

Person to Contact:  
[REDACTED]

Telephone Number:  
[REDACTED]

Refer Reply to:  
[REDACTED]

Date: SEP 15 1998

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

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.

The information submitted indicates that you are an unincorporated association formed under a Constitution adopted [REDACTED].

Your stated purposes are to organize and oversee the every day operation of a Hunting and Fishing Club.

Your activities consist of monthly meetings to plan hunting and fishing trips, and community activities. You are leasing land to be used by your members for deer hunting in the fall and winter.

You periodically sponsor events such as Turkey Shoots to provide recreational opportunities for the community and to raise funds for your club. You also support the [REDACTED] (where monthly meetings are held) by performing some building maintenance and grounds upkeep.

You currently have 13 members in your organization, and have not solicited for more.

Your income is derived from Turkey Shoots, Car Washes, and Club Dues. You have shown expenses attributable to exempt function activities and for the land lease.

Section 501(c)(7) of the Internal Revenue Code provides for exemption for clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all the activities of which are for such purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

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Section 1.501(c)(7) of the Income Tax Regulations provides as follows:

a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable 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. However, a club otherwise entitled to exemption will not be disqualified because it raises revenues from members through the use of club facilities or in connection with club activities.

b) A club which engages in business such as making its social and recreational facilities available to the general public - is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). 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.

Public Law 94-568 as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from Federal taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts. It is further stated that if an organization exceeds these limits, all of the facts and circumstances must be considered in determining whether the organization qualifies for exempt status.

Revenue Procedures 71-17, published in Cumulative Bulletin 1971-1, page 683, establishes recordkeeping requirements for social clubs, to separate non-members income. If these requirements are met, certain presumptions as to member vs. non-member income may be made, as outlined in the Revenue Procedure.

Revenue Ruling 58-589, published in Cumulative Bulletin 1958-2, on page 267, holds that a club will not be denied exemption merely because it receives income from the general public; that is, persons other than members and their bonafide guests, or because the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to or in furtherance of its general club purposes and it may not be said that income therefrom is inuring to members. This is generally true where the receipts from non-members are not more than enough to pay their share of the expenses.

Revenue Ruling 65-63, published in Cumulative Bulletin 1965-1, on page 240, holds that a non-profit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other non-profitable purposes under section 501(c)(7) of the Internal Revenue Code.

In this case, it was held that the solicitation of public patronage of its activities was prima facie evidence that the club was engaged in business and was not being operated exclusively for pleasure, recreation or social purposes. The income derived from public patronage inured to the benefit of the members. The club was therefore not qualified for exemption.

Revenue Ruling 68-119, published in Cumulative Bulletin 1968-1, page 268, holds that a club will not necessarily lose its exempt status if it derives income from other than bona fide members and their guests or if the general public is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members. The equestrian club considered in this ruling held an annual steeplechase which was open to the general public. Prize money was paid from entry fees paid by participants, and general expenses of the meet were paid from admissions and sale of programs and refreshments. The club distributed any net proceeds from the meet to charity. Therefore, it was held the meet was not operated to make a profit, and the income from non-members did not inure to the benefit of members. The club's exemption was not jeopardized by non-member participation in its annual meet.

According to the information submitted, 78% of your income is from non-member sources; Turkey Shoots and Car Washes.

This figure does not indicate that activities with the general public are incidental, but rather, are a substantial source of your support. Income derived from public patronage is inuring to the benefit of your members.

Profits derived from non-members, unless set aside for a charitable purpose, subsidize the club's activities for members and result in inurement within the meaning of Internal Revenue Code section 501(c)(7).

Your net income from public participation exceeds 15% of your total income. Financial information submitted does not demonstrate that income derived from the public was distributed to charity or used to pay the public's share of expenses, but does indicate that profits from the various fundraisers were added to the club's treasury and used or held to be used for the general operating expenses of the club.

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.

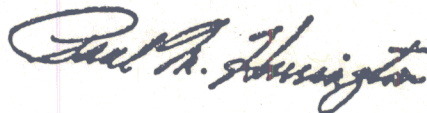
If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support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

Enclosure: Publication 892