



Veterans Organizations:  
Help from the IRS on Key Issues

**Cheryl Teser & Peter Lorenzetti**  
**Exempt Organizations**



# Today's Speakers

---

**Cheryl Teser**  
**EO Fed/State Liaison**

**Peter Lorenzetti**  
**Northeast Area  
Manager**



# Today's Topics

---

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



# IRS Publication 3386

TAX GUIDE

# Veterans'

*Organizations*





## 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

---

- 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

---

- 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

---

- 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

---

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

---

- 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



# 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



# Statutory Membership Requirements

  
TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D. C. 20224

November 26, 2013

Control No: TEGE-04-1113-21  
Affected IRM: IRM 4.76.26  
Expiration Date: Nov 26, 2014

MEMORANDUM FOR ALL EO EXAMINATIONS MANAGERS,  
ALL EO EXAMINATIONS REVENUE AGENTS

FROM: Nanette M. Downing /s/ Nanette M. Downing  
Director, EO Examinations

SUBJECT: Verification of Statutory Membership Requirements of  
Veterans' Organizations

This memorandum revises examination guidelines for tax-exempt veterans' organizations described in section 501(c)(19) of the Internal Revenue Code (IRC) by eliminating an agent's discretion to request DD Forms 214 at the outset of examinations for the purpose of determining whether the organization meets statutory membership requirements.

IRC sections 501(c)(19) and 170(c)(3) provide statutory membership requirements for certain tax-exempt veterans' organizations. Compliance with these requirements has a direct effect on the qualification for tax-exempt status and the deductibility of contributions.

In order to confirm whether a veterans' organization meets statutory membership requirements, [IRM 4.76.26.12\(1\)](#) provides that examining agents may request, among other documents, DD Forms 214, *Certificate of Release or Discharge from Active Duty*, of veterans' organizations. DD Form 214 is a military service discharge certificate issued to veterans, providing proof of military service. However, DD Form 214 also contains private information, such as medical information.

## This memo:

- Revises examination guidelines for veterans organizations described in section 501(c)(19) of the IRC
- Eliminates an agent's discretion to request DD Forms 214 at the outset of examinations for the purpose of determining whether the organization meets statutory membership requirements
- See IRM 4.76.26.12(1)



# Employment Issues

---

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

---

## 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

---

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

---

## 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

---

## 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*





# War Veterans Organizations

---

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




# 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

---

## 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

<p>When does automatic revocation occur?</p>	<p>If organization does not file as required for three consecutive years</p>
<p>Rev. Proc. 2014-11 explains the four procedures an organization may use to apply for reinstatement.</p>	<p>File Form 1024, pay appropriate user fee</p>

## Automatic Revocation - How to Have Your Tax-Exempt Status Retroactively Reinstated



Organizations whose tax-exempt status was automatically revoked because they did not file required 990 series returns or notices for three consecutive years can apply for reinstatement of their tax-exempt status.

In a new [Revenue Procedure 2014-11](#), the IRS explains the four procedures an organization may use to apply for reinstatement.

### Streamlined Retroactive Reinstatement

Organizations that were eligible to file 990-EZ or 990-N (*ePostcard*) for the three years that caused their revocation may have their tax-exempt status retroactively reinstated to the date of revocation if they:

- Have not previously had their tax-exempt status automatically revoked.
- Complete and submit [Form 1023](#) or [Form 1024](#) with the appropriate [user fee](#) not later than 15 months after the later of the date of the organization's Revocation Letter (CP-120A) or the date the organization appeared on the Revocation List on the IRS website.

These organizations should write on the top of the Form 1023 or Form 1024, "Revenue Procedure 2014-11, Streamlined Retroactive Reinstatement," and mail the application and user fee to:

Internal Revenue Service  
P.O. Box 12192  
Covington, KY 41012-0192

In addition, the Service will not impose the Section 6652(c) penalty for failure to file annual returns for the three consecutive taxable years that caused the organization to be revoked if the organization is retroactively reinstated under this procedure and files properly completed and executed paper Forms 990-EZ for all such taxable years. (For any year for which the organization was eligible to file a Form 990-N, the organization is not required to file a prior year Form 990-N or Form 990-EZ to avoid penalties.) The organization should write "Retroactive Reinstatement" on the Forms 990-EZ and mail them to:

## Charitable Organizations

[Churches & Religious Organizations](#)[Political Organizations](#)[Private Foundations](#)[Other Non-Profits](#)[Contributors](#)

## Charities &amp; Non-Profits Topics

- [Life Cycle](#)
- [Search for Charities](#)
- [A-Z Site Index](#)
- [StayExempt.irs.gov](#)
- [Calendar of Events](#)
- [EO Update](#)
- [Exempt Organizations FAQs](#)
- [Charities & Non-Profits Home](#)

## Charities &amp; Non-Profits Topics

- [Life Cycle](#)
- [Search for Charities](#)
- [A-Z Site Index](#)

## Exempt Organizations Select Check



*Exempt Organizations Select Check* is an on-line search tool that allows users to select an exempt organization and check certain information about its federal tax status and filings. It consolidates three former search sites into one, providing expanded search capability and a more efficient way to search for organizations that:

- Are eligible to receive tax-deductible charitable contributions (**Publication 78 data**). Users may rely on this list in determining deductibility of contributions (just as they did when Publication 78 was a separate electronic publication rather than part of *Select Check*).  
**Updated data posting date: 8-13-2012**
- Have had their tax-exempt status automatically revoked under the law because they have not filed Form 990 series returns or notices annually as required for three consecutive years (**Auto-Revocation List**)  
**Updated data posting date: 8-13-2012**
- Have filed a Form 990-N (**e-Postcard**) annual electronic notice. (Most small organizations whose annual gross receipts are normally \$50,000 or less are required to electronically submit Form 990-N, unless they choose instead to file a completed Form 990 or Form 990-EZ.  
**Updated data posting date: 8-27-2012**

### [A tip for organizations and donors about the timing of data updates.](#)

In addition to searching for a particular organization, users may download a complete list of each of the three types of organizations through *Exempt Organizations Select Check*.

[Exempt Organizations Select Check Tool](#)



## Resources

---

**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