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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

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EIN:
Person to Contact:
Identification Number:
Contact Telephone Number:
In Reply Refer to: TE/GE Review Staff

O = organization

Dear :

This is a Final Adverse Determination as to your exempt status under section 501(c)(7) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

O fails to meet the requirement for exemption under IRC 501(c)(7). IRC 501(c)(7), as changed by the Tax Reform Act of 1969 provides for the exemption of clubs organized and operated 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.

Public Law 94-568 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.

As a result of a recent audit of your organization's activities and Forms 990 for the periods ended December 31 , it was determined that your organization has exceeded the safe harbor limitations on non-member income as outlined in Public Law 94-568.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code effective January 1. You have executed the Form 6018-A agreeing to this revocation.

10 Metrotech Center 625 Fulton Street Brooklyn, NY 11201

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

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15th day of the third month after the end of your annual accounting period. A penalty of $20 a day is charged when a return is filed late, unless there is reasonable cause for the delay. However, the maximum penalty charged cannot exceed $10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling or writing to:

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels, gets prompt and proper handling.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

Marsha A. Ramirez
Director, EO Examinations

10 Metrotech Center 625 Fulton Street Brooklyn, NY 11201

ISSUE:
Whether the tax-exempt status of an organization that operates as a Fraternity qualifies for exemption under Section 501(c)(7) of the Internal Revenue Code?

Whether the organization is required to file Form 1120?

Whether revocation of the organization's tax-exempt status should be applied?

FACTS:
O is under a group ruling, a fraternity organization is a tax-exempt under section 501(c)(7) for the furtherance of it's exempt purpose to provide a social club organization for pleasure, recreational and other non-profitable purposes within the meaning of section 501(c)(7) of the Internal Revenue Code.

The fraternity organization provides a quarterly newsletter to its members regarding the Alumni and undergraduate Chapter, but having no organized social and recreational program. There is a lack of commingling of its' members. The organization has failed the organizational test.

The fraternity organization gross receipts are primarily investment income which far exceeds the investment income limitation. There have been enormous amount of activity in traded stock from the organization. The investment income is approximately over eighty percent (80%). The organization has failed the operational test.

LAW:
Section 501(c)(7) describes organizations such as social 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 benefit of any private shareholder.

Rev. Proc. 71-17 sets forth the guidelines for determining the effect gross receipts derived from use of a social club's facilities by the general public have on the club's exemption from Federal income tax under Section 501(c)(7) of the Internal Revenue Code of 1954.

Revenue Ruling 69-635 state that the lack of commingling and fellowship among members is an indication that the purpose of the organization is only to provide personal services and goods to the membership in a manner similar to commercial counterparts.

Public Law 94-568 provides that social clubs may receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their tax-exempt status. It is also intended that within this 35 percent amount not more than 15 percent of the gross receipts should be derived from nonmember use of club facilities.

GOVERNMENT'S POSITION:

Based on the facts and activity of the organization the law clearly states that if the organization receives substantially more than 35 percent of investment income it can result in revocation. The organization does not qualify for exemption since the investment income exceeds eighty percent (80%) of nonmember income. The organization lack personal contact, commingling and fellowship among its members. There is no organized social or recreational program, which do not qualify for exemption because the sole activity of the organization is to trade stock with the club funds and there was no significant commingling of its members. See Rev. Rul. 69-635 and PL 94-568.

TAXPAYER'S POSITION:

The organization has been provided with the government's position on the issues in question orally with the CPA and has not provided the examining officer with any supporting position, either in writing or orally. The organization agrees with revocation and completed Form 1120. The organization signed Form 6018-A. The organization declined to have a closing conference.

CONCLUSION:

The organization failed to meet the thirty-five percent (35%) limitation on gross receipts, to include investment income, as required by Public Law 94-568.

The organization does not appear to meet the operational test of Treas. Reg. 1.501 (c)(7)-1(a). The organization's activities regarding trading stock is operated in an investment manner, does not define a social club organized exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under Section 501(a).

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(7) and its tax exempt status should be revoked as of January 1.

Form **6018-A**
(Rev. 1-2004)

Department of the Treasury-Internal Revenue Service

Consent to Proposed Action

(All references are to the Internal Revenue Code)

(Prepare in Duplicate.)

Case Number	Name and Address of Organization
Date of Latest Determination Letter	
Employer Identification Number	
Date of Proposed Action Letter	

I consent to the proposed action relative to the above organization as shown by the box checked below. I understand that whether or not I execute this form, Section 7428 of the Internal Revenue Code does not apply to the action herein consented to.

Nature of Proposed Action

	Denial of exemption
✓	Revocation of exemption, effective *(date)*
	Modification of exempt status from section 501(c)( ) to 501(c)( ), effective *(date)*
	Other *(Specify.)*

If you agree to the proposed action, please sign and return this consent. You should keep a copy for your records.

Name of Organization

Signature	Title	Date
Signature	Title	Date

Instructions for Use of this Form
This consent is to be used only for proposed actions not subject to declaratory judgment under section 7428 *(in general, actions related to tax exempt status under IRC sections other than 501(c)(3) or foundation status under section 509(a))*. Do not use this consent for actions related to qualification under section 501(c)(3) or foundation status under section 509(a).

Signature Instructions
This consent should be signed by hand with the name of the organization followed by the signature(s) and title(s) of the person(s) authorized to sign for it. An attorney or agent may sign provided the action is specifically authorized by a power of attorney (POA). If the POA was not previously filed, please include it with this form.

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service
1100 Commerce Street
Dallas, Texas 75242

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:
Telephone:
Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear :

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, *The Examination Process,* explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you. For your convenience, an envelope is enclosed.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax period(s) shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

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 can, however, see that a tax matter that may not have been resolved through normal channels 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:

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,

Marsha A. Ramirez
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope