



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

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Number: **202226015**  
Release Date: 7/1/2022

Date:  
March 3, 2021  
Taxpayer ID Number:

Form:

For Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

UIL: 501.07-00

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

Dear \_\_\_\_\_ :

This is a final determination explaining why your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501[(c)([X]) [(d)]] for the tax period(s) listed above.

In the future, if you believe your organization qualifies for tax-exempt status and would like a determination letter from the Internal Revenue Service, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), or Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code (as applicable) and paying the required user fee.

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

You have not established that you are organized and operated exclusively for an exempt purpose within the meaning of IRC Section 501(c)(7). You have not established that you are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, substantially all 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.

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).

We previously provided you a report of examination explaining the proposed denial of your tax-exempt status. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On June 23, 20\_\_\_\_ you signed Form 6018, *Consent to Proposed Action – Section 7428*, in which you agreed to the denial of your tax exempt status as described under IRC 501(c)(7). This is a final determination letter with regards to your federal tax-exempt status under IRC Section 501(a).

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.

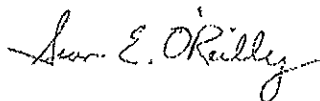
You may be eligible for help from the Taxpayer Advocate Service (TAS). TAS is an independent organization within the IRS that can help protect your taxpayer rights. TAS can offer you help if your tax problem is causing a hardship, or you've tried but haven't been able to resolve your problem with the 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 questions, you can contact the person listed at the top of this letter.

Sincerely,



Enclosures:  
Publication 892

Sean E. O'Reilly  
Director, Exempt Organizations Examinations



**Department of the Treasury**  
**Internal Revenue Service**  
**Tax Exempt and Government Entities**  
200 Sheffield Street 2<sup>nd</sup> Floor  
Mountainside, NJ 07092

Date:  
April 20, 2020  
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:  
ID number:  
Telephone:  
Fax:  
Address:

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 your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

This letter is not a determination of your tax-exempt status under IRC Section 501 for any period other than the tax periods above.

**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.

In the future, if you believe your organization qualifies for tax-exempt status and would like a status determination letter from the IRS, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), and paying the required user fee.

**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,

Maria Hooke  
Director, Exempt Organizations  
Examinations

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

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

**ISSUE:**

Whether the \_\_\_\_\_ qualifies for self-declared tax-exempt status under Internal Revenue Code (IRC) Section 501(c)(7) when it derives significant income from a substantial, nontraditional ongoing business activity outside of its membership.

**FACTS:**

The \_\_\_\_\_, hereinafter referred to as the \_\_\_\_\_, has self-declared as an organization described in IRC Section 501(c)(7). The \_\_\_\_\_ has not received a ruling or determination letter granting tax-exempt status and is not covered under a group exemption ruling. The \_\_\_\_\_ main purpose is to promote, encourage and foster the \_\_\_\_\_ among its members of the working-class immigrants and persons of \_\_\_\_\_ through recreation and social activities.

The \_\_\_\_\_ has \_\_\_\_\_ members and provide a place for the members to commingle, socialize, and take part in recreational activities which include playing \_\_\_\_\_, and watching television. The members have access to magazines, newspapers, and other materials related to their \_\_\_\_\_. The \_\_\_\_\_ also provides food, coffee, tea and other beverages to members which is donated by various \_\_\_\_\_ in the community.

The members of the \_\_\_\_\_ do not pay membership dues and initiation fees because they receive a small amount of donation from \_\_\_\_\_ to host various activities for members such as \_\_\_\_\_. The \_\_\_\_\_ also provides help to the community with immigration services and help with funeral and burial for those in need of assistance. The \_\_\_\_\_ operates on the second floor of the building which is owned by the \_\_\_\_\_ and the first floor is rented to the general public for use as a \_\_\_\_\_.

The only income \_\_\_\_\_ reported on the Form 990-EZ, Short Form Return of Organizations Exempt From Income Tax, from the year ended 12/31/20 \_\_\_\_\_ was investment income. The \_\_\_\_\_ did not report membership dues or any other income from the members of the \_\_\_\_\_. During the examination of the books and records for the year ended 12/31/20 \_\_\_\_\_ it was verified that the investment income was rental income received from renting the first floor of the facility. The rental income was reported on Form 990-T, Exempt Organization Business Income Tax Return.

Review of Form 990-EZ for the periods of December 31, 20 \_\_\_\_\_ through December 31, 20 \_\_\_\_\_ are shown below. \_\_\_\_\_ had \_\_\_\_\_ % non-member income for \_\_\_\_\_ consecutive years.

Form 990			
Nonmember Income (gross rents)	\$	\$	\$
Total Revenue	\$	\$	\$
Percentage of non-member income	%	%	%

Form <b>886-A</b> (May 2017)	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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## **LAW**

IRC § 501(c)(7) exempts from federal income tax clubs organized for pleasure, recreation, and other non-profitable purposes, substantially all 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)-1(a) 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).

Treasury Regulation section 1.501(c)(7)-1(b) states that 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 other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, and is not exempt under section 501(a). However, an incidental sale of property will not deprive a club of its exemption.

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.

The Committee Reports for Public Law 94-568 state that it is not “intended that these organizations should be permitted to receive, within the 15 or 35 percent allowances, income from the active conduct of businesses not traditionally carried on by these organizations.” This language means that Congress intended that exempt social clubs should not be permitted to receive income from activities not conducted in furtherance of their exempt purposes. Therefore, a club that engages in nontraditional business activity can jeopardize its exempt status even when its gross receipts are within the permissible limits.

Revenue Ruling 58-589, 1958-2 C.B. 266 states that a social club’s business activity will defeat exemption unless such activity is incidental, trivial or nonrecurrent; which the IRS has interpreted to mean “insubstantial” for this purpose.

Form <b>886-A</b> (May 2017)	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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Revenue Ruling 69-220, 1969-1 C.B. 154 held that a social club that receives a substantial portion of its income from the rental of property and uses such income to defray operating expenses and to improve and expand its facilities is not exempt under IRC section 501(c)(7).

Revenue Ruling 66-149, 1966-1 C.B. 146, holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it regularly derives a substantial part of its income from non-member sources.

**TAXPAYER’S POSITION**

Taxpayer’s position has not been provided.

**GOVERNMENT’S POSITION**

Rental income earned from the property does not demonstrate a causal relationship to the \_\_\_\_\_ and the requirements to be described as a tax exemption organization under Internal Revenue Code (IRC) Section 501(c)(7).

Rev. Rul. 66-149 support this position stating that a social club is not exempt under Code section 501(c)(7) if the organization regularly derives a substantial part of its income from non-member sources, such as investment income. The organization’s income derives from renting the first floor to a private citizen which is used as a \_\_\_\_\_ and the income is \_\_\_\_\_ % of the gross income for the year under audit. This income is well in excess of both 15% limitation on non-member income and 35% limitation on investment income.

The \_\_\_\_\_ is like the organization in Revenue Ruling 69-220 that did not qualify for exemption under IRC section 501(c)(7) because it receives a substantial portion of its income from sources other than members.

As prescribed in Treasury Regulation section 1.501 (c)(7)-1 (b), the \_\_\_\_\_ is engaging in business activities and is therefore not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes.

**CONCLUSION**

The financial data for calendar year December 31, 20\_\_\_\_\_ indicates that the \_\_\_\_\_ only reported investment income on Form 990-EZ which is from the rental of the first floor of the property where the \_\_\_\_\_ is located. The income has exceeded the 15 percent non-member income and 35 percent investment income limitations for year ending December 31, 20\_\_\_\_\_. The \_\_\_\_\_ does not meet the requirements for a tax exemption organization described under IRC Section 501(c)(7).

We propose to disqualify \_\_\_\_\_ self-declared tax-exempt status under IRC section 501(c)(7) for the year ending December 31, 20\_\_\_\_\_ effective January 1, 20\_\_\_\_\_.

Should this revocation be upheld, Form 1120 must be filed for tax period ending December 31, 20\_\_\_\_\_.

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

**If you disagree please submit a statement of your position**