



Department of the Treasury
Internal Revenue Service
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Release Number: **201451030**
Release Date: 12/19/2014

Date: September 25, 2014

Uniform Issue List:

501.00-00
501.07-00

Employer ID Number:

Contact Person/ID Number:

Contact Telephone Number:

Form You Must File:

Tax Years:

Dear :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and the basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within 30 days, the proposed determination is now final.

You must file federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer

service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Tamera Ripperda
Director, Exempt Organizations

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination Under Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination Under Section 501(a) Other Than 501(c)(3)*



Department of the Treasury
 Internal Revenue Service
 1111 Constitution Ave, N.W.
 Washington, DC 20224

Date: August 11, 2014

Uniform Issue List:

501.00-00
 501.07-00

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend

State =
Date =
Company =
Organization =

Dear

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(7). The basis for our conclusion is set forth below.

Facts

You are an unincorporated association formed under State law on Date. Your charter provides that you were organized for the purpose of promoting for-profit Company's firearms via an online web forum. Your charter also provides that you will engage in "other activities pertaining to promoting Company brand firearms and accessories," disseminating information about safe firearms use for recreational or sports competition, and engaging in legal firearms use.

According to your application, you are an internet-based organization engaged primarily in operating and maintaining a website for your members, for the purpose of promoting and sharing information about Company. Your website contains a forum through which members can obtain and exchange information about Company and Company's products and accessories. Through this forum, your members make contact with each other through posting comments.

You established the website and forum "open to any person with access to the Internet and an email account." You state that "[n]onmembers may read all information and view all illustrations submitted to the website by members." While you occasionally solicit donations from users of your website, "[i]t is not required to be a member." To become a member

of your website, individuals must agree not to post inappropriate material and sign the member agreement. Otherwise, "the only information required for registration is a username and valid email account."

Your bylaws provide that "[voting] membership shall consist only of the members of the board of directors." Your board of directors has exclusive voting and management rights. Your board controls your day-to-day operations. You have four board members, including your founder.

Presently, you do not engage in any face-to-face interaction amongst or between members. You do not have a facility where members gather. You state that you may, in future, organize 'meetups,' or face-to-face meetings between two or more members residing in the same area to share fellowship and information. You may also organize sporting matches for shooting. You would charge entrance fees for the matches and participants would pay their own expenses for both meetings.

Your funding comes from donations from individuals who use your website and income from advertisements on your website. You may also engage in online raffles to raise funds to operate the website. Upon dissolution, all funds will be donated to the Organization.

Law

I.R.C. § 501(c)(7) provides for an exemption from U.S. federal income tax for clubs organized substantially for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

Treas. Reg. § 1.501(c)(7)-1 provides that this exemption generally extends to social and recreation clubs that are supported solely by membership fees, dues, and assessments. In addition, a club that engages in a business is not deemed organized and operated exclusively for pleasure, recreation, and other non-profitable purposes and, thus, is not deemed exempt under § 501(a).

Rev. Rul. 55-716, 1955-2 C.B. 263, holds that an organization formed for the purpose of furnishing television antenna service to its members is not entitled to exemption from federal income tax under § 501(c)(7). The term "club," as used within § 501(c)(7), contemplates the commingling of members, one with the other, in fellowship. Personal contacts and fellowship must play a material part in the life of an organization for it to come within the meaning of the term "club."

Rev. Rul. 58-588, 1958-2 C.B. 265, denied exemption under § 501(c)(7) to an organization whose members had no voice in the management of the organization and whose only rights were to use the organization's facilities upon the payment of the specified fees.

Rev. Rul. 58-589, 1958-2 C.B. 266, sets forth the criteria or tests for determining whether an organization qualifies for exemption from tax under § 501(c)(7). In making this determination, all facts pertaining to the organization's form, method of operation, and activities should be considered. The organization must establish that (1) it is a "club" organized and operated exclusively for pleasure, recreation, or other non-profitable purposes and (2) no part of its net earnings inures to the benefit of any private shareholder or individual. To be deemed a "club," 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.

Rev. Rul. 70-32, 1970-1 C.B. 132, holds that a flying club providing economical flying facilities for its members but having no organized social and recreation program does not qualify for exemption under § 501(c)(7). In this case, the sole activity of the club involved the ownership, operation, and maintenance of the aircraft for use by the members, and there was little commingling among members for social or recreational purposes. For the club to be exempt, the ruling explains that there must be an established membership of individuals, personal contacts, and fellowship. Also, commingling of members must play a material part in the organization's activities. This organization's sole activities consisted of

rendering flying services to its members, and there was no significant commingling of its members.

Rev. Rul. 74-30, 1974-1 C.B. 137, holds exempt under § 501(c)(7) a flying club of limited membership that provided flying privileges solely for its members, assessed dues based on the club's fixed operating costs, and charged fees based on variable operating expenses. The organization's members were interested in flying for a hobby, constantly commingled in informal meetings, and had constant person-to-person association. This organization was found distinguishable from the flying club in Rev. Rul. 70-32, *supra*, because there the club was open to all persons interested in flying, members did not join to participate as a group in a hobby for recreation, and the members had no expectation of personal relationship with other members.

Application of Law

Organizations seeking exemption under § 501(c)(7) need to satisfy the following statutory requirements: (1) be a club; (2) be organized for pleasure, recreation, and other non-profitable purposes; (3) have substantially all of its activities devoted to such purposes; (4) have no part of its net earnings inure to the benefit of any private shareholder; and (5) have no written policy that discriminates against individuals seeking membership on the basis of race, color, or religion. *See*, § 501(c)(7) and Rev. Rul. 58-589, *supra*. You do not satisfy the requirements for recognition under section 501(c)(7) as you do not meet the definition of a "club" within the meaning of § 501(c)(7) for the reasons provided below.

Commingling and the promotion of fellowship are not a material part of your activities. Commingling is a necessary and material part in the life of an organization exempt under § 501(c)(7) and is deemed present if such things as meetings, gatherings, and regular facilities are evident. *See*, Rev. Ruls. 70-32, *supra*, and 74-30, *supra*. Face-to-face interaction is important for members of a social club. Organizations that do not afford opportunities for this personal contact among members are not entitled to exemption under § 501(c)(7), even though they may be organized not for profit with no part of their earnings inuring to the benefit of shareholders. *See*, Rev. Rul. 55-716, *supra*. You are organized for the purpose of promoting Company, a for-profit company, via an online forum dedicated to Company and its products. You have not established that you will have any formal meetings, gatherings, recreational events, or other activities that involve actual personal contact among or between your members. You do not have regular facilities at which your members meet. While your members do interact through your members' only forum on your website, this is the only means of membership interaction that you have established. As such, fellowship and commingling do not constitute a material part of the life of you as an organization, as required by § 501(c)(7).

Moreover, you are entirely an internet-based organization and your website is open to the general public. Because of the very nature of the Internet and its public access, it is impossible to determine that your website will serve only your membership, a limited group of individuals. While your members can meet online in your members' only forum, your website is open to the general public with the intention of reaching out to the general public. Thus, rather than having a limited membership as required by § 501(c)(7) (*See*, Rev. Rul. 74-30, *supra*), nonmembers are also allowed to participate in your activities.

Even if you were found to be operated for exempt purposes, you lack true membership. Similar to the organization described in Rev. Rul. 58-588, *supra*, you provide an unlimited amount of memberships based on basic membership requirements that involve signing up for your forum and agreeing to your website use agreement. Essentially, anyone who signs up for your website may join your club.

In addition, like the organization described in Rev. Rul. 58-588, *supra*, your members do not exercise any control over you and do not have a voice in the management of the club, since the board of directors is selected by your founder. Instead, your board exercises exclusive control over your management and day-to-day operations. In addition, upon dissolution, your assets will not be disbursed amongst your members. The only rights accorded your members are the rights to use your website and make online posts to your website's forum. For these reasons, you lack true membership as required by § 501(c)(7).

We conclude that you lack the § 501(c)(7) requirements of having personal contacts, commingling, and fellowship among your members. See, Rev. Ruls. 58-589, *supra*, 70-32, *supra*, and 74-30, *supra*. Thus, you lack sufficient indicia of a "club" for purposes of qualifying for exemption under § 501(c)(7).

Conclusion

Based on the facts provided above, we hold that you do not meet the requirements for tax exemption under § 501(c)(7) of the Code. You lack true membership and the promotion of commingling and fellowship are not a material part of your operations. As a result, you do not operate substantially for pleasure, recreational or other nonprofitable purposes and are not exempt under § 501(c)(7) of the Code.

If you don't agree

You have a right to file a protest if you don't agree with our proposed adverse determination. To do so, you must send a statement to us within 30 days of the date of this letter. The statement must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A copy of this letter highlighting the findings you disagree with
- An explanation of why you disagree, including any supporting documents
- The law or authority, if any, you are relying on
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization, or your authorized representative
- One of the following declarations:

For an officer, director, trustee, or other official who is authorized to sign for the organization:

Under penalties of perjury, I declare that I examined this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

For authorized representatives:

Under penalties of perjury, I declare that I prepared this protest statement, including accompanying documents, and to the best of my knowledge and belief, the statement contains all relevant facts and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, *Power of Attorney and Declaration of Representative*, with us if he or she hasn't already done so. You can find more information about representation in Publication 947, *Practice Before the IRS and Power of Attorney*.

We will review your protest statement and decide if you provided a basis for us to reconsider our determination. You also have a right to a conference after you submit your statement. If you want a conference, you must request it when you file your protest statement.

You can also ask the Office of Appeals to review your application for tax-exempt status. Your right to request Appeals review is in addition to your right to a conference, as outlined in Revenue Procedure (Rev. Proc.) 2014-4 and Rev. Proc. 2014-9. You must notify us in writing if you want us to forward your case to the Appeals Office. You can find more

information about the process and the role of the Appeals Office in Section 7 of Rev. Proc. 2014-9 and Publication 4227, *Overview of the Appeals Process*.

If the person representing you in this process is not an officer, director, trustee, or other official who is authorized to sign for the organization, he or she must file Form 2848, as explained above, and otherwise meet the requirements in Publication 216, *Conference and Practice Requirements*.

Where to send your protest

Please send your protest statement, any request for consideration by the Office of Appeals, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Street address for delivery service:

You can also fax your statement and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that he or she received it.

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

You can find all forms and publications mentioned in this letter on our website at www.irs.gov/formspubs. If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Matthew A. Weir
Director, EO Rulings & Agreements

Enclosure:
Publication 892