

# [Exemptions]

[Federal income tax exempt status issued by IRS &/or as declared by Taxpayers]

## 26 U.S. Code § 501 (c)(23)



### 501(c)(23) — Veterans Organization



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#### Part 7. Rulings and Agreements

#### Chapter 25. Exempt Organizations Determinations Manual

#### Section 19. Veterans' Organizations

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### **7.25.19.1 (09-01-2005)**

#### **Overview**

1. IRC 501(c)(19) exempts 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 or organization.
2. These organizations may conduct a broad range of activities without jeopardizing their tax-exempt status, provided they satisfy the requirements set forth below.
3. Examination procedures for IRC 501(c)(19) veterans' organizations are covered in IRM 4.76.26.

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### **7.25.19.2 (09-01-2005)**

#### **Statutory Requirements**

1. To be recognized as exempt under IRC 501(c)(19), a veterans' organization must meet the following requirements:
  - A. It must be organized in the United States or any of its possessions,
  - B. At least 75% of its members must be past or present members of the Armed Forces of the United States and substantially all of the other members must be cadets or spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and

#### **Note:**

Membership requirements were modified for years beginning after November 11, 2003. See IRM 7.25.19.4.

- C. No part of its net earnings may inure to the benefit of any private shareholder or individual. The organization's organizing document must not provide that the assets of the organization may be distributed to members upon dissolution.

#### **Note:**

The provision of insurance benefits to members or dependents of members is not considered to be inurement.

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### **7.25.19.3 (09-01-2005)**

#### **Exemption Options**

1. Veterans' organizations may also qualify for exemption under IRC 501(c)(3) as charitable organizations, 501(c)(4) as social welfare organizations, 501(c)(7) as social clubs, or 501(c)(8) or 501(c)(10) as fraternal organizations, if they meet the requirements for exemption under those sections.

#### **Example:**

Veterans' organizations may maintain and operate their social facilities as a wholly owned subsidiary exempt under IRC 501(c)(7). See Rev. Rul. 66-150, 1966-1 C.B. 147.

2. Publication 3386, *Tax Guide for Veterans' Organizations*, includes a general overview of veterans' organizations that may qualify for exemption under some of these Code sections.

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#### **7.25.19.4 (09-01-2005)**

##### **Membership Requirements**

1. For tax years ending on or before November 11, 2003, an IRC 501(c)(19) organization must satisfy the following membership requirements:
  - At least 75% of the members must be past or present members of the Armed Forces of the United States. Substantially all of the rest of the members must be cadets or spouses, widows or widowers of past or present members of the Armed Forces or cadets.
  - In Senate Report No. 92-1082, 92nd Cong. 2d Sess. (reproduced in 1972-2 C.B. 713, at 715), Congress stated that for purposes of IRC 501(c)(19), "substantially all" means 90%.
  - Of the 25% of the members that do not have to be past or present members of the Armed Forces of the United States, 90% must be cadets, or spouses, etc.
  - Only 2.5% of an IRC 501(c)(19) organization's total membership may consist of individuals not mentioned above.

##### **Example:**

An IRC 501(c)(19) organization consisting of 200 people must have at least 150 members who are past or present members of the Armed Forces of the United States (75% x 200) and cannot have more than 5 members (2½% x 200) who are neither past or present members of the Armed Forces nor cadets, spouses, widows, or widowers of such persons.

2. For tax years beginning after November 11, 2003:
  - Section 105 of the Military Family Tax Relief Act of 2003 modifies the membership requirements for IRC 501(c)(19) veterans' organizations to include ancestors and lineal descendants of veterans or cadets in the 25% permissible non-veteran membership class.
  - No more than 2.5% of the organization's total membership may consist of individuals who are not veterans or cadets or spouses, widows/widowers/ancestors, or lineal descendants of veterans or cadets.

#### **7.25.19.4.1 (09-01-2005)**

##### **Definition of Veteran**

1. Veterans are defined as present or former members of the United States Armed Forces. IRC 7701(a)(15) defines the "military or naval forces of the United States" and the term "Armed Forces of the United States" as including all regular and reserve components of the uniformed services which are subject to the jurisdiction of the Secretary of Defense, the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force. Each term also includes the Coast Guard and the National Guard.
  - A. National Guard Members. See Rev. Rul. 60-65, 1965-1 C.B. 21.
  - B. Coast Guard Members. See IRC 7701(a)(15).
  - C. Members who are on active duty or are honorably separated from the National Guard and the Reserve Forces are also considered veterans.
  - D. Persons who have been dishonorably discharged from the United States Armed Forces are not considered "veterans" or "war veterans" for purposes of determining membership composition.

#### **7.25.19.4.2 (09-01-2005)**

##### **Definition of Membership**

1. A specific organization's membership is normally defined in the Articles of Incorporation and/or bylaws. However, at times an individual organization may define its membership in the meeting minutes of the organization.
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#### **7.25.19.5 (09-01-2005)**

##### **Exempt Purposes**

1. Veterans' organizations must be operated for one or more of the eight purposes listed in Regs. 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 Regs. 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, literacy, or educational purposes (as set out in IRC 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.

#### **7.25.19.5.1 (09-01-2005)**

##### **Non-Exempt Activities**

1. 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 nonmembers.
  2. 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).
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#### **7.25.19.6 (09-01-2005)**

##### **Contributions to Veterans' Organizations**

1. IRC 170(c)(3) provides an income tax deduction for contributions to a post of "war veterans" if it is organized in the United States or any of its possessions, and no part of its net earnings inures to the benefit of any private shareholder or individual. To qualify for deductibility of contributions, a veterans' organization may be exempt under IRC 501(c)(19) or any other appropriate section of the Code, but must also satisfy both a membership requirement and a purpose requirement.

#### **7.25.19.6.1 (09-01-2005)**

##### **Membership Requirement**

1. To meet the membership requirement, at least 90% of the members must be war veterans. In addition, substantially all the other members must be either veterans (but not war veterans), or cadets, spouses, widows, or widowers of war veterans, veterans or cadets. For the purpose of the 90% test, war veterans may include members of expeditionary forces who actually served in combat situations in foreign countries between the periods of war as defined below.

##### **Note:**

The organization must be organized and operated primarily for purposes that are consistent with its status as a war veterans' organization. See Rev. Rul. 84-140, 1984-2 C.B. 56.

2. War veterans are defined as 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. Periods of war are generally considered to be the same as set forth in 38 U.S.C. section 101 concerning veterans' benefits. See Rev. Rul. 59-151, 1959-1 C.B. 53, and Rev. Rul. 78-239, 1978-1 C.B. 162. Such periods include:
  - A. April 21, 1898, through July 4, 1902;
  - B. April 6, 1917, through November 11, 1918;
  - C. December 7, 1941, through December 31, 1946;
  - D. June 27, 1950, through January 31, 1955;
  - E. August 5, 1964, through May 7, 1975; and
  - F. August 2, 1990, and ending on the date prescribed by Presidential Proclamation or by law. As of the date of drafting of these guidelines, the date was open.

#### **7.25.19.6.2 (09-01-2005)**

##### **Purpose Requirement**

1. A war veterans' organization must also be organized and operated for the following purposes that are narrower than those for qualification for exemption under IRC 501(c)(19):
  - A. Furthering comradeship among persons who are or have been members of the Armed Forces;
  - B. Honoring the memory of deceased veterans and members of the Armed Forces and aiding and comforting their survivors;
  - C. Encouraging patriotism; and
  - D. Aiding hospitalized, disabled and needy war veterans and their dependents.

#### **7.25.19.7 (09-01-2005)**

##### **Auxiliary Units of Veterans' Organizations**

1. Auxiliary units or societies may also qualify for exemption under IRC 501(c)(19). An auxiliary must be separately organized and have a separate Employer Identification Number (EIN) or its members will be

considered members of the post. These units are formed to support a post already recognized as tax-exempt under IRC 501(c)(19),

2. If the post is not exempt under IRC 501(c)(19), the auxiliary cannot qualify for tax exemption under IRC 501(c)(19).

#### **7.25.19.7.1 (09-01-2005)**

##### **Exemption Requirements**

1. An auxiliary unit or society must:
  - A. Be affiliated with and organized in accordance with the bylaws and regulations of a veterans' organization already exempt under IRC 501(c)(19);
  - B. Be organized in the United States or any of its possessions; and
  - C. Have members that are either members of the IRC 501(c)(19) organization, spouses of those members, or related to those members within two degrees of consanguinity. This includes parents, grandparents, brothers, sisters and grandchildren, but does not include nieces or nephews of the member.
2. No part of the net earnings may inure to the benefit of any private shareholder or individual.

#### **7.25.19.8 (09-01-2005)**

##### **Trusts or Foundations**

1. All IRC 501(c)(19) organizations are permitted to provide life, sick, accident, or health insurance benefits for their members and their members' dependents. Most veterans' organizations do not provide these benefits directly; they contract out to existing public insurance companies. The administration of the insurance programs is often conducted through single purpose trusts or foundations. A trust or foundation may also be used to provide the insurance benefits directly. These organizations may also qualify for exemption under IRC 501(c)(19).
2. To qualify for exemption, the regulations provide that a trust or foundation must:
  - A. Have a separate legal existence and
  - B. Be organized exclusively for IRC 501(c)(19) purposes.
3. The income of an insurance trust or foundation must be used solely to fund a veterans' organization, the charitable purposes listed in IRC 170(c)(4), or an insurance set-aside. If the funds are used for charitable purposes, the trust or foundation must provide in its organizing document that upon dissolution its funds will continue to be dedicated to charity. Regs. 1.501 (c)(3)-1(b)(4).
4. A trust or foundation cannot unreasonably accumulate income. Unless the trust or foundation is an insurance set-aside, a substantial portion of the income must actually be distributed for the specified purposes.

#### **7.25.19.8.1 (09-01-2005)**

##### **Insurance Set-Asides**

1. A veterans' organization may create an insurance set-aside to provide direct insurance benefits through a separately organized trust or foundation.
2. An insurance set-aside may also be created without creating a separate organization. A restricted fund can be created within the IRC 501(c)(19) organization, provided adequate records are kept describing the amounts and designated purposes of the funds.

3. Amounts paid by members for insurance benefits and properly set aside are not subject to tax as unrelated business income. Regs. 1.512(a)-4(b).
  - A. To be considered properly set aside, the funds must be kept separate from the organization's general funds and accounts.
  - B. Such amounts must be limited to those reasonably necessary to provide insurance benefits which are, in fact, provided, and must be used solely for paying those benefits to the members or for administering the insurance program.
  - C. However, excess funds from an experience gain may be used for IRC 170(c)(4) purposes or for the reasonable costs of distributing funds for such purposes.
  - D. Funds for any other purpose may not be commingled with the insurance set-aside.
  - E. Any other uses of the set-aside funds, such as using them as security for a loan, are considered to be withdrawals from the set-aside, and these amounts are included in unrelated business taxable income in the taxable year they are withdrawn, without regard to any modification provided by IRC 512(b).
  - F. The income generated from the set-aside funds may be similarly set aside. It must be set aside in the taxable year in which it would be includible in gross income but for IRC 512(a)(4).
  - G. Such income may be invested, pending the action contemplated by the set-aside, without being regarded as having been used for other purposes.
4. The special rules regarding income received by IRC 501(c)(19) organizations from providing insurance benefits and expenditures of funds derived from insurance activities do not apply to expenditures made for lobbying purposes. See Senate Report No. 92-1082, 92d Cong. 2d Sess. (reproduced in 1972-2 C.B. 713, at 716).

#### **7.25.19.9 (09-01-2005)**

##### **IRC 501(c)(23)**

1. IRC 501(c)(23), added to the Code by P.L. 97-248, 96 Stat.640, in 1982, provides exemption for associations:
  - A. Organized prior to 1880;
  - B. More than 75% of the members of which are past or present members of the Armed Forces; and
  - C. The primary purpose of which is to provide insurance and other benefits to veterans or their dependents.
2. This legislation was proposed on behalf of the Army Mutual Aid Association and the Navy Mutual Aid Association. It is broader than IRC 501(c)(19) in that the membership requirements are more lenient. It is limited in application, however, since it applies only to organizations created before 1880. The Army and Navy Mutual Aid Societies are the only organizations known to qualify under this section.

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#### **7.25.19.10 (09-01-2005)**

##### **Digests of Published Rulings**

1. In Rev. Rul. 60-65, 1960-1 C.B. 21, the National Guard is considered a part of the Armed Forces of the United States for purposes of section 1.61-2 of the regulations.

2. A subsidiary of a veterans' organization which holds title to a building housing its parent, which is exempt under IRC 501(c)(4), maintains the building, and operates the social facilities located in the building, does not qualify for exemption from Federal income tax under IRC 501(c)(2) or IRC 501(c)(4); but it does qualify under IRC 501(c)(7). Rev. Rul. 66-150, 1966-1 C.B. 147.
3. In Rev. Rul. 73-14, 1973-1 C.B. 117, contributions to an endowment fund established by an exempt war veterans' organization for the care of disabled war veterans, some of whom are members of the organization, may be deducted as charitable contributions under IRC 170.
4. The dates of "a period of war," for purposes of the definition of war veterans in section 1.501(c)(19)-1(b)(1) of the regulations, will be the dates of periods of war set forth in 38 U.S.C. section 101 relating to veterans' benefits. Rev. Rul. 78-239, 1978-1 C.B. 162.
5. Contributions to an organization, 90% of the membership of which is comprised of war veterans of the Armed Forces of the U.S., are deductible under IRC 170(c)(3). The fact that a small percentage of members have not served in a branch of the Armed Forces will not preclude the organization from being classified as a war veterans' organization. Rev. Rul. 59-151, 1959-1 C.B. 53, is modified and superseded by Rev. Rul. 84-140, 1984-2 C.B. 56.

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