

Guidance to American Legion Posts on Appropriate
Documentation for IRS Membership Audit

While no one but the assigned IRS auditor/agent can be certain exactly what documentation will satisfy an audit, the National Organization has requested an opinion from the law firm of Barnes & Thornburg LLP. A complete copy of this letter is attached.

The key points in this letter include the following citations:

- 1) IRS Code Section 501(c)(19): "provides an exemption from federal tax for a post...(where) (C) no part of the net earnings of which inures to the benefit of any private shareholder or individual."
- 2) The Internal Revenue Manual Section 4.76.26.12 (01-27-2011) which provides "guidelines to assist IRS examining agents in determining the composition of membership..." states that "...the IRS agent should review (among other things) the following: Membership applications, DD Forms 214, or {emphasis added} other discharge documents
- 3) And from the Director of Exempt Organizations Examinations regarding an organization's (post's) membership list: "Organizations should be informed that to satisfy this request they may provide membership applications, membership cards, or other similar documents, other than DD Form 214."

The final opinion issued by Barnes & Thornburg LLP:

"Based upon the foregoing, and subject to the limitations set forth herein, we are of the following opinion as of the date hereof:

The American Legion is not required to collect and maintain copies of members' DD Forms 214 so long as the American Legion accurately collects and maintains (and provides to the IRS agent upon a reasonable request) documentation of the composition of its membership, including the members' names, military service dates, and status information (active duty, veteran, etc.) and documentation supporting the aforementioned (including the membership applications)."

If posts choose to require a DD-214 to be maintained, we warn of the risks and liabilities of maintaining a personal private document that contains confidential data and recommend that, at a minimum, the fields containing Social Security Number and Date of Birth be marked out to the point that they cannot be read. And furthermore, posts should advise the potential member to mark out any other fields they wish to keep confidential other than Date of Entry, Date of Discharge and Armed Forces Components (branch of service). Posts electing to require a DD-214 should also be aware that asking a potential member to provide a copy (especially for retention purposes) can be a deterrent to many veterans who would otherwise join The American Legion.

In lieu of a DD Form 214, and in accordance with the IRS Manual and the Exempt Organizations Examinations directives, The American Legion National Organization recommends that posts require members to complete and sign a membership application, and that posts retain this application for IRS membership audit purposes.

National will produce the Membership Application (Attachment 1) and begin publishing it in the Department and Posts Adjutants Administrative Manual, along with an explanation of how and why to use it. It will also be available for download from www.legion.org. And the "bucksip" style membership application would also serve as valid documentation. (Picture below.)

The American Legion Membership Application				
(Name)		(Phone)		
(Mailing Address)				(Date)
(City)	(State)	(Zip)	(Post #)	
Please check appropriate eligibility dates and branch of service below				(Dues)
<input type="checkbox"/> Aug. 2, 1990 – cessation of hostilities as determined by U.S. Government <input type="checkbox"/> Dec. 20, 1989 – Jan. 31, 1990 <input type="checkbox"/> Aug. 24, 1982 – July 31, 1984 <input type="checkbox"/> Dec. 22, 1961 – May 7, 1975 <input type="checkbox"/> June 25, 1950 – Jan. 31, 1955 <input type="checkbox"/> Dec. 7, 1941 – Dec. 31, 1946 <input type="checkbox"/> April 6, 1917 – Nov. 11, 1918 <input type="checkbox"/> Merchant Marines 12/7/41 – 8/15/45 (only eligibility)				<input type="checkbox"/> U.S. Army <input type="checkbox"/> U.S. Navy <input type="checkbox"/> U.S. Air Force <input type="checkbox"/> U.S. Marines <input type="checkbox"/> U.S. Coast Guard
				
I certify that I served at least one day of active military duty during the dates marked above and was honorably discharged or am still serving honorably.				
Signature of applicant			Name of recruiter	

EXAMPLE ONLY



Application for Membership into The American Legion

Post # _____ City _____ State _____

Veteran's Name: _____
(first name) (last name)

Street Address: _____

City: _____ State: _____ Zip: _____ Country: _____

Email Address: _____

Phone Number: () - _____

Branch of Service:

- U.S. Army
- U.S. Navy
- U.S. Air Force
- U.S. Marine Corps
- U.S. Coast Guard
- Merchant Marines (only eligible if served 12/7/41 – 12/31/46)

War Era served:

- Global War on Terrorism (Aug. 2, 1990 – date yet to be determined by US. Government)
- Panama (Dec. 20, 1989 – Jan. 31, 1990)
- Lebanon / Grenada (Aug. 24, 1982 – Jul. 31, 1984)
- Vietnam (Feb. 28, 1961 – May 7, 1975)
- Korea (Jun. 25, 1950 – Jan. 31, 1955)
- WWII (Dec. 7, 1941 – Dec. 31, 1946)
- WWI (Apr. 6, 1917 – Nov. 11, 1918)

Dates of Service: I certify that I served at least on day of active military duty during the dates marked above and was honorably discharged or am still serving honorably.

Signature of Veteran Applicant: _____ Date: _____

Name/Signature of Recruiter: _____ / _____
(Printed name) (Signature)