

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

MAR 0 1 1984

Dear Applicant:

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

The information submitted indicates you were incorporated on [REDACTED], under the nonprofit corporation laws of the State of [REDACTED], to social and recreational facilities for your members, including the enjoyment of good food and beverage in amicable surroundings.

Your building and other facilities for the club activities are leased to you by [REDACTED] for \$ [REDACTED] per year plus your agreement that you will contract with [REDACTED], or such other substitute or successor entity as [REDACTED] designates, for the management of the restaurant and private club. [REDACTED] is a sole proprietorship owned by [REDACTED]. [REDACTED] is one of your directors.

Your management agreement provides that [REDACTED] will supply food and beverage services for you at your premises, and will provide restaurant and club furnishings, and other unspecified services as required. It will maintain all records, pay all taxes, fees, and assessments including insurance. In consideration for these services, you will furnish your private club registration permit on alcoholic beverages and [REDACTED] will be entitled to all money collected by it or coming into its possession from operations in connection with sales of food, beverages, entertainment, or other related business activities. Also, any funds you receive in excess of rent and permit fees shall be distributed semi-annually as a bonus to [REDACTED].

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
		[REDACTED]					
Surname		[REDACTED]					
Date		[REDACTED]					

For [redacted], your income was \$ [redacted] derived from liquor sales, annual memberships, and temporary memberships. Your expenses were listed as liquor purchases, rent, liquor license, cost of temporary memberships, liquor replenishment fund, and all excess, \$ [redacted], for [redacted] [redacted] per your management contract. You show that the only money you retain is to replenish the liquor account per State law.

Your bylaws provide for a membership approved by your Board of Directors. This regular (annual) membership pays an initial fee of approximately \$ [redacted]. Though your bylaws do not authorize such, you also offer temporary memberships for [redacted] per 72 hour period. Anyone except a regular member may purchase a temporary membership at the door. The State law requires that the temporary membership be issued by the manager. The membership application requests name, address, phone, drivers license and drink preference. We requested the amounts of income from sales of food, liquor, etc. derived from temporary members, but you did not provide that information.

Your submitted an Income Statement for [redacted] headed [redacted] [redacted] that showed additional income from apartment rental, lease rental, and income from vending and entertainment. The expenses included food, liquor, sales tax, payroll, property taxes, entertainment, and various other items.

You advertise your activities (such as dances) indicating in the advertisements that you are a private club - memberships available. In some instances you have cover charges.

Section 501(c)(7) of the Internal Revenue Code provides exemption for:

"Clubs organized for pleasure, recreation and other non-profit-able 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."

Section 1.501(c)(7)-1 of the regulations provides, in part, as follows:

"(b) A club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(c)(7)."

Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption."

Revenue Ruling 65-219, 1965-2 Cumulative Bulletin 168, described a swim club that entered into a management agreement under which the manager would provide the facilities and operate the pool. All monies collected as initiation fees and 90 percent of the annual dues and fees were to be turned over to the manager. The manager had the right to determine the size of the membership and the amounts of all fees. It also operated a snack bar and concessions on the pool premises. It was concluded that the swim club was not exempt under section 501(c)(7) because it was operated as a commercial venture for the financial benefit of the manager.

Revenue Ruling 67-302, 1967-2 Cumulative Bulletin 203, held that a social club that entered into a management and lease agreement for the management and operation of its facilities by the lessor was exempt. The club retained control over the selection of its membership, set the dues and fees, had an option to purchase the property, and could terminate the agreement.

Revenue Procedure 71-17, 1971-1 Cumulative Bulletin 683, sets forth guidelines concerning gross receipts from the use of a social club's facilities or services by the general public. The Procedure requires that adequate books and records be maintained to show the amounts received from non-members and the amounts received from members and bonafide guests of members. Under Public Law 94-568, no more than 15 percent of gross receipts can be derived from the use of club facilities and services by the general public.

Based on the information presented, we have concluded that you do not meet the requirements for exemption as a social club described in section 501(c)(7) of the Code.

You have entered into a management agreement with one of your directors which created a situation similar to that shown in Revenue Ruling 65-219. Your activities are controlled by [REDACTED] through her ownership of [REDACTED]. You cannot sever your relationship with [REDACTED] without also losing your lease on your facilities. Restaurant and bar prices are set by [REDACTED]. Though you retain the right to select members through approval of the Board of Directors, the temporary memberships are granted by the manager and under her control. Your income is turned over to [REDACTED] except for the amount you are

required to keep in reserve in order to maintain your State liquor license. You do not pay a set amount for the management services. The income reported on your income/expense statement reflects income from rental properties that are a source of personal income for [REDACTED]. The income and expenses of the various enterprises are comingled in such a manner as to indicate that you are no more than an extension of her personal business. Thus your income inures to the benefit of an individual.

In addition, you advertise your club to the general public which, under section 1.501(c)(7)-1(b) of the Regulations is prima facie evidence that a club is engaged in business and is not operated for 501(c)(7) purposes. Since you also provide memberships of a temporary nature to anyone who requests them at your door, you are in essence doing business with the general public in a manner inconsistent with exemption under this section.

We were unable to determine whether you exceeded the permissible limits for non-member use of your facilities. You did not, or were unable to provide, the amounts of receipts from your temporary members for food, liquor, and entertainment. Since the temporary members were not bona fide members per your bylaws, income from them should be considered from nonmember sources.

Accordingly, it is held that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(7) of the Code, and you are required to file income tax returns on Form 1120.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

[REDACTED]

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

Sincerely,

[REDACTED]
District Director

Enclosures:
Publication 892
Form 6018