



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

Date: July 19, 2022

Taxpayer ID number:

Form:

Number: 202302016

Release Date: 1/13/2023

UIL: 501.07-00

Person to contact:

Name:

ID number:

Telephone:

Fax:

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Dear

Why we are sending you this letter

This is a final determination explaining why your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(7) for the tax periods 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 operated substantially for pleasure and recreation of your members or other nonprofitable purposes and no part of the net earnings inures to the benefit of any private shareholder within the meaning of IRC Section 501(c)(7). You have exceeded the non-member income test for tax years ending and

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,

Lynn Brinkley
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:
03/07/2022
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Manager's contact information:

CERTIFIED MAIL Return Receipt Requested

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 or call 877-777-4778.

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,

Lynn A. Brinkley
Director, Exempt Organizations Examinations

Enclosures:
Form 886-A
Form 6018

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 EO qualifies for self-declared tax-exempt status under Internal Revenue Code (IRC) Section 501(c)(7) for tax years ending , and .

FACTS

EO Background:

EO, hereinafter referred to as EO, was founded in and is incorporated in the state of . EO has self-declared as an organization described in IRC Section 501(c)(7). The EO has not received a ruling or determination letter granting tax-exempt status and is not covered under a group exemption ruling. The articles of incorporation state,

Examination Findings:

During the course of the exam, it was determined that the organization does not meet the operational requirements as an IRC Section 501(c)(7) social club. This conclusion was reached through examining EO records and performing interviews with EO officers and representatives.

Organizing Document – Articles of Incorporation:

- The purpose and objectives of the corporation are to

Activities

- According to form for tax year ending , the purpose of the organization is recreation and leasing.
- Property consists of of land with a .
- The EO maintains on for .
- is used for , , and a for .
- The only revenue source of the EO is the .

Income Sources

- The only source of income for tax year ending is \$ from of . income was the sole income source was consistent between the prior and subsequent tax years.
- The EO suspended member dues for tax year ending and years prior.
- According to the EO's officers and form filed form , the EO appears to have the same sole income source in tax years ended and .

Form 886-A	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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Telephone Interview

- **Activities** - The EO's officers stated that the main activities of the EO are , and .
- **Dues Structure** - The EO's officers verbally stated member dues were suspended years prior to the exam year and are currently not being collected.
- **Membership Composition** – There are total members of the EO. of the members are member is an . The officers stated that all members of are eligible to become members at the age of . All members are voting members of the EO. The member dues were suspended years ago and don't plan to reinstate them.

LAW

§1.501(c)(7)-1(a) of the Federal Tax Regulations states that 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 any part of its net earnings inures 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.

§1.501(c)(7)-1(b) of the Federal Tax Regulations states that a club which engages in a 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.

In *Coastal Club Inc v Commission*, part of the issues included an IRC § 501(c)(7) social club, organized as a duck-hunting club, repeatedly leased its property for the exploration for the production of oil and gas. During the years in issue the oil and gas income predominantly exceeded the amounts received from its members in the form of dues, and service and guest charges, and supplied from in excess of two-thirds to as much as four-fifths of the amounts required and expended for operations, repairs, maintenance, and improvements. The court determined that Coastal Club was not exempt from tax under IRC 501(c)(7).

In *Skillman Family Reunion Fund, Inc. v. United States*, the organization's exempt status was revoked because 100 percent of its income came from non-member sources. The Fund's stated purpose is "to bring the members of the Skillman Family into closer association through social activities ...[,] collect and preserve family records ..., organize and conduct social activities ... and distribute ... communications of family interest. While the Court did not make a determination as to the precise percentage of investment income that exceeds the permissible limit of non-member income, the "facts and circumstances" of this

Form 886-A	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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case lead the Court to agree with the Service that 100% of non-member income is beyond any permissible limit.

TAXPAYER'S POSITION

The taxpayer verbally agrees that the EO does not qualify for exemption under Internal Revenue Code 501(c)(7).

GOVERNMENT'S POSITION

As referenced in *Coastal Club Inc v Commissioner*, IRC § 501(c)(7) requires that "substantially all" of a tax-exempt club's activities are dedicated for pleasure, recreation, and other nonprofitable purposes. P.L. 94-568 amended IRC 501(c)(7) to require that "substantially all" of a tax-exempt club's activities are dedicated for pleasure, recreation, and other nonprofitable purposes. The amendment was intended to allow IRC 501(c)(7) organizations to receive up to percent of their gross receipts, including investment income, from sources outside their membership without losing their exempt status. In this case, the income produced from sources outside the membership was %.

Considering this analysis of the facts and circumstances involved in this examination, it is the Service's position that the EO may not continue to be exempt as claimed under IRC Section 501(c)(7) as they are not operated exclusively for social and recreational purposes without net earnings inuring to the benefit of any private shareholders, as cited in Treasury Regulation §1.501(c)(7)-1(a), as the "private shareholders" in the case of this EO are its active members.

CONCLUSION

Based on the above facts and circumstances and in light of the statutory law and rulings cited, the EO does not meet the requirements for tax exemption under IRC §501(c)(7).

The IRS proposes to disqualify EO's self-declared tax-exempt status under IRC section 501(c)(7) for the years ending , , and .

Should this position be upheld, Form(s) , *U.S. Corporation Income Tax*, should be filed for tax period ending and forward.

Please refer to the attached -day letter and IRS publications for the options available to the organization, including appeal rights.

You have the right to file a protest if you disagree with this determination. To protest, you must submit a statement of your position and fully explain your reasoning within days from the date of this letter. Details of filing a protest can be found in the enclosed publications.

If you agree with this conclusion, please sign and return the enclosed Form 6018.