



Department of the Treasury
Internal Revenue Service
Independent Office of Appeals
550 MAIN ST. ROOM 9-491
CINCINNATI, OH 45202

Date: **AUG 16 2023**

Person to contact:
Name:
Employee ID number:
Telephone:
Hours:
Employer ID number:

Release Number: 202343038
Release Date: 10/27/2023

Uniform issue list (UIL):
501.07-00, 501.07-03

Certified Mail

Dear :

This is a final adverse determination that you do not 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) .

We made the adverse determination for the following reasons:

You failed to satisfy the requirement in IRC Section 501(c)(7) that substantially all of your activities were for pleasure, recreation, and other nonprofitable purposes because you were funded in substantial part by investment income from rental activities. On Form 1024, you reported that you derive revenues from renting residential real estate to nonmembers and renting your hall to nonmembers. From - , your investment income averaged approximately % of your total revenues.

You're required to file federal income tax returns on Forms 1120, U.S. Corporation Income Tax Return. Mail your form to the appropriate Internal Revenue Service Center per the form's instructions. You can get forms and instructions by visiting our website at [IRS.gov/forms](https://www.irs.gov/forms) or by calling 800-TAX-FORM (800-829-3676).

We'll make this letter and the proposed adverse determination letter available for public inspection under IRC Section 6110 after deleting certain identifying information. We provided to you, in a separate mailing, Notice 437, Notice of Intention to Disclose. Please review the Notice 437 and the documents attached that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in Notice 437.

If you decide to contest this determination, you can file an action for declaratory judgment under the provisions of IRC Section 7428 in either:

- The United States Tax Court,
- The United States Court of Federal Claims, or
- The United States District Court for the District of Columbia

You must file a petition or complaint in one of these three courts within 90 days from the date we mailed this determination letter to you. You can download a fillable petition or complaint form and get information about filing at each respective court's website listed below or by contacting the Office of the Clerk of the Court at one of the addresses below. Be sure to include a copy of this letter and any attachments and the applicable filing fee with the petition or complaint.

You can eFile your completed U.S. Tax Court petition by following the instructions and user guides available on the Tax Court website at ustaxcourt.gov/dawson.html. You will need to register for a DAWSON account to do so. You may also file your petition at the address below:

United States Tax Court
400 Second Street, NW
Washington, DC 20217
ustaxcourt.gov

The websites of the U.S. Court of Federal Claims and the U.S. District Court for the District of Columbia contain instructions about how to file your completed complaint electronically. You may also file your complaint at one of the addresses below:

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439
uscfc.uscourts.gov

U.S. District Court for the District of Columbia
333 Constitution Avenue, NW
Washington, DC 20001
dcd.uscourts.gov

Note: We will not delay processing income tax returns and assessing any taxes due even if you file a petition for declaratory judgment under IRC Section 7428.

Taxpayer rights and sources for assistance

The Internal Revenue Code (IRC) gives taxpayers specific rights. The Taxpayer Bill of Rights groups these into 10 fundamental rights. See IRC Section 7803(a)(3). IRS employees are responsible for being familiar with and following these rights. For additional information about your taxpayer rights, please see the enclosed Publication 1, Your Rights as a Taxpayer, or visit [IRS.gov/taxpayer-bill-of-rights](https://irs.gov/taxpayer-bill-of-rights).

The Taxpayer Advocate Service (TAS) is an independent organization within the IRS that helps taxpayers and protects taxpayers' rights. TAS can offer you help if your tax problem is causing a financial difficulty, you've tried but been unable to resolve your issue with the IRS, or you believe an IRS system, process, or procedure isn't working as it should. If you qualify for TAS assistance, which is always free, TAS will do everything possible to help you. To learn more, visit taxpayeradvocate.irs.gov or call 877-777-4778.

Tax professionals who are independent from the IRS may be able to help you.

Low Income Taxpayer Clinics (LITCs) can represent low-income persons before the IRS or in court. LITCs can also help persons who speak English as a second language. Any services provided by an LTC must be for free or a small fee. To find an LTC near you:

- Go to taxpayeradvocate.irs.gov/litcmap;
- Download IRS Publication 4134, Low Income Taxpayer Clinic List, available at [IRS.gov/forms](https://irs.gov/forms); or
- Call the IRS toll-free at 800-829-3676 and ask for a copy of Publication 4134.

State bar associations, state or local societies of accountants or enrolled agents, or other nonprofit tax professional organizations may also be able to provide referrals.

TAS assistance is not a substitute for established IRS procedures, such as the formal appeals process. TAS cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States Court.

If you have questions, contact the person at the top of this letter.

Sincerely,

Daniel I. Werfel
Commissioner
By

Valeria B. Farr
Appeals Team Manager

Enclosures:
Publication 1
IRS Appeals Survey

cc:



Department of the Treasury
Internal Revenue Service
PO Box 2508
Cincinnati, OH 45201

Date: 08/17/2021

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

Legend:

X = Date

Y = Date

Z = language

b percent = number

c percent = number

URL:

501.07-00

501.07-03

Dear :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a). We determined that you don't qualify for exemption under IRC 501(c)(7). This letter explains the reasons for our conclusion. Please keep it for your records.

Issues

Do you qualify for exemption under IRC 501(c)(7)? No, for the reasons stated below.

Facts

Your tax-exempt status under IRC 501(c)(7) was revoked for failure to file informational returns for fiscal years on X. You filed for reinstatement of your tax-exempt status on Y.

You are formed as a social club. You provide clubhouse facilities for your membership. The clubhouse includes a bar that also serves food and various hall spaces. The clubhouse also houses a Z radio program on the premises which airs weekly in Z language, so that elderly Z persons can obtain news. You work with other charities to send donations to the Z homeland. You also subsidize housing for Z emigrants so they may find a safe place to live among their fellow Z people. The housing you subsidize includes various units located on the same street, that you own.

You receive your revenue from real estate rentals, rental of your facility, bar income, membership dues and donations. All donations and bar income comes from the membership. Real estate rental income is considered investment income. On average over the last four fiscal years, investment income was greater than b percent.

Letter 4034 (Rev. 01-2021)
Catalog Number 47928K

Facility rental income, of which a majority was collected from non-members averaged more than c percent over the same period.

You

Law

IRC 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 Regulation Section 1.501(c)(7)-1(b) states 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, timber, or other products on a recurring basis, is not organized and operated exclusively for pleasure, recreation and other non-profitable purposes.

Rev. Rul. 58-589, 1958-2 C.B. 266, stipulated expanded criteria for determining whether an organization qualifies for exemption under IRC 501(c)(7). The ruling considered the significance of the assertion of Treas. Reg. Section 1.501(c)(7)-1(b) that an organization that sells real estate, timber, or other products, is not organized and operated exclusively for pleasure, recreation, and other non-profitable purposes. A club won't be denied exemption merely because it receives income from the general public provided such participation is incidental to and in furtherance of its general club purposes. To retain exemption a club must not partake in outside activities with the purpose of deriving profit. If such income producing activities are more than insubstantial in nature, they will defeat exemption.

Rev. Rul. 66-149 found that a social club was not exempt from federal income tax as an organization described in IRC 501(c)(7) where it regularly derived a substantial part of its income from non-member sources. If such activities are other than incidental, trivial, or non-recurrent, it is considered that they are intended to produce income and are reflective of a purpose inconsistent with exemption under IRC 501(c)(7).

Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35% of its gross receipts, including investment income from sources outside its membership, without losing exemption. Within this 35% amount, 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. This means that an exempt social club may receive up to 35% of its gross receipts from a combination of investment income and receipts from nonmembers so long as the latter do not represent more than 15% of the total receipts.

Application of law

You are organized and operated as a social club. However, you receive most of your revenue from investments and non-member sources. This is contrary to exemption under IRC 501(c)(7). [See Treas. Reg. Section 1.501(c)(7)-1(b)]

You receive more than an insubstantial amount of your revenue from renting real estate that produces investment income. As noted in Rev. Rul. 58-589, partaking in an activity that is more than insubstantial in nature and has a purpose of deriving profit prevents you from being recognized under IRC 501(c)(7).

Since you rent your facilities to non-members on a recurring basis and you do so to produce income, such rental activities are also reflective of a purpose inconsistent with exemption under IRC 501(c)(7). [See Rev. Rul. 66-149]

Your revenue derived from sources outside of your memberships exceeds the limitations of Public Law 94-568. Your investment income exceeds 35% and your other non-member income exceeds 15%.

Your position

You indicated that you were unaware of the restriction on IRC 501(c)(7) organizations regarding their nonmember income. Over the next year your governing body and membership will work to ensure that you are in line with the restrictions.

Our response to your position

You have not demonstrated or provided evidence of how you will comply with the non-member income restrictions under IRC 501(c)(7).

Conclusion

Based on the facts provided above, you do not currently meet the requirements for tax exemption under IRC 501(c)(7). While you are conducting social and recreational activities, most of your income is from sources outside of your membership on a recurring basis. This precludes you from being reinstated under IRC 501(c)(7).

If you agree

If you agree with our proposed adverse determination, you don't need to do anything. If we don't hear from you within 30 days, we'll issue a final adverse determination letter. That letter will provide information on your income tax filing requirements.

If you don't agree

You have a right to protest if you don't agree with our proposed adverse determination. To do so, send us a protest within 30 days of the date of this letter. You must include:

- Your name, address, employer identification number (EIN), and a daytime phone number
- A statement of the facts, law, and arguments supporting your position
- A statement indicating whether you are requesting an Appeals Office conference
- The signature of an officer, director, trustee, or other official who is authorized to sign for the organization or your authorized representative
- The following declaration:

For an officer, director, trustee, or other official who is authorized to sign for the organization:
Under penalties of perjury, I declare that I have examined this request, or this modification to the request, including accompanying documents, and to the best of my knowledge and belief, the request or the modification contains all relevant facts relating to the request, and such facts are true, correct, and complete.

Your representative (attorney, certified public accountant, or other individual enrolled to practice before the IRS) must file a Form 2848, Power of Attorney and Declaration of Representative, with us if they haven't already done so. You can find more information about representation in Publication 947, Practice Before the IRS and Power of Attorney.

We'll review your protest statement and decide if you gave us a basis to reconsider our determination. If so, we'll continue to process your case considering the information you provided. If you haven't given us a basis for reconsideration, we'll send your case to the Appeals Office and notify you. You can find more information in Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

If you don't file a protest within 30 days, you can't seek a declaratory judgment in court later because the law requires that you use the IRC administrative process first (IRC Section 7428(b)(2)).

Where to send your protest

Send your protest, Form 2848, if applicable, and any supporting documents to the applicable address:

U.S. mail:

Internal Revenue Service
EO Determinations Quality Assurance
Mail Stop 6403
PO Box 2508
Cincinnati, OH 45201

Street address for delivery service:

Internal Revenue Service
EO Determinations Quality Assurance
550 Main Street, Mail Stop 6403
Cincinnati, OH 45202

You can also fax your protest and supporting documents to the fax number listed at the top of this letter. If you fax your statement, please contact the person listed at the top of this letter to confirm that they received it.

You can get 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 listed at the top of this letter.

Contacting the Taxpayer Advocate Service

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 if 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.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements