



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

UIL: 501.07-01

Release Number: 200735030
Release Date: 8/31/07

Date: May 31, 2007

Name and Address of Taxpayer

CERTIFIED MAIL

Dear _____ :

In a determination letter dated **Date 1** you were held to be exempt from Federal income tax under IRC section 501(c)(7).

We have determined you are not operating in accordance with the provisions of IRC section 501(c)(7). We have explained the basis for our determination in the enclosed report of examination.

On January 26, 2007, you signed Form 6018, Consent to Proposed Action, agreeing to the revocation of your exempt status under section 501(c)(7) of the Code. Therefore, your exemption from Federal income tax is revoked effective **Date 2**.

You have filed Form 1120, U.S. Corporation Tax Return, for the year ended April 30, 2004 with us. In the future, you are required to file a Form 1120 by the due date of the return with the appropriate service center indicated in the instructions for the return.

This is a final adverse determination letter with regard to your status under IRC section 501(c)(7).

Name of Taxpayer

Page 2 of 2

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

Sincerely,

Marsha A. Ramirez
Director, EO Examinations

Enclosure:
Report of Examination
Copy of Form 6018

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

A=name of organization
B=return preparer
C=state where incorporated
Year 1=date organization founded
Date 1=incorporation date
Date 2=effective date of exemption
Date 3=effective date of revocation

ISSUE(S)

Is the **A** operating as a social and recreational **A** described in IRC section 501(c) (7)?

FACTS

The **A** was founded in **Year 1** and it was incorporated under the non-profit statutes of the **C** on **Date 1**. The **A** was issued an exemption letter dated **Date 2** that allowed tax-exemption under IRC section 101(9) and/or IRC section 501(c)(7) of the Code of 1954.

The purpose for which it was formed was to operate all types of accommodations of amusement facilities for the benefit of the members and their guests and invitees. In most recent years, the **A** had been operating fine dining and banquet facilities for its members and the general public. The **A** has hosted a variety of social and corporate functions including wedding receptions, rehearsal dinners, business meetings, lectures, association meetings, corporate recognition dinners, holiday parties and many other gatherings and celebrations.

For the year ending April 30, the **A** derived approximately 46% of its gross receipts from the use of its facilities and services by the general public. This period generated a net income of \$ from non-members. For the year ending April 30, the **A** derived approximately 36% of its gross receipts from the use of its facilities and services by the general public. This period generated a net income of \$ from non-members.

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."

Section §1.501(c) (7)-1 of the Income Tax Regulations states...

(a) The exemption provided by section 501(a) for organizations 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 inures to the benefit of any private shareholder. In general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments. However, a club otherwise entitled to exemption will not be disqualified because it raises revenue from members through the use of club facilities or in connection with club activities.

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

(b) 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 nonprofitable purposes, and is not exempt under 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.

Section §1.501(c) (7)-1(b) of the Income Tax Regulations provides, in part, that a club which engages in business, such as by making its social and facilities available to the general public or by selling real estate, timber, or other products is not organized and operated exclusively for pleasure, recreational, and other nonprofitable purposes, and is not exempt under IRC section 501(a),

The House Ways and Means Report on P.L. 94-568 stated that social and recreational organizations are permitted to receive up to 35 percent of their gross receipts, including investment income, from sources outside of their membership without losing their tax-exempt status. Also within this 35 percent amount, not more than 15 percent of the gross receipts is to be derived from the use of a social club's facilities or services by the general public. Thus, a tax-exempt club is permitted to 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.

Gross receipts are defined for this purpose as those receipts from normal and usual activities of the club (that is, those activities it has traditionally conducted), including charges, admissions, membership fees, dues, assessments, investment income (such as dividends, rents, and similar receipts), and normal recurring capital gains on investments.

TAXPAYER'S POSITION

In a Summary report from the A's accountant and Form 990 and 990-T preparer, B the A's officers and directors were informed of the possible loss of its tax-exempt status. The Summary acknowledged that the A has been exceeding the permissible non-member income limitations for a tax-exempt organization described in IRC section 501(c) (7).

GOVERNMENT'S POSITION

Social clubs are exempt from federal income tax under IRC 501(a) as organizations described in IRC 501(c) (7) if they are "organized for pleasure, recreation, and other nonprofitable purposes." They were originally granted exemption from federal income tax in the Revenue Act of 1916. Generally, social clubs are membership organizations primarily supported by dues, fees, charges or other funds paid by their members.

The central purpose of social clubs is to provide benefits to members, including access to social and recreational facilities such as club houses, golf courses, and swimming pools. When such benefits are funded by members, exemption has been justified by Congress on the theory that the members will be in the same position as if they had paid for the benefits directly. The practical effect of the exemption is to allow individuals to join together to provide themselves with recreational or social opportunities on a mutual basis without further tax consequences. The individual member is in substantially the same position as if he or she had spent his or her after-tax income on pleasure or recreation without the

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Name of Taxpayer A		Year/Period Ended

intervening organization. Consequently, the exemption for social clubs operates properly only if the club's income is derived exclusively from members.

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 non-profitable purposes.

CONCLUSION

Based on the foregoing reasons, the organization does not qualify for exemption under section 501(c) (7) and its tax exempt status should be revoked. Your organization is required to file Form 1120 for the period ending **Date 3** and all subsequent periods..



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service
352 Marrows Road, 2nd Floor
Newark, DE 19711-54451

December 8, 2006

Taxpayer's Name
Taxpayer's Address

Taxpayer Identification Number:

Form:

990

Tax Year(s) Ended:

Year under examination

Person to Contact/ID Number:

Examiner's name and Badge 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,

Marsha A. Ramirez
Director, EO Examinations

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