



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202052018**
Release Date: 12/24/2020

UIL: **501.07-00**

Date: August 11, 2020

Taxpayer ID Number:

Form:

For Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear :

This is a final determination that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(7) for the tax period(s) above. Your determination letter dated January 8, 19XX is revoked.

Our adverse determination as to your exempt status was made for the following reasons:

IRC § 501(c)(7) exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes. Your activities are not substantially all for pleasure, recreation, and other non-profitable purposes because your nonmember income has exceeded the 35% investment income threshold on a continuing basis.

Organizations that are not exempt under IRC 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 IRC Section 7428 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 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, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 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 IRC Section 7428.

You may 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.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling.

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

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

Sincerely,



Sean E. O'Reilly
Director, EO Examinations

Enclosures:
Publication 892



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

Date:
February 10, 2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:
Address:

CERTIFIED MAIL – Return Receipt Requested

Manager's contact
information: Name:
ID number:
Telephone:
Response due date:

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.

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,

Denise Gonzalez for

Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018

Publication 892

Publication 3498

Explanations of Items

Name of taxpayer

Tax Identification Number *(last 4 digits)*

Year/Period ended

ISSUE

Should the _____ (hereafter EO) continue to qualify as an organization described in Section 501(c)(7) of the Internal Revenue Code?

FACTS

The _____ is exempt as an organization described in IRC § 501(c)(7) to provide social, recreational and other activities to its members. The EO is an organization of individuals that a common religious belief that engage in activities based on the assisting of the needy. These activities include blood drives, rest stop donations, planting flowers at a local cemetery, toy drives for drive, and holiday food basket for the poor.

The EO members helps organize blood drives for the local community. The EO members gather at rest stops to collect donations for the public. The EO members volunteer their time to plant flowers at local cemeteries. The EO members solicit for toys and food for the poor during the holiday season. The EO members engage in these activities in accordance with their religious beliefs of assisting the needy.

The EO has a facility. The facility consisted of _____ main offices, a kitchen, an upstairs lounge, a downstairs meeting room, and a large meeting room. They hold monthly meetings and use the facility for storage. They have various items that they use for their various fundraisers. These items include coolers, paper plates and cups, and other miscellaneous material. They use the facility to hold meetings and hold the materials needed for their activities.

The EO has an investment account that it uses to help finance their activities and with upkeep of their facilities. The EO filed Form 990 for tax period 20XX and tax period 20XX. The EO filed Form 990-EZ for tax period 20XX. The EO filled Form 990-T for tax period 20XX – 20XX.

Form 990	20XX	20XX	20XX
Investment Income	\$0	\$0	\$0
Total Revenue	\$0	\$0	\$0
Percentage of non-member income	0%	0%	0%

Once the field audit was completed, the EO was given the opportunity to produce a plan to lower the investment income. The regulations regarding set asides were explained to the EO. The EO decided that it would be best to consider applying for an alternative section of the Internal Revenue Code.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items		
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended	

LAW

IRC § 501(c)(7) exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all of the activities of which are for such purposes and not part of the net earnings of which inures to the benefit of any private shareholder.

Section 1.501(c)(7) of the Regulations provides that, in general, the exemption extends to social and recreation clubs supported solely by membership fees, dues and assessments. However, a club that engages in a business, such as making its social and recreational facilities open to the general public, is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes, and is not exempt under section 501(a).

Prior to its amendment in 1976, IRC § 501(c)(7) required that social clubs be operated exclusively for pleasure, recreation and other non-profitable purposes. Public Law 94-568 amended the “exclusive” provision to read “substantially” in order to allow an IRC § 501(c)(7) organization to receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing its tax-exempt status. The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) further states;

(a) Within the 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 non-members, so long as the latter do not represent more than 15 percent of total receipts.

(b) Thus, a social club may receive investment income up to the full 35 percent of its gross receipts if no income is derived from non-members’ use of club facilities.

(c) In addition, the Committee Report states that where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facilities, that income is not to be included in the 35 percent formula.

Revenue Ruling 66-149 holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it derives a substantial part of its income from non-member sources.

TAXPAYER’S POSITION

The EO decided that it would be best to consider applying for an alternative section of the Internal Revenue Code. It was explained to the EO that a section change under the Internal Revenue Code would result in a revocation. The EO understood that position.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items		
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended	

GOVERNMENT’S POSITION

Based on the examination, the organization does not qualify for exemption as a social club described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) which provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

Rev. Rul. 66-149 support this position stating that a social club is not exempt under Code section 501(c)(7) if it regularly derives a substantial part of its income from nonmember sources, such as investment income.

The organization contains investment income that make of 0% of their gross income. The organization has exceeded the 35% non-member threshold as outlined in Public Law 94-568, on a recurring basis during tax years ending December 31, 20XX.

Accordingly, it is proposed that the organization’s tax-exempt status be revoked effective January 1, 20XX.

CONCLUSION

The _____ no longer qualifies for exemption under § 501(c)(7) of the Code as your nonmember income has exceeded the 35% investment income threshold on a continuing basis. Therefore, it is proposed that your exempt status under § 501(c)(7) of the Code be revoked effective January 1, 20XX.

When completing the Form 1120 the organization must divide the income and expenses between the member and non-member activities. If there is a loss from the membership activity it cannot be used to offset the income from the non-member activities. A loss on the member activity can be carried forward to a later year to be taken against member income.

Should this revocation be upheld, Form 1120 must be filed starting with tax periods ending December 31, 20XX.

If you agree to this conclusion, please sign the attached Forms.

If you disagree please submit a statement of your position.