



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Date: **JUL 19 2018**

Number: **201843012**
Release Date: 10/26/2018

Taxpayer Identification Number:

Tax Period Ended:

UIL: 501.03-00

Person to Contact:

Identification Number:

Contact Information:

Telephone:

Fax:

CERTIFIED MAIL – Return Receipt Requested

Dear :

This is a final determination that you do not qualify for exemption from Federal income tax under Internal Revenue Code (the "Code") section 501(a) as an organization described in Code section 501(c)(7) for the tax period(s) above.

Your exempt status is hereby-revoked effective July 1, 20 .

Our adverse determination as to your exempt status was made for the following reason(s):

You have not demonstrated that you are operated exclusively for exempt purposes within the meaning of Internal Revenue Code § 501(c)(7) and Treasury Regulations 1.501(c)(7)-1. Exempt clubs are organized for pleasure, recreation, and other non-profitable purposes. The exemption extends to social and recreation clubs that are supported solely by membership fees, dues, and assessments. Your activities are not in furtherance or operated exclusively for pleasure, recreation or other similar non-profit purposes and are not exempt under section 501(a).

Organizations that are not exempt under section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of section 7428 of the Code in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination letter was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, N.W.
Washington, D.C. 20217

U.S. Court of Federal Claims
717 Madison Place, N.W.
Washington, D.C. 20439

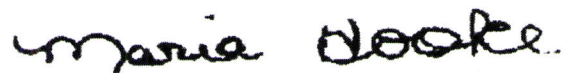
U.S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, D.C. 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under section 7428 of the Internal Revenue Code.

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. We can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for our assistance, which is always free, we will do everything possible to help you. Visit taxpayeradvocate.irs.gov or call 1-877-777-4778.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,



Maria D. Hooke
Director, EO Examinations

Enclosure: Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations
IRS TE/GE EO

Date:
March 21, 2018
Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact:

Employee ID:
Telephone:
Fax:

Manager's Contact Information:

Employee ID:
Telephone:
Response Due Date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(7) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a

valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit www.taxpayeradvocate.irs.gov or call 877-777-4778.

For additional information

You can get any of the forms and publications mentioned in this letter by visiting our website at www.irs.gov/forms-pubs or by calling 800-TAX-FORM (800-829-3676).

If you have questions, you can contact the person shown at the top of this letter.

Sincerely,

For Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 6018
Publication 3498
Publication 892
Form 4621-A

Form 886-A (May 2017)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last four digits)	Year/Period ended June 30, 20XX

ISSUE:

Does () continue to qualify for tax exemption under Internal Revenue Code (IRC) section 501(c)(7) if they operate a motocross park which is open to the general public?

FACTS:

was formed as a nonprofit corporation in the State of on August 18, 19XX, for the following purposes:

1. To promote the welfare of all participants in off-the-road motor sports and their families.
2. In cooperation with the State of , obtain and/or promote the development of land areas and facilities as parks for the use of all participants in off-the-road motor sports so as to preserve the maximum possible ecological balance consistent with the needs of the sport and the rest of the citizens of
3. Sponsor and conduct appropriate activities for the enjoyment and recreation of participants, their families, and the public.
4. Promote, publicize, and participate in civic, industrial, recreational, and educational activities of the community.
5. Adopt rules and controls necessary to insure that all activities are conducted in compliance with the laws of the State of and with the maximum possible safety to the public and participants.
6. To further the moral, physical, and social improvement of its members.

On February 28, 19XX, original corporation was involuntarily dissolved by the State. As a result, they set up a new nonprofit corporation in the State of on November 15, 19XX, with the following purpose:

To promote the sport of motorcycling and other off-road sports activities within the State of , to be of service to benefit the welfare of all participants.

bylaws state that they are organized on a membership basis to promote motorsports and the welfare of all participants.

was granted tax exemption under section 501(c)(7) of the Code on June 21, 19XX. In their Form 1025 application, they stated that they utilize realty belonging to the State of to provide "off road" riding facilities for members. stated in Form 1025 that they charge an entry fee of \$0 for members and \$0 for guests. In addition, explained that various groups within the club sponsor competitive events and receives 0% of the net income from these events.

reported on Form 990-EZ for the audited period that they "...continued to enhance motorcycle safety through training programs and classes for its members." stated that their primary exempt purpose was to "...promote the sport of motorcycling and other off-road sports activities within the State of and to service the benefit and welfare of all members."

reported the following revenues and expenses on Form 990 for the period ended June 30, 20XX:

Form 886-A (May 2017)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last four digits)	Year/Period ended June 30, 20XX

Revenue		
Membership Dues and Assessments	\$0	
Total Revenue	\$0	
Expenses		
Professional fees and other payments to independent contractors	\$0	
Occupancy expenses	\$0	
Printing, publications, postage, shipping	\$0	
Race and fuel expense	\$0	
Equipment rentals	\$0	
Supplies	\$0	
Advertising	\$0	
Insurance	\$0	
Park expenses	\$0	
Food service	\$0	
Licenses and dues	\$0	
Equipment maintenance	\$0	
Contract labor	\$0	
Bank service charge	\$0	
Telephone	\$0	
Total Expenses	\$0	
Net income	\$0	

In the year under audit, balance sheet as reported on Form 990 included cash of \$0 and no liabilities.

activities for the year of examination consisted of operating a motocross park under revocable permit number issued by the State of on March 29, 20XX. According to the terms of the permit, pays \$0 monthly to occupy and use 0 acres of land situated at for motorcycle and bike riding on weekends and national holidays only. The permit stipulates that the "permit area" is to be open to all motorcyclists, whether they are members, but, non-members are required to abide by rules and regulations governing the Motorcycle Area while using the premises.

had 0-0 active members during the audit period and their only requirement for membership was that the individual agree to the rules and regulations of the association. Memberships are sold at the park gate and if the participant does not want to join, they can simply pay a non-member fee of \$0. They described their fee structure as follows:

Form 886-A (May 2017)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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- a) Membership dues is assessed per person at \$0 annually
- b) Non-member park entry fee \$0
- c) Member gate entry fee \$0 which is assessed per person
- d) Second bike fee charged at the gate \$0
- e) Camping fee \$0
- f) Race fees \$0 + \$0 for each additional class

did not provide a completed "Security Gate Closing Sheet", however, they did provide a copy of their blank template. The form included 10 fee categories with charges of (\$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0, \$0) with total fees equal to "cash on hand"; an "income/payable summary" which asked for a description, amount, and signature; a section totaling the number of memberships purchased; and the total deposit amount which was calculated by subtracting "cash on hand" from payable totals.

was unable to provide records showing income received from non-members during the audit period and non-member use of their facility. During a tour of facility, non-members were observed entering the park unaccompanied by an member. The non-members were observed paying fees directly and they were not required to sign a guest register. hands out advertisements for their events at the entry gate and local motorcycle shops.

20XX and 20XX bank statements reconciled to the Form 990 return for the period ended June 30, 20XX. was unable to provide records documenting the source of sampled deposits and certain charges incurred during the audit period. indicated that they did not pay their workers, however, documentation of payments to medics were found in the minutes and the books and records. During the audit, informed the Service that they have provided copies of all records maintained during the audit period.

LAW:

Section 501(c)(7) of the Code provides for the exemption from federal income tax of clubs organized and operated 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.

Section 1.501(c)(7) of the Income Tax Regulations, relating to the requirements of exemption of such clubs under section 501(a), reads in part 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 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.
- b) 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

Form 886-A (May 2017)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
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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.

Section 512(a)(3)(A) of the Code states that in the case of an organization described in paragraph (7), the term "unrelated business taxable income" means the gross income (excluding any exempt function income), less the deductions allowed by this chapter which are directly connected with the production of the gross income (excluding exempt function income), both computed with the modifications provided in paragraphs (6), (10), (11), and (12) of subsection (b). For purposes of the preceding sentence, the deductions provided by sections 243, 244, and 245 (relating to dividends received by corporations) shall be treated as not directly connected with the production of gross income.

Revenue Ruling 65-63, 1965-1 C.B. 240 held that a nonprofit organization that, in 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 non-profitable purposes under section 501(c)(7) of the Code.

Revenue Ruling 68-638, 1968-2 C.B. 220 held that a club formed to maintain a country club for the promotion and enjoyment of golf for its members, receives, as host of an annual golf tournament, substantial income from the public, and uses the income for club operating expenses and improvements is not exempt under section 501(c)(7) of the Code.

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

Revenue Procedure 71--17, 1971--1 C.B. 683, describes the record-keeping requirements for social clubs exempt under IRC section 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. Clubs may be failing to maintain adequate records as required. If records are not maintained in accordance with Revenue Procedure 71--17, then assumptions and minimum income standards set forth in Section 3 of the Revenue Procedure may not be used and all receipts may be classified as nonmember income.

Section 12.03(3) of Revenue Procedure 2018-5 states that the revocation or modification of a determination letter may be retroactive if the organization operated in a manner materially different from that originally represented in an application for recognition of exemption.

Revenue Procedure 2018-15 provides that the IRS will generally not require a new exemption application from a domestic section 501(c) organization that changes its form or place of organization. Revenue Rulings 67-390 and 77-469 are obsolete.

Taxpayer's Position:

Form 886-A (May 2017)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last four digits)</i>	Year/Period ended June 30, 20XX

has indicated that they would agree to revocation of tax exemption under section 501(c)(7) of the Code effective July 1, 20XX, in lieu of responding to additional questions posed in a draft Form 4564. has agreed verbally to file forms 1120 for the periods ended 20XX, 20XX and 20XX.

Government's Position:

tax exempt status under section 501(c)(7) of the Code should be revoked because they are operating a motocross park under a revocable permit issued by the State of which is open to the public. In accordance with section 1.501(c)(7) of the Income Tax Regulations, operating a motocross park for the use of the general public on a fee basis constitutes a business and as such does not further social and recreational purposes within the meaning of section 501(c)(7) of the Code. (See Revenue Rulings 65-63, 68-638, and 69-219.) Further, has failed to maintain adequate records in accordance with Revenue Procedure 71-17. As a result, even if was not substantially engaged in operating a business, all of the club's income would be reclassified as nonmember income and taxed as unrelated business income on Form 990-T in accordance with section 512(a)(3)(A) of the Code.

Pursuant to section 12.03(3) of Revenue Procedure 2018-5, tax exemption under section 501(c)(7) should be revoked retroactively to July 1, 20XX, because operated in a manner materially different from that originally represented in their application for recognition of exemption Form 1025. Form 1025 application stated that they utilize realty belonging to the State of to provide "off road" riding facilities for members. bylaws state that they are organized on a membership basis to promote motorsports and the welfare of all participants. There was no indication in Form 1025 and the attachments thereto that they would operate a motocross park that was open to the general public on a fee basis.

Conclusion:

no longer meets the requirements to qualify as exempt from federal income tax under section 501(a) as described in section 501(c)(7) of the Code. Therefore, tax exempt status under section 501(c)(7) of the Code will be revoked effective July 1, 20XX.

As a taxable entity, is required to file Form 1120, U.S. Corporation Income Tax Return for the periods open under statute. Under section 6501(g) of the Code, these periods include tax years ended June 30, 20XX, June 30, 20XX, and June 30, 20XX. should also be aware of the provisions of section 277 of the Code concerning membership organizations that are not exempt organizations.