



Department of the Treasury  
Internal Revenue Service  
Tax Exempt and Government Entities  
PO Box 2508  
Cincinnati, OH 45201

Date:  
03/07/2024  
Employer ID number:

Person to contact:

Release Number: 202422014  
Release Date: 5/31/2024  
UIL Code: 501.00-00,  
501.07-00, 501.07-03,  
501.07-05

Dear :

This letter is our 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). Recently, we sent you a proposed adverse determination in response to your application. The proposed adverse determination explained the facts, law, and basis for our conclusion, and it gave you 30 days to file a protest. Because we didn't receive a protest within the required 30 days, the proposed determination is now final.

You must file the federal income tax forms for the tax years shown above within **30 days** from the date of this letter unless you request an extension of time to file. For further instructions, forms, and information, visit [www.irs.gov](http://www.irs.gov).

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection after deleting certain identifying information, as required by IRC Section 6110. Read the enclosed Letter 437, Notice of Intention to Disclose - Rulings, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Letter 437 on how to notify us. If you agree with our deletions, you don't need to take any further action.

If you have questions about this letter, you can call the contact person shown above. If you have questions about your federal income tax status and responsibilities, call our customer service number at 800-829-1040 (TTY 800-829-4933 for deaf or hard of hearing) or customer service for businesses at 800-829-4933.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures:  
Letter 437  
Redacted Letter 4034  
Letter 4038



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

Date: 01/03/2024

Employer ID number:

Person to contact:

Name:

ID number:

Telephone:

Fax:

**Legend:**

B = State

C = Date

D = Date

E = Name

G = Name

H = Event

w percent = percentage amount

x percent = percentage amount

y percent = percentage amount

z percent = percentage amount

**UIL:**

501.00-00

501.07-00

501.07-03

501.07-05

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 Section 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 Section 501(c)(7)? No, for the reasons stated below.

**Facts**

You were formed as a nonprofit corporation in B on C and amended your articles of incorporation on D.

You are organized exclusively for charitable, literary, scientific and educational purposes under IRC Section 501(c)(3) (as amended) and do not contemplate pecuniary gain or profit, incidental or otherwise.

Your organizing document states your purposes are:

- Conduct fundraising activities
- Support E
- Maintain
- Preserve your history

- Maintain a monument at a local cemetery

Memberships are open to the public. Anyone over age of 16 that resides within your, immediate, or distant vicinity may join. Your membership classes are:

- Active – members qualified in this category are eligible to receive death benefits from G. This class has been closed to new members.
- Life – upon recommendation and approval from the board, members in this category may receive free membership.
- Contributing (non-beneficial) – all new members are categorized in this class. They are not eligible for benefits from G.
- Life Contributing – contributing members may be recommended by the board to become life contributing members.

All members have equal voting power and have rights to hold office if eligible and elected.

Members of your board and the club, as well as volunteers, conducted past activities which included bingo, carnival, flea markets, basket socials, dinners, seasonal events, and renting out your building hall to both members and non-members. The funds from hall rentals were given to civic organizations that you selected such as E.

These past activities took place at the rental hall and were funded by donations and volunteers. Your hall is open to the public for rent based on a rate schedule. There are no other facilities open to the community in your area. Members wishing to rent the hall receive a discounted rate. You advertise your fundraising and hall rentals mostly to the general public.

Your current activities are:

- Weekly, bi-weekly, and holiday bingo, which accounts for w percent of your time.
- Cooking and serving food at bingo games, which accounts for x percent of your time

The remainder of your time is currently spent on:

- Members' steak and fish dinner,
- parties with items either purchased or donated by the public or your members,
- Yearly or semi-yearly flea markets and craft shows. You assist vendors setting up tables and selling items at the building hall, and
- Monument preservation

These activities are funded by donation and fundraising. Non-members are permitted to participate in all of your activities.

You plan to open a museum which will display and preserve \_\_\_\_\_ at your current location within the next five years. The museum will bring donation and tourist attraction and introduce local history to the public. You plan to continue your current activities to fund the museum until its completion, and those activities will eventually fade out by then.

The majority of your revenue is from bingo, other games, fundraising, dinners, kitchen and hall rentals. A small portion is from membership dues.

You indicated, on your application, y percentage of gross income are from non-members for the use of your facility or participating in the events you hold at the rental hall. Although you do not ask for membership cards at event entries and you do track members vs. non-members income, your income is mostly derived from the general public.

The only event you organize or sponsor for your members is H, held a year. You spend less than z percent of time preparing and organizing for the event, only a few hours prior to the members' arrivals. Most of your members do not participate in your fundraisers or events held by outside organizations.

### **Law**

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 Regulation Section 1.501(c)(7)-1(a) states that the exemption provided by IRC Section 501(a) for an organization described in Section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, but does not apply to any club if any part of its net earnings inure to the benefit of any private shareholder. In general, this exemption extends to social and recreational clubs which are supported solely by membership fees, dues, and assessments.

Treas. Reg Section 1.501(c)(7)-1(b) states 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 non-profitable purposes, and is not exempt under IRC 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.

Revenue Ruling 58-589, 1958-2 C.B. 266 set forth the criteria for exemption under IRC Section 501(c)(7) and provides that a club may lose its exemption if it makes its facilities available to the general public. A club will not be denied exemption merely because it receives income from the general public provided such participation is incidental to and furtherance of its general club purposes. To retain exemption a club must not enter into outside activities with the purpose of deriving profit. If such income producing activities are other than incidental, trivial or nonrecurrent, it will be considered that they are designed to produce income and will defeat exemption.

Rev. Rul. 66-149, 1966-1 C.B. 146 states a social club is not exempt from federal income tax as an organization described in IRC Section 501(c)(7) where it regularly derives a substantial part of its income from non-member sources. To the extent that income is derived from non-member sources, it inures to the benefit of the members. 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 Section 501(c)(7).

Rev. Rul. 69-220, 1969-1 C.B. 154, held 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 is not exempt under IRC Section 501(c)(7). The club purchased an office building, part of which is uses as a club house. That part of building not used as a clubhouse is leased to commercial tenants. The club uses the net

income from the rental operation to make capital improvements and to expand the facilities offered to its members. The club is not exempt under Section 501(c)(7) because it is regularly engaged in a business ordinarily carried on for profit and because net income from the activity is inuring to the members of the club.

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**

Per IRC Section 501(c)(7) social clubs are membership organizations organized for pleasure, recreation, and other nonprofitable purposes where members meet regularly for social purposes. In order to establish that a club qualifies for exemption under the code, evidence of commingling of members must play a material part in the life of the organization. Your organizing document states your purposes are for conducting fundraising activities, supporting E, preserving the history of and maintaining \_\_\_\_\_ You are not organized for the purposes of members' pleasure, recreation, and social enjoyment. Your member exclusive event, H, is held only once a year, and you spend less than z percent of your time organizing H. While you host other social events these are not solely for members and involve more of the general public. You do not qualify for exemption under the code because you do not show members commingling as a substantial part of your activities.

Treas. Reg. Section 1.501(c)(7)-1(a) applies only to clubs which are supported solely by membership fees, dues, and assessments. A substantial part of your income, y percent, is derived from non-member sources, and is used as a source of income for maintenance and expenses on your building. Your membership dues represent only a small portion of your total revenue. Further, you advertise your hall for rent mostly to the general public; you essentially serve as your town's community center. Per Treas. Reg Section 1.501(c)(7)-1(b), an organization 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, and other nonprofitable purposes. Because solicitation and advertisements of your facilities to public patronage is a regularly conducted activity and is a major source of your gross income, this activity is not incidental. For these reasons you do not qualify for exemption under IRC Section 501(c)(7).

Unlike the organization described in Rev Rul. 58-589, whose income producing activities were incidental. You are engaged in regular rental activities of your facility, organizing events and preparing food for other organizations, with the purpose of producing income to maintain your building and to provide support to E. Your income is not trivial, incidental, or non-recurring but a primary source of income.

As in Rev. Rul. 66-149, your primary activities consist of organizing events and ticket sales for other organizations and renting space to the public, and these income producing activities are recurring, rather than sporadic. You are reliant upon this income for your operations.

As in Rev. Ruling 69-220, 1969-1 C.B. 154, you receive a substantial portion of your income from renting your facility, and you make capital improvements and expand the facilities rental offered to other organizations and to the public. As you said, you are essentially the only facility that is open to public in your community.

You do not meet exemption for an organization required under Public Law 94-568, 1976-2 C.B. 596, in that less than 35% of your gross receipts come from your membership dues, more than 35% of the gross receipts come from nonmembers, and more than 15% of the nonmember income is generated from the use of your facilities by the general public, as evident on your financial statement, y percent of gross income are from non-members for the use of your facility or participating at your events.

### **Your position**

You support your community by allowing other organizations use your hall to further their individual missions such as serving children, the elderly, and the disabled, and you consequently support the community toward improving the lives of others.

### **Our response to your position**

While the general support of a community for social welfare may be an exempt activity under another subsection, to qualify for exemption under IRC 501(c)(7) you must demonstrate that you are created for members pleasure, recreation, and other nonprofitable purposes as a social club. You have not demonstrated that the comingling and regular social activity of members is a substantial activity. Further, your sources of income do not meet the requirements under 501(c)(7).

### **Conclusion**

You are not organized for pleasure, recreation, and other nonprofitable purposes as described under IRC Section 501(c)(7). You lack an element of members commingling, a substantial portion of your activities is the rental of a facility to the public, and your sources of income are not primarily from members. For these reasons you do not qualify for exemption under Section 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](http://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](http://www.taxpayeradvocate.irs.gov) or call 877-777-4778.

Sincerely,

Stephen A. Martin  
Director, Exempt Organizations  
Rulings and Agreements