



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

200449045

Date: May 7, 2004

Taxpayer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

UIC: 501.00-00

Dear Sir or Madam:

Pursuant to our letter dated November 12, 1980, you were granted exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code.

A review of your records disclosed that you operate a gated homeowners association of lots with homes. You maintain your private roads, including residential roads and common areas designated as recreational areas including a clubhouse, reading room, swimming pool, marina, miniature golf course, and a campground for the use of all residents. You also enforce restrictive covenants, engage in architectural review, and collects money for trash collection service.

You maintain reserves for roads, campground, office, pool, clubhouse, entry gate, building maintenance, vehicles, equipment maintenance, marina, fire department, and common area.

Article III, Section 2 (b) of your By-Laws provides for associate membership open to "

You receive non-member income from guest watercraft fees, recycled cans and glass, sales of advertisements in a telephone directory, and funding from for a

Internal Revenue Code section 501(c)(7) exempts from taxation clubs organized for pleasure, recreation, and other non-profit 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.

Treasury Regulations 1.501(c)(7)-1(a) provides that the exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not

apply to any club if any part of its net earnings 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.

Revenue Ruling 75-494, 1975-2 CB 214 states that a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, owns and maintains residential streets which are not part of its social facilities, administers and enforces covenants for the preservation of the architecture and appearance of the housing development is not operated exclusively for pleasure, recreation, and other non-profitable purposes as required by section 501(c)(7) of the Code.

Revenue Ruling 58-589, 1958-2 CB 266 states that A club which engages in business, such as making its social and recreational facilities available to the general public is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a) of the Code.

Your primary activity is managing and maintaining common areas of your private recreational community by maintaining residential streets, enforcing restrictive covenants, and conducting architectural review, etc. The use of facilities by associate members and short-term commercial guests for a fee represents public patronage of the organization's facilities. You are not a social club providing exclusive membership to homeowners in a housing development.

Like the organizations in Revenue Rulings 75-494 and 58-589, you own and maintain residential streets, enforce restrictive covenants, provide residential fire and police protection, trash collection service and provide services to non-members for a fee. Therefore, you do not meet the requirements for exemption from Federal income tax under section 501(c)(7) of the Code.

Accordingly, your exemption under section 501(c)(7) of the Internal Revenue Code is revoked effective January 1,

We have determined that you fail to qualify for exemption from Federal income tax under any other subsection of IRC 501(c).

You agreed to the above revocation by signing Form 6018-A.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning January 1.

This is a final adverse determination of your exempt status under section 501(c)(7) of the Internal Revenue Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate

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can, however, see that a tax matter that may not have been resolved through normal channel gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service



If you have any questions, please call the contact person 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 yours,

A handwritten signature in cursive script that reads "R. C. Johnson".

R. C. Johnson

Director, EO Examinations

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
	Explanation of Items	1 of 3
Name of Taxpayer	Tax Identification Number	Year/Period Covered

Issue:

Should the tax-exempt status of Internal Revenue Code be revoked? under section 501(c)(7) of the

Facts:

was incorporated Its specific purpose is to provide community services and recreational facilities for the general use, benefit, and welfare of the owners of residential lots situated within

received an IRS Determination Letter dated granting exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code as a social and recreational club for the pleasure of its members.

Organization operates as a gated Homeowners Association of lots with homes. The gated association serves its community housing developments adjacent to governed by the County of The recreation community is approximately 30 rural miles from , a suburb of

maintains its private roads, including residential roads, and common areas designated as recreational areas including a clubhouse, reading room, swimming pool, marina, miniature golf course, and a campground for the use of all residents. Association also enforces restrictive covenants in , engages in architectural review, and collects money for trash collection service.

Organization's books indicate that organization maintains reserves for roads, campground, office, pool, clubhouse, entry gate, maintenance building, vehicles, maintenance equipment, marina, fire department, and common area.

Organization's minutes indicate that it operates as a gated homeowners association with regular committee reports including Architectural Review Committee, Recreation/Social Committee, Private Marina, Budget, and Fire Department Report Station # . Organization also reported on the Water Project.

Vacation Rental properties at are routinely available for tenancy from . A weekly vacation rental schedule is available online at office is located at the front gate of

The Association's By-Laws Article III, Section 2 (b) provides for associate membership open to "any person who is a tenant in a guesthouse, inn or hotel facility on the property."

Organization had non-member income from non-member and guest watercraft fees, recycled cans and glass, sales of advertisements in a telephone directory, and funding from: County for a slip.

Organization is not operated in a manner that "substantially all" of its activities are for the pleasure, recreation, and other non-profitable purposes of its membership within the meaning of section 501(c)(7) of the Internal Revenue Code.

has reported losses of \$ and \$ on its and Forms 990, respectively. It has been using its reserves to fund its operations.

Form 886-A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit 2 of 3
Explanation of Items		
Name of Taxpayer	Tax Identification number	Year/Period Ended

Law:

Internal Revenue Code section 501(c)(7) exempts from taxation 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.

Treasury regulation 1.501(c)(7)-1(a) provides the exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings 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.

Revenue Ruling 69-281, 1969-1 CB 155 states that a social club providing exclusive and automatic membership to homeowners in a housing development, with no part of its earnings inuring to the benefit of any member, may qualify for exemption under section 501(c)(7) of the Code. Revenue Ruling 69-281 also holds that a club whose membership is limited to homeowners in a housing development that provides recreational facilities that afford opportunities for fellowship and social commingling is exempt under section 501(c)(7) of the Code.

Revenue Ruling 75-494, 1975-2 CB 214 states a club providing social and recreational facilities, whose membership is limited to homeowners of a housing development, will be precluded from qualifying for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets, enforcing restrictive covenants, or providing residential fire and police protection and trash collection service.

Revenue Ruling 75-494, 1975-2 CB 214 provides that a club will fail to qualify for exemption under section 501(c)(7) of the Code if it owns and maintains residential streets, which are not part of its social facilities. Streets primarily serving residential areas are not a part of a club's social facilities, even though members must travel on them to reach the social facilities.

Revenue Ruling 75-494, 1975-2 CB 214 also states that a club that administers and enforces covenants for the preservation of the architecture and appearance of the housing development is not operated exclusively for pleasure, recreation, and other non-profitable purposes as required by section 501(c)(7).

Revenue Ruling 58-589, 1958-2 CB 266 states that A club which engages in business, such as making its social and recreational facilities available to the general public is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a).

Government's Position:

A primary activity of managing and maintaining common areas of the private recreational community by maintaining residential streets, enforcing restrictive covenants, and conducting architectural review. The association is precluded from qualifying for exemption under section 501(c)(7) of the Code by owning and maintaining residential streets and enforcing restrictive covenants per Revenue Ruling 75-494.

The Association is NOT a social club providing exclusive membership to homeowners in a housing development. The Association's By-Laws reveals a recreational community whose associate membership is open to any person who is a tenant in a guesthouse, inn or hotel facility on the property.

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Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit 3 of 3
	Year/Period Ended	

allows vacationing tenants to use recreational facilities as "guests" of the property owners, but does not require that such guests engage in fellowship and social commingling with property owner members. Nor do the property owner members pay for the guests. Such transient tenants are engaged in business with property owner members of the Association, which does not further the exempt purposes of the organization. Vacation Rental properties at _____ are routinely available for tenancy from several property managers.

Association allows members of the public to intermittently use its facilities as guests when staying at a property owner's rental home. Association allows guests to obtain daily permits for a watercraft fee. The use of social club facilities by "associate" members or short-term commercial guests represents public patronage of the organization's facilities for a fee.

There are substantial non-exempt purposes of operating as a homeowners association and making facilities available for commercial use.

Organization has reported losses of \$ _____ on its Form 990 and agrees with revocation of its exempt status.

Taxpayer's Position:

Taxpayer agrees to revocation as of:

Taxpayer submitted a delinquent Form 1120 U.S. Corporation Income Tax Return.

Conclusion:

The tax-exempt status of _____ under Internal Revenue Code section 501(c)(7) should be revoked effective _____.