



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

TE/GE: EO Examination

625 Fulton Street, Room 503

Brooklyn, NY 11201

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Date: March 11, 2005

Number: **200531027**

Release Date: 8/05/2005

TE:GE:EO

Legend:

O= Organization

N= Employer Identification Number

Date1= Effective Date

UIL: 501.07-00

Taxpayer Identification Number:

Form

990

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear _____ :

This is a final determination regarding your exempt status under section 501(c)(7) of the Internal Revenue Code (IRC). Recognition of your exemption from Federal income tax as an organization described in Internal Revenue Code section 501(c)(7) is retroactively revoked to Date1, because it is determined that you have not established that you are observing the conditions required for the continuation of an exempt status.

We previously mailed you a report explaining our proposed revocation of your tax-exempt status. In that correspondence, we requested that you respond to the report within 30 days from the date of the letter accompanying the report.

Because we did not hear from you within that 30 day period, we will process your case on the basis of the recommendations shown in the report.

We have determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

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 Date1.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter.

Thank you for your cooperation.

Sincerely,

R. C. Johnson
Director, EO Examinations



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE

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Date

Taxpayer Identification
Number:

Form: 990

Tax Year(s) Ended:

Person to Contact/ID
Number:

Telephone:
FAX:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear Sir or Madam:

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's tax exempt status is necessary.

If you do not agree with our position you may appeal your case. The enclosed Publication 3498, The Examination Process, explains how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

If you request a conference, we will forward your written statement of protest to the Appeals Office and they will contact you.

If you and Appeals do not agree on some or all of the issues after your Appeals conference, or if you do not request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court, after satisfying procedural and jurisdictional requirements as described in Publication 3498.

You may also request that we refer this matter for technical advice as explained in Publication 892, Exempt Organization Appeal Procedures for Unagreed Issues. If a determination letter is issued to you based on technical advice, no further administrative appeal is available to you within the IRS on the issue that was the subject of the technical advice.

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2

If we do not hear from you within 30 days from the date of this letter, we will process your case on the basis of the recommendations shown in the report of examination and this letter will become final. In that event, you will be required to file Federal income tax returns for the tax periods shown above. File these returns with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established procedures, such as the formal appeals process. The Taxpayer Advocate 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. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channel gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate assistance. If you prefer, you may contact your local Taxpayer Advocate at:

Internal Revenue Service

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

R. C. Johnson
Director, EO Examinations

Enclosures:
Publication 892
Publication 3498
Report of Examination

COPY

Page 1 of 3

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No.
Name of Taxpayer:		Year(s) Ended:

FACTS

1. In and the organization received over 20 percent of its gross receipts from nonmembers. Nonmembers were permitted to use your organization's dining and meeting facilities a The President of the Board of Directors of the organization has conceded that gross receipts from nonmembers in were at the same levels as those in and .
2. For an organization described in section 501(c)(7), nonmember revenue from use of the organization's facilities and services meets the definition of unrelated business income. Unrelated business income must be reported annually on Form 990-T. Forms 990-T filed for and do not show any unrelated business income from nonmember use of the organization's facilities.
3. Revenue Procedure 71-17 provides specific directions and procedures regarding information that must be recorded and retained by a 501(c)(7) organization when its facilities are used by nonmembers. Our examination determined that the record-keeping requirements of the Revenue Procedure were not followed in and The number of nonmembers using the club's facilities and services was not recorded in accordance with the Revenue Procedure.
4. The organization had a prior examination on its Form 990, and it was found that the 15 percent nonmember gross receipts limit had been exceeded. Furthermore, procedures were not in place to monitor nonmember income levels for subsequent years. During that examination, it was also determined that the EO Marketing Director was making direct contacts with the general public in order to increase lunch and dinner sales. At the conclusion of that examination, the organization was advised in writing that nonmember revenue must be reduced to within the 15 percent limit or tax exempt status would be in jeopardy.

LAW

Section 501(c)(7) of the Internal Revenue Code provides exemption from Federal income tax for 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. These organizations are generally recognized and referred to as social clubs.

Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) states that it is intended that social clubs should be permitted to receive up to 35 percent of their gross

COPY

Page 2 of 3

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No.
Name of Taxpayer:		Year(s) Ended:

receipts, including investment income, from sources outside of their memberships without losing their exempt status. Within this 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 nonmembers, so long as the latter do not represent more than 15 percent of total receipts.

Revenue Procedure 71-17, 1971-1 C.B. 683, provides guidelines and procedures for determining the effect of gross receipts derived from nonmembers use of a social club's facilities on the club's exemption under section 501(c)(7) of the Code. This Revenue Procedure also describes record-keeping requirements. The primary principles derived from this document are 1) where a club makes its facilities available to the general public to a substantial degree, the club is not operated exclusively for pleasure, recreation, or other nonprofit purposes; and 2) gross receipts from nonmembers are subject to the tax on unrelated business income as provided in sections 511 and 512 of the Code. Therefore, Form 990-T would have to be prepared and filed to report unrelated business income.

Section 4 of Revenue Procedure 71-17 provides directions for the information that must be obtained and retained for occasions when a club's facilities are used by nonmembers. Shown below are the items that must be determined for each event that includes nonmembers:

1. The date of the occasion or event
2. Total number in the party
3. Number of nonmembers in the party
4. Total charges
5. Charges attributable to nonmembers
6. Charges paid by nonmembers
7. Statement regarding member's reimbursement by a nonmember
8. Statement regarding member's reimbursement by his employer
9. Statement regarding gratuitous payments made on behalf of a member

This section also states that failure to maintain such records or make them available to the IRS for examination will preclude use of the minimum gross receipts standard and audit assumptions set forth in the Revenue Procedure.

GOVERNMENT'S POSITION

This organization is not in compliance with the tax law governing organizations exempt from federal tax described in section 501(c)(7) of the Internal Revenue Code.

COPY

Page 3 of 3

Form 886-A	EXPLANATION OF ITEMS	Schedule or Exhibit No.
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There has been substantial nonmember use of the organization's facilities and nonmember revenue amounts have consistently exceeded permitted levels. Furthermore, record-keeping requirements in regards to nonmember activity and revenue have not been followed, even when the organization had been warned of nonmember revenue and record-keeping violations as the result of a prior examination. It is the government's position that this organization's tax exempt status should be revoked.

TAXPAYER'S POSITION

The Board of Directors of the organization has agreed with the government's findings and the President of the Board has indicated his agreement by signing Form 6018-A.

CONCLUSION

The organization's tax exempt status under section 501(c)(7) of the Internal Revenue Code will be revoked effective on the first day of the year of this examination.