



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

Date: October 26, 2021

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Release Number: 202243012

Release Date: 10/28/2022

UIL Code: 501.07-00

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

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 the pleasure and recreation of your members or for other nonprofitable purposes, and that no part of your net earnings inures to the benefit of any private shareholder within the meaning of IRC Section 501(c)(7). You have regularly received a substantial portion of your income from nonmember sources, and thus, you are no longer qualified for exemption under Section 501(c)(7).

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:

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.

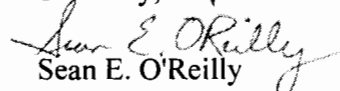
Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

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

cc:



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

Date:
February 26, 2021
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:
Name:
ID number:
Telephone:
Fax:
Address:

Manager's contact information:
Name:
ID number:
Response due date:
March 28, 2021

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 and , 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 E. O'Reilly
Director, Exempt Organizations
Examinations

Enclosures:
Form 886-A
Form 6018
Publications 892 and 3498

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended

ISSUE(S):

Whether _____ continues to qualify for exemption from federal income tax under section 501(a) of the Internal Revenue Code as a social club described in Code section 501(c)(7).

FACTS:

_____ was formed _____ in _____. The organization is located in _____, where it currently owns over _____ acres of land.

In _____ the Internal Revenue Service granted _____ exemption from Federal income tax under section 501(c)(7) of the Code.

The purpose of the _____ as stated in the Articles of Incorporation is:

- a) promote and enjoy the sports of hunting and fishing and to promote social and athletic recreation for members;
- b) to cooperate with the _____ Game Commission and the _____ Commission in obtaining respect for and observance of fish and game laws;
- c) to acquire, sell, own, lease, operate and mortgage real estate and improvements thereon, including water rights and rights of way;
- d) all other purposes necessary and incident to those purposes already stated. The corporation does not contemplate pecuniary gain or profit, incidental or other-wise, to its members.

According to Article III Section _____ of the Amended Bylaws dated _____, membership to _____ is limited to _____ members. However, member's offspring who become of age and is interested, are eligible for membership. _____ currently has _____ members.

_____ charges new members an initiation fee of \$ _____. Aside from the initiation fee, members are charged other dues and assessments uniformly at the organization's discretion.

Section 4(d) of the Amended Bylaw's state upon termination of membership, whether by death, resignation, or expulsion the corporation shall pay to the member or to their estate the sum of \$ _____ (_____ dollars) which shall be complete and final settlement of their membership.

_____ activities consists of _____, _____, land maintenance acquisition and improvement.

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has an investment fund which is professionally managed by . The funds originated from a lump sum payment received in for a -year (, ,) Lease. The funds are used to expand, improve, and maintain the land for their members social and recreational purposes.

The chart below shows the income received by per the Form returns:

Form			
Member Income	\$	\$	\$
Investment Income	\$	\$	\$
Total Revenue	\$	\$	\$
Percentage of investment income	%	%	%

reported their investment income shown above on their Form(s) , Exempt Organization Business Income Tax Return. has not identified any amounts as set aside income per Form(s) -Schedule- .

In , the increase in investment income was due to the organization selling a portion of their publicly traded securities that were held in the professionally managed investment fund.

has received over % of its gross receipts, including investment income, from sources outside of its membership for the years - .

APPLICABLE LAW:

Section 501(c)(7) of the Code provides exemption from Federal income tax for clubs organized for pleasure, recreation, and other non-profitable 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.

The enactment of Public Law 94-568 in 1976 which changed the term “exclusively” to “substantially all”. This change, as incorporated in the Code, allows for an insubstantial amount of income from activities that do not further the club’s exempt purposes. 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 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). The Senate Report defines the term “gross receipts” as those receipts from the traditional, normal, and usual activities of

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the club. Gross receipts include membership fees, dues, and assessments; charges, admissions, investment income (such as interest, dividends, rents and similar receipts) and normal recurring gains on investments.

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 using 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. See Reg. §1.501(c)(7)-1(b).

Revenue Ruling 58-589, C.B. 1958-2, 266, sets forth the criteria for exemption under section 501(c)(7) of the Code and provides that a club must have a membership of individuals, personal contacts, and fellowship. A commingling of members must play a material part in the activities of the organization. Although fellowship need not be present between each member and every other member of the club, it must constitute a material part of the organization's activities. In this respect, statewide or nationwide organizations made up of individuals, but broken up into local groups, satisfy the requirement if fellowship constitutes a material part of the activities of each local group. The requirement of individual membership derives from the requirement of personal contacts and fellowship between members. It is evident that fellowship between members cannot play a material part in the activities of an organization composed of artificial entities”.

Revenue Ruling 56-305, 1956-2 C.B. 307 provides that an organization that owns and operates a building and conducts club activities for the benefit of a tax-exempt lodge may itself be exempt as a social club.

Revenue Ruling 66-149, 1966-1 C.B. 146 provides that a social club is not exempt from Federal income tax as an organization described in section 501(c)(7) of the Code where it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments which it owns. However, a club's right to exemption under section 501(c)(7) of the Code is not affected by the fact that for a relatively short period a substantial part of its income is derived from investment of the proceeds of the sale of its former clubhouse pending the acquisition of a new home for the club.

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.

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While the Senate 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, in *Pittsburgh Press Club v. US*, 536 F.2d 572, (1976); 579 F.2d 751 (1978); and 615 F.2d 600 (1980), the court noted certain 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).

Section 170(c)(4) Charitable contribution defined: In the case of a contribution or gift by an individual, a domestic fraternal society, order, or association operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

GOVERNMENT’S POSITION:

In the IRS granted exemption from Federal income tax under section 501(c)(7) of the Code.

The examination of the Form return filed by reveals that the organization derives little revenue from membership dues, assessments, or similar types of income. main source of income is from investments.

In entered a -year () Lease. From which received a lump sum of money. The proceeds were invested in stocks and securities. did not identify or record any set aside amounts, nor has any amounts of the investment income received in - by been identified as set aside income on Schedule of the Form .

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A 501(c)(7) social club is permitted to receive up to % of its gross receipts, including investment income, from sources outside of its membership without losing its tax-exempt status. has exceeded this limitation for several consecutive years.

The investment income earned by is substantial, recurring, and routinely exceeds the non-member income limitations imposed on social clubs exempt under section 501(c)(7) of the Code. See Rev. Proc. 71-17 and *Pittsburgh Press Club v. U.S.* See also Rev. Rul. 66-149. Furthermore, the investment income effectively inures to the benefit of members because it enables the organization to finance operations without imposing dues, fees or other assessments on its members.

Based on the application of the law to the facts and circumstances presented herein, it is the Government's position that no longer qualifies for exemption as a social club described in section 501(c)(7) of the Code.

TAXPAYER'S POSITION:

agrees with the IRS position regarding the proposed revocation of the organization's tax-exempt status by signing Form 6018.

CONCLUSION:

For the reasons stated above, the IRS has determined that no longer qualifies for exemption from federal income tax under section 501(c)(7) of the Code. The IRS proposes to revoke the tax-exempt status of effective , the day of the tax year under examination.

Form(s) , U.S. Corporation Income Tax, should be filed for tax period ending and thereafter.