

Internal Revenue Service

District
Director

Department of the Treasury

1100 Commerce St., Dallas, Texas 75242

Date: OCT 9 1997

Employer ID Number:

Person to Contact:

Telephone Number:

Refer Reply To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under Section 501(c)(7) of the Internal Revenue Code.

The Articles of Incorporation of the organization state that you were incorporated in [REDACTED] on [REDACTED]. You are organized to operate a private club for the benefit of your members and in compliance with the provisions of [REDACTED] of [REDACTED] and to promote social exchange between your members and their guests for their mutual benefit.

You stated in your application that your club is the outgrowth of [REDACTED], a motel and lake marina. You also stated in your application that your club will bring guests onto the premises of [REDACTED] and help promote lodging business for the motel.

In your letter dated [REDACTED], you stated that the club has two types of memberships: (1) an annual membership and (2) a temporary three day membership which is available to motel guests.

The club is leased from the motel for \$[REDACTED] per month rent in addition to [REDACTED]% of monthly gross receipts.

The information disclosed in your catering agreement is that the contractor, [REDACTED], will provide your organization with waiters, bartenders and management as deemed necessary for the practical operation of the club facility.

Your bylaws state that your organization shall have three board of directors. [REDACTED] and [REDACTED] is your incorporator and also the secretary to [REDACTED]. [REDACTED] serves as the president to [REDACTED] and [REDACTED].

Section 501(c)(7) of the Code provides for exemption from Federal income tax of clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7)-1(a) of the Income Tax Regulations provides that Section 501(c)(7) of the Code applies only to clubs which are organized and operated exclusively for pleasure, recreation and other nonprofitable 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.

Revenue Ruling 66-225, 1966-2 C.B. 225, states that a nonprofit organization which provides entertainment for its members does not qualify for exemption under Section 501(c)(7) of the Internal Revenue Code of 1954 where it is controlled by a taxable corporation and operated as an integral part of such corporation's business. The club is leased from the motel, and the motel reserves the right to serve food and other beverages to the members. Memberships are for one year, 90-days, or weekly.

Revenue Ruling 66-360 states that when a national sorority is created and controlled by a business corporation engaged in furnishing services and supplies to the sorority and its member chapters, neither the sorority or its chapters qualify for exemption under section 501(c)(7) of the Code.

Revenue Ruling 69-635, 1969-2 C.B. 635 covers an organization whose principal activity is rendering automobile services to its members but has no significant social activities and does not qualify for exemption under section 501(c)(7) of the Code.

Revenue Ruling 58-589, 1958-2 C.B. 266 sets forth tests for determining whether an organization qualifies for exemption under section 501(c)(7) or the Internal Revenue Code. To meet the requirement that it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, a commingling of members must play a material part in the life or the organization.

Based on the information submitted, we have concluded that you do not qualify for exemption under section 501(c)(7) of the Code. Your organization is operated as an integral part of a taxable organization. You have not shown a social purpose or that you are operated exclusively for pleasure, recreation and other non-profitable purposes.

The club has been created to comply with [redacted] laws. You have no commingling and fellowship among members as required in Revenue Ruling 58-589. The purpose of the organization is to provide drink and food in a manner similar to commercial counterparts. You have no membership requirements, except the payment of dues. You have 3-day dues so that one-time or transient use of your facilities by the general public is encouraged. Watching football games in season, playing darts and video games, etc. are normal bar activities. Like the organization in Revenue Ruling 69-635, your members are not bound together by a common recreational interest, but by a desire to obtain a service; in this case, a drink.

Like the organization in Revenue Ruling 66-360, your organization is controlled by a for profit organization. Although you have set up a separate charter and organization to comply with [redacted] regulations, the organization has been formed for the benefit of [redacted]. [redacted] is the

President of [REDACTED] and [REDACTED] is an employee. [REDACTED] and the [REDACTED] have provided start-up funds for this organization. Your lease is with [REDACTED]. Your Catering Agreement is with [REDACTED].

The management can effectively perpetuate itself through close physical and financial ties to the club activities; temporary members do not vote, and there is no indication of meetings of members being held. Although you state the club was not founded by the motel, the initial directors were and still are the owner of the motel and an employee of the motel.

The club is not operated as a for profit business because of [REDACTED] laws, but it is open to the general public. Three-day memberships, a door from the motel and one from the street do not prove the organization is not operated for the benefit of the motel. Instead, they show that the club is open to the general public.

The fact that the lease is not at a nominal fee like the organization in Rev. Rul. 66-225 does not show that the club is not operated as an integral part of the motel operation. The purpose of a temporary 3-day membership is to enable motel guests to drink at the club.

Accordingly, we hold that you are not entitled to exemption from Federal income tax as an organization described in Section 501(c)(7) of the Code and you are required to file Federal income tax returns on Form 1120.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file in duplicate a brief of the facts, law, and argument that clearly sets forth your position. If you desire an oral discussion of the issue, please indicate this in your protest. The enclosed Publication 892 gives instructions for filing a protest.

If you do not file a protest with this office within 30 days of the date of this report or letter, this proposed determination will become final.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

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

Sincerely,

Ellen Murphy

Ellen Murphy
Acting District Director

cc: [REDACTED]
[REDACTED]

Enclosures:
Publication 892
Form 6018