



**Department of the Treasury  
Internal Revenue Service**

P.O. Box 2508  
Cincinnati, OH 45201

**Date:** July 21, 2016

**Employer ID number:**

**Contact person/ID number:**

**Contact telephone number:**

**Form you must file:**

**Tax years:**

**Number:** 201642036  
**Release Date:** 10/14/2016

**UIL:** 501.07-00, 501.07-06

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: June 2, 2016

Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

**Legend:**

B = State

C = Date of incorporation

D = Country

x dollars = Amount

y dollars = Amount

**UIL:**

501.07-00

501.07-06

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 don't 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 incorporated under the laws of the State of B on C. Your Articles of Incorporation state that you are formed as a nonprofit organization. You are seeking exemption under Section 501(c)(7) of the Code.

Your members are individuals originally from a specific city located in the foreign country of D, who are working in the United States. You raise funds and offer monetary assistance to your members who have lost a family member due to unforeseen circumstances and do not have money to send the remains back to D. You do not profit from any sales or fundraising. You will not request donations from other organizations.

You have more than 200 members that have each paid a one-time membership fee of x dollars. Membership dues are your only source of income. The accumulated funds are reserved as financial assistance for a member to pay for funeral costs or send the deceased family member's remains to rest in your native land of D.

You conduct a board meeting every two months to discuss any changes or incidents. Once a year you hold a meeting with all members to give a yearly report of accumulated funds and expenses. If an immediate family member of a member passes away, you notify all of your members and schedule a meeting to request a required contribution of y dollars. You distribute a check to the family who lost the loved one to cover funeral expenses and the transportation of their remains so that they may be sent back to D.

## Law

Section 501(c)(7) of the Code provides for the 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.

Rev. Rul. 55-716, 1955-2 CB 263, holds that an organization formed for the purpose of furnishing television antenna service to its members upon payment of a stipulated membership fee and a monthly charge for maintenance of the antenna was not tax exempt under Section 501(c)(7) of the Code. The term "club," as used with Section 501(c)(7), contemplates a 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. 58-589, 1958-2 CB 266, discussed the various criteria for recognition of exemption under Section 501(c)(7) of the Code. In order to establish that a club is organized and operated for pleasure, recreation, and other non-profitable purposes, "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. 63-190, 1963-2 C.B. 212, holds that a nonprofit organization (not operated under a system of lodges) which maintained a social club for members and which also provided sick and death benefits for members and their beneficiaries, did not qualify for exemption from federal income tax either as a social club under Section 501(c)(7) of the Code, a civic league under Section 501(c)(4), or a fraternal beneficiary society under Section 501(c)(8) of the Code.

Rev. Rul. 69-635 1, 1969-2 CB 126, holds that an automobile club whose principal activity is rendering automobile services to its members but has no significant social activities, does not qualify for exemption under Section 501(c)(7). The rendition of automobile services was not in the nature of pleasure and recreation within the meaning of Section 501(c)(7) and commingling of members did not play a material part in the activities of the organization.

In Chattanooga Automobile Club v. Commissioner, Warren Automobile Club, Inc. v. Commissioner, 182 F. 2d 551 (6th Cir. 1950), the United States Court of Appeals 6th Circuit held that to be exempt under the Act of Congress, a club must have been organized and operated for pleasure, recreation, and other non-profitable purposes. The court further specified that the words "other non-profitable purposes" must be construed as coming within the same classification as pleasure and recreation. In addition, there must be at least some sort of commingling of members to constitute a club. The court held that the two automobile clubs petitioning the court were not exempt under section 101(9) of the Internal Revenue Code of 1939 as a social club because the members of these clubs did not commingle.

In Keystone Automobile Club v. Commissioner, 181 F. 2d 402 (3rd Cir. 1950), the United States Court of Appeals 3rd Circuit defined the word "club" to include some type of mingling of people together as well as a common object. In this case, the court held that the club was not exempt under section 101(9) of the Code for a number of reasons one of which was because they saw no evidence of the commingling of members.

Allied Trades Club, Inc. v. Commissioner, 23 T.C. 1017 (1955) states that the payment of sick and death benefits is not a function of a social club exempt under 501(c)(7). It could not be classified as an operation for

pleasure, recreation, or social purposes and, therefore, the petitioner was not operating exclusively for such purposes.

### **Application of law**

Your only activity is providing financial assistance to your members upon the death of their family members for funeral expenses and transportation of their remains back to D. You are not operating for pleasure, recreation, and other non-profitable purposes, precluding you from exemption under Section 501(c)(7) of the Code

To be operated for the purposes described in Section 501(c)(7) of the Code, an organization must have an established membership of individuals who meet to make personal contact and promote fellowship. The commingling of the members must play a material part in the life of a tax exempt social club, as described in Rev. Rul. 55-716, 58-589 and 69-635. With the exception of a few board meetings and emergency member meetings to collect fees, you have no member events. With no commingling of your members, you are excluded from exemption under Section 501(c)(7).

You are also similar to the organization described in Rev. Rul. 63-190, which was denied exemption under Sections (c)(7), (c)(5) and (c)(8) for providing sick and death benefits for members and their beneficiaries.

Chattanooga Automobile Club v. Warren Automobile Club, and Keystone Automobile Club both show that organizations failing to meet the commingling requirement will be denied exemption. You have not demonstrated that members have any interaction other than board meetings or member meetings to discuss financial reports. Your social activities are only incidental to your activity of providing death benefits to your members. Because you have demonstrated very little, if any, personal contact among members and there is no expectation of personal contact among members, commingling is not a material part of your activities. By operating in such a way, you do not qualify for exemption under Section 501(c)(7) of the Code.

Much like the organization described in Allied Trades Club, your sole activity is the provision of death benefits, which is not a function of a social club exempt under 501(c)(7) of the Code. You are not operating for pleasure, recreation, or social purposes and, therefore, not exempt under Section 501(c)(7).

### **Conclusion**

Based on the information provided, we conclude that you are not organized for pleasure, recreation or other non-profitable purposes and there is no commingling of your members. Accordingly, you do not qualify for recognition of exemption under Section 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'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