weeks.¹
- 2 Dues check and computer listing for retired members paying dues through annuity withholding, every calendar quar-

ter—in February, May, August and November.¹

- 3 Per capita tax call (bill) for all members who pay their dues through direct payments to the branch, semi-annually in June and December.²
- 4 Dues check and an accompanying listing of individuals within the branch's jurisdiction who are members of NALC only for the purpose of enrollment in the NALC Health Benefit Plan (employees of the federal or District of Columbia government), annually in November.

A branch will not receive certain of these communications if it does not, for example, charge any local dues to retirees or have any direct-paying members.

NALC state associations are reimbursed active dues once per month, retiree dues for members on annuity withholding quarterly, semi-annually for direct paying members, and fixed-rate health plan member dues annually in November.

Branch officer responsibilities for handling these membership monies and information are explained below.

1. Active Member Dues Reimbursement

Every two weeks NALC sends branches dues checks for active members who pay their dues through USPS payroll deductions. Along with the reimbursement check, NALC headquarters encloses a computer-printed listing showing the information about branch members and their

deductions which was provided by a USPS computer tape. The listing is explained by an enclosed letter.

Branch responsibilities—deposit and verify: Branch officers receiving the bi-weekly local dues check must deposit it immediately and then check the accompanying listing carefully for accuracy.

The listings contain key information that every branch needs to verify its active membership and income. So each new listing must be scrutinized carefully and then retained for branch records.

a. Verify dues amounts: The listing should be checked for inaccuracies in the dues amount withheld from each member's paycheck. If an amount is incorrect the branch should notify the membership department immediately, providing the member's name and social security number or NALC Membership ID number and the correct dues amount. If the dues amount for all members should be changed (due to a general change in branch dues), headquarters should be notified in writing. Changes in dues withholding are processed once every four weeks, during even-numbered pay periods (except pay periods 2 and 26).

b. Verify dues from new members: The branch must keep records on each new member, including the date the member joined and the date his or her Form 1187 was submitted to USPS personnel officials. If the branch does not begin receiving withheld dues and a listing entry for the new member within a reasonable period (2-3 pay periods), the branch must contact local USPS personnel officials first. If delays cannot be resolved locally, call or

write NALC's membership department with the names and dates the forms were submitted.

c. No dues deducted—branch must collect: Sometimes no dues are deducted from the member's paycheck—usually because he or she was not in a pay status. In this situation the dues listing "flags" the member as "NO PAY" (no pay from which to deduct dues), "NO DED" (no deduction made) or "NO T/C" (no time card). In these cases the branch should collect the entire bi-weekly dues amount directly from the member, because NALC headquarters has subtracted and retained the member's national and state per capita tax from the branch reimbursement check.

d. Transfer to new branch: The active dues listing also contains special "flag" notations showing members who have transferred from and to the branch. When an active member transfers out of the branch, the Postal Service automatically transfers all dues deductions from the losing to the gaining branch. The losing branch's listing will flag the member "TR TO."

When a member transfers in, the gaining branch's listing will flag the new branch member "TR FRM." Dues deductions are transferred in with the new member, but USPS does not change the member's dues amounts accordingly. The gaining branch should notify headquarters immediately if a change in dues is required as a result of the transfer.

e. Terminations of active membership: The listing will also show flag notations such as separated, cancelled and death. Branches must note these changes in branch records; NALC headquarters automatically removes these individuals from its membership rolls.

Retiring members are flagged “RET.” For more information on signing retiring members up for annuity dues withholding see “D. The Four Ways NALC Members Pay Dues” on page 2-8.

2. Retired Member Dues Reimbursement

Every calendar quarter NALC headquarters sends out branch retired member dues reimbursement checks, accompanied by listings containing information about members' dues deductions. The checks and listings are sent out in February, May, August and November and cover deductions during the current quarter. For more information on annuity dues withholding, see, “D. The Four Ways NALC Members Pay Dues.”

Note—branches charging retirees no local dues: Branches that do not charge retired members local dues do not receive quarterly listings or checks because they require no dues reimbursement. However, upon request NALC headquarters will send those branches an annuity withholding listing for informational purposes. The listing will show branch members' deductions for national and state per capita tax during the latest calendar quarter.

Branch responsibilities—deposit and verify: Branch officers receiving the biweekly local dues check must deposit it immediately and then verify the accompanying listing carefully for accuracy. The branch must ensure that its membership list is current and that it is receiving the correct amounts of retiree dues. The listings should be retained for branch records.

In verifying the listings, branch officers should look out for these problems:

a. Incorrect amounts: Check for incorrect or inconsistent dues amounts withheld (keeping in mind that one-time adjustments are often made during the months of January, April, July and October for members who are just beginning deductions and owe some back dues). To make corrections or inquiries, call or send a short note to the membership department giving the retiree's name, social security number or NALC Membership ID number and the amount of dues members should pay.

b. “Unsuccessful” listing: If OPM could not make the deduction for any reason, the retiree will appear on a separate sheet entitled “Unsuccessfuls.” Because OPM does not furnish detailed explanations of such notations, the branch must check with the member and inform the membership department of the member's status. The membership department sends a bill to the branch for the per capita tax due from the retired member.

3. Semi-annual Per Capita Tax Call

In June and December of every year, NALC headquarters sends each branch which has direct-paying members a bill for their national and state per capita tax. The bill is for six months' payment in advance—that is, one-half of the annual national and state per capita tax amounts, per direct-paying member. The bill indicates how many members are being billed for active member dues and how many are being billed for retired member dues. For more information on direct-paying members,

see page 2-8, “D. The Four Ways NALC Members Pay Dues.”

Member roster: Enclosed with the bill are two copies of a computer-printed roster showing the names of all of the branch's direct-paying members and the amount of per capita tax billed for each. The roster also lists the names of two types of members for whom headquarters is not billing the branch:

Life members: The roster lists life members to help branches keep their membership records up to date.

Members with missing dues deductions: When a member's dues which should have been deducted by the USPS or OPM have not been received by NALC headquarters, the member's name is listed on the roster with the classification “W” or “Q”. This is done to request information from the branch about the member's status. The branch should inform headquarters of the member's status when it returns the verified roster (see below).

Branch responsibilities—verify, correct and pay: Branch officers must verify the roster and bill. The roster should be checked against branch membership records and then retained. Then the branch must report any inaccurate information to the NALC membership department on a corrected roster enclosed with its per capita tax payment.

It is particularly important for branch officers to notify NALC headquarters about changes in the personnel status of direct-paying members—separations, cancellations, retirements,

etc.—because the membership department has no other way to maintain accurate information on such members. When a direct paying member retires, the branch must send the member a Form 1189 and ensure the form is completed and sent to NALC headquarters. (A branch need not pay per capita tax for a deceased member.)

After verifying the roster, the branch must write a check for the per capita tax due—payable to the national Secretary-Treasurer—and send it to NALC headquarters along with the corrected roster. If the check is for less than the amount billed, the branch's roster corrections must explain the difference.

4. Fixed Rate Health Plan Members

Once a year in November, NALC sends a dues check and an accompanying listing of individuals within the branch's jurisdiction who are members of NALC only for the purpose of enrollment in the NALC Health Benefit Plan (mostly employees of the federal or District of Columbia government). For more information on these members and their dues, see below, “D. The Four Ways NALC Members Pay Dues.”

Information about these members is given to NALC headquarters by the NALC Health Benefit Plan, so branches have no responsibilities for verifying their status. The branch receives \$12.00 of the \$36.00 in total dues paid by each such member annually. (See Article 22, Section 4a. of the NALC Constitution.) A branch that needs information about these members should contact the NALC headquarters finance department.

B. THREE TYPES OF NALC DUES

There are three types of NALC dues, each one payable to a different level of the union's organization—national per capita tax, state association per capita tax and branch dues. "Per capita tax" means "dues per member."

Note that branches and state associations need not charge separate dues to their members. Members pay dues to those levels of the union only where the branch or state association has established a dues structure.

National Per Capita Tax. The amount of national per capita tax is determined by the delegates to the NALC National Convention and stated in the NALC Constitution (Article 7, Section 2 and Article 22, Section 3). The national per capita tax increases each year in the first full pay period in January. The increase is tied to the rise in letter carrier wages (Article 7, Section 2(a)).

State Association Per Capita Tax. The state per capita tax amount is set by the membership of each NALC State Association and stated in its by-laws.

Branch Dues/Minimum. Minimum NALC branch dues are determined by the delegates to the National Convention and stated in the NALC Constitution (Article 7, Section 2a. and c. and Article 22, Section 3). Branches that charge dues at all must charge at least this minimum amount. Branches may, if they wish, provide in their by-laws that branch dues will be higher than this minimum amount.

C. THE FOUR NALC DUES PAYMENT CATEGORIES

Different types of NALC members may pay different amounts of union dues. The rules on who pays what amounts are contained in the Constitution and are explained in more detail here. (Different types of NALC members also have different membership rights in the union. The various membership categories are defined in the NALC Constitution.)

For the purposes of the national dues collection system, all NALC members fall into one of the following four NALC dues payment categories:

1. Active Member Dues
2. Retired Member Dues
3. Fixed-Rate Health Plan Member Dues
4. Life Members (Exempt From Dues)

1. Active Member Dues

All active employees of the Postal Service who are members of the NALC must pay active member dues, which have three components—national per capita tax, state association per capita tax and branch dues (where applicable).

For the purposes of the national per capita tax, NALC headquarters defines "active USPS employee" as any person who is currently on the Postal Service employee rolls—including craft, supervisory, and all other USPS employees—whether probationary, part-time flexible, part-time regular, full-time regular or salaried. A USPS employee who is receiving workers' compensation and not working currently, remains an active employee until he or she is separated from the employee rolls. This cate-

gory also includes regular branch members who the NALC Executive Council has determined were unjustly separated from the Postal Career Service.

This category does not include members who were separated from the Postal Service due to an occupational injury or disease covered by the Office of Workers' Compensation Programs (OWCP); those members pay retired member dues, explained below.

2. Retired Member Dues

All retired USPS employees who were members of the NALC at the time of retirement, and all USPS OWCP departees who were members of the NALC at the time of leaving Postal Service employment, and continued their membership thereafter, must pay retired member dues.

Note that there is a continuation of membership requirement for members who pay retired member dues. To qualify for such dues, one must be a NALC member at the time of retirement or OWCP separation, and maintain continuous membership in the union thereafter. Other categories of employees may become members of NALC after leaving active USPS employment, but they may not pay retired member dues. Rather, they pay fixed-rate health plan member dues. See No. 4 below.

Retired member dues have three components—national per capita tax, (traditionally a much lesser amount than paid by active members), plus state per capita tax and branch dues where applicable. For several decades the national per capita tax for retired members has been only \$7.00 per year.

Definitions: NALC headquarters defines the types of members who pay retired member dues as follows:

“Retired USPS employee” means a former Postal Service employee who has gained annuity eligibility under a retirement program administered by the U.S. Office of Personnel Management (OPM)—either the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS). This definition includes disability retirees.

“USPS OWCP departee” means a person who was an active employee of the Postal Service, and was separated from the Postal Service employee rolls due to a compensable injury or occupational disease covered by the Office of Workers' Compensation (OWCP). This definition does not include an employee who is still on the USPS employee rolls although not working due to an OWCP-compensable injury. Such a member must pay active member dues until he or she is separated from the Postal Service.

3. Fixed-Rate Health Plan Member Dues

NALC members in this dues payment category pay only national per capita tax in the amount stated in Article 22, Section 3 of the NALC Constitution. These members pay no state per capita tax and no branch dues. However, a portion of their national per capita tax is distributed by NALC headquarters to branches and state associations in accordance with the NALC Constitution. For more information see “Individual Billing by NALC Headquarters,”

below in this chapter.

The individuals who pay fixed-rate health plan member dues include: (a) active or retired employees of the United States Government (non-postal) or the District of Columbia Government who have enrolled in the NALC Health Benefit Plan; (b) USPS retirees or OWCP departees who have enrolled in the NALC Health Benefits Plan after leaving Postal Service employment, and who were not NALC members at the time of enrollment. These people become associate members of NALC and pay fixed rate health plan member dues because any person enrolled in the NALC Health Benefit Plan must become a member of the union and pay dues while enrolled. Survivor annuitants enrolled in the Plan represent the only exception to this rule; they need not pay NALC dues.

4. Life Members (Exempt from Dues)

NALC's life members are not required to pay dues. The NALC Constitution (Article 2, Section 5) provides that an individual who has completed fifty (50) years of membership in the NALC shall, upon request directed by his or her Branch Secretary to the National Secretary-Treasurer, be issued a Life Membership Card ("Gold Card") which entitles the member to all the rights and privileges of NALC membership without payment of dues, per capita tax, or special assessments.

D. THE FOUR WAYS NALC MEMBERS PAY DUES

Each member must pay all of his or her dues in one of these four ways:

1. Payroll Dues Withholding
2. Annuity Dues Withholding
3. Direct Payment to the Branch
4. Individual Billing by NALC Headquarters

The overwhelming majority of members pay their dues through the first two methods. This section describes how each dues payment method works, and which types of NALC members pay dues through each of the four methods. In some cases, two members in the same dues payment category may pay their dues by different methods.

1. Payroll Dues Withholding

Who pays dues this way: Since January 1, 1977, the NALC Constitution has required all new active Postal Service members to pay all of their NALC dues—national, state, and branch—through automatic deductions from their USPS payroll checks. Almost all active Postal Service members pay dues this way; only a handful pay their dues directly to the branch.

How the process works: The payroll dues deduction process has four steps

- a. Initiation—the Form 1187
- b. USPS withholding
- c. NALC headquarters membership action, dues retention and reimbursement
- d. Branch verification

a. Initiation—the Form 1187: The process begins when a new member and a branch officer complete and submit a Form 1187, "U. S. Postal Service, Authorization for Deduction of Dues." Each branch should keep a supply of 1187 forms on hand at all times;

they are available free from the supply department at NALC headquarters.* Note, the social security number must be entered. NOTE: There exists a different Form 1187 for Transitional Employees.

Most branches ask new letter carriers to join NALC at the first opportunity—during a presentation at the new carrier orientation meeting. Those who do not join immediately should be approached repeatedly by stewards and branch officers about joining the union.

The Form 1187 serves two functions. First, it is an official application for NALC membership. Second, it authorizes the Postal Service to deduct full active NALC dues—national per capita tax, state per capita tax and branch dues—from a member's paychecks. As the form indicates, by submitting the 1187 an employee agrees to the deduction of NALC dues for a period of one (1) year. The agreement is automatically renewed at the end of each one-year period unless it is revoked by the employee. Different rules apply for Transitional Employees. See each form for specific information. Any active employee of the U. S. Postal Service who joins the NALC regardless of craft or position must sign Form 1187 and pay full active dues.

The branch must sign the form, have it date-stamped and mail the original to Human Resources Shared Services Center (HRSSC). The NALC copy must be mailed to headquarters, the third copy is to be retained for the branch records and the last copy should be given to the employee for his or her own records.

b. USPS withholding: At the HRSSC USPS

officials enroll the employee in the dues withholding program and begin the process to deduct NALC dues, once each pay period, from his or her pay. The dues deductions should begin within two or three pay periods. If it does not the branch should contact NALC's Membership Dept.

After bi-weekly deductions are made, the Postal Service sends a check to NALC headquarters for the total amount deducted for all members nationwide. Accompanying the check is a computer tape containing information about each member on the payroll dues withholding program, including name, NALC Member ID number, post office finance number, the amount deducted, anniversary date (date of processing by the employer), and additional information about personnel actions which occurred since the last deduction—such as new employees, separations, cancellations, retirements, or deaths. The roster should be checked for accuracy and problems communicated to the NALC's Membership Dept. NOTE: Branch secretaries and members should always call the NALC Membership Department to verify anniversary dates.

c. NALC headquarters membership action, dues retention and reimbursement: NALC headquarters takes the following steps when a Form 1187 is submitted for a new member and payroll dues deductions begin.

1 Membership action: Headquarters adds the employee to its computerized membership rolls.

2 Receipt of deducted dues: Headquarters processes the computer tape and records dues payments in each

member's individual membership file. Upon receipt of a new member's first dues deduction, the member is added to the mailing list for the *Postal Record*.

3 National per capita tax retention: For each branch NALC headquarters calculates, in accordance with the Constitution, how much of the dues deductions represents national per capita tax; headquarters retains that amount.

4 State per capita tax reimbursement: Headquarters also calculates how much of the bi-weekly dues deductions represent state per capita tax. Each month headquarters reimburses those amounts to state associations which charge per capita tax to their active members.

5 Branch dues reimbursement: Bi-weekly branch dues reimbursements and accompanying listings are explained above under "Active Member Dues Reimbursement," on page 2-2 above.

Note on electronic deposit: If a branch wishes to have its dues reimbursement checks deposited electronically in a bank account, it must notify the membership department in writing. When making such a request, the branch should provide headquarters with the bank account number, bank's routing number and include a voided check.

d. Branch verification: See page 2-3 above, "Branch responsibilities—deposit and verify."

Cancellation of Active Membership and Dues Deductions

An active member may cancel membership and payroll dues deductions only by completing and submitting a Form 1188. The cancellation is processed by the Postal Service only if it is date-stamped in personnel within the window period of not more than 20 days and not less than 10 days prior to the member's anniversary date (date of processing by employer). Contact NALC's Membership Department for the anniversary date.

Transfer to another craft: NALC has a reciprocal agreement with the American Postal Workers Union, the National Postal Mail Handlers Union and the National Rural Letter Carriers Association, under which each union agrees to cancel the dues deductions of a member who transfers to a craft represented by the other union. Should your branch no longer have a copy of the Reciprocal Agreement, free copies are available upon request through the NALC Supply Department. Under this agreement, when, for instance, a clerk transfers to the letter carrier craft and joins NALC, APWU will upon request from the NALC, cancel the APWU member's dues and membership. However, the NALC union representative must indicate the member is transferring from another union, (naming the union) and wishes to cancel dues to that union.

Upon written request from the branch, NALC will consider refunding the dues a new member continued to have deducted for his or her previous union while awaiting a cancellation.

Promotion to supervisor, transfer to postal police: As a result of a special excep-

tion set forth in the USPS *Employee and Labor Relations Manual*, members promoted to supervisory positions may cancel their dues deductions at any time by completing and submitting to USPS a Form 1188. The form must indicate the new job title and date of promotion. A member who transfers to a postal police position may cancel dues deductions by mailing a written request to the membership department; no Form 1188 is needed.

2. Annuity Dues Withholding

Who Pays Dues This Way: The NALC Constitution provides that all members who retire after October 1, 1982, who wish to retain their membership, must complete and submit a Form 1189 to NALC. (See Article 2, Section 1e.) The Form 1189 authorizes the Office of Personnel Management (OPM) to deduct NALC dues from a retired member's annuity checks. (Some members who retired before October 1, 1982 pay their retired member dues directly to the branch, rather than through annuity withholding; see below.)

Note that an already-retired member currently paying dues directly to the branch may switch voluntarily to annuity dues withholding by completing and submitting a Form 1189 to NALC. For branches, annuity dues withholding is an efficient and nearly effortless method for collecting retiree dues. Branches should encourage direct-paying retired members to sign up for annuity dues withholding.

How the Process Works: The annuity dues withholding process has five steps:

- a. Initiation—the Form 1189
- b. NALC headquarters action
- c. OPM withholding

- d. Headquarters dues retention and reimbursement
- e. Branch verification

a. Initiation—the Form 1189: The process begins when a retired or retiring member completes a Form 1189 and submits it to the branch. A Form 1189 is a “Request and Authorization” for payment of NALC dues through annuity deductions. NALC headquarters automatically sends a letter and Form 1189 to every active member flagged “RET” on the dues withholding listing.

A member completes his or her portion of the Form 1189 after receiving a CSA (Civil Service Annuity) number from the Office of Personnel Management (OPM)—which assigns the number to those who apply for retirement under either the Civil Service Retirement System or the Federal Employees Retirement System. The member then submits the 1189 to the branch, which enters the annual branch dues amount and signs the form. The branch sends the completed original to the NALC headquarters (not to OPM), keeps one copy in the branch files and gives another to the member.

b. NALC headquarters action: NALC's membership department adds the member's name to the annuity dues withholding program. Then each quarter it sends the Office of Personnel Management a computer tape listing all NALC members on the annuity dues withholding program and giving instructions on the amounts of each member's dues deductions. Dues for retirees are withheld monthly from annuity checks.

All changes take time: Any changes or adjustments in annuity dues withholding—

such as additions, deletions or changes in dues amounts—can be made only quarterly. It may take as long as 4 1/2 months for a member to be added to OPM's dues withholding program—or to implement any other change in the withholding program. The membership department sends OPM new instructions for annuity dues withholding on November 15, February 15, May 15 and August 15. OPM implements those instructions a month and a half later—on January 1, April 1, July 1 and October 1.

c. Office of Personnel Management (OPM) withholding: Acting on NALC's instructions, OPM deducts dues from retired members' annuity checks each month. Then OPM sends NALC headquarters a check for the total and a computer tape containing information about each member's deductions.

d. Headquarters dues retention and reimbursement: NALC headquarters takes the following steps upon receiving the check and list from OPM:

- 1 Recording of dues payments:** Headquarters records the deductions in each member's individual file.
- 2 National per capita tax retention:** For each branch, NALC headquarters calculates, in accordance with the Constitution, how much of the dues deductions represents retired member national per capita tax, and retains that amount.
- 3 State per capita tax reimbursement:** Headquarters also calculates the

state per capita tax portion of withheld dues. Every calendar quarter NALC headquarters sends each NALC state association which charges its retired members per capita tax (many do not) a reimbursement check.

4 Branch dues reimbursement: See "Retired Member Dues Reimbursement," on page 2-4.

e. Branch verification: See "Branch responsibilities—deposit and verify," on page 2-4.

Cancellation of Retiree Membership and Dues Deductions

A retired member who wishes to cancel dues deductions must mail a written request to the headquarters membership department. The cancellation will be effective with the next quarterly deduction.

3. Direct Payment to the Branch

Who Pays Dues This Way: "Direct-paying" members, that is, NALC members who pay all their dues—branch, state and national—directly to their branch are:

a. A very few active Postal Service members: A few active members who joined the NALC many years ago still pay dues directly to the branch rather than through payroll withholding. In addition, members who are classified "active" because they are still on the Postal Service employee rolls, but who are not working due to OWCP-covered disability, also pay dues directly to the branch. Since they receive no USPS paychecks, they cannot pay dues through payroll withholding.

b. A minority of NALC's retired USPS members: Members retiring prior to October 1, 1982 were not required to enroll in the annuity dues withholding program; some of those retired members still pay their dues directly to the branch.

c. OWCP Departees: Members separated from the Postal Service due to OWCP-covered disability receive no OPM annuity checks; they must pay their dues directly to the branch.

The number of direct-paying members is shrinking steadily because the NALC Constitution requires all new active members to pay dues through payroll withholding and all retiring members to pay dues through annuity withholding.

How the Process Works: The process of collecting NALC dues from direct-paying members has six steps:

- a. Branch collections
- b. Semi-annual per capita tax call
- c. Branch verification
- d. Branch payment to NALC headquarters
- e. NALC headquarters action
- f. State per capita tax reimbursement

a. Branch collections: Branches must collect total NALC dues—branch, state, and national—from their direct-paying members. State and national per capita tax must be collected at least every six months, in time for NALC's semi-annual per capita tax calls.

b. Semi-annual per capita tax call: NALC bills branches semi-annually, in June and December, for the national and state per capita

tax of their direct-paying members. See above, "A. Keeping Track of Member Dues."

c. Branch verification: See page 2-5, "Branch Responsibilities—verify, correct and pay."

d. Branch payment to NALC headquarters: See page 2-5.

e. NALC headquarters action: When headquarters receives the check and roster corrections from the branch, it records the national and state per capita tax payments and any new membership information in its membership files. If headquarters notes a discrepancy between its own information about a member and information provided by the branch, it contacts the branch for clarification.

If a branch fails to pay per capita tax on behalf of direct-paying retired members, the national union deducts the payment due from the branch's active member dues reimbursement checks. This is done in pay period No. 7 for the January-June term and pay period No. 20 for the July-December term.

f. State per capita tax reimbursement: NALC headquarters reimburses the state per capita tax portion of branch payments to the proper state association semi-annually.

4. Individual Billing by NALC Headquarters

Who Pays Dues This Way: Only those members who are in the "Fixed Rate Health Plan Member Dues" category are billed individually for their dues by NALC headquarters.

How the Process Works: The individual billing process has three steps:

- a. Health Benefit Plan enrollment
- b. NALC headquarters billing
- c. Receipt of payment and reimbursement

a. Health Benefit Plan enrollment: The NALC Health Benefit Plan regularly informs NALC headquarters of all new and continuing enrollees in the Plan.

b. NALC headquarters billing: Headquarters determines which of those enrollees fall into the Fixed Rate Health Plan Member Dues category. It then bills each one directly for annual national per capita tax at the flat rate stated in Article 22, Section 3 of the NALC Constitution. The amount is \$36.00 per year.

c. Receipt of Payment and Reimbursement: When headquarters receives payment of the national per capita tax, it reimburses portions of it to: (1) the branch having zip code jurisdiction over the member's workplace (or if retired, the zip code area where the retired member lives); (2) the state association with which the branch is affiliated; and (3) the NALC Health Benefit Plan. (See Article 22, Section 4 of the NALC Constitution.)

Branch reimbursement checks and listings are mailed each November to each branch which has these types of active members working within its jurisdiction or retirees residing within its jurisdiction. State associations receive their reimbursement checks and listings at the same times.

¹ Direct deposit is also available; see page 2-10.

² See "3. Direct Payment to the Branch" on page 2-12 for more information.

Appendix: Membership Information on CD

NALC headquarters offers a service called NALC*LINK, which provides branches with information about their members on CD. Branches pay a subscription fee to receive the disks, and update their computerized membership databases without having to enter data manually.

A branch subscribing to NALC*LINK will receive a CD monthly containing all changes in branch membership—additions, deletions, retirements and so forth. The CD will include names, addresses, NALC Member ID numbers, etc., for each member whose status has changed—including all active, retired and life members. The CD information is delivered in

ASCII (universal text) format, which is readable by all leading word-processing and database programs.

Upon subscribing to NALC*LINK the branch also receives a CD-based master membership list containing headquarters' most current information on all of its members—active, retired and life. The branch can then add the monthly change data to this baseline information to update its membership database.

In addition, a branch may request at any time a full membership roster on electronic media or on paper, or a set of mailing labels for all members.

For more information or to sign up for NALC*LINK services, write to the office of NALC's national Secretary-Treasurer.

*Any branch needing updated social security number information may write to the Office of NALC's National Secretary/Treasurer. Information will be sent via registered mail in order to protect from identity theft.

Chapter 3

Reporting to the U.S. Department of Labor

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A. THE LMRDA AND REPORTING REQUIREMENTS

The Labor-Management Reporting and Disclosure Act of 1959—also known as LMRDA or the Landrum-Griffin Act—regulates certain activities of unions, their officers and members. For instance, the Act covers bonding¹, financial transactions, administrative practices, constitutions and by-laws, selection of union officers², members' rights within their unions, and so forth. The LMRDA has applied to NALC since 1971.

Branch reporting requirements: This chapter focuses mostly on the LMRDA's reporting requirements as they apply to NALC branches. Branches must fill out certain government forms and submit them to the U.S. Department of Labor at U. S. Department of Labor, Office of Labor-Management Standards, 200 Constitution Avenue, NW, Washington, D. C. 20210-0001.

B. LM-1—LABOR ORGANIZATION INFORMATION REPORT

The LMRDA requires each labor organization to adopt a constitution and by-laws and file them with the Department of Labor, along with certain information about the union's structure and procedures. Branches must comply by filing a Form LM-1, Labor Organization Information Report, within 90 days after the branch is chartered. Because this requirement is 30 years old, every NALC branch has filed an LM-1 already.

Amended filings: A branch must update its

LM-1 filing when certain information changes.

- 1 When a branch amends its by-laws during the reporting period it must file two copies of the new by-laws with its next financial report (LM-2, LM-3 or LM-4.)
- 2 The branch must file an amended Form LM-1 to update the information on file with the Labor Department if there have been any changes in the reported practices and procedures which are *not* contained in the union's constitution and bylaws. The amended Form LM-1 must be filed within the time limit for filing the union's next annual financial report.³

C. LM-2, LM-3 OR LM-4—ANNUAL FINANCIAL REPORT

The LMRDA requires every labor organization, including NALC branches, to file a financial report every year with the U.S. Department of Labor. Branches do so by filling out and submitting an annual financial reporting form supplied by the Department—a Form LM-2, LM-3 or LM-4.

Which branches must file: Every branch must file unless it has *no local financial activity*. A branch has no financial activity only if it: (1) charges no local dues to members, (2) has no direct-paying members, and (3) has no other financial activity—no branch income, bank accounts or expenditures.⁴

Filing required every year: A financial report must be filed every year, within 90 days after the end of the branch's fiscal year. Most

branches use a “fiscal year”—a reporting period for branch finances—which is the same as the calendar year: January 1 through December 31. The choice of an appropriate fiscal year is a matter of convenience and up to each branch. Some branches use a different fiscal year—for example, July 1 through June 30.

Which Form to File: The LM Form a branch must file depends on the income the branch receives during its fiscal year.

- **Form LM-4:** Total annual receipts less than \$10,000.
- **Form LM-3:** Total annual receipts \$10,000 to \$249,999.
- **Form LM-2:** Total annual receipts \$250,000 or more.

Form LM-4 is an abbreviated two-page report which requires the reporting of a limited number of information items and only five financial details. Form LM-3 is a four-page report which requires the reporting of certain information, has more financial items than the LM-4, but has no supporting schedules (as contained in the much more onerous Form LM-2.) The LM-3 may be filed electronically. The Form LM-2 is much more detailed than Forms 3 and 4 and imposes a huge bookkeeping burden on unions to report the details of their officers' and employees' activities, in Schedules 11 and 12. For example, each branch officer or employee must estimate, to the nearest 10 percent, the portion of his or her paid time devoted to each of five functional activities: Representational Activities; Political Activities and Lobbying; Contributions, Gifts and Grants; General Overhead; and Union Administration.

Expenses—Identifying recipients and purposes of major disbursements. The LM-2 form also requires a union to provide detailed explanations when it disburses \$5,000 or more during the year to a single individual or entity. The required information includes the full name and address of the payee, the type of business or job classification, the purpose of the disbursement, and its date and amount. Amounts that are individually under \$5,000 but cumulatively exceed \$5,000 in total payments for the year must be separately aggregated and reported. However, the date of disbursement and purpose of disbursement are not reported for aggregated amounts.

- **Accounting method:** Although an LM-2 filer may continue to maintain its books on a cash basis, it must include in the form's Statement A certain items that are based on the accrual method of accounting—receivables, loans receivable and payable, mortgages payable and trade accounts payable.
- **Filing:** The Form LM-2 must be filed electronically. This requires obtaining a digital signature for the two officers who must “sign” the form and can take up to 60 days to acquire.

NOTE: Any branch presently filing the LM-3 but nearing the \$250,000 annual threshold may wish to obtain professional assistance to ensure the branch's ability to comply with the LM-2 filing regulations. These branches should have an accounting professional review their accounting systems and recommend any changes needed for the required compliance should the branch's income climb to the \$250,000 mark or above.

Answer for the branch only. Keep in mind when answering questions on the LM forms that you are answering for your branch rather than for the national union. For instance, you would answer “No” to the question whether your labor organization has a political action committee, because COLCPE is a national PAC.

Changes in constitution or by-laws. On each of the three annual financial reports (LM-2, LM-3 and LM-4), one question asks: During the reporting period, did your organization have any changes in its constitution and bylaws (other than rates of dues and fees) or in practices/procedures listed in the instructions? (If the constitution and bylaws have changed, attach two new dated copies, if practices/procedures have changed, see the instructions.) This question is Item 18 on the Form LM-2, Item 21 on the LM-3 and Item 9 on the LM-4. Answer the question “Yes” only if the branch bylaws (or one or more of the listed practices or procedures listed in the instructions) have changed during the reporting period—do not answer “Yes” only to report a change in NALC’s national Constitution or national Constitution for the Government of Subordinate and Federal Branches. The branch, whether it answers this question “Yes” or “No,” should always explain, under the item “Additional Information,” that NALC’s national headquarters reports changes in the national constitutions when filing its own Form LM-2, and sends copies of them to the Department of Labor.

Form T-1: A branch with total annual receipts of \$250,000 or more must file the Form T-1 for each trust in which it is interested, if the

union’s financial contribution to the trust, or a contribution made on the union’s behalf, was \$10,000 or more during the reporting year and the trust had \$250,000 or more in annual receipts. The T-1 is an abbreviated version of the LM-2 and requires similar information regarding payments to officers and employees.

D. ASSISTANCE AND FORMS

For assistance in completing the LM-2, LM-3 or LM-4 form, contact the nearest OLMS office at the U. S. Department of Labor. OLMS field offices are listed on the Department’s website, www.dol.gov/esa/olms/contacts, and are located in the cities listed below. Consult your local telephone directory listings under United States Government, Labor Department, Office of Labor-Management Standards, for the address and telephone number of the nearest field office.

- | | |
|-----------------|-------------------|
| Atlanta, GA | Los Angeles, CA |
| Baltimore, MD | Miami, FL |
| Birmingham, AL | Milwaukee, WI |
| Boston, MA | Minneapolis, MN |
| Buffalo, NY | Nashville, TN |
| Chicago, IL | New Orleans, LA |
| Cincinnati, OH | New York, NY |
| Cleveland, OH | Philadelphia, PA |
| Dallas, TX | Pittsburgh, PA |
| Denver, CO | Puerto Rico |
| Detroit, MI | St. Louis, MO |
| Honolulu, HI | San Francisco, CA |
| Houston, TX | Seattle, WA |
| Kansas City, MO | Tampa, FL |
| Las Vegas, NV | Washington, DC |

E. TERMINAL REPORTS

When a branch goes out of existence—either through merger or dissolution—a “terminal report” on the branch’s finances must be filed for the fiscal year during which it ceased to exist. The terminal report must be filed within 30 days after the branch ceases to exist. A Form LM-2, LM-3 or LM-4 may be used as a terminal report; see the instructions accompanying the forms for more information.

F. REPORTS AS PUBLIC INFORMATION

The LMRDA provides that LM reports “shall be public information.” Under the law any person may examine and obtain copies of any union’s reports and accompanying documents filed with the Department of Labor. All reports are made available at the Department’s website, www.dol.gov, and at the OLMS office in Washington, D. C., and most OLMS field offices have duplicate copies of all reports filed by unions within their respective geographic jurisdictions. The OLMS offices will allow inspection upon request, and will furnish copies of reports for a small copying charge.

G. UNION MEMBERS’ RIGHT TO INFORMATION

The LMRDA gives union members access to the information reported by their unions to the Department of Labor, and to union records supporting the reported information. There are two main requirements:

1. Access to Labor Department

reports. The branch must make available to any branch member a copy of all LM reports filed with the Labor Department, plus copies of all additional documents filed with those reports. This can be done at the regular branch membership meeting after the reports are filed by handing out photocopies of the reports and documents filed with them. Or, an announcement may be made at the meeting or in the branch’s publication that copies will be provided to members upon request.

2. Access to branch records. In addition, the branch must permit any member for “just cause” to examine any of the branch’s official records “necessary to verify” its reports to the Labor Department.

H. ENFORCEMENT AND PENALTIES

The LMRDA provides for enforcement of its requirements through administrative action by the Department of Labor and also provides for criminal penalties for willful violations of the law.

1. Civil enforcement. The LMRDA gives OLMS powers to enforce the Act’s reporting provisions. OLMS has authority to make investigations concerning compliance with the reporting requirements of the LMRDA. This may involve audits of union finances and other records. The Secretary of Labor may file a civil action in Federal District Court to restrain violations and bring about compliance with the LMRDA.

2. Criminal penalties. The following acts are made criminal offenses under the LMRDA: (a) willfully failing to file a report and keep required records; (b) knowingly making a false statement or representation of a material fact or knowingly failing to disclose a material fact in a report or other required document; (c) willfully making a false entry in, or withholding, concealing, or destroying documents required to be kept. A person convicted of such an offense is punishable by a fine of up to \$10,000, imprisonment for up to one year, or both.

¹ Bonding is addressed in Chapter 5 of this Guide.

² The LMRDA's provisions regulating union elections are incorporated into NALC Regulations Governing Branch Election Procedures, a comprehensive guide to branch elections available in booklet form from the NALC Headquarters supply department.

³ The Form LM-1 asks in Item 18 about a list of union practices and procedures. To fill it out, a branch indicates where those topics—e.g., authorization for disbursement of funds, procedure for calling union meetings—are covered in the NALC Constitution or branch by-laws. If an item is not covered by the Constitution or by-laws, the reporting branch must attach a description of the procedures in question. If one of these items changes later, then the branch must file an amended LM-1 and attach a new description of the changed procedure.

⁴ NALC's national headquarters files a simplified Form LM-4 with the Department of Labor on behalf of those branches which have no annual receipts or other financial activity. The branch need not file.

Chapter 4

Reporting to the Internal Revenue Service

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Introduction

NALC branches are considered exempt from federal income tax by the Internal Revenue Service.¹ However, this does not mean that branches operate in a tax-free world untouched by the I.R.S. or state tax authorities. Branches must pay employment taxes on salary or lost time paid to their officers or other members. And members receiving salaries, lost time or certain types of expense payments must report the income and pay taxes on it.

In some circumstances a branch must report its own income to the Internal Revenue Service even though it is not taxable. Moreover, the exemption from tax does not extend to all types of branch income—certain types of income are taxable.

NALC officials are responsible for tax compliance in two ways. First, they are *fiduciaries* who must ensure that branch funds are handled in compliance with the tax laws.² Second, when NALC officers, stewards, delegates, etc. receive payments from the union it is essential that they comply as *individuals* with the tax rules. At the very least, a failure to comply can reflect poorly on the branch and undermine the members' trust in NALC.

This chapter briefly describes some of the most important tax rules that apply to NALC branches. It was created to help branch officers understand their basic tax obligations so they may seek more complete information and advice from I.R.S. forms and printed instructions, from the Internal Revenue Service, or from a professional accountant or tax advisor.

The first section of this chapter explains the

tax-exempt status of branches under the group ruling obtained by NALC headquarters. The second section outlines the tax rules governing the different types of payments made by branches to their officers or other members—salaries, lost time and payments for union-related business expenses. A third section addresses the I.R.S. Form 1099-MISC and the various circumstances under which a branch must issue the form to members or other individuals paid by the branch.

For the 2008 tax year (Form filed in 2009 or 2010), a branch with gross receipts of \$1 million or more, or total assets equal to or greater than \$2.5 million must file a Form 990, *Return of Organization Exempt from Income Tax*. Branches with gross receipts of more than \$25,000 but less than \$1 million and total assets less than \$2.5 million may opt to file the Short Form 990EZ. Branches with gross receipts equal to or less than \$25,000 should file the form 990-N.

The fifth section discusses the requirement that branches with over \$1,000 in annual “unrelated business income” file Form 990-T, *Exempt Organization Business Income Tax Return*, with the I.R.S. and pay any tax due.

IMPORTANT NOTE: The limits above change over the 2008-2010 tax years. This brief guide offers only basic information and not a complete statement of the federal or state tax rules that apply to NALC branches. *It is each branch's own responsibility to obtain detailed information about its tax obligations and to comply with the tax laws.* The branch should consult federal and state tax forms and instructions, the I.R.S. and state tax authorities, or a professional accountant or tax advisor.

A. BRANCH TAX-EXEMPT STATUS

NALC has obtained at the national level a group ruling from the Internal Revenue Service under which the National Association and all of its affiliated branches are exempt from federal income tax. In order to qualify for inclusion in NALC's group exemption, a branch must have obtained an Employer Identification Number (EIN) from the Internal Revenue Service even if it has no employees. Most branches have had an EIN for many years; call the office of the national Secretary-Treasurer if you do not know your branch's EIN.

To maintain the group exemption letter, the National Association must file an annual report with the I.R.S. showing certain types of new information about NALC branches. The National Association must also make an annual filing with the Department of Labor. So branches should advise the national Secretary-Treasurer promptly if the branch changes its method of operation. For example, if the branch changes its name, address, or EIN, or if it incorporates (so as to buy real estate, e.g.), NALC headquarters should be notified.

B. TAX CONSEQUENCES OF BRANCH PAYMENTS TO INDIVIDUALS

Introduction

Many branches pay salaries, lost time, reimbursed expenses or per diems to individual officers, stewards, convention delegates or other members. This section is intended to help

NALC branches making such payments, as well as those officers and members receiving the payments, to understand the basic tax requirements that apply to these payments.

A branch's tax obligations are imposed by federal and state law and are a very serious matter; the penalties for failure to comply can be severe. Neither NALC branches nor their officers, stewards, or members are exempt from these rules on account of NALC's status as a tax-exempt, non-profit organization.

Starting with subsection B.2 below, this material addresses the different types of payments that a branch may make to an officer, steward or other member. For each type of payment, the material identifies the tax consequences to the branch and the tax consequences to the individual paid.

The tax treatment of all such payments depends upon the "employment" relationship, under tax law, between the branch and the individual who receives a branch payment. So it is essential for the branch to know whether the I.R.S. considers the recipient an "employee" of the branch.

1. Who is a "Branch Employee"? —A Crucial Tax Law Question

The tax consequences of branch payments to an officer, steward or other member depend on *whether the union member is considered an "employee" of the branch under tax law*. The I.R.S. considers each individual paid by the branch to be one of the following:

- **An "employee:"** An individual who performs services (duties or work) for the

branch in an employment relationship;
or

■ A “non-employee” or “independent contractor”: An individual who performs services for the branch in other than an employment relationship—in other words, a non-employee. (The I.R.S. term “independent contractor” makes little sense when discussing NALC branches and the payments they make to officers, stewards or other members, so this material uses the term “non-employee” instead.)

It is important to understand this distinction, because the tax consequences of branch payments to individuals are very different depending on whether or not the recipient is an “employee” under tax law.

There are no hard and fast rules telling us which members are considered branch employees under tax law and which are not. Rather, the I.R.S. will use certain established criteria to analyze the individual facts of each case and determine whether or not there is an employment relationship.

Generally, a member is considered an employee of a branch when the branch has *the right to control and direct the member who performs the services*, not only as to the result to be accomplished by the work, but also as to the details and means by which that result is accomplished. This is the so-called “common law test.” Here are several important factors tending to indicate that an individual *is* an employee under tax law:

■ The member’s compensation is

measured by the hour, week, or month rather than by the job;

■ The member is required to perform the services personally, without the ability to delegate the task to somebody else;

■ There is a continuing working relationship between the member and the branch;

■ The branch supplies materials or facilities used by the member in performing the services, such as an office, office supplies, a telephone, etc.;

■ The branch provides instructions or training to the member; and

■ The member performs the services in question solely for the branch (and not to others).

Few branches employ full-time workers; most depend on the efforts of part-time workers—either paid or volunteer—to keep the local union running. When the branch does make payments to members for their services, in many cases the members are *considered part-time employees of the branch* under tax law, even though they are also full-time employees of the Postal Service. In other words, *a member can be an employee both of the Postal Service and of a branch*, and will receive a Form W-2 at year end both from the Postal Service (for the compensation received from the Postal Service) and from the branch (for the compensation received from the branch).

Although the employment status of a union

activist is governed by the facts of each case, I.R.S. rulings have reached consistent conclusions about the status of three types of union worker: officers, shop stewards, and convention delegates. The I.R.S. has consistently considered branch officers and shop stewards to be employees of the branch. However, the I.R.S. has found that the employment status of convention delegates depends on whether the particular delegate provides services to the branch other than attending the convention. The I.R.S. rulings regarding these categories of union worker are explained briefly below.

a. I.R.S.: Local union officers are considered to be employees. On numerous occasions spanning several decades, the I.R.S. has concluded that members acting as union officers are employees of the union with respect to the services they perform as officers. So branches should expect the I.R.S. to find that elected branch officers who sit on a branch's executive board are employees of the branch with respect to the services they render to the branch. This is true even though the officer may work full- or part time for the Postal Service.

b. I.R.S.: Shop stewards are considered to be employees. The I.R.S. has also ruled that shop stewards are employees of a local union, because the stewards' handling of labor relations matters is necessary to the local's operation and subject to the control of the local union. So branches should expect the I.R.S. to find that NALC shop stewards, whether they are appointed by the branch president or elected by the members, are considered employees of the branch with respect to the work they do for the branch. This is true even though the steward may do most of his or

her union work while on the Postal Service's clock, because the steward's work as a union representative is subject to the control and direction of the branch. And any branch payment to the steward for working as a union representative likely will be considered payment to the branch's part-time employee.

c. I.R.S.: Convention delegates not necessarily employees. The I.R.S. has found that a union member who serves as a delegate to a union convention is not considered an employee solely as a result of attending the convention and participating in its business. So if an NALC state or national convention delegate is neither an officer nor steward and if he or she provides no other services to the branch, then the delegate will most likely be considered a non-employee under tax law. On the other hand, where a delegate is a branch officer or steward, or he or she provides other services to the branch in an employment relationship, then the I.R.S. will likely find that the pre-existing employment relationship extends to any payments made for attending the convention.

d. Other members. Some members may provide services to a branch in a capacity other than officer or steward. For example, an editor of a branch newsletter who is neither an elected officer nor a steward may spend time writing and editing the newsletter at the branch office. Or another member may assist the editor by laying out the newsletter on a home computer. Or a member may organize the branch's annual drive for Muscular Dystrophy Association donations.

The I.R.S. is likely to rule that members who provide such services to the branch qualify as part-time employees of the branch. Typically,

even if a member's participation is sporadic, he or she will be considered an employee because he or she works under the control and direction of the branch.

In rare cases, a member's performance of services for a branch may properly be considered to establish a non-employee/independent contractor relationship, rather than an employment relationship, with the branch. For example, if a member runs a house painting business available to the general public in his off hours, his agreement to paint the branch office in return for a fixed payment might be considered to establish an independent contractor relationship with the branch.

e. Summary. Under the tax laws, NALC branch officers and stewards will likely be classified as employees of the branch for which they perform union work. Members who perform union work for a branch in a capacity other than officer or steward will likely be considered to be employees except in unusual circumstances. A convention delegate will be treated as an employee only if he or she is an officer or steward or otherwise performs work for the branch establishing an employment relationship.

NOTE: Although it cannot be said with certainty that the I.R.S. will rule the same way every time, branches should expect the I.R.S. to continue to follow its own consistent past rulings except in unusual circumstances. The material in the remainder of this section explains how the tax rules will apply in the usual, rather than exceptional, circumstances. If you are unsure whether a particular member should be considered a branch "employee" under the tax laws, it is strongly recommended that you con-

sult with a professional accountant or tax advisor. A branch can obtain a determination from the I.R.S. about a member's employment status by submitting a Form SS-8, *Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding*.

f. Consequences of employment status.

Once the branch determines the employment status of each member who receives branch payments, the branch will know the tax consequences of different sorts of payments it may make to those members. These various types of payments—salary, lost time and expenses—are covered in subsections 2 through 8 below.

2. Salary

a. Definition: The branch pays officers, stewards, or other members for performing services for the branch. The member is paid periodically, by the month or year, or in some cases receives a set amount for each branch meeting that he or she attends. All salary payments should be fixed by the branch's by-laws and identified as salary.³

b. Tax Consequences to the Branch

The branch is an employer. When the branch pays officers, stewards, or others to perform duties or services for the branch, the branch becomes an *employer* in the eyes of the I.R.S. and state tax authorities. Those paid by the branch become *employees*. The I.R.S. calls the money paid *wages*.

Branch employers are subject to a number of requirements:

Employer Identification Number. The branch must have or obtain a federal employer identification number (EIN) and often a state unemployment tax identification number.

Employment/payroll tax obligations. As an employer, the branch must pay taxes on salary payments and must withhold and pay over amounts withheld from employee "wages." The branch must:

- 1 Pay its share of federal social security taxes ("FICA") on the employee's wages;
- 2 Withhold and pay over the employee's share of FICA tax on his or her wages;
- 3 Pay the federal unemployment tax ("FUTA") on the employee's wages; Pay the state unemployment tax on the employee's wages, where applicable;
- 4 Withhold and pay over the employee's federal and state income tax from his or her wages; and
- 5 If necessary, pay state workers' compensation insurance premiums for the employee.

These matters are discussed below.

Federal FICA and FUTA taxes and state unemployment tax. The branch will pay its share of FICA tax and withhold and pay over the employee's share to the I.R.S. Currently the branch's share is 7.65 percent of the employee's wages, and the employee's share is also 7.65 percent. The 7.65 percent rate for each share is actually comprised of two separate taxes: old-age, survivor, and disability insurance

("OASDI") which is currently 6.2 percent, and hospital insurance (for Medicare or "HI"), which is currently 1.45 percent.

The branch will also be required to pay FUTA at a maximum rate of 6.2 percent of the employee's wages. Generally, a branch may reduce this tax rate to account for state unemployment taxes paid on the employee's wages. (Employers are required by many states to pay state unemployment tax on an employee's wages.)

All wages are subject to the HI (Medicare) portion of FICA without limit. The OASDI portion of FICA is imposed on an employee's wages up to \$106,800 in 2009. (This "earnings ceiling" increases each year.) FUTA is imposed only on the first \$7,000 of the employee's wages for a calendar year.

In many cases a branch officer is a full-time Postal Service employee and the branch pays the officer for his or her part-time services to the branch. In calculating whether an employee's wages from the branch in a year exceed the earnings ceiling for OASDI or FUTA, the branch may not take into account wages paid by the Postal Service. If the member's combined wages from the Postal Service and the branch exceed the OASDI earnings ceiling for the year, the member is entitled to a credit against income tax for the employee's share of OASDI withheld on the amount of wages in excess of the OASDI earnings ceiling.

Federal and state income tax withholding. A branch is required to withhold federal and state income tax on the employee's wages and pay it over to the I.R.S. and the appropriate state tax authority. Income tax withholding applies to the first dollar of wages paid by the

branch, and there is no maximum limit.

Workers' compensation insurance premiums. Many states will require a branch to obtain workers' compensation insurance for its employees and to pay the premiums.

In your area there may be additional withholding requirements for payroll, such as county or city withholding. These payments must be made to the appropriate authorities—federal, state and local. Each state has its own website where you can obtain this information.

Forms W-4 and W-2. The branch must obtain an I.R.S. Form W-4 at the beginning of the year from each individual to whom it pays salary and must issue an I.R.S. Form W-2 soon after the end of the year summarizing salary and withholding information. No wages should be paid to anyone who has not completed and signed a Form W-4.

I.N.S. Form I-9. The branch must verify that each new employee is legally eligible to work in the United States. This will require the branch and the new employee to complete Immigration and Naturalization Service Form I-9. The form may be obtained from the I.R.S.

Timely deposits are required of employment and income taxes. The branch must arrange with its bank to make deposits of payroll taxes due on a regular basis. The money must be deposited soon after it is withheld; the branch may not hold it and pay at the end of the year. Once deposited, these monies are no longer available for branch use; the bank will send the deposits to the tax authorities. In addition to depositing employment and income tax, a

branch will be required to report periodically the amount of employment and income tax withheld to the relevant governmental agency.

Record-keeping responsibilities also apply to all branches which are employers. As with all branch financial records, payroll-related records must be maintained in good order and kept for five years. (The I.R.S. requires retention of financial records for three years; the U.S. Department of Labor requires retention of financial records for five years. See Chapter 6, Branch Record Keeping.) Also, if the branch is required to file I.R.S. Form 990, 990EZ, or 990-N, *Return of Organization Exempt from Income Tax*, the branch must list its salary payments, including payroll taxes paid by the branch, and also any payments to reimburse members for union-related business expenses, on the Form. See Section D of this chapter below for more information about the different 990 forms.

More information: For more information on employer tax rules contact the I.R.S. or visit its website, www.irs.gov, for a free copy of I.R.S. Publication 15, Circular E, *Employer's Tax Guide*. Also recommended is Publication 583, *Taxpayers Starting a Business*, which contains much helpful tax information for employers.

c. Tax Consequences to the Individual

Salary from the branch is income. A branch salary is income to the recipient. The individual must report all salary income to the I.R.S. and the appropriate state tax agency and pay any income tax due, after accounting for federal and state income taxes withheld by the branch.

3. Lost Time

a. Definition: Pay to a union official or member which replaces that individual's Postal Service salary. Lost time is paid to union members who spend time away from their Postal Service jobs doing union business.

b. Tax Consequences to the Branch

The tax consequences to the branch depend on whether the recipient is considered an employee of the branch under tax law.

Employee recipients. Lost time, when paid to a member who is a branch employee, is considered "wages" by the I.R.S. and thus is identical to salary for all tax purposes. Payroll withholding by the branch is required. See "Salary," Section B.2, page 4-5.

Non-employees. Sometimes a branch pays lost time to a member who is not an employee of the branch. For example, in the discussion of convention delegates in Section B.1.c. above, it was noted that a convention delegate who serves neither as an officer nor steward and who performs no other services for the branch is not considered to be a branch employee. If a branch pays lost time to such a delegate to compensate him or her for leave without pay from the Postal Service to attend the convention, the lost time would not be considered wages subject to payroll withholding. Rather, the branch would pay the compensation in gross and, if the payments to the delegate were \$600 or more during the calendar year, would submit a Form 1099-MISC to the delegate and to the I.R.S. at year end. (See Section C of this chapter below for more information about Form 1099-MISC.)

If a branch pays lost time to a delegate or other member in the belief that he or she is not a branch employee, it should ask an accountant or other tax professional to confirm its view.

c. Tax Consequences to the Individual

Lost time is income. Payments for lost time are income to the recipient, whether or not the recipient is a branch employee and whether or not the amount paid is under or over \$600 during the year. The individual recipient must report all salary income to the I.R.S. and the appropriate state tax agency and pay any income tax due, after accounting for federal and state income taxes withheld by the branch.

4. Expenses: An Overview

In addition to salary and lost time, branches often pay officers or other members for expenses they incur in doing the branch's business. Under tax law these are known as deductible "business expenses," which must meet two basic requirements: they must be "ordinary" and "necessary." The I.R.S. rules explain that:

- An "ordinary" expense is one that is common and accepted in your field of business, trade or profession.
- A "necessary" expense is one that is helpful and appropriate for your business. An expense does not have to be indispensable to be considered necessary.

See Section 5(a) (2) below for a further discussion of deductible business expenses.

a. Handling Expenses in the Branch

Fiscal committee recommended. Like all disbursements of branch funds, branch payments for expenses must be authorized by the membership. In addition, it is recommended that each branch have a *fiscal committee* or similar small group of officers or other members who take responsibility for reviewing all expense reimbursements and advances, as well as the other bills submitted to the branch for payment. The fiscal committee can set guidelines for expenses—for example, limits on the costs of entertainment, meal amounts, hotel rooms, tips and the like.

Using a multi-member fiscal committee spreads financial accountability among several officers or members. This helps to guarantee that branch spending is authorized and appropriate.

Branch “stands in the shoes of the I.R.S.” When the branch reviews the propriety of expenses before making reimbursements or advances, it “stands in the shoes of the I.R.S.” In other words, the branch must pay only proper, reasonable, union-related business expenses which are treated as deductible under I.R.S. rules. If the branch fails to do this job properly, both the local union and the individual recipient may be subjected to tax and penalties on any improper amounts paid.

b. General Rules on All Expense Payments

Certain general rules, outlined here, apply to all branch payments to officers or other members for union-related business expenses.

1) Expenses paid to branch employees—Accountable Plans.

For tax purposes, all expenses paid to an officer, shop steward or other member considered a branch employee, are made under either an “Accountable Plan” or a “Nonaccountable Plan.”⁴

■ **Accountable Plan—no tax consequences.** There are no tax liability consequences, for either the branch or the employee/recipient, resulting from expense payments which meet the requirements of an “Accountable Plan.” Generally, under an Accountable Plan an employee is required to make a complete, detailed, written accounting of his or her business expenses to the branch, and where the branch provides an advance for expenses, to return any excess advance to the branch. Typically this involves submitting a written expense report to the branch showing dates, times, locations, and the nature and business purpose (branch purpose) of all expenses sought to be reimbursed, with receipts attached. All such expenses must qualify as deductible under I.R.S. rules.

When the employee/recipient makes a proper accounting of expenses to the branch, the branch is relieved from treating the payments as wages subject to payroll taxes and withholding, and the recipient is relieved from reporting the expense payments as income. See subsection 5 below for more information on Accountable Plans.

■ **Nonaccountable Plan—tax consequences.** All payments which fail to

meet the requirements of an Accountable Plan are considered to be paid under a Nonaccountable Plan. Expense payments to a branch employee made under a Nonaccountable Plan are considered wages on which the branch must withhold and pay employment taxes. The payment is income to the recipient. For more information about expenses paid under a Nonaccountable Plan, see Section B.7, below.

2) Expenses paid to non-employees—adequate accounting. A branch may pay a non-employee for union-related business expenses so long as the expenses meet the I.R.S. deductibility requirements and the individual makes what is known as an “adequate accounting.”

■ **Adequate Accounting—no tax consequences.** There are no tax payment consequences, for either the branch or the employee/recipient, resulting from expense payments to a non-employee which meet the requirements of an adequate accounting. Generally, this means the recipient must submit the same kind of detailed documentation of expenses as required from branch employees who receive expense payments under an Accountable Plan.

■ **Adequate accounting not made—tax consequences.** Any branch payments for expenses to a non-employee for which the recipient fails to provide an Adequate Accounting are treated as payments under a Non-accountable Plan. The payment is reportable income to the recipient and

the Form 1099-MISC reporting rules apply to the branch. For more information about Nonaccountable Plans see Section B.7 below.

5. Expenses Paid under Accountable Plans

a. Definition: Payments for expenses made by a branch to its employees, in the form of reimbursements or advances, pursuant to an Accountable Plan, for actual expenses incurred by the recipients in union-related business. As noted above, properly documented, union-related business expenses paid to a branch employee under an Accountable Plan carry no tax consequences to either the branch or the employee.

Reimbursed expenses. Reimbursement is the simplest way to pay expenses under an accountable plan. Under this system an officer or other branch employee pays an expense with personal funds, and then submits written documentation of the expense to the branch. The branch reviews the documentation and, upon approval, issues a check to reimburse the individual.

Advances for expenses. Within certain guidelines, a branch may pay an employee an advance for reimbursed expenses. For instance, a branch could pay an advance for expenses to its branch president prior to the president's business trip to an NALC training seminar. An advance for expenses may be given for business travel that will occur in the near future, generally within 30 days of when the expense will be paid. The amount of the advance may not exceed the amount of expenses reasonably expected to be incurred.⁵

Same rules at home or on travel: The Accountable Plan rules cover all expense payments received by a branch officer, shop steward or other branch employee, whether the individual incurred expenses at home or while on travel for union business.

Per diem. There are special I.R.S. rules permitting a branch to pay an employee a flat per diem allowance for union-related business travel under an Accountable Plan, rather than paying an advance or reimbursement for documented expenses. Under the per diem rules the branch and the recipient may avoid tax consequences although the employee is not required to submit documentation proving the actual amounts spent. Per diem allowances are explained in detail in section 6 below, Per Diem Allowances Under an Accountable Plan.

1) Three requirements of Accountable Plans: A branch's arrangement for expense reimbursements and advances paid to its employees must meet these three conditions to constitute an Accountable Plan:

a) Pay only valid, deductible expenses.

The reimbursements or advances must be made only for deductible, union related business expenses paid by branch employees (i.e., not for personal expenses or non-deductible business expenses such as commuting expenses);

b) Substantiate with documentation.

The employees are required to substantiate the expenses by submitting detailed, written records of all expenses to the branch within a reasonable time (generally, within 60 days of paying the expense under I.R.S. rules⁶); and

c) Return excess amounts. The employees are required to return any reimbursements or advances that exceed the amount they have substantiated within a reasonable time.⁷

An arrangement for advances and reimbursements that meets all three of these conditions is referred to as an Accountable Plan because employees are required to *account* for their expenses to their employer—the NALC branch. An arrangement for advances and reimbursements generally will not qualify as an Accountable Plan if, for example, employees are not substantiating their expenses with documentation or required to return excess advances to the branch.

2) Deductibility and substantiation of expenses. As noted above, under an Accountable Plan a branch may reimburse only those valid, union-related business expenses which the I.R.S. considers deductible expenses. Because NALC branches are non-profit organizations, they typically do not deduct expenses from income in order to figure their tax liability, as would a profit-making business.

However, deductibility under I.R.S. rules *does* determine what employee expenses the branch may pay for under an Accountable Plan, which carries no tax consequences to the branch or to the employee. Any *non-deductible* expense paid to an employee would be considered to be paid under a Nonaccountable Plan, and thus would be *wages*, subject to payroll taxes and withholding and reportable as income by the employee.

The I.R.S. has many rules, beyond the basic

“ordinary and necessary” requirement, which describe those expenses which are deductible for business purposes, and additional rules which describe the documentation that must be provided to substantiate the various types of deductible expenses. All of those rules cannot be covered here, although travel expenses are explained briefly below for illustrative purposes. The branch should seek information and advice from the appropriate I.R.S. publications,⁸ from a professional accountant or other tax advisor, or from the I.R.S.

3) Example-travel expenses: Branches commonly pay for the expenses of their officers, stewards or other employees who travel away from home on union-related business, such as NALC conventions or training sessions. These expenditures will include the costs of transportation, lodging, meals, and “incidental expenses” such as laundry and tips.

Documentation: To satisfy an Accountable Plan’s requirement to substantiate business travel expenses, a branch employee must submit written documentation to the branch proving all four of the following:

- a) The **amount** of each expenditure for transportation, lodging, meals, and incidental expenses;
- b) The **dates** of departure and return, and the number of days spent on business;
- c) The **locations** of travel; and
- d) The **business purpose** for the travel.

The best way to submit this documentation is

on a standardized expense report form which sets out lines and columns for the different types of expenditures, their dates and amounts, with receipts attached.

b. Tax Consequences to the Branch

No tax consequences when it is done correctly. If a branch pays an employee’s actual union-related business expenses which he or she has substantiated under an Accountable Plan, then the branch does not report the payment on the employee’s Form W-2 and does not withhold employment tax on it.

If the employee fails to return any part of an advance in excess of the amount of expenses he or she has substantiated to the branch, the excess is considered paid under a Nonaccountable Plan. The branch must report the excess as wages on the employee’s Form W-2 and withhold payroll tax on it. See Section B.7 below.

The branch must keep records justifying such reimbursement payments, along with all other financial records, for five years.

c. Tax Consequences to the Individual

None. An employee need not include in income a payment for his or her actual union-related business expenses under an Accountable Plan except to the extent that he or she fails to return any excess of the payment over the amount of expenses accounted for. To the extent the reimbursements received are excluded from income, an employee may not claim a deduction for the reimbursed business expense.

6. Per Diem Allowances Under an Accountable Plan

An employee may satisfy automatically an Accountable Plan's requirement to prove the amount of some or all of certain travel expenses if he or she receives a "per diem allowance" in a fixed amount per day of travel. The types of travel expenses that are considered substantiated in this way without providing records and receipts are: lodging, meals, and incidental expenses. Transportation expenses to and from the destination cannot be reimbursed with a per diem allowance.

Generally speaking, a branch may pay per diem allowances only to members who are considered its employees under the tax laws; it must reimburse a non-employee for his or her actual expenses.

a. Definition: A per diem allowance has a distinct meaning for tax purposes and refers to allowances that are:

- (1) paid to employees at a daily flat rate,
- (2) for expenses that are reasonably expected to be incurred while the worker is away from home overnight on union business,
- (3) in an amount that is reasonably calculated not to exceed the anticipated expenses.

Also, the flat rate payment must be made in the context of an Accountable Plan. In other words, the branch's payment must be made pursuant to its arrangement that requires: (1) that the expenditures be made for union-related busi-

ness expenses; (2) that the employee substantiate each element of the expenditure; and (3) that the employee return any portion of an advance that exceeds the expenses substantiated. As explained below, the "return" requirement is applied in a special way with regard to per diem allowances.

Establishing branch rules on per diem allowances. The tax treatment of per diem allowances can become complex in certain circumstances. To ensure favorable tax treatment and avoid any uncertainties, the branch should set forth in writing its per diem allowance rules in consultation with a tax professional.

Automatic substantiation. If a branch pays an employee an advance per diem allowance to defray the cost of lodging, meals, and incidental expenses on a business trip, the employee generally does not have to provide any further proof of the *amount* of lodging, meal and incidental expenses actually incurred while on official travel.

No detailed, written documentation of the expenses is required. Rather, the "amount" requirement of an Accountable Plan is deemed to be met when the other per diem allowance requirements are met. (The *dates, locations, and business purpose* requirements still must be proven; see "Proof required" below.)

The amount of expense deemed proven in this way, however, cannot be more than the "Federal Per Diem Rate" or the "High Low Rate" described below.

1) I.R.S. rates. The I.R.S. has established two schedules of per diem rates which set the upper limit for the amount of travel expenses

that can be deemed substantiated with a per diem allowance: the Federal Per Diem Rate and the High-Low Rate.

Federal Per Diem Rate. This is the highest amount that the federal government will pay to its employees for lodging, meals, and incidental expenses (or meals and incidental expenses only) while they are traveling away from home in a particular area. This schedule allocates an amount for these expenses for each city or county in the United States. If the branch uses the Federal Per Diem Rate, it must use the particular rate applicable to the location where the employee will stop for sleep.

Set forth at the right are the Federal Per Diem rates for several localities in effect since October 1, 2008. The entire schedule of rates is set forth in I.R.S. Publication 1542, *Per Diem Rates*, and is adjusted periodically.

High-Low Rate. This is a simplified set of rates which divides the United States into two types of locality: high-cost and other localities. A rate of \$256 applies to high-cost localities, such as New York and San Francisco, for the combined daily cost of lodging, meals, and incidental expenses. A daily rate of \$158 applies to all other localities. The list of high-cost localities is set forth in I.R.S. Publication 1542, *Per Diem Rates*. The High-Low Rate is simpler to implement than the Federal Per Diem Rate because there are only two rates from which to choose and the list of high-cost localities is short.

Proof required. The branch need not collect documentation of the amounts of expenses actually incurred. However, as noted above, the employee must provide the branch with general evidence of the *dates, locations, and business*

purpose of the trip within a reasonable time. A hotel receipt, a copy of a round-trip plane ticket, or other, similar documentation should be sufficient.

2) Per Diem Allowance Equal to I.R.S. Rate. There are no tax consequences to the branch if it pays to an employee, pursuant to an Accountable Plan, an advance per diem allowance exactly equal to the applicable “Federal Per Diem Rate” or “High Low Rate” and collects the required proof of the dates, location and business purpose of the trip. When these requirements are satisfied, the per diem allowance satisfies the requirements of an Accountable Plan.

Sample Federal per Diem Rates

(Effective 10/1/2008 - 9/30/2009)

City	Lodging +	Meals and Incidental Expenses =	Maximum Per Diem Rate
New York City	\$285	\$64 =	\$349 (1/1-6/30)
Memphis, TN	\$99	\$49 =	\$148
Los Angeles, CA	\$128	\$64 =	\$192

As to the employee, when these requirements are satisfied he or she reports neither the per diem allowance nor the actual expenses on his or her income tax return, so long as the actual expenses are equal to or less than the per diem allowance. If the employee’s actual expenses are greater than the allowance and provable by appropriate documentation, he or she may be able to deduct the excess expenses. See Section 8 below, “Expenses—Comprehensive Example.”

3) Per Diem Allowance Exceeds I.R.S. Rate. Sometimes a branch may decide to pay

to an employee an advance per diem allowance in an amount greater than the applicable Federal Per Diem Rate or High-Low Rate. For example, the branch might decide, given the realities of lodging costs, to pay a per diem allowance for a trip to New York City in the amount of the Federal Per Diem Rate (\$349) plus \$25, for a total of \$374.

A branch is permitted to establish a per diem allowance in an amount greater than the applicable I.R.S. rate if it reasonably calculates that the excess amount will be necessary for anticipated expenses. The excess portion (\$25 in the example), however, is treated as paid under a Nonaccountable Plan. It is reported as wages on the employee's Form W-2 and is subject to payroll withholding. (In this situation the employee is not required to return the excess \$25 paid for each day of business travel; the usual Accountable Plan requirement—that employees *return* excess expense advances to the branch—does not apply.)

If the employee's *actual* expenses exceed the I.R.S. rate (\$349 in the above example), the employee may report the amount of expenses in excess of the I.R.S. rate on his or her tax return and IRS Form 2106, *Employee Business Expenses*. (See *Publication 529 for more information*.) The employee may *deduct* this excess amount subject to limitations: The portion allowable to meals and entertainment is reduced by 50 percent, and the balance may be deducted only to the extent that it, together with the employee's other miscellaneous expenses, exceeds two percent of the employee's Adjusted Gross Income.

7. Payments Under Nonaccountable Plans

A. Definition. A branch's expense payment arrangements will sometimes fail to qualify as an Accountable Plan (with regard to employees) or an adequate accounting (with regard to non-employees). This will occur if, for example, the branch reimburses expenses that are not substantiated or not related to union business, or the employee is not required to return to the branch any portion of an expense advance or reimbursement that exceeds the amount substantiated.

Nonaccountable expense allowance.

An example of a Nonaccountable Plan for expenses is an expense allowance in a fixed amount that is payable regardless of whether the member actually incurs any union-related expenses. For instance, a branch might pay stewards \$30 per month as an expense allowance, but not require any substantiation of actual expenses incurred.

b. Tax Consequences to the Branch

It depends. The tax consequences to the branch depend on whether the recipient is considered a branch "employee" under I.R.S. rules, and if not, upon the amount paid.

Employee recipients. As noted above, union officers and shop stewards will qualify as employees of their respective branches. Payments made to branch employees under a Nonaccountable Plan must be reported as wages on the employees' Forms W-2 and are subject to withholding of employment taxes in the same manner as salary (see Section B.2 above).

Non-employee recipients. If a non-employee has failed to provide an adequate accounting to the branch of his or her expenditures, the consequences to the branch depend on the aggregate amount paid to that individual during the year.

If total payments to the non-employee are *less than \$600*, the branch need not withhold employment taxes and need not report such payments to the tax authorities. It is a good practice for branches making these unreported payments to advise the recipients to make sure to report the payments on their individual tax returns; see “Tax Consequences to the Individual” below.

If total payments to the non-employee are *\$600 or more*, the branch need not withhold employment taxes but must file a Form 1099-MISC with the I.R.S. and give a copy to the individual. See Section D of this chapter below.

c. Tax Consequences to the Individual

All payments are income to the individual. Regardless of whether the recipient is considered to be a branch employee, and regardless of the amount received, the I.R.S. treats every dollar of a payment under a Nonaccountable Plan or when there has not been adequate accounting as income that must be reported on the recipient's income tax return. Please note that this rule applies equally to payments of less than \$600 made to a non-employee.⁹

Deductibility. However, the individual may be able to deduct some or all of his or her actual union-related business expenses under certain circumstances. How this is done depends on

whether the I.R.S. considers the individual to be an employee of the branch or self-employed as an independent contractor.

An individual considered an employee of the branch may deduct union-related business expenses provided he or she can substantiate the actual expenses with records indicating the *amount, dates, location, and business purpose* of the expenditures. Such deductions must be reported on Form 2106, Employee Business Expenses and carried forward to Form 1040's Schedule A, *Itemized Deductions*, Line 20, Unreimbursed Employee Expenses, as a “miscellaneous” deductible expense. The deductions for meal and entertainment expenses are limited to 50 percent of such expenses, and the total miscellaneous expenses are deductible only to the extent that they exceed 2 percent of Adjusted Gross Income.

If the individual is considered a non-employee (“self-employed” is the I.R.S. term), the deductions may be made on Form 1040's Schedule C, *Profit or Loss from Business*. The non-employee deductions are not subject to the 2 percent of Adjusted Gross Income floor.

8. Expenses—Comprehensive Example

The Franconia, Virginia branch decides to send its president, who is considered a branch employee although she receives no branch salary, to attend a six-day NALC leadership training seminar in Memphis, Tennessee. Pursuant to a written Accountable Plan, the branch decides to provide the president with an advance per diem allowance for lodging, meals, and incidental expenses in the amount of the applicable Federal Per Diem Rate, plus \$26, for

six days. This amount is reasonably calculated not to exceed anticipated expenses. Because the Federal Per Diem Rate for Memphis is \$148, the amount of the per diem allowance is \$174 per day, or \$1044 for six days.

Also pursuant to the branch's Accountable Plan, the Franconia branch provides the president with an advance travel allowance of \$600 to pay for round-trip airline fare between Franconia and Memphis.

The president pays \$500 for her airline ticket. Due to illness, she is able to attend the training seminar for only four days. For each of these days, she actually spends \$140 on lodging, meals and incidental expenses.

The advance travel allowance for air transportation of \$600 is governed by the regular Accountable Plan rules described in Section B.5 above, rather than by the per diem allowance rules described in Section B.6. The president must provide documentation to the branch within 30 days after returning¹⁰ to substantiate the following four elements of the trip: *amount* of expenditure (\$500), *dates* of travel, *location* of travel (Memphis) and *business purpose* for the travel (to attend NALC educational session). The president also must return to the branch the \$100 excess of the advance over the ticket's cost within 30 days after completing the travel.¹¹ If these requirements are met there are no tax consequences to the branch or to the president regarding the advance for air fare.

Regarding the advance per diem allowance in the amount of \$1,044, the president is entitled to the simplified record-keeping rules governing per diem allowances. Under the Accountable Plan's requirement to return excess allow-

ances, the president must return to the branch \$348 for the two days of the seminar which she was unable to attend.

As for the four days of attendance, the president is relieved from proving the *amount* of her daily expenses to the branch *up to the amount* of the Federal Per Diem Rate of \$148. The president, however, must provide records to the branch which prove the *dates, locations, and business purpose* of the trip. (The president has already provided this information in connection with the substantiation of the air ticket expense.)

The portion of the per diem allowance equal to the Federal Per Diem Rate of \$148 is treated as paid under an Accountable Plan and causes no tax consequences to either the branch or the president. By the same token, the president cannot claim on her income tax return any deduction for her expenses up to the amount of the Federal Per Diem Rate for the four days of attendance ($\$148 \times 4 = \592).

The president is not required to return to the branch the excess of the actual per diem allowance over the Federal Per Diem Rate for the four days of attendance ($\$26 \times 4 = \104). However, the \$104 is treated as paid under a Nonaccountable Plan, and thus has tax consequences to both the branch and the president. The branch must reported it as wages on the president's Form W-2 and the payment is subject to payroll withholding. The president must include the \$104 excess in income.

On each day of the training seminar the president actually spent \$160, which is \$12 more than the applicable Federal Per Diem Rate of \$148. If the president has sufficient records to

substantiate the amount, dates, location, and business purpose of her expenditure of \$160 on each of the four days, she may deduct a portion of the excess \$48 (\$12 X 4) amount on her income tax return. In this way the president will reduce the tax on the excess per diem allowance (\$104) that she is required to include in income.

The president's deduction of the \$48 excess expenses is limited. First, the portion of the \$48 spent on meals or entertainment is reduced by 50 percent. Second, the balance is subject to the 2 percent floor on miscellaneous itemized deductions.

C. PAYMENTS OF \$600 OR MORE TO NON-EMPLOYEES: FORM 1099-MISC

Branches must issue a Form 1099-MISC (Miscellaneous) to an individual, and report to the I.R.S. all such forms issued, in two main circumstances. The first is where the branch makes a payment under a Non-accountable Plan to a member who is not considered an employee under I.R.S. tax rules. (See the material in Section B of this chapter for more information.)

The second situation involves a branch payment to somebody who is not a member, for services rendered to the branch. Examples include payments of branch rent to an individual landlord for the branch office, payments to a carpenter to build cabinets in the branch office, or payments to a computer programmer to set up the branch's membership database. The 1099-MISC must be issued only for services rendered, and

not when payments are made to purchase goods.

\$600 or more. The Form 1099-MISC must be issued only when total payments to the individual are \$600 or more during the tax year. Copies of a branch's Forms 1099-MISC must be gathered and filed with the I.R.S. together with a Form 1096, *Annual Summary and Transmittal of U.S. Information Returns*, annually by March 1.

D. RETURN OF ORGANIZATION EXEMPT FROM INCOME TAX: FORM 990

1. Who Must File

All branches, even those receiving no income and having no assets must file some type of Form 990.

2. Which Form Must Be Filed

In late 2008, the IRS changed the gross receipt and total asset amounts defining which Form 990 an organization must file. In addition, these amounts will change over the next two years so it is important that NALC branches check the IRS website at www.irs.gov to ensure the branch is filing the appropriate Form. As this guide went to print, the following limits define which Form 990 a branch should file for the 2008 tax year:

a. Form 990-N (also known as the e-Postcard): Branches with gross receipts normally equal to or less than \$25,000.

b. Form 990EZ: The branch may file the 990EZ (rather than the more complicated 990) if its gross receipts during the year are more than \$25,000, but less than \$1 million and its total assets at the end of the year are less than \$2.5 million.

c. Form 990: A branch must file the longer Form 990 for 2008, if its gross receipts are \$1 million or more or if its assets at the end of the year are \$2.5 million or more. (Filing requirements for 2009 and after are different.)

If a branch receives the wrong Form from the IRS, the form must be partially completed and returned to the I.R.S. in order to remove the branch from the I.R.S. mailing list and to avoid follow-up inquiries. See the instructions on the form.

For a more detailed explanation, study the Form 990, Form 990EZ, or Form 990-N instructions. As noted in Section B.2.b above, a branch must list salary expense, including payroll taxes that it paid, and reimbursements made to members for union-related business expenses. If more help is needed the branch should obtain professional advice from an accountant, tax advisor or the Internal Revenue Service.

3. Time of Filing

The Form 990, 990EZ, or 990-N must be filed by the 15th day of the fifth month after the branch's annual accounting period (fiscal year) ends. For branches that use a calendar year accounting period, the deadline is May 15th. (Extensions are available if properly and timely filed.)

4. Penalties

A penalty of \$10 per day, up to a total of \$5,000, may be charged if the Form 990 is filed late or if an incomplete return is submitted. There also are penalties—fines and imprisonment—for willfully failing to file and for filing fraudulent returns and statements.

E. EXEMPT ORGANIZATION BUSINESS INCOME TAX RETURN: FORM 990-T

Certain types of branch income are not exempt from income tax, regardless of the branch's status as a "tax-exempt organization." The Internal Revenue Code requires branches with "unrelated business income" of \$1,000 or more for the year to file a tax return-Form 990-T, *Exempt Organization Business Income Tax Return*—and pay any tax due.

1. What is "Unrelated Business Income"?

Generally, "unrelated business income" of a branch is income from:

- a. A business (generally, a money-making activity)
- b. Regularly carried on, which is
- c. Unrelated to the branch's "exempt purposes." (Generally, a branch's tax-exempt purposes include such things as organizing, representation, education of union members, fraternal activities, etc.)

A more precise definition and instructions for calculating the amount of unrelated business income are contained in federal tax law and regulations, and in I.R.S. Publication 598, *Tax on*

Unrelated Business Income of Exempt Organizations, available free from the I.R.S. Unfortunately, this material is complicated and not easily summarized.

However, we can offer here some very basic guidelines on what *is* income from an “unrelated trade or business” of a branch. For more information branches should obtain professional tax advice.

Not taxable. The following items are generally not considered “unrelated business income” of branches, and thus do not constitute taxable income which must be reported on the Form 990-T:

- a. Union dues, assessments, initiation or reinstatement fees, and fines;
- b. Interest or dividend income earned from branch savings or other accounts or from other investments of branch funds.

Taxable. On the other hand, the items below *may* be considered “unrelated business income,” and are therefore reportable on the Form 990-T and taxable if the branch has

income of \$1,000 or more from these sources:

- a. The excess of advertising income from a branch publication over the cost of the publication;
- b. Rental income from “debt-financed property,” such as a branch-owned building subject to a mortgage.

2. Time of Filing

The Form 990-T must be filed by the 15th day of the fifth month after the branch’s annual accounting period (fiscal year) ends. For branches that use a calendar year accounting period, the deadline is May 15th. A branch subject to tax for “unrelated business income” is also required to make quarterly estimated tax payments.

3. Penalties

There are penalties for late filing of the Form 990-T and late payment of tax on “unrelated business income.” In addition, interest is charged on taxes paid after their due date.

¹ NALC, its state associations and branches are considered tax-exempt organizations under Section 501(c)(5) of the federal tax law, the Internal Revenue Code.

² See Chapter 1 for a discussion of branch officers' fiduciary duties under federal labor law.

³ Branches may choose which types of payments they wish to make to -officers, stewards, or other members, as long as all payments are properly authorized by the members-through the by-laws or through votes in membership meetings. So, for example, a branch may choose whether to pay its president salary, lost time or reimbursed expenses (or some combination of these). The branch by-laws or other official branch documents, such as a motion or resolution recorded in the minutes, must state clearly what type of payment is being authorized. The Internal Revenue Service probably will rule that a payment is wages (same as salary) unless it is authorized in writing as another type of payment.

⁴ Although there are no consequences in terms of *liability for payment of taxes*, branches must report payments of salary and expenses to union officers and employees; see section D of this chapter below. In addition, branches must report salary and expense payments to their officers and employees on the annual financial report to the U.S. Department of Labor-the Form LM-2, LM-3 or LM-4. See Chapter 3 for more information.

⁵ These rules must be followed in order to satisfy I.R.S. rules and also avoid the treatment of expense advances as reportable *loans* under the Labor-Management Reporting and Disclosure Act (LMRDA).

I.R.S. rules require an advance for expenses to be made within a reasonable time—generally 30 days—before the expenses are expected to be paid or incurred. Under the LMRDA, an advance for expenses is considered to be a reportable loan unless: (1) the amount of the advance does not exceed the reasonably anticipated expenses of official travel to take place in the near future, and (2) the amount of the advance is fully repaid or fully accounted for by vouchers or paid receipts with-

in 30 days after the completion or cancellation of the travel. See the U.S. Department of Labor instructions for Form LM-2 or Form LM-3. (Within certain guidelines, a union also may avoid reporting as loans “standing advances” made to union officers or employees who must travel frequently on union business.) See Chapter 3 for more information about reporting to the U.S. Department of Labor.

⁶ An expense advance for business travel must be fully repaid or substantiated with documentation within 30 days after the travel is completed or canceled in order to avoid treatment as a reportable *loan* on the branch's annual financial report to the U.S. Department of Labor. See note 5 above.

⁷ Although a “reasonable time” under I.R.S. rules generally means within 120 days after payment of the expense, see notes 5 and 6 above.

⁸ See I.R.S. Publication 463, *Travel, Entertainment, Gift, and Car Expenses*, for guidance concerning deductible business trip, local transportation and entertainment expenses, and for a good explanation of Accountable Plans. This and other publications setting forth rules on deductible business expenses are available at www.irs.gov.

⁹ Non-employee recipients of branch expense payments under a Nonaccountable Plan should avoid the trap of failing to report such income—even though the amount may be less than \$600 and so not reported on a Form 1099-MISC from the branch. It is each citizen's responsibility to comply with the tax laws; moreover, the I.R.S. has ways to catch and punish violators. The consequences may be severe—for both an individual who has evaded taxes and for the reputation of the local union.

¹⁰ Although 60 days after the ticket's purchase is the usual I.R.S. rule, see note 5 above.

¹¹ Although the I.R.S. rules provide that the excess must be returned within 120 days of the purchase, see note 5 above.

Chapter 5

Bonding

Requirements

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A. BONDING—A SPECIAL TYPE OF INSURANCE, REQUIRED BY LAW

Bonding is a type of insurance policy that insures an organization against financial loss caused by the persons who are “bonded.” The insurance policy is called a “bond”—often a “surety bond” or “fidelity bond.” When a loss covered by the bond occurs, the bonding company reimburses the union.

Federal labor law requires bonding, to protect unions from financial losses caused by “fraudulent or dishonest acts” of union officers or employees—for example, embezzlement, forgery or theft.

The Labor-Management Reporting and Disclosure Act (LMRDA) establishes specific bonding requirements which apply to officers, other officials and employees of NALC branches. This chapter briefly explains those requirements. For more information see the OLMS website at <http://www.dol.gov>, under Compliance Assistance, unions and union Members, Financial Reporting and Fiscal Controls, Compliance Assistance Materials, Bonding Requirements under the LMRDA. The requirement of bonding is based on experience: When many people are entrusted with money or property belonging to others, occasionally an individual will cause a loss through either fraud or dishonesty. While this may happen very rarely within NALC, it is a good practice to insure against such risks. Organizations of all types—businesses and governments as well as unions—commonly protect their money and other property by bonding their officers and employees.

B. HOW TO OBTAIN BONDING

Under the LMRDA, bonding must be obtained from a company approved by the Secretary of the Treasury. A list of approved companies is available from OLMS or online at the Department of the Treasury's website at <http://www.fms.treas.gov/C570>.

A fidelity bond from an approved company may be obtained through many insurance agents and brokers. However, some insurance companies may be reluctant to write a fidelity bond for a small amount or covering only a few persons. The branch may have better luck obtaining reasonably-priced coverage through an approved insurance company with which it regularly does other insurance business.

Headquarters assistance: If your branch has trouble obtaining a bonding policy, you may contact the office of NALC's national Secretary-Treasurer. NALC's own officers and employees are bonded, and upon request headquarters will have NALC's bonding company send the branch an application. When the completed application is accepted, the insurance company will bill the branch directly.

C. WHO MUST BE BONDED?

Every officer, agent, shop steward, and other representative and employee of a branch who *handles funds or other property* of a branch (or of a covered trust¹) must be bonded, if the branch has *property and annual receipts exceeding \$5,000*. An official of such a branch who is not

bonded may not handle branch funds or property. The definitions below explain these requirements.

“Handling:” Branch officials and employees who “handle” funds or other property of the branch include not only those who physically handle money or checks, etc., but also those who have access to, supervision, authority or control over, or custody of funds or other property. In general, an individual is considered to be handling branch funds or other property if the branch could suffer a loss in the event the individual performed his or her duties fraudulently or dishonestly. The loss could be caused by the individual acting alone or with others.

Typically, those branch officers “handling funds” include at least the following: President, Vice-President, Recording Secretary, Financial Secretary, Treasurer and Trustees. In many branches stewards handle raffle tickets or other means of “funds” and thus should be bonded as well.

“Funds or other property:” Generally this means cash, bank accounts, checks, bills and notes, government obligations, marketable securities—plus any other branch property that is held for possible conversion into cash or for similar purposes making it substantially equivalent to “funds.”

Branch property of a relatively permanent nature, such as land, buildings, and office furniture and equipment, is not considered “funds or other property” for the purposes of bonding.

“Property and annual receipts exceeding \$5,000:” The bonding requirement does not apply to branches whose property and annual receipts have less than \$5,000 in value. To determine the amount of “property and annual receipts” for your branch, use the “Bonding Computation Worksheet” at the end of this chapter. The LMRDA’s bonding requirements apply only if Line 7 is more than \$5,000.

D. WHAT AMOUNT OF BONDING IS REQUIRED?

A bond, like any insurance policy, has a maximum recovery amount. That amount must be, for each individual covered by the LMRDA’s bonding requirements, equal to at least 10 percent of the funds handled by the individual and his or her predecessor, if any, during the branch’s preceding fiscal year. If there was no preceding fiscal year, the bond must be at least \$1,000 for each covered branch official or employee.

A quick formula for computing the approximate amount of required bonding coverage is:

$$\begin{aligned} & \text{Liquid Assets + Total Receipts} \\ & \quad \times 10\% \text{ equals} \\ & \text{Amount of Coverage Required} \end{aligned}$$

For more detailed information see the Bonding Computation Worksheet at the end of this chapter.

The branch should compute its necessary bonding coverage at the start of each fiscal year and promptly obtain any increase that is necessary. Any lapse of adequate coverage is a violation of the LMRDA.

E. REPORTING OF BONDING INFORMATION

A union filing an annual financial report (LM-2, -3 or -4) must indicate on the report whether it was insured by a bond during the annual reporting period and, if so, state the maximum amount recoverable for loss caused by any person.

The union also must indicate whether it discovered any loss or shortage of funds or other property during the reporting period. If so, it must describe the loss or shortage in detail by explaining what was lost, how it was lost and to what extent, if any, there was any recovery through bonding or other means.

F. RECORD-KEEPING REQUIREMENT

The LMRDA requires branches to keep records on any matters reported to the Labor Department for at least five years after reports are filed. Because bonding is reported on the Form LM-2, LM-3 or LM-4, records of bonds are covered by this requirement. For more information on branch record-keeping see Chapter 6.

G. ENFORCEMENT AND PENALTIES

Willful violations of the LMRDA's bonding requirements are punishable by fines of up to \$10,000, imprisonment for up to one year, or both.

¹ According to the Department of Labor, a trust in which a labor organization is interested is defined as any trust or other fund or organization which meets the following two conditions:

- (1) One of its primary purposes is to provide benefits for union members or their beneficiaries; and
- (2) A union created it or selected one or more of its trustees or members of its governing body.

This definition, for example, covers funds for accident insurance, vacations, death benefits, apprenticeship and training, scholarships, childcare, and legal services.

The definition of a trust also covers pension funds and health and welfare funds. However, if these funds are subject to the bonding provisions of the Employee Retirement Income Security Act of 1974 (ERISA), no additional bonding is required under the LMRDA.

Appendix: Bonding Computation Worksheet

To determine the amount of funds handled during the last completed fiscal year and the amount of bonding required, complete the following bonding computation worksheet.

Note that the LMRDA's bonding requirements apply only if the amount on Line 7 exceeds \$5,000.

1. Liquid Assets as of start of fiscal year (date) _____:		
A. Cash on hand and in banks	\$ _____	
B. Accounts Receivable	\$ _____	
C. Loans Receivable	\$ _____	
D. U.S. Treasury securities (market value)	\$ _____	
E. Other investments (market value)	\$ _____	
F. Other liquid assets	\$ _____	
2. Total Liquid Assets (Total of Lines A through F)		\$ _____
3. Receipts during the fiscal year ended (date)		\$ _____
4. Total Liquid Assets plus Receipts (Line 2 plus Line 3)		\$ _____
5. Deduct:		
Receipts included in Line 3 which resulted from converting Liquid Assets held at the beginning of the year into cash and from additional rollovers of securities:		
A. Payments on accounts receivable	\$ _____	
B. Payments on loans receivable	\$ _____	
C. Sales of U.S. Treasury securities	\$ _____	
D. Payments on mortgage investments	\$ _____	
E. Sales of other investments	\$ _____	
F. Sales of other assets	\$ _____	
G. Additional rollovers of securities	\$ _____	
6. Total Deductions (Total of Lines A through G)		\$ _____
7. Total Funds Handled During Last Completed Fiscal Year (Line 4 minus Line 6)		\$ _____
8. Amount of Bonding Required:		
A. For each person having access to receipts only: 10 percent of Line 3		\$ _____
B. For each person having access to receipts and liquid assets: 10 percent of Line 7		\$ _____

Chapter 6

Record Keeping

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INTRODUCTION

Every branch needs a good system for filing, maintaining and eventually disposing of records. A branch accumulates, in the course of its activities, a variety of records that document its operations. Branch officers need to maintain a useful, reliable system for managing those paper and electronic records, so they can carry out the union's necessary work.

This chapter suggests basic strategies to help branch officers perform their record-keeping responsibilities, which include:

- Maintaining branch records and turning them over to successors;
- Establishing concrete retention periods for different kinds of branch records;
- Setting up a logical, workable branch filing system;
- Managing electronic records.
- Storing and preserving long-term or permanent records;
- Disposing of out-dated materials.

A. OFFICERS' RESPONSIBILITIES FOR BRANCH RECORDS

Branch officers' record-keeping responsibilities are defined by federal laws, by the NALC Constitution, and by the needs of the particular branch.

Federal laws require branches to keep certain records. The most significant is the Labor-Management Reporting and Disclosure Act (LMRDA) [<http://www.dol.gov/esa/olms/regs/statutes/lmrda-act.htm>] which requires branches to keep records supporting information reported to the U.S. Department of Labor on Forms LM-1, LM-2, LM-3 and LM-4.¹ Federal tax laws also contain certain records retention requirements.

The NALC Constitution requires the branch to keep various membership, meeting, and financial accountability records. Article 6 of the NALC Constitution for the Government of Subordinate and Federal Branches outlines these record-keeping duties of branch officers. It also requires branch administrative officers to deliver to their successors in office all books, papers and property in their possession belonging to the branch.

Branch operational needs are the final important reason for each branch to maintain orderly paper and electronic records beyond those specifically required by federal law or the NALC Constitution. Officers should maintain these additional records in accordance with the branch's particular needs. The branch may also want to retain and preserve photographs, records, and documents which are, or will become, historically significant (such as the original branch charter or photographs of branch officers and activities).

¹ For more information on the LMRDA's record-keeping requirements, see Chapter 3, Reporting to the U.S. Department of Labor.

B. RETENTION OF RECORDS

Deciding how long to keep branch records is an important part of records management. To help branch officers determine how long to preserve different types of records, NALC's national office has developed a retention schedule, which appears on page 6-6. Specific legal requirements are identified in the "Notes" column; the other retention periods are recommendations.

The retention schedule reflects the fact that the proper retention period depends on the type of record. Federal laws dictate that financial and election records be kept for certain periods of time. Other records, such as branch meeting minutes or branch newspapers, have historical or research value and should be kept permanently. Routine correspondence, on the other hand, typically has a much shorter useful life.

For some records, no hard-and-fast rules dictate how long the branch should keep them. Rather, the responsible financial and administrative officers should use their best judgment. If unsure, they can always consult the Director of the Information Center, who handles the union's records management program.

C. THE BRANCH FILING SYSTEM

To operate efficiently, every branch needs to create and spend time maintaining a good filing system for both their paper and electronic records. The branch filing system should do three things:

- Classify and arrange records so that branch officials can retrieve information quickly and easily;
- Be logical enough to enable new officers or staff to retrieve information easily when there is turnover in the branch; and
- Enable branch officials to easily identify and dispose of inactive records.

1. Overall filing plan. Overall filing plan. A branch filing system should have an overall organizational plan. The plan suggested in the retention schedule groups files into these main categories:

- General Branch Files
- Correspondence
- Membership Records
- Grievance and Related Records
- Financial Records

2. Filing methods. Branch officials will have an easier time finding papers if the branch office uses a combination of the following common filing methods:

a. Subject Filing: Classify files by subject and arrange the subject files in alphabetical order. If a letter, report or other document refers to more than one subject, put cross-reference sheets or separate copies under the other topics covered. File the branch president's and other officers' general correspondence by subject.

b. Name Filing: File membership records, for instance, alphabetically by the member's last name and where last names are the same, alphabetically by first name. Use cross-referenc-

ing to locate members whose names have changed due to marriage, divorce, etc.

c. Numerical Filing: Use this system to file records which are numbered, such as canceled checks, receipts, grievance or OWCP case files, and warrants.

d. Chronological Filing: Keep a master Chron File of all outgoing branch correspondence and/or memos, in date order with the most recent documents in the front of the file. A Chron file can help branch officials locate a specific document quickly, and also serves as a useful backup in case important papers cannot be found in a particular subject file.

3. Filing hints (paper): The following filing hints will help keep branch files lean and well organized:

- **Frequency of filing:** File records on a regular schedule to avoid backlogs and make it easy to retrieve recent documents.

- **Folder labels:** Put main headings in capital letters on each folder tab. Include dates—e.g., 2008, 2009—to facilitate location of particular items and later disposal of files. Color coding is always helpful.

- **File folders:** Place most recent letters, etc. in the front of the folder. Do not over stuff file folders; when one is full, sub-divide materials by date or topic.

- **File drawers:** Each file drawer should have a label describing its contents. Leave sufficient space in each drawer (about one-fifth of the drawer) for expansion, so you don't need to keep shifting folders as files get full.

Do not file:

- Magazines, journals, or books;

- Multiple copies of documents in one file;

- Routine materials with no lasting usefulness such as form letters, simple requests for publications, etc.; or

- Envelopes of incoming correspondence unless they have necessary information not contained in the letter.

Inactive Files: Retire non-current files to a separate storage location. Move the entire group of each type of record together and replace it with a new set of file folders. Be sure to keep a record of what's been stored and where.

4. Filing hints (electronic): Branches need to pay as much attention to organizing the files on their computer as they do to the files in their filing cabinets.

- **Organization:** To help locate the computer copy of that document in your filing drawer, make your digital files parallel your paper filing system. Use electronic folders to keep track of files on a particular topic or from a specific year — don't just stick everything in "My Documents."

- **Labeling:** Give your documents (files) an easily understood name—one that will enable other branch officers to access needed files quickly. Include the date in the file name.

- **Paper copies:** In many cases it still makes sense to print electronic documents or e-mail,

especially when they are needed for long-term preservation. Always have a paper copy of vital records.

Back Up Data: Every hard drive crashes, sooner or later. The only way to prevent a disaster is to establish a reliable backup routine for your essential computer records.

It is crucial to back up large data sets that would be difficult to recreate (such as membership records), expensive program software, and data which cannot be translated easily into paper form. Even daily work should be backed up frequently to prevent loss from a disk crash, computer virus, static electricity, power surge, etc.

Defend Your Computer From Attack:

Every branch computer should be running an antivirus and antispyware program full-time. Be meticulous about keeping it current with the latest updates. Windows® users in particular should be aware that hackers often exploit recently-discovered software vulnerabilities, so it is important to stay current with all Microsoft updates.

Inactive Files: Keep your hard disk clean. Do not clutter computer directories with files which are no longer needed. Erase outdated files or transfer them to CD or other media for storage.

D. STORING RECORDS

As file drawers become full, remove older materials and store them in a separate, yet accessible location. If you refer to a file less than once in six months, transfer it to a storage container

to free up prime space in your office filing cabinets.

Place the removed files in labeled records storage boxes. Store the boxes where they are not in the way, but are easy to retrieve if necessary. Documents will stay in better shape if the storage location is cool and dark (like a closet), with moderate humidity. Avoid basements, which can be damp, and attics, which are often hot and dry. Never place boxes directly on damp floors, near leaky walls or in direct sunlight.

The branch should pay special attention to those records it intends to retain permanently due to their vital or historic nature. Remove paper clips, staples and rubber bands from these documents before storing them, to prevent damage from rust or disintegrated rubber. Acid-free folders will extend the life of fragile documents.

Storing electronic records can pose special challenges. The same warnings regarding heat and humidity apply to storing disks as to storing paper documents. To prevent warping, disks should always be stored upright, not laying flat in the bottom of a box. Invest in high-quality CDs. While all electronic storage media have limited shelf lives, the cheaper the disk, the faster the data saved on it will deteriorate. If opting to store your data on a USB flash drive, always start with a new one.

Keep an inventory of what material is stored on each disk. And remember it doesn't do any good to have your data stored if you can't access it. New releases of software aren't always backwards compatible, so you'll need to check your stored computer files whenever

your office is getting ready to upgrade its computers. Otherwise, you may be unable to access data saved in older versions of your software.

Vital records are a special category of documents which every branch must take particular care to safeguard. This category includes documents being saved primarily for legal or evidentiary value, as well as those items that the branch would need to resume operations in the event of a disaster. Records which fall into this category include:

- Deeds
- Insurance policies
- Bank account information
- Membership rosters or data files
- Financial records
- Names/addresses/telephone numbers/e-mail addresses of officers and staff members.

Protect these documents by placing them in an off-site storage location such as a bank vault or other fireproof, high-security storage facility.

E. DISPOSING OF RECORDS

Branch officers have a responsibility to not only maintain the records of the union, but also to dispose of outdated materials properly. When branch records, whether paper or electronic, have reached the end of their set retention period (see chart on page 6-6) and are no longer needed by the branch, they should be destroyed.

Many routine items such as meeting notices, simple conveyance letters or publicity for branch events can simply be thrown away. All financial documents (including financial work-

sheets, expense sheets or bills and receipts containing credit card numbers) or papers containing personal information on branch members (such as social security numbers, addresses, telephone numbers, and medical conditions) should be shredded or burned completely. Low cost, cross-cut shredders are widely available. Branches which have a large number of documents to destroy may want to contact a local company specializing in document destruction. This can be done on a one-time basis or once a year.

These strictures don't apply only to paper documents. The same principle applies to branch computers and any other discarded media containing private branch financial or membership data. Old floppy disks and other removable disks can be erased completely by special software or destroyed. Likewise, CDs and DVDs can be shattered or run through a CD shredder. Thumb-drives should be smashed.

Before selling, giving away or donating an old branch computer, all branch information should be removed. Otherwise all of the branch files will still be present on the machine for the next computer user. Deleting files does not remove their underlying data from the hard drive. Low-cost software or various Internet sites can provide the latest information on safely and permanently clearing branch files off the hard drive.

Proper disposal of old records helps protect the branch, its officers and members from problems—legal or political—that could arise if discarded papers were to be picked up and misused.

RETENTION SCHEDULE FOR BRANCH RECORDS

Type of Record	Retention Period	Notes
General Branch Files		
By-Laws and Amendments	Permanent	
Local Memoranda of Understanding	Permanent	
Minutes of Meetings (branch and executive board)	Permanent	LMRDA [29 USC 436] requires that minutes be retained for 5 years, since they record authorization for branch expenditures. NALC recommends that they be kept permanently, for historical and research purposes.
Branch history documentation	Permanent (if the branch has a historical collection)	Includes such things as photographs, videos, buttons, uniform items, posters, and news clippings of significant branch events.
Branch publications	Permanent	Retain an annual back-up of website (more frequently if major changes are made).
Subject Files	3 years	Includes community activities, political information and other items monitored by branch.
Election Records	1 year	LMRDA [29 USC 481(e)] requires that election records and all related materials be kept for 1 year
Correspondence		
General	3 years	Recommendation for routine correspondence; important items should be kept as long as needed.
Membership	3 years	Recommendation for routine correspondence; important items should be kept as long as needed.
Financial	5 years	LMRDA [29 USC 436] requires that records supporting DOL filings (LM-1, LM-2, LM-3 and LM-4) be kept for 5 years after year of filing.
Membership		
Dues Deduction forms	3 years	
Data re: dues deduction	Permanent	NALC policy: Keep a list of all members who sign a Form 1187; include the "date of delivery to employer" from each form. Keep a list of all members who sign a Form 1189; include the date each form was signed. If applicable, note date dues deductions stop.

RETENTION SCHEDULE FOR BRANCH RECORDS (continued)

Type of Record	Retention Period	Notes
Grievances and Related Records		
EEO Case Files [full files]	5 years*	CAU policy.
Moving Papers only	7 years*	CAU policy.
Grievance Case Files [full files]	5 years*	CAU policy.
Moving Papers only	7 years*	CAU policy.
Merit System Protection Board Case Files [full files]	5 years*	CAU policy.
Moving Papers only	7 years*	CAU policy.
Workers' Compensation Case Files	5 years*	If branch handles workers compensation cases for its members.
	*after case is completed	
Financial Records		
Branch books	Permanent	Includes cash journals, equipment records, etc.
Financial Statements and Reports	Permanent	Annual reports after satisfying LMRDA requirement that records supporting DOL filings (LM-1, LM-2, LM-3 and LM-4) be kept for 5 years after year of filing.
Officers' bonds	Permanent	
Direct-Pay Per Capita Tax Rosters	5 years	LMRDA [29 USC 436] requires that records supporting DOL filings (LM-1, LM-2, LM-3 and LM-4) be kept for 5 years after year of filing.
Dues Reimbursement Listings	5 years	LMRDA [29 USC 436] requires that records supporting DOL filings (LM-1, LM-2, LM-3 and LM-4) be kept for 5 years after year of filing.
IRS returns and forms	5 years	Federal tax law mandates that tax records be kept at least 3 years [29 CFR 1600-1]. Since some IRS records support DOL filings, all should be kept for the 5 years required under LMRDA.
Labor Department Reports	5 years	LMRDA [29 USC 436] requires that filings and their supporting documentation be kept for 5 years after year of filing.
Members' dues payment records	5 years	LMRDA [29 USC 436] requires that supporting documentation for DOL filings be kept for 5 years after year of filing.