Internal Revenue Service

Department of the Treasury

District
Director

31 Hopkins Plaza, Baltimore, MD 21201

Person to Contact:
[redacted]

Telephone Number:
[redacted]

Refer Reply to:
[redacted]

Date:
OCT 16 1989

[redacted]

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of tax exemption from Federal income tax as an organization described in section 501(c)(7) of the Internal Revenue Code.

The information submitted discloses that you were incorporated under the laws of [redacted] on [redacted].

The purposes of the organization as stated in your Articles of Incorporation will be to operate for the general, fraternal, and social benefit of all of the club members and the general public and for the promotion of goodwill and interest in street rods and high performance automobiles and for the promotion of health, charitable, and municipal purposes which may be beneficial to the community.

The activities of your organization include automobile shows, demonstrations, and an annual flea market all of which are open to the general public.

Your support is derived from fund-raising which includes sales of concessions, raffles, membership dues, registration fees, and admission fees to the general public.

Expenses are shown for advertising, legal and professional fees, office expenses, rentals, supplies, and other miscellaneous expenses.

Section 501(c)(7) of the Code provides for exemption from Federal income tax of clubs organized for pleasure, recreation, and other non-profitable 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 or individual. In general, exemption from Federal income tax under this section encompasses social and recreational clubs which are supported solely by membership fees, dues, and assessments. Income Tax Regulations section 1.501(c)(7)-1(a).

[redacted]

Public Law 94-568 as explained in Senate Report 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that social clubs described in section 501(c)(7) may receive up to 35% of their gross receipts, including investment income, from sources outside their membership without losing exempt status. Within the 35% limitation no more than 15% of gross receipts may be derived from non-member use of club facilities and services. If the 35% and 15% limitations are exceeded, a club may still be able to show through facts and circumstances that substantially all of its activities are for pleasure, recreation, and other non-profit purposes. For this purpose, gross receipts include charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments, but excluding initiation fees and capital contributions.

As the percentages of non-member income and/or investment income increases above the permitted levels, the facts and circumstances in the organization's favor must also increase to avoid revocation. One important factor would be the frequency of use of the club's facilities or services by non-members. An unusual or single event (that is, non-recurrent on a year to year basis) that generates all the non-member income would be viewed more favorably than non-member income arising from frequent use by non-members.

Another important factor is the purposes for which the club's facilities or services were made available to non-members. Whether the nonmember income generates net profits for the organization is another factor to be considered. Profits derived from non-members, unless set aside, subsidize the club's activities for members and result in inurement within the meaning of Internal Revenue Code section 501(c)(7).

According to Revenue Ruling 60-324, published in Cumulative Bulletin 1960-2, page 173, a social club exempt from Federal income tax under section 501(c)(7) may lose its exemption if it makes its club facilities or services available to the general public on a regular, recurring basis since it may then no longer be considered to be organized and operated exclusively for its exempt purpose.

Revenue Ruling 65-63 published in 1965-1 Cumulative Bulletin on page 240 considers an organization that conducts sports car events for the pleasure and recreation of its members and their guests. All events and activities were conducted by unpaid volunteer members. However, the nature of the activities also attracts public spectators. The general public is permitted to attend the organization's auto races on a recurring basis upon payment of an admission fee. Public patronage is solicited by advertising. The income from public admission and sale of programs is used to cover race expenses, etc.

[redacted]

Section 1.501(c)(7)-1(b) of the Income Tax Regulations provides, in part, that a club which engages in business, such as making its social and recreational facilities or services available to the general public, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt from Federal income tax under section 501(a) of the Code. The solicitation of public patronage of activities, by advertising or otherwise, is prima facie evidence that the club is engaged in business and is not being operated exclusively for pleasure, recreation, or other social purposes.

Your organization's activities consist of providing facilities or services to the general public on a regular and recurring basis upon payment of an admission fee. Public patronage is solicited by advertising. The income is used to defray the cost of your club's activities.

Public patronage or participation in club activities is permissible if incidental to and in furtherance of the club's purposes, and if the net income therefrom does not inure to its members. Here, however, the activities of your organization, in permitting public patronage of its facilities or services are of such magnitude and recurrence as to constitute engaging in business and the club uses the income derived to pay club expenses normally borne by its members.

In view of the applicable law cited above, and the information you submitted, it is held that your organization does not qualify for exemption under section 501(c)(7) of the Code.

In accordance with this determination, you are required to file Federal corporate income tax returns on Form 1120. If you do not accept our findings, we recommend that you request a conference with a member of our Regional Office conference staff. Your request for a conference should include a written appeal giving the facts, law, and any other information to support your position as explained within the enclosed Publication 892. You will then be contacted to arrange a date for a conference. The conference may be held at the Regional Office, or if you request, at any mutually convenient District Office. If we do not hear from you within 30 days of the date of this letter, this determination will become final.

Sincerely yours,

[redacted]

District Director

Enclosure: Publication 892