

Department of the Treasury

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:

Telephone Number:

Refer Reply to:

Date: FEB 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 indicated your organization was incorporated in the [REDACTED] on [REDACTED]. Your purposes as stated in your Articles of Incorporation are:

- (1) To promote interest in various forms of street rodding, (automobiles) activity.
- (2) To create good fellowship and sportsmanship among all members of the club.
- (3) To conduct club functions and activities in a manner that befits the members of the street rodding sport, and to encourage a better understanding of street rodding as a constructive sport among the members of the public, press and law enforcement operation.
- (4) To promote safety in driving, vehicle maintenance and overall automobile operation.

[REDACTED]

You indicated you are a membership organization and your By-laws provide that members must:

- (1) Be sponsored by a member in good standing and be at least 18 years of age.
- (2) Must own a 1949 vehicle or earlier.
- (3) Must attend a required number of regular monthly meetings, or if not available due to their work schedule, the recommending member may request the required attendance be waived; prior to the voting on their membership.
- (4) Upon acceptance in membership, the new member will pay one year's dues in advance.
- (5) All new members will be on a one year probation.
- (6) Members in good standing must not miss more than three consecutive monthly meetings and maintain proper dues status. A member may miss a meeting only with a good excuse (working, out-of-town, personal or family crisis, etc.) acceptable to the Board.
- (7) Paying dues in advance will not exclude a member from the obligation of attending meetings.
- (8) A member in good standing may become an associate member, having no vote or accumulation of points (used to determine "Street Rodder of the Year" title), and will continue to pay yearly dues.

In your letter of [REDACTED], you confirmed your organization currently has a total of [REDACTED] members, including: [REDACTED] regular members, [REDACTED] associate member and [REDACTED] life member.

You indicated your organization's main activity is the annual Street Rod Show held at the [REDACTED], [REDACTED] from Friday through Sunday of Labor Day weekend. This show is advertised on the radio to the general public. Your letter of [REDACTED] noted approximately [REDACTED] of your organization's time and resources are devoted to this activity.

Your organization receives revenues from this event in the form of registration fees charged to street rodders, admissions charged to the general public, fees from the sale of souvenir T-shirts, and commissions from food and beverage vendors. You indicated the net funds generated from this event are used as starter funds for the next year's Show, to keep your organization operating on a continuing basis by paying for such items as utility bills, club and grounds maintenance and other club expenses. You indicated the membership also votes on making donations to charitable organizations.

You provided the following to reflect your organization's revenue and expenses for the periods [REDACTED] through [REDACTED]:

REVENUES					TOTAL	%
Gross from members	\$	\$	\$	\$	\$	%
Gross from activities						%
TOTAL REVENUES	\$	\$	\$	\$	\$	%
EXPENSES						
For activities	\$	\$	\$	\$	\$	%
Charitable contributions						%
Occupancy						%
Depreciation						%
TOTAL EXPENSES	\$	\$	\$	\$	\$	%
EXCESS REVENUE (EXPENSES)	\$		\$	\$	\$	%

You provided the following information when questioned as to the amount on non-member income received by your organization:

REVENUES	\$	\$	\$	\$	TOTAL
PERCENTAGE	%	%	%	%	%

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 non-profitable 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.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club, exempt from taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from non-member use of its facilities or services, so long as the latter does not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Procedure 71-17, published in Cumulative Bulletin 1971-1, page 683, establishes record keeping requirements for social clubs, to separate non-member income. If these requirements are met, certain presumptions as to member vs. non-member income may be made, as outlined in the Revenue Procedure.

Revenue Ruling 58-588 published in Cumulative Bulletin 1958-2, on page 265, states an organization formed by several individuals to operate a health, recreational, and social club but whose predominant activity is selling of services for profit to an unlimited number of so-called "members", who have no voice in the management of the club and whose only rights are the use of the club's facilities upon payment of specified fees, is not a tax-exempt social club within the meaning of section 501(c)(7) of the Internal Revenue Code.

Revenue Ruling 58-589, published in Cumulative Bulletin 1958-2, on page 266, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bona fide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to or in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are not more than enough to pay their share of the expenses.

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, on page 240, holds that a nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other non-profitable purposes under section 501(c)(7) of the Internal Revenue Code.

In this case, it was held that the solicitation of public patronage of its activities was prima facie evidence that the club was engaged in business and was not being operated exclusively for pleasure, recreation or social purposes. The income derived from public patronage inured to the benefit of the members. The club was therefore not qualified for exemption.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other than bona fide members and their guests or if the general public is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

According to the information you submitted, your club permits public participation in your organization's primary activity utilizing ☐% of your organization's time and resources. You advertise for public participation and your net income from public participation exceeds 15 percent of your total income. Financial information submitted does not demonstrate that income derived from the public was distributed to charity or used to pay the public's share of expenses of the meet, but does indicate that profits from the meet were added to the club's treasury and used or held to be used for the general operating expenses of the club.

Any member of the public can participate in your primary activity by paying a fee. Advertising to encourage the public to participate in any activity conducted by your organization is prima facie evidence that your club is engaging in business as previously cited in section 1.501(c)(7)-1(b) of the Income Tax Regulations. The organization and operation of a club in a manner which constitutes a subterfuge for doing business with the public is inconsistent with the term "club" as used in section 501(c)(7).

Therefore, 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 do not 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.

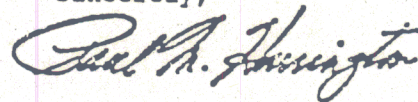
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Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

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