



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

**TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION**

UIL: 501.07-00

Number: 202110025  
Release Date: 3/12/2021

**Date:** September 16, 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 March 19XX is revoked.

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

You have not established that you are operated substantially for pleasure and recreation of your 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 made your recreational and social facilities available to the general public. You have exceeded the non-member income test for tax year ending January 31, 20XX.

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](http://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](http://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](http://www.irs.gov/forms-pubs).

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

Sincerely,



Sean E. O'Reilly  
Director, Exempt Organizations Examinations

Enclosures:  
Publication 892



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

Date:  
March 5, 2020  
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Manager's contact information:

Name:

ID number:

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**

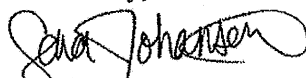
The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the IRS. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. Visit [www.taxpayeradvocate.irs.gov](http://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](http://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 886-A

Form 6018

Form 4621-A

Publication(s) 892 & 3498-A

Form 886A	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
Name of Taxpayer	Explanation of Items	Year/Period Ended December 31, 20XX

Date of Notice: March 3, 20XX

**Issues:**

Whether (the organization), which qualified for exemption from Federal income tax under Section 501(c)(7) of the Internal Revenue Code, will continue to qualify as an exempt social club?

**Facts:**

The organization applied for tax-exempt status by filing the Form 1025, *Exemption Application*, on March 10, 19XX, and was subsequently granted tax-exempt status

An organization exempt under 501(c)(7) needs to be operated exclusively for pleasure and recreation of its members.

The organization was selected for audit to ensure that the activities and operations align with their approved exempt status.

The organization's principal activity is to maintain a building for a Section 501(c)(8) organization. This building is used as a rental investment property, as well as for hosting the meetings of the Section 501(c)(8) organization.

During the examination, it was determined that the entity did not comply with the record keeping requirements of Revenue Procedure 71-17, 1971-1 C.B. 683. However, the Club receives income from outside its membership. Based on examination of the organization's Form 990-EZ/990T for the period ending December 31, 20XX and review of their books and records, the percent of gross receipts from nonmember use of facilities exceeded 15% for the year of the exam as well as for the prior and subsequent years, while investment income was 0% for all years.

**Law:**

**Internal Revenue Code (IRC) §501(c)(7)** provides that a club organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes is exempt from Federal income tax, provided no part of its net earnings inures to the benefit of any private shareholder.

**IRC §1.501(c)(7)-1** of the Income Tax Regulations provides that, in general, the exemption extends to social and recreation clubs which are supported by membership fees, dues,

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
Name of Taxpayer		Year/Period Ended December 31, 20XX

and assessments. However, a club otherwise entitled to exemption will not be disqualified merely because it raises revenue from members through the use of club facilities or in connection with club activities.

**IRC §1.501(c)(7)-1(b)** of the Income Tax Regulations provides that, a club which engages in business, such as making its social and recreational facilities available 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 Section 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 a section 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 further states:

Within this 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. These percentages supersede those provided in Revenue Ruling 71-17, 1971-1 C.B. 683.

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

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.

The Senate report also indicates that even though gross receipts from the general public exceed this standard, it does not necessarily establish that there is a nonexempt purpose. A conclusion that there is a nonexempt purpose will be based on all the facts and circumstances including, but not limited to, the gross receipts factor.

**Revenue Ruling 58-589** sets forth the criteria for exemption under section 501(c)(7) of the Code, and provides that a club must have an established membership of individuals, personal contacts, and fellowship. It also provides that, while the regulations indicate that a club may lose its exemption if it makes its facilities available

Form <b>886A</b>	Department of the Treasury - Internal Revenue Service	Schedule No. or Exhibit
<b>Explanation of Items</b>		
Name of Taxpayer		Year/Period Ended December 31, 20XX

to the general public, this does not mean that any dealings with nonmembers will automatically cause a club to lose its exemption. A club may receive some income from the general public, that is, persons other than members and their bona fide guests, or permit the general public to participate in its affairs, provided that such participation is incidental to and in furtherance of the club's exempt purposes, such dealings with the general public and the receipt of income therefrom does not indicate the existence of a club purpose to make a profit, and the income does not inure to club members.

**Revenue Ruling 60-324** provides that a social club that made its social facilities available to the general public through its member-sponsorship arrangement cannot be treated as being operated exclusively for pleasure, recreation, or other nonprofitable purposes and the club no longer qualified for exemption under 501(c)(7) of the Code.

**Revenue Ruling 66-149** provides that a social club is not exempt from federal income tax as an organization described in section 501(c)(7) of the code if it regularly derives a substantial part of its income from non-member sources such as, for example, dividends and interest on investments.

**Revenue Ruling 68-119** provides that a club will not necessarily lose its exemption if it derives income from transactions with other than bona fide members and their guests, or if the general public on occasion is permitted to participate in its affairs, provided such participation is incidental to and in furtherance of its general club purposes and the income therefrom does not inure to members.

**Revenue Procedure 71-17** sets forth guidelines for determining the effect of gross receipts derived from nonmember use of a social club's facilities on exemption under Internal Revenue Code Section 501(c)(7) and recordkeeping requirements. Failure to maintain such records or make them available to the Service for examination will preclude use of the minimum gross receipts standard and audit assumptions set forth in this Revenue Procedure.

If a club exceeds the 15/35% test, then it will maintain its exempt status only if it can show through facts and circumstances that "substantially all" of its activities are for "pleasure, recreation and other nonprofitable purposes."

The following are important facts and circumstances to take into account to determine whether a club may maintain its exemption under IRC 501(c)(7):

- The actual percentage of nonmember receipts and/or investment income.
- Frequency of use of the club facilities or services by nonmembers. An unusual or single event (that is, nonrecurring on a year to year basis) that generates all the nonmember income is viewed more favorably than



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nonmember income arising from frequent use by nonmembers.

- Record of nonmember use over a period of years. A high percentage in one year by nonmembers, with the other years being within permitted levels, is viewed more favorably than a consistent pattern of exceeding the limits, even by relatively small amounts. (See S. Rept. 94-1318, 2d Sess., 1976-2 C.B. 597,599).
- Purposes for which the club's facilities were made available to nonmembers.
- Whether the nonmember income generates net profits for the organization. Profits derived from nonmembers, unless set aside, subsidize the club's activities for members and result in inurement within the meaning of IRC 501(c)(7).

#### **Organization's Position**

The organization's representative verbally advised that they agree with the Government's Position and will seek exemption under the appropriate code section.

#### **Government's Position**

Based on the large percentages of gross nonmember income to total gross receipts of the club which exceeds the limitation of 15% as set forth by IRC 501(c)(7) for each of these years and the fact that it advertises the use of its facilities to the public, it is the Government's position is that Club Inc is no longer operated exclusively for the pleasure and recreation of its members and is not exempt under section 501(c)(7).

An organization exempt from federal income taxes as described in IRC section 501(c)(7) must meet the gross receipts test in order to maintain its exemption. In order to meet the gross receipts test, an organization can receive up to thirty-five percent (35%) of its gross receipts, including investment income, from sources outside its membership without losing its tax-exempt status. Within this 35% amount, not more than fifteen percent (15%) of the gross receipts should be derived from the use of a social club's facilities or services by non-members.

has exceeded the 15% gross receipts standard for nonmember income on a continuous basis for at least three years, with 100% of the gross receipts coming from use of the facilities. The nonmember receipts are earned throughout the year. There was no one single or unusual event that caused the club to exceed the 15% threshold.



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**Conclusion:**

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c)(7) and its tax-exempt status should be revoked.

It is the IRS's position that the organization failed to meet the gross receipts requirements to be recognized as exempt from federal income tax under IRC §501(c)(7). Furthermore, the general purpose of the facilities being available for rent is evidence that the organization is engaged in a business and is not being "operated exclusively for pleasure, recreation, or social purposes."

. no longer meets the requirements of an exempt organization under IRC §501(a) as described in §501(c)(7). Accordingly, the organization's exempt status is revoked effective January 1, 20XX.