



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

Date: May 4, 2021

Taxpayer ID number:

Form:

Tax periods ended:

Number: 202238013
Release Date: 9/23/2022

Person to contact:

Name:

ID number:

Telephone:

UIL: 501.07-00

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear :

Why we are sending you this letter

This is a final determination that you don't 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 periods above. Your determination letter dated , 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 any 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 the tax year ending .

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.

What you must do if you disagree with this determination

If you want to contest our final determination, you have 90 days from the date this determination letter was mailed to you to file a petition or complaint in one of the three federal courts listed below.

How to file your action for declaratory judgment

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.

Please contact the clerk of the appropriate court for rules and the appropriate forms for filing an action for declaratory judgment by referring to the enclosed Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status. 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.

Information about the IRS Taxpayer Advocate Service

The IRS office whose phone number appears at the top of the notice can best address and access your tax information and help get you answers. However, you may be eligible for free help from the Taxpayer Advocate Service (TAS) if you can't resolve your tax problem with the IRS, or you believe an IRS procedure just isn't working as it should. TAS is an independent organization within the IRS that helps taxpayers and protects taxpayer rights. Contact your local Taxpayer Advocate Office at:

Internal Revenue Service
Taxpayer Advocate Office

Or call TAS at 877-777-4778. For more information about TAS and your rights under the Taxpayer Bill of Rights, go to taxpayeradvocate.irs.gov. Do not send your federal court pleading to the TAS address listed above. Use the applicable federal court address provided earlier in the letter. Contacting TAS does not extend the time to file an action for declaratory judgment.

Where you can find more information

Enclosed are Publication 1, Your Rights as a Taxpayer, and Publication 594, The IRS Collection Process, for more comprehensive information.

Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

If you have questions, you can call the person shown at the top of this letter.

If you prefer to write, use the address shown at the top of this letter. Include your telephone number, the best time to call, and a copy of this letter.

Keep the original letter for your records.

Sincerely,



Sean E. O'Reilly

Director, Exempt Organizations Examinations

Enclosures:

Publication 1
Publication 594
Publication 892



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

Date:
September 14, 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:

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,

Sean O'Reilly by lm

Sean E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:
Form 4621-A
Form 6018
Form 886-A
Pub 892
Pub 3498

Form 886-A	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

ISSUE:

Whether _____ will continue to qualify as an exempt social club under section 501(c)(7) of the Code?

FACTS:

_____ (_____) was incorporated on _____, in the state of _____. _____ was granted exemption as a social club exempt from Federal income tax under Internal Revenue Code section 501(c)(7) pursuant to a ruling issued on _____. The purpose for which this corporation was formed was to acquire, own and manage real estate and the building activities, which will provide a meeting place for the members of this Corporation for the purpose of promoting intellectual culture, high moral standards and virtue conducive to the welfare and best interests of the community and particularly for the members of the corporation. According to the bylaws, members of the _____ in good standing are automatically members.

_____ has an active _____ issued by the state of _____. The license allows the organization to sell _____, and _____ for consumption on premises only. Sales of _____ are limited to members and nonresident guests only. During fiscal year ended (FYE) _____ and _____, _____ received income from the sale of _____ and _____, rental of its facility for various functions, the operation of an _____, the sale of empty _____ containers to the _____ distributor.

During the examination, it was determined that _____ receives income from outside its membership did not comply with the record-keeping requirements of Revenue Procedure 71-17, 1971-1 C.B. 683. _____ also advertised to the public that its hall was available for rent on the website _____ shared with _____.

Based on the examination of _____ Form _____ return for the period ended _____ and a review of their books and records for the period ended _____, the percent of gross receipts from nonmember use of facilities investment income exceeded _____ % for the year of the exam as well the subsequent year. These receipts are noted in the following chart excluding amounts for _____ and sales of _____:

Year/Period Ended	% of gross receipts from non-member use	% of gross receipts from investment income	Total % investment income / nonmember income
	_____ %	_____ %	_____ %
	_____ %	_____ %	_____ %

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FYE		FYE	
Description	Total GL Income	Description	Total GL Income
Membership Dues	\$	Membership Dues	\$
Hall Rental to	\$	Hall Rental to	\$
Hall Rental to Non-Members	\$	Hall Rental to Non-Members	\$
Sale of and	\$	Sale of and	\$
	\$		\$
Sale of Empty	\$	Sale of Empty	\$
Bank Credit	\$	Refund	\$
Refunds	\$	Other income	\$
Reportable Income	\$	Reimbursement of Property tax	\$
		Reportable Income	\$
Total Reportable Income	\$	Total Reportable Income	\$
Non-Member Income	\$	Non-Member Income	\$
% of gross receipts from non-member use	%	% of gross receipts from non-member use	%
Total Reportable Income	\$	Total Reportable Income	\$
Investment Income	\$	Investment Income	\$
% of gross receipts from investment income	%	% of gross receipts from investment income	%

LAW:

Internal Revenue Code

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.

It was the enactment of P.L. 94-568 in 1976 which changed the term “exclusively” to “substantially all”. This change, as incorporated in the IRC allows for an insubstantial amount of income from activities that do not further the club’s exempt purposes. These activities which constitute an unrelated trade or business include the use of the club facilities by the general public.

Senate Report No. 94-1318 (1976), 2d Session, 1976-2 C.B. 597, at page 599 defines “substantially all” and explains that a social club is permitted to receive up to 35% of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. It is also intended

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that within this 35% not more than 15% of the gross receipts should be derived from the use of a social club's facilities or services by the general public (nonmembers).

Treasury Regulations

Treas. Reg. §1.501(c)(7)-1(a) further provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

A social club that opens its facilities to the public is deemed to be not organized and operated exclusively* for pleasure, recreation, and other nonprofitable purposes, and is not exempt under section 501(a). Solicitation by advertisement or otherwise for public patronage of its facilities is prima facie evidence that the club is engaging in business and is not being operated exclusively for pleasure, recreation, or social purposes. However, an incidental sale of property will not deprive a club of its exemption. [Reg. §1.501(c)(7)-1(b)]

[*Treas. Reg. §1.501(c)(7)-1 has not been updated to reflect P.L. 94-568 which changed "exclusively" to "substantially all".]

Revenue Rulings

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 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 can not 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.

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Revenue Procedures

Rev. Proc. 71-17, 1971 WL 26186, 1971-1 C.B. 683 sets forth guidelines for determining the effect gross receipts derived from use of a social club's facilities by the general public have on the club's exemption from federal income tax under section 501(c)(7) of the Code.

The club must maintain books and records of each such use and the amount derived therefrom. This requirement applies even though the member pays initially for such use. In each instance the record must contain the following information:

1. The date;
2. The total number in the party;
3. The number of nonmembers in the party;
4. The total charges;
5. The charges attributable to nonmembers;
6. The charges paid by nonmembers;
7. Where a member pays all or part of the charges attributable to nonmembers, a statement signed by the member indicating whether he has been or will be reimbursed for such nonmember use and, if so, the amount of the reimbursement;
8. Where the member's employer reimburses the member or makes direct payment to the club for the charges attributable to nonmembers, a statement signed by the member indicating the name of his employer; the amount of the payment attributable to the nonmember use; the nonmember's name and business or other relationship to the member; and the business, personal, or social purpose of the member served by the nonmember use; and
9. Where a nonmember, other than the employer of the member, makes payment to the club or reimburses a member and a claim is made that the amount was paid gratuitously for the benefit of a member, a statement signed by the member indicating the donor's name and relationship to the member, and containing information to substantiate the gratuitous nature of the payments or reimbursement.

Exceptions to these record keeping requirements are:

1. Where a group of eight or fewer individuals, at least one of whom is a member, uses club facilities, it will be assumed for audit purposes that the nonmembers are the guests of the member, provided payment for such use is received by the club directly from the member or the member's employer.
2. Where 75 percent or more of a group using club facilities are members, it will likewise be assumed for audit purposes that the nonmembers in the group are guests of members, provided payment for such use is received by the club directly from one or more of the members or the member's employer.
3. Solely for purposes of 1 and 2, above, payment by a member's employer will be assumed to be for a use that serves a direct business objective of the employee-member.

Where a club makes its facilities available to the general public to a substantial degree, the club is not operated exclusively for pleasure, recreation, or other non-profitable purposes.

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Court Cases

Pittsburgh Press Club v. USA, 536 F.2d 572, (1976)

While the reports mandate the application of a “facts and circumstances test” in the event that gross receipts from nonmember and/or investment income reach the prohibited levels, they do not specify any of the relevant facts and circumstances that should be considered. However, the Court of Appeals in this case has indicated some factors to consider in determining exempt status.

Factors to consider in applying this test include:

- The actual percentage of nonmember receipts and/or investment income.
- The frequency of nonmember use of club facilities. (An unusual or single event (that is, non-recurrent on a year to year basis) that generates all the nonmember income should be viewed more favorably than nonmember income arising from frequent use by nonmembers).
- The number of years the percentage has been exceeded. (The record over a period of years is also relevant. The high percentage in one year, with the other years being within the permitted levels, should be viewed more favorably to the organization than a consistent pattern of exceeding the limits, even by relatively small amounts).
- The 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).

TAXPAYER’S POSITION:

Unknown.

GOVERNMENT’S POSITION:

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 _____ years. Also, based on a review of the Form _____ and Form _____ for previous years, it appears _____ exceeded the 15% limit as well. 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.

Based on the large percentages of gross nonmember income to total gross receipts of the club, (i.e., _____ % and _____ % as noted in the above table), which exceeds the 15% limitation 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 that _____ is no longer operated exclusively for the pleasure and recreation of its’ members and is not exempt under section 501(c)(7).

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CONCLUSION:

The IRC Section 501(c)(7) tax exempt status of _____ should be revoked since the nonmember income received by the Club exceeded 15% of the organization's total gross receipts for the year under examination and subsequent year. Further, it advertises the use of their facilities to the general public reflecting evidence that the _____ is engaged in a business and is not being "operated exclusively for pleasure, recreation, or social purposes."

_____ no longer meets the requirements to qualify as exempt from federal income tax under IRC section 501(a) as described in section 501(c)(7). Therefore, your exempt status under 501(c)(7) of the Internal Revenue Code will be revoked effective _____.

As a taxable entity, the organization is required to file Form 1120, U.S. Corporation Income Tax Return for the periods open under statute. Under 6501(g) these periods include the years ending _____ and subsequent tax years.

Additionally, the organization is reminded of the provisions of IRC 277 concerning membership organizations which are not exempt organizations.