



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

Date: July 27, 2022

Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Number: 202304011
Release Date: 1/27/2023

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 the 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 receive the majority of your income from nonmember sources on a recurring basis. As a result, you do not operate substantially for pleasure, recreation, or other non-profitable purposes.

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
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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.

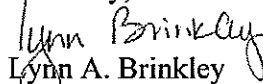
Find tax forms or publications by visiting www.irs.gov/forms or calling 800-TAX-FORM (800-829-3676).

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 A. Brinkley

Acting Director, Exempt Organizations Examinations

Enclosures:

Publication 1

Publication 594

Publication 892



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

Date:
June 28, 2021
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 period 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 E. O'Reilly
Director, Exempt Organizations
Examinations

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

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

ISSUE

If _____ consistently exceeded the nonmember income limitation of _____ percent under section 501(c)(7) of the Internal Revenue Code do they continue to qualify for exemption as a _____ ?

FACTS

- The _____ was formed in _____ in _____.
- Per their organizing documents, the _____ purpose is "to advance the interests and efficiency of women and to work for the education and welfare of the community."
- The _____ accomplishes their primary purpose through various _____ events and _____ with members throughout the year.
- On _____ the _____ received tax exemption as a _____ within the meaning of section 501(c)(7) of the Code from their date of formation of _____.
- The _____ receives financial support in the form of individual donations, proceeds from gaming activities conducted with club members, membership dues, miscellaneous income, and investment income consisting of rental income and bank interest income.
- The _____ owns a _____ and _____ building, of which the club occupies the _____ and _____ and the bottom floor is _____ to _____ as apartment space.
- The _____ held _____ savings accounts that accrued interest and attributed to the total investment income received.
- During the Revenue Agent's interview with the _____, they explained that the investment income collected is used to cover the expenses incurred from maintaining and operating the building.
- The _____ filed _____ to claim unrelated business income and allocated all the business expenses incurred to said generated income, leaving unrelated business taxable income of \$ _____.
- The _____ does not have any paid employees.
- The _____ filed all required _____ and _____ returns.

For the _____-year period immediately preceding and _____-year following the year under examination, the organization received the following support:

							Sum of Years
Individual donations	-	-	-	\$	\$	-	\$
Activities with members	\$	\$	\$	\$	\$	\$	\$
Membership Dues	\$	\$	\$	\$	\$	\$	\$
Investment Income	\$	\$	\$	\$	\$	\$	\$
Other income (non-investment)	-	-	-	\$	\$	\$	\$
Total support	\$	\$	\$	\$	\$	\$	\$
Investment income percentage	%	%	%	%	%	%	%

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LAW

Internal Revenue Code (IRC) Section 501(c)(7) exempts from federal income tax 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.

Treasury Regulations (Treas. Regs.) Section 1.501(c)(7)-1 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).

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts, including investment income, from sources outside of their membership without losing their 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.

Revenue Ruling 66-149 holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it derives a substantial part of its income from non-member sources, such as dividends and interest on investments which it owns.

Revenue Ruling 69-220 precludes from exemption 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.

In *Aviation Club of Utah v. Commissioner of Internal Revenue*, 162 F.2d 984, the court upheld the position taken by the tax court in a previous ruling whereby the income received by the club from non-exempt activities was so disproportionate to the income received from exempt purposes that the club lost its exempt status. Judge Murrah invoked the same concept as that in *Spokane Motorcycle Club v. United States*, whereby if a club engages in a business from which it derives profits from outside sources wholly disproportionate to nontaxable purposes, and such profits inure to the benefit of its members in the nature of permanent improvements and facilities, the club loses its exempt status.

In **Revenue Ruling 68-119, 1968-1 C.B. 268** an equestrian social club that holds an annual one-day steeplechase meet which is open to the general public is found to be tax-exempt under IRC 501(c)(7). In this case, the club is said to derive a small amount of income from nonmembers in excess of expenses attributable to their participation and attendance. If any profit results, it is turned over to charity. Other club activities are supported by member dues. Therefore, the ruling holds, the income from non-members does not inure to the club's members.

In *Augusta Golf Association, Inc. vs. United States*, 338 F.Supp. 272, the court ruled, among other things, that the Association was exempt from federal income tax as a social club, despite practically all of the Association's income having been derived from "Calcutta" pools participated in by non-members. In the instant case, the social affairs at which the Calcuttas were featured were open only to members and their invited guests. The Association took a cut of 10% of the gross amount raised in these pools.

TAXPAYER'S POSITION

The taxpayer has not yet been presented with this formal report but has communicated that it believes it is tax-exempt.

GOVERNMENT'S POSITION

Based on the examination, the _____ does not qualify for exemption as a social club described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7)-1 which provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

Revenue Rulings 66-149 and 69-220 support this position stating that a social club that derives a substantial part of its income from non-member sources is not exempt as an organization described in 501(c)(7)

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If the nonmember income limitation has been surpassed, a facts and circumstances test can be applied to consider continuing eligibility for tax-exempt status under IRC Section 501(c)(7). The factors to consider are:

- The actual percentage of nonmember receipts and/or investment income
- The frequency of nonmember use of club facilities
- The number of years exceeding the percentage

Applying these factors to the _____ presents the following:

- The total gross receipts received over a _____-year period, as shown in the chart above, was \$ _____ and the total investment income during that same period was \$ _____ or _____%.
- The _____ maintains rental units occupied by non-members throughout the year in the building. The _____ also receives bank interest from various savings accounts.
- The organization exceeded the _____ percent non-member income threshold as outlined in Public Law 94-568, on a recurring basis during the tax years ending _____ through _____.

Therefore, it is proposed that the _____ tax-exempt status as an organization described in sections 501(c)(7) of the Code be revoked effective _____.

CONCLUSION

The _____ has consistently exceeded the _____ percent non-member income threshold under section 501(c)(7) of the Internal Revenue Code and no longer qualifies for tax-exempt status as a _____.