SUBJECTS

- Department C&B Requirements
- IRS Form 990
- Questions & Answer
Department Constitution

- Article III, Section 4 Post is Judge of Qualifications
- Article IV Sections 2 – Department Convention Votes
- Article VII – Sections 1 & 2 Bonds & Audits
- Article IX – Sections 1 & 2 Charter
- Article X – Discipline of Post
- Article XII – Section 4 Dues
ARTICLE III - POST IS JUDGE OF QUALIFICATIONS

Section 4.

“Each Post shall be the judge of the qualifications of its members, provided such members are eligible for membership in the American Legion, and each post may set such other reasonable and lawful standards of qualification for membership as it may determine”
ARTICLE III - POST IS JUDGE OF QUALIFICATIONS

- What does this mean?
  - Post needs to ensure that members are eligible to be a member of the American Legion.
    - Verify Eligibility Dates
    - Verify Type of Discharge

- How?
  - View DD-214 or discharge documents
  - Member signs Membership Application certifying that he/she is eligible
ARTICLE VIII – DEPARTMENT CONVENTIONS

Section 2. Votes

• “In the Department Convention, each Post shall be entitled to two votes and to an additional votes for each fifty members whose annual dues have been received by the Department Headquarters 15 days prior to the opening of said convention; but no Post shall be entitled to representation in the convention which shall not have so paid Department and National dues for at least 15 members...”
ARTICLE VIII – DEPARTMENT CONVENTIONS

What does this mean?
- Each Post will receive in the mail, the Department Convention Call that announces the dates, time, and location of the Department Convention.

What must the Post do?
- Complete the Credentials Paperwork and send to Department HQs
- Provide Green Delegate Cards to Members who are attending Department Convention
- Members turn in Delegate Cards to Hqs Office at Department Convention
ARTICLE VII – BONDS

Section 1.

“All officers of the Department, District, Post and/or other American Legion entities, thereof, entrusted with actual funds or control of funds through the power of office held or contracted services or any other means of legion funds distribution, shall be required to give bond with surety in accordance with the National Bylaws.”
What does this mean?

- To protect the members money, the bonding of people handling it, is an important safeguard.
- Protects the members in case someone handling the money does not handle it appropriately.
ARTICLE VII – BONDS

- Section 1. (Continued)
  - “The post commander shall appoint a 3 person audit team comprised of general members of the post to conduct an annual post finance audit to be completed before June 30th of each year and before new officers take office.”
ARTICLE VII – BONDS

- What does this mean?
  - Checks and Balances to protect members money!
  - Do it before the outgoing leaders change over so the new leaders start fresh.
ARTICLE VII – BONDS

- Section 2.
  - “The Department shall, should it be deemed advisable, detail special auditors under the supervision of the Judge Advocate or representative to conduct a Post audit. Usually prompted by written complaints of the officers and/or members of the post to the Department Adjutant. The complaint will be forwarded to the Judge Advocate for investigation. Failure of a Post to cooperate with the investigation or audit will cause for immediate DEC approved charter suspension.”
ARTICLE VII – BONDS

What does this mean?

• If you don’t follow the rules and someone complains in writing to the Dept Adjutant, Department will investigate!

• Each Post is autonomous as long as Posts follow the rules, If you don’t Department has the authority to come in and protect the members.
ARTICLE IX - POSTS

Section 1. Charter

“The smallest administrative unit of the American Legion of the Department shall be termed the “Post” which shall have a minimum of fifteen (15) paid-up members. No Post shall be received into this organization until it shall have received a charter.”
ARTICLE IX - POSTS

What does this mean?

- Posts must have a minimum of 15 members in order to maintain their Charter.
- Also known as “Charter Strength”
ARTICLE IX - POSTS

Section 1. Charter (Continued)

- “In order for the post to be presented their permanent charters, the post MUST BE incorporated and have a post constitution and by-laws in place.”
What does this mean?

- All Virginia Posts must have adopted a Constitution & By-laws to govern how they will operate.
- Any changes to the Post C&B must be sent to Dept HQs for review to ensure they do not conflict with Department and National C&Bs.
- Department HQ’s maintain a file copy.
What does this mean? (Continued)

- All Virginia Posts must be incorporated with the State Corporation Commission and maintain it for the life of the Post!

How can I check to see if my post is incorporated?

- Visit the Virginia State Corporation Website – Business Entity Search
- https://www.scc.virginia.gov/
ARTICLE IX - POSTS

- Section 2.

  “All Department of Virginia Posts, except 141, shall be incorporated under the Virginia State Corporation Commission and maintain that incorporation as long as the post charter is retained. Failure to do so will result in immediate and automatic suspension of the Post Charter until incorporation is complete.”
Alert to corporations regarding unsolicited mailings from VIRGINIA COUNCIL FOR CORPORATIONS is available from the Bulletin Archive link of the Clerk’s Office website.
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<thead>
<tr>
<th>SCC ID</th>
<th>Business Entity Name</th>
<th>Entity Type</th>
<th>Status</th>
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<td>HASSLER-SUTPHIN POST NO. 166, AMERICAN LEGION, INC.</td>
<td>Corporation</td>
<td>Active</td>
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<td>01224690</td>
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<td>02290757</td>
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<td>07458441</td>
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<td>Corporation</td>
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<td>07581655</td>
<td>GENERAL MACARTHUR MEMORIAL POST AUXILIARY TO POST NO 392, AUXILIARY TO THE VETERANS</td>
<td>Corporation</td>
<td>Active</td>
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</table>
ARTICLE IX - POSTS
Incorporation Requirements

- Pay Incorporation fee: $75 for initial and $25 for annual renewal
- Articles of Incorporation and Incorporation Bylaws
- Corporation must have an annual meeting to elect officers
- Annual report must be filed with the State Corporation Commission.
ARTICLE IX - POSTS

Terminology:

- Active – Current Incorporation
- Terminated: Have not paid annual renewal fee or completed documentation requirements. Can be reinstated – if less than 5 years.
- Purged: Removed from the system after 5 years
ARTICLE IX - POSTS

Section 2. (Continued)

- The incorporation of the post shall include Articles of Incorporation and Incorporation Bylaws. These documents will reflect the major decisions affecting the post property and/or assets must be made by a 2/3 majority vote of the incorporation membership present at the meeting plus proxy votes comprised of the American Legion members of the post.”
ARTICLE IX - POSTS

Section 2. (Continued)

• “The vote affecting post assets/property MUST be advertised by direct mail to ALL members in good standing at least 60 days in advance of the vote. The votes received will be made at the meeting or a written proxy vote granted to a person in attendance, signed and dated at maximum of 5 days prior to the meeting.”
ARTICLE IX - POSTS

What does this mean?

• All post members must be made aware of major decision affecting Post property and assets.
• It is their post, not the Post Officers or Executive Committee.
Section 2. (Continued)

“Copies of the incorporation documents and the Post EIN must be provided to the Department. Changes to these documents must also be sent immediately to the Department.”
What does this mean?

- Post must submit copies of Articles of Incorporation and Incorporation Bylaws to Department HQs
- Posts can contact SCC to obtain copies of what is on file - $0.50 per page
- Post must have a Federal Tax Id or Employer Identification Number (EIN)
- Request one online from IRS:
Section 4. The failure on the part of any Post for more than thirty (30) days to remit Department and National dues collected from members shall be cause for the suspension or revocation of the charter of such Post.”
ARTICLE XII - DUES

What does this mean?

- Posts cannot sit on membership collected from the members
- Must be transmitted to Department HQs within 30 Days
- LIT Insurance implications
IRS FORM 990

- The American Legion and its Posts are chartered as a 501c(19) or nonprofit status.
- Posts are required to file an annual return (IRS Form 990 Series) to gross receipts, total assets, etc.
- Failure to file for 3 consecutive years results in revocation of tax exempt status
There are 3 forms you can file:

- IRS 990N
- IRS 990-EZ
- IRS 990

The form you file is based on your organization.
**Which forms do exempt organizations file?**

Most tax-exempt organizations are required to file an annual return. Which form an organization must file generally depends on its financial activity, as indicated in the chart below.

<table>
<thead>
<tr>
<th>Status</th>
<th>Form to File</th>
<th>Instructions</th>
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<tbody>
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<td>Gross receipts normally ≤ $50,000 Note: Organizations eligible to file the e-Postcard may choose to file a full return</td>
<td>990-N</td>
<td>n/a</td>
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<td>Gross receipts &lt; $200,000, and Total assets &lt; $500,000</td>
<td>990-EZ or 990</td>
<td>Instructions</td>
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<tr>
<td>Gross receipts ≥ $200,000, or Total assets ≥ $500,000</td>
<td>990-PF</td>
<td>Instructions</td>
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<tr>
<td>Private foundation - regardless of financial status</td>
<td>990-PF</td>
<td>Instructions</td>
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Additional forms, schedules, and instructions are available:

- Current tax year
- Prior tax years

*Page Last Reviewed or Updated: 06-Dec-2016*
IRS TAX EXEMPTION REVOCATION


- Posts can have their tax exempt status reinstated
QUESTIONS?
The American Legion
Leadership College
Department of Virginia

Post Responsibilities Class
By
John Kokernak