

Internal Revenue Service

District Director

Department of the Treasury

P.O. Box 2508
Cincinnati, OH 45201

Person to Contact:

Telephone Number

Refer Reply to:

Date: DEC 03 1997

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(4) and section 501(c)(7) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code and we have concluded that you do not.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a trust or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe that it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues". The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office, or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

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

Sincerely yours,

C. Ashley Bullard
C. Ashley Bullard
District Director

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[REDACTED]
[REDACTED]

You indicate you have been operating since the early [REDACTED]'s. When we requested a copy of your organizing document, you submitted a copy of Bylaws. The copy of Bylaws submitted were adopted [REDACTED]. You indicate Bylaws are your organizing document. Section II of your Bylaws provide the following:

The purpose of organization will consist of the following:

- (a) conduct and promote [REDACTED]
- (b) 4th of July activities and raffles
- (c) to help agencies within the community and/or [REDACTED] area; such as
 - 1. Search and Rescue (local and [REDACTED] search and rescue)
 - 2. City of [REDACTED]
 - 3. Welcome Committees
 - 4. Graveyard and coffin building
 - 5. emergencies like death in the family, house fires. Medical emergencies, and food baskets.
 - 6. help the [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].
 - 7. Non-Emergency loans

Membership in the organization is comprised of any person by voluntarily signing their name on the membership form at the annual meeting. The organization will consist of at least 25 people from the [REDACTED] Community of [REDACTED].

Your primary activity is conducting bingo games and selling pull tabs. Bingo is conducted and pull tabs sold 3 times per week for 3 1/2 hours per night. The games are open to the general public. You indicate games have been conducted since the early [REDACTED]'s. The games are conducted in a facility owned by you. You further state the facility is open only during bingo nights.

Other activities listed include the following race events:

- Thanksgiving Day race November 24
- Christmas Races December 24 and 25
- [REDACTED] Memorial February 7 and 8
- Women's races March 3 and 4
- Children's race under 17 years old
- [REDACTED] Memorial April 3 - 5

You also assist needy members of the community in transportation to the hospital, participate in community coffin building and assist needy individuals with food, fuel and similar needs. You did not give a

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[REDACTED]

percentage of total time devoted on activities of this type. However, based on the percentage of funds distributed for activities of this type, it appears to be minimal.

Your income consists primarily of gross receipts from bingo games and pull tab sales. A small portion of income is derived from entry fees to race events.

Expenses are primarily those relating to the bingo games and pull tab sales. Prize payouts are significant. The following data was provided in your reply received [REDACTED]:

Gross Income from Bingo:

[REDACTED]	[REDACTED]	[REDACTED]
\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Gross Income from Pull tabs:

[REDACTED]	[REDACTED]	[REDACTED]
\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Prizes paid out:

[REDACTED]	[REDACTED]	[REDACTED]
Pull Tabs: \$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]
Bingo: \$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Amount available for Charity:

[REDACTED]	[REDACTED]	[REDACTED]
\$ [REDACTED]	\$ [REDACTED]	\$ [REDACTED]

Salaries and Wages as provided on page 5 of Form 1024 are \$ [REDACTED] annually. Employees consist of 2 collectors who are paid \$ [REDACTED] per night, 2 collectors who are paid \$ [REDACTED] per night, 1 operator paid \$ [REDACTED] per night and 1 pull tab seller paid \$ [REDACTED] per night. You further state that volunteers are not used.

Given the figures shown above, your gross prizes (\$ [REDACTED]) greatly exceed income (\$ [REDACTED]) for [REDACTED]. Therefore, we referred to the copy of your State annual report for [REDACTED]. The annual report showed gross receipts of \$ [REDACTED], of which \$ [REDACTED] was received from bingo and pull tabs. Using the data given, we determined the following percentages were distributed to charity:

[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED] %	[REDACTED] %	[REDACTED] %

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[REDACTED]

Section 501(c)(4) of the Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the Regulations states that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterment and social improvements.

Regs. 1.501(c)(4)-1(a)(2)(i) provide that an organization is considered to be operated "exclusively" for the promotion of social welfare if it primarily engages in social welfare activities.

Section 501(c)(7) of the Code provides for the exemption from Federal income tax of 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(b) of the Regulations states that a club which engages in business, including public use of a club's social and recreational facilities is incompatible with exemption. 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. As previously noted, section 501(c)(7) of the Code requires that substantially all of a social club's activities be social or recreational activities for members. However, Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35 percent of its gross receipts, including investment income from sources outside its membership without losing exemption. Within this 35 percent amount, not more than 15 percent of the gross receipts should be derived from the use of a social club's facilities or services by the general public. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15 percent of the total receipts.

Rev. Rul. 61-158, 1961-2 C.B. 115 held that a nonprofit organization created exclusively for the promotion of social welfare, which conducts weekly drawings among members of the general public as its principal activity and uses the profits therefrom primarily for the payment of its general expenses is not entitled to exemption as an organization described in IRC 501(c)(4).

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Rev. Rul. 68-45, 1968-1 C.B. 259 held that a war veterans post that is primarily engaged in social welfare activities may qualify for exemption under IRC 501(c)(4) even though it receives a substantial portion of its funds from bingo games open to the public.

You are not an organization described in section 501(c)(4) of the Code since you are not primarily engaged in social welfare activities. Your primary activity is bingo games and selling pull tabs. Therefore, you are not operated "exclusively" for the promotion of social welfare as defined in the regulations.

You are similar to Rev. Rul. 61-158, 1961-2 C.B. 115 since your principal activity is conducting games of chance with members of the general public.

You may be distinguished from Rev. Rul. 68-45, 1968-1 C.B. 259 since you are not primarily engaged in social welfare activities. Your primary activity is clearly the conduct of bingo games and the sale of pull tabs to the general public.

You are not an organization described in section 501(c)(7) since you are not operated exclusively for the pleasure and recreation of members but rather to operate bingo games and pull tab sales to the general public.

You have distributed minimally to charitable programs. This shows that your exempt activities are minimal and merely incidental to the commercial conduct of gambling activities. Accordingly, you do not qualify for exemption under IRC 501(c)(4) or IRC 501(c)(7).