



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
1100 Commerce Street, MC 4920DAL
Dallas, TX 75242

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202052046**
Release Date: 12/24/2020

UIL: 501.07-00

Date: August 11, 2020

Taxpayer ID Number:

Form:

For Tax Period(s) Ending:

Person to Contact:

Identification Number:

Telephone Number:

Fax Number:

CERTIFIED MAIL – Return Receipt Requested
LAST DAY FOR FILING A PETITION WITH THE TAX COURT:

Dear _____ :

This is a final determination explaining why your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) section 501(c)(7) for the tax period(s) listed above.

In the future, if you believe your organization qualifies for tax-exempt status and would like a determination letter from the Internal Revenue Service, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), or Form 1024-A, Application for Recognition of Exemption Under Section 501(c)(4) of the Internal Revenue Code (as applicable) and paying the required user fee.

Our adverse determination as to your exempt status was made for the following reasons:

Your non-member income, primarily from renting your building, makes up 0% of your gross income for the year under audit. For the last _____ tax years, your non-member income has comprised between 0 percent and 0 percent of your gross income which is in excess of the 15 percent limitation on non-member income.

Organizations that are not exempt under IRC Section 501 generally are required to file federal income tax returns and pay tax, where applicable. For further instructions, forms, and information please visit www.irs.gov.

If you decide to contest this determination, you may file an action for declaratory judgment under the provisions of IRC Section 7428 in one of the following three venues: 1) United States Tax Court, 2) the United States Court of Federal Claims, or 3) the United States District Court for the District of Columbia. A petition or complaint in one of these three courts must be filed within 90 days from the date this determination was mailed to you. Please contact the clerk of the appropriate court for rules and the appropriate forms for filing petitions for declaratory judgment by referring to the enclosed Publication 892. You may write to the courts at the following addresses:

United States Tax Court
400 Second Street, NW
Washington, DC 20217

U.S. Court of Federal Claims
717 Madison Place, NW
Washington, DC 20439

U. S. District Court for the District of Columbia
333 Constitution Ave., N.W.
Washington, DC 20001

Processing of income tax returns and assessments of any taxes due will not be delayed if you file a petition for declaratory judgment under IRC Section 7428.

You may be eligible for help from the Taxpayer Advocate Service (TAS). 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 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 1-877-777- 4778.

Taxpayer Advocate assistance can't be used as substitute for established IRS procedures, formal appeals processes, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determination, nor extend the time fixed by law that you have to file a petition in 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 can get any of the forms or publications mentioned in this letter by calling 800-TAX-FORM (800-829-3676) or visiting our website at www.irs.gov/forms-pubs.

If you have any questions, please contact the person listed at the top of this letter.

Sincerely,



Sean E. O'Reilly
Director, EO Examinations

Enclosures:

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Publication 892



Department of the Treasury
Internal Revenue Service
Tax Exempt and Government Entities

Date:
01/16/2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:
Address:

Manager's contact information:

Name:
ID number:
Telephone:

Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear _____ :

Why you're receiving this letter

We enclosed a copy of our audit report, Form 886-A, Explanation of Items, explaining that we propose to revoke your tax-exempt status as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

If you agree

If you haven't already, please sign the enclosed Form 6018, Consent to Proposed Action, and return it to the contact person shown at the top of this letter. We'll issue a final adverse letter determining that you aren't an organization described in IRC Section 501(c)(7) for the periods above.

If you disagree

1. Request a meeting or telephone conference with the manager shown at the top of this letter.
2. Send any information you want us to consider.
3. File a protest with the IRS Appeals Office. If you request a meeting with the manager or send additional information as stated in 1 and 2, above, you'll still be able to file a protest with IRS Appeals Office after the meeting or after we consider the information.

The IRS Appeals Office is independent of the Exempt Organizations division and resolves most disputes informally. If you file a protest, the auditing agent may ask you to sign a consent to extend the period of limitations for assessing tax. This is to allow the IRS Appeals Office enough time to consider your case. For your protest to be valid, it must contain certain specific information, including a statement of the facts, applicable law, and arguments in support of your position. For specific information needed for a valid protest, refer to Publication 892, How to Appeal an IRS Determination on Tax-Exempt Status.

Fast Track Mediation (FTM) referred to in Publication 3498, The Examination Process, generally doesn't apply now that we've issued this letter.

4. Request technical advice from the Office of Associate Chief Counsel (Tax Exempt Government Entities) if you feel the issue hasn't been addressed in published precedent or has been treated inconsistently by the IRS.

If you're considering requesting technical advice, contact the person shown at the top of this letter. If you disagree with the technical advice decision, you will be able to appeal to the IRS Appeals Office, as explained above. A decision made in a technical advice memorandum, however, generally is final and binding on Appeals.

If we don't hear from you

If you don't respond to this proposal within 30 calendar days from the date of this letter, we'll issue a final adverse determination letter.

Contacting the Taxpayer Advocate Office is a taxpayer right

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 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.

Additional information

You can get any of 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 shown at the top of this letter.

Sincerely,



for

Maria Hooke

Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

ISSUE:

Whether () continue to qualify for exemption under IRC Section 501(c)(7) when its nonmember income for use of facilities consistently exceeds the fifteen percent (15%) limitation of total income?

FACTS:

was formed as a corporation in the state of in . The organization has never filed a Form 1023 or 1024. Its purpose upon establishment was to help a friend in need. Over the past 0 years, the organization has helped establish the first high school in the area, established scholarships, and helped individuals in the area. Along with the charitable work the organization participates in, the members maintain the for the community.

The Form 990 for the tax year ended December 31, 20XX was selected for examination. The Form 990 states that is to promote fellowship among the members. provides a meeting place for members in the once a month.

During the examination it was noted that membership is based on submitting application and being 0 years old, as well as a spot being available. Membership is limited to 0 regular memberships. There are three classes of membership, only two classes are currently utilized, and regular members have voting privileges.

receives its revenue from membership dues, rental income, and investment income.

is currently operating with two main focuses: 1). membership society (501(c)(7) and 2).the historical education of the promoting education, providing scholarships to youth, and charitable contributions to individuals (501(c)(3)). It is basically two entities being filed under one Form 990.

The is a focal point in the community and is maintained for the enjoyment of the entire community for the historical and educational purposes. The facilities are available to the public for rent and the building itself is among most of the local tours. In through 20XX major restoration was needed to maintain the building.

The Form 990 was first filed for for the year ending February 28, 20XX. Only three returns have been filed for the entity, the later, February 28, 20XX, and the December 31, 20XX. The filing year month was changed to December with the December 31, 20XX filing.

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Name of Taxpayer		Year/Period Ended December 31, 20XX

For the tax year ended December 31, 20XX, 0% of the total revenue received was from unrelated business income for use of facilities. A review of additional Forms 990 which were not audited shows that for the tax years ended February 28, 20X and February 28, 20XX respectively, approximately 0% and 0% of total revenue received was from unrelated business income for use of facilities. (See table for breakdown of determination of allocated unrelated business income.)

	12/31/20XX	02/28/20XX	02/28/20XX
Unrelated Business Income – Rental Income	\$0	\$0	\$0
Total Revenue on F990	\$0	\$0	\$0
Percentage of Nonmember Income over Total Revenue	0%	0%	0%

LAW:

Section 501(c)(7) of the Internal Revenue Code ("Code") provides for 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.

Section 1.501(c)(7)-1(b) of the regulations 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). An incidental sale of property will not deprive a club of its exemption.

Revenue Ruling 66-149, 1966-1 C.B. 146, provides that a social club is not exempt from federal income tax as an organization described in section(c)(7) of the Code if it regularly derives a substantial part of its income from nonmember sources such as, for example, dividends and interest on investments. In this instance, the club's funds were invested primarily for the purpose of producing income through dividends, interest, or capital appreciation. It is evident that 1) such income is regularly derived from nonmember sources, 2) that the income is received in fulfillment of and pursuant to a profit motive, and 3) that the income from investments is substantial in relation to total income.

Revenue Ruling 69-220, 1969-1 C.B. 154, held that a social club that receives a substantial portion of its income from the rental of property and uses such income to defray operating expenses and to improve and expand its facilities is not exempt under section 501(c)(7) of the Code.

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Name of Taxpayer		Year/Period Ended December 31, 20XX

Santee Club v. White. 87 F. 2d 5 (1936), held that where a club engages in income producing transactions which are not a part of the club purposes, exemption will not be denied because of incidental, trivial, or nonrecurrent activities such as sales of property no longer adapted to club purpose.

National Mah Jongg League v. U.S.. 75 F. Supp. 769 (1947), stated that a corporation that was organized for the purpose of promoting the game of Mah Jongg, but income from memberships was insufficient to meet expenses and the corporation engaged in the commercial enterprise of selling to the public lists and tiles, and the income therefrom enabled the corporation to meet its deficit, carry on without an increase of dues or curtailment of operations, and to accumulate a surplus which was donated to charity was not operated exclusively for social purposes or charitable purposes. Therefore, the corporation was not exempt from federal income tax under section 501(c)(7) of the Code or section 501(c)(3) of the Code.

In United States of America v. Fort Worth Club of Fort Worth, Texas. 345 F. 2d 52, 57 (5th Cir. 1965), a social club which derived over half of its receipts, in amounts of hundreds of thousands of dollars, from profitable outside business was not exempt from federal income taxes on ground that it was organized and operated exclusively for pleasure, recreation, and other non-profitable purposes. The court declared that for a social club to qualify for exemption under section 501(c)(7) of the Code, its outside profits must be 1) strictly incidental to club activities, not a result of an outside business, and 2) either negligible or non-recurring.

GOVERNMENT’S POSITION:

currently does not meet the qualifications for exemption under section 501(c)(7) of the Code. was established as a charitable organization in helping individuals and promoting education. is engaged in unrelated business activities which do not fulfill a pleasure or recreation club purpose.

is like the organization in Rev. Rul. 66-149 that did not qualify for exemption under section 501(c)(7) of the Code. regularly derives income from nonmember sources, specifically rental revenue. Based on the financial data provided for the income is regularly derived from these nonmember sources and the income from these sources is substantial in relation to EO’s total income. EO is also similar to the organization in Rev. Rul. 69-220 because it receives a substantial portion of income from sources other than the members. Under section 501(c)(7) of the Code, transactions with outsiders should not be a regular source of income.

is not similar to the organization in Santee Club v. White. income from the unrelated business activities are not incidental or trivial. In addition, they are recurring. For the past several years, has received a substantial amount of revenue from these sources. Per

Form 886-A	U.S. Treasury Department-Internal Revenue Service EXPLANATION OF ITEMS	Schedule No. or Exhibit
Name of Taxpayer		Year/Period Ended December 31, 20XX

Section 1.501(c)(7)-1(b) of the regulations, is engaging in business activities and is not organized and operated exclusively for pleasure and recreation purposes.

is similar to the organization in National Mah Jongg League v. U.S. The majority of its revenue is from unrelated business activities. The revenue from unrelated activities is recurring and more than incidental.

Per United States of America v. Fort Worth Club of Fort Worth, Texas, rental income must be incidental to your club activities and either negligible or non-recurring. Instead the rental income is both recurring and substantial. For the tax years ended February 28, 20XX–December 31, 20XX, over 0% of revenue was received from nonmember sources on a recurring basis.

TAXPAYER POSITION:

The taxpayer position is unknown at this time.

CONCLUSION:

does not currently meet the requirements for exemption under section 501(c)(7) of the Code. receives the majority of its income from nonmember sources on a recurring basis. Providing services to non-members, is engaging in a regular trade or business and derive a significant profit from the activity. As a result, does not operate substantially for pleasure recreation purposes.

We are proposing revocation of the IRC Section 501(c)(7) tax exemption for effective March 1, 20XX.