

Internal Revenue Service  
District Director

Department of the Treasury

Post Office Box 1680, GPO  
Brooklyn, NY 11202

Date: FEB 28 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 incorporated on [REDACTED] in [REDACTED].

The purposes for which your corporation was formed are as follows:

To engage in any lawful act or activity for which corporations may be organized under [REDACTED] including, but not limited to, providing club members with a unique opportunity to travel to the most desirable resort and cultural destinations at affordable prices. The main objective of the club is to foster friendship and rapport among employees of the [REDACTED], their families and friends, through sharing of enjoyable, leisurely and memorable trips.

The corporation shall be a non-profit corporation, and is organized exclusively for pleasure, recreation and other similar non-profitable purposes within the meaning of section 501(c)(7) of the Internal Revenue Code.

The information submitted with your 1024 application disclosed that your activities consist of providing [REDACTED] for as fee, to present and past employees of [REDACTED] and [REDACTED], and their families, friends, and associates. This business activity is conducted by the organization's president and vice-president, the sole officers of the organization, via telephone and/or fax from the officers private residences. Revenue is derived solely from this travel service activity in the form of direct billings and commission fees. Gross income during [REDACTED] and [REDACTED] was reported to be \$ [REDACTED] and \$ [REDACTED], respectively. The organization does

not own or operate a club facility and does have a membership, but merely provides [REDACTED] services at a fee to individuals and groups with some affiliation to [REDACTED] and [REDACTED].

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 58-588, 1958 - 2 C.B. 265, held that an organization formed by several individuals to operate a health and recreational club, but whose predominant activity is the 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 to use the club's facilities upon the payment of specified fees, is not a social club entitled to exemption from Federal income tax.

Like the organization in Revenue Ruling 58-588, your organization was formed by two individuals to operate a [REDACTED]. Your sole activity is the selling of services for a profit to an unlimited number of individuals who have no voice in the management of your organization and whose only rights are the use of the [REDACTED] services you provide on a fee for service basis. The nature of the services offered are those of a trade or business which is specifically prohibited by IRC section 501(c)(7).

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).

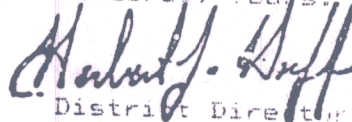
You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

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,

  
District Director

Enclosure: Publication 892