

Internal Revenue Service

Appeals Office
4330 Watt Avenue SA 7890
Sacramento, CA 95821-7012

Date: **JAN 16 2020**

Number: **202015036**
Release Date: 4/10/2020

UIL: **9999.98-00**

Department of the Treasury

Employer Identification Number:

Person to Contact:

Employee ID Number:

Tel:

Fax:

Tax Period Ended:

Certified Mail

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)(4) for the tax periods above. Your determination letter dated revoked.

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

Organizations exempt from tax under section 501(c)(4) of the Internal Revenue Code, including civic leagues or organizations, must not be organized or operated for profit and be operated exclusively for the promotion of social welfare. A substantial portion of your activities includes the conduct of gaming activities and operation of a social club for members rather than primarily promoting social welfare. See Treas. Reg. 1.501(c)(4)-1(a)(2)(ii). Therefore, you do not qualify for exemption as an organization described in section 501(c)(4) of the Code.

You are required to file Federal income tax returns on Forms 1120. File your returns with the appropriate Internal Revenue Service Center per the instructions of the return. For further instructions, forms, and information please visit www.irs.gov.

We will make this letter and the proposed adverse determination letter available for public inspection under Code section 6110 after deleting certain identifying information. We have provided to you, in a separate mailing, Notice 437, *Notice of Intention to Disclose*. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

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.

You may also be eligible for help from the Taxpayer Advocate Service (TAS). 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 1-877-777-4778.

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

Sincerely Yours,

.....
Appeals Team Manager

Enclosure: Publication 892



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

Date:
11/15/2018
Taxpayer ID number:

Form:
990
Tax periods ended:
December 31, 20XX
Person to contact:

Employee ID number:
Telephone number:
Fax:

Manager's contact information:

Employee ID number:
Telephone number:
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)(4).

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)(4) 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.

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,

Russell T. Renwicks Digitally signed by Russell T. Renwicks
Date: 2018.10.29 11:16:40 -0400

For Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended December 31, 20XX

ISSUE:

Does _____ continue to qualify for exemption from Federal income tax under section 501 (c)(4) of the Internal Revenue Code?

FACTS:

The organization was granted exemption under Internal Revenue Code Section 501(c)(4) as a social welfare organization in July 19XX.

Form 990 states that the purpose of the organization is to provide services and facilities for members of _____ and their families. The organization is the home association of _____. The home association owns the _____ building and the liquor license. The post is also exempt under IRC 501 (c)(4).

The home association was incorporated in the _____ on December 13, 19XX. The stated purpose is to preserve and strengthen comradeship between members, to assist worthy comrades, to perpetuate the memory and history if its dead, to assist their widows and orphans, and to foster patriotism. There is no mention of operating a bar or other recreational facility in the articles of incorporation.

~~The home association does not engage in any civic or social welfare activities, and the primary activity appears to be the operation of a bar for members only.~~

For the tax year ending December 31, 20XX, and all subsequent tax years, the organization's primary activity was the operation of a social quarters for members only, and generated a substantial portion of their income from gaming activities, hall rentals with significant services to non-members, and from sales in the bar that is run by the organization for its members.

In addition to membership dues, the organization reported the following income on their filed Form 990 for the tax year ending December 31, 20XX and the profit and Loss Statement for the tax year ending December 31, 20XX:

Period Ending	Gaming Income	Percentage of Income
December 31, 20XX	\$ 0	0.0%
December 31, 20XX	\$ 0	0.0%

Period Ending	Hall Rentals	Percentage of Income
December 31, 20XX	\$ 0	0.0%
December 31, 20XX	\$ 0	0.0%

Period Ending	Bar/Food Sales	Percentage of Income
December 31, 20XX	\$ 0	0.0%

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended December 31, 20XX

December 31, 20XX \$ 0 0.0%

LAW:

INTERNAL REVENUE CODE § 501(c)(4)(A) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

IRC 501(c)(4)(B) Subparagraph (A) shall not apply to an entity unless no part of the net earnings of such entity inures to the benefit of any private shareholder or individual.

TREASURY REGULATION § 1.501(c)(4)-1 Civic organizations and local associations of employees.

(a) Civic organizations -

(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare -

(ii) Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

Revenue Ruling 66-150, 1966-1 C.B. 147, held that an organization did not qualify for exemption under IRC section 501(c)(4) where it operated social facilities (including bar, restaurant, and game room) for members of an IRC section 501(c)(4) veterans' organization and their guests as its primary activity.

TAX PAYER POSITION:

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended December 31, 20XX

The organization indicated that it is in agreement with the Government's position. The organization will file Form 1024 to apply for tax exemption under IRC section 501(c)(7) as a social club.

GOVERNMENT POSITION:

We are proposing the revocation of the Tax-Exempt Status of _____ due to the fact that they are not in compliance with Internal Revenue Section 501 (c)(4) as they derive a substantial portion of their income from gaming activities and from operating a social club for the members.

Providing social and recreational activities for members is not an exempt purpose of an organization described in IRC section 501(c)(4).

In general, the conduct of gaming as a recreational activity and the operation of a bar for members only does not bring about civic betterment and social improvement and thereby promote social welfare within the meaning of IRC section 501(c)(4).

An Internal Revenue Code Section 501 (c)(4) Social Welfare Organization cannot operate a bar / social club and conduct gaming activities as its primary activity and purpose. Accordingly, it does not qualify for exemption under section 501 (c) (4) of the Code.

This conclusion is implicit in Rev. Rul. 66-150, 1966-1 C.B. 147, which held that an organization did not qualify for exemption under IRC section 501 (c)(4) where it operated social facilities (including bar, restaurant, and game room) for members of an IRC section 501 (c)(4) veterans' organization and their guests.

An organization which engages in club activities and provides a meeting place for the members of its parent may qualify under section 501 (c)(7) of the Code.

Section 501 (c)(7) of the Code provides for the exemption of clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder.

In order to establish exemption under section 501 (c)(7) of the Code, _____ should file Form 1024, Application for Recognition of Exemption Under Section 501 (a), with the Service.