



Department of the Treasury  
Internal Revenue Service  
P.O. Box 2508  
Cincinnati, OH 45201

Release Number: **201635008**  
Release Date: 8/26/2016  
UIL Code: 501.07-00  
501.07-05

Date: May 17, 2016

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 basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 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,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:

Notice 437

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

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*





**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Date:** March 24, 2016

**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Contact fax number:**

**Legend:**

L = Year

M = Year

N = Year

P = Date Range

R = Name

S = City

T = State

V = County

W = Date

x dollars = Amount

y dollars = \$Amount

**UIL:**

501.07-00

501.07-05

Dear \_\_\_\_\_ :

We considered your application for recognition of exemption from federal income tax under Section 501(a) of the Internal Revenue Code (the Code). Based on the information provided, we determined that you do not qualify for exemption under Section 501(c) (7) of the Code. This letter explains the basis for our conclusion. Please keep it for your records.

**Issues**

Do you qualify for exemption under section 501(c) (7) of the Code? No, for the reasons stated below.

**Facts**

You were created on W in the State of T. Prior to filing your application for tax exemption, you operated as a for-profit entity. You provide recreational opportunities for the local rural community of S, T, as well as other surrounding counties in the southeast. You provide general golfing activities at seasonal rates. General golfing activities account for 65 percent of your total activities. Your other golf activities consist of serving as a host facility for practice and competitive matches for V High School and V Middle School boys and girls golf teams which accounts for 20 percent of your activities and for ten years you have hosted junior golf activities



associated with the R golf tournament which accounts for 10 percent of your activities. Funds generated from the tournament are used for scholarships and to promote junior golf in the local area. Proceeds have been used to sponsor local youth in summer golf clinics. Another 5 percent of your activities consist of serving as the host facility for the local recreation department's youth golf tournaments at no charge. In addition to golfing activities, you allow access to the lake on your property for fishing.

You would like to seek public patronage of your club by offering reduced price winter specials in the local newspapers. Nonmembers may use your club grounds during normal business hours and they may also utilize your lake for fishing. Nonmembers are invited to compete in the annual R golf tournament and may bring their kids to the clinic hosted on your grounds. Nonmembers may also rent out your club house facility for wedding showers or other events.

Your largest source of revenue is from green and cart fees from members and nonmembers. For the period P, 56% of your gross receipts came from green and cart fees. In N, 57% of your gross receipts were from the green and cart fees. In M, it was 53% and in L it was 60%. Your other revenue sources include membership dues, equipment sales from the pro shop, food and drink sales, club tournaments, range ball sales, sponsor dues, fishing fees, range ball dues, and club house rentals. Your largest expenses are for salaries and wages, repairs and maintenance, fertilizer, chemical, and turf supplies, utilities, payroll taxes, insurance, and other equipment and supplies. Your financial information for P shows your total revenue is x dollars for the period, of which y dollars was attributed to income from nonmembers. Revenue from nonmember use of your facilities made up 43% of your gross receipts for the period P.

#### **Law**

Section 501(c)(7) of the Internal Revenue Code (the Code) provides for exemption from federal income tax for 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.

Treasury Regulation Section 1.501(c)(7)-1(a) states the exemption provided by section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable 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 revenue from members through the use of club facilities or in connection with club activities.

Treasury Regulation Section 1.501(c)(7)-1(b) 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 non-profitable 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. However, an incidental sale of property will not deprive a club of its exemption.

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 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.

Revenue Ruling 60-324, 1960-2 C.B. 173, states that a club which has been granted exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code of 1954 may lose its exemption if it makes its club facilities 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, 1965-1 C. B. 240, states that a nonprofit organization which is conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis, and solicits patronage by advertising does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code.

Revenue Ruling 69-219, 1969-1 C.B. 153, states that a social club that regularly holds its golf course open to the general public and charges established green fees that are used for maintenance and improvement of club facilities is not exempt under section 501(c)(7) of the Code.

#### **Application of law**

You are not described under section 501(c)(7) of the Code because you are not organized for pleasure, recreation, or other nonprofitable purposes. Your main activity consists of providing general golfing activities at seasonal rates to members as well as nonmembers. Your largest source of revenue is from green/cart fees from members as well as nonmembers. From P, 43% of your gross receipts were from nonmembers which far exceeds the 15% limitation for nonmember use of a social club's facilities or services in Public Law 94-568. Although you did not provide the exact amount of nonmember income for the years L through N, it appears that you would likely exceed the limitation set forth in Public Law 94-568 for those years due to the fact that over half of your gross receipts each year are from green and cart fees from members and nonmembers. The fees you collect are then used to pay your expenses including salaries and wages, repairs and maintenance, and turf upkeep. You therefore operate more like a business.

Per Treas. Reg. Section 1.501(c)(7)-1(b) you are not organized and operated for pleasure, recreation, and other nonprofitable purposes because you make your activities available to the general public. Like the organization in Rev. Rul. 60-324, you do not qualify for exemption under section 501(c)(7) of the Code because your activities and facility are available to the general public on a regular recurring basis. Nonmembers are able to take part in your activities on a regular basis during normal business hours.

You are like the organization in Rev. Rul. 65-63. Although your activities are for the pleasure and recreation of your members, you also allow nonmembers to participate in the golf and fishing activities on a regular basis during normal business hours. The public participation in your activities is not incidental and the magnitude and recurrence of the public patronage of your activities constitute engaging in a business. In addition, you would like to seek public patronage by offering reduced price winter specials in the local newspapers. Per Treas. Reg. Section 1.501(c)(7)-1(b), the solicitation of public patronage by advertising is evidence that you are engaged in a business and not operated exclusively for pleasure, recreation, or social purposes.

You are like the organization in Rev. Rul. 69-219. Your golf course is open to the general public on a regular basis during normal business hours and you charge nonmembers (as well as members) green fees and cart fees. Like the organization in Rev. Rul. 69-219, you do not qualify for exemption under section 501(c)(7) of the



Code since you are engaged in business with the general public. You regularly hold your golf course open to the general public for use upon payment of established green/cart fees and the income from the fees is inuring to the benefit of your members because it is being used for the maintenance and improvement of your club facilities. Per Treas. Reg. Section 1.501(c)(7)-1(a), exemption under section 501(c)(7) of the Code does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder.

### **Conclusion**

You do not qualify for exemption under section 501(c)(7). By making your activities and facility open to the general public for fees, you are engaging in a business and are not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes. Additionally, income from the fees is inuring to the benefit of your members because it is being used for the maintenance and improvement of your club facilities.

### **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'll review your protest statement and decide if you provided a basis for us to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't provided a



basis for reconsideration, we'll forward your case to the Office of Appeals and notify you. You can find more information about the role of the Appeals Office in Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court at a later date because the law requires that you use the IRS administrative process first (Section 7428(b)(2) of the Code).

**Where to send your protest**

Please send your protest statement, Form 2848, if needed, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service  
EO Determinations Quality Assurance  
Room 7-008  
P.O. Box 2508  
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service  
EO Determinations Quality Assurance  
550 Main Street, Room 7-008  
Cincinnati, OH 45202

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](http://www.irs.gov/formspubs). If you have questions, you can contact the person listed at the top of this letter.

Sincerely,

Jeffrey I. Cooper  
Director, Exempt Organizations  
Rulings and Agreements

Enclosure:  
Publication 892