



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street

MS:4920:DAL

Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Release Number: **200850037**

Release Date: 12/12/08

Date: 8/27/08

LEGEND

ORG = Organization name

XX = Date

UIL: 501.19-00

Address = address

ORG

ADDRESS

Person to Contact:

Identification Number

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

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:

As a result of a recent examination of your organization's activities and Form 990 for the period ended December 31, 20XX, and December 31, 20XX, it was determined that your organization does not maintain separate records of income from members and income from non-members. As a result, the Service considers all of your income from bar sales, sales, and hall rentals to derive from non-members. In addition, your organization opens its bar to the public and conducts gaming activities with non-members. These activities give the appearance that the organization is conducting business with the general public like a for-profit business. The organization fails to meet the requirements for exemption under 501(c)(19).

Veterans organizations, whether organized before or after the amendment of IRC 501(c)(19), must be operated for one or more of the eight purposes listed in Regs. 1.501(c)(19)-1(c). Accordingly, you cannot have purposes of a substantial nature that are not listed in this section and retain IRC 501(c)(19) status. For taxable years after September 3, 19XX, IRC 501(c)(19) grants exemption to 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 – organized in the United States or any of its possessions, 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, spouses, widows,

or widowers of past or present members of the armed forces of the United States or of cadets, and no part of which inures to the benefit of any private shareholder or individual.

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 January 1, 20XX.

You are required to file Form 1120, U.S. Corporation Income Tax Return. These returns should be filed with the appropriate Service Center for all years beginning after December 31, 20XX. You have executed the Form 6018-A, agreeing to the revocation of exemption under IRC Section 501 (c)(19).

Form 1120 must be filed by the 15th 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 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling or writing to:

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,

Vicki L. Hansen
Acting Director, EO Examinations

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended
ORG		20XX12 and 20XX12

LEGEND

ORG = Organization name XX = Date motto = motto Co-1 & Co-2 = 1st & 2nd companies

Issues:

1. Under the circumstances described, does the ORG meet the requirements for continued recognition of exemption under section 501(c)(19) of the Internal Revenue Code?

Facts:

The ORG was chartered on September 10, 19XX. The organization is under the group exemption number of the ORG. The ORG was recognized as tax-exempt under the Internal Revenue Code of 19XX under Section 501(C)(19).

The activities include operating a bar that is open to the public, selling motto, holding membership meetings, contributing funds to charitable organizations and conducting charitable activities. The organization receives the majority of its income from rental of the hall, bar sales and motto sales through its vending machine. The organization also receives income from membership dues and motto. Motto was discontinued in November of 20XX. The organization paid for advertisement in the CO-1 as a place in CO-2 listing. On the website, it listed the organization's name, address, phone number and product and services offered. The product and services listed are banquet rooms, facility rental and party planning services and miscellaneous personal services. On website: the organization's name, address and phone number are listed. On the website, the organization's name, address, phone number and business type is listed under banquet halls.

The organization has an on premise liquor license from the State of XYZ (exhibit 1) the definition for an on premise liquor license states, “

The motto vending machine is located inside the bar and anyone is allowed to purchase motto from it. The organization does not maintain records to show the amounts of bar and motto sales from members and from non-members. The organization does not maintain records for the hall rentals to members and non-members.

The Treasurer stated in a signed statement (exhibit 2), “that all activities are open to the public, such as Corn Beef Dinner for St. Patrick's Day, the bar is open to the public and

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the building is rented out to the public for parties and weddings. The bar has been open to the public for about four years.”

Law:

IRC Section 501(C)(19) requires that an organization created under this subsection must be supported through member dues and restricted from conducting business with the general public.

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 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 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 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, literacy, 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

IRC Section 512(a)(1) defines the term “Unrelated business taxable income” as follows” “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 deductions allowed by this chapter which are directly

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connected with the carrying on of such trade or business, both computed with the modifications provided in subsection (b).

IRC Section 513(a) provides that the term "unrelated trade or business" means 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. The term does not include any trade or business in which substantially all the work in carrying on such trade or business is performed for the organization without compensation.

Federal Tax Regulation 1.513-1(d)(2) of the regulations provides that a trade or business is related to exempt purposes, in the relevant sense, only where the conduct of the business activities has a causal relationships to the achievement of exempt purposes (other than through the production of income); and that it is substantially related, for purposes of section 513 of the Code, only if the causal relationship is a substantial one. Thus, for the conduct of trade or business to be substantially related to purposes for which exemption is granted, the production or distribution of the goods or the performance of the service from which the gross income is derived must contribute importantly to the accomplishment of those purposes. Whether the activities productive of gross income contribute importantly to the accomplishment of any purpose for which an organization is granted exemption depends in each case upon the facts and circumstances involved.

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 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 of its unrelated business income must keep such permanent books or accounts or 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 state 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 so long as the contents thereof may become material in the administration of any internal revenue law.

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Taxpayer's Position:

The agent spoke with the Treasurer and stated why the organization was not exemption as a veteran's organization under section 501(c)(19) of the Code. The agent mailed the report and the Form 6018-A to the taxpayer. The agent explained to the Treasurer that if the organization agrees with the findings that Form 6018-A would need to be signed and sent back to the agent. The agent also explained that the Form 1120 would need to be completed for the years ending December 31, 20XX and December 31, 20XX. The completed Forms 1120 would need to be sent back with the Form 6018-A before the case would be closed. The taxpayer only provided a signed 6018-A agreeing to the organizations exempt status being revoked. The organization failed to provide any 1120 returns.

Government's Position:

Based on the facts from the examination, no member log was maintained by the organization to show the amount of bar and motto sales and hall rentals from members and non-members. As a result, all of the income from bar sales, motto sales and hall rental income is deemed to be from non-members. The organization's bar sales, motto sales and hall rental income to the public produce the majority of its gross revenue (roughly \$ annually). Opening the bar 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). These activities are being conducted as a trade or business with the public. 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, the organization no longer qualifies for exemption under IRC Section 501(c)(19).

Conclusion:

Based on foregoing reasons, 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.



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
100 South Clinton Street
Syracuse, NY 13260

**TAX EXEMPT AND
GOVERNMENT ENTITIES
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LEGEND

ORG = Organization name XX = Date Address = address

May 3, 2007

ORG
ADDRESS

Dear

During the course of the audit, it was determined that the organization does not qualify for exemption as an organization described under section 501(C)(19) of the Internal Revenue Code.

Enclosed are three forms of Form 6018-A for revocation of exempt status. Please sign and return two of the forms, Form 6018-A, if your organization agrees with the findings.

If you have any additional questions, please feel free to contact me at.

Thank you for your time and cooperation in this matter.

Sincerely,

Kathleen Sopchak
Revenue Agent

Enclosed:
Form 6018-A
Form 886-A