

Internal Revenue Service

Department of the Treasury

District  
Director

P.O. Box 2508  
Cincinnati, OH 45201

[REDACTED]

Person to Contact:

Telephone Number:

Refer Reply to:

EP/EO

Employer Identification Number:

Date: MAR 11 1992

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(7) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

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 1120 if you are a corporation or an unincorporated association.

You have agreed to this determination by executing Form 6018, Consent to Proposed Adverse Action, dated February 8, 1992. A copy of Form 6018 is enclosed.

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.

[REDACTED]

Thank you for your cooperation.

Sincerely yours,

[REDACTED]  
[REDACTED]  
District Director

Enclosures: 3

Enclosure I

[REDACTED]

You were incorporated on [REDACTED] [REDACTED] under the laws of [REDACTED]. Your stated purposes in pertinent part are:

1. To advance interest in, and work for the betterment of, sport hunting and the preservation and protection of game.
2. To promote safe hunting practices, and to prevent poaching, trespassing and/or the unauthorized hunting or taking of game on private property.
3. To encourage in all people a respect for wildlife, appreciation of nature, and outdoor activities; and the importance of safety in sport hunting.

Your Bylaws and application for exemption state that membership shall be limited to [REDACTED] adults along with unlimited student members at the present time. Membership dues are \$ [REDACTED] for adults and \$ [REDACTED] for students.

The application and subsequent correspondence indicate that your activities include purchasing of game to be turned loose prior to hunting season. Hunting activities are limited to members only. In addition, you conduct fund raising activities such as turkey shoots and raffles which are open to the general public. You conduct your activities on land donated for the hunting season by local landowners. Club meetings are held in a facility owned by the State of [REDACTED] and leased by the [REDACTED].

Sources of financial support consist of membership dues, proceeds from fund-raising activities and investment income. Based on financial information submitted for [REDACTED], you indicated that your total income was \$ [REDACTED] and that the total nonmember income was \$ [REDACTED]. Therefore your nonmember income for [REDACTED] was [REDACTED]%. Your total income for [REDACTED] was \$ [REDACTED] of which \$ [REDACTED] was from nonmembers. Therefore, your nonmember income for [REDACTED] was [REDACTED]%.

The expenses of your organization are those relating to your fund raising activities and the purchase of game.

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.

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

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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. If the 35 percent and/or 15 percent limitations are exceeded, a club may still be able to show through the facts and circumstances that "substantially all" of its activities are for "pleasure, recreation, and other nonprofitable purposes."

Section 1.501(c)(7)-1(b) of the Regulations states that a club which engages in business, such as making its social and recreational facilities available to the general public or by selling real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, and is not exempt under section 501(a) of the Code. 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. However, an incidental sale of property will not deprive a club of its exemption.

In Pittsburgh Press Club vs. United States, 536 F.2d 572 (1976); 579 F.2d 751(1978) and 615 F.2d 600(1980) the court agreed and held that the amount of the club's nonmember income, which the court determined to be between 11-17 percent of gross income, indicated that the club was engaged in business with the general public and revocation was proper.

Rev. Proc. 71-17, 1971-1 C.B. 683, describes the record keeping requirements of social clubs exempt under IRC 501(c)(7) with respect to nonmember use of their facilities, it sets forth guidelines for determining the effect of gross receipts derived from public use of the club's facilities on exemption and liability for unrelated business income tax.

Since you receive nonmember income of more than 15%, you are similar to the organization described in Pittsburg Press Club vs. United States. A consideration of the facts and circumstances test was given, and it was determined that your organization did not meet the test. This determination was based on the increasing percentage of nonmember income. In [REDACTED] your percentage of nonmember income was [REDACTED]%. In [REDACTED] your percentage of nonmember income increased to [REDACTED]%. Consequently, you do not meet the facts and circumstances test and are not substantially organized for pleasure, recreation, and social purposes.

Accordingly, we conclude that you are not a social club as described in section 501(c)(7) of the Code and that you do not qualify for recognition of exemption from federal income tax.