

PERSON TO CONTACT
[REDACTED]CONTACT TELEPHONE NUMBER
[REDACTED]IN REPLY REFER TO
[REDACTED]

DATE: APR 12 1995

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.

Your organization was incorporated in the state of [REDACTED] on [REDACTED]. The purposes of the organization include the following:

- A) The hunting of foxes or other legal quarry behind foxhounds in [REDACTED] County, [REDACTED] as well as other counties or states as may be appropriately hunted.
- B) To own, maintain, operate and hunt a pack of foxhounds, and such hunt horses as may be incidental thereto;
- C) To employ huntsmen, whippers-in and/or other employees to hunt and care for said foxhounds and hunt horses and to any other functions necessary to carry out the purposes and duties of the corporation.

According to your Articles of Incorporation and By-Laws, your organization has three categories of members, namely member, subscriber and social subscriber (See Attachment 1 excerpted from your Articles of Incorporation and By-Laws for definitions of each category)

Your By-Laws further provide that each member and subscriber shall, upon his or her admission to membership or subscribership, pay the annual dues for the current fiscal year unless the Hunt Committee shall, because of the date of his or her admission or for other good cause, provide otherwise. Each member and subscriber shall pay promptly the annual dues...If any member or subscriber shall fail to pay his or her annual dues or other indebtedness to the Corporation within three months after notice thereof from the treasurer, the Hunt Committee may...expel the member or subscriber from the Corporation. Thus the By-Laws clearly establish that members and subscribers are expected to pay annual dues.

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
	[REDACTED]	[REDACTED]	EP/ED			
Surname	[REDACTED]	[REDACTED]	K. J. [REDACTED]			
Date	4/13/95	4/13/95	4/14/95			

In our letter to you dated [REDACTED], we questioned nonmember use of club facilities. You were asked specifically to explain cap (visitors) fees listed under other fundraising activities on your Income Statement. You were also asked to indicate if nonmembers are eligible to participate in club activities such as point to point races, horse show, trail rides, or any other club activity; and if so, under what circumstances and what fees are charged.

Your treasurer faxed your response on [REDACTED] and indicated that nonmembers could participate in all the aforementioned activities and you submitted a fee schedule. We then requested that you provide a breakdown between member and nonmember income.

On [REDACTED] during a phone conversation, [REDACTED], Chairman of the Hunt Committee, indicated that Cappers should be considered to be non-seasonal subscribers and therefore constitute a fourth category of member. Note, however, that your original application described Cappers as visitors and your response to our letter of [REDACTED] categorizes Cappers as non-subscribers (See Attachment II). More importantly, such a characterization is at odds with the definition of member found in both your Articles of Incorporation and By-Laws.

Therefore it is incorrect, according to your Articles of Incorporation and By-Laws to categorize Cappers, that is individuals who pay for the right to hunt on a daily basis, as members. Therefore income derived from Cappers must be considered non-member income.

Section 501 (c)(7) of the Internal Revenue Code provides for exemption for 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 of the Income Tax Regulations provides that, in general, this exemption extends to social and recreational clubs which are supported solely by membership fees and assessments. A club which engages in business, such as making its social and recreational facilities available to the general public or selling products and merchandise is not organized and operated exclusively for pleasure and recreational purposes.

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 nonprofitable 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 nonprofitable 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 taxation and described in section 501(c)(7), is permitted to receive up to 35 percent of its gross receipts from a combination of investment income and receipts from nonmember use of its facilities or services, so long as the latter does 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.

Upon review of your application it was determined that in all years under consideration, both actual and projected Income Statements show non-member income as greater than the allowable maximum of 15%.

INCOME SOURCE			
CAPPERS	\$	\$	\$
OTHER ACTIVITIES	\$	\$	\$
TOTAL NON MEMBER	\$	\$	\$
TOTAL INCOME	\$	\$	\$
% NONMEMBER INC.	%	%	%

The private inurement doctrine as applied to social clubs focuses on the question of whether nonmember use is generating revenues, the use of which is unduly resounding to the personal advantage of members, such as reduced dues, improved facilities or the like. Infrequent public use is permitted as long as it is incidental and basically in furtherance of the club's exempt purpose. Use of club facilities by the general public may not constitute proscribed inurement where the club contributes net profit from a function to charity.

In the instant case your organization's receipt of nonmember income constitutes proscribed inurement. On the basis of the evidence presented, and the requirements for exemption of a social club defined in the Code and Regulations cited above, we hold that you do not qualify for exemption under 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 any 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,

District Director

Enclosure: Publication 892