



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY
Internal Revenue Service

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UIL: 501.04-01

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Dear

We have enclosed a copy of our report of examination explaining why we believe an adjustment of your organization's 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. For your convenience, an envelope is enclosed.

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.

If you accept our findings, please sign and return the enclosed Form 6018, *Consent to Proposed Adverse Action*. We will then send you a final letter modifying or revoking exempt status. 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 period(s) 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. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

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. 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,

Enclosures:
Publication 892
Publication 3498
Form 6018
Report of Examination
Envelope

Form 886-A (Rev. January 1994)	EXPLANATIONS OF ITEMS	Schedule number or exhibit
Name of taxpayer	Tax Identification Number	Year/Period ended

ISSUES:

1. [redacted] appears to have no section 501(c)(4) social welfare activities other than licensed bingos in the [redacted] and the sale of Charity Game Tickets at these events. The monies earned therefrom are transferred to the organization's [redacted] entity [redacted] for their operation.
2. The organization has previously agreed to the wagering and excise taxes earned from the sale of Charity Game Tickets. Delinquent Forms 11-C and 730 were secured. Taxes due will be billed by the Service Center under sections 4401 and 4411 of the Internal Revenue Code.
3. [redacted] appears to have no proper record keeping procedures and accurate documentation of any of its exempt activities. Forms 990 were not filed prior to the audit date, even though the organization had in excess of the \$25,000 gross receipts filing requirement from bingo alone. Delinquent Forms 990 were secured for the [redacted] and [redacted] accounting periods.

FACTS:

[redacted] is exempt from Federal Income Tax under Internal Revenue Code Section 501(c)(4). The purpose stated is to "serve the [redacted] and to unite the [redacted] in friendship, spirit, co-operation, and the maintenance of the area of [redacted] County and to promote the general welfare of the communities and support the activities of th

Membership is open to any person 60 years of age or older. Membership dues are \$1.00, and are renewable once a year.

The Bylaws state the same purposes.

Exempt Organization Letter is dated [redacted] granting section 501(c)(4).

The primary activity of this organization during all the years under audit, was the sale of Charity Game Tickets during licensed bingo games. Therefore, the proceeds are subject to wagering and excise taxes. The proceeds from the sale of the Charity Game Tickets is then turned over to the [redacted] for their general expenses. The organization began conducting bingos in April of 1998, and has obtained several bingo licenses from the State of [redacted]

When the organization applied for exemption, exempt organizations were only allowed to conduct bingos twice weekly in the State of [redacted]

No outside solicitation of funds is conducted.

EXPLANATIONS OF ITEMS

Name of taxpayer

Tax Identification Number

Year/Period ended

APPLICABLE LAW:

Section 501(c)(4) of the IRC grants exemption to Civic leagues or organizations not organized for profit, but operated exclusively for the promotion of social welfare, the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

The regulations describe the promotion of social welfare as promoting in some way the common good and general welfare of the community, such as bringing about civic betterment and social improvements.

The concept of social welfare suggests benefits affecting a whole community of people, rather than a private group of citizens (eric Endowment v US., 316 F.2d 151 1963.)

While some activities promote social welfare, only if the community as a whole is the recipient of the services, others may promote social welfare even though the particular services are limited to members. Inherent in the definition of social welfare, is the concept that only if persons generally within the community benefit will an activity promote the social welfare of the community. (People's Education Camp Society, Inc. v. Commissioner, 331 F.2D 923 (1964).) In the exceptional case, an organization whose services are made available solely to its members will, by the same nature of the services and the group receiving them, be considered as benefiting the community as a whole. In such exceptional cases, it must be clearly established that making the service available to the particular group benefits the community as a whole.

Even though some private interest may be served by the organization, it may nevertheless qualify for exemption as a section 501(c)(4) organization.

An organization must be operated "exclusively" for the promotion of social welfare if it is to qualify for exemption. According to the regulations, an organization is considered to be operated "exclusively" for the promotion of social welfare, if it primarily engages in social welfare activities. Regs. 1.501(c)(4) - 1(a)(2)(i).

The regulations state that the promotion of social welfare does not include the promotion of social welfare to the operation of a social club for the benefit of its members. Nor does it include carrying on business with the general public in a manner similar to organizations operated for profit.

The extent to which an organization engages in social activities for the benefit of its members is a factor in determining whether it is primarily engaged in social welfare activities. Even if a substantial part of an organization's activities consists of social functions for the benefit, pleasure and recreation of its members, it may qualify for exemption under section 501(c)(4) if it is primarily engaged in social welfare activities. Rev. Rul. 66-179, 1966-11 C.B, 139; Regs. 1.501(c)(4)-1(a)(2)(ii).

Social welfare organizations are not precluded from engaging in business activities as a means of financing their social welfare programs. However, the regulations provide that an organization is not operated exclusively for the promotion of social welfare if its primary activity is carrying on a business with the general public.

A nonprofit organization created exclusively for the promotion of social welfare that conducted a weekly drawing among members of the general public as its principal activity was held not exempt under section 501(c)(4). Rev. Rul. 61-158, 1961-2 C.B. 115). The drawings were operated by nonmember employees and tickets were sold to the general public mainly by nonmembers on a commission basis. The income attributable to the weekly drawings constituted the primary source of the organization's overall gross receipts. The major portion of these receipts was used to pay general expenses of the organization and only a small portion was used in furtherance of the organization's stated purposes. Since the organization was not operated primarily for the promotion of social welfare; it was not considered as being engaged "exclusively" in social welfare activities within the meaning of the regulations.

Form **886-A**
(Rev. January 1994)

EXPLANATIONS OF ITEMS

Schedule number or exhibit

Name of taxpayer

Tax Identification Number

Year/Period ended

GOVERNMENT'S POSITION:

During the examination, there was no permanent mechanism in place to maintain records distinguishing between income from members and non-members, gambling, transferring of funds to _____, payment of related expenses, etc.

Forms 990 were not previously filed by the organization, until they were secured during the audit, even though the organization had way over the \$25,000 of gross receipts from bingos and the sale of charity game tickets.

Information (i.e. bingo reports provided), do not indicate how much income was received from members and how much was received from the general public.

Meeting minutes lack detail in regard to this organization's exempt activities.

Bingo as well as the sale of Charity Game Tickets are predominately attended by the general public, which are considered unrelated social welfare activities. After exempt status under section 501(c)(4) as a social welfare organization was granted, it appears that the organization has deviated from its exempt purpose, and is only conducting a business with the general public. The organization derives profits from the sale of Charity Game Tickets, which displays the required profit motive. Therefore, exempt status under section 501(c)(4) as a social welfare organization should be revoked, effective 1

At the time the organization applied for exempt status, exempt organizations in the State of _____ were only allowed to conduct licensed bingos twice weekly. It appears that this organization was created to allow _____ to conduct additional licensed bingos in the state of _____ transferring the profits to the _____ or their operation.

_____ (who had 3 bingo licenses) and _____ (who had 4 bingo licenses), have both, as of _____, had all their bingo licenses suspended because of violations. After an investigation by the Bureau of State Lottery, Charitable Gaming Division, it was determined that the licenses were suspended because of "hindering or obstructing Bureau personnel in the performances of their duties; bingo net proceeds diverted for questionable purposes." (As reported in the _____ Charitable Gaming Highlights, Volume _____, Number _____)

ORGANIZATION'S POSITION:

This organization has failed to provide their position on the technical issues.

CONCLUSION:

Revocation of exempt status under section 501(c)(4), is being proposed, as it appears that the organization was created by the _____ to obtain additional bingo licenses and having the profits transferred to their organization. It appears to have very minimal section 501(c)(4) social welfare activities other than the licensed bingos and the sale of Charity Game Tickets to the general public.

The organization has previously agreed to this Agent securing delinquent Forms 11-C and 730 Wagering and Excise Tax returns, for the sale of Charity Game Tickets at their licensed bingos. They agreed to have the Service Center bill them for their tax liability.

This organization has not responded to this Agent's phone calls or Certified Mail Requests regarding the examination reports.