



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MC 4920 DAL
Dallas, TX 75424

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: JUL 17 2017

Release Number: **201752015**

Release Date: 12/29/2017

UIL Code: 501.19-00

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to:

EIN:

**LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:**

OCT 30 2017

CERTIFIED MAIL -Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(19) of the Internal Revenue Code (IRC). Your exemption from Federal income tax under IRC section 501(c)(19) is hereby revoked effective January 1, 20xx.

Our adverse determination was made for the following reasons:

You have not established that you are operated exclusively for social and recreational activities of its members and other non-profitable purposes within the meaning of IRC section 501(c)(19). Organizations described under IRC section 501(c)(19) must be operated exclusively for exempt purposes.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20xx and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under section 7428 of the Internal Revenue Code.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Publication 892

IRS Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date: February 3, 2017

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

December 31, 20xx

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Manager's Name/ID Number:

Manager's Contact Number:

Telephone:

Response due date: March 8, 2017

Certified Mail - Return Receipt Requested

Dear :

Why you are receiving this letter

We propose to revoke your status as an organization described in section 501(c)(19) of the Internal Revenue Code (Code). Enclosed is our report of examination explaining the proposed action.

What you need to do if you agree

If you agree with our proposal, please sign the enclosed Form 6018, *Consent to Proposed Action – Section 7428*, and return it to the contact person at the address listed above (unless you have already provided us a signed Form 6018). We'll issue a final revocation letter determining that you aren't an organization described in section 501(c)(19).

After we issue the final revocation letter, we'll announce that your organization is no longer eligible for contributions deductible under section 170 of the Code.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final revocation letter. Failing to respond to this proposal will adversely impact your legal standing to seek a declaratory judgment because you failed to exhaust your administrative remedies.

Effect of revocation status

If you receive a final revocation letter, you'll be required to file federal income tax returns for the tax year(s) shown above as well as for subsequent tax years.

What you need to do if you disagree with the proposed revocation

If you disagree with our proposed revocation, you may request a meeting or telephone conference with the supervisor of the IRS contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information including a statement of the facts, the applicable law, and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

You also may request that we refer this matter for technical advice as explained in Publication 892. Please contact the individual identified on the first page of this letter if you are considering requesting technical advice. If we issue a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate. Their assistance isn't a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate can't reverse a legally correct tax determination or extend the time you have (fixed by law) to file a petition in a United States court. They can, however, see that a tax matter that hasn't been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your Cooperation

Sincerely,

Mary A. Epps
Acting Director, EO Examinations

Enclosures:
Report of Examination
Form 6018
Publication 892
Publication 3498

IRS

**Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
Exempt Organizations Examinations**

Date:
07/14/2017
Taxpayer ID number:

Form:

Tax periods ended:
December 31, 20xx
Person to contact / ID number:

Contact number:

Refer reply to:

Dear :

We're sending the enclosed material under the provisions of your power of attorney or other authorization on file with us, for the taxpayer listed below.

If you have questions, you can contact the person listed above.

Sincerely,

Maria Hooke
Director, Exempt Organizations Examinations

Taxpayer Name:

Enclosures:
Revocation Letter

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Explanation of Items		
Name of Taxpayer		Year/Period Ended December 31, 20xx

ISSUE:

Does _____, continue to qualify for exemption as a 501(c)(19) organization if their primary activity is the daily operation of a bingo hall and snack bar used by themselves and multiple unassociated exempt organizations, and is open to the general public?

FACTS:

_____ (hereinafter _____) received their recognition as an organization described in section 501(c)(19) of the Internal Revenue Code on March 12, 19xx. _____ is a stand-alone organization, and thus, isn't a subordinate or under a group ruling of another veterans organization. _____ purpose as stated on their application for exemption from federal income tax, Form 1023, Part III, **(See Exhibit A)** has no mention of gaming, much less, providing a safe, comfortable environment for non-profit organizations to hold bingo sessions. Currently, _____ has approximately xx members, all of which are war veterans.

_____ purpose as stated in their bylaws is, *"to protect the Constitution and Laws of the United States Government, for which we fought to preserve and to aid any and all Veterans and their Dependents, and to cooperate with the Veterans Administration for the advancement of all disabled veterans."* Neither their Articles of Incorporation nor their bylaws have had their "purpose" amended since _____ inception.

The purpose of _____, as stated on their Form 990, for their tax period ending December 31, 20xx is, *"provide a safe, comfortable environment for non-profit organizations to hold bingo sessions. Bingo revenue is to be distributed in accordance with the _____ Department of Revenue section 501(c) guidance of charitable gaming codes."* This has been stated consistently on all Forms 990 since at least calendar year 20xx. **(See Exhibits B-1 – B-7)**

_____ is the lessee of the building **(See Exhibit C)** located _____, _____. This building is used as the office and meeting location of the employees and members of _____, as well as, the _____ Veteran's Bingo Parlor.

In turn, _____ sublets the premises to themselves and xx other non-profit organizations for the purpose of conducting charitable gaming sessions. _____ is responsible for drafting the Veterans Bingo Parlor lease agreements **(See Exhibits D-1 – D-20 for FY 20xx and Exhibits E-1 – E-23 for FY 20xx)** entered into by themselves and all participating organizations. _____ is responsible for the day to day operations of the Veterans Bingo Parlor, which includes maintaining all tables, chairs and bingo equipment, keeping the premises clean, providing all utilities, management coordination, clean-up after each bingo session, one security guard and general liability insurance and all snack bar operations.

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Each organization is responsible for obtaining the necessary bingo permits, maintaining the required legal reporting of all bingo activities and operating their bingo sessions in conformity with the rules and regulations established by the . A list of the participating non-profit organizations involved in Veterans Bingo Parlor is included in this report. **(See Exhibit F)**

does help out (financially) local veterans and 501(c)(3) organizations in the and surrounding areas. supported the Veterans Home by making a generous donation of almost \$xx,xxx. assists disabled veterans and their dependents when in need. also supports area school' educational projects such as ROTC and scholarships, as well as, community projects such as food banks, the Foundation and other causes that meet their criteria. **(See Exhibits G-1 & G-2)**

LAW:

IRC § 501(c)(19) provides for the exemption from federal income tax of a post or organization of veterans of the Armed Forces of the United States if such post or organization is:

- a) organized in the United States or any of its possessions,
- b) at least 75% of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and
- c) no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Treas. Reg. § 1.501(c)(19)-1(a) provides that to be described in Section 501(c)(19) of the Code an organization must be operated exclusively for one or more of the purposes listed in that section.

Treas. Reg. § 1.501(c)(19)-1(b) provides that in order to be described in section 501(c)(19) under paragraph (a)(1) of this section, an organization must meet the membership requirements of section 501(c)(19)(B) and this paragraph. There are two requirements that must be met under this paragraph. The first requirement is that at least 75% of the members of the organization must be war veterans. For purposes of this section the term "war veterans" means persons, whether or not present members of the United states Armed Forces, who have served in the Armed Forces of the United States during a period of war (including the Korean and Vietnam conflicts). The second requirement of this paragraph is that at least 97.5% of all members must be described in one or more of the following categories:

- i. War veterans,
- ii. Present or former members of the United States Armed Forces,

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- iii. Cadets (including only students in college or university ROTC programs or at Armed Services academies). Or
- iv. Spouses, widows, or widowers of individuals referred to in paragraph (b)(2)(i), (ii) or (iii) of this section.

With respect to the membership requirements under Section 501(c)(19) of the code, in Senate Report No. 92-1082, 92nd Cong. 2d Sess., 1972-2 C.B. 713 at 715, Congress stated that "substantially all" means 90 percent. Therefore, of the 25 percent of the members that do not have to be past or present members of the Armed Forces of the United States, 90 percent have to be cadets, or spouses, etc. Thus, only 2.5 percent of a section 501(c)(19) organization's total membership may consist of individuals not mentioned above.

Treas. Reg. § 1.501(c)(19)-1(c) provides that an organization described in section 501(c)(19) of the Code must be operated exclusively for one or more of the following purposes:

- To promote the social welfare of the community as defined in section 1.501(c)(4)-1(a)(2) of the regulations,
- To assist disabled and needy war veterans and members of the United States Armed Forces and their dependents, and the widows and orphans of deceased veterans,
- To provide entertainment, care, and assistance to hospitalized veterans or members of the Armed Forces of the United States,
- To carry on pro-grains to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors,
- To conduct programs for religious, charitable, scientific, literary, or educational purposes,
- To sponsor or participate in activities of a patriotic nature,
- To provide insurance benefits for their members or dependents of their members or both, or
- To provide social and recreational activities for their members.

IRC §511(a)(1) states there is hereby imposed for each taxable year on the unrelated business taxable income (as defined in Link section 512) of every organization described in paragraph (2) a tax computed as provided in Section 11. In making such computation for purposes of this section, the term "taxable income" as used in Section 11 shall be read as "unrelated business taxable income".

IRC § 511(a)(2)(A) states the tax imposed by paragraph (1) shall apply in the case of any organization (other than a trust described in subsection (b) or an organization described in Section 501(c)(1) which is exempt, except as provided in this part or part II (relating to private foundations), from taxation under this subtitle by reason of Section 501(a).

IRC § 512 (a)(1) states, except as otherwise provided in this subsection, the term "unrelated business taxable income" means the gross income derived by any organization from any unrelated trade or business (as defined in Section 513) regularly carried on by it, less the

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deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

IRC § 513(a) of the Code states the term “unrelated trade or business” means, in the case of any organization subject to the tax imposed by Section 511, any trade or business the conduct of which is not substantially related (aside from the need of such organization for income or funds or the use it makes of the profits derived) to the exercise or performance by such organization of its charitable, educational, or other purpose or function constituting the basis for its exemption under Section 501 (or, in the case of an organization described in Section 511(a)(2)(B), to the exercise or performance of any purpose or function described in Section 501(c)(3), except that such term does not include any trade or business —

IRC § 513(a)(1) in which substantially all the work in carrying on such trade or business is performed for the organization without compensation; or

IRC § 513(a)(2) which is carried on, in the case of an organization described in Section 501(c)(3) or in the case of a college or university described in Section 511(a)(2)(B), by the organization primarily for the convenience of its members, students, patients, officers, or employees, or, in the case of a local association of employees described in Section 501(c)(4) organized before May 27, 1969, which is the selling by the organization of items of work-related clothes and equipment and items normally sold through vending machines, through food dispensing facilities, or by snack bars, for the convenience of its members at their usual places of employment; or

IRC § 513(a)(3) which is the selling of merchandise, substantially all of which has been received by the organization as gifts or contributions.

IRC § 513(c) of the Code provides that “trade or business” includes any activity which is carried on for the production of income from the sale of goods or the performance of services. An activity does not lose identity as a trade or business merely because it is carried on within a larger aggregate of similar activities or within a larger complex of other endeavors which may, or may not, be related to the exempt purposes of the organization.

Rev. Rul. 68-46, 1968-1 C.B. 260, describes another veterans' post. After an analysis of all the facts and circumstances, the Service determined that the post's primary activity was the conduct of a business rather than social welfare activity. The organization's business activities involved the rental of its commercial office building and operating a public banquet and meeting hall with a bar and dining facilities. Although the organization carried on veterans' programs and other social welfare activities, based on an analysis of the whole operation, it was concluded that the business activities relating to the operation of the facility exceeded all other activities, and the social welfare programs were not its primary activity.

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Rev. Rul. 61-158, 1961-2 C.B. 115, describes an organization that was created exclusively for the promotion of social welfare, but whose principal activity was conducting a lottery on a weekly basis with the general public. Its principal source of income was the gross receipts from the weekly lottery. The major portion of the profits of the lottery was used for the payment of general expenses of the organization and only a small portion was used for social welfare purposes. The ruling holds that the organization is not operated exclusively for the promotion of social welfare because its primary activity is the conduct of a business for profit. Accordingly, it is not exempt under section 501(c)(4) of the Code.

South Community Association v. Commissioner (T.C. Memo. 2005-285, 2005 WL 3434913) involved an organization whose exempt purpose was to make contributions to various charities for the purposes of starting educational programs, building a school, and transporting handicapped individuals to various schools. The organization funded its contributions almost entirely through its gaming operation. The gaming operation consisted of its sale of motto cards and instant pull-tab tickets.

The court commented that, "In order for petitioner (South Community Association) to prevail on the issue that we decide herein, we must find that petitioner was both organized and operated exclusively for one or more exempt purposes." The court went on to conclude that, "The gaming operation was petitioner's principal activity and was conducted by petitioner as a business for profit. Petitioner does not argue, nor do we find, that this activity was in furtherance of its exempt purpose. We therefore conclude that respondent properly revoked petitioner's tax-exempt status . . . because petitioner was not operated exclusively for an exempt purpose. While Congress allows certain organizations tax-exempt status for specific limited activities, petitioner attempts to retain tax-exempt status for activities that are outside of those permitted." Revocation was upheld.

In **National Association of Life Underwriters, Inc. v. Commissioner, supra**, the court looked at the above cases for guidance in determining whether individuals were members of an association within the meaning of section 1.512(a)-1(f) of the regulations regarding the treatment of advertising income as unrelated business income. The court, in concluding that certain individuals were not members, found that the purported "members" had no right to participate in the organization's direction, had no obligation to help support the organization through regular financial contributions, and did not constitute members in the organization's articles of incorporation and bylaws.

IRC § 11 imposes a tax for each taxable year on the taxable income of every corporation.

IRC § 61 defines gross income as all income from whatever source derived.

IRC § 162 of the Code allows as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business.

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Treas. Reg. § 1.6001-1(d) requires corporations to make such returns, render such statements, or keep such specific records as will enable the Service to determine whether or not such corporation is liable for tax under subtitle A of the Code.

Treas. Reg. § 1.6012-2 requires every corporation subject to taxation under subtitle A of the Code to make a return of income regardless of whether it has taxable income or regardless of the amount of its gross income. In addition, this regulation specifies Form 1120 as the required return of a corporation.

TAXPAYER'S POSITION:

On the last day of my field visit I held an exit conference with the officers, employees and representative of . I informed them that I'll be proposing revocation because the primary activity of is the full-time operation of a bingo hall and snack bar that is open to the public. I haven't heard whether or not is going to agree or disagree with my decision.

GOVERNMENT'S POSITION:

An organization must satisfy two requirements to be described in Section 501(c)(19) of the Code. First, the organization must satisfy a membership test, and second, its activities must further the purposes listed in Section 1.501(c)(19)-1(c) of the regulations. If the membership requirements are not satisfied, then the organization will not qualify for exemption under section 501(c)(19). satisfies the first requirement because its membership is comprised war veterans and former members of the U.S. Armed Forces.

In order to satisfy the second requirement an organization described in section 501(c)(19) of the Code must carry out exclusively, activities in furtherance of the purposes listed in section 1.501(c)(19)-1(c) of the regulations. Among these purposes is the provision of social and recreational activities for its members. Therefore, when a veterans organization described in section 501(c)(19) provides social and recreational activities for its members, or for guests whose expenses are paid by members, it is engaged in activities in furtherance of its exempt purposes.

In the case of , their primary activity is providing goods and/or services to nonmembers who provide payment for such goods or services, their furnishing is outside the scope of section 1.501(c)(19)-1(c) of the regulations. Generally, if an organization has more than 50 percent of its gross receipts derived from sales transactions (e.g. bingo supplies and snack bar), to non-members the presumption will be that the organization's exempt status should be revoked because it is not primarily engaged in section 501(c)(19) activities, and in the case of is operating on a commercial basis.

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Although relatively little documentation has been provided with respect to the organization's exempt activities during the year in question, it is believed the organization conducted some exempt activities under section 501(c)(19), including membership meetings and a few charitable activities. However, even considering the information provided, it appears that member activity was relatively minimal when compared with the organization's operation of a bingo hall and snack bar that's available to the public.

CONCLUSION:

During the examination process, devoted at least xx% of their time to activities not in furtherance of an organization exempt from federal income tax as described in section 501(c)(19) of the Internal Revenue Code. Based on my observations, primary activity is the commercial operation of a bingo hall and snack bar that's open to the public. Since operating a bingo hall and snack bar open to the public does not further Section 501(c)(19) purposes, it does not qualify for exemption under Section 501(c)(19) of the Code. Accordingly, exempt status should be revoked effective July 1, 20xx. Form 1120 returns should be filed for the tax periods ending on or after June 30, 20xx.

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter. We will consider your statement and decide if the information affects our determination.

Your protest statement should be accompanied by the following declaration:
Under penalties of perjury, I declare that I have examined this protest statement, including accompanying documents, and, to the best of my knowledge and belief, the statement contains all the relevant facts, and such facts are true, correct, and complete.

You also have a right to request a conference to discuss your protest. This request should be made when you file your protest statement. An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you.