

Department of the Treasury

land District

31 Hopkins Plaza, Baltimore, MD 21201

PERSON TO CONTACT:

CONTACT TELEPHONE NUMBER:

IN REPLY REFER TO

DATE: JUN 27 1997

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.

You incorporated in [redacted] on [redacted] to acquire and own and to provide for the administration, operation, management, maintenance and preservation of said [redacted] and all of its [redacted] common areas, rights-of-way, fixtures, appurtenances and other amenities. To undertake the performance of the acts and duties incident to the administration of the operation, management and maintenance of said [redacted] and all of its [redacted] common area, rights-of-way, fixtures, appurtenances, and other amenities.

You are a membership organization comprised of five classes: Charter, Class A, Class B, Class C and Class D. Currently there are [redacted] Class A, [redacted] Class B and [redacted] Class C members.

CHARTER MEMBERSHIP was issued to [redacted] (hereafter [redacted]) in consideration and payment for the conveyance of the property. Charter membership certificates will be issued to each and every membership in the corporation, the total number thereof being [redacted]. Said Charter memberships shall be freely transferable by [redacted] without any application or approval. [redacted] shall also issue to [redacted] a certificate or certificates entitling [redacted] to the exclusive use of all vehicle parking spaces located in the corporation's parking lot.

CLASS A shall be members entitled to exclusive use and enjoyment of one particular [redacted] as well as one vehicle parking space. The total number of Class A members, once all Charter memberships have been converted, shall be [redacted]. Each Class A member shall have common area rights and voting rights.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]	[REDACTED]				

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury / Internal Revenue

[REDACTED]

CLASS B shall be a special membership entitling the members to the exclusive use and enjoyment of the portion of "A" [REDACTED] identified as "Class B [REDACTED]". Class B members have no common area rights. The total number of class B memberships shall be one.

CLASS C shall be a special membership encompassing the fuel and transient [REDACTED] at [REDACTED]. The membership shall entitle such member to conduct the [REDACTED] and [REDACTED] of the [REDACTED] [REDACTED]. Class C members shall have easement rights across the common areas of the facility for the location of the [REDACTED] [REDACTED], and other related fixtures. The total number of members shall be one. Class C members have voting rights provided, however, that such Class C membership shall operate the facilities of [REDACTED] in accordance with all laws and regulations, federal, state and local; shall perform daily maintenance, cleaning, trash removal and policing of the pool, clubhouse, bathrooms, dock, parking lot, the pumpout station and the surrounding area, without charge, cost or expense to [REDACTED] for labor or management; all services provided by the [REDACTED] (water, sewer, trash removal) will be shared equally between the Class C member and [REDACTED] and assumes all liabilities attaching to the [REDACTED] property by reason of any hazardous substance.

CLASS D shall be members entitled to the use and enjoyment of the common areas only. Class D members have no rights whatsoever in any [REDACTED] or parking spaces. The owner of each membership shall have one vote at any meeting of members. The total number of members shall be [REDACTED]. Class D memberships shall be held by the owners of those [REDACTED] certain condominium units to be constructed on a tract of land adjacent to the pool and clubhouse facilities.

Income is derived from assessments, [REDACTED] dues, membership dues and initiation fees.

Expenditures are allocated for utilities, insurance, property improvement and repairs.

The organizational activities are operated and managed by seven members of the Board of Trustees. The activities are providing for the maintenance of the parking lots, grounds, [REDACTED] and equipment; providing for insurance, security privacy, trash removal and maintaining landscaping, signs and clubhouse.

There are no social activities, however, you propose to have a cookout and/or [REDACTED] one to six times a year.

[REDACTED]

[REDACTED]

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

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.

Revenue Ruling 68-168 published in Cumulative Bulletin 1968-2, on page 168 held that a nonprofit organization that leased building lots to its members on a long-term basis is not exempt from Federal Income tax under 501(c)(7) of the Internal Revenue Code.

Upon formation, the organization acquired substantial acreage and, after developing recreational facilities on a portion thereof, subdivided the remaining land into building lots which it leases to members for [REDACTED] years. Application for membership in the organization and choice of lot are embodied in a single form and each member must lease at least one lot. The leased lots may be used for summer cabins or permanent residences, or left vacant. When a lease is executed, the member pays the organization an amount based on the lot value and thereafter pays a nominal annual rental. Receipts of the organization are primarily derived from initial payments and annual rentals. Its expenditures are for acquiring, improving, and maintaining its properties which constitutes engaging in a business.

Revenue Ruling 69-635 published in Cumulative Bulletin 1969-2, on page 126 held that an automobile club whose principal activity is rendering automobile service to its members but has no significant social activities does not qualify for exemption under section 501(c)(7).

The primary purpose of your organization is leasing dock slips to your members. In furtherance of this purpose the organization organizes, maintains and repairs the parking lot, grounds, docks, landscaping and equipment. Based upon these facts you are similar to Revenue Ruling 68-168 and 69-635 and do not meet the operational test of 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.

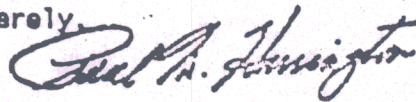
If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support 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 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