



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

**TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION**

Number: **202110035**
Release Date: 3/12/2021

UIL: 501.07-00

Date: September 22, 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 periods 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:

You have not established that you are operated substantially for pleasure and recreation of your members or other non-profitable purposes and no part of the earnings inures to the benefit of private shareholder within the meaning of IRC Section 501(c)(7). You have made your recreational and social facilities available to the general public. You have exceeded the non-member income test for tax years ending December 31, 20XX and December 31, 20XX.

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, you can contact the person listed at the top of this letter.

Enclosures:
Publication 892

Sincerely,



Sean E. O'Reilly
Director, Exempt Organizations Examinations



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

Date:
03/04/2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:
Address:
Stop

Manager's contact information:

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 your organization doesn't qualify as an organization described in Internal Revenue Code (IRC) Section 501(c)(7).

This letter is not a determination of your tax-exempt status under IRC Section 501 for any period other than the tax periods above.

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.

In the future, if you believe your organization qualifies for tax-exempt status and would like a status determination letter from the IRS, you can request a determination by filing Form 1024, Application for Recognition of Exemption Under Section 501(a), and paying the required user fee.

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 by me

Maria Hooke, Director,
Exempt Organizations, Examinations

Enclosures:
Form 886-A
Form 6018
Pub 892
Pub 3498

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number <i>(last 4 digits)</i>	Year/Period ended 20XX 20XX

ISSUE(S):

1.) Whether _____ qualifies for exemption under Internal Revenue Code (IRC) section 501(c)(7)?

FACTS:

A compliance examination for the year ending December 31, 20XX and December 31, 20XX for the return form 990EZ Short Form Return was conducted for _____ (hereinafter, "EO", "Taxpayer", "Organization" is a self-declared organization under IRC§ 501(c)(7). The relevant facts apply. _____ was incorporated in the State of _____ on December 13, 19XX. The organization self-declared its exemption in July 20XX by filing a 990 return.

Per the organizing documents the purposes for which this association is formed are to acquire and hold lands for lodge halls and _____, fraternal-beneficial and educational halls or meeting buildings and to buy, sell, exchange or mortgage the lands of said association in the fur-therance of such purposes and no other.

The primary activity of the organization is to provide a meeting place for its members the 20XX. The organization is open to the public for rental of the banquet hall, pavilion area and picnic area.

The form 990-EZ return the EO stated the primary exempt purpose: To provide the facilities and raise funds to assist and further the charitable goals of the _____ and _____

For the years under examination the EO filed 990-T returns reporting nonmember income for rental of the hall. During the initial interview the organization treasure _____ confirmed that the hall is rented to non-members.

Per the Bylaws of the organization the membership consist of all the members in good standing of the _____ 20XX and the dues of the association shall be \$0.00 per year for each member.

During the initial interview EO was asked how many members does your organization have? The EO response was three members. The EO was asked what are the dues or fees for membership? Th EO response was zero dues for membership. What are the requirements for membership? EO answered there are no requirements for membership.

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
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The other sources of revenue for the organization is fundraising events, , raffles and annual picnic.

The EO paid for advertising with the for 20XX and 20XX to show case the Hall to the genal public.

ADVERTISEMENT DELETED

For the year 20XX the EO purchased advertising ad with the for the event.

The EO provided this statement below via information document request:

DELETED

Below is communication from EO to preparer regarding allocation for non-member and member hall rentals for 20XX and 20XX. For both years EO stated 0% of hall rentals comes from non-members.

DELETED

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (last 4 digits)	Year/Period ended 20XX 20XX

DELETED

Below is a statement EO provided via information document request regarding how they determined member vs non-member hall rental contracts.

DELETED

20XX	Member	nonmember	
Hall rental/ Keg, Ice, Soda sales	0.00	0.00	
Investment Income		0.00	
	0.00	0.00	
Picnic	0.00	0.00	
Gun Raffle	0.00		
ATV Raffle	0.00		
Putt Putt golf	0.00		
Total Gross Receipts	0.00	0.00	0.00
Nonmember income %		00.00%	

20XX	Member	nonmember
Hall rental/ Keg, Ice, Soda sales	0.00	0.00
Investment Income		0.00
	0.00	0.00
Picnic	0.00	0.00

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service		Schedule number or exhibit
Explanations of Items			
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)		Year/Period ended 20XX 20XX
Total Gross Receipts	0.00	0.00	0.00
Nonmember income %		00.00%	

Per review of invoices for keg, ice, soda sales and rental contracts for the hall for each year under audit.

All other income was taken from the balance sheets for each year under audit.

Picnic allocation % was based on EO written statement of 0% nonmember for each year under audit.

allocation was 0% to nonmembers for each year under audit.

LAW

IRC § 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 not part of the net earnings of which inures to the benefit of any private shareholder.

§1.501(c)(7)-1(a) of the Federal Tax Regulations states that 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.

§1.501(c)(7)-1(b) of the Federal Tax 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). 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.

Prior to its amendment in 1976, IRC § 501(c)(7) required that social clubs be operated exclusively for pleasure, recreation and other non-profitable purposes. Public Law 94-568 amended the

Form 886-A (May 2017)	Department of the Treasury – Internal Revenue Service Explanations of Items	Schedule number or exhibit
Name of taxpayer	Tax Identification Number (<i>last 4 digits</i>)	Year/Period ended 20XX 20XX

“exclusive” provision to read “substantially” in order to allow an IRC § 501(c)(7) organization to receive up to 35 percent of its gross receipts, including investment income, from sources outside its membership without losing its tax exempt status. The Committee Reports for Public Law 94-568 (Senate Report No. 94-1318 2d Session, 1976-2 C.B. 597) further states;

(a) Within the 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. This means that an exempt social club may receive up to 35 percent of its gross receipts from a combination of investment income and receipts from non-members, so long as the latter do not represent more than 15 percent of total receipts.

(b) Thus, a social club may receive investment income up to the full 35 percent of its gross receipts if no income is derived from non-members’ use of club facilities.

(c) In addition, the Committee Report states that where a club receives unusual amounts of income, such as from the sale of its clubhouse or similar facilities, that income is not to be included in the 35 percent formula.

Public Law 94-568 provides that social clubs are permitted to receive up to 35% of their gross receipts from sources outside of their membership without losing their tax-exempt status, and that within that 35%, not more than 15% of gross receipts should be derived from the use of a social club’s facilities or services by the general public.

Revenue Ruling 66-149 holds a social club as not exempt as an organization described in IRC § 501(c)(7) where it derives a substantial part of its income from non-member sources.

Revenue Ruling 60-324 states by making its social facilities available to the general public the club cannot be treated as being operated exclusively for pleasure, recreation or other non-profitable purposes.

Revenue Procedure 71-17 sets forth the guidelines for determining the effect of gross receipts derived from the general public’s use of a social club’s facilities on exemption under IRC § 501(c)(7). Where nonmember income from the usage exceeds the standard as outlined in this Revenue procedure, the conclusion reached is that there is a non-exempt purpose and operating in this manner jeopardizes the organization’s exempt status.

In Revenue Ruling 68-119, 1968-1 C.B. 268 an equestrian social club that holds an annual one-day steeplechase meet which is open to the general public is found to be tax-exempt under IRC 501(c)(7). In this case, the club is said to derive a small amount of income from nonmembers in excess of expenses attributable to their participation and attendance. If any profit results, it is turned over to charity. Other club activities are supported by member dues. Therefore, the ruling holds, the income from non-members does not inure to the club’s members.

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TAXPAYER'S POSITION

Taxpayer's position has not been provided.

GOVERNMENT'S POSITION

Based on the examination, the organization does not qualify for exemption as a social club described in IRC §501(c)(7) and Treas. Reg. §1.501(c)(7) which provides that in general, this exemption extends to social and recreation clubs which are supported solely by membership fees, dues, and assessments.

Rev. Ruls. 66-149 and 60-324 support this position stating that a social club that opens to the public and derives a substantial part of its income from non-member sources is not exempt as an organization described in 501(c)(7).

The EO permits use of its facilities by the general public, through hall rental contracts. The organization has exceeded both the 35% limit on non-member gross receipts, and the 15% non-member facility use gross receipts threshold as outlined in Public Law 94-568, on a recurring basis during tax years ending December 31, 20XX and December 31, 20XX.

The use of advertising in the _____ for the Banquet Hall and the _____, and thus represents prima facie evidence that the club is engaging in a business, is not being operated exclusively for pleasure, recreation, or social purposes, and is thus in direct conflict with Treasury Regs. §1.501(c)(7)-1(b).

Accordingly, it is proposed that the _____ tax exempt status be disqualified for December 31, 20XX and December 31, 20XX effective January 1, 20XX and January 1, 20XX.

CONCLUSION

The _____ no longer qualifies for exemption under § 501(c)(7) of the Code as your nonmember income has exceeded both the 35% limit on non-member gross receipts, and the 15% non-member facility use gross receipts on a continuing basis. Therefore, it is proposed that your exempt status under § 501(c)(7) of the Code be revoked effective January 1, 20XX for year ending December 31, 20XX and effective January 1, 20XX for year ending December 31, 20XX.

Should this revocation be upheld, Form 1120 must be filed starting with tax periods ending December 31, 20XX and December 31, 20XX.