



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

**Date:** May 12, 2022

**Taxpayer ID number:**

**Form:**

**Tax periods ended:**

**Person to contact:**

**Name:**

**ID number:**

**Telephone:**

**Fax:**

Release Number: 202249017

Release Date: 12/9/2022

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](http://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](http://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](http://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,

  
Lynn A. Brinkley

Acting 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:**  
02/10/2022  
**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:**  
03/14/2022

**CERTIFIED MAIL – Return Receipt Requested**

:

**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,

Sean E. O'Reilly  
Director, Exempt Organizations  
Examinations

Enclosures:  
Form 886-A  
Form 6018

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

**ISSUE:**

Whether \_\_\_\_\_ (“\_\_\_\_\_”) is tax-exempt under Internal Revenue Code (IRC) Section (Sec.) 501(c)(7), as a social club.

**FACTS:**

During the examination of \_\_\_\_\_ From \_\_\_\_\_, *Return of Organization Exempt From Income Tax*, for tax year \_\_\_\_\_ as a 501(c)(7), the assigned Revenue Agent (Agent) identified multiple deposits for “Club and Space Rentals,” while reviewing \_\_\_\_\_ General Ledger statement for the period \_\_\_\_\_ through \_\_\_\_\_. After cross-referencing the \_\_\_\_\_ member list with the names who rented, no distinction of host-guest relationship was identified. On \_\_\_\_\_, the Agent interviewed via conference-call Treasurer \_\_\_\_\_ and authorized representative \_\_\_\_\_ and discussed deposits from the club/space rental. \_\_\_\_\_ confirmed the club is rented only on Saturdays during the year, and it is available for rent to the public. \_\_\_\_\_ also confirmed that a sign existed in the building regarding the club being available for rent.

During the call, the Agent confirmed that \_\_\_\_\_ members meet in person every \_\_\_\_\_ of the month to discuss club activities, converse about prior or future sportsmanship activities, and plan future sponsored sportsmanship trips. The Agent also inquired during the interview regarding the name change from \_\_\_\_\_ to \_\_\_\_\_ Club. \_\_\_\_\_ which was founded in \_\_\_\_\_ became incorporated with the state of \_\_\_\_\_ on \_\_\_\_\_ under \_\_\_\_\_ Club but has continued to file its Forms \_\_\_\_\_ under \_\_\_\_\_. \_\_\_\_\_ confirmed that the organization purpose, activities, Employer Identification Number, and location have remained the same and the name change was a result of clerical error when incorporating.

On \_\_\_\_\_ the Agent issued notice regarding the rental deposits for \_\_\_\_\_ and requested source documents. \_\_\_\_\_ provided copies of rental contracts along with receipts that supported the amounts reported on the general ledger. During the review of the information provided, the Agent confirmed no host-guest relationship exist.

Due to COVID-19 restrictions, on \_\_\_\_\_ the agent visited the exterior of the facility located at \_\_\_\_\_ to view the exterior club sign. The club sign which is visible from the street, displayed the recently incorporated name “\_\_\_\_\_, Founded \_\_\_\_\_.”

Also, on the premises of the club, adjacent to the building stood a flagpole with in integrated square light box sign. The double-sided light box sign has the updated club logo and beneath it reads “\_\_\_\_\_”

Both signs are visible to the general public from street sidewalk view or from a driving view off in either direction of car traffic on \_\_\_\_\_.

\_\_\_\_\_, general ledger, bank deposits, and receipts, show income received from membership dues & initiation fees, interest, and rents.

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The chart below indicates that the percent of gross receipts from nonmembers' use of facilities exceeded % beginning with tax year continuing through , while investment income was less than % for all years. See the table below for the investment income and non-member use income as reported on the Organization's Form , for the tax years through :

Description				
Club Activities-Member	\$	\$	\$	\$
Club Activities-Nonmember	\$	\$	\$	\$
Membership Dues and Assessments	\$	\$	\$	\$
Interest on savings and temporary cash Investments	\$	\$	\$	\$
<b>Total Nonmember Income</b>	\$	\$	\$	\$
<b>Total Nonmember &amp; Investment Income</b>	\$	\$	\$	\$
<b>Total Income</b>	\$	\$	\$	\$
<b>Nonmember %</b>	%	%	%	%
<b>Total Nonmember &amp; Investment %</b>	%	%	%	%

### LAW:

#### Internal Revenue Code (IRC)

IRC Sec. 501(c)(7) provides exemption from income taxes for clubs organized for pleasure, recreation, and other nonprofitable 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.

#### Treasury Regulations (Treas. Reg.)

Treas. Reg. 1.501(c)(7)-1 relating to the requirements of exemption of such clubs under section 501(a), reads in part as follows:

- (a) The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, but does not apply to any club if its net earnings inure to the benefit of any private shareholder. 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.

Form <b>886-A</b>	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

- (b) 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 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.

### Legislative History

Public Law 94-568 amended the “exclusive” provision to read “substantially” in order to allow an IRC Sec. 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.
- (d) If an organization has outside income in excess of the 35-percent limit (or 15-percent limit in the case of gross receipts derived from nonmember use of a club’s facilities), all the facts and circumstances are to be taken into account in determining whether the organization qualifies for exempt status.

### Court Cases

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

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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- 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 Sec. 501(c)(7).

#### Revenue Rulings (Rev. Rul.)

Rev. Rul. 58-589, 1958-2 C.B. 266 - examines the criteria for determining whether an organization qualifies for exemption under IRC Sec. 501(a) as an organization described in IRC Sec. 501(c)(7) of the Code. These ruling states it is clear under the foregoing regulations 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, etc., may not be considered as being organized and operated exclusively for pleasure, recreation or social purposes. It is equally clear that the solicitation by advertisements or otherwise of public patronage of its facilities may be adverse to the establishment of an exempt status.

Rev. Rul. 60-324, 1960-2 C.B. 173 - states by making its social facilities available to the general public the club cannot be treated as being operated exclusively for pleasure, recreation or other non-profitable purposes.

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

#### **TAXPAYER'S POSITION:**

position was not known at the time this report was drafted.

#### **GOVERNMENT'S POSITION:**

It is the Government's position that \_\_\_\_\_ does not qualify for exemption under IRC Sec. 501(c)(7) as a social club.

Public Law 94-568 amended the "exclusive" provision to read "substantially" in order to allow an IRC Sec. 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. Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597 further states: 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.

Here, \_\_\_\_\_ was granted exempt status under IRC Sec. 501(c)(7) and rents its club to the general public. \_\_\_\_\_ has dues paying members. However, \_\_\_\_\_ allows non-members to use of its facilities for events, weddings, parties etc. \_\_\_\_\_ has a sign at the outdoor front entrance with the



Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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organization's logo and beneath it states " ", followed by " " and beneath it states " ". Additionally, near the building's main entrance a flagpole is located and mid-way a sign presents the clubs logo and beneath it reads " ".

Due to extensive non-member use of the facilities, a review of non-member income was conducted. The review shows non-member income annually exceeds % of the total revenue received by the Organization.

Form income in the tax year as follows:  
 Total Reportable Income \$  
 Non-Member Income \$  
 % of Income from Non-Members %

Therefore, it has been determined that the Organization received more than 15 percent of gross receipts from non-member use of the Organization's facilities during ( %), ( %), and ( %), which places the Organization's exemption at risk for revocation. The facts and circumstances must be considered to determine whether the Organization continues to qualify for exemption.

#### Facts and Circumstances

The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) states that if an organization has outside income in excess of the 35-percent limit (or 15-percent limit in the case of the gross receipts derived from nonmember use of a club's facilities), all facts and circumstances are to be considered in determining whether the organization qualifies for exempt status. In *Pittsburg Press Club v. United States*, the court considered five factors in its facts and circumstance analysis.

The five factors established in *Pittsburgh Press Club V. United States* are applied below:

- The actual percentage of non-member receipts and/or investment income
  - ( %), ( %), ( %) and ( %). Here, the percentages are considerably higher than the % allowed in the Code.
- The frequency of non-member uses of the 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 non-member income arising from frequent use by nonmembers).
  - Here, the permits almost unrestricted use of is facility. The facility is open and available for public on . The non-member income is not generated from a single or non-recurrent event but from frequent use by non-members of the Organization's facilities.
- The number of years the percentage has been exceeded. (The record over a period of years is also relevant. The higher percentage in one year, with the others 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).

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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- Here, the Organization has exceeded the % gross receipts standard for non-member income on a continuous basis for the last years as reported on the Organization's Form , in the chart below:

Description				
Club Activities-Member	\$	\$	\$	\$
Club Activities-Nonmember	\$	\$	\$	\$
Membership Dues and Assessments	\$	\$	\$	\$
Interest on savings and temporary cash investments	\$	\$	\$	\$
<b>Total Nonmember Income</b>	\$	\$	\$	\$
<b>Total Nonmember &amp; Investment Income</b>	\$	\$	\$	\$
<b>Total Income</b>	\$	\$	\$	\$
<b>Nonmember %</b>	%	%	%	%
<b>Total Nonmember &amp; Investment %</b>	%	%	%	%

- The purposes for which the club's facilities were made available to nonmembers.
  - The purpose for which the club's facilities were made available to nonmembers was for the use of the facility for weddings, events, parties, like any other for-profit enterprise that rents a facility.
- Whether the nonmember income generates net profits for the organization. Profits derived from non-members, unless set aside, subsidize the club's activities for members and result in inurement within the meaning of IRC Sec. 501(c)(7).
  - Here, it was determined, upon examination, that the costs directly attributable to non-member use of the hall rental are minimal. Even after establishing a reasonable allocation method to allocate expenses to non-member income still showed a profit from non-member use. The profits derived from non-member income inure to members to pay for things that would otherwise be paid for by the Organization's members such as club expenses or capital improvements.

The facts and circumstances test completed above, in accordance with the court case *Pittsburg Press Club v. United States*, show that is operating in a manner consistent with a for-profit business. The Organization advertises and makes its facility available for public use. Year after year, receives more than an insubstantial part of its gross receipts allowed by the Internal Revenue Code from outside its membership and the profits inure to members.

Therefore, 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 IRC Sec. 501(c)(7).

Form <b>886-A</b>	Department of the Treasury – Internal Revenue Service <b>Explanations of Items</b>	Schedule number or exhibit
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**CONCLUSION:**

It has been determined \_\_\_\_\_ does not meet the requirements for recognition of tax exemption under IRC Sec. 501(c)(7). The non-member income far exceeds the limitations established in Public Law 94-568. The Organization's continuous dependence on non-member income to fund \_\_\_\_\_ constitutes private inurement to its members which precludes tax exemption under IRC Sec. 501(c)(7). \_\_\_\_\_ is no longer operated exclusively for pleasure, recreation, and other nonprofitable purposes.

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

As a taxable entity, \_\_\_\_\_ is required to file Form \_\_\_\_\_, 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.