



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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

UIL: 501.04-00

Number: **202110020**

Release Date: 3/12/2021

Date:

Taxpayer ID Number:

Form:

Tax Period(s) ended:

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 that you do not qualify for exemption from federal income tax under Internal Revenue Code (IRC) Section 501(a) as an organization described in IRC Section 501(c)(4) for the tax period(s) above. Your determination letter dated September 19XX is revoked.

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

You have not established that you are operated exclusively for promotion of social welfare and other non-profitable purposes and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes under IRC Section 501(a) as described under Section 501(c)(4).

As such, you failed to meet the requirements of IRC Section 501(c)(4) in that you have not established that you were operated exclusively for exempt purposes.

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 the rules for initiating suits for declaratory judgment. 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 20005

U. S. District Court for the District of Columbia
333 Constitution Ave., NW
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 about this letter, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Enclosures:
Publication 892

Maria Hooke

Maria D. Hooke
Director, EO Examinations



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

Date:
10/31/2018
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

ID number:
Telephone:
Fax:
Address:

Manager's contact information:

Employee ID number:
Telephone number:
Response due date:

CERTIFIED MAIL – Return Receipt Requested

Dear :

Why you're receiving this letter

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)(4) 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,

Maria Hooke
Director, Exempt Organizations Examinations

Enclosures:

Form 886-A

Form 6018

Form 4621-A

Publication 892

Publication 3498

Form 886-A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit:
Name of Taxpayer		Year/Period Ended June 30, 20XX

Issues:

- Whether the ("organization") exempt status should be revoked under ("IRC") Section ("Sec.") 501(c)(4).

Facts:

On July 7, 20XX, ("President") and ("Treasurer") provided oral testimony ("testimony") about the ("organization"). Per testimony, the organization was created around 19XX through combined efforts of (but not limited to): The (" "), the (" "), and the (" ") (also known as: " organization(s)"). Per records (" ") with the Internal Revenue Service ("Service"), the organization's ruling date was September 19XX. records reconcile with provided testimony. Also, records showed the organization is exempt under Internal Revenue Code ("IRC") Section ("Sec.") 501(c)(4).

Per determinations unit, the Service did not have any of the organization's organizational documents. The Revenue Agent ("Agent") requested the organizational records multiple times from the organization. However, the organizational records (such as, but not limited to: articles of incorporation, bylaws, and/or determination letter) were not provided.

Per Form 990, for the period ending June 30, 20XX ("20XX Form 990"), both Part I, *Summary*, Line 1 and Part III, *Statement of Program Service Accomplishments*, Line 1 the said purpose and mission was: "

". Per the minutes, unless vacant, the organization's President, Vice-President, Treasurer, and Secretary positions were held by individuals who were also members of a organization. As stated within the January 18, 20XX minutes (under the "President's Report" (first bullet)), the organization's officers are "appoint[ed]" by organizations; not the organization itself. No contemporaneous substantiation was provided showing the organization voted for its own officers.

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Per testimony, veteran's organization members are automatically members of the organization. Generally, only members and their bona fide guests are admitted to the social facilities. Note: The organization allows non-member participation at its 0-hour long bingo and pull-tab game nights, held once a week on Fridays; however, non-members are restricted to the organization's event hall.

The organization owns and maintains a building in _____, _____. Within the building, the organization operates social facilities (including, but not limited to: a bar, restaurant, and game room). When the event hall isn't used for game nights, it's used for activities such as (but not limited):

- Officer/board member meetings.
- _____ organization (e.g. _____ and _____) meetings.
- _____ organization (e.g. _____ and _____) events.

Per the September 21, 20XX minutes, the _____ organization use of the facility also included (but wasn't limited to):

- Having and maintaining office and/or storage space for free. This is supported under "Old Business" (second bullet).
- Generating income by piggybacking on the organization's activities. An example is provided under "Old Business" (fourth bullet); summary: generally, the Auxiliary keeps all income made from selling food during the organization's bingo night.
- Using the facility and utilities for free. Summary: The organization pays costs directly resulting from events held within its hall (including event that involve the organizations). An example is provided under "New Business" (second bullet).

Per the General Ledgers, bank statements, and other financial records the organization generated approximately 0.0% of its income from gaming activities, the sale of inventory, and hall rental. The remaining 0.0% of its income was generated from contributions, gifts, and grants. This is supported in the following income breakdown.

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Name of Taxpayer		Year/Period Ended June 30, 20XX

Income breakdown:

- Contributions, gifts, and grants (“donations”) for \$0.00.
- Hall Rental for \$0.00.
- Gross income from gaming activities \$0.00.
- Gross sales of inventory (bar: food and drinks) for \$0.00.

Per the financial records, most expenses were incurred in relation to the following:

- Bar/restaurant (for: wages, purchase of inventory, and sales taxes). Note: total was \$0.00 (approximately (“approx.”)); determined via Form 990, Part VIII, Line: 10b; and, Part IX, Lines: 7, 10, and 24a (net).
- Gaming activities (for: payouts, [in part] taxes, [in part] gaming manager wages, and purchase of related supplies). Note: total was \$0.00 (approx.); determined via Form 990, Part VIII, Line: 9b.
- Maintaining the facility (for: utilities, repairs, and other expenses (such as: insurance)). Note: total was \$0.00 (approx.); determined via Form 990, Part IX, Lines: 16 and 23.

No evidence was provided showing the organization spent less than 0% its time focusing on its member’s and/or the organizations’ benefit, pleasure, and/or recreation. Note: No contemporaneous records were provided showing the organization spent significant time focusing on the rehabilitation and/or education of , their families, and/or dependents.

Law:

Internal Revenue Code (“IRC”) Section (“Sec.”)

IRC Sec. 501(c)(4)(A) states that civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a

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particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

Treasury Regulations ("Treas. Reg.")

Treas. Reg. Sec. 1.501(c)(4)-1(a) states the following about civic organizations:

(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if:

- i. It is not organized or operated for profit; and
- ii. It is operated exclusively for the promotion of social welfare.

(2) Promotion of social welfare -

- i. In general. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Sec. 1.501(c)(3)-1 and is not an action organization as set forth in paragraph (c)(3) of Sec. 1.501(c)(3)-1.
- ii. Political or social activities. The promotion of social welfare does not include direct or indirect participation or intervention in political campaigns on behalf of or in opposition to any candidate for public office. Nor is an organization operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit.

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Revenue Ruling ("Rev. Rul.")

Rev. Rul. 66-150, 1966-1 C.B. 147 states that an organization which holds title to a building housing its parent, which is exempt under section 501(c)(4) of the Internal Revenue Code of 1954, maintains the building, and operates the social facilities located in the building, does not qualify for exemption from Federal income tax under section 501(c)(2) or section 501(c)(4) of the Code; but it does qualify under section 501(c)(7) of the Code. Members of the organization automatically become members of the subsidiary, and a percentage of the membership dues is paid over to the subsidiary. The subsidiary's charter provides that in the event of its dissolution its assets are to be distributed to the ' organization. The subsidiary's activities consist of holding title to the building housing the ' organization, maintaining the building, and operating the social facilities, including a bar, restaurant, and game room, located in the building. Only members and their bona fide guests are admitted to the social facilities. The subsidiary's income is from membership dues and receipts from the bar, restaurant, and game room. Its expenses are for operating and maintenance costs. Section 501(c)(4) of the Code provides, in part, for the exemption of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare. An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. An organization is not operated primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members. See section 1.501(c)(4)-1 of the Income Tax Regulations. Unlike its parent... ..the subsidiary engages in no social welfare activities. Further, its primary activity is operating a social club. Accordingly, it does not qualify for exemption under section 501(c)(4) of the Code.

Taxpayer's Position:

The Taxpayer's position is unknown at this time.

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Government's Position:

1. Whether the _____ (“organization”) exempt status should be revoked under Internal Revenue Code (“IRC”) Section (“Sec.”) 501(c)(4).

It's the government's position that the organization doesn't qualify for exemption under IRC Sec. 501(c)(4). This is because the organization appears to be better classified under IRC Sec. 501(c)(7). Thus, the organization's exemption, under IRC Sec. 501(c)(4), should be revoked.

Under IRC Sec. 501(c)(4)(A) civic leagues or organizations must not be organized for profit, but operated exclusively for the promotion of social welfare; and, the net earnings must be devoted exclusively to charitable, educational, or recreational purposes. Per Treas. Reg. Sec. 1.501(c)(4)-1, civic leagues/other aren't organized or operated for profit; and are operated exclusively for the promotion of social welfare. Also, an organization isn't operating primarily for the promotion of social welfare if its primary activity is operating a social club for the benefit, pleasure, or recreation of its members, or is carrying on a business with the general public in a manner similar to organizations which are operated for profit. Per Rev. Rul. 66-150, an organization has a building housing its parent, maintains the building, and operates the social facilities located in the building, doesn't qualify for exemption under IRC Sec. 501(c)(4); but qualifies under IRC Sec. 501(c)(7). Members of the _____ organization automatically become members, and in the event of its dissolution its assets are to be distributed to the _____ organization. The subsidiary's activities consist of holding title to the building housing the _____ organization, maintaining the building, and operating the social facilities, including a bar, restaurant, and game room, located in the building. Only members and their bona fide guests are admitted to the social facilities. The subsidiary's income is from membership dues and receipts from the bar, restaurant, and game room. Its expenses are for operating and maintenance costs. An organization isn't operated primarily for the promotion of social welfare if its primary

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activity is operating a social club for the benefit, pleasure, or recreation of its members. Its primary activity is operating a social club.

Here, the (“organization”) closely resembles an entity described within Revenue (“Rev.”) Ruling (“Rul.”) 66-150. Per testimony, the organization was created through combined efforts by multiple organizations; and, exists “

.” Per records, members from the organizations were automatically members of the organization; and, only members and their bona fide guests were admitted to the organization’s social facilities. Aside from these members, the organization did not appear have any other type of membership. Per the minutes, the organization’s President, Vice-President, Treasurer, and Secretary (if not vacant) were also members of the organizations; and, per records, the organization’s officers were appointed by the organization— instead of being voted in by the organization. Given the information above, it appears the organization operated as a subsidiary to the organizations.

The organization owns and maintains a building; and, within the building, the organization operates social facilities. The largest sources of income were from the bar, restaurant, and game room. The building was also used (regularly) by the organizations as a place to operate: host meetings and events, and to hold an office and/or store supplies, among other things. There were no contemporaneous records showing the organization charged the organizations for its use of the facility. The organization’s expenses were generally for operating costs (such as, but not limited to: direct gaming expenses, cost of goods sold, wages, and taxes); and, maintenance costs (such as, but not limited to: insurance, repairs, and utility expenses). Per the minutes, the organizations also benefited from the organization (financially), for example, by piggybacking on the organization during its gaming activities.

As stated within the facts section, no contemporaneous records were provided showing the organization spent less than 0% of its time focusing on its member’s and/or the organizations’ benefit, pleasure, and/or recreation. Also, no contemporaneous records were

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provided showing the organization spent significant time on rehabilitation and/or education of , their families, and/or dependents. Given this information, it's the government's position that the organization primary activity is operating a social club for the benefit, pleasure, or recreation of its members.

Therefore, given the information above, the organization more accurately meets exemption under IRC Sec. 501(c)(7). For the organization to be exempt under IRC Sec. 501(c)(7), the organization's current exempt status must be revoked; and, the organization may reapply for exemption. However, to reapply and reclassify its exempt status, the organization's IRC Sec. 501(c)(4) exemption must first be revoked. Thus, revocation of the organization's IRC Sec. 501(c)(4) exemption is warranted.

Conclusion:

The organization is not qualified to be an exempt under IRC Sec. 501(c)(4) because, among other things, its primary activity is to provide benefits, pleasure, or recreation to its members. The organization more accurately meets exemption under IRC Sec. 501(c)(7). For the organization to be exempt under IRC Sec. 501(c)(7), the organization's current exempt status must be revoked; and, the organization may reapply for exemption. However, to reapply and reclassify its exempt status, the organization's IRC Sec. 501(c)(4) exemption must first be revoked. Thus, revocation of exemption is warranted.