

Internal Revenue Service

Department of the Treasury

Arka Monterey Park Blvd.
1973 North Rulon White Blvd.
Ogden, UT 84404-5402

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Release Date: 11/30/07

Date: June 28, 200X

ORG = Name of Organization
Year 1 = 1st Tax Year End Date
Year 2 = 2nd Tax Year End Date

ORG

UIL:501.19-01

Taxpayer Identification Number:

XX-XXXXXXX

Form:

990 & 990-T

Tax Year(s) Ended:

Year 1 & Year 2

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear _____ :

We have enclosed a copy of our report of examination explaining why we believe revocation of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process*, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter revoking your exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States 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. 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:

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,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer ORG	Tax Identification Number XX-XXXXXXX	Year/Period ended Year 1, Year 2

Legend:

ORG = Name of organization
Year 1 = 1st Tax Year End Date
Year 2 = 2nd Tax Year End Date
Date 1 = Effective Date of Revocation

Issue Name: Tax Exempt Status under IRC 501 (c)(19)

Per Return: IRC 501 (c)(19) Veterans Organization
Per Exam: Corporation filing F1120

Issue: Whether ORG qualifies for exemption under Section 501(c)(19) of the Internal Revenue Code.

Alternative Issue: Tax on Instant Bingo revenue is considered unrelated business income and is taxable on F990-T.

Facts: Exhibit A provides copies of the Internal Revenue Service correspondence requesting that Exempt Organization file the Form 990 and F 990-T for the tax periods ending Year 1 and Year 2. Exempt Organization failed to respond to the Internal Revenue Service correspondence and phone calls or file the Forms 990 for the tax periods indicated above.

Alternative Issue: A report from the Lottery Commission indicates the organization filed quarterly conductor reports with revenue specified as instant bingo totaling \$XX,XXX that correspond with the organization's fiscal year of Year 1. The instant prizes shown for that same time frame on the quarterly conductor reports totaled \$XX,XXX. The net effect is a profit from instant bingo of \$XX,XXX for fiscal Year 1. Instant bingo receipts for Year 2 were \$XX,XXX with prizes of \$X,XXX making a net profit of \$XX,XXX. F990-T was not filed for the Year 1 and Year 2 fiscal tax years.

Law: Section 6001 of the Code provides that every person liable for any tax imposed by the Code, or for the collection thereof, shall keep adequate records as the Secretary of the Treasury or his delegate may from time to time prescribe.

Section 6033(a)(1) of the Code provides, except as provided in section 6033(a)(2), every organization exempt from tax under section 501(a) shall file an annual return, stating specifically the items of gross income, receipts and disbursements, and such other information for the purposes of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and keep such records, render under oath such statements, make such other returns, and comply with such rules and regulations as the Secretary may from time to time prescribe.

Section 1.6001-1(a) of the regulations in conjunction with section 1.6001-1(c) provides that every organization exempt from tax under section 501(a) of the Code and subject to the tax imposed by section 511 on its unrelated business income must keep such permanent books or accounts or

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records, including inventories, as are sufficient to establish the amount of gross income, deduction, credits, or other matters required to be shown by such person in any return of such tax. Such organization shall also keep such books and records as are required to substantiate the information required by section 6033.

Section 1.6001-1(e) of the regulations states that the books or records required by this section shall be kept at all times available for inspection by authorized internal revenue officers or employees, and shall be retained as long as the contents thereof may be material in the administration of any internal revenue law.

Section 1.6033-1(h)(2) of the regulations provides that every organization which has established its right to exemption from tax, whether or not it is required to file an annual return of information, shall submit such additional information as may be required by the district director for the purpose of enabling him to inquire further into its exempt status and to administer the provisions of subchapter F (section 501 and the following), chapter 1 of the Code and section 6033.

Rev. Rul. 59-95, 1959-1 C.B. 627, concerns an exempt organization that was requested to produce a financial statement and statement of its operations for a certain year. However, its records were so incomplete that the organization was unable to furnish such statements. The Service held that the failure or inability to file the required information return or otherwise to comply with the provisions of section 6033 of the Code and the regulations which implement it, may result in the termination of the exempt status of an organization previously held exempt, on the grounds that the organization has not established that it is observing the conditions required for the continuation of exempt status.

In accordance with the above cited provisions of the Code and regulations under sections 6001 and 6033, organizations recognized as exempt from federal income tax must meet certain reporting requirements. These requirements relate to the filing of a complete and accurate annual information (and other required federal tax forms) and the retention of records sufficient to determine whether such entity is operated for the purposes for which it was granted tax-exempt status and to determine its liability for any unrelated business income tax.

Alternate Issue Law:

IRC section 4421 (1)(c) defines "wager" to include any wager placed in a lottery conducted for profit.

IRC section 4421 (2) defines "lottery" as including the numbers game, policy, and similar types of wagering. The term does not include (A) any game of a type in which usually (i) the wagers are placed, (ii) the winners are determined, and (iii) the distribution of prizes or other property is made, in the presence of all persons placing wagers in such game, and (B) any drawing conducted by an organization exempt from tax under sections 501 and 521, if no part of the net proceeds derived from such drawing inures to the benefit of any private shareholder or individual.

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Treas. Reg. section 44.4421-1(b)(1) of the Wagering Tax Regulations provides that, in general, a lottery conducted for profit includes any scheme or method for the distribution of prizes among persons who have paid or promised a consideration for a chance to win such prizes, usually as determined by the numbers or symbols on tickets as drawn from a lottery wheel or other receptacle, or by the outcome of an event, provided such lottery is conducted for profit. The term also includes enterprises commonly known as "policy" or "numbers" and similar types of wagering where the player selects a number, or a combination of numbers, and pays or agrees to pay a certain amount in consideration of which the operator of the lottery, policy, or numbers game agrees to pay the prize or fixed sum of money if the selected number or combination of numbers may appear or be published as a series of numbers in the payoff prices of a series of horse races at a certain race track, or in the United States Treasury balance reports, or the reports of a stock or commodity exchange. This description is not intended to be restrictive; hence, the substitution of letters or other symbols for numbers, or a different arrangement for determining the winning number or combination of numbers, does not alter the fundamental nature of a game which would otherwise be considered a lottery. The operation of a punchboard or a similar gaming device for profit is also considered to be the operation of a lottery.

Conclusion: It is the IRS's position that the organization failed to meet the reporting requirements under sections 6001 and 6033 to be recognized as exempt from federal income tax under 501 (c)(19) of the Internal Revenue Code. Accordingly, the organization's exempt status should be revoked effective Date 1.

Form 1120 returns should be filed for the tax periods ending June 30, 200X.

Conclusion for Alternative Position: It is the IRS's position that instant bingo is an activity covered under the definition of a wager since winners are predetermined in each box of cards purchased. Employment tax returns were filed for the quarters corresponding to the bingo activity and it is further concluded that the instant bingo activity was conducted by employees which supports consideration of the net revenues from the instant bingo being treated as unrelated business taxable income and a tax assessment relating to that income as follows:

Using the Tax Rate Schedule for Corporations –
Year 1 UBTI - \$XX,XXX x 15% = \$X,XXX.XX tax owed.
Year 2 UBTI - \$XX,XXX x 15% = \$X,XXX.XX tax owed.

The failure to file and failure to pay tax penalties would also apply.