

Internal Revenue Service

Department of the Treasury

District Director Delaware-Maryland District

31 Hopkins Plaza, Baltimore, MD 21201

PERSON TO CONTACT

CONTACT TELEPHONE NUMBER

IN REPLY REFER TO

DATE: AUG 28 1996

CERTIFIED MAIL

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 and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

The information submitted discloses that you were incorporated on [redacted] under the nonprofit laws of [redacted]. Your purpose as set forth in your Articles of Incorporation is to support fans of the [redacted] television program, [redacted], by publishing a newsletter and other fan-related activities.

You are a membership organization with [redacted] members. Your Bylaws state, "A "fan club member" is a person who is up-to-date on dues." There are no other qualifications for membership.

In describing your activities, you stated, "We are a fan-club for the TV show, [redacted]. We have no official, legal or financial ties with [redacted] (the network that shows the show), [redacted] (the show's producers) or [redacted] run by [redacted]"

You publish a newsletter, [redacted] which includes news about the show, [redacted] of the show in other media, letters from members, artwork by members, and other articles of interest to members. New members receive a membership certificate, informational letter, episode guides to the first two seasons, and a reproduction of a photo of the show's stars. Members also receive "unscheduled" publications, i.e. a Christmas card with reproductions of show-related people and second of the two episode guides, which you also send to new members. You also sell back-issues of the newsletters to members.

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Regarding your income, you stated, "We get all our money from members, who pay \$/year, (US), \$ (Canadian), or \$ (overseas)." Your expenses are for the production and mailing of your newsletters.

In our request for additional information, we asked you to tell us how your organization promoted personal contact, commingling, and fellowship among members. Your response was, "Since the club is very widely spaced, with a significant fraction of the membership in other countries, it didn't seem like personal contact, e.g. club conventions, was a reasonable alternative; it would benefit a few members at the expense of others." You also stated, "There are three mechanisms for contact between members: the newsletter itself, which includes letters from members in the "Fan Forum" and "The Postman always rings..." sections. Our "Pen Pals" and "Tape Pals" sections in the newsletter allow members that wish to list their names and addresses so that they can communicate with other fans. (We thought of issuing a "fan directory", but it seemed an invasion of privacy to publish them all without the fan's permission.) Any member can ask to have their name and address listed. Members can also communicate via email (those that have the capability)..."

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

Section 1.501(c)(7)-1 of the Income Tax Regulations provides that, in general, this exemption extends to social and recreational clubs which are supported solely by membership fees and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or selling products and merchandise is not organized and operated exclusively for pleasure and recreational purposes.

Section 1.501(c)(7) of the Income Tax Regulations provides as follows:

- a) - 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 revenues from members through the use of club facilities or in connection with club activities.

b) 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 nonprofitable purposes, and is not exempt under section 501(a). 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.

Revenue Ruling 58-589, published in Cumulative Bulletin 1958-2 on page 266 provides the criteria for granting exemption to organizations under section 501(c)(7). It states in part, "An organization must establish (1) that it is a club both organized and operated exclusively for pleasure, recreation and other nonprofitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contacts and fellowship. A commingling of the members must play a material part in the life of the organization.

Revenue Ruling 55-716, published in Cumulative Bulletin 1955-2, page 263 holds an organization formed for the purpose of furnishing television antenna service to its members is not entitled to exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code. The organization's only activity is the operation and maintenance of a television antenna system providing television services to its members in their homes. Furthermore, it was held that fellowship did not constitute a material part of the life of the organization, since the services do not afford an opportunity for personal contacts and fellowship among members receiving such services.

Revenue Ruling 70-32, published in Cumulative Bulletin 1970-1 page 132 holds that a flying club providing economical flying facilities for its members, but having no organized social and recreational program, did not qualify for exemption because the sole activity of the club was rendering services to its individual members and there was no significant commingling of its members.

Your organization is similar to the ones described in Revenue Rulings 55-716 and 70-32 in that you do not have an organized social and recreation program. Your only contact with members is through your newsletter. Although there is no statutory definition of "club" as used in section 501(c)(7) of the Code, it implies the existence of personal contact, commingling, and fellowship among members. Generally, the lack of commingling of members is an indication that the basic purpose of an organization is only to provide personal services and goods to the membership in a manner that is similar to a commercial counterpart.

[REDACTED]

Based on the above, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(7) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120."

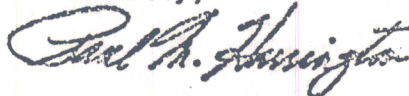
If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of-attorney or tax authorization with us.

If you don't appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination on this matter.

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

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

Sincerely,



Paul M. Harrington
District Director

Enclosure: Publication 892