

INTERNAL REVENUE SERVICE
Date: February 22, 2005

DEPARTMENT OF THE TREASURY
Brooklyn, NY 11201

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EIN :
Person to Contact
Identification Number:
Contact Telephone Number:

In Reply Refer To: TE/GE Review Staff

Dear _____ :

This is a Final Adverse Determination as to your exempt status under section 501(c)(8) of the Internal Revenue Code.

Our adverse determination was made for the following reasons:

fails to meet the requirement for exemption under IRC 501(c)(8). Section 1.501(c)(8)-1 of the Income Tax Regulations defines a fraternal beneficiary society, order or association as one that operates under the lodge system or operates for the exclusive benefit of the members of a fraternity itself operating under the lodge system , and providing for the payment of life, sick, accident , or other benefits to members of such society, order or association or their dependents.

As a result of a recent audit of your organization's activities and Form 990 for the period ended _____ , it was determined that you are primarily engaged in the conduct of bingo which is a non-fraternal activity. All fraternal activities and payments were determined to have ceased that year as well.

Based on the above, we are revoking your organization's exemption from Federal income tax under section 501(c)(8) of the Internal Revenue Code effective January 1, 1999.

You are required to file Federal income tax returns on Form 1120. These returns should be filed with the appropriate Service Center for all years beginning after _____. You have executed the Form 6018-A agreeing to this revocation.

You are required to file Form 1120, U.S. Corporation Income Tax Return. Form 1120 must be filed by the 15th day of the third month after the end of your annual accounting period. A penalty of \$20 a day is charged when a return is filed late, unless there is

reasonable cause for the delay. However, the maximum penalty charged cannot exceed \$10,000 or 5 percent of your gross receipts for the year, whichever is less. This penalty may also be charged if a return is not complete, so please be sure your return is complete before you file it.

You have the right to contact the office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778 and ask for Taxpayer Advocate assistance. Or you can contact the Taxpayer Advocate from the site where the tax deficiency was determined by calling ***** or writing to: *****

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, nor extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels, gets prompt and proper handling.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely yours,

R.C. Johnson
Director, EO Examinations

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended

Issue 1

1. Should _____ under section 501(a) of the Internal Revenue Code (IRC) as an organization described in IRC section 501(c)(8) be revoked for all years beginning on or after _____.

Facts:

_____ is a 501(c)(8) Fraternal Association. The association was organized as exempt under IRC 501(c)(8) with deductibility of contributions under sections 170(c)(4). The organization is included in a group exemption number _____ of the _____.

_____ was formed for fraternal, patriotic, historical, and educational purposes; to preserve and strengthen comradeship among its members; to assist worthy comrades; to perpetuate the memory and history of our dead, to assist their widows and orphans; to maintain true allegiance to the Government of the United States, and fidelity to its Constitution and laws; To provide for the care and welfare of its aged, decrepit, indigent and sick members and for the education support, welfare and relief of the needy wives widows, mother s sisters and children of members of such corporation. Subject to such restrictions as are now or may hereafter be imposed by the _____.

_____ drafted bylaws, and operates in accordance with the constitution and bylaws of the National organization as well.

Membership is restricted as provided by the constitution and bylaws of the National organization to individuals who are over the age of 16 and under the age of 50. There were no levels of membership. Members must be of good Moral Character, sound body and mind, and a believer of the Supreme being or Great Spirit, Must have reputable means of support and have resided within the reservation six moons prior to submitting the application.

_____ was examined for the year ending _____. The organization has filed Form 990 for the year under examination.

As of _____ had _____ members. The membership was verified by reviewing the membership register and reports to the _____. These forms were reviewed to verify that the member qualified for membership in the _____ per the guidelines set forth by the _____. The residential requirements set forth by the _____ of six moons residing on the reservation to qualify for membership in the organization was verified via the residence records that were a part of the membership application. The applicants are required to provide proof of residence with the application. Therefore it can be stated the organization had _____ qualified members.

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^ has no facility, the monthly meetings are held in a Bingo hall which was leased by the organization to conduct the operation of Bingo sessions. The facility is not used exclusively by the ^; it is leased by several other Organizations for the same purpose. The Bingo hall has a snack bar operated by a member of one of the other organizations conducting Bingo. The operating of the snack bar is not associated with.

During the year under examination, the organization prepared Ledgers of the bingo income and expenses entitled GL for the Bingo. ^ also prepared state Quarterly reports which matched the income and expenses reported by the organization on the return and the GL for Bingo. The organization did not maintain copies of any other reports or records. If revocation had not been proposed organization would be eligible for an inadequate records notice. The organization appeared to engage in fraternal activities in past years. The primary activities of the organization in more recent years were the conduct of bingo. The fraternal activity ceased in . In the year , the organization had its bingo license revoked and has since not engaged in any other activity fraternal or otherwise.

The purpose of the organization as started in the bylaws include formed for fraternal, patriotic, historical, and educational purposes; to preserve and strengthen comradeship among its members; to assist worthy comrades; to perpetuate the memory and history of our dead, to assist their widows and orphans; to maintain true allegiance to the Government of the United States, and fidelity to its Constitution and laws; To provide for the care and welfare of its aged, decrepit, indigent and sick members and for the education support, welfare and relief of the needy wives widows, mothers, sisters and children of members of such corporation. The records of the organization showed no payments in support of the members or widow or orphans. The organization is no longer operating and therefore should be revoked as of).

Law & Argument:

IRC 501(c)(8):

Must be domestic, that is it must be formed in the United States. See IRC 7701(a)(4)

The net earnings must be devoted exclusively to fraternal purposes or to purposes that would be considered exempt purposes under IRC 501(c)(3).

The organization must be fraternal and operating under the lodge system.

Provide for the payment of life, sick, accident or other benefits.

The court in National Union v. Marlow 74 F. 775, 778-779 (8th Cir. 1986) summed up the nature of a fraternal society as follow:

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Even if the member of an organization enjoys a common tie or goal, the organization does not serve a fraternal purpose unless its members engage in fraternal activities. The court in *Reading Relief Association v. Commissioner*, 4 B.T.A. 713 (1926) cited rituals, ceremonial, and regalia as evidence of a fraternal purpose. Social activities are another common element of fraternal organizations.

A fraternal society would be one whose members have adopted the same or very similar calling, avocation, or profession, or who are working in union to accomplish some worthy objective, and who for that reason have banded themselves together as an association or society to aid and assist one another, and to promote the common cause. The term "fraternal" can properly be applied to such an association for the reason that the pursuit of a common object, calling or profession usually has a tendency to create a brotherly feeling among those who are thus engaged. It is a well known fact that there are at the present time many voluntary or incorporated societies which are made up exclusively of persons engaged in the same avocation. As a general rule, such associations have been formed for the purpose of promoting the social, moral and intellectual welfare of the members of such association and their families, as well as for advancing their interests in other ways and other respects. Many of these associations make a practice of assisting their sick and disabled members, and of extending substantial aid to the families of deceased members. Their work is at the same time of a fraternal character because they aim to improve the condition of a class of persons who are engaged in a common pursuit, and to unite them by a stronger bond of sympathy and interest.

A fraternal society that is described in IRC 501(c)(8) by virtue of engaging in fraternal activities may not than engage in unlimited non fraternal activities and still maintain its exempt status. The non-fraternal activity of a fraternal society will result in the organization's loss of exemption status unless the organization remains primarily engaged in fraternal activities. GCM 38312 (Mar. 20, 1980).

Taxpayer's Position:

The organization is not engaged in any activity, therefore we agree to the revocation.

Governments Position:

The organization did not carry on the required activities to maintain exemption.

Conclusion:

The Organization failed to substantially engage in fraternal activities. The organization engaged primarily in the conduct of Bingo which is a non-fraternal activity. Therefore the organization must be revoked as o ne organization agreed to revocation as indicated by their signing form 6018, Consent to Proposed Action on . he organization shall be revoked.

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The organization was informed of the form 1120 filing requirement as a result of the revocation of the organization. The organization agreed to file forms 1120 for year: and forward.