

Date: FEB 11 1992

Key District:

Year(s):

Person to Contact:

Contact Telephone Number:

Dear Sir/Madam:

We considered your appeal of the adverse action proposed by your key District Director. The paragraph(s) checked below indicate(s) our decision.

Your exemption from Federal income tax under section 501(c)(7) of the Internal Revenue Code is:

- confirmed.
- modified. A new determination letter is enclosed.
- denied ~~or~~ ~~revoked~~. You are required to file Federal income tax returns on Form 1120 for the above years. You should file these returns with your key District Director, EP/EO Division, within 30 days from the date of this letter, unless a request for extension of time is granted.
- You are not a private foundation because you are described in Code section(s) _____.
- You are an operating foundation as described in code section 4942(j)(3).
- You have no liability for excise taxes under IRC _____ for the above years.
- Your liability for excise taxes under IRC _____ for the above year(s) was properly reported on your return(s).
- There is no change to your unrelated business income tax liability as reported for the above years.
- Your Form(s) 990-T for the above years are accepted as filed.
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You may direct questions about the decision to the appeals officer whose name and telephone number are shown above.

Sincerely yours,

Associate Chief, Appeals

Mid-Atlantic Region Appeals Office
600 Arch Street, Rm. 4454, Philadelphia, PA 19106

Letter 1370(RO) (1-80)

cc:

JUL 20 1990

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of tax 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 they are based are explained below.

The purposes of your organization are to provide for its members convenient means for flying airplanes, improving flying proficiency, and for social, recreational, and charitable purposes related to flying airplanes.

The activities of your organization consist of providing flying proficiency programs for your members and maintenance of the aircraft.

Your support is derived from monthly dues from members and special assessments.

Expenses are shown for insurance, taxes, maintenance, and other expenditures.

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).

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname							
Date	5/9/90	5/15/90	7/8/90				


Revenue Ruling 58-589 published in Cumulative Bulletin 1958-2 on page 266 states that "...In making a determination whether an organization comes within the provisions of section 501(c)(7) of the Code, all facts pertaining to its forms of organization, method of operation and activities should be considered. An organization must establish (1) that it is a club both organized and operated exclusively for pleasure, recreation and other non-profitable purposes and (2) that no part of its net earnings inures to the benefit of any private shareholder or individual. To meet the first requirement, there must be an established membership of individuals, personal contacts and fellowship. A commingling of the members must play a material part in the life of the organization..."

Exemption under section 501(c)(7) was granted to a flying club of limited membership that provides flying privileges solely for its members, assesses dues based on the clubs fixed operating costs and charge fees based on variable operating expenses, and whose members are interested in flying as a hobby, constantly commingle in informal meetings, maintain and repair the aircraft owned by the club, and fly together in small groups.

In this case, the organization was granted exemption because there was an established membership of individuals, personal contacts, and fellowship. Commingling played a material part in the activities of the organization. By flying and maintaining aircraft in the manner described above, the club members are jointly participating in the hobby of flying for pleasure and recreation within the meaning of section 501(c)(7) of the Code. Revenue Ruling 74-30 published in Cumulative Bulletin 1974-1 on page 137.

Revenue Ruling 70-32 published in Cumulative Bulletin 1970-1 on page 132 cites an organization that was organized to own and operate aircraft suitable for business or personal use by its members to enable its members to improve their flying abilities, and, through the ownership, operation, and maintenance of flying equipment, to provide economical flying facilities for its members. Membership is open to all persons who are interested in flying. The sole activity of the club involves the ownership, operation, and maintenance of the aircraft for use by the members. There is little commingling among members for social or recreational purposes.

This ruling goes on to state that in order for a club to meet the requirements for exemption under section 501(c)(7) of the Code, there must be an established membership of individuals, personal contacts, and fellowship. Furthermore, a commingling of members must play a material part in the activities of the organization.


Our review of your application indicates that your organization is similar in scope to the latter organization cited above. You indicate that the membership meets once a quarter. However, in order for your organization to be organized exclusively for pleasure, recreation, and other non-profitable purposes, commingling of members must play a material part in the activities of the organization.

You state that you don't have an organized social and recreational program. The members meet once per quarter when they become involved in refresher courses and develop flight rules. Commingling within the meaning of 501(c)(7) has not been established.

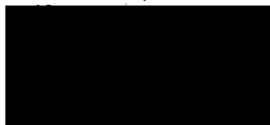
The organization cited in Revenue Ruling 70-32 was held not to qualify for exemption from Federal income tax under section 501(c)(7) of the Code because the sole activity of the club was rendering flying services to its members and there was no significant commingling of its members.

In view of the applicable law cited above, and the information you submitted, it is held that your organization does not qualify for exemption from Federal income tax under section 501(c)(7) of the Code because your sole activity is rendering flying services to your members and there is no significant commingling of your members.

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 from the date of this letter, this determination will become final.

Sincerely yours,



District Director

Enclosure: Publication 892