

CHAPTER AFFINITY PROGRAMS **(a/k/a Discount Programs with Business Partners)**

Key ALA Policies:

- Neither the international Association nor a chapter will **endorse** products or services unless prior approval has been granted by ALA's Board of Directors.
- Any chapter wishing to enter into or renew an agreement with a benefit provider must obtain written approval from ALA headquarters.
- Approval can be granted if the agreement does not compete with existing or proposed contracts of the parent organization (see list of current participants in ALA's Value In Partnership (VIP)SM Program at: www.alanet.org/members/prog.aspx).

Revenue for a 501(c)(6) is considered taxable if it is:

- Derived from a trade or business;
- Regularly carried on; **AND**
- Unrelated to the chapter's exempt purpose.

Exempt Purpose:

To promote and improve the legal profession **as a whole** rather than individual members.

Services Benefiting the Profession (non-taxable examples):

(Not all of these activities apply to ALA and its chapters; these examples are provided for the purpose of engaging in discussions with your local tax and legal advisors.)

- Examination for certification of professionals.
- Education programs (can be lucrative; includes publications, periodicals, books).
- Research and publication of technical information, but only if it's available to nonmembers (even at a higher price) as well as members.
- Trade shows which promote the profession as opposed to those organized to allow members to sell products or services individually.
- Setting and publishing standards.
- Testing for quality control.
- Peer reviews and ethics audits.
- Mediation services to settle disputes in the industry.

Services Benefiting Individual Members (taxable examples):

(Not all of these activities apply to ALA and its chapters; these examples are provided for the purpose of engaging in discussions with your local tax and legal advisors.)

- Luncheon or meeting hall for members.
- Publication of catalogs advertising products or services offered by members.
- Employment placement services (tax exempt if nonmember participation is allowed).
- Group insurance plans for members.
- Credit rating, billing or information services.
- Collective bargaining agreement records.
- Sales of standardized forms to members (generally)—if available to public, tax exempt.

Other Sources of Revenue:

- Advertising (generally taxable)
- Sponsorships (generally exempt)
- Mailing list rental (generally taxable)
- Royalty (tax-free if no substantial services are provided by the chapter)

Taxation of UBIT:

- Form 990T must be filed.
- Direct/indirect expenses can be deducted from taxable revenue
 - Indirect expenses must be allocated on a rational and systematic basis.
 - Taxes are paid at corporate rates.
 - Corporate estimated tax rules apply.

Affinity Program Considerations & Tips:

- Label the contract as a Royalty Agreement.
- Use terms like “royalty” vs. “rebate, kick-back or profit”; use “sponsor” vs. “endorse”
- Royalty must be an option, not a requirement.
- Royalties are tax-free if no substantial services are provided by the chapter.
- Labels/lists—be cautious of frequency and don’t provide special services.
- Exclusivity—not recommended; cannot force members to use affinity program providers and may impact your ability to do other programs in ways not initially envisioned.
- **Vendor** should be responsible for the marketing – NOT the chapter!
- Telemarketing/e-mail addresses – How much accessibility will you allow to your members?
- Chapter’s involvement should be limited to creating awareness of the program through:
 - Pre-approval of the marketing materials, e.g., promotional letters, scripts and ads.
 - Monitoring proper use of logo (see Chapter Logo Use Agreement on ALA’s Web site at: www.alanet.org/members/chapters/PDF/ChapterLogoUseAgreement.pdf; “national’s” logo cannot be used.
 - Limited use of chapter letterhead for promotional activities.
 - Limited use of letters from chapter leaders encouraging member participation.
- Address handling of labels, lists, ads and exhibit space in a standalone contract instead of combining with the Royalty Agreement.
- Include a cross-indemnification provision.
- Confidentiality provisions by all parties should be required.
- Term of agreement and “out” clause – Typically a minimum 2-3 year commitment for the first term; then define renewal options (automatic vs. action required).
- Governing law – “home court advantage” is recommended.