

[REDACTED]

Date: FEB 20 1992

[REDACTED]

Person to Contact:

[REDACTED]

Contact Telephone Number:

[REDACTED]

Refer Reply to:

[REDACTED]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(7) of the Internal Revenue Code.

The evidence presented disclosed that you were incorporated on [REDACTED] under the non-profit corporation law in the State of [REDACTED].

The purposes for which the organization was formed are as follows:

"To promote safe and safe and sane driving, while also offering the facilities, equipment and training in automobile repairs and modifications for those people having a desire for originality, inventiveness and ingenuity, which is inherent in so many Americans. It shall stress the importance of experimentation while also instilling the desire to improvise and improve; and it shall offer the opportunity for companionship and participation in activities of interest to all its members."

The current activities of the organization are (1) to provide members a workspace, equipment, and training in automobile repair and modification as well as safe and sane driving and (2) to hold an annual automobile show with a portion donated to local charities. The income of the organization is from membership dues, automobile shows and investment. These expenses are related to the organization's activities.

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and no part of the net earnings of which inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

Public Law 94-568 amended IRC 501(c) to reflect a twofold change under IRC 501(c)(7). First, it makes it clear that a social club may receive some investment income without losing its exempt status. Second, it permits a higher level of income from nonmember use of club facilities than was previously allowed.

In addition, Public Law 94-568 defines gross receipts as those receipts from normal and usual activities of a club including charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. Public Law 94-568 also states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their exempt status. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts. If a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the 35 percent formula, that is, unusual income is not to be included in the gross receipts of the club.

Revenue Ruling 66-149, 1966-1 C.B. 140 holds that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. However, a club's right to exemption under section 501(c)(7) of the Code is not affected by the fact that for a relatively short period a substantial part of its income is derived from investment of the proceeds of the sale of its former clubhouse pending the acquisition of a new home for the club.

The organization had exceeded the 15% figure for nonmember income. Below is a computation of the nonmember income.

	████████████████████	
<u>Source</u>	<u>Total Support</u>	<u>Total Support</u>
	Member	Nonmember
Dues	████████	
Auto Shows	████████	████████
	-----	-----
	████████	████████

Nonmember Income	██████████	=	██████%
-----	-----		
Total Income	██████████		

Like the organization described in Revenue Ruling 66-149 your organization's income from nonmember sources exceeds the limitations imposed by Public Law 94-568.

Revenue Ruling 66-179, 1966 C.B. 139 (situation 4) describes how a garden club can qualify for exemption under section 501(c)(7) of the Internal Revenue Code. The organization was incorporated by amateur gardeners to promote their common interest in gardening. The activities of the organization consist of flower shows and exhibits to display member's achievements in home gardening, weekly meetings devoted primarily to informal social hours during which matters related to gardening are discussed, and issuing a publication containing news about member social activities and achievements in home gardening. Its funds are derived from membership dues, fees and assessments. No part of the net earnings of the organization inures to the benefit of any officer or member.

Revenue Ruling 70-32, 1970-1, C.B. 132 holds that a flying club providing economical flying facilities for its members but having no organized social and recreational program does not qualify for exemption under section 501(c)(7) of the Code.

In order for a club to meet the requirements for exemption under section 501(c)(7) of the Code, there must be an establish membership of individuals, personal contacts, and fellowship. Commingling of members must play a material part in the activities of the organization.

Your organization was not formed solely for pleasure, recreational and other non-profitable purposes. It was formed to provide economical facilities and training to its members in automobile repairs and modifications.

Accordingly, this organization is similar to the one denied exemption in Revenue Ruling 70-32 whose sole activity involved the ownership, operation and maintenance of the aircraft for use by its members. There was little commingling among members for social or recreational purposes. It is unlike the organization in situation 4 of Revenue Ruling 66-179. In that Revenue Ruling the organization, in carrying out its purposes in the manner described, is operated exclusively for the pleasure and recreation of its members.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

S

  
District Director

Enclosure: Publication 892