



DEPARTMENT OF THE TREASURY

Internal Revenue Service
TE/GE EO Examinations
1100 Commerce Street MC 4920 DAL
Dallas, TX 75242

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: **OCT 16 2018**

Release Number: **201906009**

Release Number: 2/8/2019

UIL: 501-03-00

Person to Contact:

Identification Number:

Contact Telephone Number:

In Reply Refer to: TE/GE Review Staff

EIN:

LAST DATE FOR FILING A PETITION
WITH THE TAX COURT:

JAN 14 2019

CERTIFIED MAIL - Return Receipt Requested

Dear :

This is a Final Adverse Determination Letter as to your exempt status under section 501(c)(7) of the Internal Revenue Code (IRC). Your exemption from Federal income tax under IRC section 501(c)(7) is hereby revoked effective January 1, 20XX.

Our adverse determination was made for the following reasons:

You have not established that you are operated substantially for pleasure and recreation of its members or other non-profitable purposes and no part of the earnings inures to the benefit of private shareholder within the meaning of IRC section 501(c)(7).

You have exceeded the non-member income test for tax year ending December 31, 20XX.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for the year ending December 31, 20XX and for all years thereafter.

Processing of income tax returns and assessment of any taxes due will not be delayed should a petition for declaratory judgment be filed under IRC section 7428.

If you decide to contest this determination in court, you must initiate a suit for declaratory judgment in the United States Tax Court, the United States Claim Court or the District Court of the United States for the District of Columbia before the 91st day after the date this determination was mailed to you. Contact the clerk of the appropriate court for the rules for initiating suits for declaratory judgment.

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 taxpaycradvocatc.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,

A handwritten signature in black ink that reads "Maria Hooke". The signature is written in a cursive, slightly slanted style.

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:
Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities
Exempt Organizations Examinations

Date:
July 26, 2018
Taxpayer Identification Number:

Form:
990-EZ Return
Tax Year(s) Ended:
12/31/20
Person to Contact:

Employee ID:
Telephone:
Fax:
Manager's Contact Information:

Employee ID:
Telephone:
Response Due Date:
August 27, 2018

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.

After we issue the final adverse determination letter, we'll announce that your organization is no longer eligible to receive tax deductible contributions under IRC Section 170.

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

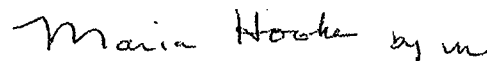
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, 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,



Maria Hooke
Director, Exempt Organizations
Examinations

Enclosures:
Form 6018
Form 4621-A
Form 886-A
Publication 892
Publication 3498

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items Proposal for Tax	
Name of Taxpayer		Year/Period Ended 12/31/20XX

ISSUE

1. Does _____, hereafter referred to as _____, qualify for exempt status under section 501(c)(7) of the Internal Revenue Code when it has investment income in excess of _____ % and none of that income for is set aside for charitable purposes?
2. Do the activities for _____ meet the qualifications for exemption under Section 501(c)(7)?

FACTS

_____, hereafter referred to as _____, was granted exemption in 19XX as a 501(c)(7) organization. According to the Articles of Incorporation, _____ purpose is to oversee and/or conduct educational and financial matters of the _____ Chapter of _____ fraternity.

Their sole source of income is investment income. The organization then uses this money to provide housing for chapter members. The organization didn't provide any information about any other activities as requested on June 4, 20XX. Contacted _____ on June 19, 20XX, and he confirmed that this is their only activity. The investment income has been the only income reported since 20XX.

LAW

Section 501(c)(7) Law

Section 501(a) of the Internal Revenue Code exempts from taxation organizations described at subsection 501(c)(7) as clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such pleasure, recreation, and other non-profitable 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 states in pertinent part, that:

- (a) The exemption provided by § 501(c)(7) of the code 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 that are supported solely by membership fees, dues, and assessments. However, a

Form 886A	Department of the Treasury - Internal Revenue Service	
Explanation of Items Proposal for Tax		
Name of Taxpayer		Year/Period Ended 12/31/20XX

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 their products, is not organized and operated exclusively for pleasure, recreation, or social purposes.

Section 501(c)(7) was amended in 1976 by Public Law 94-568 to provide that section 501(c)(7) organizations could receive some outside income, including investment income, without losing their exempt status. Prior passage of this law in 1976, section 501(c)(7) of the Code provided exemption for social clubs organized exclusively for pleasure, recreation, and other non-profitable purposes. P.L. 94-568 substitutes the word "substantially" for "exclusively".

Both Senate and House Committee Reports show that this wording change was intended to make it clear that social clubs may receive outside income, without losing their exempt status. However, the committee reports also specified clearly defined limits on this outside income, which if exceeded then invoke the application of a facts and circumstances test. The law allows social clubs to receive up to 35% of their gross receipts, including investment income, from sources outside their membership without losing their exempt status. Within this 35%, no more than 15% of gross receipts may be derived from non-member use of club facilities and/or services. (S. Report No. 94-1318 (1976), 2d Sess., 1976-1 C.B. 597; H. Report No. 94-1353, to accompany H. Report 1144 (Public law 94-568, 3-4, 8 (1976)).

Revenue Ruling 66-149; 1966-1 C.B.; A social club is not exempt from Federal income tax as an organization described in *section 501 (c) (7) of the Internal Revenue Code of 1954* where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns.

Internal Revenue Code Section 512(a)(3)(B) states that for purposes of *subparagraph (A)*, the term "exempt function income" means the gross income from dues, fees, charges, or similar amounts paid by members of the organization as consideration for providing such members or their dependents or guests goods, facilities, or services in furtherance of the purposes constituting the basis for the exemption of the organization to which such income is paid. Such term also means all income (other than an amount equal to the gross income derived from any unrelated trade or business regularly carried on by such organization computed as if the organization were subject to *paragraph (1)*), which is set aside for a purpose specified in *section 170(c)(4)*.

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items Proposal for Tax	
Name of Taxpayer		Year/Period Ended 12/31/20XX

GOVERNMENT'S POSITION

According to the law, the investment income exceeds 35% limitations according to IRC §513(f)(2)(C). The organization does not conduct any activities that meet 501(c)(7) requirements.

TAXPAYER'S POSITION

The taxpayer's position is unknown at this time.

CONCLUSION

Accordingly, based on the facts and circumstances described, it is concluded that does not meet the exemption requirements for 501(c)(7). has failed to meet the 35% threshold for gross receipts from sources outside their membership with no more than % being derived from non-member use. also failed to demonstrate that their activities meet the definition of an organization described in Section 501(c)(7). Therefore, revocation of exemption is recommended effective January 1, 20XX.