

UIL # 501.19-01



TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

Number: 200636103  
Release Date: 9/8/06

Date:

EIN:

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

Redaction Legend

O = organization

D = date

Dear ,

This is a Final Adverse Determination as to your exempt status under section 501(c)(19) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

O fails to meet the requirement for exemption under IRC 501(c)(19). IRC 501(c)(19) provides for the exemption from Federal income tax of a post or organization of veterans of the United States Armed Forces if such post or organization is:

- (a) organized in the United States or any of its possessions,
- (b) at least 75 percent 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.

Federal Tax Regulation section 1.501(c)(19)-1(c) states that in order to be described in section 501(c)(19) under paragraph (a)(1) of this section an organization must be operated exclusively for one or more of the following purposes:

- (1) promote the social welfare of the community, (2) to assist disabled and needy war veterans and members of the United States Armed Forces and their dependents, and the



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widows and orphans of deceased veterans, (3) to provide entertainment, care, and assistance to hospitalized veterans or members of the Armed Forces of the United States, (4) to carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors, (5) to conduct programs for religious, charitable, scientific, literary, or educational purposes, (6) to sponsor or participate in activities of a patriotic nature, (7) to provide insurance benefits for their members or dependents of their members or both, (8) To provide social and recreational activities for their members.

As a result of a recent audit of your organization's activities and Form 990 for the period ended D, it was determined that your organization's primary activity was the operation of bar facilities, including pull-tab vending, open to the general public. Substantially all of your income and expenses were the result of your bar and pull-tab sales activity. As a result, you are not organized and operated exclusively for 501(c)(19) purposes.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(19) of the Internal Revenue Code effective D.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after D. You have executed the Form 6018-A agreeing to this revocation.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15<sup>th</sup> day of the third month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling



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Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels, gets prompt and proper handling.

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

Sincerely yours,

Marsha A. Ramirez  
Director, EO Examinations

CC: POA



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Form <b>886A</b>	Department of the Treasury - Internal Revenue Service <b>Explanation of Items</b>	Schedule No. or Exhibit
Name of Taxpayer Organization		Year/Period Ended

**Explanation of Proposed Revocation of Exemption under IRC Section 501(c)(19).**

**Facts:**

The above-named organization was recognized as tax-exempt under IRC Section 501(c)(19). Its activities include operating a bar that is open to the public, selling pull-tabs, holding membership meetings, contributing funds to charitable organizations, and conducting various charitable activities. It receives the majority of its income from bar sales and pull-tab sales through its vending machine. It also receives income from interest and membership dues.

The organization owns a commercial liquor license that allows it to sell liquor to non-members. A sign is posted on the outside wall of the building stating "Public Welcome." The pull-tab vending machine is located inside the bar and anyone is allowed to purchase pull-tabs from it. A member log is not maintained by the organization to show the amount of bar and pull-tab sales from members and from non-members.

**Law:**

**IRC Section 501(c)(19)** recognizes as exempt from Federal income tax, a post or organization of past or present members of the Armed Forces of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization—

- (A) organized in the United States or any of its possessions,
- (B) at least 75 percent 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, widowers, ancestors, or lineal descendants 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.

**Section 1.501(c)(19)-1(c) of the Treasury Regulations** states that an organization described under IRC Section 501(c)(19) must be operated exclusively for one or more of the following purposes. It is not necessary that the organization's purposes or activities include all of the listed purposes to be exempt, but they cannot have purposes of a substantial nature that are not listed and retain IRC Section 501(c)(19) status. These exempt purposes include the following:

- (1) To promote the social welfare of the community as defined in § 1.501(c)(4)-1(a)(2).
- (2) 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,
- (3) To provide entertainment, care, and assistance to hospitalized veterans or members of the Armed Forces of the United States,

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- (4) To carry on programs to perpetuate the memory of deceased veterans and members of the Armed Forces and to comfort their survivors,
- (5) To conduct programs for religious, charitable, scientific, literary, or educational purposes,
- (6) To sponsor or participate in activities of a patriotic nature,
- (7) To provide insurance benefits for their members or dependents of their members or both,
- or
- (8) To provide social and recreational activities for their members.

**IRC Section 513(a)** defines an unrelated trade or business in part as follows:

“...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...”

**IRC Section 512(a)(1)** defines the term “unrelated business taxable income” as follows:

“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 deductions allowed by this chapter which are directly connected with the carrying on of such trade or business, both computed with the modifications provided...”

**Government’s Position:**

A member log is not maintained by the organization to show the amount of bar and pull-tab sales from members and from non-members. As a result, all of the income from bar sales and from pull-tab sales is deemed to be from non-members. Consequently, the income would be classified as unrelated business income if the organization retained its exemption under IRC Section 501(c)(19). When unrelated business income escalates to a level where it becomes an organization’s primary sources of income, exemption is no longer warranted. The organization’s bar sales and pull-tab sales to the public produce the majority of its gross revenue (roughly annually). Opening bar facilities to the public and conducting gaming activities with non-members are not considered exempt purposes of an organization described under IRC Section 501(c)(19). As stated in Treasury Regulation Section 1.501(c)(19)-1(c), “It is not necessary that the organization’s purposes or activities include all of the listed purposes to be exempt, but they cannot have purposes of a substantial nature that are not listed and retain IRC Section 501(c)(19) status.” Therefore, it no longer qualifies for exemption under IRC Section 501(c)(19).

**Conclusion:**

As indicated above, the organization no longer qualifies for exemption under IRC Section 501(c)(19) due to its extensive non-exempt activities. Therefore, revocation of the organization’s tax exemption under IRC Section 501(c)(19) is warranted. The organization must begin to file

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Form 1120 annually.