



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
TEGE EO Examinations Mail Stop 4920 DAL
1100 Commerce St.
Dallas, Texas 75242

Date: February 19, 2019

Number: 202151015
Release Date: 12/23/2021

Tax Year(s) Ending:

Taxpayer Identification Number:

Person to Contact:

Employee Identification Number:

Employee Telephone Number:

UIL: 501.03-00

CERTIFIED MAIL – RETURN RECEIPT

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 determination letter dated April, 19XX is revoked.

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

You have exceeded the 35% gross receipts limitation on income from non-member sources per Public Law 94-568.

This letter isn't a determination of your exempt status under section 501 for any periods other than the tax period(s) listed above.

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.

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,

**Maria Hooke
Director, EO Examinations**

**Enclosures:
Publication 892**



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

Date: **November 1, 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.

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 886-A
Form 4621-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 06/30/20XX

ISSUE:

Whether _____ qualifies for exemption under Internal Revenue Code (IRC) section 501(c)(7)?

FACTS:

The _____ (EO) is exempt from federal income tax under section 501(c)(7) of the Internal Revenue Code as a social and recreation club. The EO was incorporated on January 7, 19XX in the state of _____. The purposes of the corporation stated in its original certificate of incorporation are to promote singing, cultivate the language and to maintain and promote social intercourse among its members. The corporation's restated certificate of incorporation was filed on September 6, 19XX in the state of _____. The nature of the activities to be conducted or the purposes to be promoted or carried out by the corporation were stated as follows: to encourage, support and foster sports, the arts, education and encourage social and civic activities for members, especially those relative to the background of the corporation.

The Form 990 return indicated that the EO is a social organization that promotes American culture.

The EO derives income from membership dues, other contributions, investment income and net gain (loss) from sale of securities.

The following is a percentage of investment income to total income as reported on the organization's Form 990s: The investment income for the period ending June 30, 20XX as 0% of the EO's total revenue; for the period ending June 30, 20XX was 0% of the EO's total revenue; and for the period ending June 30, 20XX was 0% of the EO's total revenue

LAW:

IRC section 501(c)(7) provides exemption from income taxes for clubs organized 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.

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts from sources outside of their membership without losing their tax-exempt status, and that within that 35%, not more than 15% of gross receipts should be derived from the use of a social club's facilities or services by the general public. 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

Form 886-A (May 2017)	Department of the Treasury -- Internal Revenue Service Explanations of Items	Schedule number or exhibit
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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, from sources outside of their membership without losing their tax-exempt status, and that within that 35%, not more than 15% of gross receipts should be derived from the use of a social club's facilities or services by the general public.

TAXPAYER'S POSITION:

The taxpayer has not yet been presented with this formal report, but has communicated that it prefers to be tax-exempt. However, the taxpayer has been made aware of the government's position regarding the law of the investment income limits as it relates to a section 501(c)(7) organization.

GOVERNMENT'S POSITION:

A section 501(c)(7) organization may receive up to 35% of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. Of the 35%, up to 15% of the gross receipts may be derived from the use of the club's facilities or services by the general public or from other activities not furthering social or recreational purposes for members. In the event that an organization has outside income that is more than these limits, all the facts and circumstances will be taken into account in determining whether the organization qualifies for exempt status.

Based on the examination, the organization does not qualify for exemption as a social club described in IRC §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.

During the last three years, the EO receives more than the insubstantial part of its gross receipts allowed by the Code from outside its membership. The amount of investment income received is considerably higher than the 15% allowed under P.L. 94-568.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Rev. Rul. 66-149 supports this position stating that a social club that derives a substantial part of its income from non-member sources is not exempt as an organization described in 501(c)(7).

CONCLUSION:

The organization no longer qualifies for exemption under IRC § 501(c)(7) as its investment income has exceeded the 35% investment income threshold continually. Therefore, it is proposed that the EO's exempt status under 501(c)(7) of the Code be revoked effective July 1, 20XX.

Should this revocation be upheld, Form 1120 must be filed starting with the tax period ending June 30, 20XX.