

INTERNAL REVENUE SERVICE

DEPARTMENT OF THE TREASURY
10 MetroTech Center
625 Fulton Street
Brooklyn, NY 11201

Date: May 13, 2005

Number: **200531018**
Release Date: 8/05/2005
TEGE:EO:REV

UIL: 501.19-00

Legend:

ORG =Name of Organization
NUMBER=Employer Identification Number
DATE 1=Effective Date
DATE 2=Audit Year

Person to Contact:
Identification Number:
Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff
EIN:NUMBER

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:

The ORG fails to meet the requirement for exemption under 501(c)(19). For taxable years after September 3, 1982, IRC 501(c)(19) grants exemption to a post or organizations 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 or are 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.

As a result of a recent examination of your organization's activities and Form 990 for the period ended Date 2, it was determined that your organization's primary activity was the

operation of a bar. 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 and retain IRC 501(c)(19) status.

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 Date1.

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, 2002. You have executed the Form 6018 agreeing to this revocation.

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 you 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

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,

R. C. Johnson
Director, EO Examinations

cc:



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

TE/OE

Date:

Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to:
EIN

Dear Sir or Madam:

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:

fails to meet the requirement for exemption under IRC 501(c)(19). For taxable years after 1981, IRC 501(c)(19) grants exemption to a post or organizations 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 or are 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.

As a result of a recent examination of your organization's activities and Form 990 for the period ended [redacted], it was determined that your organization's primary activity was the operation of a bar. 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 and retain IRC 501(c)(19) status.

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 [redacted].

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 [redacted]. You have executed the Form 6018 agreeing to this revocation.

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 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 or writing to: Internal Revenue Service, Office of the Taxpayer Advocate.

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,



R. C. Johnson
Director, EO Examinations

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

Issue:

Can a Veteran's organization organized under IRC 501(c)(19) operate a public bar as its primary purpose?

Facts:

a _____ (hereafter called "the Post") was organized on _____ of incorporation by the Circuit Court of _____ The organization was initially organized under the provisions of IRC 501(c)(4) until _____ when it was changed to be organized under the provisions of IRC 501(c)(19).

During an examination of the Post begun _____ it was found that _____ % of the Gross Revenue and _____ % of the Expenses are attributable to a bar that the post operates. The bar is open to the general public, as is a pulltab machine located in the bar. No records are kept concerning the non-member use of the bar, but the Finance Officer stated that it was his opinion that no more than _____ % of the people using the bar are members of the Post.

As attached schedule one shows, a test of the activities of the post revealed that _____ % of the Post activity is operating the bar. Thus, the primary activity of the Post appears to be the operation of a bar that is used primarily by the general public.

Law:

According to Internal Revenue Manual Section 7.25.19, Veterans' Organizations, [Revision date: 2001-06-01] Veterans' organizations must be operated for one or more of the eight purposes listed in Federal Tax Regulations 1.501(c)(19)-1(c). It is not necessary that the organizations' purposes or activities include all the listed purposes to be exempt, but they cannot have purposes of a substantial nature that are not listed and retain IRC 501(c)(19) status. The exempt purposes are:

- a. Promotion of the social welfare of the community as defined in Treasury Regulations. 1.501(c)(4)-1(a)(2)
- b. Assisting disabled and needy war veterans and members of the U.S. Armed Forces and their dependents, and the widows and orphans of deceased veterans;
- c. Providing entertainment, care, and assistance to hospitalized veterans or members of the U.S. Armed Forces;
- d. Carrying on programs to perpetuate the memory of deceased veterans and members of the Armed Forces, and to comfort their survivors;
- e. Conducting programs for religious, charitable, scientific, literary, or educational purposes (as set out in Internal Revenue Code section 170(c)(4));
- f. Sponsoring or participating in activities of a patriotic nature;
- g. Providing insurance benefits for their members or dependents of their members, or both; and
- h. Providing social and recreational activities for their members.

Substantial unrelated activities may prohibit exemption. The following are examples of unrelated activities that may affect exemption:

- Rents out its facilities to the general public;
- Facilities, such as bar and dining facilities, open to the general public;
- Sells liquor and/or food to members and/or the public for consumption off the premises.
- Gaming activities with non members.

If the organization receives a substantial portion of its gross income from the general public, a facts and circumstances test must be used to determine if the organization is organized and operated within the meaning of IRC 501(c)(19).

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

Government Position:

As outlined above, the primary purpose of an IRC section 501(c)(19) organization covers eight broad areas. Providing a bar to the general public doesn't meet any of those eight exempt purposes. Therefore, based on the Income Tax Regulations cited above, does not qualify for exemption under Internal Revenue Code section 501(c)(19).

Conclusion:

The organization does not continue to qualify for exemption as an organization described in section 501(c)(19) of the Internal Revenue Code. Consequently, the exempt status of the organization is being revoked effective

If you agree to the above, we are requesting that an 1120 be filed for . Even though Letter 3610 states otherwise, please file that return with me and I will process it.

Organizational Position:

The organization states that they relied on their CPA in order to be in compliance with the applicable tax law. On the organization signed, and returned, Form 6018-A agreeing with the revocation of exempt status. They also sent Form 1120 and a check to pay for the amount that was owed.