



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

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

Number: **202110037**
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 period 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 year ending 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.

Sincerely,

Enclosures:
Publication 892



Sean E. O'Reilly
Director, Exempt Organizations Examinations



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

Date:
April 15, 2020
Taxpayer ID number:

Form:

Tax periods ended:

Person to contact:

Name:
ID number:
Telephone:
Fax:

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 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.

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
Publication 892
Publication 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	Year/Period ended December 31, 20XX

ISSUE:

The (has failed to meet the eligibility requirements under Internal Revenue Code (IRC) Section 501(c)(7) as their primary activity is gaming, and they permit excessive use of the club’s facilities by non-members. Can a favorable determination be made regarding the tax-exempt status under Internal Revenue Code (IRC) Section 501(c)(7).

FACTS:

- The () was created on September 18, 19XX, when they filed their Articles of Incorporation with the state of
- At the time the was created, the organization did not file Form 1023 or Form 1024 to request a determination for tax exempt status with the Internal Revenue Service.
- For the period of January 1, 20XX through December 31, 20XX, the organization has filed Forms 990, indicating/self-declaring, that they were an IRC Section 501(c)(7) Social Club.
- In 20XX, the was trying to renew their gaming license with the , and they were asked to provide their tax-exemption letter; which the never applied for, from the Internal Revenue Service.
- On October 10, 20XX the organization completed Form 1024 and submitted it to the Service for consideration of tax-exemption.
- The Service sent the organization a letter explaining that the did not qualify for tax-exemption based on the information supplied with the organization’s Form 1024 application package.
- The does not have a Membership Dues Structure.
- Per the organization’s By-laws: Stockholder – is defined as one who carries a current dues card entitling the card holder to one vote. There was no other mention of membership classes.
- Per the organization’s By-laws: there is no mention of any dues structure and there are no requirements listed for membership in the organization.
- Per Form 1024: , which is a branch of the Organization – All members can have input with the organization for the shared facilities.
- Per Form 1024: Every member of the is a member of the by paying dues to the ; no dues are remitted to the
- The does not have any social requirements for its members.
- The primary activities are Gaming Activities and Rental Activities.
- The holds bingo games that are open to the public on the second and fourth Fridays of the month. The gaming activities are conducted with 0 percent volunteer labor. The organization also sells food and drinks during the gaming activities.
- The has members and often rented the space out to both members and non-members. The organization rents their facility to mostly non-members.
- The has not reported any other significant activities undertaken during the period examined.
- The has not provided any breakdown between member and non-member gaming income; as such, the revenue agent has determined that all gaming income is from non-member sources.
- The is not following Revenue Procedure 71-17; as the organization’s facilities are routinely open to the public and primarily used by non-members.

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	Year/Period ended December 31, 20XX

FACTS (continued):

- The actual percentage of non-member gross receipts for the period examined exceeds 0 percent.
- The received donations/contributions from members in the amount of \$0 for the period ending December 31, 20XX. This was the only source of member income identified by the Service.
- The received donations/contributions from members in the amount of \$0 for the period ending December 31, 20XX. This was the only source of member income identified by the Service.
- During the closing conference at the end of the field examination conducted with , the Revenue Agent discussed the issues with the and stated that since there is very little member income, and substantially all of the income is from non-member sources, the organization will not qualify for tax-exemption under IRC 501(c)(7).
- During the closing conference, provided the letter that the received explaining that the organization was not granted tax-exemption based upon the information received with their filed Form 1024.

LAW:

Internal Revenue Code § 501(c). Exemption from tax on corporations, certain trusts, etc.

- (7) Clubs organized for pleasure, recreation, and other nonprofitable 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.

The organization must be organized for:

- Pleasure
- Recreation
- Other non-profitable purposes

Treasury Regulation 1.501(c)(7)-1 Social Clubs

- (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.
- (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 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. However, an incidental sale of property will not deprive a club of its exemption.

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	Year/Period ended December 31, 20XX

LAW (continued):

PL 94-568 (October 1976) Substantially All Test is an income test with the following limits

Clubs may receive up to 35 percent of their gross receipts, including investment income, from sources outside their membership.

Within the 35 percent limitation, no more than 15 percent of gross receipts may be derived from nonmember use of club facilities and/or services

Rev. Proc. 71-17, 1971-1 C.B. 683,

Sets forth guidelines for determining the effect of gross receipts derived from public use of the club's facilities on exemption and liability for unrelated business income tax; it describes the record-keeping requirements for social clubs exempt under IRC Section 501(c)(7) with respect to nonmember use of the club's facilities. 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 nonprofitable purposes. Specifically, social clubs can receive up to 35 percent of their gross receipts, including investment income, from sources outside their membership. Within the 35 percent, not more than 15 percent of gross receipts should be derived from the use of the social club's facilities or services by the general public (nonmembers). If a club exceeds the 35/15 percent test, facts and circumstances are applied to determine if substantially all of its activities are for pleasure, recreation and other nonprofitable purposes.

If a club's income from nonmember sources exceeds the 35/15 percent limitations, then evaluate all relevant facts and circumstances to determine if substantially all of the club's activities are for pleasure, recreation and other nonprofitable purposes.

TAXPAYER POSITION:

The organization has not submitted their position.

GOVERNMENT POSITION:

Section 501(c)(7) social clubs endanger their exempt status when receipts from nonmembers – including those from gaming activities – exceed certain thresholds. A social club may receive no more than 35 percent of its gross annual receipts (including investment income) from sources outside of its membership. Within that 35 percent, no more than 15 percent of gross receipts can come from the public's use of club facilities or services. If those limits are exceeded, the club's exempt status may be in jeopardy.

Social clubs do not qualify for any of the exclusions/modifications of income. Even if a social club conducts a bingo game that would fall within the bingo exclusion or uses only volunteers to conduct all its gaming, if the public participates, the income will be taxable. In addition, the nonmember income, if a large enough percentage of the social club's overall income, may jeopardize its exempt status.

The Service has determined that primary activities are gaming and renting their facility. If both activities were only conducted with members, the organization's tax-exempt status would not be in jeopardy. However, the organization's gaming activities are conducted with nonmembers, and 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	Year/Period ended December 31, 20XX

GOVERNMENT POSITION (continued):

organization’s facilities are primarily rented out to nonmembers. Since more than 35 percent of the organization’s gross receipts is generated from nonmembers, and more than 15 percent of the organization’s gross receipts are from nonmember use of the facilities, the organization has failed to meet the requirements of the Code. Substantially all of the income generated by the organization are from non-member sources. The actual percentage of nonmember gross receipts for the period examined exceeds 0 percent. The frequency of use of club facilities or services by nonmembers and the net income from such use occurs with bi-monthly bingo games that are conducted on the second and fourth Fridays of each month, with the exception of November and December, when there is only one bingo night on the second Friday. The organization has provided these bingo games for a number of years, as evidenced in the period examined. The is not following Revenue Procedure 71-17; as the organization’s facilities are routinely open to the public and primarily used by non-members.

The Service did not identify a membership dues structure during the examination of the books and records of the organization. Per the By-laws, Stockholders (members) are defined as someone who carries a current dues card entitling the card holder to one vote. There was no other mention of membership classes. Per the Form 1024 application: , which is a branch of the Organization – All members can have input with the organization for the shared facilities. Every member of the is a member of the by paying dues to the ; no dues are remitted to the . According to the information examined by the Service, the does not have any social requirements for its members.

The Service did not identify any other significant activities undertaken by the during the period examined.

The Service identified donations/contributions from members in the amount of \$0 for the period ending December 31, 20XX and \$0 for the period ending December 31, 20XX. This was the only source of member income identified by the Service.

The purpose for which the club's facilities were made available to non-members, was to generate income, through the bingo games and rentals for private events. The non-member income generated represented a net profit for the organization.

During the closing conference, with , which was conducted at the end of the field examination, the Revenue Agent discussed the issues with the and stated that since there is very little member income, and substantially all of the income is from non-member sources, the organization will not qualify for tax-exemption under IRC 501(c)(7). also provided the letter that the received explaining that the organization was not granted tax-exemption based upon the information received with their filed Form 1024.

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	Year/Period ended December 31, 20XX

GOVERNMENT POSITION (continued):

The organization was self-declaring their exemption under IRC Section 501(c)(7) from their inception until 20XX. The organization then submitted Form 1024 to receive tax-exempt status. During the application process, the Service determined that the organization was not a tax-exempt organization based on the information submitted with their Form 1024 application package. The Service also conducted a field examination which has resulted in the same conclusion, that the activities conducted by the organization do not qualify for tax-exempt status under IRC Section 501(c)(7).

Year ending December 31st	20XX	20XX	20XX
GROSS RECEIPTS			
Membership Dues	\$ -	\$ -	\$ -
Other Member Contributions/Donations	-	0	0
Member Identified Income Sources	-	0	0
Gaming Activities	0	0	0
Rental Activities	0	0	0
Food & Beverage Sales	0	0	0
Investment Income	0	0	0
Non-member Identified Income Sources	0	0	0
TOTAL GROSS RECEIPTS	\$ 0	\$ 0	\$ 0
35% LIMIT TEST			
Receipts from Non-Member Sources	\$ 0	\$ 0	\$ 0
Total Gross Receipts X 35%	0	0	0
Non-Member Source Income - EXCEEDS 35% Limit	\$ 0	\$ 0	\$ 0
Non-member Income as a percent of Total Gross Receipts	0%	0%	0%
15% NON-MEMBER USE TEST			
Receipts from Non-Member Sources	\$ 0	\$ 0	\$ 0
Receipts from Member Sources	0	0	0
EXCEEDS 15% Limit	\$ 0	\$ 0	\$ 0
Non-member use of club facilities	0%	0%	0%

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	Year/Period ended December 31, 20XX

Conclusion:

The primary activities, Gaming and Facility Rentals, are not for the pleasure, recreation, or other non-profitable purposes of the members of the organization. Substantially all of the gross receipts are received from non-member sources. The primary reasons for the operations are not for the exclusive benefit of the members of the organization.

Substantially all of the Total Gross Receipts are attributable to sources outside the organization’s membership. The income from non-member sources exceeds the 35 percent limit permitted under IRC Section 501(c)(7). The non-member use of the club / rental activities exceeds the 15 percent limit under IRC Section 501(c)(7). Therefore, the organization fails to meet the requirements of IRC 501(c)(7).

The fails to qualify as a tax-exempt organization under IRC 501(c)(7).

The organization was self-declaring their exemption under IRC Section 501(c)(7) from their inception until 20XX. The organization then submitted Form 1024 to receive tax-exempt status. During the application process, the Service determined that the organization was not a tax-exempt organization based on the information submitted with their Form 1024 application package. The Service also conducted a field examination which has resulted in the same conclusion, that the substantial nonmember activities conducted by the organization do not qualify for tax-exempt status under IRC Section 501(c)(7).