



Department of the Treasury
Internal Revenue Service
P.O. Box 2508
Cincinnati, OH 45201

Release Number: **201948009**
Release Date: 11/29/2019
UIL Number: 501.07-00. 501.07-05

Date:
September 3, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Form you must file:

Tax years:

Dear _____ :

This letter is our final determination that you don't qualify for tax-exempt status under Section 501(c)(7) of the Internal Revenue Code (the Code). 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 federal income tax returns for the tax years listed at the top of this letter using the required form (also listed at the top of this letter) within 30 days of this letter unless you request an extension of time to file.

We'll make this final adverse determination letter and the proposed adverse determination letter available for public inspection (as required under Section 6110 of the Code) after deleting certain identifying information. Please read the enclosed Notice 437, *Notice of Intention to Disclose*, and review the two attached letters that show our proposed deletions. If you disagree with our proposed deletions, follow the instructions in the Notice 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 contact the person listed at the top of this letter. If you have questions about your federal income tax status and responsibilities, call our customer service number at 1-800-829-1040 (TTY 1-800-829-4933 for deaf or hard of hearing) or customer service for businesses at 1-800-829-4933.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements

Enclosures:

Notice 437

Redacted Letter 4034, *Proposed Adverse Determination under IRC Section 501(a) Other Than 501(c)(3)*

Redacted Letter 4040, *Final Adverse Determination under IRC Section 501(a) Other Than 501(c)(3) - No Protest*



Department of the Treasury
Internal Revenue Service
 P.O. Box 2508
 Cincinnati, OH 45201

Date:
 July 9, 2019
Employer ID number:

Contact person/ID number:

Contact telephone number:

Contact fax number:

Legend:

X = State
 Y = Date
 Z = Brand
 q dollars = Amount

UIL:
 501.07-00
 501.07-05

Dear _____ :

We considered your application for recognition of exemption from federal income tax under Internal Revenue Code (“Code”) Section 501(a). We determined that you don’t qualify for exemption under Code 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 Section 501(c)(7) of the Code? No, for the reasons stated below.

Facts

You incorporated in X on Y. Your Articles of Incorporation state that you are organized for pleasure, recreation and other organized non-profitable purposes as an automobile ownership club.

Your Constitution states that you are dedicated to the maintenance, preservation, and enjoyment of anything Z and the camaraderie of all club members. Any person interested in any type of Z can be your members. Ownership of a Z vehicle is not a prerequisite.

You conduct an annual car show. It offers a show field open to all Z owners or enthusiasts and vendors specializing in Z parts, apparel, and memorabilia. Vehicles in the car show are judged by classes and trophies are awarded. The purpose of this event is recreational but includes education on Z history and maintenance, access to vendors with obsolete and hard-to-find parts. You hope to awaken an interest in Z to the public. Your car show is open to the public, can exceed _____ spectators, draws _____ cars and many vendors. Food and refreshments are sold by vendors and a disc jockey provides entertainment. Approximately 50 percent of your time is dedicated to this activity.

You conduct an annual Z appreciation dinner for members who qualify, depending on the time spent helping on the day of the annual car show. During this dinner, club members gather to socialize and to critique the show and to record suggestions for future car shows.

You try to plan monthly activities such as car cruises to public venues to display vehicles, educate spectators, and recruit persons interested in you.

You receive some income from membership dues, but your main source of revenue is from your public events and fundraising (sponsorships). According to your application, percent of your revenue comes from non-members. You said that you encourage the general public to attend your annual car show. Invited guests are permitted to attend all other activities and events. Your largest expenditure is for your annual car show. You spend about the same amount on charitable contributions as you do "member benefit" expenses. You said that you use the funds raised from the car show to pay for a banquet for your members.

Law

Section 501(c)(7) of the Code 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 in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues and assessments.

Treas. Reg. Section 1.501(c)(7)-1(b) states that 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 Section 501(a) of the Code. 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.

Public Law 94-568, 1976-2 C.B. 596, provides that a social club may receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing exemption. 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.

Revenue Ruling 65-63, 1965-1 C.B. 240, provides that a nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreational and other non-profitable purposes under Section 501(c)(7) of the Code.

Rev. Rul. 68-119, 1968-1 C.B. 268, provides that a steeplechase in which nonmembers participate is incidental to and in furtherance of the club's general purpose of promoting the enjoyment of equestrian sports. Although the club on occasion derives a small amount of income from nonmembers in excess of expenses attributable to their participation and attendance, the meet is not operated to make a profit, but for the pleasure and recreation of members of the club. If any profits result, it is turned over to charity. Therefore, the income from

nonmembers does not inure to the club's members and club's exempt status under Section 501(c)(7) of the Code is not jeopardized.

In Polish American Club Inc. v. Commissioner, 33 T.C.M. 925 (1974), the Court held that making club facilities available to the general public, for a fee, represented a substantial activity disqualifying the Club from exemption under Section 501(c)(7) of the Code.

Application of law

Your primary activity consists of providing an annual car show for members as well as the general public. You assert that percent of your revenue comes from nonmembers. You are not exempt under Section 501(c)(7) of the Code because you are not solely supported by membership fees, dues, and assessments as required by Treas. Reg. Section 1.501(c)(7)-1(a).

Further, your activities are available to the general public more than incidentally. You invite the public to your car show, which is evidence that you are engaging in a business and not being operated exclusively for pleasure, recreation, or social purposes as explained in Treas. Reg. Section 1.501(c)(7)-1(b). You are not exempt under Section 501(c)(7) of the Code because your activities are available to the general public and percent of your income is derived from nonmembers, which greatly exceeds the limitations set forth in Public Law 94-568.

As noted in Rev. Rul. 65-63, an organization does not qualify for exemption under Section 501(c)(7) of the Code when it permits the general public to attend its events for a fee on a recurring basis and solicits patronage. Contrary to the organization which was granted exemption in Rev. Rul. 68-119, you receive much of your income from nonmember sources and some of the profits benefit your membership. The income generated from the annual car show is used to provide a dinner for your members.

You are similar to the organization described in Polish American Club Inc. because half of your time is spent on your car show, which is open to the public and from which you derive a substantial amount of nonmember income. The public patronage of your events is not incidental to your other activities and you depend on nonmember income to fund activities for your members. Therefore, you do not qualify for exemption under Section 501(c)(7) of the Code.

Your position

You indicated that you are a small club and dues are only q dollars per year. While your major source of income is from the general public, you have no interest in accumulating revenue. You simply want to include people from the general public who share an interest in the history, maintenance, and restoration of Z.

Your main event is a one-day event which is recognized by the Z enthusiast community as the unofficial kickoff to the car show season in the portions of X. It is largely a social event, with show admission fees being used to cover the costs of putting on the event. Any profits received from the event are used to fund the clubs yearly operating expenses and provide benefit to your members, usually in the form of meals. Excess funds have been donated to local qualified charitable organizations every year.

Further, you have no salaries or compensation of any kind for any officer or member. Members who work at the annual event do so on a strictly volunteer basis. You have no real property or physical facilities that members can use or that you could rent to outside individuals. Any club-branded merchandise is sold to members at cost and several items you provide as a benefit for dues-paying members. All of your other activities are for

pleasure, recreation, and purely social purposes. You try to regularly interact with other local Z clubs and frequently have outings to engage the general public and showcase your vehicles.

You said that “according to IRS guidelines for 501(c)(7), Section 7.25.7.5 (02-23-1999), dealing with the public, paragraph 2 states, ‘Consequences of receiving income from outside the club membership.’” The last condition, even if nonmember income exceeds the 35% and/or 10% limitations of Public Law 94-568, an organization may maintain its exempt status if it can show through facts and circumstances, that substantially all of its activities are for recreation, and other non-profitable purposes. You feel that you meet this condition.

Our response to your position

Although you do not operate for a profit motive, your nonmember income far exceeds the amount allowed by Public Law 94-568. Further, you do not rely on membership fees, dues, and assessments to sustain you. Rather, you use your events, which are open to the public, as a method of fundraising to cover your costs. This means that the membership fees can stay lower and the membership can also enjoy an appreciation dinner and discounted or free merchandise. This is contrary to the spirit of a social club exempt under Section 501(c)(7) of the Code.

Conclusion

You are not operated in accordance with Section 501(c)(7) of the Code. Your events are open to the general public and you are largely supported by nonmember income, which provides benefits to your members. Accordingly, you are not exempt 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 Decision 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
P.O. 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 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 or call 877-777-4778.

Sincerely,

Stephen A. Martin
Director, Exempt Organizations
Rulings and Agreements