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# Veterans' Organizations *Staying Compliant with the IRS*

*Speakers: Rhona Foster & Peter Holiat*



# Today's Speakers

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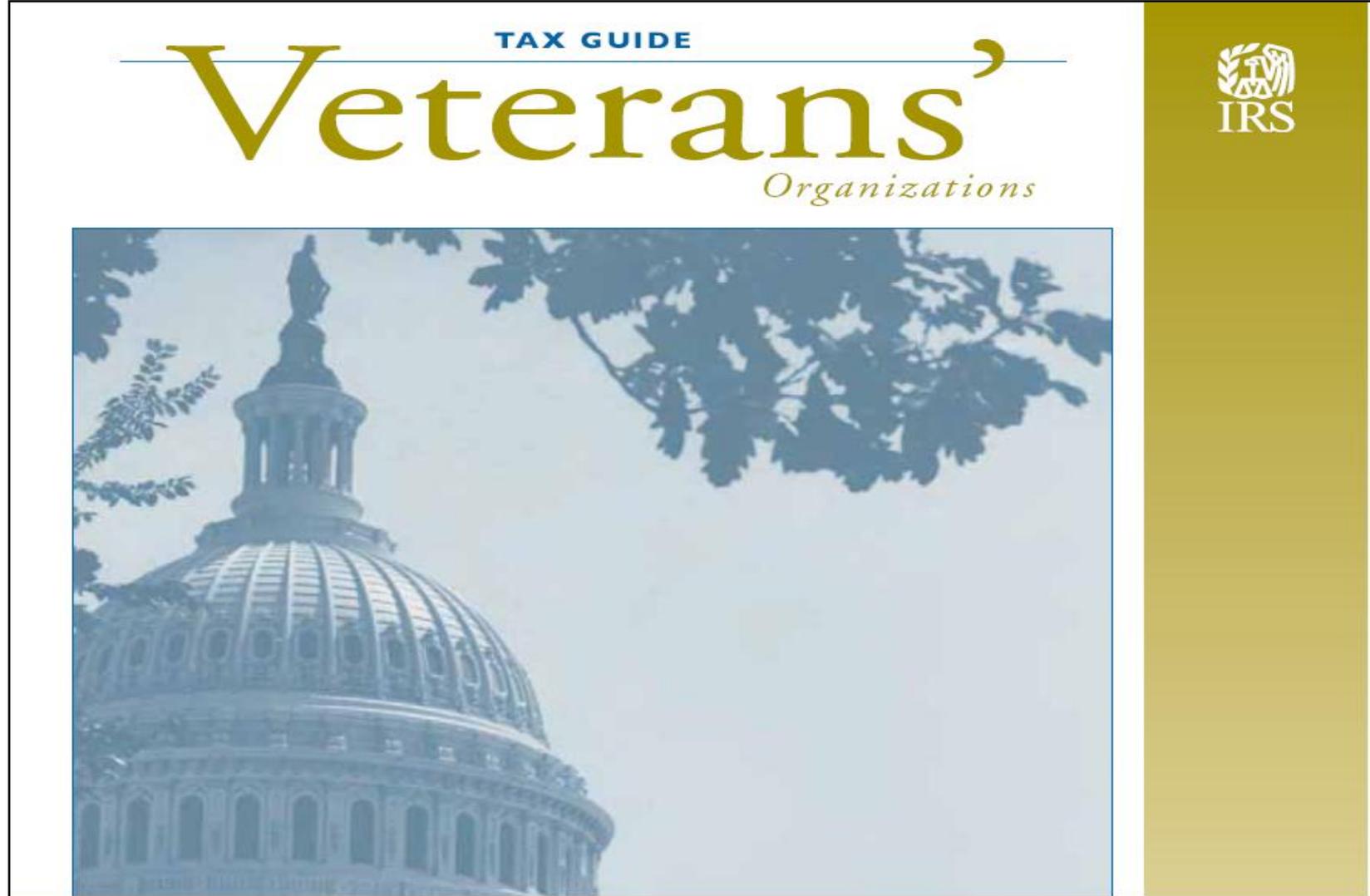
# Today's Topics

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- Exemption Requirements
- Exempt Activities
- Unrelated Business Income (UBI), including Gaming
- Recordkeeping
- Employment Issues
- Group Rulings
- Filing Requirements



# IRS Publication 3386





# Background – Veterans’ Organizations

- Prior to enactment of IRC 501(c)(19), veterans’ organizations generally tax-exempt under IRC 5601(c)(4)
- Some veterans’ organizations created 501(c)(7), (c)(8) or (c)(10) subsidiaries for their social and insurance activities.
- Some use 501(c)(2) title-holding companies for their property
- Section 501(c)(23) – for organizations created before 1880 – covers just two organizations! (Army and Navy Mutual Aid Societies)





## § 501(c)(19) Exemption Criteria

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- Organized in the United States or any of its possessions
- At least 75% must be a past or present members of the U.S. Armed Forces
- Other members are cadets or are spouses, widows, widowers, ancestors, or lineal descendants of past or present members of the U.S. Armed Forces or cadets
- No net earnings may inure to the benefit of any private shareholder or individual



## § 501(c)(19) Purposes

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- Promote the social welfare of the community
- Assist war veterans or members of Armed Forces; their widows, orphans, dependents
- Provide entertainment/care to hospitalized veterans or members of Armed Forces
- Conduct programs in memory of deceased veterans or members of Armed Forces
- Conduct religious, charitable, scientific, literary, educational programs
- Sponsor or participate in patriotic activities
- Provide insurance benefits for members or dependents
- Provide social or recreational activities for members



# Promoting Social Welfare

Refer to  
page 9  
in your  
Veterans'  
Publication

- Sponsor youth activities
- Allow other community organizations to use post facilities without charge
- Sponsor scouting or other youth groups
- Provide scholarships for students
- Donate to charities
- Visit sick or hospitalized members, veterans or their families
- Sponsor parades on holidays
- Recreational activities for members and their guests



# Non-member Activities and Income

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Veterans' organization operation of

- Bar
- Restaurant
- Gambling (Gaming)
- Dances

Furtherers exempt purpose?

- For members and guests – *Yes*
- For general public – *No, and may generate unrelated business income*



# Unrelated Business Income

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- Trade or business activity
- Regularly carried on
- Not substantially related to organization's exempt purpose

## Common examples of UBI activity:

- Advertising
- Gaming
- Sale of merchandise and publications
- Management or other similar services



# UBI Exceptions

Some activities deemed not unrelated:

- Activities conducted by volunteers
- Convenience of members, etc.
- Sale of donated merchandise
- Distribution of low cost articles
- Qualified convention or trade show fees
- Sponsorship
- Traditional Bingo

See Publication 598, *Tax on Unrelated Business Income of Exempt Organizations*, for more information



# Veterans' Organizations and Gaming

- Furthers an exempt purpose when restricted to members and bona fide guests
- If open to the general public, income from non-members may be unrelated (UBI)
- UBI exception for bingo if it is
  - A game of chance played with cards where prizes are distributed in presence of all players
  - Legal in jurisdiction where it is played
  - Played in jurisdiction where for-profit entities cannot carry on bingo games

Refer to  
page 29  
in your  
Veterans'  
Publication



# Recordkeeping

## A 501(c)19)'s records must

- Verify members' status – veteran, active military, cadet, specified relative, etc.
- Clearly document sources of income – show whether receipts are from members or non-members
- Clearly document how expenditures further exempt purposes

Refer to  
page 39  
in your  
Veterans'  
Publication



# Employment Issues

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Veterans' organizations workers receiving compensation

- Employees – organization withholds and pays employment taxes the same as any other employer
- Independent contractor – organization must meet applicable reporting requirements



# Worker Characteristics

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## Employee

- A worker is an **employee** if the **employer** has the right to direct and control the worker.

## Independent Contractor

- An independent contractor is self-employed and carries on an independent trade or business.



# Worker Classification

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Three categories of evidence

- Behavioral control
- Financial control
- Relationship of the Parties

Request IRS classification – Form SS-8,  
*Determination of Employee Work Status  
for Purposes of Federal Employee Tax  
and Income Tax Withholding*



# Employees & Non-employees

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## Employees – defined by statute

- Officers of a corporation – President, Vice-President, Secretary, and Treasurer

## Non-employees – defined by statute

- Corporation's Directors – members of the governing board



# Employment Tax Forms

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## Reporting to employees and IRS

- Form W-2, *Wage and Tax Statement*

## Reporting to independent contractor and IRS

- Form W-9, *Request for Taxpayer Identification Number and Certification*
- Form 1099-MISC, *Statement for Receipts of Miscellaneous Income*



# Form W-9

Form **W-9**  
(Rev. January 2011)  
Department of the Treasury  
Internal Revenue Service

## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)	
Business name/disregarded entity name, if different from above	
Check appropriate box for federal tax classification (required): <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
<input type="checkbox"/> Exempt payee	
Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

			-			-				
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Employer identification number

		-								
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### Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and



# War Veterans Organizations

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Membership requirement – at least **90%** must be **war veterans** – see page 37 for qualifying service periods

## Purpose requirement

- Furthering comradeship members
- Honoring the memory of deceased veterans, members; aiding, comforting their survivors
- Encouraging patriotism
- Aiding hospitalized, disabled and needy war veterans and dependents



## Group Rulings

- IRS recognizes as tax-exempt organizations affiliated with tax-exempt central organization
- Central/parent organization will have one or more subordinate/affiliate
- IRS relies on parent to ensure all subordinates/affiliates meet exemption requirements
- Subordinates may have own filing requirements

Refer to page  
27  
in Veterans'  
Publication



# Form 990-series Filing Requirements

Private Foundations file Form 990-PF

<b>Tax Year 2012</b>	<b>Form</b>
All organization may file	990
Gross receipts below \$200,000 and Total assets below \$500,000	990-EZ
Gross receipts at or below \$50,000	990-N



# Form 990-N e-Postcard



Urban Institute

**e-Postcard**  
file your electronic IRS Form 990-N

Quick Jump | Form 990-N (e-Postcard) | Logout

### Electronic Notice - Form 990-N (e-Postcard) Organization Information

Save Changes before jumping to another page.

**A** For the tax year period beginning  and ending

**B** Has your organization terminated or gone out of business?

Are your gross receipts normally \$25,000 or less?

**C** Organization's legal name - Line 1   
Organization's legal name - Line 2

**D** Employer identification number (EIN)

Click the  image next to any field for help/instructions.



# Non-Filing Consequences

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## Penalties assessed

- against organization for failure
- against person(s) responsible, if failure persists after notice

Failure to file ***for three consecutive years*** results in ***automatic revocation***



# Automatic Revocation/Reinstatement

When does automatic revocation occur?	If organization does not file as required for three consecutive years
What should I do if my organization is revoked and wants to get reinstated?	File Form 1024, pay appropriate user fee
What happens next?	Reinstatement is postmark of approved application

## Charitable Organizations

Churches &amp; Religious Organizations

Political Organizations

Private Foundations

Other Non-Profits

Contributors

## Charities &amp; Non-Profits Topics

• ***On this page you will find more information on Reinstatement after Revocation***

## Reinstatement of Tax-Exempt Status after Automatic Revocation



If an organization has had its tax-exempt status automatically revoked and wishes to have that status reinstated, it must file an application for exemption and pay the appropriate [user fee](#) even if it was not required to apply for exempt status initially.

If the IRS determines that the organization meets the requirements for tax-exempt status, it will issue a new determination letter. The IRS also will include the reinstated organization in the next update of *Exempt Organizations Select Check* (Pub. 78 database), and indicate in the IRS Business Master File (BMF) extract that the organization is eligible to receive tax-deductible contributions. Donors and others may rely upon the new IRS determination letter as of its stated effective date and on the updated *Exempt Organizations Select Check* and BMF extract listings.

In most cases, the effective date of reinstated exemption will be the date that the organization's exemption application was submitted to the IRS. However, organizations may choose to request that reinstatement be retroactive to the effective date of revocation. The IRS will grant retroactive reinstatement of exemption under certain limited circumstances. See [Notice 2011-44](#) for details. Because the list is an official IRS record of organizations that lost their exempt status for failing to file for three consecutive years, [an organization whose exempt status is reinstated remains on the list](#).

Page Last Reviewed or Updated: 2013-05-08

## Exempt Organizations Select Check

[Exempt Organizations Select Check Home](#)

### Exempt Organizations Select Check

Click on one of the buttons below to search for:

1. Organizations eligible to receive tax-deductible contributions (Pub. 78 data),
2. Organizations whose federal tax exemption was automatically revoked for not filing a Form 990-series return or notice for three consecutive years, or
3. Form 990-N (e-Postcard) filers and filings.

Limit search to organizations that (select only one):

- [Are eligible to receive tax-deductible contributions](#)  [Were automatically revoked](#)  [Have filed Form 990-N \(e-Postcard\)](#)

**Note:** To search for other information on the IRS website, please use the site search located on the top right of your screen.

...organization, users may download a complete list of each of the three types of organizations through *Exempt Organizations Select Check*.

### Charities & Non-Profits Topics

- Life Cycle
- Search for Charities
- A-Z Site Index



*Check out EO's on-line exempt org search tool. It's updated monthly!*



## Resources

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**Publication 3386** – Tax Guide for Veterans Organizations

**Charities and Nonprofits page**

For forms, publications, general information

[www.irs.gov/Charities-&-Non-Profits](http://www.irs.gov/Charities-&-Non-Profits)

**Publication 4221-NC** – Compliance Guide for Tax-Exempt Organizations (other than 501(c)(3) Public Charities and Private Foundations)

**Publication 3079** – Gaming Publication for Tax-Exempt Organizations