

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: FEB 7 1997

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification
Number:

CERTIFIED MAIL

Dear Applicant:

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

The evidence presented disclosed that your organization was

The purpose for which the corporation was formed "is to cement and strengthen the ties of friendship between its members by means of voluntary contributions and to perform acts of charity and deeds of benevolence towards the members of the community with whom it comes in contact, all of which acts and deeds are to be performed gratuitously."

The information submitted with your application discloses that there are three major activities: family genealogy, social and recreational gatherings and burial benefits. "Regular" members (who pay dues of \$ per family per year) are entitled to a burial plot and \$ toward a headstone (or \$ toward burial expenses if no plot is registered). "Social" members, who do not need burial benefits, pay \$ in dues per family per year, receive a newsletter and participate in all social activities.

Membership is limited to lineal descendants of

A review of the financial information submitted with your application discloses that investment income represents of total gross receipts.

In response to our letter dated , you inform that all plots and lots are purchased by and owned by your corporation.

Section 501(c)(7) of the Code provides exemption to clubs organized for pleasure, recreation, and other nonprofitable 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. 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.

Public Law 94-568 amended IRC 501 to reflect a twofold change under IRC 501(c)(7). First, it makes it clear that a social club may receive some investment income without losing its exempt status. Second, it permits a higher level of income from nonmember use of club facilities than was previously allowed.

In addition, Public Law 94-568 defines gross receipts as those receipts from normal and usual activities of a club including charges, admissions, membership fees, dues, assessments, investment income, and normal recurring capital gains on investments, but excluding initiation fees and capital contributions. Public Law 94-568 also 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. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of the social club's facilities or services by the general public. Thus a social club may receive investment income up to the full 35 percent amount of gross receipts. If a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facility, that income is not to be included in the 35 percent formula; that is, unusual income is not to be included in the gross receipts of the club.

Revenue Ruling 66-149, 1966-1 C.B. 146 holds that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. However, a club's right to exemption under section 501(c)(7) of the Code is not affected by the fact that for a relatively short period a substantial part of its income is derived from investment of the proceeds of the sale of its former clubhouse pending the acquisition of a new home for the club.

Revenue Ruling 63-190, 1963-2, C.B. 212 states that a nonprofit organization which maintains a social club for members and also provides sick and death benefits for members and their beneficiaries does not qualify for exemption from Federal income tax as a social club under 501(c)(7).

Like the organization described in revenue ruling 63-190 your organization provides death benefits in the form of burial plots and money towards a headstone.

Like the organization described in revenue ruling 66-149, your organization regularly derives a substantial part of its income from nonmember sources in the form of investment income which exceeds the 35% limitation provided under Public Law 94-568.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(7) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

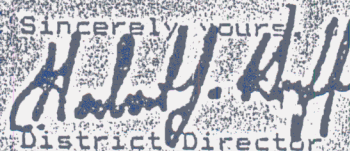
You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1660, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,



Harold J. Hoff

District Director

Enclosure: Publication 892