



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities Division
 Cedar Bend Professional Building
 12309 N Mopac Expressway
 Austin, TX 78758

Number: 201450020
 Release Date: 12/12/2014

Date:

March 11, 2013

Taxpayer identification number:**Form:****Tax year(s) ended:****Person to contact / ID number:****Contact numbers:**

Telephone:

Fax:

Manager's name / ID number:**Manager's contact number:****Response due date:****Certified Mail - Return Receipt Requested**

Dear

Why you are receiving this letter

Enclosed is a copy of our report of examination explaining why revocation of your organization's tax-exempt status is necessary.

What you need to do if you agree

If you agree with our findings, please sign the enclosed Form 6018-A, *Consent to Proposed Action*, and return it to the contact at the address listed above. We'll send you a final letter revoking your exempt status.

If we don't hear from you

If we don't hear from you within 30 calendar days from the date of this letter, we'll process your case based on the recommendations shown in the report of examination and this letter will become final.

Effects of revocation

In the event of revocation, you'll be required to file federal income tax returns for the tax year(s) shown above. File these returns with the contact at the address listed above within 30 calendar 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.

What you need to do if you disagree with our findings

If you disagree with our position, you may request a meeting or telephone conference with the supervisor of the contact identified in the heading of this letter. You also may file a protest with the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information, including a statement of the facts, the applicable law and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

If you and Appeals don't agree on some or all of the issues after your Appeals conference, or if you don't 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.

You may also request that we refer this matter for technical advice as explained in Publication 892. Please contact the person identified in the heading of this letter if you're considering requesting technical advice. If we send a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, then no further IRS administrative appeal will be available to you.

Contacting the Taxpayer Advocate Office is a taxpayer right

You have the right to contact the office of the Taxpayer Advocate Service (TAS). **TAS is your voice at the IRS. This service helps taxpayers whose problems with the IRS are causing financial difficulties; who have tried but haven't been able to resolve their problems with the IRS; and those who believe an IRS system or procedure is not working as it should. If you believe you are eligible for TAS assistance, you can call the toll-free number 1-877-777-4778 or TTY/TDD 1-800-829-4059. For more information, go to www.irs.gov/advocate.** If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service
Office of the Taxpayer Advocate

For additional information

If you have any questions, please call the contact 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,

Nanette M. Downing
Director, EO Examinations

Enclosures:
Report of Examination
Form 6018-A
Publication 892
Publication 3498

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No. Page 1 of 10
Name of Taxpayer		Year Ended Dec. 31, 20XX, 20XX and 20XX

ISSUE(S):

- Whether (Organization) is operated exclusively for purposes listed in Treas. Reg. Section 1.501(c)(19)-1(c).
- Whether exemption under I.R.C. Section 501(a), as an organization described in I.R.C. Section 501(c)(19), should be revoked effective January 1, 20XX.

FACTS:

The , doing business as **(the Organization)**, is an Exempt Organization, exempt under Section 501(c)(19) of the Internal Revenue Code (IRC), within the group exemption of the . The Organization provided a Transfer Document dated August 5, 19XX. In the document, the Organization requested its location to be moved from to . also provided a copy of its 20XX Charter Revalidation Certificate signed by the National Commander. The Organization provided By-laws dated 08-01-XX. The name of the organization is . The IRS does not have an Administrative record on file for this organization.

The Organization was contacted using the phone number provided in the Form 990. The person, no name provided, who answered said not to call and to contact their power of attorney for any questions in regards to . The Agent asked to provide a completed Form 2848, Power of Attorney, so their POA could talk to us. She agreed. The Organization provided Form 2848 for **(POA)**. is also the Organization's CPA.

During the initial interview, the POA insisted for the Revenue Agent not to have any direct communications with any of the officers or personnel working for the organization. He also requested that all questions for the interview were provided in writing and in advance so client could answer the questions. The Agent agreed to accommodate the POA's and Organization's requests. Agent asked for the Organization to provide answers to the interview questions in writing as well.

Organization's Activities

During the examination it was found that the Organization's substantial activity was to conduct Bingo and Pull-tabs with the general public. Bingo was open to the general public. The Organization did not have a system to track member and non-member participation. As per interview, the Organization played Bingo weekly; it was open to the general public and the admission was free. In the interview the Organization was asked what other activities they conducted and their answer was "NA." The Organization provided a copy of its current Bingo License. The license specified the day and time to play games on Sunday at 12:30PM-3:30PM and 03:31-06:30PM.

The Organization did not have volunteers to conduct its Bingo and Pull-tab activities as shown on Form 990 and interview. In said interview the POA stated the Organization had paid workers only. POA further stated that the Gaming Manager (, the Commander's son), Gaming Bookkeeper (, Board member and the commander's wife) and other workers were paid

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employees. During the year 20XX the Organization filed 941s for all employees; however, the Organization did not issue W-2s to the Commander's family members. POA said that they did not have W-2s for them.

During the interview it was found that the Organization does not have a place to conduct business. The Organization's response to a location, facilities or place to conduct business in the written interview was not answered. Upon further questioning, the POA said it was blank because there are no facilities or a place to conduct business for this Organization. POA stated that the Organization's only activity is to play Bingo at the Bingo Hall. Bingo is played on Sundays, and if the Agent wanted to go, she could, that "it was the closest" the Agent was going to be to the Organization.

The POA stated that the Organization rents the Bingo Hall from . The Organization had a Lease Agreement by and between . and , dated May 12, 20XX for the amount of \$0 per session. The Agreement was signed by on behalf of . was Commander as well. represented both sides.

The Organization's Minutes for year ending on December 31, 20XX were reviewed. Analysis of the Minutes showed no exempt activity. Minutes recorded five meetings per year with 3 or 4 members present at each meeting. The Annual Meeting had an attendance of 4 members. Minutes recorded entries of membership, a "donation for the needy" without details; travel meetings for the commander, and a donation given to a charity in the amount of \$0. Similar entries were made to the Minutes upon inspection of years 20XX and 20XX. The written interview questions asked the Organization to state its primary activities to accomplish its exempt purpose. Its response was: "Giving scholarships; donations to disabled; donations to Boy Scouts." The Organization's minutes contained no discussion as to scholarships or donations to Boy Scouts. The Organization's records indicated that during the year 20XX there were no scholarships or donations to Boy Scouts.

It was noticed that no Bingo activities were discussed in any part of the Minutes. The Minutes did not show the location where the meetings were held either.

Gaming Activities

The Form 990 showed \$0 in gross receipts from Bingo and Pull-tabs. The Organization's sources of income came from Bingo and pull-tabs activities. The other source of income was coming from Investment Income in the amount of \$0. The () reports showed that the Organization made \$0 in gross receipts from Bingo and Pull-tab activities.

The POA was asked for the gross receipts discrepancy between the Form 990 and TLC reports of \$0, for the year 20XX. The POA said that it was an oversight on part and that he could fix that. He said he used net amounts instead of gross receipts. Further examination of records showed that he used net amounts for the Bingo as gross receipts, but did not use net amounts for the Pull-tabs. He used the Pull-tabs actual gross receipts.

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Gaming Gross Receipts Deductions Shown by the Exempt Organization and
Gross Receipts Deductions shown by the
for Year Ending Dec. 31, 20XX

	<i>Form 990</i>	
Bingo - Cash Prizes	0	0
Non-Cash Prizes	0	0
Rent/Facility Costs	0	0
Other Direct Expenses	0	0
Regular Prizes		0
Pull-Tabs-Cash Prizes	0	
Rent/Facility Costs	0	
Instant Prizes		0
Charitable Distributions		0
Total	0	0

Gaming Gross Receipts Shown by the Exempt Organization and
Gross Receipts shown by the
for Year Ending Dec. 31, 20XX

	<i>Form 990</i>	
Bingo-Gross Revenue	0	
Bingo-Card sales/Entrance fee	0	0
Bingo-Electronic card sales	0	0
Pull Tabs-Gross Revenue	0	0
Total	0	0

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Gaming Gross Receipts Deductions Shown by the Exempt Organization and
Gross Receipts Deductions shown by the
for Year Ending Dec. 31, 20XX

	Form 990	
Bingo - Cash Prizes	0	0
Non-Cash Prizes	0	0
Rent/Facility Costs	0	0
Other Direct Expenses	0	0
Regular Prizes		0
Pull-Tabs-Cash Prizes	0	
Rent/Facility Costs	0	
Instant Prizes	0.00	0
Other Direct Expenses	0	
Charitable Distributions		0
Total	0	0

Gaming Gross Receipts Shown by the Exempt Organization and
Gross Receipts shown by the
for Year Ending Dec. 31, 20XX

	Form 990 Transcript	
Bingo-Gross Revenue	0	
Bingo-Card sales/Entrance fee		0
Bingo-Electronic card sales		0
Pull Tabs-Gross Revenue	0	0
Total	0	0

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Name of Taxpayer		Year Ended Dec. 31, 20XX, 20XX and 20XX

Gaming Gross Receipts Deductions Shown by the Exempt Organization and
Gross Receipts Deductions shown by the
for Year Ending Dec. 31, 20XX

	<i>Form 990 Transcript</i>	
Bingo - Cash Prizes	0	0
Non-Cash Prizes	0	0
Rent/Facility Costs	0	0
Other Direct Expenses	0	0
Regular Prizes		0
Pull-Tabs-Cash Prizes	0	
Rent/Facility Costs	0	
Instant Prizes		0
Charitable Distributions		0
Total	0	0

Membership and Recordkeeping

During the examination, it was found that the Organization did not meet the Membership Test. The Organization was asked to provide membership records. They provided a Member List with names and addresses for 0 members. The organization had one class of membership only and the organization paid the membership dues for all members.

As proof of membership they provided 8 Membership Applications with their respective DD-214s. No proof of Service was provided for the Organization's Commander,

The Organization was aware of the membership requirement. , the POA, stated in letter dated 09-08-XX that the Post Commander was aware of the membership requirement and reviewed membership applications and proof of Service. POA stated that the National Department of had directed the Organization to return those documents to applicants due to the sensitivity of them. No document was provided from said Department. No additional proof of Service for the reminder members had been received. The Organization had failed the membership test.

We received additional information on 01-28-XX. The POA provided a new Member List but now with members. He provided 12 DD-214s which he had already provided with the exception of 4 of them. One document was not accepted as proof since it was a request for a DD-214 dated 8-22-XX. This document was for , the Organization's Commander. As per discussion with Exempt

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Organization's Manager, it was decided to accept the additional information, although the Organization had been inconsistent with the information provided. The Organization satisfied the membership requirement. No issue to pursue.

LAW:

IRC Section 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.

Treasury Regulations section 1.501(c)(19)-1(a) In general: (1) states that for taxable years beginning after December 31, 1969 a veterans post or organization which is organized in the United States or any of its possessions may be exempt as an organization described in section 501(c)(19) if the requirements of paragraphs (b) and (c) of this section are met and if no part of its net earnings inures to the benefit of any private shareholder or individual. Paragraph (b) of this section contains the membership requirements such a post or organization must meet in order to qualify under section 501(c)(19). Paragraph (c) of this section outlines the purposes, at least one of which such a post or organization must have in order to so qualify.

Treasury Regulations 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, 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.

Treasury Regulations section 1.501(c)(19)-1(b) sets out the membership requirements that must be met in order for an organization to be exempt under section [501\(c\)\(19\)](#)

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(1) . . . The first requirement is that at least 75 percent of the members of the organization must be war veterans. For purposes of this section the term 'war veterans' means persons, whether or not present members of the United States Armed Forces, who have served in the Armed Forces of the United States during a period of war (including the Korean and Vietnam conflicts).

(2) The second requirement of this paragraph is that at least 97.5 percent of all members of the organization must be described in one or more of the following categories:

(i) War veterans,

(ii) Present or former members of the United States Armed Forces,

(iii) Cadets (including only students in college or university ROTC programs or at Armed Services academies), or

(iv) Spouses, widows, or widowers of individuals referred to in paragraph (b)(2)(i), (ii) or (iii) of this section.

Internal Revenue Code Section 6001. Notice or Regulations Requiring Records, Statements, and Special returns provides that every person liable for any tax imposed by this title, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules and regulations as the Secretary may from time to time prescribe. Whenever in the judgment of the Secretary it is necessary, he may require any person, by notice served upon such person or by regulations, to make such returns, render such statements, or keep such records, as the Secretary deems sufficient to show whether or not such person is liable for tax under this title.

Section 1.6001-1(c) of the Income Tax Regulations states - *Exempt organizations*. - In addition to such permanent books and records as are required by paragraph (a) of this section with respect to the tax imposed by section 511 on unrelated business income of certain exempt organizations, every organization exempt from tax under section 501(a) shall keep such permanent books of account or records, including inventories, as are sufficient to show specifically the items of gross income, receipts and disbursements. Such organizations shall also keep such books and records as are required to substantiate the information required by section 6033. See section 6033 and §§1.6033-1 through -3.

Internal Revenue Code Section 6033(a)(1) provides In general.--Except as provided in paragraph (2), every organization exempt from taxation 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 purpose of carrying out the internal revenue laws as the Secretary may by forms or regulations prescribe, and shall 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 1.6033-1(h)(2) of the Income Tax Regulations provides, in part, that every organization which is exempt from tax shall submit such additional information as may be required by the Internal Revenue Service for the purposes of inquiring into its exempt status.

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Section 1.6033-1(a)(2)(ii) of the Income Tax Regulations provides, in part, that "gross receipts" means the gross amount received by the organization during its annual accounting period from all sources without reduction for any costs or expenses including, for example, cost of goods or assets sold, cost of operations, or expenses of earning, raising, or collecting such amounts. Thus, "gross receipts" includes but is not limited to, (a) the gross amount received as contributions, gifts, grants, and similar amounts without reduction for the expenses of raising and collecting such amounts, (b) the gross amount received as dues or assessments from members or affiliated organizations without reduction for expenses attributable to the receipt of such amounts, (c) gross sales or receipts from business activities (including business activities unrelated to the purpose for which the organization received an exemption, the net income or loss from which may be required to be reported on Form 990-T), (d) the gross amount received from the sale of assets without reduction for cost or other basis and expenses of sale, and (e) the gross amount received as investment income such as interest dividends, rents, and royalties. Pursuant to IRC Sec. 6033(a)(1) and Treas. Reg. Sec. 1.6033-2(a)(1), gross receipts must be reported on Form 990 without reduction for prizes or similar expenses. See Treas. Reg. Sec. 1.6033-2(g)(4) on the definition of "gross receipts."

GOVERNMENT'S POSITION

As a result of the examination of your organization's activities and Forms 990 and 990-T for the period ended **December 31, 20XX**, it was determined that your organization's primary activity was the operation of Bingo and pull-tabs. Substantially all of your income and expenses were the result of your Bingo and pull tabs activity. As a result, you are not organized and operated exclusively for 501(c)(19) purposes.

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 have purposes of a substantial nature that are not listed in this section to retain IRC 501(c)(19) status.

We have determined that your organization no longer qualifies as an exempt Veterans Organization described in the Internal Revenue Code section 501(c)(19). Since your organization conducted gaming activities (Bingo and Pull-tabs) with the general public as your primary activity, your organization is not engaged in activities which further your exempt purpose. The majority of income received was from the general public.

It was determined that your organization does not maintain separate records of income from members and from non-members. As a result, the Service considers all of your income from gaming to derive from non-members. These activities give the appearance that the organization is conducting business with the general public as a for-profit business. The organization failed to meet the requirements for exemption under 501(c)(19).

Where goods or services are furnished to nonmembers who provide payment for such goods or services, their furnishing is outside the scope of Section 1.501(c)(19)-l(c) of the Regulations. Generally,

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if an organization has not kept adequate books and records concerning its financial transactions with nonmembers and more than 50 percent of its gross receipts are derived from sales transactions (e.g. restaurant and bar sales, gaming, etc.), the presumption will be that the organization's exempt status should be revoked because it is not primarily engaged in Section 501(c)(19) activities.

An organization described in I.R.C. § 501(c)(19) carries out activities in furtherance of its exempt purposes only when such activities are carried out exclusively in furtherance of the purposes listed in Treas. Reg. § 1.501(c)(19)-1(c). Among these purposes is the provision of social and recreational activities for its members. In the instant case, documents were not provided during the examination that demonstrates the existence of exempt activities. The Organization was also not able to provide records that demonstrated the amount of income for members, their families, guests, auxiliary members, nonveterans or from nonmembers. In reviewing the books and records for the Organization, the income and the exempt activities vs. non-exempt activities was not established.

Gambling provides recreation for many people. If the gambling is limited to members of the post and their guests (guests must not only be invited by a member, but must have all of their expenses paid by the member), it is an acceptable activity for a 501(c)(19) organization. If the gambling activity is open to the general public, such activity might jeopardize the organization's exempt status or result in the income being taxable as unrelated business income. On this instance, the Organization only activity is Bingo and Pull-Tabs and is open to the general public. Furthermore, the Organization did not have a system to track member and non-member participation.

Your organization had as its primary activity the operation of a trade or business, the gaming operation, which was not in furtherance of its exempt purpose. The use of the pull tab proceeds to offset the general expenses of the Post's social or recreational activities, or to reduce the members' dues, constitutes inurement. The organization's operation also served the private interests of its President and company.

For your information, in regards to the Membership Test, the sections of the Internal Revenue Code and underlying regulations relating to the membership requirements for veterans organizations as recited above are explicit in their definition of the permissible member percentages a veteran's organization may enroll and still maintain its exempt status. In determining whether or not a veteran's organization meets the legal requirements for continued recognition of exemption from Federal income tax, the Service has virtually no latitude when membership infractions occur. The legal requirements for recognition of exemption from Federal income tax for veterans' organizations are straight forward. Such organizations are subject to membership restrictions and must comply with these constraints in order to qualify for tax-exempt status.

Based on the above, we are proposing revocation of your exempt status under section 501(c)(19) of the Internal Revenue Code effective January 1, 20XX.

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TAXPAYER'S POSITION

, POA/CPA, stated disagreement with Report of Findings.

CONCLUSIONS

It is been determined that the Organization's exemption should be revoked for all years beginning on or after January 1, 20XX.

Should this revocation be upheld, you are required to file Form 1120 for the years ending December 31, 20XX, 20XX, 20XX, and all future periods, whether or not you have taxable income.